CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON FINANCE

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January 11, 2017
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HELD AT: Committee Room - City Hall

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TRANSCRIPTION NOTE: Chair Ferreras-Copeland in Spanish, time stamp at 02:51:05.

[sound check]

[pause]

CHAIRPERSON FERRERAS-COPELAND: Good afternoon and welcome to today's hearing on Finance Committee. I am Council Member Julissa Ferreras-Copeland; I am the Chair of this Committee. I want to thank everyone for joining us today. We've been joined by Minority Leader Matteo, Council Members Johnson and Rosenthal.

Today we will consider Proposed Int. No. 1385-A, which would reauthorize the City's lien sale program as well as make several changes to benefit property owners. Before I get into the details of the bill I want to explain the lien sale process.

In the lien sale, the City sells a lien on the property; they do not sell the property itself. After the lien sale, owners will still have the right to possession of and title to their property until they pay off their debt or until a prescribed time has past without payment from the owner. When an individual owes a debt to the City that is unpaid and delinquent, a lien can be placed on the property for which the debt was accrued [sic].

Prior to 1996, the City could start foreclosure proceedings on a property if the debt remained unpaid for a certain period of time; this process is known as in rem program. However, the in rem program was very expensive to the City because the City had to maintain the properties once they were in its possession; not only did the in rem program fail to address the underlying reasons for tax delinquency and abandonment, but the City was unable to quickly resell the properties to responsible, private owners and as a result, many properties remained with the City for over 30 years before they were sold.

In 1996, this changed with establishment of the lien sale program. Instead of the City taking possession of a property once a property was in arrears, the City would sell the lien to a third-party trust, set up and monitored by the City, which then hires collection agencies called servicers to enforce the debt owed to the trust. By law, once the City sells the lien to the trust, foreclosure proceedings can begin only if the owner remains delinquent or has not entered into a payment plan within seven months after the date of sale. In the case of Class 1 homes, this timeframe is one year. But very few properties that go through the lien sale program have been subject to the last resort enforcement tool of foreclosure.

Between 2008-2001, while there are approximately 18,000 liens that were sold to the trust, only 322 properties, or less than 2%, were the subject of foreclosure judgment and judicial action.

The main goal of the lien sale program is to incentivize people to engage and communicate with the City so that a solution can be reached and the lien sale avoided either by paying off their debt now or entering into an agreement.

To that end, the City undertakes a large outreach campaign every year leading up to the lien sale. Property owners who are eligible to be in the lien sale receive notice 90, 60, 30, and 10 days prior to the lien sale. These notices are in addition to all the bills they have received prior to this process. The City works with elected officials to hold outreach events throughout the city and all of the efforts produce results.

Just this past year, 90-day lien sale notice with DOF sent to people at risk of having their liens sold indicated that there were over 24,000 delinquent payers with total unpaid charges amounting to $890 million. However, only 14% of the original delinquent payers had their liens sold to the trust, bringing total unpaid charges to $104 [sic] million; the City was effectively able to resolve $786 million in outstanding debt through the lien sale process, which represents additional revenue that is reinvested into our city.

In 2011, the Council made a broad reform of the new lien sale law, adding several protections for property owners. These changes gave the City Law the distinction of possessing the strongest protections of any lien sale law in the United States, what the National Consumer Law Center called "a model for municipalities across the country."

Even with these successes, we recognize that the program goals of efficiency and fairness to taxpayers must continue to be balanced with the mitigation of financial burdens on property owners and the avoidance of the worse case scenario of the loss of their property.

To that end, in 2015 the Council required the establishment of the Lien Sale Tax Force to assess and evaluate the program and to make recommendations for improvement. This task force involved the participation of several City agencies and Council Members and heard recommendations from a number of advocates. The legislation that will be considered today would not have been possible without their work and input.

Proposed Int. 1385-A extends the lien sale program for an additional four years and builds upon existing safeguards with new reforms to benefit property owners. These new changes would include greater flexibility with payment plan, including monthly payments, new notification and communication requirements -- like connecting property owners to financial counseling resources -- and greater data collection and reporting on the impact of the lien sale. This would allow us to be more proactive and identify ways of working with the property owners before the lien sale process is triggered.

The legislation would also allow emergency repair charges of at least $1,000 that had remained unpaid for at least one year to trigger lien sale eligibility for non-owner occupied one-, two- and three-family homes. In other words, these are properties where often tenants had made complaints to the City of unsafe conditions in their apartments and lack of landlord action required the City to step in and make the repairs.

While not part of Int. 1385-A, I think it is important to recognize one other result of the task force that is relevant to this discussion on the lien sale that was an agreement to lower the interest rate charged to almost all homes in New York City. On May 25, 2016 the Council passed legislation to decrease the annual interest rate for non-payment of taxes on properties with an assessed value of not more than $250,000, from 9% to 6%. I want to note that an assessed value of $25,000 represents a house worth $4 million or over $4 million. That reduction may not sound like a lot at first, so let me put it in other words.

Let's take a homeowner with an annual property tax bill of $4,000 and say they fall behind on their payments; after three years they end up in the lien sale process. Under the old 9% interest rate, if the owner entered into a ten-year agreement plan with no money down, their monthly payments would have been $200; now with a 6% interest rate their payments would be about $145 or 27% less than before. The lien sale program is an essential tool to ensure equitable contribution to critical city services; however, we must also ensure that the program is transparent, fair and flexible when necessary to provide help to those property owners who are struggling financially.

Today's legislation reflects steps towards these important goals and I'd like to thank the Administration for working with the Council on this bill. And before their testimony, I will have the Committee Counsel administer the oath to the Commissioner and his staff.

COMMITTEE COUNSEL: Do you affirm to tell the truth, the whole truth and nothing but the truth in your testimony before the committee today and to respond honestly to council member questions?

COMMISSIONER JIHA: Yes. Good afternoon Chairwoman Ferreras-Copeland and members of the City Council Finance Committee. I am Jacques Jiha, Commissioner of the New York City Department of Finance. Joining me today are Jeff Shear, Deputy

Commissioner for Treasury and Payment Services; Samara Karasyk, Assistant Commissioner for External Affairs from DOF, and from DEP we have Nancy Cianflone and Eric Landau, and from HPD we have Molly Park.

Thank you for the opportunity to testify about Int. 1385, legislation that will extend the City's authority to conduct an annual tax lien sale and make significant improvements to the program.

The roots of Int. 1385 can be traced to Local Law 14 of 2015 which mandated the Mayor and the City Council to form a joint lien sale task force to evaluate the program to ensure that it is fair, efficient and effective.

I would like to thank the Council for its constructive engagement with us that resulted in this legislation. We support its enactment.

The Department of Finance collects $24 billion in property tax revenue annually, including $50 million of charges levied by other agencies such as HPD. These figures exclude the additional $3.8 billion in water and sewer charges billed by DEP. Prompt collection of these revenues is critical to fund vital city services and social programs. The tax lien sale is an imperfect but effective tool used only as a last resort to enforce and collect delinquent municipal charges. Anyone facing financial hardship can be removed from the lien sale by requesting a payment plan with as little as no money down and as long as ten years in length. The goals of the tax lien sale program are to increase voluntary compliance and to get property owners who are delinquent in paying their taxes to resolve their open liabilities. We would prefer that every taxpayer would resolve their debts so the City could realize the revenue without having to sell any liens; that's why we send many notices to property owners to educate and engage them, including mailings at 90, 60, 30, and 10 days prior to the lien sale to remind them to pay, enter into payment agreements or apply for exemptions.

As I indicated above, Local Law 14 of 2015 mandated the Mayor and the City Council to form a joint lien sale task force. In September 2016, the task force issued its first report. I would like to thank the co-chair of the task force, Council Member Ferreras-Copeland and Council Members Donovan Richards, Debi Rose, Robert Cornegy, who all served on the task force. These council members represent some of the districts that have the highest number of tax liens sold and their perspective and advocacy on behalf of their constituents have been extremely helpful. I also would like to thank the affordable housing advocates, including the Center for New York City Neighborhoods and the Association for Affordable Housing which presented information to the task force.

The task force report found the following. Voluntary compliance has greatly increased since the inception of the tax lien sale. Property tax delinquency has declined from an average of 4.4% in the three years before the tax lien sale in 1996 to just 1.6% in FY15. Today, each percentage point [sic] increase in voluntary compliance is worth about $250 million.

The report found that DOF improved and expanded outreach, including robocalls and volunteer Q&A sessions has contributed to a decline in the number of properties receiving the 90 warning notice, from about 27,000 in FY15 to about 24,000 in FY16. The number of liens sold also fell from 4,200 in FY15 to 3,461 in FY16. Despite the reduction in the number of properties in the initial lien sale pool, enforcement dollars from lien sale notices and outreach increased from $102 million in FY15 to $133 million in FY16.

The report also found that during the period between 2008 and 2016 about 41,400 liens were sold through the trust, but only 300 of those properties were the subject of a foreclosure judgment in judicial auction. Of those 354 properties, 196 were nonresidential, including vacant land, garages and warehouses and 158 were residential.

In response to Council inquiries, you have developed an extenuating circumstances program which enabled DOF to remove 55 properties from the tax lien sale in FY16 as a result of 58 submitted requests. By comparison, only one such property was removed from the tax lien sale in FY15.

The task force report also made the following accommodations: (1) to minimize the number of properties with liens sold in a tax lien sale. According to the report, the number of properties with liens sold compared to the number of properties receiving notices of the lien sale 90 days prior to the sale has generally been declining since 2011. As a result, the task force recommends that DOF continues to make efforts to minimize the number of properties with liens sold by reducing fees and improving payment options.

The Council took the first step in the FY17 budget by reducing the interest rate on unpaid property taxes for 95% of properties with assessed values below $250,000, from 9%, which had been in effect for many years, to 6%. Int. 1385 takes this one step further by applying the 6% rate to sold tax liens in order to align interest rate for delinquent property taxes with sold tax liens.

Int. 1385 also gives property owners who have defaulted on their payment agreement a one-time opportunity to reinstate their payment plan by paying 20% of the total amount owed. Discussion with the Council also prompted DOF to expand the definition of extenuating circumstances to allow property owners with defaulted plans to get them on a payment agreement without being subject to the typical five-year waiting period that accompanies a default.

While it is not specifically addressed in Int. 1385, DOF will be promulgating a rule to add active enrollees of DEP's Water Debt Assistance

Program to those who are considered as having extenuating circumstances.

The report also recommends that DOF create clear and user-friendly bills. Int. 1385 again forces DOF's current efforts to make its communication clearer, more customer-oriented and available in more formats.

With regard to our lien sale correspondence, DOF is now sending a new outreach letter to property owners who have missed an installment payment but are not yet considered in default on their payment plan because six months have not yet elapsed since the missed payment. This letter lets them know that they are two weeks in [sic] default.

As a result of our discussion with the Council regarding the high default rate for payment plan, DOF implemented the outreach letter rather than relying solely upon statements of account to communicate payment plan status. DOF sent out 120 letters in July 2016 and in 100 instances property owners caught up on their payments and avoided default. The outreach letters will now be required by Int. 1385.

The task force also recognized that some people who have difficulty meeting their property tax obligations may be facing other financial issues, like credit card debt, and could use assistance relating to their overall financial situation. As such, it requires DOF to include information about financial counseling in the October 31st mailing that goes out to all taxpayers who are significantly delinquent, including taxpayers whose debts are not yet old enough or large enough to be included in the tax lien sale. The financial counseling will give them assistance in understanding their options to make better informed decisions about entering into payment plans.

Int. 1385 further addresses this recommendation by legislating email alerts when property taxes are available online and requiring DOF to promptly mail a confirmation letter after a property has been removed from the lien sale.

The bill also requires DOF to enhance the information it makes available at outreach sessions, many of which are co-sponsored by council members on behalf of their constituents. We will now distribute customer service to property owners who have received notice of the intention to sell a lien and make a good faith effort to provide **[inaudible]** financial counseling for those who request it. Finally, when the public comes to a DOF payment center, they will be given a customer service form that indicates what transaction took place, whether or not the transaction removes a property from the lien sale, and if the property is not removed, we must take the next step to do so.

DEP has also made strides in this area, including installing automated meter reading devices on 97% of all properties so that customers are able to view water usage data in almost real-time and manage their consumption more effectively to potentially reduce their charges.

DEP has also set up automated leak notifications and has expanded its leak forgiveness program to include leaks of maintainable fixtures. More than 6,300 customers have benefited from this change so far, receiving $6.4 million in leak forgiveness. DEP also began offering monthly billing as an opt-in option to customers in July 2015.

The report also recommends that DOF has a better understanding of the lien sale impact; it is important to understand why property ends up in a lien sale; that's why the task force commented that the City further research why property owners fall behind on their taxes, how property owners resolve their tax debt and the state of the sale of properties post tax lien sale. As a result of this ongoing conversation with the Council, DOF has already implemented a survey that was provided last year at its business centers to all of the lien sale notice payer [sic]. We surveyed the reasons why taxpayers were behind on their taxes, the length of time the homeowner has been in the property and other data points. According to the survey, more than 60% of customers said that personal financial issues were the reason for their failure to pay property taxes on a timely basis and nearly one-quarter indicated that they were still unable to pay the amount owed. Additionally, 60% said they come to a business center to set up a payment plan to prevent the sale of their tax lien. These responses will drive our efforts to continue to improve our customer service. Int. 1385 requires your effort to continue the survey.

We also agree; to better understand the impact of the lien sale we need data on what happened to properties after they have been in the lien sale. To that end, DOF has agreed to share the services report, to provide accurate [sic] reports on all properties with liens sold since the last reauthorization and to provide lien sale notice list that indicate any not-for-profit that had an exemption in the prior five years as well as vacant lots.

The report also recommends that DOF assess whether the resolution of **[inaudible]** lien debt could be an opportunity to advance other city priorities. The City has begun efforts along those lines, including HPD discretionary removals and DEP Water Debt Assistance Program.

HPD is working with its partners to identify buildings eligible for the lien sale which could benefit from additional technical assistance in HPD preservation programs. HPD can recommend to DOF that certain properties be removed from the sale and the agency will work with owners to become current on all municipal charges and when the property is under HPD regulatory agreements. Depending on the needs of the property and the affordability mix [sic] codified in the regulatory agreement, owners may qualify for low-interest loans and all property tax benefits. If an owner fails to cooperate, the property may be subject to the lien sale the following year.

HPD is also assessing its Third Party Transfer Program. The Third Party Transfer Program is designed to address the needs of physically distressed buildings with very high lien-to-value ratios and which are **[inaudible]** excluded from the lien sale. Through TPT, HPD brings an average of 255 units per year back into good condition and responsible ownership. The program has been very successful since its inception in 1996 but the agency is evaluating options for making it even more efficient and effective.

DEP established the Water Debt Assistance Program to assist multifamily homeowners who are on the 2016 90-day lien sale list and are currently under the threat of foreclosure of mortgage delinquency. If they are qualified, DEP removes the property from the lien sale and defers the debt until the property is sold, refinanced or the owner as their ability to pay the debt. If accepted into the program, the owner must enter into a binding agreement with DEP stating that the debt is valid and will be paid on or before the sale, transfer or refinancing of the property. In addition, the owner must agree to pay all current and future charges on time or the agreement may be void and the property will be included in a subsequent lien sale. As of May 2016, 136 applications for the Water Debt Assistance Program were approved, with total accounts receivable of $1.2 million.

While Int. 1385 improves many aspects of the lien sale, we have more work to do. Many liens disproportionately affect vulnerable populations. For example, homeowners living on a fixed income may have difficulty keeping up-to-date with their current property taxes even when delinquent amounts are stretched over a ten-year period. Our one-size-fits-all payment plan does not address such circumstances. DOF has convened an internal working group to develop new payment plan options that take into account people's ability to pay. We understand this is an issue of particular importance to the Council and we'll address it. In particular, we are exploring a tax deferral plan for seniors on fixed income. We are looking at best practices around the country and examining the best approach for New York City based on current law and operational capabilities. As part of this process, we will be seeking feedback from housing advocates and elected officials. We will report back to the Council when our work is completed.

As with any major policy intervention, it will take a comprehensive approach to make real progress. DOF is committed to doing its part to improve the tax lien sale process for New York City homeowners.

Thank you again for the opportunity to testify before you today. At this time I am happy to take your questions.

CHAIRPERSON FERRERAS-COPELAND: Thank you very much Commissioner for your testimony. We've been joined by Majority Leader Van Bramer, Council Members Cornegy, Cumbo, Gibson, Levine, and Rodriguez.

I have a few questions and then I'll come back on a second round so that I can give colleagues an opportunity to ask questions.

I want to talk about the impact of the lien sale. What would be the impact of not reauthorizing the lien sale in the City's tax collection this fiscal year and how much did we collect from the lien sale this past… I know you mentioned it in your testimony, but if you could just repeat it for the record. And will the fiscal impact be in an increase of the City's delinquency rate by 1%?

COMMISSIONER JIHA: Okay, it's a little complicated, but I'm going to try to give you a good answer… [interpose]

CHAIRPERSON FERRERAS-COPELAND: Give it a try.

COMMISSIONER JIHA: Okay. Between the City and DEP, we're talking about $300 million…

CHAIRPERSON FERRERAS-COPELAND: $300 million?

COMMISSIONER JIHA: about $300 million. Because of the **[inaudible]** effect of the 90 days notice because we start with 90 days notice and you see how many properties are in the tax lien sale at that point in time and because people, after they receive the first notice they stop making payments, okay, so by the time we end up with the lien sale, the answer's about $30 million that is currently in the budget for that portion, okay, of the properties that remain in the lien sale, okay.

Now with respect to the increase in the delinquency rate, every 1% percentage point is about $250 million, so our concern is -- can you imagine [sic] -- to go back to the pre-1996 when we used to have like a 4.4% delinquency rate compared with what we have now, which is 1.6%; you're talking about a 2.8 percentage point difference, which would be around $750 million easily.

CHAIRPERSON FERRERAS-COPELAND: Okay. Thank you.

I wanted to talk about the payment agreement which you mentioned in your testimony. As you know, it was a very big piece of the task force; we wanted to work with you yourself and your agency and use other cities that have comparable payment agreement programs. So I'm very excited and happy to hear that you're taking this very seriously, but I wanted you to talk me through the timeline of that study; when you're thinking about being able to roll out something or some type of program, and when will we see the results of the… [interpose]

COMMISSIONER JIHA: Well we… you… We will engage… [crosstalk]

CHAIRPERSON FERRERAS-COPELAND: Well I'm calling it a study…

COMMISSIONER JIHA: We will engage… [crosstalk]

CHAIRPERSON FERRERAS-COPELAND: What are you calling it, just so we're calling it the same thing? I'm calling it a study; you called it something else in your testimony.

COMMISSIONER JIHA: Well it's **[inaudible]**… [crosstalk]

CHAIRPERSON FERRERAS-COPELAND: A working group.

COMMISSIONER JIHA: It's a working group…

CHAIRPERSON FERRERAS-COPELAND: Right.

COMMISSIONER JIHA: we're analyzing different options that we have and the challenge, as you can imagine, administratively we have this tool, you know to deal administratively with our computer systems, you know, a number of things that we have to take into account to make sure that we can roll it as soon as possible. But we will come back to you; we'll engage your staff throughout the process, so therefore you would get up-to-date, you know, in terms of, we will update you, you know, continuously in terms of what we're doing and when we're ready to roll it, you know we would present it to you.

CHAIRPERSON FERRERAS-COPELAND: And are you including other agencies? And I know that you may include… [crosstalk]

COMMISSIONER JIHA: Yeah, we're including all agencies as part of… as part of the **[inaudible]**, yeah… [crosstalk]

CHAIRPERSON FERRERAS-COPELAND: DEP, but we also kind of… DFTA and HRA, which probably would be agencies that help reflect or helping you get some of the data that you may need to make a… [crosstalk]

COMMISSIONER JIHA: Some of the data that we need. Yes.

CHAIRPERSON FERRERAS-COPELAND: Okay. And I know that you said you would circle back with us when you have more data; we would love to be able to be included in some point of the working group so that we ensure a communication… [crosstalk]

COMMISSIONER JIHA: No, no; we'll include you… we'll include you… [crosstalk]

CHAIRPERSON FERRERAS-COPELAND: Okay.

COMMISSIONER JIHA: you know… you know and inform all your staff in **[inaudible]**… [crosstalk]

CHAIRPERSON FERRERAS-COPELAND: Very…

COMMISSIONER JIHA: as to what we're doing.

CHAIRPERSON FERRERAS-COPELAND: Very good. While not codified in legislation, DOF has agreed to provide customers with an interaction record, and this… you know, we had conversations about this also within the task force; sometimes people would meet with your agency and not necessarily have anything in hand to say that they had this conversation or that they had an agreement; when meeting with the agency at an outreach event or at business centers, will the agency track the number of interactions they do each year and will you share a draft of this document with the Committee?

COMMISSIONER JIHA: Yes, we're currently doing this at this point; we give in consumer form, the kind of… you know, for people… and so we'll keep track of that information. We… [interpose]

CHAIRPERSON FERRERAS-COPELAND: O…

COMMISSIONER JIHA: and you want to expand on this, because we're currently doing…

CHAIRPERSON FERRERAS-COPELAND: Okay. And you know, as you mentioned, the goal of the lien sale is not to get people to lose their homes, right; that is not the goal… [crosstalk]

COMMISSIONER JIHA: No, that's not… that's not the goal at all whatsoever.

CHAIRPERSON FERRERAS-COPELAND: but to resolve their debt to the City; indeed the first guiding principle noted in the Lien Sale Task Force report was that we should be taking steps to minimize the number of properties sold in the lien sale. But I'd like to ask you what steps do DOF and DEP take to minimize the number of people becoming lien sale eligible? A home needs to be delinquent for three years on their property taxes before being in the lien sale, so what is DOF doing during those three years besides sending taxpayer notices?

COMMISSIONER JIHA: We do a lot of outreach, okay; we basically look at the different communities where we have disproportionately large issues with delinquencies; we do a number of outreaches with elected officials to talk to them. But more importantly, one of the things we're going to do this year is financial counseling. We will provide… because we realize that one of the issues we have is people not only have difficulties making tax payments, property tax obligations, meeting their tax obligations, but they also have other credit card debt, they have other issues, okay. So to the extent that we could help them with financial counseling, okay, in our outreach effort we'll have counselors there with them in our business centers; during the time when we have the lien sale we will provide counseling for people as well. But at the end of the day -- I'm a bottom line type of guy -- at the end of the day the issue we have to deal with is the payment plan; I mean that is the critical factor, because we design a payment plan without taking into account someone's ability to pay. Okay, so we could design a plan for you for a ten-year period, but if you cannot make payment, it still… it's… you know, regardless of how many… how much **[inaudible]** to provide you, it's still going to be very difficult for you. So that's why we think it's very critical that we design a payment plan takes into account someone's income.

CHAIRPERSON FERRERAS-COPELAND: Agreed, I mean it was the number one thing that we kind of pushed and discussed in the Tax Lien Sale Task Force;

there is no point for someone to agree to a payment plan that they eventually can't afford, but because in the anxiety of not wanting to be in a tax lien they commit to something that they can't afford… [interpose]

COMMISSIONER JIHA: They can't…

CHAIRPERSON FERRERAS-COPELAND: and we're setting them up to fail.

COMMISSIONER JIHA: Setting up… and more importantly, again, **[inaudible]** I really want to discuss with my staff, is not only you have a payment plan you have to meet, but you also have to be current on your current charges…

CHAIRPERSON FERRERAS-COPELAND: Right.

COMMISSIONER JIHA: so you can't even… you've having struggle to pay…

CHAIRPERSON FERRERAS-COPELAND: But you owe…

COMMISSIONER JIHA: but you owe; now you have to pay with the current, you know; it's a bit difficult. So this is something we're taking very seriously and we leave you and come back to you.

CHAIRPERSON FERRERAS-COPELAND: Okay. I just have one more question; then I'm going to push my other questions to the second round so that we can have our colleagues ask questions. But the nonprofits are not excluded from the lien sale, but state law are allowed to be exempt from property taxes as long as they can prove that they are using the property for an eligible charitable use. So if they're exempt from the property tax, nonprofits should not be in the lien sale unless they forget to file their paperwork or have an issue that holds up their ability to successfully apply for a tax exemption. Some recommend that the City just pull all nonprofits from the lien sale automatically, regardless of whether they have applied for an exemption. Is there any reason not to do that?

COMMISSIONER JIHA: Yeah, it's a bit complicated because the use of the property is also critical as part of the law, okay. The law requires that a property be used for certain purposes. Not-for-profits change the use of the property sometimes, okay. **[inaudible]**… [crosstalk]

CHAIRPERSON FERRERAS-COPELAND: Can you give us an example of like a change of… [crosstalk]

COMMISSIONER JIHA: Let's say they have a hall **[inaudible]** to a dance hall, you know, we don't know, okay, and the only way we're going to know is through certification, when they tell us exactly what they do with the property. There's a misconception; we don't put properties into the tax lien sale unless somebody doesn't come to us, okay; that's when we… So if, for whatever reason, you come to us, you tell us, you know what; we didn't apply, we failed, we missed the deadline; we are extremely flexible. Indeed, we even go as defecting [sic] liens; in other words, after a lien is sold, okay, we go back, okay, to the trust and take the property out, okay, when people come to us. So this is not something we're trying to penalize people just because you failed to apply because we understand sometimes, you know a small church, small organization, you had somebody filing the paperwork for you; something happened to that person and as a result, you know you failed to certify, but when you come to us, we do our best; we are as flexible as we can be, okay, to remove the property from the lien sale. So it's not from the issue; it's like the law requires us, okay, that we monitor the use of the property, so we just… because you are a 501(c)(3), you are not-for-profit, okay, doesn't necessarily -- it's a necessary condition, but it's not a sufficient condition, okay, for you to be… you know, for us to remove you from the tax lien sale. So the use of the property is also critical; we wouldn't know about the use of a property unless you certify to us what you're doing with the property.

CHAIRPERSON FERRERAS-COPELAND: Can you -- and you may not have this with you right now, but if you can share with the Committee kind of a timeline on average if a nonprofit falls into the situation where they're asking to be removed from the lien sale, what that timeline looks like; how long it takes or… [crosstalk]

COMMISSIONER JIHA: So it… it… We… To begin with, we start by sending out notices; we reach out to them, okay, to begin with, to tell them please recertify, please recertify. When they come to us it doesn't take us a long time, okay; once they prove to us that they are not-for-profit -- I mean Jeff is sitting right there -- Jeff just pull them out, okay, Jeff just call the trust and pull them out.

CHAIRPERSON FERRERAS-COPELAND: So everyone should just call Jeff and they get pulled.

[laughter]

COMMISSIONER JIHA: Yeah, just… [laugh]

CHAIRPERSON FERRERAS-COPELAND: 212… no, I'm kidding.

JEFF SHEAR: And I would add that… [interpose]

CHAIRPERSON FERRERAS-COPELAND: Can you just pull the mic?

JEFF SHEAR: We have pulled nonprofits and others out of the lien sale a month and sometimes even more than a year after the tax liens have been sold and as the Commissioner said, it's called a defect; it's done at a cost to the City, but because DOF is committed to doing what's right and what's fair, we go ahead and we do that.

CHAIRPERSON FERRERAS-COPELAND: Great. Okay, thank you very much. I have several questions, but I'm going to leave it for the second round. Oh, did you want to add something, Samara?

SAMARA KARASYK: I was just going to add…

CHAIRPERSON FERRERAS-COPELAND: Can you just say your name for the record?

SAMARA KARASYK: I'm Samara Karasyk, **[inaudible]** Department of Finance. I would just add to the whole nonprofit situation; a lot of nonprofits, for whatever reason, they have a change in their administrative office or whatever; they don't get their renewal together and the lien sale is a really useful tool for us for them to come forward so we can take care of their issues before their actual lien is sold. So on the back end, we make it right if retroactively it turns out they should have had an exemption, we will pull them, but we do handle a lot of nonprofits during the lien sale process itself where maybe they didn't realize that they needed to file paperwork and so we can have an interaction with them -- hey, you need to file an application; here's how it works, this is what you need to do -- and we will pull them while they are going through that application process if it appears that they qualify.

CHAIRPERSON FERRERAS-COPELAND: Okay. Thank you. I'm going to open it up for questions; then I'll come back on my second round. We've been joined… oh, by Public Advocate Tish James. So we will hear… oh one… can you give me one second? [pause] Okay, so we will hear from the Public Advocate, followed by Council Member Rosenthal.

PUBLIC ADVOCATE JAMES: First let me thank Chair Ferreras-Copeland and all the members of the City Council, including the staff, for holding today's hearing on this important issue and I'd like to thank my colleagues in the City Council who are here today who have been working with my office to find ways to use the tax lien sale to not only generate revenue for the City of New York but also to create more affordable housing, particularly at a time when we are seeing unprecedented homelessness, homelessness that we have not seen since the great depression. And I'd like to extend also my gratitude to all the advocates who have been working with my office.

And we all know about the lien sale, so I'm not going to go into its history, but what the lien sale does not do, and I don't believe, and I was in the City Council at the time we created it; it was not for the purposes of creating affordable housing, but I think we have an opportunity now in fact to transform this program to in fact respond to the needs of New Yorkers and that is to create desperately needed affordable housing and that is what this lien sale does not do. And so in my mind this is a missed opportunity, a missed opportunity for us to dive deep and to be more creative and innovative and responsive to the needs of New Yorkers. Failing to use every tool at our disposal -- and this is a tool at our disposal -- to keep people off the streets and to keep them in their homes and to build affordable housing is, I believe, a dereliction of our duties, and so this really is a missed opportunity.

As you know, this past year, in anticipation of the tax lien sale's authorization, the City Council created a task force which included so many around this room, including our Chair, and we set out to study the lien sale and to issue recommendations, and I'm happy that the bill that we are considering today reflects those concerns and recommendations, but unfortunately, it does not go far enough. To that end, my office has spent the entire past year working with industry experts to come up with a separate plan to achieve these goals; additionally, we have worked with HPD for nearly as long, urging them to work with us to create more affordable housing through this mechanism and in October we released a report to address this imbalance and their proposals include creating a preservation trust fund that would pay a discounted rate to the City for outstanding municipal debt and would have access to the same enforcement mechanisms available to current municipal debt purchases. The moderate acquisition costs would be included in permanent HPD financing in order to allow the trust to continue to operate, replenish itself and purchase additional debt over time. The creation of this trust would give HPD two options -- work with existing owners and to stabilize the building and it would pursue private foreclosure and transfer the property to a new preservation-minded owner, including but not limited to not-for-profits that currently work in a number of communities all throughout the City of New York. Basically, the City would have a new tool to generate affordable housing while still making money in the process. And I understand that HPD is currently working on a programmatic plan that would achieve these goals through its existing authority; however, this would be a significant break from years of inattention and a reversal of longstanding policy. Additionally, failing to create a preservation trust would mean leaving revenue on the table and I also believe that it would be unquestionably better to codify this structure into law and I know again, HPD has contacted my office, they've contacted me; they've indicated they plan on doing this administratively, but I have always been of the opinion that what we can do administratively we could also do legislatively and I think it's best to codify programs to prevent them… to preserve them over a period of time and past and throughout administrations -- to survive administrations I should say.

So I'm still waiting for those details from HPD regarding the programmatic proposal, the administrative proposal and I look forward to hearing more about the initiative during this hearing. However, until is it accomplished, I don't believe that we can afford to lose this opportunity to address this acute affordable housing crisis that we are seeing in the city and I look forward to working with this Council as well as with this Administration towards those ends and I thank you for allowing me to say a few words and I thank you for allowing me to ask a few questions at the appropriate time and I beg your indulgence and I apologize for being late. Again, I just wish that we could go a little bit further again to address the needs that we are seeing all throughout the City of New York and I would hope that we could do it not administratively, but through law. Thank you.

CHAIRPERSON FERRERAS-COPELAND: Thank you, Public Advocate James. And we've been joined by Council Member Miller; we will hear from Council Member Rosenthal, followed by Council Member Cornegy.

COUNCIL MEMBER ROSENTHAL: Thank you, Chair Ferreras-Copeland for holding this hearing and for the results of the task force; so insightful about the opportunities that are before us, and I actually really only want to pick up on Public Advocate James' questions around opportunity for affordable housing. But I also want to thank you all for coming and testifying today and for all your hard work on this.

COMMISSIONER JIHA: Thank you.

COUNCIL MEMBER ROSENTHAL: So just a few sort of very detailed questions, which is all I know how to do. [laughter]

So on page three, Commissioner, you refer to 354 properties that were subject to foreclosure; there are, you know, 200 nonresidential; 150 residential, so can I assume that all 300, at some juncture the addresses are sent over to HPD who can evaluate whether or not there's opportunity there for affordable housing?

[background comments]

MOLLY PARK: Hi, I'm Molly Park; I'm with HPD. We actually work very closely with DOF but much earlier in the process, so we will get the list of all of the buildings, all of the block and lots that are eligible for the tax lien sale well before the 90-day list… [crosstalk]

COUNCIL MEMBER ROSENTHAL: And that's a number bigger than the 354?

MOLLY PARK: It's tens of thousands.

[background comment]

COUNCIL MEMBER ROSENTHAL: Thank you.

MOLLY PARK: So we get that before the 90-day list goes out and we match that against everything that we have in our asset management universe, so these are properties that have gone through affordable housing programs in the past, buildings that are in our pipeline, buildings that are in our various enforcement programs, so it's a building that is in the Alternative Enforcement Program or something like that… [crosstalk]

COUNCIL MEMBER ROSENTHAL: Thank [sic]…

MOLLY PARK: for example is on the list. We are reviewing that very, very closely and identifying properties that shouldn't be in the lien sale at all, that ought to be going through one of our various preservation pathways, and I'm happy to talk about those further as well. But yes, short answer is we collaborate very closely and we do it much before we get to the point of foreclosure.

COUNCIL MEMBER ROSENTHAL: Got it. So in this last year or the year before; whatever year that you have data readily accessible off the top of your head, what were the number from the… you know, what are the average number of units when you get that list early on that, you know, where a light goes off in your head and you say ooh, opportunity here?

MOLLY PARK: Sure. Over the last several years we've done 275 discretionary pulls, so these are properties that are don't meet the definition of statutory distress, so that's a separate category, but that are flagged for any number of reasons. As the Public Advocate alluded to, we have done this in limited ways in the past; we are looking as we move forward to do this in a really much more programmatic kind of a way; we've had actually very useful conversations with your staff and with advocates who are here in the room and with others and we are continuing to solicit feedback for how we can expand our discretionary pull program. I want to say that we absolutely agree that the tax lien sale represents having preservation opportunity; it is a really good tool for us to engage with buildings. What's not counted in this discretionary pull number necessarily is buildings that will come to both us and to DOF; they might enter to a payment plan for right now to deal with their immediate issue and then get onto a preservation track, so the 275 is kind of the tip of the iceberg -- it is what I have right at my fingertips -- but we find the tax lien sale to be a very useful tool for identifying buildings that are good affordable housing opportunities and we think we can continue to expand that going forward.

COUNCIL MEMBER ROSENTHAL: Okay, great. And then Commissioner, just to understand, on page five of your testimony you mentioned that a survey went out to some number of properties and I'm wondering, is the base, the 354 properties -- still trying to get back to that 354; I'm wondering if that's analyzed. So on page five, who did the survey go out to, in the bottom… in number three, better understand… [interpose]

COMMISSIONER JIHA: **[inaudible]** come to our business centers.

COUNCIL MEMBER ROSENTHAL: Sorry?

COMMISSIONER JIHA: Anyone who comes to any one of our five business centers during the tax lien sale period [sic].

COUNCIL MEMBER ROSENTHAL: Anyone who [background comments] walks in to get help?

COMMISSIONER JIHA: Anyone who comes for a payment plan or… [crosstalk]

COUNCIL MEMBER ROSENTHAL: Sure.

COMMISSIONER JIHA: **[inaudible]**… [crosstalk]

COUNCIL MEMBER ROSENTHAL: Got it.

COMMISSIONER JIHA: **[inaudible]**… [crosstalk]

COUNCIL MEMBER ROSENTHAL: Got it. So what was… I'm curious to know how many surveys went out -- well I guess first, what year the survey was in; let's assume it was last year… [crosstalk]

JEFF SHEAR: Correct.

COUNCIL MEMBER ROSENTHAL: how many… how many surveys went out and how many surveys did you get back?

COMMISSIONER JIHA: I… Well…

COUNCIL MEMBER ROSENTHAL: And roughly is okay; I'm not going to -- I know you swore to tell the truth, but [laugh]… [interpose]

JEFF SHEAR: Yeah.

COUNCIL MEMBER ROSENTHAL: you don't have to know the answer.

JEFF SHEAR: Right. So here is the survey and to be clear, we did not mail these out; these were available at our business centers… [crosstalk]

COUNCIL MEMBER ROSENTHAL: Uh-huh.

JEFF SHEAR: and… and at outreach events so when people came in, we want to be clear when we do the mailings that people are not distracted because the main, our main goal with the mailings is to get people out of the lien sale, but this was available for people who came in. We received somewhere… approximately 250, give or take, responses last year. So that doesn't completely overlay the 354 number that you're referencing… [interpose]

COUNCIL MEMBER ROSENTHAL: I got you.

JEFF SHEAR: that's over nine tax lien sales, nine years; this was implemented just last year. [background comment]

COUNCIL MEMBER ROSENTHAL: Got it. So when you say 60% of customers; say personal finance issues were the problem, that's 60% of 250?

[background comment]

JEFF SHEAR: Roughly, yes.

COUNCIL MEMBER ROSENTHAL: Okay, got it. And of those, do you have a sense of how many were Class 1 or Class Two properties of the 250?

JEFF SHEAR: No; I would think that the vast majority would be Class 1… [interpose]

COMMISSIONER JIHA: But we'll provide that information.

JEFF SHEAR: but…

COUNCIL MEMBER ROSENTHAL: That's okay. Great, the… okay. Uhm… hm. Uhm… okay. And then I would like to ask one more question, 'cause I know… and then I know a lot of other people want to ask questions, sorry. Molly, from HPD, could you give, at a later time, to the Council every year how many discretionary pulls you do… [interpose]

MOLLY PARK: Certainly.

COUNCIL MEMBER ROSENTHAL: and of those if you could break it out into different, you know, categories of why you're doing the pull, and lastly, whether or not any of those eventually made it into a TPT or you know, some other HPD preservation program? Oh my goodness, a staff person who knows, who's slipping it to you.

MOLLY PARK: Sure. So we did… well we have certainly the number; not all of the whys, but we did 78 discretionary pulls in FY14, 124 in FY15 and 74 in FY16. To be clear, the properties that go through the discretionary pull pathway will not end up in third party transfer; these are largely going to be buildings that are somewhere in HPD's either asset management, so they have gone through HPD [background comment] programs already; they may have an exemption that's in process that hasn't kicked in yet; they may be in our pipeline, so they are T'd up for a loan and a property tax exemption going forward. Third party transfer, the number of block and lots that get channeled to the Third Party Transfer Program is very large, but something like on the order of 80-85% of those properties actually redeems themselves out of the process before they get to the point of foreclosure…

COUNCIL MEMBER ROSENTHAL: Right. Right.

MOLLY PARK: so we end up with a smaller number that are actually going through TPT.

COUNCIL MEMBER ROSENTHAL: When you did the discretionary pulls, do you have a sense, when you go back and look at the reasons why, in Class 1 or Class Two, if you could… well they're all residential buildings, right, sorry [sic]… [crosstalk]

MOLLY PARK: They're all residential and they're largely going to be multifamily [background comment] buildings.

COUNCIL MEMBER ROSENTHAL: Multifamily. And do you have a sense of how many complaints are issued on each of the buildings; do you keep that kind of analysis to have a sense of tenant harassment issues and sort of opportunity around that type of issue?

MOLLY PARK: We would certainly have data on housing violations, you know actually ma… [crosstalk]

COUNCIL MEMBER ROSENTHAL: Yes. Yeah.

MOLLY PARK: housing maintenance code violations…

COUNCIL MEMBER ROSENTHAL: Yeah.

MOLLY PARK: I don't have that right at my fingertips.

COUNCIL MEMBER ROSENTHAL: Great. So I would love it if that could be included as well. Thank you very much. Thank you, Chair.

CHAIRPERSON FERRERAS-COPELAND: Thank you, Council Member. Council Member Cornegy; followed by Council Member Gibson; followed by our Public Advocate.

COUNCIL MEMBER CORNEGY: So good afternoon, Commissioner.

COMMISSIONER JIHA: Good afternoon.

COUNCIL MEMBER CORNEGY: As somebody who is a member of the task force, I want to thank you for taking and considering the recommendations from the task force and implementing most of them; I just have two basic questions; one is, if you could give us some more information about the proposed tax deferral program for seniors.

COMMISSIONER JIHA: Yeah, we are currently working on it, and as I said, we will engage your staff throughout, but once we have the final recommendations, we will come back to the Council.

COUNCIL MEMBER CORNEGY: And as somebody who represents a district that finds itself at the epicenter of gentrification at this point, although the foreclosures under the lien sale are different, they feel the same within the community, so I just have a couple of questions about the foreclosures.

How many properties in 2011 were foreclosed on because of the lien sale process?

COMMISSIONER JIHA: I think we have that information, I think I have… yes, **[inaudible]** -- 56 in 2011.

COUNCIL MEMBER CORNEGY: I'm sorry?

COMMISSIONER JIHA: Fifty-six.

COUNCIL MEMBER CORNEGY: Fifty-six. And I feel like I know the answer to this anecdotally, but I'll ask; are they generally concentrated to particular parts of the city?

COMMISSIONER JIHA: At this point we can't tell from… [background comment] we can't tell; we could try to find that information to you… [crosstalk]

COUNCIL MEMBER CORNEGY: Because anecdotally speaking, it feels like the bulk of them are in my district, so. And just for my own process purposes, can you tell me how long a foreclosure from the time that they're on the lien sale to the actual foreclosure; do you know…

COMMISSIONER JIHA: It's a very long process. It's a long, long process, because you could only… I believe you could start the process a year after the tax… [crosstalk]

JEFF SHEAR: Close to a year.

COMMISSIONER JIHA: close to a year after the tax lien sale to begin with and then you have to engage through that entire foreclosure process, which could take two to three years easily. It's a long time.

COUNCIL MEMBER CORNEGY: So again, I'm going to end how I started, which is thanking the

Administration for working during the long, arduous time that it took to get to a place where we could submit recommendations and most of them could be implemented. I look forward to continuing to work with your office on making this, not only for my district, but for those districts that are disproportionately affected by the lien sale; making it a little easier, especially for our seniors, so thank you.

COMMISSIONER JIHA: I thank you.

CHAIRPERSON FERRERAS-COPELAND: Thank you, Council Member. Council Member Gibson; followed by Public Advocate James.

COUNCIL MEMBER GIBSON: Thank you very much, Madam Chair and good afternoon Commissioner to you and the team, thank you for everyone being here. I wanted to ask three very quick questions, but all relative to economic development and neighborhood rezoning. So in my borough of the Bronx, I'm going through Jerome, a neighborhood rezoning plan, as we speak and I wanted to ask three questions, and Council Member Rosenthal talked a little bit about the Third Party Transfer Program and I feel like we've been talking about TPT for quite some time --

and let me also thank the task force members that really did a lot of work along with advocates to really put together a comprehensive set of recommendations. So the Third Party Transfer, are we actively looking at the existing buildings that are homeownership opportunities, obviously, those that may be on the brink of becoming outstanding in terms of outstanding property and other taxes, and are we going in and helping them with preventative work? So the reason why I ask is because third party transfer you know is a program where you can help a lot of distressed and struggling buildings, but obviously for me in the Bronx, I'm very big on ownership and trying to maintain a lot of those buildings where they are, but I recognize that many of them could be struggling; some of the HDFCs that I have are, you know very small; they're under 50 units, but very important. So I wanted to find out with future conversations we're having as the Administration, are we looking at more services for, you know, buildings that could potentially be in a Third Party Transfer Program?

MOLLY PARK: Sure. There are a lot of things going on in that question, so let me see if I… [crosstalk]

COUNCIL MEMBER GIBSON: There's a lot going on with TPT.

MOLLY PARK: yeah… if I… let me try and address that. So first of all, yes, there are certainly struggling HDFC co-ops out there and we have a lot of initiatives that are going on within HPD that are separate and apart from the Third Party Transfer Program so that we can try and serve those buildings before they get to the point of being in serious distress… [interpose]

COUNCIL MEMBER GIBSON: Right.

MOLLY PARK: but by the time you got to the TPT point…

COUNCIL MEMBER GIBSON: Right…

MOLLY PARK: it is… [crosstalk]

COUNCIL MEMBER GIBSON: there's not turning back [sic].

MOLLY PARK: going to be very difficult to recover. So we have a technical assistance contract so we can provide assistance to those co-ops with whatever their needs may be; it may be, you know, board training; it might be, you know, getting into a repair program; you know, there is sort of a host of needs that could be met and that we have technical assistance providers to do. The other thing that we're doing with the co-ops is looking -- you know many of them were underwritten back in the day without a full property tax exemption, so we really want to encourage buildings to come back in so that we can work with them and get them on a more stable footing. We are going to ask them to re-up on their affordability if we're going to do that, right; we want that to be affordable housing for the long term [background comment] so that we would extend the regulatory agreement, but that is something that we will look to do. Within the Third Party Transfer Program, just to be clear about how buildings end up on that pathway, it is a combination of properties that would have been in the lien sale but for the fact that they meet the definition of statutory distress, so that means lien-to-value ratio of 15% or greater and then the threshold of B and C violations, plus buildings that are not in the lien sale for whatever reason or don't quite meet that definition of statutory distress but that HPD feels like TPT is the right intervention for them, that we think that the owner is not going to be able to stabilize the building in a long term. TPT is a very extreme solution, right; we are talking about foreclosure, so we don't enter into that lightly, but for example, separate from the co-op issue, but a building that has been lingering in the Alternative Enforcement Program for quite some time, that owner is not on track to stabilize that property; we will look to put it through TPT, even if it doesn't necessarily meet the definition of statutory distress. So once the university for third party transfer is identified, building owners always have the opportunity to redeem themselves, so we go from a very large pot to actually a fairly small universe and then we commence the foreclosure proceedings, and those will ultimately go to new ownership and almost always with a fairly extensive rehab. There are, in the current round of third party transfer, there are a fair number of HDFC co-ops; if they do ultimately get all the way through the foreclosure process, those buildings will be reconstituted into affordable rentals; they won't have a co-op ownership… [interpose]

COUNCIL MEMBER GIBSON: Right.

MOLLY PARK: option at the end.

COUNCIL MEMBER GIBSON: Okay. Well no, I appreciate the work and certainly the number one goal for me should be to maintain the preservation of affordable housing, so if we have HDFCs we have to do everything possible to maintain them at that status… [interpose]

MOLLY PARK: Agree.

COUNCIL MEMBER GIBSON: because for many residents, we don't want them to be renters for the rest of their lives; if they have an opportunity in their communities to own their apartment, I think that's a good option for them that we should maintain.

So I appreciate that and certainly want to keep having dialogue and with that I want to get to the preservation trust that the Public Advocate talked about. You know some of these buildings that have extensive outstanding debt and liability and the tenants are the ones suffering each and every day because of lack of repairs and other amenities that they're not afforded; what are we doing -- and I know there was a recommendation made through the task force -- but what are we doing as a city to try to take a hold of these buildings so that the tenants at the end of the day can get the quality and affordable housing that they rightfully deserve?

MOLLY PARK: So let me start by saying again that I agree that the… and HPD agrees that the tax lien sale represents a really important preservation opportunity and we want to use it as such. We have some concerns about the preservation trust model in and of itself, but we've had some very productive conversations with various members of your staff and with the advocate community and I think we're headed in what feels like a really positive direction to use the tax lien sale as a preservation trigger, so there's a couple of things that we're doing. First, we are creating what somebody in this room referred to as a capital P program for discretionary pulls, so that we have very clear criteria for exactly the buildings that you're talking about, right, that are really key preservation opportunities where we think they should be in affordable housing programs, and we will pull those from the lien sale and we will provide the owners with technical assistance; we will also -- and track them into HPD loan programs. What we want to do is have some fairly specific criteria that we can say buildings X, Y and Z meet these criteria and should end up in this program. I think there's a lot of advantage to doing it as a program because it means we can test out the criteria in this year's lien sale and if we find we're not getting the buildings exactly that we want, we can change it again; we're working with a lot of people in this room to set those criteria. The idea would be that those owners have very specific milestones that they need to meet, track them into a preservation program, get them in a loan through one of the various programs that HPD already has, get them a tax exemption and get them a regulatory agreement so that there is locked in affordability for 30 years or more. That is something that we think is absolutely critical and that we are working on for this lien sale.

Then the Third Party Transfer Program is through the other preservation component that is associated with the lien sale. TPT, again, it's a very extreme option because we are taking buildings away from owners; sometimes that's the right thing to do, but if you have a mom and pop owner that has a couple of buildings; they're struggling to try and do the right thing; they're struggling to provide their properties, but they haven't been able to do it but they would be willing to take on an HPD loan, willing to agree to ongoing affordability and get to keep their investment; we actually think that's a better outcome than taking the buildings away from them. So that's why we want to have this sort of alternative path with the discretionary pulls rather than putting all of those through third party transfer.

Sometimes getting to that foreclosure process is the right thing to protect the tenants and so we are looking at third party transfer so that we can make sure that we are serving the full complement of buildings that do need that heavy end intervention.

COUNCIL MEMBER GIBSON: Okay. And I guess my last comment, for the sake of time, is just, you know, recognizing that most of the liens that are sold and looking at all the data we have, we have enough numbers and looking at some of the trends and the tenants that face the greatest displacement are in low-income communities of color, so I think, you know for many of us and you know, me in particular going through a neighborhood rezoning plan, it's something that I hear about and face every single day; the fear if displacement, the fear of harassment, the fear of tenants losing their homes is you know the greatest struggle that we are facing each and every day, and so I think you know as an administration; as a city we have to be extremely creative because we have to find ways using the tools and resources we have to identify programs to put in place, codifying them in law, because you know, I don't want my tenants to leave the Bronx because if they do, there's nowhere for them to go. So I mean it's something that you know we emphasize is important and I hear it every day; if one tenant doesn't tell me, then ten tenants tell me, so it's something that you know I'm very, very passionate about, as are many of my colleagues, so we want to work with you and be your partner, because we do have to find something to do. Neighborhoods are changing drastically; the characters of neighborhoods are constantly, you know threatened for just being changed and we want to make sure we maintain the foundations of our neighborhoods and those of our families and our tenants. So I thank you for your work, it's not easy, the work we do is not easy, but I'm looking forward to much more coming out of the task force and this year. So thank you so much and thank you, Madam Chair.

MOLLY PARK: Thank you.

CHAIRPERSON FERRERAS-COPELAND: Thank you. Public Advocate James; followed by Council Member Miller.

PUBLIC ADVOCATE JAMES: Thank you. Let me follow up on the question of Council Member Cornegy, as well as Council Member Gibson, and I guess it's consistent with what President Barack Obama said last night and that is, we should base our discussion based on fact. And so Council Member Gibson indicated that most of these tax liens are in low-income communities; I believe that, but I don't know that for a fact. So my question to you is; why do we not map where these tax liens are?

COMMISSIONER JIHA: This is something we can… I think we could try to do going forward, okay, but we currently don't track this information… [crosstalk]

PUBLIC ADVOCATE JAMES: Okay.

COMMISSIONER JIHA: but it's something we could do going forward.

PUBLIC ADVOCATE JAMES: So yeah, I look forward to working with you; there is a number of individuals who are available to map where the tax liens are so that we could follow them too.

My question is; you know why is it that we are selling these tax liens to the Bank of New York Mellon as opposed to a not-for-profit? Is it because we're getting a return back on our investment?

COMMISSIONER JIHA: Say sa… please…

PUBLIC ADVOCATE JAMES: Why are we selling this… Why are we selling these tax liens to the Bank of New York Mellon as opposed to a not-for-profit?

COMMISSIONER JIHA: We sell it to a trust and a trust **[inaudible]**… [crosstalk]

PUBLIC ADVOCATE JAMES: To a trust. Could we sell it to a not-for-profit?

COMMISSIONER JIHA: The program currently we have right now is with a trust we have; that's, you know…

PUBLIC ADVOCATE JAMES: And the reason why we are selling it to a trust is because we're getting greater revenue as opposed to a not-for-profit?

COMMISSIONER JIHA: I don't know what it would be if we were to do it with a not-for-profit because we haven't tried that model before, but currently… [crosstalk]

PUBLIC ADVOCATE JAMES: Is there a pol… Is there a policy reason why we cannot consider selling the debt to a not-for-profit as opposed to a bank, a corporate bank, a multi-national bank?

COMMISSIONER JIHA: I'm not trying to… I'm trying to see… the setup that we have currently, okay, is a trust that we sell the property to, the trust issues bonds, okay and sell the bonds…

PUBLIC ADVOCATE JAMES: Right.

COMMISSIONER JIHA: okay. It's a very complicated thing; it's not just one… **[inaudible]** we're selling to one particular… [crosstalk]

PUBLIC ADVOCATE JAMES: I understand…

COMMISSIONER JIHA: Okay.

PUBLIC ADVOCATE JAMES: they… they… you know they put all of these trusts together and then they sell these on the open market and… [crosstalk]

COMMISSIONER JIHA: Yeah and they provide the money up front to the City…

PUBLIC ADVOCATE JAMES: Right.

COMMISSIONER JIHA: okay, which is a significant amount of money; I don't know if the not-for-profit -- you know, as I said, we haven't tried that model, so I don't know if it would work, okay… [crosstalk]

PUBLIC ADVOCATE JAMES: So which…

COMMISSIONER JIHA: but in theory it's easy to say in theory, okay, but I, you know… [crosstalk]

PUBLIC ADVOCATE JAMES: In theory it's easy to say, but I guess it goes back to my original point and that is, we have an opportunity now to perhaps restructure this program and if the policy is we just need the biggest bang on our buck, we just need as much money as we can possibly get, if that's the policy, then someone please tell me. My policy, my values are we need to preserve housing, we need to address displacement, gentrification, crisis in affordable housing, homelessness, all of that. If the policy of this administration is we just need a lot of money…

COMMISSIONER JIHA: That's not a policy. This is only a tool; this is just an enforcement tool, okay; this has nothing to do with policy. I mean, let's not confuse these two things, okay. This is an enforcement tool, okay, that we use to collect delinquent municipal charges, okay; it has nothing to do with a policy trying to get as much as possible from this parti… that's not the point… [interpose]

PUBLIC ADVOCATE JAMES: But you're… But you're getting… [crosstalk]

COMMISSIONER JIHA: The point is… Let me… Let me finish my… let me finish… [crosstalk]

PUBLIC ADVOCATE JAMES: Yeah. Uhm-hm.

COMMISSIONER JIHA: The criteria that we established…

PUBLIC ADVOCATE JAMES: Uhm-hm.

COMMISSIONER JIHA: okay, has only to do… we don't target neighborhoods, okay, okay… [crosstalk]

PUBLIC ADVOCATE JAMES: I didn't say you did.

COMMISSIONER JIHA: The criteria that we established, if you have certain liabilities, which is $1,000, and which are due for more than two years, these are the only criteria…

PUBLIC ADVOCATE JAMES: Right.

COMMISSIONER JIHA: okay, that we established.

PUBLIC ADVOCATE JAMES: Right.

COMMISSIONER JIHA: Now is it possible that some neighborhoods are more disproportionately impacted by it? Yes…

PUBLIC ADVOCATE JAMES: Right.

COMMISSIONER JIHA: okay, and that's what we currently putting together, okay, an entire plan that is outreach, financial counseling, and we're working, okay, till we design a payment plan…

PUBLIC ADVOCATE JAMES: Right.

COMMISSIONER JIHA: okay, so that we could take someone's income into account, okay, when they come to us to set up a payment plan. So it has nothing to do with any of this noise… it's a lot of noise, okay… [crosstalk]

PUBLIC ADVOCATE JAMES: Oh, I don't know…

COMMISSIONER JIHA: it's a lot of noise…

PUBLIC ADVOCATE JAMES: Right.

COMMISSIONER JIHA: But let's not confuse… you know let's not conflict things, okay… [crosstalk]

PUBLIC ADVOCATE JAMES: My attempt is not to make noise; my attempt is to address a housing crisis and my attempt is basically to devise policy… [crosstalk]

COMMISSIONER JIHA: But currently from a [sic]… because… because of property tax… and sa… let me say something to you… [crosstalk]

PUBLIC ADVOCATE JAMES: Let me… let me… can I… can… can I finish my comment…? [crosstalk]

COMMISSIONER JIHA: Okay, go ahead.

PUBLIC ADVOCATE JAMES: Yeah. And so I recognize that all you are doing is collecting debt and you're collecting debt from distressed properties and they're distressed for a reason…

COMMISSIONER JIHA: Yes.

PUBLIC ADVOCATE JAMES: One, two; we cannot come up… we cannot devise a policy if we don't even know where the buildings are; you don't even map them, and so which goes to my original suggestion; we should map to see whether or not they're in certain communities; again, consistent with the comments that were made by both Council Member Cornegy and Council Member Gibson; we can't devise a policy if we don't know where they are, one; two, if it's about debt of distressed properties and if they're distressed for a wide range of issues, for a wide range of reasons, perhaps we should look at those distressed properties. And then lastly, but not least, is why can't we devise a program -- and I know you don't want to take properties from mom and pop homeowners and I understand that; perhaps it's an issue of management; perhaps we should partner some of these mom and pops with these community-based organizations. All that I am suggesting is that there are a number of recommendations that this administration, that your agency should consider and adopt, which goes to my second question.

You are devising a program, and my question to you is, why can't we do it legislatively, why can't we codify a program so that it will survive this administration, to the next administration and any administrations thereafter?

COMMISSIONER JIHA: Yeah, let's start from the beginning. Many of these properties

[inaudible] tax lien sale are not distressed properties, okay let's clear this to begin with. Two, because a property in the tax lien sale, HPD could discretionarily remove that property; it doesn't mean that the owner of the property, okay… because remove the property doesn't mean it's going to go to some affordable housing because at any point… [crosstalk]

PUBLIC ADVOCATE JAMES: Uhm-hm.

COMMISSIONER JIHA: okay, the owner of the property could always meet his or her obligations… [crosstalk]

PUBLIC ADVOCATE JAMES: Sure.

COMMISSIONER JIHA: and remove the property, okay…

PUBLIC ADVOCATE JAMES: Uhm-hm.

COMMISSIONER JIHA: so that's two.

PUBLIC ADVOCATE JAMES: Uhm-hm.

COMMISSIONER JIHA: I don't have any issue with codifying things, okay… [interpose]

PUBLIC ADVOCATE JAMES: Uhm-hm.

COMMISSIONER JIHA: in anything that we're proposing; it's not telling you we should not do that, but the point I'm trying to make is, the tax lien sale is an unfortunate mechanism, okay; we could use it, we could try to find other things, okay, to use it for…

PUBLIC ADVOCATE JAMES: Uhm-hm.

COMMISSIONER JIHA: okay, but also recognize what it is…

PUBLIC ADVOCATE JAMES: Uhm-hm.

COMMISSIONER JIHA: okay, and from our perspective…

PUBLIC ADVOCATE JAMES: Uhm-hm.

COMMISSIONER JIHA: okay, in Finance, we have an obligation…

PUBLIC ADVOCATE JAMES: Right.

COMMISSIONER JIHA: to collect; this is our fiduciary duty…

PUBLIC ADVOCATE JAMES: I…

COMMISSIONER JIHA: okay?

PUBLIC ADVOCATE JAMES: Right.

COMMISSIONER JIHA: HPD has its own fiduciary duty; we have our fiduciary duty…

PUBLIC ADVOCATE JAMES: Sure.

COMMISSIONER JIHA: if we fail in our mission…

PUBLIC ADVOCATE JAMES: Sure.

COMMISSIONER JIHA: okay, it's your right to come to me and say you know what; you're not collecting **[inaudible]** taxes for X, Y reason why, okay… [interpose]

PUBLIC ADVOCATE JAMES: sure.

COMMISSIONER JIHA: we have… so therefore our main objective… [interpose]

PUBLIC ADVOCATE JAMES: Is to collect debt.

COMMISSIONER JIHA: is to collect debt, okay… [crosstalk]

PUBLIC ADVOCATE JAMES: Your mission is to collect debt, to collect revenue of the City of New York; I understand that…

COMMISSIONER JIHA: Okay.

PUBLIC ADVOCATE JAMES: and I'm not asking you to violate your fiduciary responsibility, but I don't believe that collecting revenue in the City of New York and preserving affordable housing is incompatible.

COMMISSIONER JIHA: We're not saying this. I mean we're saying to you, HPD remove… as a discretionary course… we can **[inaudible]** property that miss certain criteria, that if they fit the criteria, they remove them, so we're not saying these are mutually exclusive rules, we're not saying that at all.

PUBLIC ADVOCATE JAMES: I understand that. I want to move on.

COMMISSIONER JIHA: Okay.

PUBLIC ADVOCATE JAMES: I have two last questions and I again thank the Chair and I pardon and I urge her indulgence. Are we broadening the definition of distressed in this bill, in this extender?

COMMISSIONER JIHA: We… distressed, meaning… [background comments] No. No. No.

PUBLIC ADVOCATE JAMES: You're not changing the definition of distress, you're not broadening the definition of distress; it's primarily… this bill is a straight extender; is that fair to say?

COMMISSIONER JIHA: Huh? [background comment] No, it is… it is HPD's discretion, no? [sic] [background comment] HPD has the discretion. [sic]

[background comment]

SAMARA KARASYK: Public Advocate, hi; Samara Karasyk here.

PUBLIC ADVOCATE JAMES: Hi.

SAMARA KARASYK: I would just add; it's not a straight extender; we spent two years with the Lien Sale Task Force; there were a lot of recommendations that were made through that process that are included in this bill; there's a lot of changes that we will be making because of this bill, so I would not categorize as a straight extender, and then I would defer to HPD to talk about the discretion that you have, which you know you've always had and you continue to have.

PUBLIC ADVOCATE JAMES: Let me close by just saying the following; that the administrative program that you are devising, which is not a trust fund, it's more of a, I think you said a capital program, and you are establishing criteria, working with advocates as well as with my office. I would hope that when we come to some agreement, and obviously the devil's in the details, that we can codify this and that it's not just an administrative program. I look forward to working with you, again. I know that your mission is to collect debt and I don't have a problem with that; you've been charged with that; my mission is something different. My mission is twofold: (1) to collect debt and (2) to preserve affordable housing and to create opportunities in the City of New York and I think this is an opportunity and I recognize that there is tension because at the end of the day you want to create more revenues for several programs in the City of New York, but I think this is a missed opportunity. And I apologize if I'm very passionate about this, because I see the result of our failure to look at current programs and to create more affordable housing in the City of New York and I will again reiterate my position that I stated at the outset, and that is, this is a missed opportunity, but I look forward to working with you in the future to correct it. Thank you, Madam Chair.

CHAIRPERSON FERRERAS-COPELAND: Thank you, Public Advocate James. We will now hear from Council Member Miller.

COUNCIL MEMBER MILLER: Oh I have to go after the Public Advocate, it's uh… Thank you, Madam Chair. Good afternoon Commissioner, you and your team. This is always an interesting topic when it comes to liens in Southeast Queens, considering that 65% of the district that I represent is homeownership; a lot of that seniors, often low-hanging fruit on fixed incomes, and they often find themselves in this quagmire. So I do very much appreciate the outreach of your team. Over the past two years I would say the hundreds of folks that had received 90-day notices; I would say not more than two or three had actually incurred a sale. So I think that collectively we've done a good job on that, but I do at some point want to follow up on what the Public Advocate said on whether or not this is the best use of these resources moving forward. I do think that we can expand outreach and in particular as it pertains to the seniors, and providing not just access, engagement and information, but relief, considering that they are on these fixed incomes and things happen. Often my office is intervening on their behalf; sometimes through no fault of their own because of unscrupulous lenders that find themselves preying on these folks; they end up mortgages, although their homes had been paid for long ago and sometimes taxes that should have been paid aren't being paid, but again, through no fault of their own, but when it comes this time for the City to get its money, the City has to get its money, so we have to figure out a way to be more humane in that and perhaps as we put our heads together and get out to our senior community we could address that in a better way because there is nothing more devastating than to see seniors agonize over potentially losing their home. So I hope that we can do that a little better.

The other thing is -- so on the loan repayments, what is the interest rate on the lien?

COMMISSIONER JIHA: The interest?

COUNCIL MEMBER MILLER: Yeah.

COMMISSIONER JIHA: It's about 6% now for properties of less than $250,000 in assessed value. But let me go back to the original point you were making. We recognize the stress that rising values and as a result, rising property taxes have put on many seniors, particularly people on fixed income; that's the reason why we are currently working, as I said, on a tax default plan, okay for seniors on fixed income, okay. We are, as I said, developing recommendations; we'll come back to the Council; we'll be working with the City Council staff to draft the model and come back to you with a presentation, okay, at the appropriate time when we complete our review, because we realize, okay, the imposed significant burden on a lot of our seniors, okay. So we are working very hard at this point in time to get it done, but we will come back to you, okay, to discuss that recommendation.

COUNCIL MEMBER MILLER: Well I'm really glad to hear that. You know I just… I lost my dad in November, mom, we had a family meeting on Saturday and my siblings don't understand on what it is to maintain a household…

COMMISSIONER JIHA: Uhm-hm.

COUNCIL MEMBER MILLER: right, and 80% of her household income was lost, with taxes continuing to rise and things happen and so we're trying to put our heads together to figure that you, and everybody's on, you know, minimum incomes with responsibilities themselves, so that's really good to hear.

So to follow up on what the Public Advocate was saying on potential and possible uses for the revenues, and here in the Council we have a program along with HPD, which is being done for the first time anywhere in the country and that is neighborhood stabilization, where we purchase distressed mortgages from HUD and we attempt to keep families… negotiate those mortgages, renegotiate those mortgages, unlike the banks, and attempt to keep families in their home. Considering that in particular in Southeast Queens that one-third of the foreclosures in the City of New York occur there, we think that this is a really viable program; it's been successful; we purchased the first 31 [sic] homes back in May and we're looking to purchase about a 100 more over the next two months. But with that being said, do you anticipate that there is a way that these dollars could be used to participate in these programs to relieve some of that distress…

[background comments]

COUNCIL MEMBER MILLER: and allow for some stabilization within these communities?

MOLLY PARK: Sure. Let me answer at a high level. I mean first of all, the dollars that come in through the tax lien sale, through property taxes in general, are supporting a very broad array of programs throughout the city. I think we'd be certainly interested in talking to you about options for continuing to support homeowners; it's something that I have been thinking about within the Division of Development at HPD; I've been there just a few months, but I have some ideas, so I think we should certainly talk further about that. You know, the particular note purchase program with HUD that you mentioned depends on being able to work with HUD, which -- I'll get back to you on that one; how that plays out, so.

I do also want to take a moment to clarify for the record about some of the programs, just in general, that HPD has going on, working with buildings that are on the tax lien sale list. I said it before; I will say it again; we think this is a really important preservation opportunity, but we think the carrot and stick combination in particular are particularly potent, right. All of these buildings, particularly ones that have never been sort of officially affordable housing but are sort of de facto affordable housing in the neighborhood; these are owned by private owners who may or may not have any interest in engaging with the City; getting that 90-day notice is a really powerful push to engage with the City and to work with our technical assistance providers, to work with my team to get into a program that actually will get them into a formal affordable housing program; it's something that I feel very, very strongly about personally; it's something we're working really hard on, but I think that combination of saying hey, you got this 90-day notice; there are very real consequences associated with that, but I can help you deal with that if we can get to a shared goal of providing affordable housing; that's a really powerful combination that I want to exploit to the maximum extent possible, right. So in the question of do we put more things through TPT; do we expand the definition of statutory distress, and I'm always happy to talk about that and I think going forward the answer could potentially be yes, but where we stand right now, this combination of sort of you can go this way or you can go this way actually can work really, really well and I'm excited about that.

COUNCIL MEMBER MILLER: Okay. Thank you, and I'm glad to hear that that in fact is an option that we can have a conversation about.

And finally, my office is often intervening on a lot of the small local churches, mosques; synagogues that have less sophisticated administrators and assume that they are exempt all the way around and that's been a major problem; is there something specifically that you have that addresses faith-based institutions?

COMMISSIONER JIHA: Yeah, as I indicated… [interpose]

COUNCIL MEMBER MILLER: And other not-for-profits?

COMMISSIONER JIHA: Yeah, as I indicated before, we work with all the not-for-profit basically to… we send them notices, because we recognize many of them face this kind of challenge, and as a result we've been very, very, very flexible, as you know, working with you and your staff. Every time they fail to certify they come to us, okay, and even after the lien sale period expired, we still extend… we still work with them to defect the lien, to remove the properties from the lien. So again, it's… if you know, if you have a specific case, you could always come to us, okay and work with us; we are very flexible, because at the end of the day our goal is not to take over properties from not-for-profits, you know because they have a specific use that they're using the property for.

COUNCIL MEMBER MILLER: **[inaudible]** possible that we could put together something that would preempt an educational piece as to what the responsibilities are for those not-for-profits? Although it's probably… you know I'm sure it's in the Charter and other places, but again, because they have less sophisticated administrators and that their passion is not necessarily met with skilled people, how do we get this information to them in advance? Does that information exist; can we package that and give it to them so when we're doing our many forums with the not-for-profits they have this information…? [crosstalk]

COMMISSIONER JIHA: **[inaudible]** things we could do is… Yeah. One of the things we can do is to expand our outreach, working with your staff and to do more outreach in your district and so could educate them about the need for them to recertify on an annual basis, okay. But the law is clear; you not only should be a not-for-profit, but the use of the property is for certain purposes, okay. These two conditions must be met, and unless you certify, we don't know the use of the property.

COUNCIL MEMBER MILLER: Okay. So the next time we do something specifically with the not-for-profits, we'd love to have someone from the agency come in and… [crosstalk]

COMMISSIONER JIHA: Sure.

COUNCIL MEMBER MILLER: explain the differences.

COMMISSIONER JIHA: Sure.

COUNCIL MEMBER MILLER: Thank you so much, Commissioner. Thank you, Madam Chair.

CHAIRPERSON FERRERAS-COPELAND: Thank you Council Member Miller. I'm going to start the second round and I'm going to give it over to Council Member Rosenthal; I'm going to have my questions as a follow-up to you…

COMMISSIONER JIHA: Sure.

CHAIRPERSON FERRERAS-COPELAND: just for time and I want to have enough time for the advocates to also present -- we have several panels after you. Council Member Rosenthal.

COUNCIL MEMBER ROSENTHAL: Thank you; I'll go quick. Thank you. Two quick questions while

I'm back on you again. I'm really interested in those tens of thousands of records that you go through in order to determine your discretionary pulls that you make each year, and I'm wondering, again, with the point being, you know, Public Advocate James' point of how do we get more affordable housing; I'm wondering what in general… in 2016 you had 74 pulls; what was the outcome of those; was there success in all 74 so that all of them were given… you know, you gave them some new tools so that affordable housing was preserved or some portion?

MOLLY PARK: Sure. So the pulls in 2016 were largely properties that we were already engaged with in some way, so they might not all have made it to the point of loan closing at this point, simply because the pre-development process is long, but… [crosstalk]

COUNCIL MEMBER ROSENTHAL: That's fine. I mean go back to 2015, but… I'm just trying to get the general idea; I don't… [interpose]

MOLLY PARK: Sure. So I think probably makes sense for us to get back to you with a breakdown of sort of everything that was pulled in

2015; where are they today. We can do that [sic]… [crosstalk]

COUNCIL MEMBER ROSENTHAL: Yeah, I mean the idea is; how can we help HPD? When you do your discretionary pulls, how many end up with a success so that they either stay in or now get into affordable housing and how many don't; how many where you know we did a pull and it just didn't work out? Could we be giving you -- we, you know, the grand we -- be giving you more tools and I don't know if that means more staff to be doing the work or more tools in terms of preservation funds or for the state to give you more programs for preservation?

MOLLY PARK: I can always use more staff, thank you. I guess I would say in the very short term what would be useful would be thoughts on criteria that we should be using and things… [crosstalk]

COUNCIL MEMBER ROSENTHAL: Yeah.

MOLLY PARK: that can really be quantitative and applied in an across the board kind of way. We need to be very careful that it doesn't appear that we are cherry-picking particular preferred buildings; we want to be identifying properties that meet what we all feel like are some fairly objective preservation criteria; we certainly have… [crosstalk]

COUNCIL MEMBER ROSENTHAL: And do you have those now [sic]?

MOLLY PARK: we have a lot of ideas, but we welcome other ideas, so you know I'm happy to give you my contact information at the end and if you have thoughts. I mean one example would be… I think very reasonable people can think and we certainly think that properties that have been through the lien sale multiple times are likely [background comment] at risk, but it's also possible that you have an owner who is gaming the property tax system and waiting till the very last hour to pay their taxes and that's just their mode of operation, right? So I think that's a good criterion, but I don't know for sure; if you have other ideas, we welcome them.

COUNCIL MEMBER ROSENTHAL: Yeah, I mean I sort of envision… I assumed, you know well it's these five criteria and if they get four out of the five hits, we go after them.

MOLLY PARK: Yep. And it's something that we… as we do this going forward we will be in a position to adjust and tweak and say, you know what, we said twice through the lien sale was a good one; in fact, that got a lot of people who were, you know, not the appropriate preservation buildings; maybe we need to make it three or twice through the lien sale is not aggressive enough; maybe we need to make it a building that has never been through the lien sale. I'm throwing out ideas here, but… [crosstalk]

COUNCIL MEMBER ROSENTHAL: Yeah, yeah.

MOLLY PARK: you get the idea.

COUNCIL MEMBER ROSENTHAL: So in other words, what you've done to date is more of an art than a science and you're working on the science.

MOLLY PARK: What we have done to date has largely emphasized the properties that are already in our pipeline, either… [crosstalk]

COUNCIL MEMBER ROSENTHAL: Got it.

MOLLY PARK: have historically been… [crosstalk]

COUNCIL MEMBER ROSENTHAL: Alright.

MOLLY PARK: in our pipeline or are about to be and we are getting much more aggressive with it.

COUNCIL MEMBER ROSENTHAL: Got it. Thank you. Lastly, one of the advocates gave me some information I thought was interesting -- I don't know who this goes to; Commissioner, maybe it's you -- so according to her, on vacant land where there are exempt liens, could there be opportunity for affordable housing? And the thought here is that right now these liens are going to the private market and you know, lost.

COMMISSIONER JIHA: Yeah, **[inaudible]**.

COUNCIL MEMBER ROSENTHAL: Well her number is four million square feet of unbuilt residential floor area, so as a conservative estimate, based on data available in zoning and building rules, to reveal every vacant land with over four million… **[inaudible]**… blah, blah, blah… if it could, it could yield 40,000 permanent affordable units.

MOLLY PARK: So we are always looking for land for affordable housing, absolutely; we have taken vacant lots through third party transfer in the past and we will certainly look to do it in the future. Without being familiar with these particular statistics, I would say that sites have to be buildable, so there's a lot of vacant parcels… [crosstalk]

COUNCIL MEMBER ROSENTHAL: sure.

MOLLY PARK: that are in the tax line sale that are in fact little slivers of things, right… [crosstalk]

COUNCIL MEMBER ROSENTHAL: Sure.

MOLLY PARK: where you can't put a building. The other thing is, whether it goes through the lien sale or whether a property goes through third party transfer, owners always have to have the opportunity to redeem those properties and…

COUNCIL MEMBER ROSENTHAL: Sure.

MOLLY PARK: in all likelihood, the more buildable opportunity there is, the more likely it is to be redeemed out of the lien sale 'cause it's got more value.

COUNCIL MEMBER ROSENTHAL: Yep. Yep. Okay. Well again, the thought is, could we nap it before?

MOLLY PARK: We'll certainly look at that; at the moment I can't think of any opportunity where we don't have to give the owner an opportunity… [interpose]

COUNCIL MEMBER ROSENTHAL: Yeah.

MOLLY PARK: to redeem it.

COUNCIL MEMBER ROSENTHAL: Yeah.

[background comments]

JEFF SHEAR: Well and… and I… I would… also just add that Int. 1385 does contain a provision where we will be sharing lists with the Council of vacant properties… [interpose]

COUNCIL MEMBER ROSENTHAL: Oh great.

JEFF SHEAR: that are in the tax lien sale at-risk pool [sic].

COUNCIL MEMBER ROSENTHAL: Yeah.

JEFF SHEAR: So I think it's an area that requires more study on both sides and we want to be open and transparent with the data.

COUNCIL MEMBER ROSENTHAL: And lastly, I'm just going to say that many advocates have reached out to my office and asked that -- and I think other council members as well -- and asked that the Sunset provisions be shortened on the tax lien sale law -- did I just -- it went right down your neck, didn't it, Commissioner… [crosstalk]

COMMISSIONER JIHA: **[inaudible]** [laugh]

COUNCIL MEMBER ROSENTHAL: I felt that. [laughter] So the current law is -- the way it's written right now is four years and I'm just wondering, given, you know what the Public Advocate is proposing and you know, data, blah, blah, blah, what your thinking is on shortening it so that there is an opportunity to weave in some of these ideas that you guys are in the process of flushing out.

COMMISSIONER JIHA: This is not on the end, okay; this is an ongoing process, from my perspective. The only difference is, because every time we have new ideas -- as I said, we're working on new ideas; we're going to come back to the Council with an amendment -- you know we're going to fix things up; that's not an issue. The problem we have with the shorter time period is; is the certainty, okay and the administrative burden it puts on us. Okay, every time, every two years, every year that you have to come back. I mean right now we are presuming that this is going to pass so therefore putting things in place the minute the vote takes place -- don't forget, we have 90-day notices we have to send out; we have… **[inaudible]** for us, it's really a lengthy process, okay, and the fact that we don't have it right now is putting us at a major disadvantage administratively. So therefore shortening is not going to help us because at the end of the day this is a… I mean we're not looking at it, from our perspective, as an end result, okay we're going to keep coming back to you tweaking it and as we tweak; as you give us ideas, we're tweaking it to make it better and we have opportunities to fix things, to amend the lien sale issue [sic], I mean it's not an end to itself. But the shorter the time frame that we have to work, it's very difficult for us administratively.

COUNCIL MEMBER ROSENTHAL: Thank you Commissioner. You can get a massage for that.

COMMISSIONER JIHA: Yes, thank you.

[laughter] [background comment] [laughter]

CHAIRPERSON FERRERAS-COPELAND: Okay, let's not give away massages at the hearing. [laughter]

COMMISSIONER JIHA: Okay, too much love [sic].

CHAIRPERSON FERRERAS-COPELAND: Council Member Williams.

COUNCIL MEMBER WILLIAMS: Thank you Madam Chair; thank you Commissioner; everyone. I really just wanted to voice my opinion; I'm pretty sure a lot of my questions have been asked. I just want to say I too have very much concern and I've brought this up a bunch of times on lien sales and making sure that we're doing everything we can to get as much affordability as possible. Most of my questions were probably asked so I don't want to repeat them; I'm going to ask one; it may be repeated, but it seems like, from what I can understand, there's been issues with what has been redeemed and what hasn't we know that two or three percent go to foreclosure and then the rest of them work itself out or has been redeemed somehow. My question is; does the City believe in ending deemed… has the City done everything it can to make sure in that redemption we've put as much measure as possible to get affordability out of it?

COMMISSIONER JIHA: I think we've done the best that we could, because we share… listen, I mean, we share the list of properties with HPD; with, I believe, HRA; with Homeless… you know, Department of Homeless [background comment], I mean we share the list with all the City Council Members so you know in your district, okay, which properties are at risk. So it's like, I think we've done the best that we could, because from our perspective, because we share and then every time they ask us to remove properties, we do so, okay. So it's like **[inaudible]**…

[crosstalk]

COUNCIL MEMBER WILLIAMS: Well I guess… I guess for me, in redeeming, so in… if someone is… whatever the property is is going to buy it back, basically; basically fix… deal with the lien, whatever is outstanding; are there measures in there to try to incentivize that there's affordability in the housing?

COMMISSIONER JIHA: Yeah, **[inaudible]**.

MOLLY PARK: Sure. Molly, with HPD. When I talk about a property being redeemed, the way I'm using the word; this is an owner who has paid down their liens, right, so at some point before the 11th hour they are making themselves whole with the City. When an owner opts to do that at that point, our leverage is essentially gone to get sort of affordability with, you know, with respect to a regulatory agreement. So if you take the Third Party

Transfer process, which is our most extreme lever of using the tax lien sale for affordable housing purposes, 'cause in that case we are actually foreclosing and transferring to a new owner with a regulatory agreement and a rehab. Actually, 80% of the properties that start along the third party transfer route redeem out, meaning the owners pay down their liens. We are going to continue to watch those properties because by definition, they have violations and other kinds of things where we're going to be using our enforcement tools, but with respect to using the tax lien sale to get them into a HPD affordable regulatory agreement, because we can't just take the property, that opportunity is gone… [crosstalk]

COUNCIL MEMBER WILLIAMS: Does… so does redeemed also mean someone else besides the owner has a property; they paid the lien; does that also mean redeemed?

MOLLY PARK: No. So if we've gotten to the… if we are getting to the point where we have foreclosed on the property and the lien's been wiped out, which is that end result of third party transfer, at that point it is in new ownership with a regulatory agreement and it is absolutely going to be affordable.

COUNCIL MEMBER WILLIAMS: So 80% of the properties, in your estimation, are redeemed liens that the owners themselves have paid down what was owed?

MOLLY PARK: Correct.

COUNCIL MEMBER WILLIAMS: Okay. Thank you.

COUNCIL MEMBER ROSENTHAL: Thank you so much. Oh, Public Advocate, one last question. I was instructed to end it, but for you… [laughter]

PUBLIC ADVOCATE JAMES: Okay, that means be brief. So when I worked in Albany in the Council, I did in rem bills; are those still available to homeowners, where you can go to Albany; your state elected official can get your property back; is that still available? I just do in rem legislation. Is that still available?

JEFF SHEAR: So yes; [background comment] that is for properties that are going through the in rem process itself and so Molly can speak more to the third party transfer in rem actions that have been resumed, but it would apply to the in rem actions; it would not apply to the tax lien sale process.

PUBLIC ADVOCATE JAMES: Got it; that's it, you don't have to explain. Thank you.

COUNCIL MEMBER ROSENTHAL: Thank you all very, very much; I appreciate your testifying today.

COMMISSIONER JIHA: Thank you.

COUNCIL MEMBER ROSENTHAL: I'm going to ask Shula Warren, on behalf of Manhattan Borough President Gale Brewer, to testify next. Thank you.

[pause]

[background comments]

SHULAMIT WARREN: Thank you so much. My name is Shulamit Warren; I'm the Policy Director for Manhattan Borough President Gale Brewer and I'll be reading forth her testimony on the record, and thank you for this opportunity.

"Good afternoon. My name is Gale Brewer and I am the Manhattan Borough President. Thank you to Chair Julissa Ferreras-Copeland, the members of the Council Finance Committee and also Public Advocate James for the opportunity to testify on the reauthorization of the City's Tax Lien Sale Program.

I am focusing my remarks on the experiences in Manhattan's not-for-profit organizations as related to the Tax Lien Sale Program.

While a member of the City Council and now as the Borough President, each year my staff and I review the tax lien sale list provided by the dedicated Council Finance staff and we are always dismayed to find scores of not-for-profit agencies, including houses or worship, under threat of losing their buildings for nonpayment of often hundreds of thousands of dollars of unpaid taxes. What is confounding is how the situation could become so dire, especially when many of these organizations are exempt from paying various taxes, including real estate and fire prevention charges; they usually do not owe any money at all.

My staff and I contacted everyone on the tax lien sale list by phone, post, email and practically pigeon to notify them of their status and to offer assistance; these calls were illuminating and frustrating. As you know, our city couldn't operate without the members of our not-for-profit and religious community, many of whom are lean organizations where the administrative responsibilities are managed by one or a couple of staff members or indeed, volunteers, yet these organizations at the local level are a safety net for many New Yorkers. The Human Services Council represents not-for-profit organizations that serve those most in need and was a vital partner reaching out to their members.

The single most common response from organizations is that they didn't know they need to electronically file their taxes and status each year with the Department of Finance, even if there had been no change with the not-for-profit status. Of course, it is each not-for-profit's responsibility to know the laws that apply to them and in this case, to file with the DOF. It is my understanding that DOF emails all not-for-profit organizations a letter which contains a username and password to log into the renewal system. Does this letter only go to not-for-profits that registered the previous year? Some of the organizations on the lien sale list said they never receive a notification, which may be due to inaccurate records or perhaps because they had missed the previous year's filing and didn't receive a notification while they proceeded to accrue tax debt for which they were actually not responsible.

Our office works with the staff at Department of Finance to renew the tax exempt status of those that had lapsed through administrative neglect and removed the erroneous charges from their account as well as removed them from the lien sale list." And I would say particularly Samara, who I think just left from DOF, is incredible. "Finance staff also helps send updated login information to organizations whose DOF usernames and passwords had already expired.

Fordham law students at the Lincoln Square Legal Services office discovered that 89 not-for-profits were unfairly roped into the 2016 tax lien sale. This will mean that 89 organizations are less able to serve those in need in New York City. There is a multiplier effect as to how many people this inaccurate information is hurting, yet it isn't the first year that this has happened. This coming fiscal year should be the last year however that this process is still ill-conceived.

I support the expanded communication outreach methods required in Int. 1385; there are also more fair and efficient ways for the government to discern when it should remove tax exempt status from a property. Instead of requiring that each not-for-profit file for the renewal of their tax exempt status annually, the City should only require action from the not-for-profit when certain criteria are met that speak to a change in use of the property that would indicate a future for-profit use. For example, when the property is sold by the not-for-profit to an individual, LLC or any other type of legal entity, the Department of Finance should expect the new owner to certify their use will be for the public good if they are to continue to enjoy tax exempt status for their property. Additionally, if a not-for-profit wishes to use their currently tax exempted property in for-profit ways, such as market rate housing, that use will merge in a filing of the Department of Buildings for a change in the certificate of occupancy or a permit for a new building or significant alteration to an existing building.

This policy change will require information sharing between agencies and this could be done by streaming open data and the civic hacker community may even want to help build the City a proof of concept. The Department of Buildings permit data is already in the Open Data Portal; the Department of Finance already maintains its own database of property sales, but a sales record dataset will be a welcome addition to the portal as well.

Thank you for taking up this important matter, I know we will continue to support our not-for-profit and religious communities together." Thank you.

CHAIRPERSON FERRERAS-COPELAND: **[inaudible]** testimony; I know you did that almost in one breath. I uh… I… [laughter] [crosstalk]

SHULAMIT WARREN: I hope at least a couple of the words **[inaudible]**. [laughter]

CHAIRPERSON FERRERAS-COPELAND: I appreciate it and I'm sure the advocates who are going to be testifying next also appreciate it.

SHULAMIT WARREN: Of course; that was my intention **[inaudible]**… [crosstalk]

CHAIRPERSON FERRERAS-COPELAND: Please send our regards to the Borough President and do you have any questions? No. Thank you again for coming to testify.

We're going to call up the next panel. We have several panels, so we're going to be doing a four-minute clock. So if you can skip some words and speak quickly, I want to make sure that everybody has time to get their testimony in. We're going to call up the first panel… oh… [background comment] yes? Okay. I'm sorry if I mispronounce any names -- [background comment] Caroline [background comment] Nagy, Center for New York City Neighborhoods; Edward [background comment] Ubiera, Local Initiatives Support Corporation (LISC); and Elizabeth Strojan from Enterprise Community Partners. And if you have testimony, please be sure to give it to the sergeant at arms. [background comments] Okay. Hello.

EDWARD UBIERA: Can you hear me? Okay, great, great. Thank you, members of the Committee on Finance for the opportunity to speak here today in the matter of Proposed Int. 1385. My name is Edward Ubiera, Director of Policy for the Local Initiatives Support Corporation. LISC is a national nonprofit community development financial institution, supporting local champions and equitable development with finance and capacity-building and technical assistance. In my own remarks I just want to highlight a few points from my written testimony, which you have.

As an enforcement mechanism, the Tax Lien Sale Program has by all accounts been successful, delinquencies for property taxes and other municipal charges have declined since the program's inception; it's our understanding that the program has also created a steady revenue stream for the City, netting about $70 million for Fiscal 2016. However, there is an emerging consensus that the program reflects a missed opportunity for affordable housing preservation, as echoed by the Public Advocate; our partners on the ground are reporting that a significant share of these properties cycle through the tax lien process multiple times, that they in many cases become more physically distressed within one year of the tax lien sale and that many owners are overleveraging their properties by borrowing from private sources to pay their debt, which in some cases then increases the risk of displacement and eviction for the tenants in those buildings.

Overall, 1385 brings some welcome incremental changes in regards to strengthening notification and outreach, which is great, but we at

LISC are broadly supportive of the need to expand preservation opportunities for physically and financially distressed properties that enter the program. We are encouraged with efforts underway by the City to explore administrative options to more quickly identify a larger pool of distressed assets, but we do believe that the proposal outlined by the Public Advocate merits additional discussion and consideration by the City Council and aligns very well with a lot of the observations from partners on the ground that are doing preservation. The Public Advocate's proposal to create a preservation trust, a mission-driven preservation trust authorized to purchase liens and multifamily distressed properties as well as an expansion of the definition of statutory distress we believe merit additional consideration. Thank you.

CHAIRPERSON FERRERAS-COPELAND: Thank you. And before you just begin, I want to make sure that this is included in the record. The fact that the Public Advocate's proposal is not a part of the negotiated tax lien sale that we are reviewing today does not in any way mean that this Council does not support that effort; on the contrary, the Advocate's staff, our Finance team staff and my office, we've been in full engagement with both HPD, the Public Advocate and my office and you know as a potential co-sponsor to the legislation that has just been put together, it does not preclude, passing this legislation does not preclude the work or movement that's happening with that other package of legislation. I just wanted to, you know… [crosstalk]

EDWARD UBIERA: Wonderful to hear.

CHAIRPERSON FERRERAS-COPELAND: put that on the record. Okay? So if that was part of your testimony, strike it out right now. Okay, great. Continue.

CAROLINE NAGY: Hi, can you hear me? [background comment] Okay. Good afternoon. My name is Caroline Nagy; I am the Deputy Director for Policy and Research at the Center for New York City Neighborhoods. Thank you, Chair Ferreras-Copeland and the Finance Committee for holding this hearing and the opportunity to testify today.

The Center for New York City Neighborhoods works to promote and preserve affordable homeownership in New York City and as part of that, we work every year to make sure that as many homeowners as possible are kept out of the lien sale; we do this by conducting outreach to homeowners, mailings and connecting homeowners who are having difficulties negotiate payment plans and exemption applications with network partners who can advocate for them. We also see a lot of homeowners who have had their liens sold and we help them avoid foreclosure in almost every case. We see a lot of people who already have foreclosure auctions scheduled as well as people for whom the auctions are eminent, without any resources, and our mortgage assistance program is one resource that homeowners have access to to pay off liens in order to avert foreclosure.

So overall, the lien sale as it currently exists poses a lot of challenges to our mission of promoting; preserving affordable homeownership in New York City. In the fall, in November, we joined with our members of the Coalition for Affordable Homes to release an analysis of the lien sale and the findings are probably not a huge surprise for anyone here, but I will go over them very quickly.

First, on the second page of our testimony we have a map showing where homeowner liens are being sold and it's no surprise that the tax lien sale disproportionately impacts communities of color. The City is six times more likely to sell a lien in a majority African American neighborhood than in a majority white neighborhood and the City is twice as likely to sell a lien in a majority Hispanic neighborhood. The analysis also found that once sold to private investors, debts to homeowners increased very quickly. So we saw on average that's increasing by 65%, so many of them in fact did double and sometimes in as little as a year. And we also found that homeowners are paying an average of $2,700 in legal fees, which we believe to be excessive based on our understanding of the amount of legal work that's actually required. And finally, we found that the tax lien sale contributes to property turnover and speculation. While it's true that not many properties ultimately have a completed foreclosure auction, we estimate about 150 Class 1 properties last year did have that happen. We did see that a lot of properties do end up being sold, and this is kind of part of a larger pattern of speculative property transactions flipping and mortgage foreclosure that are occurring, specifically in the neighborhoods that are hardest hit by the lien sale. And we did an analysis of Class 1 liens sold in Brooklyn in 2011 and within five years nearly half of these homes had been sold as compared to 13% of all properties in the borough during that period, so there's clearly some relationship there.

We've already discussed what the tax lien sale working group and the legislation does and I would say we're extremely grateful for the work that has been put in to reforming the tax lien sale to this point, particularly the second payment plan option and improvements to notice to homeowners.

We are interested also in the integration of financial counseling into lien sale outreach and that's something that we would love to give you more specific recommendations on at a later time. At the same time, we think there's a lot more that could be done. [bell]

Okay, very quickly, some… okay, provide more flexible payment options to low-income homeowners -- it's great DOF is doing that; we'd like to see that though written in legislation; not just relying on a working group. And second, reduce post-sale charges to homeowners -- this is specifically reducing the payment interest for water as well as the legal fees to homeowners. A lot of states and cities limit legal fees in this situation and New York City should be doing the same; these charges are too high. Three, improve options for errors inheriting tax debts, and you're going to hear more on that from some of my colleagues who are testifying. And four, reduce the renewal period to one year if some of these reforms can't be made. There's a lot of progress that's been made as a result of this renewal and we think… you know, four years is really too long to not keep this conversation going, 'cause some really great things are happening. Thank you very much.

ELIZABETH STROJAN: Hi, thank you very much. My name is Elizabeth Strojan and I direct Public Policy for the New York office of Enterprise Community Partners, we're a nonprofit affordable housing intermediary. And I just have to say, I actually personally find it very exciting that this hearing about something as wonky as tax lien sales has really pivoted to focus on affordable housing opportunity, so thank you and I think that this is a really wonderful opportunity to investigate that.

As an intermediary that helps finance affordable housing, we've seen firsthand that current market conditions are leading to speculative purchasing and trading in multifamily properties, making it extremely difficult for affordable housing groups to acquire and preserve buildings that provide housing for low-income families -- I think we all agree that that's happening. We believe that reforming this tax lien sale system can help solve the problem for all the reason that we've talked about today. It helps bring properties into affordable housing regulatory agreements; it can improve living conditions for people, and we've heard that there is a disparate impact on low-income communities and communities of color, and it can also help have a stabilizing impact on city blocks and neighborhoods to the spillover effects that we've seen. So we support the proposal that does two things: (1) changes the statutory definition of distress and the criteria that we've been talking about to pull properties from the lien sale, and (2) create a preservation trust as a mechanism to get more properties into preservation outcomes for affordable housing.

I also want to acknowledge the incredible work that HPD has been doing to approach this from an administrative perspective from a programmatic perspective, so we recognize, as the Public Advocate pointed out, that priorities change and administrations change and staff changes, so that's why we look to the City Council as a partner to help provide accountability, oversight and ensure that these priorities continue for the long-term. So our position as Enterprise is that the goal is to use this opportunity for permanent affordable housing, whether that's a programmatic solution or a legislative solution or some combination thereof doesn't matter to us; what we want is the good outcome for the residents and the properties and the people running the properties. So in our role as an intermediary, we're here to offer our support and our help in navigating what's legislated and what's programmatic and how we can support community-based organizations to help in this effort as well. So I think that's it and I'll cede my time to other advocates. Thank you all.

CHAIRPERSON FERRERAS-COPELAND: Great. [background comment] [pause] Great, thank you very much… [crosstalk]

ELIZABETH STROJAN: Thank you, thank you all.

CHAIRPERSON FERRERAS-COPELAND: for your testimony and we will keep in touch. [background comments] We will now hear from Jacquelyn Griffin of Legal Services NYC, Ismene [background comment] from MHANY Management, John Krinsky, New York… [background comment] yeah, the New York City Community Land Initiative, Samantha Kattan from UHAB, and Paula Segal from the Urban Justice Center. Do we have enough seats up there? [background comment] Great. Do you have testimony? We're getting it now. Okay.

JACQUELYN GRIFFIN: Good afternoon, my name is Jacquelyn Griffin; I'm a staff attorney in the Foreclosure Prevention Unit at Legal Services NYC in Brooklyn. I'd like to submit this testimony… [crosstalk][background comments] I'm sorry? [background comments] There we go. [background comments] I'm sorry. Thank you.

So I'm Jacquelyn Griffin; I'm a Staff Attorney with the Legal Services NYC in Brooklyn and the Foreclosure Prevention Project. I'm going to skip some of our real highlights right here; I mean it's important to note that Legal Service NYC is almost half a century old at this point and we've been providing free legal services to low- and middle-income New Yorkers for that period of time. Our Foreclosure Prevention Projects date back almost 20 years at this point and so we have a lot of expertise in assisting low- and middle-income New Yorkers as they navigate foreclosure process, particularly in the case of a tax and water lien foreclosure.

I'd like to focus my testimony on the case where a low- or middle-income family is seeking to prevent the loss of a home that was inherited from a deceased family member. As you will recall, the Council directly addressed this issue in legislation enacted in December 2013, Local Law 147; it created the category of the other eligible person that is able to enter into an installment agreement to take the home off of the tax lien sale list.

Local Law 147 was a very important step toward preserving homes for future generations of families, but DOF's subsequent interpretation of the law in its promulgated rules actually fails to address the concerns of the Council and fails to assist and protect the specific category of individuals that the legislation was intended to benefit.

The legislative history of Local Law 147 is very clear; as stated in the Committee Report, it was intended to "address a problem with children of deceased parents who died without a will, or intestate, and have not added their name to the deed, specifically where those heirs have been maintaining payments on the property. During hearing testimony in which the Department of Finance representatives participated, the Council specifically condemned DOF's practice of requiring an heir to obtain a Surrogate's Court order naming the heir administrator of the estate before allowing that heir to enter into an installment agreement. The Council stated very clearly that that was the problem that Local Law 147 intended to address. There was testimony both from my office and from the Council at that time that expressed that many low-income families lack the resources to hire an estate lawyer; they lack the knowledge to pursue these Surrogate's Court proceedings on their own. So Local Law 147 directed the Commissioner to promulgate rules to determine under what circumstances a beneficiary can enter into an installment agreement; what ended up happening is that DOF's rules codified their existing practice as it was in 2013, which was to require heirs to intestate decedent homeowners to go through a Surrogate's Court proceeding and get a court order that would allow them to enter into an installment agreement.

There was a single subsection in the codified rules that related to the problem that was specifically intended to be addressed by the Council in terms of families who cannot afford or otherwise lack the wherewithal to secure a court order; the subsection, and I'm quoting, "…requires families to submit documentation issued by a government agency which in the determination of the Department of Finance substantiates the claim that the beneficiary is an heir of the decedent and inherited the real property or a share of the real property." In other words, DOF did not create any objective criteria; they instead reserved to themselves full discretion to determine which heirs have properly demonstrated an ownership interest in the property. The rule is problematic for a number of reasons. Firstly, it doesn't mean anything; there is no government agency with the authority to or practice of issuing a document that establishes a beneficiary as properly acceding to the ownership of property. The rule is vague, it gives -- I mean assuming that the Department of Finance had some sort of specific forms of documentation in mind when they passed the regulation, none of those specific forms of documentation were included in the rule. It offers no examples of the types of documents that will demonstrate ownership; that makes it impossible for homeowners to comply with the rule; it makes it [bell] impossible for my office to assist them in complying with the rule; the ambiguity of the rule leads to staff confusion about how to properly service these individuals in DOF centers and leads to arbitrary decisions regarding who and who has not met the burden of these unenumerated documents.

CHAIRPERSON FERRERAS-COPELAND: So we have DOF staff in the room now, so we're going to specifically follow up -- this Committee; my office will follow up specifically on your issue after this hearing.

JACQUELYN GRIFFIN: Okay.

CHAIRPERSON FERRERAS-COPELAND: Okay?

JACQUELYN GRIFFIN: Thank you.

CHAIRPERSON FERRERAS-COPELAND: Alright. Thank you for coming to testify.

ISMENE SPELIOTIS: Hello, my name is Ismene Speliotis; I'm the Executive Director of MHANY Management, Inc. Thank you very much for holding this hearing and for allowing us to testify.

MHANY Management Inc. is a nonprofit community housing development organization and a HUD approved counseling organization that owns and manages over 1,500 apartments in four of the five boroughs, and we're here to testify because we've been the recipient and developer of third party transfer of buildings and we've worked with the City for a very long time trying to come up with creative solutions towards affordable and preserving affordable housing.

We feel very strongly that with the sunset of the current tax lien legislation it is an opportunity, as the Public Advocate said, and we would like to take advantage and we're asking the Council to take advantage. Reforming this process could not only fulfill the initial very important task of collecting unpaid taxes -- as DOF said -- and liens, but at the same time could create additional pathways and mechanisms to achieve affordable housing preservation.

Studies from the Independent Budget Office, the Fuhrman Center for Real Estate and Urban Policy, the Public Advocate for the City and others indicate that while current initiatives do incentivize repayment of tax liens -- and we heard that a lot today -- it also leads to the loss of affordable housing and creates instability in the housing market. Specifically, I am talking about unintended, okay, so there's no blame here; there are unintended consequences to the buildings that go through tax lien sale. And this has been documented; we're talking about loss of rent-stabilized units; we're talking about the increasing of flipping and speculative purchasing of mortgages and deeds; we're talking about worsening living conditions, as documented by increased numbers of violations per unit, per building that go into the tax lien sale, particularly multiple times, and then we have documented harassment of tenants, displacement and then when we go visit the buildings they're actually vacant. So the reauthorization of this legislation we totally understand must maintain the City's ability to collect a municipal debt through the tax… okay, while protecting the residents of these buildings, okay, that are at risk of speculative purchasing and leading to the loss of affordability.

MHANY is strongly supportive of the integration of tools in the reauthorization to claim more properties and capture buildings that have previously gone into tax lien trusts and have not paid their outstanding debts; however, our proposed programmatic changes, combined with the City's current commitment could protect hundreds of thousands of additional residents and homeowners from loss of their homes.

Summary of some of the proposed changes:

In the current authorization, if that's all we were going to do, we would be asking for -- again, as the Public Advocate said -- to change and expand the definition of distressed, okay, which would be fewer violations per building and/or to drop the property value, of the lien-to-value from 15 to 10, okay. But these two changes alone will allow the City the mechanism to capture more properties at highest risk [sic] for speculative purchase continue to climb and loss to rent stabilization. However, we are concerned that given current market conditions and there are a pool of buildings that cycle and recycle through the tax lien program that the possibility and probability of taking more buildings through the current program might actually cost the City more money. By changing the definition of distress and capturing more properties through existing legislation, the City could forego collection of tax revenue if more buildings automatically move into third party transfer, and that's why I want to just say the advocates have actually been listening, okay, this balance idea about collecting the taxes [bell] and the liens and then coming up with the correct counterbalances to preservation and reduce flipping are really what we're striving for and I think that the Public Advocate -- to end, and there's more written in my testimony, and I apologize for going over -- I think the question really is -- we are working and HPD is actually really working with us to try to develop these objective criteria -- the question really is, should we be thinking about legislative -- in addition to that and the work that we are doing, okay -- should we actually be asking for legislative change that then would actually take some of that burden off of the agencies and also would ensure that this recommendation and the direction that the Administration is now moving in is kind of continued beyond this administration. Thank you.

JOHN KRINSKY: Good afternoon and thank you, Committee Chair Ferreras-Copeland and members of the Committee for the opportunity to testify about our concerns and recommendations about Int. 1385-A.

My name is John Krinsky and I'm a founding Board Member of the New York City Community Land Initiative (NYCCLI), an alliance of affordable housing and social justice organizations that advocate for deeply and permanently affordable community-controlled housing through the mechanism of community land trusts.

NYCCLI opposes Int. 1385-A as currently drafted and makes specific recommendations to improve the bill. We also urge the City Council to enact legislation to enact a nonprofit preservation trust, as has been discussed now at length, as much almost as this intro itself.

NYCCLI's two dozen member organizations have decades of experience working with property owners and communities harmed by New York City's 20-year-old tax lien sale. We have seen the tax lien sale contribute to the destabilization of New York City's neighborhoods, particularly low-income neighborhoods and neighborhoods of color -- by fueling speculation and deregulation of affordable housing, loss of nonprofit and community spaces, and warehousing of valuable vacant and neglected land and buildings. The cost of housing displaced families should be calculated when considering the costs and benefits of this tax lien sale.

So our recommendations -- and our written testimony is just a little longer and more involved. The first recommendation is to expand, again, the definition of distress for purposes of exemption from the lien sale to multifamily buildings with a 10% lien-to-value ratio and three or more outstanding B and C violations. This would expand the number of properties that will not become further distressed by being in the lien sale and that can be preserved as affordable housing.

Second, automatically exempt nonprofit-owned property from the sale. Currently, too many nonprofit-owned parcels end up in the sale in spite of the State's exemption under 420(a) of nonprofit property from taxation and the loss of community property to the lien sale means that it cannot be recovered for community use and undermines the groups that New Yorkers depend on for community services, recreation, health, and child care.

Exempt HDFC rental properties. Currently, cooperatives are exempt from the lien sale; HDFC rentals also house low-income families that may not have official nonprofit status. They are also a valuable low-income housing resource that should not be endangered by the lien sale.

And fourth, automatically exempt liens on vacant land and unoccupied buildings and move them into affordable redevelopment programs where possible; determine which properties are already used as community spaces and preserve them as such.

The City cannot claim it does not have vacant land on which to develop affordable housing or lots to preserve as community space -- which it often does -- when it neglects to use the leverage it has over vacant land and unoccupied buildings that it is afforded by tax liens.

So making these amendments to Int. 1385-A would make the bill more easily congruent with legislation soon to be introduced to create the nonprofit preservation trust. And I think that that's something that actually -- I understand that the two are not mutually exclusive, but I think it would probably be better to make them easily fit together with the lien sale approval if possible.

CHAIRPERSON FERRERAS-COPELAND: Welcome to government.

JOHN KRINSKY: Yes. And I would say, if in fact… if in fact that's the case, it would also encourage the kind of planning [bell] for long-term affordability that we know Council supports and that HPD supports, as evidenced by its interest in support of community land trusts, and these include clustering disposition in a way that can create economies of scale deep in affordability and institute really community control.

And I'll stop there, but the testimony's longer. Thank you.

SAMANTHA KATTAN: Alright, I will be super brief; I'm echoing a lot of the same recommendations. So good afternoon, my name is Samantha Kattan; I'm the Assistant Director of Organizing and Policy at the Urban Homesteading Assistance Board (UHAB). UHAB works with tenants and HDFC shareholders citywide to preserve affordable housing, and we are one of the largest developers of affordable housing in New York City. I am testifying against Int. 1385 because it does not adequately incorporate changes to the tax lien sale process that would support and preserve affordable housing.

UHAB's primary recommendations are to use this legislation to expand the statutory definition of distress so that more properties can be rooted to preservation programs and for the City to establish a preservation trust that could compliment the current Third Party Transfer Program for buildings that are pulled from the tax lien sale.

Our recommendations are based on a report that the Public Advocate's office released in October 2016 highlighting that a large portion of buildings that get put in the lien sale are clearly financially distressed because they cycle through the sale multiple times. Buildings that are in the lien sale multiple times are likely to face deteriorating physical conditions as landlords neglect to make repairs, as well as an increase in tenant harassment and turnover. The high interest rate -- as high as 18% -- and penalties that owners face when their liens are sold, also encourage landlords to overleverage their buildings by refinancing, making a purchase by anyone other than a speculative developer almost impossible.

Our recommendations build from these findings and we recommend three ways for the definition of distress to be expanded so that more buildings can be rooted to preservation programs. Buildings that have at least three B or C housing code violations per unit and buildings whose lien to value ratio is higher than 10% should be considered distressed as well as buildings that went through the tax lien sale in the previous year. By making these changes, we estimate that we would be able to root about 200 additional buildings, the ones most likely to be repeat offenders and end up in the tax lien sale and to preservation programs per year.

We also echo the recommendation of other housing advocates here today to establish a preservation trust that will complement the current Third Party Transfer Program. Thank you.

[background comments][laughter]

PAULA SEGAL: Good. We are all busted. [laughter] We talk to each other. Crazy.

Good afternoon; thank you for holding the hearing and thank you for continuing this multiyear dialogue that we've all been having about the tax lien sale and the City's ability to meet its housing and community stabilization needs and to collect revenue.

My name is Paula Segal; today I am testifying as a staff attorney at the Urban Justice Center Community Development Project in the Land Use and Neighborhood Change Unit. The Community Development Project, since 2014, has been providing support to grassroots and resident-led organizations in neighborhoods identified for upzoning to meet this Administration's housing construction goals. These same low-income neighborhoods and neighborhoods of color that are the target of plan to allow increased density via neighborhood rezonings have been the areas where the most properties have gone through the tax lien sale in the 20-years history of the program.

The disinvestment in individual properties that the tax lien sale encourages is part of the pattern that's made East New York, East Harlem, Staten Island's North Shore, and other neglected neighborhoods ripe for speculation and look like good places to change the urban fabric and destabilize communities.

We oppose Int. 1385 in its current version and respectfully request that the bill be amended before it is put to a vote. The devastating consequences the impacts of the legislation as written will have over the next four years warrant no vote unless changes are made. You've heard about some of the changes from our fellow advocates, but there are five that I want to highlight that we think are imperative.

And the first Council Member Rosenthal touched on is automatically exempting liens on vacant land from the sale. Where a conservative estimate, based on MapPLUTO, which is City Planning's database, and only including lots that are 5,000 square feet or more, which is 20 times the minimum needed for what HPD calls a buildable lot -- 5,000 square feet is quite big; it's a third of a city block -- so we included nothing less than that. There are still over four million buildable square feet under the current zoning, changing nothing, going through the sale every year as vacant properties.

Just to put that into perspective, the East New York rezoning -- the upzoning that we just did -- added 600,000 buildable square feet that did not exist before the upzoning. What's going through the tax lien sale every year is an order of magnitude more, and what's going through the tax lien sale if the City retained leverage over those sites, there would be no need to rezone, there would be no need to change the urban fabric and we would be able to create 40,000 new units over which the City would have leverage immediately, unlike East New York, where we were able to get 6,000 units, where only some of them will be regulated. Yes, this will take work, right; our analysis is based on the data that's available; the data that's available isn't great, but what we've done is a really conservative analysis, and you'll see the numbers in my testimony and you'll see the less conservative take, so I really picked the lowest number that we came up, so I think not exempting vacant lots from the sale is a huge mistake and it's an insult to neighborhoods that are being upzoned to find extra square footage to house New Yorkers.

Secondly, as we've heard from several other folks today, we must automatically exempt liens on properties owned by not-for-profit organizations from the sale. Department of Finance was very clear -- I wrote down what they said -- "We don't put properties into [bell] the tax lien sale unless someone doesn't come to us." May I use a minute? We're talking about organizations and we're talking about longstanding organizations with aging leadership, with changing addresses in changing neighborhoods and then we're talking about key places in those neighborhoods, and oftentimes the board members die, they pass away, they move away and the mail doesn't reach them, and so someone doesn't have the opportunity to come to Department of Finance, since oftentimes our clients aren't notified that there's even a problem. But even when they are notified, sometimes the problem isn't resolved in the following year and since most not-for-profit properties are tax Class 4 properties, which are eligible for the tax lien sale after just one year and just $1,000 in arrears, they cycle into the sale even if it's an error that should be fixed, and you'll hear from somebody, probably in the next panel, that that happened to specifically.

Just very quickly, the remaining recommendations are to exempt unoccupied structures also automatically and I provided a photograph, just so you get a sense of what that looks like. And then require that the Department of Finance track vacant land, unoccupied buildings and property owned by not-for-profit organizations, both on the tax rolls and in the tax lien sale.

The Department also has the power to defect liens that have been sold and we encourage you to legislate that they look back over the last 20 years and defect any liens that are on current vacant lots, unoccupied buildings and properties that are owned by not-for-profits. Thank you for the extra time and thank you for holding this hearing.

CHAIRPERSON FERRERAS-COPELAND: Thank you very much and thank you for your testimony. I have a quick question before we call up the next panel.

PAULA SEGAL: Yes.

CHAIRPERSON FERRERAS-COPELAND: So this nonprofit conversation evolved from nonprofits that were benefiting from the tax exemption because their use was not for nonprofit use, so it's clear that this Council went through a very rigorous reform process; I know at the time Counsel Tanisha Edwards worked closely with the Administration at the time. So I understand that this is a challenge that we're kind of going back and forth on; how do you envision that this would avoid us getting right back to where we were and the Comptroller putting out a report saying hey City, by the way, you're exempting all these people that shouldn't have this exemption? [crosstalk]

PAULA SEGAL: Sure.

CHAIRPERSON FERRERAS-COPELAND: So it's just like… it's… I remember this was to resolve an issue and then you're asking us to go back to the issue, so that's… walk me through that, in like a minute… [crosstalk]

PAULA SEGAL: Thank you.

CHAIRPERSON FERRERAS-COPELAND: [laugh] and then we can have an off the record conversation… [interpose]

PAULA SEGAL: I would love to, but let me… to walk you through that in a minute, there is distinct difference between a property tax exemption and the sale of a property tax arrears to a for-profit tax lien trust. We are not asking you to do anything in changing the exemption process and the annual recertifications; although they are difficult for our clients and particularly volunteer-run organizations, they're not the problem. The problem is that when a small organization fails to file one holiday season, right; that's when the recertifications are done, the risk is if that will get sold to the for-profit trust, right? We're not asking you to disturb the process of Department of Finance actually issuing the exemptions and doing so appropriately; we're just asking the Department of Finance to hold on to the arrears, and when an organization is in arrears to go in rem to work with the Attorney General's office if there is actually fraud happening, there might be, there might be real issues, but we're simply asking for an exemption from the tax lien sale, and that's actually detailed in my testimony; I skipped over it.

COUNCIL MEMBER ROSENTHAL: **[inaudible]** a follow-up to that. But wouldn't they get the usual 90-day notice, 60-day notice, 30-day notice? So they missed a payment… [crosstalk]

PAULA SEGAL: So…

COUNCIL MEMBER ROSENTHAL: over the holidays, but that means… [crosstalk]

PAULA SEGAL: Oh no, so the… so there's a couple of things that happen. So every not-for-profit in October or November gets a physical letter from Department of Finance they have to open; it contains a password in it that you then have to go to a website and put in before January 5th. If you do that; then your renewal of your property tax exemption remains active. That has nothing to do with the lien sale except for when you don't do it your property starts accruing taxes that none of your board members think you owe, right, **[inaudible]**… [crosstalk]

COUNCIL MEMBER ROSENTHAL: Right **[inaudible]**…

PAULA SEGAL: so when those notices start arriving, there's nothing in the notices, as they're sent now, that says anything to not-for-profits; they seem like they're for somebody else; there is no special insert that says your property might be exempt or if you paid taxes, the State requires that the City pay you back, because there is a refund law.

COUNCIL MEMBER ROSENTHAL: Right, but again… [interpose]

PAULA SEGAL: but…

COUNCIL MEMBER ROSENTHAL: so at the 90-day point, when they get the notice, isn't it just cleared up, they call, they talk to the ombudsman at the… [crosstalk]

PAULA SEGAL: Well the presumption is that there is a person there, right; the presumption is that nobody ever dies and leadership never changes and that there isn't… and that's really the problem; the small organizations -- I hate to say it, but they're not getting their mail and Department of Finance isn't keeping up-to-date information and although the reauthorization encourages Department of Finance…

COUNCIL MEMBER ROSENTHAL: Got it.

PAULA SEGAL: to call and email, it doesn't require that they do it.

COUNCIL MEMBER ROSENTHAL: Thank you.

PAULA SEGAL: Yeah.

CHAIRPERSON FERRERAS-COPELAND: I think we're… we're just going to have a follow-up… [interpose]

PAULA SEGAL: Yeah.

CHAIRPERSON FERRERAS-COPELAND: off the record on this, 'cause I think… I understand your… [interpose]

PAULA SEGAL: You'll hear from a couple of other folks who this happened to… [crosstalk]

CHAIRPERSON FERRERAS-COPELAND: **[inaudible]**…

PAULA SEGAL: they'll tell you about it. [laugh]

CHAIRPERSON FERRERAS-COPELAND: I'm sure I will. But I want to be clear on the process of this and what I… 'cause it's just not about take the nonprofit off the list, right; like it's more about we don't want to get back to what was historically happening as a problem and we don't want to send the mixed message that we just everybody off the list and you know everybody can go about their business, and as the Commissioner testified, what was a senior center could then be rented out as a catering hall, right?

PAULA SEGAL: Right, but then if they're not paying taxes, use in rem foreclosure and take that property away **[inaudible]**… [crosstalk]

CHAIRPERSON FERRERAS-COPELAND: Right, but in rem foreclosure is exactly what we testified to was very costly to our city, so you know, we can't… well let's… [interpose]

PAULA SEGAL: Yeah. [laugh] Let's have a conversation off record. Yeah.

CHAIRPERSON FERRERAS-COPELAND: Yes. Okay, next panel. [background comments] Edwin Ortiz of The Legal Aid Society, Jenny Braun-Friedman, from The Legal Aid Society, Yasir from 596 Acres, Ashley Garcia, 596 Acres, and Jannon Stein, also 596 Acres.

[background comments]

[pause]

[background comments]

JENNY BRAUN-FRIEDMAN: Oh… Okay. Good afternoon. My name is Jenny Braun-Friedman; I'm a Supervising Attorney with the Foreclosure Prevention

Unit at The Legal Aid Society. Legal Aid is the oldest and largest nonprofit in the nation providing free direct legal services to low-income families and individuals. Legal Aid was one of the first organizations in New York City to recognize the emerging foreclosure crisis and establish the Foreclosure Prevent Project back in 1999.

We thank the Committee on Finance and Chair Julissa Ferreras-Copeland for the opportunity to testify today on the important issue of tax lien sale. We also thank the Lien Sale Task Force for its work and for allowing advocates to present our recommendations for reform to the tax lien sale.

We hope to continue to work with the City Council in ways to balance the City's need to collect revenue with protection of vulnerable homeowners and their communities.

This bill institutes several important reforms to the tax lien sale and for homeowners with liens at risk of being sold, but some critical areas could be improved; we urge the Council to consider our recommendations.

The bill allows for greater flexibility with payment plans and important measures to assist homeowners avoid the lien sale, including changes in notification and communication requirements and connections to financial counseling. However, the flexibility with payment plans does not go far enough to protect low-income, often elderly, homeowners already struggling with payments. We are pleased to hear that the Department of Finance has formed a working group to look at this, but we believe this should be part of the legislation.

For owner occupied properties, we recommend that more flexible income-based payment plans, or another alternative would be an expansion of the Department of Environmental Protection's Water Debt Assistance Program to all tax liens.

Finally, the bill also provides for data collection on the impact of the lien sale, which is useful, yet it is already clear to us that legal fees charged after a lien is sold are exorbitant, causing the debt owed to quickly double from legal fees alone; particularly for low-income homeowners, resolution becomes nearly impossible.

For these reasons, we would recommend limiting the reauthorization to two years to allow the City to assess progress, review the data collection and other recommendations that have been made here today.

I have here a client of The Legal Aid Society who is facing foreclosure of a tax lien and he will speak to demonstrate the large cost to homeowners of the sale and that even though the number of liens that have gone actually through the foreclosure and two auctions may seem low, there is a significant toll on homeowners.

EDWIN ORTIZ: Good afternoon, my name is Edwin Ortiz; I am a homeowner in Corona with my wife. This house is two-family house where we raising with my children and now hope to grow old. For almost 16 years I'm a homeowner and we are risking to losing our home to tax lien foreclosure.

There are two tax liens on my property, one from the water; one from the property taxes. These debts were sold in 2008, 2009 and a foreclosure case was brought on both 2009. The only reason my home has not been auctioned in foreclosure is because I have entered into the three payment plans for each lien.

However, I default on all six payment plans, as each one required a very large down payment of $2-3,000 and the monthly payments were larger than I could comfortably afford. These plans also did not stop the foreclosure case; that just put in the hold.

One of my liens sold for $1,400 in 2008 and even though I have paid almost $13,000 towards it, I still owe $5,200. My other lien sold for $5,700 in 2009 and even though I paid more than $11,000, I still owe $6,200 to pay off.

And fortunately, with the assistance of The Legal Aid Society, I have applied for funds from the Human Resources Administration to pay off the remaining debt in full and finally end the foreclosure case and save my longtime home.

Thank you very much.

CHAIRPERSON FERRERAS-COPELAND: Thank you very much for your testimony, Mr. Ortiz. And after I'll just have a couple of questions that maybe you can help walk me through. You may continue. Thank you, Mr. Ortiz.

MOHAMMAD YASIR: Hi. My name is Mohammad Yasir and… [background comment] sure, I will get close to the mic… and I represent Al-Muneer Community Center; we are located in Queens and Hollis. In 2010 March, we purchased this building with community funds and at that time we were not advised that we need to file a property tax exemption separately. We thought since we are a 501(c)(3) we don't have to pay taxes.

After about a year we start getting notices about -- for the 90 days and the 60 days. We hired a CPA who filed the tax exemption application for it. It was taking about six months until we finally received some correspondence from the Department of Finance; they had asked us to submit a Certificate of Occupancy.

At that time we were going through the Building Department to acquire our Certificate of Occupancy as a community center, because the existing Certificate of Occupancy was as a medical center. We were advised the best way to go about it would be to get a Certificate of No Objection from Department of Buildings because our use class as a community center was the same as a medical center.

[interpose][background comment] No, by our expeditor, who was trying to get us the Certificate of Occupancy. But we were denied the No Objection Letter.

In this process, you know, we were still trying to pay as much as we can on the tax lien, but they were compounding by thousands every, you know, every quarter and we couldn't keep up with the payments. Then in 2014, our liens were sold and we got a foreclosure notice. At that time we hired a very expensive lawyer who has stopped the foreclosure; they prepared a reply to the company who had purchased our lien and then they stopped bothering us anymore.

And a few months ago, in October 2016, we got a call from Ms. Paul Segal and she invited us to attend a gathering with the Department of Finance officials; we presented them our case, gave our documentation, which was not something different which we hadn't already given to them. And in about a month we got a letter that our liens will be cancelled and we are property exempted now, but in this whole entire process we had to pay a lot of money to the Department of Finance, hire the attorney, hire the CPA, all of that. Yeah.

[background comment]

JANNON STEIN: Good afternoon; thank you for holding this hearing. My name is Jannon Stein;

my colleague Ashley Garcia and I are law students at Fordham University. We partnered with 596 Acres and the Office of the Taxpayer Advocate to give a presentation on the City's tax lien sale to not-for-profit organizations. Ms. Garcia will discuss the need for better notice and outreach to nonprofits and I will discuss why not-for-profits should be excluded from the tax lien sale.

Last year alone, we found that 89 not-for-profits had their debts included in the sale and are now facing mounting fees and the risk of foreclosure yet state law protects charitable assets for the community. When a not-for-profit dissolves, state law requires that its assets be distributed to other not-for-profits or the government and that the Attorney General Charities Bureau of a court approve a plan for this. When a not-for-profit mortgages or sells its real property, the Board of Directors must approve; these rules protect the charity's donors and the community. But when a tax lien is applied to charitable property and sold to the tax lien trust, a not-for-profit must raise funds for private investors rather than its mission. If it falls behind, it can lose its major asset to foreclosure and subsequent auction or a developer can buy a property that state law otherwise protects for the community. This sale is without approval by the Board of Directors or the Attorney General; this violates the spirit of New York law. Not-for-profit assets must serve the community; instead, here we have important funds and key properties that are diverted into private hands.

Further, the legislature offered full protection from property taxes to qualifying New York City not-for-profits. In 2007, the Legislature passed Section 494-a of the Real Property Tax Law to ensure that New York City not-for-profits can have their tax exemptions kick in from the date of deed rather than the date of application.

Under this law, a qualifying not-for-profit should never have to pay real property taxes, yet the City's annual renewal process, combined with the tax lien sale, together result in bills, seize and foreclosures.

Because state law protects charitable assets, the reauthorization should automatically exclude all charitable property in New York City. If the City does not create an automatic exemption, it should at least make one that nonprofits can apply for. Currently, when they receive the lien sale notice, it does not even mention charitable property tax exemption.

Including the debts of these organizations in the sale ignores their service to the city and the intent of state law. The State Legislature has shown its clear support for our not-for-profit sector; New York City should do the same and protect these vital community assets.

Thank you for your time.

ASHLEY GARCIA: Good afternoon. As my colleague Jannon stated, my name is Ashley Garcia and I am a student lawyer at Lincoln Square Legal Services, Inc. Jannon and I partnered with 596 Acres and the Office of the Taxpayer Advocate to create a pilot presentation that would develop into a series of outreach sessions aimed at informing nonprofits about how to apply and maintain their property tax exemption and at educating the public about the impact of the tax lien sale.

Throughout our research and outreach we discovered that many nonprofits, especially smaller organizations, are unaware that they are eligible for property tax exemption and have trouble navigating the bureaucratic hoops required to submit their exemption applications and renewal forms.

Our team at 596 Acres also took on the task of disaggregating the 2016 tax lien sale data to identify 89 nonprofits and churches that had their liens sold in this past year's sale, as the Department of Finance was unable to provide us with this list.

As we called each of the 89 property owners, many had no idea that their liens had been sold. If this bill will not include an automatic carve-out for nonprofits from the annual tax lien sale, then current notification systems must be drastically improved. Currently, the only notification updates the nonprofits receive in regard to their exemption status are quarterly tax bills; no notices are provided to inform nonprofits of their potential eligibility for property tax exemption, nor is there any information provided on how to apply and then maintain such exemption. Nonprofits would have to seek out this information on their own by navigating the complicated Department of Finance website or calling 311 to attempt to reach a representative that could help. After a year, if a nonprofit owes a property tax debt as little as $1,000, their debt would be included in the tax lien sale, regardless of whether they were intended to be exempted from paying these taxes under city and state law. Once the lien is sold, the interest rate can soar up to 18% compounded daily.

The next notification nonprofits receive, the 90-day notice of intent to sell the tax lien, is also insufficient, because enclosed with this notice is a form that exempts properties from the tax lien sale, but this form does not have a carve-out for nonprofits.

We recommend that this bill include a provision that the 90-day notice and all subsequent notices include a copy of the property tax exemption form for nonprofit organizations as well as an information guide on how to complete the exemption application, how to renew the exemption, and the direct contact information of representatives that can resolve application and renewal inquiries.

Moreover, all notifications are sent via mail and several are sent to older invalid addresses; therefore, email and phone notification should be required along with written notifications and tax bills as a provision as well as invalidating the lien sale if such notification is not provided.

In addition, current outreach efforts to inform nonprofits of their exemption eligibility are completely lacking; therefore, mandatory outreach by Department of Finance directed towards nonprofit property owners should be included in this bill as well.

Lastly, when eligible organizations pay property taxes and then receive their exemptions, they should be informed that they are entitled to refunds under New York State Real Property Tax Law, Section 494-a. In this way, money that was diverted from programs and activities that promote the organization's charitable purposes could be reinvested back into the community.

Thank you for your time.

CHAIRPERSON FERRERAS-COPELAND: Thank you for your testimony; very informative. Excuse me; I'm chewing. I wanted to thank you very much for your example, I think that's exactly what we wanted to kind of get into the public record, which is the process by which we present legislation and then we start continuing -- well not start, but we continue our conversations with DOF, so it's very pertinent and important that you come to testify.

And I know that you are one of my constituents, so **[02:51:05] Spanish.** So I thank you. Again, the American dream of owning a home should never be a nightmare and that is not the intention of this Council nor of mine as the Chair of this Committee and the sponsor of this bill. So we will continue to have conversations and negotiations with DOF.

Seeing no additional testimony, I would like to call this hearing to a close and I will be following up with many of you. Thank you.

[background comments]

[gavel]

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.

Date January 22, 2017