TESTIMONY BY AL TAYLOR, MEMBER OF THE NYS ASSEMBLY BEFORE THE NYC COUNCIL HOUSING COMMITTEE, ROBERT E. CORNEGY, JR. CHAIR

October 30, 2018

OVERVIEW

- 1. HOUSING DEVELOPMENT FUND CORPORATIONS (HDFC) FORUMS
 - I AM A MEMBER OF THE NYS ASSEMBLY, WHO SITS ON THE HOUSING
 COMMITTEE. I REPRESENT THE 71ST ASSEMBLY DISTRICT WHERE
 THERE ARE A SIGNIFICANT NUMBER OF HDFCS WHO ARE FACING OR
 ON THE VERGE OF FACING, FORECLOSURE OR BEING CONSIDERED TO
 BE PLACED INTO THE THIRD-PARTY TRANSFER PROGRAM (TPT).

AS THE REPRESENTATIVE OF MY CONSTITUENTS WHO ARE
SHAREHOLDERS IN THESE HDFCs, I DECIDED TO HOST A SERIES OF
FORUMS ENTITLED "THE CRISIS FACING HDFCs". WE ADDRESSED
VARIOUS ISSUES INCLUDING FORECLOSURE, THE REGULATORY
AGREEMENT AND CORPORATE GOVERNANCE.

OUR NEXT FORUMS WILL COVER THE TOPICS OF PREDATORY LENDING
AND UPGRADING THE HDFCs INFRASTRUCTURE. WE ARE ALSO
IMPLEMENTING A PILOT PROJECT TO MATCH SHAREHOLDERS WITH
PRO BONO COUNSEL WHO CAN GUIDE THE HDFC THROUGH THE MAZE
OF LEGAL ISSUES AND ANSWER THEIR SPECIFIC QUESTIONS.

THE PURPOSE OF EACH OF THE FORUMS WAS TO GIVE THE

SHAREHOLDERS, DIRECTORS, COMMUNITY BOARDS AND ELECTED

OFFICIALS THE INFORMATION NEEDED TO ADDRESS THE ISSUES

FACING THE RESIDENTS OF THE HDFCS. THESE FORUMS HAVE BEEN

ATTENDED BY APPROXIMATELY 100-150 INDIVIDUALS SEEKING

ANSWERS TO THEIR QUESTIONS.

ATTENDEES WERE GIVEN TOOLS TO IMPROVE GOVERNANCE,
INCREASE THEIR UNDERSTANDING OF HPD, LEARN THEIR
SHAREHOLDER RIGHTS AND ASSIST PROPERTY MANAGER'S COMPLY
WITH THEIR OBLIGATIONS. PANELISTS HAVE BEEN ELECTED
OFFICIALS, ATTORNEYS, MEMBERS OF THE HDFC COALITION,
SHAREHOLDERS, DIRECTORS AND PROPERTY MANAGERS.

2. SHAREHOLDER STATUS

I STAND BEFORE YOU TODAY, UNIQUELY QUALIFIED, TO TESTIFY NOT
ONLY AS A MEMBER OF THE ASSEMBLY WHO HAS HOSTED FORUMS
ON HDFCS, BUT ALSO AS A STAKEHOLDER IN THE HDFC COMMUNITY.

I AM A SHAREHOLDER IN A HDFC.

THEREFORE, I TESTIFY, SINCERELY AS A SHAREHOLDER WHO HAS
ENDURED BOTH THE LEGAL AND FINANCIAL HARDSHIPS AND OTHER
CHALLENGES TO AVOID THE FORECLOSURE PROCESS.

LET ME ASSURE YOU THAT THE HDFC THAT I RESIDE IN, IS NOT

AMONG THOSE CURRENTLY BEING CONSIDERED FOR THIRD-PARTY

TRANSFER (TPT).

WHILE MY BUILDING IS NOT ON THIS LIST, I AM A SHAREHOLDER IN A HDFC FACING OUR SECOND MATCH IN COURT WITH A PREDATORY LENDER. AS A SHAREHOLDER IN LITIGATION, I OFTEN WONDER HOW MY BUILDING BECAME FINANCIALLY OBLIGATED TO PAY A NOTE ON A LOAN USED TO REHABILITATE MY BUILDING WHERE THE WORK WAS NEVER COMPLETED, NOR A CERTIFICATE OF OCCUPANCY ISSUED.

THIS QUESTION IS NOT UNIQUE TO MY HDFC AND THROUGH THE SERIES OF FORUMS, I LEARNED THAT THIS TYPE OF PREDATORY LENDING OCCURS OFTEN IN THE HARLEM COMMUNITY.

IT IS A KNOWN FACT, THAT CONTRACTORS OFTENTIMES OBSCOND
WITH THE HDFCs FUNDS WITHOUT COMPLETING THE WORK ON THE
BUILDING, USE POOR QUALITY MATERIAL AND UNPROFESSIONAL
WORKMENSHIP NECESSITATING SHORT TERM REPAIRS.

I STAND HERE TODAY TO TESTIFY THAT NOT ALL OF THE HDFCs ARE
DYSFUNCTIONAL. THERE ARE EXCELLENT DIRECTORS SITTING ON
BOARDS WHERE THEY ARE DOING THEIR BEST. SOME HAVE BEEN
MISGUIDED BY PREDATORY LENDERS OR RIPPED OFF BY GENERAL
CONTRACTORS WHO DID NOT COMPLETE THE REQUIRED WORK.

SHAREHOLDERS FEEL ABANDONED YET AGAIN, WHEN CITY

AGENCIES FINE THE BUILDING FOR VIOLATIONS OR EVEN WORSE

ASSESS PENALTIES AND FEES, FOR THE FAILURES CAUSED BY THE

PREDATORY LENDERS AND THEIR CONTRACTORS. IN THIS VICIOUS

CYCLE, SHAREHOLDERS ARE BURDENED AND OVERWHELMED WITH

ESCALTING COSTS LEVIED BY THE CITY AND CAUSING MANY IN THE

COMMUNITY TO BELIEVE THAT THE HDFCs WERE SET UP TO FAIL.

I HEAR STORIES FROM MY COMMUNITY LISTING THE CORRUPT
ENTITIES WHO COME INTO OUR NEIGHBORHOODS TARGETING
THOSE WHO CAN NOT ADVOCATE FOR THEMSELVES. THESE
SHAREHOLDERS HAVE BEEN UNKNOWINGLY LED INTO FINANCIAL
COMMITMENTS, OR HAVE PAID MONEY TO CONTRACTORS, YET LEFT
WITHOUT HEAT AND HOT WATER THROUGHOUT THE WINTER

MONTHS.

I STAND HERE TODAY TO SHARE THESE STORIES WITH YOU, TO TELL
YOU THAT THE TPT PROGRAM IS NOT THE ONLY SOLUTION FOR
HDFCs WHO ARE SUED BY PREDATORY LENDERS, PAY KEGAK FEES
TO FIGHT IN COURT, PLACED IN THE GRIPS OF A TRUSTEE, AND THEN
THRUST INTO YET ANOTHER PROGRAM LOSING ALL OWNERSHIP
RIGHTS.

THESE HDFCs MUST BE GIVEN A VOICE; THEY MUST RECEIVE THE
TOOLS AND RESOURCES TO ADDRESS THE AFOREMENTIONED
CHALLENGES; AND THEY MUST BE AFFORDED AN OPPORTUNITY TO
FIGHT AGAINST THOSE WHO PREY UPON OUR COMMUNITIES.

I STAND HERE TODAY NOT TO CHALLENGE THE WISDOM OF THE COUNCIL.

RATHER, I STAND HERE TODAY TO REQUEST ON BEHALF OF MY
CONSTITUENTS, A MORATORIUM ON BOTH THE FORECLOSURE OF
HDFCS AND THEIR TRANSFER TO THE TPT PROGRAM.

3. ORIGINAL INTENT OF THE HDFC

WE ARE ALL AWARE THAT THE LATE 1970S WAS A PERIOD WHEN
THE CITY SEIZED PROPERTY FROM DERELICT OWNERS WHO
ABANDONED THEIR BUILDINGS. IN RESPONSE TO THE CITY'S DIRE
NEED TO MOVE OUT OF MANAGING AND OWNING BUILDINGS, THE
CITY CREATED THE HDFC, A TYPE OF CO-OP HOUSING FOR LOW
INCOME NEW YORKERS.

THE MAJORITY OF THESE INCOME RESTRICTED UNITS WERE SOLD
TO TENANTS RESIDING IN THESE ABANDONED BUILDINGS, AS A
MECHANISM TO STOP THE DISPLACEMENT OF TENANTS INTO
SHELTERS; TO TRANSFER CITY OWNED PROPERTY INTO TENANT
MANAGED PROJECTS; AND TO RETURN THESE BUILDINGS BACK TO
THE CITY TO COLLECT REAL ESTATE TAXES.

AFFORDABLE HOUSING UNITS; THAT WOULD PREVENT THE

DESTRUCTION OF CITY OWNED PROPERTY CAUSED BY FIRES,

PRESERVE THE LANDMARK STATUS OF THESE BUILDINGS, AND

DECREASE THE NUMBER OF ABANDONED BUILDINGS OPERATED AS

DRUG DENS OR BUILDINGS SUSCEPTIBLE TO OTHER FORMS OF

CRIMINAL ACTIVITY.

MANY OF THE RESIDENTS IN THESE BUILDINGS WERE GIVEN AN

OPPORTUNITY, FOR THE FIRST TIME IN SEVERAL GENERATIONS, TO BECOME PROPERTY OWNERS. THIS FORM OF OWNERSHIP DID NOT COME TO THE RESIDENTS WITHOUT RISK OF HARM TO THEMSELVES OR THEIR CHILDREN.

IN MY OPINION. IT IS IMPORTANT TO NOTE THAT THE TPT PROGRAM DOES NOT ACKNOWLEDGE THE SWEAT EQUITY EARNED BY THE SHAREHOLDERS. RATHER, THE CITY CHOOSES, THROUGH THE TPT PROGRAM, TO GIVE THIS EQUITY TO A THIRD PARTY WHO HAS NOT SACRIFICED NOR INVESTED ANYTHING TO SAFEGUARD THE BUILDING NOR THE COMMUNITY FROM THE 70s UNTIL TODAY. SHAREHOLDERS ARE RETURNED TO THE STATUS OF RENTERS. BECAUSE OF THE TPT PROGRAM AND PUNISHED FOR FAILING TO VOLUNTARILY OPERATE A CORPORATION IN AN EFFICIENT MANNER. SHAREHOLDERS FEEL LIKE THEY HAVE BEEN SLAPPED IN THE FACE, WHILE BEING ROBBED OF ANY FINANCIAL BENEFIT FOR INVESTING IN THEIR UNIT, THEIR HDFC AND THEIR COMMUNITY. GIVEN THE RISKS TAKEN BY BOTH THE CITY AND THE SHAREHOLDERS, IT SEEMS COUNTERINTUITIVE TO NOW TURN OVER THE BUILDINGS. IN SOME INSTANCES. TO FOR-PROFIT ENTITIES WHOSE INTENT IS NOT TO PRESERVE AFFORDABLE HOUSING. STABLIZE THE NEIGHBORHOOD NOR THE COMMUNITY AT LARGE. RATHER, THESE INVESTORS ARE FOCUSED ON MAKING A PROFIT.

AS THEIR TITLE INDICATES.

I WITNESS FAR TOO MANY CONSTITUENTS, FAMILY AND FRIENDS
REMOVED ON A DAILY BASIS FROM THEIR APARTMENTS BY THESE
FOR-PROFIT ENTITIES.

MANY OF THESE INVESTORS REMOVE EXISTING LOW-INCOME

TENANTS TO REPLACE THEM WITH TENANTS WHO ARE ABLE TO PAY

MUCH HIGHER MARKET RATES.

THE INCLUSION OF FOR-PROFIT CORPORATIONS INTO THE HDFC COMMUNITY, SERVES ONLY TO DESTABLIZE THE HARLEM COMMUNITY BY ELIMINATING AFFORABLE HOUSING.

UNFORTUNATELY, THE ORIGINAL INTENT OF THE HDFC IS

UNDERMIND THROUGH THE TPT PROGRAM BECAUSE IT LEADS TO

THE DISPLACEMENT OF TENANTS, CONTRIBUTES TO THE

DESTABLIZATION OF COMMUNITIES, AND NEGATES THE

OPPORTUNITIES FOR HOME OWNERSHIP TO THOSE WHO HAVE

BEEN LIVING IN HARLEM FOR YEARS.

I ENCOURAGE YOU TO VOTE AGAINST THE TPT PROGRAM FOR
HDFCS WHO ATTEMPT TO COMPLY WITH THE MANDATES OF HPD.

4. RESOURCES TO REBUILD

I FIRMLY BELIEVE THAT IF GIVEN THE RESOURCES, THE HDFC
COMMUNITY HAS THE STRENGTH, THE ABILITY AND COMMITMENT
TO REBUILD THEIR INFRASTRUCTURES AND TO SUCCEED.

AS AN ALTERNATIVE TO THE TPT PROGRAM, I SUGGEST THE
APPOINTMENT OF AN OMBUDSMAN ASSIGNED TO EACH BOROUGH
FOR THE NEXT TEN (10) YEARS, GVING THIS OMBUDSMAN FIVE (5)
YEAR REPORTING REQUIREMENTS BACK TO THE COUNCIL ON THE
PROGRESS OF THE HDFC. THE OMBUDSMEN WOULD PROVIDE THE
SAME INCENTIVES OFFERED TO THE FOR-PROFITS CORPORATIONS,
INVESTOR. IF THE OMBUDSMAN PROGRAM IS ACCEPTABLE, THEN
MORE CHECKS AND BALANCES WOULD BE GIVEN SO THAT TIME IS
NOT BEING WASTED TO ACHIEVE SUCCESS.

FURTHER, IN THE REFERENCED FORUMS, WE ARE FINDING THAT
THE SHAREHOLDERS ARE ASKING FOR SPECIFIC LEGAL AND
FINANCIAL ASSISTANCE. PERHAPS, A FORSENIC AUDIT CAN BE
CONDUCTED TO DETERMINE WHAT RESOURCES ARE NEEDED BY
EACH BUILDING AND SUCH RESOURCES SHOULD BE PROVIDED TO
STREGTHEN THOSE HDFCS THAT ARE NOW FUNCTIONING AND TO
ASSIST THOSE WHERE CHALLENGES EXIST.

5. MORATORIAM ON FORECLOSURES AND THIRD-PARTY TRANSFERS

IN A PRESS RELEASE ISSUED ON OCTOBER 18, 2018 BY PUBLIC

ADVOCATE LETITIA JAMES, SHE "CALLED FOR A TEMPORARY

FREEZE OF THE ... THIRD PARTY TRANSFER (TPT) PROGRAM TO

ADDRESS RECENT CONCERNS ABOUT NEW YORKERS LOSING THEIR

HOMES IN ERROR. ... THERE HAS BEEN RECENT CONCERN THAT

HOMES ARE BEING FORECLOSED UPON WITHOUT SUFFICIENT

NOTICE TO THE HOMEOWNER. THIS TEMPORARY FREEZE WOULD

ALLOW HPD TO ADDRESS THESE CONCERNS AND TO ENSURE THAT

THE AGENCY HAS ADEQUATE SAFEGUARDS IN PLACE TO PROTECT

HOMEOWNERS WHOSE PROPERTIES ENTER THE PROGRAM."

THERE ARE MANY OTHER ELECTED OFFICALS AND SHAREHOLDERS
WHO ARE ALSO CALLING FOR A MORATORIAM ON THE TPT
PROGRAM AND TO PLACE A HALT ON THE PIPELINE OF HDFCS
AWAITING TRANSFER.

I ALSO RESPECTFULLY REQUEST A MORATORIUM ON ALL FORECLOSURES AND HDFCS SLATED FOR THE TPT.

TIME AS A COMPREHENSIVE AUDIT IS CONDUCTED, AND A
FUNCTIONING SYSTEM IS IMPLEMENTED SIMILAR TO THE
PROPOSED OMBUDSMAN PROGRAM.

I BELIEVE IN OUR HDFC COMMUNITY AND HUMBLY ASK THAT THE

COUNCIL CONSIDER THE ORIGINAL INTENT OF FORMING THE HDFC
AND PRESERVE THIS INTENT AS WELL AS THE UNITS NEEDED IN
NEW YORK FOR AFFORDABLE HOUSING.

RESPECTFULLY SUBMITTED,

AL TAYLOR

MEMBER, NEW YORK STATE ASSEMBLY

www.hdfccoalition.org hdfccoalition@gmail.com

THE HDFC COALITION

The voice of HDFC Shareholders since 1992!

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HDFC Foreclosure TPT Program Bullet Points

- * The year 2018 has the largest HDFC mass foreclosure in the City's history: 53 co-op's in one year with 1,104 homeowners who will become renters
- * 95% of Manhattan HDFC's in foreclosure are in Harlem & Washington Heights
- * 90% of HDFC's in foreclosure are 20-35 years old: HPD's old model was flawed
- * No early warning: City waited ten years before notification of foreclosure
- * Foreclosure Notice only went to managing agent of record, not the shareholders
- * No physical assessment of HDFC's in foreclosure but City says they're in grave disrepair which is <u>not</u> true
- * City pays for a foreclosure prevention program for private homes in Queens but nothing for HDFC home owners

*

- The current Administration at City Hall has initiated the <u>largest mass foreclosure of HDFC's</u> in the history of New York City: 59 HDFC's in one year representing <u>1,324 households</u> will be stripped of their home ownership and lose all equity, being forced to become renters.
- Nineteen out of the 20 HDFC's in Manhattan facing foreclosure are in Harlem and Washington Heights, disproportionately affecting people of color and working class incomes. The same holds for the other boroughs.
- Of the 59 HDFC's losing their home ownership status, 90% were incorporated in the 1980's or 1990's, before the City started to do full rehabilitation of HDFC's, showing that the <u>City's initial model was flawed</u>, creating HDFC's with challenging physical plants and poor finances.
- <u>Lack of early notification:</u> the City allowed arrears to build up for ten years before taking action, making repayment near impossible.
- <u>Failure to disclose foreclosure:</u> the City failed to register all original shareholders as owners with the Dept. of Finance, preventing notice to all shareholders about their co-op's pending foreclosure.
- The City <u>has failed to do a physical assessment</u> of the HDFC's in foreclosure, relying instead on old violations from before the HDFC's were incorporated to paint a picture of buildings in total disrepair that are not.
- The City has created a foreclosure prevention program, including funds to pay arrears, for private home owners in Queens; nothing for HDFC home owners.





October 25, 2018

Hon. Janet DiFiore Chief Judge New York State Court of Appeals 20 Eagle Street Albany, New York 12207

Mayor Bill de Blasio City Hall New York, NY 10007

Jacques Jiha, Ph.D.
Commissioner
New York City Department of Finance
1 Centre St., Rm. 500
New York, NY 10007

Hon. Lawrence K. Marks
Chief Administrative Judge of the Courts
New York State Unified Court System
25 Beaver St.
New York, NY 10004

Rick D. Chandler, P.E. Commissioner New York City Department of Buildings 280 Broadway New York, NY 10007

Maria Torres-Springer Commissioner N.Y.C. Dept. of Housing Preservation and Development 100 Gold Street New York, NY 10038

Dear Chief Judge DiFiore, Chief Administrative Judge Marks, Mayor de Blasio, Commissioner Chandler, Commissioner Jiha and Commissioner Torres-Springer:

We, the undersigned members of the New York State Black, Puerto Rican, Hispanic, and Asian Legislative Caucus, are writing with regard to New York City's current Third Party Transfer Program, and the bundle of 66 Brooklyn properties that were taken through *in rem* foreclosure proceedings and judgment in December 2017. We are requesting a moratorium on the further transfer of ownership and imposition of third-party managers at each of the properties, and on the further implementation of the City's Third Party Transfer Program, until an investigation can be conducted to determine the following, at the very least: (1) whether the actions taken by the New York City Department of Finance (DOF), the New York City Department of Housing Preservation and Development (HPD), and New York City Department of Buildings were in keeping with the letter and spirit of the City's 1996 Distressed Property laws and procedures; and (2) what is the actual impact of the City's program on working families and communities of color?

Relatedly, we believe it is important to determine at this juncture the extent to which the city's current Third Party Transfer initiative was implemented to fulfill a purpose other than that which was

intended by New York City Local Law No. 37, as adopted in 1996, and by the authority given by New York State to New York City to engage in *in rem* foreclosure proceedings in the prior decade. One fundamental question that comes to the fore is whether, or the extent to which, New York City's 2015 to 2018 transfers of ownership and management of 66 properties pursuant to the December 2017 Kings County judgment, utilizing its distressed property law proceedings, were within the boundaries of the purpose of these proceedings, or whether New York City overreached in its authority to employ the *in rem* foreclosure method to take title of the properties.

We are alarmed by the fact that the properties on this list in Kings County are located exclusively in rapidly gentrifying, Black and Brown communities such as Bedford Stuyvesant, Crown Heights, Brownsville, Bushwick and East New York; where displacement of working families and seniors from these communities is at an all-time high. Apparently, similar proceedings and judgments were embarked on by HPD and DOF in communities in Queens County and Bronx County. We, the members of the Black, Puerto Rican Hispanic and Asian Legislative Caucus represent the communities where these properties are located.

We were shocked to learn that not only were the 66 properties in Kings County moved swiftly through court proceedings in 2017 -- as a single package -- but that they did not all appear to be the dilapidated, abandoned buildings this process was intended to target in 1985 (when the *in rem* proceedings were first permitted for use by New York City), or in 1996 (when the *distressed property* laws and provisions were adopted). Also alarming is the fact that several property owners have spent months working to fulfill their financial obligations to the City, as the City's *distressed property* laws permit them to do (and some have even paid administrative fees and entered into installment agreements in place to preserve their ownership), without knowing or being informed by your agency especially that they no longer held their deed. The lack of transparency around this process is troublesome.

Most alarming is the fact that currently tenants at these properties are expressing confusion with the abrupt change in ownership and management of their buildings, and anxiety about being displaced from the affordable units in their communities. Many of these tenants and their families are long-term residents of our communities. We of course support the original intent of this program to protect tenants, by stabilizing buildings that are actually distressed and abandoned.

However, we believe that we are duty bound to ensure that the city's agencies are simultaneously advancing the related intent of the City law (that is, to preserve property ownership). The actions recently taken by HPD do not appear to be in line with this purpose. Homeownership is one of the few opportunities for communities of color to build intergenerational wealth, and regard for property ownership is a fundamental tenet of our State Constitution. A single misstep in a program such as this is one too many when it can result in one of our constituents losing their home, and the families' equity and investment in such properties, unjustly or unfairly.

These cases must thus be thoroughly investigated, and solutions developed that allow for continued ownership of the properties which the City designates as Class One and Class Two properties, by those individuals and families that have been the bedrock of our communities (especially those who have provided affordable tenancies to working families before our communities became attractive for "gentrification"). As an initial proposal, homeowners and Housing Development Fund Corporation (HDFC) cooperatives must be provided assistance with ongoing maintenance requirements and management support, rather than the taking of their title to their property and

divestment of their equity. Additionally, water and sewage charges should be decoupled from the foreclosure process so that no homeowner or co-op owner loses their property due to costs associated with utilities.

We respectfully request an immediate response to the issues raised in this letter.

Sincerely,

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Senator Velmanette Montgomery	Senator Roxanne J. Persaud
OPSG-	Jein Pahan
Senator Leroy Comrie	Senator Kevin S. Parker
Jac 7-3	Jul R. Sepilhada
Senator Jamaal T. Bailey	Senator Luis R. Sepulveda
Brian A. Benjamin	Africa 1
Senator Brian A. Benjamin	Assemblyman N. Nick Perry
	Tremain Wight
Assemblywoman Latrice M. Walker	Assemblywoman Tremaine Wright
Deana Buch	Walter 7. Masley
Assemblywoman Diana C. Richardson	Assemblyman Walter T. Mosley

Thales Barron	1000
Assemblyman Charles Barron	Assemblyman Victor M. Pichardo
	Anhline Mion
Assemblyman Ad Taylor	Assemblywoman Yuh-Line Niou
Portage Joyner	Panele J. Strike
Assemblywoman Latoya Joyner	Assemblywoman Pamela J. Hunter
Eil Haiten Silan	

Assemblyman Eric Dilan

CC: New York City Public Advocate Letitia James
New York City Comptroller Scott M. Stringer
New York City Council Speaker Corey Johnson
Bronx Borough President Ruben Diaz Jr.
Brooklyn Borough President Eric L. Adams
Manhattan Borough President Gale A. Brewer
Queens Borough President Melinda R. Katz
Members of the New York City Council
New York State Foreclosure Defense Bar
Hon. Robert Jackson
Catalina Cruz
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Jessica Ramos
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Address: 157 W. 1231254. #34 NY NY (W) 2
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