

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

JOINT COMMITTEES ON FINANCE
AND COMMUNITY DEVELOPMENT

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May 6, 2010
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HELD AT: Hearing Room
 250 Broadway, 14th Floor

B E F O R E: DOMENIC M. RECCHIA, JR.
 ALBERT VANN
 Chairpersons

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Gale A. Brewer
Leroy G. Comrie, Jr.
Lewis A. Fidler
Helen D. Foster
Robert Jackson
G. Oliver Koppell
Darlene Mealy
Diana Reyna
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COUNCIL MEMBERS:

Julissa Ferreras
James G. Van Bramer
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James S. Oddo
Melissa Mark-Viverito
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A P P E A R A N C E S (CONTINUED)

Cas Holloway
Commissioner
NYC Department of Environmental Protection

Joseph Singleton
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Judith Goldiner
Supervising Attorney
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Stephan Dookeram
Foreclosure Counselor
Pratt Area Community Council

Anita Burson
Our family

2 CHAIRPERSON RECCHIA: Good

3 afternoon and welcome to today's Finance Committee
4 hearing. This is jointly being held with the
5 Community Development Committee chaired by my
6 distinguished Council Member Al Vann. My name is
7 Domenic M. Recchia, Jr., and I'm chair of the
8 Finance Committee. I welcome everyone.

9 Before we move forward, I would
10 just like to recognize all of our colleagues who
11 have joined us today: Mr. Cabrera from the Bronx,
12 Mr. Koppell from the Bronx, Ms. Diana Reyna from
13 Brooklyn, Julissa Ferreras from Queens, Al Van
14 from Brooklyn. I want to thank the staffs from
15 both committees for doing a great job in putting
16 this hearing together.

17 Today, we will consider legislation
18 that will amend the Administrative Code in
19 relation to the sale of water liens. Before I get
20 into details of the legislation, I first want to
21 thank my colleagues and Co-Chair Al Vann for
22 sponsoring this legislation. I want to thank the
23 Finance Committee staff, particularly Tanisha
24 Edwards, Juliana Han, Nathan Toth, and Emre Edev,
25 for working on this hearing and the legislation.

2 For the benefit of the public and
3 the newly elected Council Members on the Finance
4 Committee, I will briefly discuss the background
5 of the sale of water liens. In 1996, the
6 Commissioner of Finance was granted authority to
7 sell delinquent property tax and water and sewer
8 liens. In 1997, and again in 2001, and in 2006,
9 the Council extended the Commissioner's authority
10 to sell tax liens.

11 Together, these Local Laws excluded
12 property owned by a company organized pursuant to
13 Article XI of the State Private Housing Finance
14 Law and allowed the sale of Class 4 property liens
15 with only a water or sewer component so long as
16 the property was in arrears for a minimum of one
17 year.

18 Although the water lien sale was
19 viewed as a tremendous enforcement tool for
20 delinquent bill payers, DEP's authority to sell
21 water and sewer liens expired on August 31st,
22 2006. After the Commissioner's authority to sell
23 tax liens expired, DEP lacked the enforcement
24 power to collect delinquent bills and thus did not
25 have sufficient revenue to operate the water

2 system.

3 As a result, in 2007 the
4 Administration sought to propose an 18.5% increase
5 in water rates. In order to increase revenue
6 collection and prevent the 18.5% midyear increase,
7 the Administration and the Council agreed to
8 extend the Finance Commissioner's authority to
9 sell tax liens and authorized the city conduct a
10 standalone lien sale of delinquent water and sewer
11 charges on certain residential properties.

12 Local Law 68 of 2007 reauthorized
13 and extended the Commissioner's authority to sell
14 tax liens based on delinquent property taxes or
15 delinquent water and sewer charges until December
16 31st, 2010.

17 The legislation also included the
18 authority to conduct lien sales of delinquent
19 water and sewer charges independent of other
20 delinquencies, provided that the water and sewer
21 charges had been delinquent for at least one year
22 and equaled or exceeded \$1,000.

23 Under Local Law 68, all single-
24 family homeowners in Class 1 were exempt from
25 standalone water liens and certain senior centers,

2 disabled and low income homeowners owning two or
3 three family property in Class 1 were also exempt.
4 While Local Law 68 of 2007 decreased the
5 delinquency rate for a nonpayment of water and
6 sewer charges, statistics now show the law
7 disproportionately affects seniors as well as low
8 and moderate income property owners of two and
9 three family homes in communities of color.

10 In the current fiscal climate, with
11 high unemployment rates, declining home prices and
12 lack of access to credit, many homeowners are t
13 great risk of losing their homes because they
14 can't pay their water bills.

15 In response, on October 19th, 2009,
16 the Finance and Economic Development Committees
17 held a hearing on a bill that sought to afford
18 more protection to homeowners by doing several
19 things: most importantly, increasing the
20 delinquency threshold for two and three-family
21 homes in Class 1 that can be included in the water
22 lien sale from one year and \$1,000 to three years
23 and \$1,000; exempting two and three-family
24 homeowners in Class 1 that receive the exemption
25 from water-only lien sales; extending the time

2 when homeowners first receive notice of the sale
3 from 90 days to 120 days.

4 At the October 19th, 2009 hearing,
5 Council Members voiced concerns about the
6 disproportionate impact the water lien sale was
7 having on seniors and low income communities of
8 color. Council Members also expressed concern
9 about the impact that the continuing water rate
10 increases would have on our constituents whose
11 personal finances were already under serious
12 strain. And members questioned the continuing
13 situation in which growing rental payments went to
14 the city's general fund rather than back into the
15 water system.

16 At that hearing, DEP voiced
17 concerns about extending the notice period from 90
18 to 120 days. They explained that providing
19 earlier notice was unlikely to be effective. In
20 their experience, most property owners respond to
21 the notice in the last days of the lien sale.

22 DEP also objected to increasing the
23 delinquency threshold for select Class 1
24 properties from one year to three years. They
25 explained that this would allow the delinquency to

2 grow larger and thus make it harder for delinquent
3 homeowners to pay. Since the hearing, the DEP has
4 launched a program called the Water Debt
5 Assistance Program which allows homeowners at risk
6 of foreclose whose properties are also on DEP 90-
7 day lien sale warning list to be removed from such
8 lists if they meet a certain criteria.

9 While I applaud the Administration
10 in its efforts to assist troubled homeowners, this
11 program only targets approximately 15% of the
12 people who would be covered under today's
13 legislation.

14 Today we are considering an amended
15 version of the bill that was considered in
16 October. The bill before us today which was
17 introduced on February 3, 2010, varies slightly
18 from the bill considered in October. The major
19 change is that this bill explicitly excludes
20 veterans from the lien sale and includes technical
21 changes that include numbering and date changes.

22 I am anxious to hear from the DEP
23 Commissioner Cas Holloway on his thoughts of this
24 legislation and ways that we can work together to
25 afford protection to homeowners while being

2 mindful of the city's strained economy in the
3 communities of color.

4 Also, before we hear from my
5 colleague Al Vann, I want to remind my colleagues
6 and the public that 2010 water lien sale will take
7 place this Monday, May 10th, and the last day to
8 pay delinquent water bills will be this Friday,
9 May 7th.

10 The Finance staff also has copies
11 of the schedule of the citywide public hearings on
12 the 12.9% water rate increase that will take
13 effect in July. Before I turn it over to my
14 colleague, I would like to recognize Council
15 Member Joel Rivera, Jimmy Oddo and Leroy Comrie
16 and Gale Brewer. Council Member Al Vann, who was
17 the sponsor of this bill.

18 CHAIRPERSON VANN: Thank you, Mr.
19 Chairman. Good afternoon. As indicated, I am
20 Council Member Al Vann, and I chair the Committee
21 on Community Development. I'm pleased to join my
22 fellow chair, Domenic Recchia, Jr., and members of
23 his committee along with my committee as we will
24 consider Proposed Intro 26-A which is a Local Law
25 to amend the Administrative Code in relation to

2 the sale of water liens.

3 Taking a look at the 2010 water-
4 only lien sale list, properties listed within the
5 sale are clustered in certain neighborhoods. Over
6 half of Class 1 properties listed on the 90-day
7 notice with water-only liens are located in just
8 10 of the 51 Council districts. In addition,
9 these districts tend to include an extremely high
10 number of forecloses and financially troubled
11 households.

12 Since a significant percentage of
13 the properties on the lien sale list this year
14 were also on last year's list, primarily are
15 likely due to default on the payment agreement
16 plan which I think was mentioned by Councilman
17 Recchia in his opening statement. It is very
18 possible that many of these property owners will
19 be unable to pay the account balance in time and
20 will have their liens sold.

21 The Committee on Community
22 Development and I appreciate the fact that
23 enactment of Proposed Intro 26-A may have a fiscal
24 impact. Proposed Intro 26-A is a reintroduction
25 of Proposed Intro 1071-A from 2009. The current

2 bill is substantially similar to last year's bill,
3 not including a few technical and a couple
4 substantive changes.

5 As the lead sponsor for this piece
6 of legislation, I will aggressively seek to move
7 it forward within this current Council session. I
8 believe that today's hearing will provide an
9 excellent opportunity to open up for discussion
10 concerns regarding this Preconsidered bill and at
11 the same time produce ideas to address delinquency
12 rates for water and sewer charges without further
13 burdening families already staggered by the weight
14 of the current economic situation.

15 With that said, I pass it back to
16 our chair, Chairman Recchia.

17 CHAIRPERSON RECCHIA: Before I call
18 on the commissioner to make a statement, I just
19 want to say I want to apologize to my colleagues
20 for not starting at 1:00, but I was stuck in
21 another meeting. Go ahead, Commissioner.

22 CAS HOLLOWAY: Thank you, Chairman
23 Recchia and Chairman Vann. Good afternoon, I'm
24 Cas Holloway, Commissioner of the New York City
25 Department of Environmental Protection. With me

2 here today is Joe Singleton, the Deputy
3 Commissioner for the Bureau of Customer Service,
4 as well as some other senior members from DEP and
5 we also have the deputy commissioner for
6 operations from the Department of Finance.

7 Thank you for the opportunity to
8 testify on Intro 26-A, a bill that would amend
9 Local Law 68, the water and sewer debt lien sale
10 authority created in 2007 through the leadership
11 of Mayor Bloomberg, Council Speaker Quinn and this
12 entire body.

13 Local Law 68 reauthorized the sale
14 of tax-based liens and for the first time
15 authorized the sale of liens based solely on
16 delinquent water charges. As you may recall, the
17 authority to sell liens based on water charges was
18 immediately successful in averting a midyear water
19 rate increase that would have been needed because
20 of poor collections in the first months of fiscal
21 year 2008.

22 Since then, this authority has
23 continued to be a critical tool in collecting
24 revenue from delinquent customers, revenue
25 essential to meeting the expense and capital needs

2 of one of the city's most important physical
3 assets. There are certain elements of Intro 26-A
4 that DEP can support. For example, the exemption
5 for two and three-family homes in the enhanced
6 Star program that partially exempts from school
7 property taxes the primary residences of senior
8 citizens aged 65 and older who are beneath a
9 certain income threshold as well as the tax
10 exemptions for veterans.

11 But a key provision of the bill
12 that multi-family homeowners will become eligible
13 for the lien sale after three years rather than
14 the one year eligibility period now in effect
15 would dramatically lower revenue collections and
16 shift even more of the cost to operate, maintain
17 and build the water system from those who don't
18 pay their water bills to the vast majority of
19 responsible New Yorkers who do.

20 To illustrate, if the three-year
21 eligibility threshold was in effect this year, it
22 would reduce the number of lien sale eligible
23 accounts in tax class 1 from 11,553 to 1,090 and
24 the amount of underlying lien sale eligible debt
25 would drop from \$55.8 million to just \$14 million.

2 That translates to an additional rate increase of
3 1.6% for everyone else and would go a long way to
4 restoring the status quo prior to Local Law 68
5 when a small but persistent segment of New Yorkers
6 regarded water and sewer charges as something that
7 simply did not have to be paid.

8 Moreover, while the intention of
9 this legislation is apparently to decrease
10 pressure that unpaid water and sewer bills can
11 have on a homeowner facing financial difficulties;
12 ultimately it will have the opposite effect.
13 Under the proposed legislation, we estimate that
14 the average water and sewer debt of a property
15 owner eligible for the lien sale would jump
16 dramatically from \$4,800 for tax class 1 property
17 owners today to nearly \$13,000.

18 At that point, the size of the debt
19 and the interest would be overwhelming and
20 extremely threatening to a property owner's
21 economy wellbeing. We want property owners to
22 approach us as soon as possible to discuss their
23 bill, make a down payment and enter a payment
24 agreement long before their debt approaches
25 \$10,000 and true financial distress becomes all

2 but inevitable.

3 Addressing water debt sooner rather
4 than later does not mean that we cannot or should
5 not help property owners in financial distress,
6 particularly in these extremely difficult economic
7 times. Mayor Bloomberg pledged in his State of
8 the City address to enact the most ambitious
9 foreclosure prevention effort in the country and DEP
10 has led the way in that effort with the Water Debt
11 Assistance Program, WDAP, that we reminded New
12 Yorkers about just yesterday and hope as many more
13 people will sign up as possible.

14 Before I describe the status of
15 WDAP program, which has been quite successful, I
16 want to review some facts about DEP's current
17 water lien sale authority that are critically
18 important. I'm sure you agree with the
19 proposition that people who can afford to pay
20 their water bills should pay. New York City has
21 some of the highest quality water in the nation.
22 The infrastructure to supply, distribute, and
23 treat it is ingenious and complex. Everyone who
24 benefits from the system should pay their fair
25 share.

2 As the members of this committee
3 know, the vast bulk of revenue generated by DEP's
4 lien sale comes well before any sale actually
5 takes place. Whether due to quarterly billing or
6 the old frontage billing method, New Yorkers have
7 historically not treated water bills with the same
8 urgency as other obligations. The lien sale
9 authority granted in 2008 has changed that by
10 providing a critical timely reminder to delinquent
11 property owners to pay their water bill.

12 As with liens based on other city
13 charges, most water-based liens are never sold
14 because property owners recognize and respond to
15 their delinquency by paying what they owe or
16 entering into a payment agreement with a down
17 payment. The numbers bear this out.

18 Approximately 89% of the properties
19 that are placed on the lien sale list resolve
20 their delinquency before a sale occurs, which
21 means that the vast majority of property owners
22 can pay their bill or put down a deposit and enter
23 into a payment agreement once they decide to
24 confront the problem.

25 In 2008 and 2009, DEP received \$185

2 million from customers on the 90-day lien sale
3 list and another \$81.6 million in payment
4 agreements. To put that in perspective, every
5 percentage increase in the water rate equated to
6 \$23 million during that period. So lien sale
7 authority saved the equivalent of an additional
8 7.9% of rate increases that otherwise would have
9 been necessary during those two years.

10 And since the City Council granted
11 DEP lien sale authority in 2007, the amount of
12 delinquency associated with lien eligible
13 properties has declined significantly. In 2008,
14 the average property on the 90-day sale list had
15 \$6,787 of delinquent charges. In 2009, that
16 dropped by more than \$1,200 to \$5,575 and this
17 year the average is down to \$4,846. This is a
18 welcome trend that we hope continues and almost
19 certainly be reversed if the lien sale eligibility
20 period was extended to three years.

21 Just as it is important to ensure
22 that people who can afford to pay their water bill
23 actually pay, we must do everything we can to help
24 those in financial distress or who are most
25 vulnerable to financial difficulty when the

2 economy takes a turn for the worse.

3 In crafting Local Law 68 of 2007,
4 the Council and the Administration took pains to
5 incorporate features that protect our most
6 vulnerable citizens and preserve home ownership.

7 For liens based on property taxes,
8 the legislation excludes from sale all tax class 1
9 properties owned by senior citizen, disabled and
10 low income homeowners who meet the criteria for
11 the senior citizens homeowners' exemption, that's
12 SCHE, the disabled homeowners' exemption, DHE, and
13 the New York State personal income tax circuit
14 breaker credit. For liens based on water and
15 sewer charges, the legislation also excludes tax
16 class 1 properties that are receiving the SCHE and
17 DHE exemptions or the PIT circuit breaker credit.

18 As the members of this committee
19 know, since lien sale authority was granted, the
20 national financial crisis erupted, home values
21 have declined and many homeowners were faced with
22 the prospective of foreclose. The Administration
23 understands that with many New Yorkers struggling
24 in these difficult financial times we must do
25 everything we can to help those who are under the

2 greatest financial burden.

3 That's why Mayor Bloomberg and I,
4 with the support of Chairman Vann, you stood with
5 us that day, Council Members White and Comrie,
6 started the Water Debt Assistance Program in
7 February of this year, a new initiative that will
8 temporarily relive homeowners at the risk of
9 mortgage foreclose of past due water and sewer
10 debt. We greatly appreciate the Council Members'
11 support for this program, which we expanded to
12 single family homes in March.

13 WDAP was created to give homeowners
14 at risk of foreclose some breathing room by taking
15 their properties off the lien sale list and
16 deferring collection of unpaid water and sewer
17 charges until the property is sold, refinanced, or
18 the owner has the ability to pay the debt. As of
19 May 2nd, 533 properties have been accepted into
20 the program and many more applications are
21 pending.

22 Programs like WDAP, in addition to
23 the exemptions from the lien sale that already
24 exist for homeowners receiving disability related
25 or income related or age related property tax

2 exemptions, provide meaningful relief and
3 protection for those experiencing financial
4 hardship or who may be particularly vulnerable to
5 an economic downturn. And as I noted at the
6 outset, DEP can support the additional exemption
7 in Intro 26-A for those eligible for the enhanced
8 Star exemption and military veterans.

9 In addition to WDAP and the
10 exemptions I've described, DEP will
11 administratively remove from the lien sale any
12 property that has been the subject of a more
13 formal foreclosure filing by the mortgage holder
14 formerly known as a lis pendens listing.

15 We are working with the Center for
16 New York Neighborhoods, who I believe is going to
17 testify later today and HPD to reach that
18 population. In 2010, the lis pendens exemption
19 led to 1,300 properties being removed from the
20 lien sale.

21 Renewing the current lien sale
22 authority with its one-year eligibility period,
23 along with the additional exemptions proposed in
24 Intro 26-A would strike the right balance between
25 protecting the most vulnerable and ensuring that

2 DEP has the tools necessary to collect from
3 property owners who can afford to pay.

4 I would also like to offer a
5 suggestion that would substantially strengthen
6 those tools while maintaining appropriate
7 protections for the vulnerable, extending lien
8 sale authority to single family homes.

9 Local Law 68 of 2007 exempted
10 single family homes for the sale of water-only
11 liens because we have the authority to terminate
12 water service to delinquent single family
13 accounts. In 2008, concurrent with the first sale
14 of water-only liens on multi-family homes, DEP
15 began to enforce against seriously delinquent
16 single family homes by terminating water service
17 pursuant to a longstanding authority to do so.
18 Now we would prefer not to do that.

19 While 98% of those single family
20 owners who received a termination notice have paid
21 in full or signed payment agreements, terminating
22 service is not only extremely disruptive but it's
23 labor intensive and a very ineffective means of
24 enforcing payment of water bills. DEP must post a
25 15-day notice on each home, paint the sidewalk and

2 mark out the street location, and do other things
3 which cost an average of \$400 per home just to
4 make the notice.

5 The actual termination of service
6 requires a crew to excavate the street and turn
7 off the water and then turn it back on, at an
8 average cost of \$2,700 per home. And the fee
9 right now is \$500 for doing so. In 2009, we
10 served 15-day notices to 3,547 single family homes
11 and terminated service on 65.

12 We collected \$2.7 million from this
13 group but we spent \$1.6 million to collect it and
14 tied up the equivalent of 10 full time staff who
15 could otherwise have been performing work that
16 would have benefited many more New Yorkers,
17 including repairing water mains, maintaining fire
18 hydrants and cleaning catch basins and sewers.

19 Currently there are 8,500 single
20 family homes that would meet the eligibility
21 criteria for a lien sale. If all 8,500 homes that
22 would be eligible for the lien sale had been
23 service terminated, it would take the equivalent
24 of 24 full time employees and cost \$3.8 million to
25 collect an estimated \$18.2 million in a year, for

2 a net revenue increase of \$14 million. If those
3 same homes were eligible for the lien sale, we
4 would expect to collect \$25 million with virtually
5 no operational expense. That \$25 million is
6 equivalent to a full point reduction of the water
7 rate.

8 The bottom line is that in
9 extending lien sale authority to single family
10 homes would eliminate the threat and substantial
11 cost of water service termination and
12 significantly increase revenue collection at
13 substantially no cost. It is difficult to think
14 of a more efficient way to lighten the burden on
15 rate payers and increase service in the field.

16 This hearing is particularly
17 timely. Tonight I will speak at the second of six
18 public hearings on the water rate proposal that I
19 made to the New York City Water Board on April
20 9th. As I'm sure the committees know, DEP has
21 proposed a 12.9% water rate increase to meet the
22 needs of the water system for next year.

23 I've already held meetings in each
24 of the five boroughs to explain that and at each
25 meeting to explain the basis for the rate in all

2 of the capital work and field work that DEP is
3 doing. And in each meeting I've held, residents
4 who pay their water bills have asked me to use
5 every method possible to ensure that they are not
6 bearing the burden of paying for the water of
7 those who are not.

8 Every dollar we can't collect
9 because of those who can afford to pay and won't
10 is another dollar that we'll have to make up
11 through future rate increases. We've already cut
12 the expense budget at DEP by 8% for fiscal year
13 2011, and we are in the midst of an intensive
14 review of our capital program in an effort to
15 reduce costs and make the rate as low as possible
16 for next year.

17 But every dollar we can't collect,
18 as I said, is another dollar we'll have to make up
19 through future rate increases. And every tool we
20 have to avert that outcome and ensure fair
21 distribution of the cost of our water system is
22 critical. Keeping the current lien sale authority
23 intact and extending as I've suggested will
24 maintain one of the most important tools available
25 to us.

2 Chairs Vann and Recchia, I want to
3 thank you for the opportunity to testify and I'll
4 gladly take any questions you may have.

5 CHAIRPERSON RECCHIA: Before we
6 start the questions, I'd like to recognize we've
7 been joined by Council Member Lew Fidler from
8 Brooklyn.

9 CHAIRPERSON VANN: Thank you very
10 much. Before I get into specific questions, I'm
11 just curious as to your opinion of the reason why
12 a number of people are delinquent in paying their
13 water in that we recognize that the concentration
14 of those who are delinquent happen to be in
15 certain Council districts that are overburdened,
16 as I stated in my testimony, as a result of the
17 downturn in the economy and unemployment.

18 Is it your opinion that people who
19 don't pay are gaming the system? Or that people
20 who really do not have the money are robbing Peter
21 to pay Paul? What is your assumption of why there
22 are people who don't pay their water only
23 delinquencies?

24 CAS HOLLOWAY: Well, first I think
25 an important piece of evidence about ability to

2 pay is that with the properties that have been
3 eligible for the lien sale over the past three
4 years, 89% who have received notices have come to
5 DEP and either paid their bill in full or they've
6 entered into payment plans.

7 I don't what the reason is. Right
8 now we only bill on a quarterly basis and the
9 automated meter reading system that we're putting
10 in and so forth is going to enable us to really
11 revolutionize for consumers and our customers the
12 ability to track their water usage and get their
13 bill and so forth. We've also instituted things
14 like the direct debit program to make it easier
15 for people to go online and just put in a number
16 and never think about it again.

17 So it could be the infrequency of
18 the bill. It could be a legacy issue with the
19 fact that a lot of properties used to have
20 frontage billing. But for many people until they
21 get this notice, they don't come in and handle
22 their bill.

23 So I wouldn't call that gaming the
24 system, but I think that the fact that such a high
25 percentage deal with the problem when it's called

2 to their attention suggests that this tool more
3 than anything else is bringing people in so that
4 they can deal with the problem in the payment
5 plans that we have and make them aware of the
6 exemptions that we have. And I also think
7 programs like Water Debt Assistance, which are new
8 and really I think get at one of the most
9 vulnerable groups out there, can help do what I
10 think the bill is intended to do which is help
11 people who are the most vulnerable deal with this
12 cost.

13 CHAIRPERSON VANN: So what does
14 your evidence show about those who do not respond?

15 CAS HOLLOWAY: In terms of the
16 profile of those who do not respond? What we do
17 know is that of those that end up actually going
18 into the lien sale, it's about 2,800 properties.
19 The vast majority of those, I mean in terms of the
20 profile is there anything specific we can say?

21 JOSEPH SINGLETON: Even when a lot
22 of the properties actually move from the city's
23 receivable to the trust that administers these.
24 Those debts are usually taken out prior to an
25 auction sale.

2 CHAIRPERSON VANN: Excuse me, can
3 you state your name for the record.

4 JOSEPH SINGLETON: I'm sorry, I
5 apologize, Joe Singleton from DEP.

6 CAS HOLLOWAY: Joe Singleton is the
7 deputy commissioner for the Bureau of Customer
8 Service.

9 JOSEPH SINGLETON: There's a whole
10 host of reasons why someone might not react to a
11 bill. If you're used to a particular level, let's
12 say, two adults in a home and you're used to
13 paying \$115 a quarter and you have a leak in the
14 home, you want an explanation from us. We send a
15 crew out. So that can be one particular item,
16 your bill pattern may have changed for leak
17 reasons, occupancy reasons, any number of those
18 things.

19 As the commissioner mentioned, the
20 vast majority of folks do come in and redeem prior
21 to the sale date. And once those properties are
22 sold to the trust, most of those redemptions are
23 done prior to a foreclose sale. So obviously, the
24 economic climate is adversely affecting people.
25 We know that. We see that. I deal that with my

2 customer reps every day and at the outreaches that
3 many of your chaired.

4 So we were trying to put in a
5 balance between enforcement which the lien sale
6 has been very productive in doing that and some
7 balance of forgiveness. By that I mean the Water
8 Debt Assistance Program, if you have a mortgage
9 delinquency we have frozen that debt and placed
10 that on a background account. So we are using, I
11 think, all tools that we have to manage across
12 that.

13 CAS HOLLOWAY: So in addition to
14 the 533 who are in the Water Debt Assistance
15 Program, we are affirmatively ourselves removing
16 the 1,300 property owners who we've already done
17 the run on who are not in the program but for whom
18 there's a lis pendens filing on the property.

19 CHAIRPERSON VANN: When did you
20 install this Water Debt Assistance Program?
21 People are enrolled in that as of when? When did
22 this become operable?

23 CAS HOLLOWAY: That was early
24 February. So that was about the first week of
25 February I believe, about three weeks after the

2 Mayor's State of the City address. We did that
3 out in Brooklyn.

4 CHAIRPERSON VANN: Before I get all
5 involved I'd like to acknowledge the presence of
6 the State Assemblywoman Annette Robinson has
7 joined us. Welcome. Former City Council person,
8 you have the run of the house. Thank you,
9 Councilman Jackson for joining us and Councilman
10 Ignizio from Staten Island is here as well.

11 I have a couple of basic questions
12 regarding your testimony. Based on the history of
13 the past lien sales, can you tell us how much does
14 the city collect in outstanding water and sewer
15 balances during the lien sale notification period,
16 particularly for the residential properties and
17 for the standalone water and sewer liens on
18 commercial property? Do you have that information
19 available?

20 CAS HOLLOWAY: Sure, I can give you
21 the aggregate numbers and then if we want a
22 granular breakdown, we either have it here or we
23 can make sure that we get it to you. Just give me
24 two seconds here.

25 For the last two year, 2008 and

2 2009, the amount that went out in the 90-day lien
3 sale list, what we received of the amount
4 outstanding was \$185 million from customers who
5 paid off their bills and then another \$81.6
6 million from people who entered into payment
7 agreements. So the overall numbers, it translates
8 into about 89% of the customers who were on the
9 list.

10 CHAIRPERSON VANN: Would you
11 reiterate the impact if the new legislation
12 extends the water lien threshold to three years?
13 Would you clarify for me what that would be and
14 why?

15 CAS HOLLOWAY: Sure. Well
16 currently with the one year exemption and what I
17 used as an illustration is just this year. If the
18 three year limitation were implemented for this
19 year, you would have the amount of accounts that
20 would be eligible for the lien sale this year
21 would drop from 11,500 roughly to 1,090. And the
22 amount of the debt that's associated with those
23 1,090 accounts, that would drop from \$55.8 million
24 to just \$14 million. That translates into about
25 1.6 points on the rate. So that's \$35-\$45

2 million. So that's a pretty precipitous drop.
3 That's about a 90% drop in eligible accounts.

4 Then I think that is compounded by
5 the fact that right now with the one year
6 eligibility criteria, the average amount of
7 outstanding debt for a person who is eligible for
8 the lien sale is about \$4,800. We've done the
9 analysis for what would happen under the three-
10 year period and we projected that debt would rise.

11 Once you become eligible in year
12 three, if you're not going to pay your debt from
13 year one to year three, that amount would rise
14 from \$4,800 to just about \$13,000. From the
15 standpoint of what the homeowner might perceive as
16 payable, it becomes an overwhelming amount and we
17 think really increases the pressures on that
18 individual rather decreasing it.

19 It's not as if when the lien sale
20 list goes out, your choice is either pay your bill
21 or else. You can come to us and enter a payment
22 plan, make a down payment and then set up terms to
23 pay if on a basis that's affordable.

24 CHAIRPERSON VANN: Your response,
25 could you specify what that would be relative to

2 class 1 properties?

3 CAS HOLLOWAY: What I just told you
4 was tax class 1.

5 CHAIRPERSON VANN: That was class
6 1?

7 CAS HOLLOWAY: Yes.

8 CHAIRPERSON VANN: What would it be
9 for all of the classes?

10 CAS HOLLOWAY: Hang on for one
11 second. The \$4,800 is the average for tax class
12 1. That would go to \$13,000. Joe, do we have the
13 breakdown for tax class 2?

14 JOSEPH SINGLETON: No, we have not
15 done that analysis because the legislation did not
16 propose pushing back the timeframe on tax class 2
17 or 4. So we focused the analysis on tax class 1.

18 CHAIRPERSON VANN: Just on class 1.

19 CAS HOLLOWAY: We can do that
20 though. We can do that pretty quickly couldn't
21 we?

22 JOSEPH SINGLETON: Yes, we can do
23 it. I can't do it at the table, but we could do
24 it.

25 CHAIRPERSON VANN: Why not? What's

2 the matter? How has the general delinquency rate
3 of the regular water bill changed since the
4 introduction of the standalone water only lien
5 legislation?

6 CAS HOLLOWAY: Joe, do you want to
7 handle that?

8 JOSEPH SINGLETON: Sure. Prior to
9 the legislation, if you look at a two billing
10 cycle delinquency, 180 days, we were about 85% of
11 customers had no outstanding debt. After the '08
12 and '09 sale, 88% of the customers had no
13 outstanding debt. So it increased our collection
14 rate about 3% from '07 to '09.

15 CAS HOLLOWAY: Now that 3% is on a
16 base of 834,000 rate payers. I think another
17 extremely important point is in 2008 the average
18 size of debt for somebody eligible for the lien
19 sale was in the \$6,700 range. By 2009, that was
20 down to \$5,546. The exact numbers are in my
21 testimony, so if I'm off by a few dollars, I
22 apologize.

23 Now this year we're about \$1,000
24 lower which to me suggests not only are we seeing
25 that 3% increase on a base of 834,000 is

2 significant, but we are also seeing a significant
3 trending down in the amount of debt that people
4 hold, which suggests, I think, that something is
5 working.

6 CHAIRPERSON VANN: Something is
7 working. What percent of class 1 properties end
8 up in foreclose as a result of the lien sales?
9 How does this compare to other residential
10 properties and commercial properties?

11 CAS HOLLOWAY: For just standalone
12 water debt?

13 CHAIRPERSON VANN: Yes.

14 CAS HOLLOWAY: Joe?

15 JOSEPH SINGLETON: We asked the
16 trust administrator to look at that for us. The
17 breakout I think was quite compelling. From '96
18 to 2006, there were 1,085 tax class 1 properties
19 that were auctioned.

20 CHAIRPERSON VANN: I'm sorry, what
21 was that number?

22 JOSEPH SINGLETON: 1,085 properties
23 that were auctioned from '96 to 2006. That means
24 they were actually sold on the courthouse steps I
25 guess. Of that amount, about 485 to 500 of those

2 tax class 1 properties were actually vacant land.
3 There were no structures on them at all. So over
4 that ten-year period, the amount of properties in
5 tax class 1 that have actually been sold at
6 auction is about 500 over a ten-year period. So
7 the actual sale has been very, very small by the
8 trust on an auction.

9 CHAIRPERSON RECCHIA: Is that for
10 all city debt or just water and sewer?

11 JOSEPH SINGLETON: That's for all
12 city debt.

13 CHAIRPERSON RECCHIA: That's not
14 just for water and sewer.

15 JOSEPH SINGLETON: That's for all
16 city debt. That's the only way they could provide
17 that breakout for us. They move on a BBL basis.

18 CAS HOLLOWAY: Borough, block and
19 lot, BBL.

20 CHAIRPERSON VANN: We've been
21 joined by Council Member Darlene Mealy and Council
22 Member Melissa Mark-Viverito. How does the lien
23 sale impact your budget gap closing measures? How
24 much is the Administration expecting to collect
25 from this year's sale? Will these proceeds be

2 used to close the gap for the current fiscal year?

3 CAS HOLLOWAY: We have a revenue
4 target every year and that revenue target is based
5 on what we're going to need to operate the system.
6 So that has to cover operations and maintenance
7 and debt service and the other obligations that
8 the system has. So the funds that are collected
9 here from rate payers go to closing that gap.

10 Now, this year, as you may know, I
11 made a proposal on April 9th to the Water Board to
12 increase the water rate by 12.9% for next year
13 because we have a shortfall in our anticipated
14 revenue collections of \$322 million. That's for a
15 number of reasons and I'm happy to go into as much
16 detail as you can stand on that. I'll also be
17 talking about it in the Bronx tonight and going to
18 everyone's borough. I've already been to Staten
19 Island.

20 How much do we expect to collect?
21 The historical numbers are good. I think for
22 everyone on the 90-day list for 2008 and 2009 we
23 brought in \$185 million for people who paid off
24 their bills in full and then another \$82 million
25 in payment plans. That translates into about 8

2 rate points over those two years that we otherwise
3 would have had to make up through additional
4 increases. I don't have to tell anyone on this
5 panel that we've had substantial rate increases
6 over the last four years for a capital program
7 that really has been unprecedented in size for a
8 lot of reasons. But in terms of gap closing, I
9 mean you can look at it that way. In terms of
10 this year, Joe, how are we doing so far?

11 JOSEPH SINGLETON: On the 90-day
12 list there was \$135 million in accounts receivable
13 on all tax classes. On the ten-day there was
14 about \$79 million still open. So we've had and we
15 continue to have a very busy couple of weeks.
16 Most of the customers come in and redeem in that
17 last week or that last ten days.

18 So based on last year's pattern, we
19 won't know the exact breakout between payment in
20 full, payment agreements or administrative pulls
21 until after we essentially close down. I expect
22 it would hold slightly to that pattern, 60% cash,
23 30% payment agreements and then about 10% in
24 administrative pulls.

25 CHAIRPERSON VANN: I have a number

2 of other questions but there may be Council
3 Members who have some particular questions they'd
4 like to ask and I'll come back.

5 CHAIRPERSON RECCHIA: Council
6 Member Gale Brewer.

7 COUNCIL MEMBER BREWER: Thank you.
8 I have a different kind of question. I have very
9 anal constituents and they're very smart. They
10 keep track of when they send in their bills and
11 when the check is cashed, et cetera. So this is
12 what they tell me.

13 They tell me that they send in
14 their checks on time and then they get a late bill
15 because the check takes one month to clear the
16 bank. Now, I have copies of checks. So my
17 question to you is how many buildings in the City
18 of New York pay late fees and how many of them pay
19 late fees that aren't as anal as my constituents?
20 And who don't then check to see that that check
21 was mailed on time and who gets stuck paying the
22 late fees? I believe that this is more pervasive.

23 Now it's not DEP and Joe doing it.
24 Let me tell you, they got your number Joe. I have
25 your home number and your work number right here

2 on my thing, along with Patrick's.

3 MALE VOICE: [off mic] Give us the
4 home number.

5 COUNCIL MEMBER BREWER: I will
6 later, and I have Patrick's also. I don't even
7 know you but I've got all these numbers.

8 CAS HOLLOWAY: It was Rob Jackson.

9 COUNCIL MEMBER BREWER: So my
10 question is how many buildings pay late fees? How
11 many because the bank kept it for a month? Then
12 how many could turn into a lien sale? Somebody at
13 the bank is making money and these poor
14 constituents, meaning buildings, are paying late
15 fees that they shouldn't be paying.

16 CAS HOLLOWAY: Let me start with
17 the proposition that nobody who pays their bill on
18 time should pay a late fee.

19 COUNCIL MEMBER BREWER: Correct.
20 And I've got plenty of examples here which I will
21 share with you later.

22 CAS HOLLOWAY: So to the extent
23 there's any issue with that, I guarantee you we'll
24 be looking into it. Joe, do you want to talk
25 about what we know?

2 JOSEPH SINGLETON: Sure.

3 COUNCIL MEMBER BREWER: You know
4 the building, Joe.

5 JOSEPH SINGLETON: I do know the
6 building.

7 COUNCIL MEMBER BREWER: Yes, you
8 do.

9 JOSEPH SINGLETON: I know the
10 particular constituent.

11 COUNCIL MEMBER BREWER: Yes, you
12 do.

13 JOSEPH SINGLETON: I question the
14 validity of his complaints. I personally reviewed
15 that account. This has been an ongoing discussion
16 that he's been having for ten years. We have
17 directed him that if this is a concern of his that
18 the building manager can go on, he can do the
19 payments online for free and he can sign up for
20 direct debit. So I think we offered him a way
21 around what the problem may be. I think that's
22 the only solution we granted that particular
23 constituent. But we did provide him a way to
24 manage around that should he choose to do that.

25 COUNCIL MEMBER BREWER: But I'm

2 just saying that if I would send in a check, it
3 should be cashed immediately. Is that the case of
4 all checks?

5 JOSEPH SINGLETON: All checks may
6 take two or three days to process, like any other.

7 COUNCIL MEMBER BREWER: But his
8 really did take a month. They really did. We'll
9 check on it. I will send a letter and I expect it
10 to be looked at. I just don't want it to happen
11 to anybody else.

12 CAS HOLLOWAY: Council Member, it's
13 the Bank of New York Mellon, right, who is our
14 lockbox operation? I mean I've been to these
15 lockbox operations. They get the checks and they
16 cash them within two to three business days. I
17 mean that's pretty much what they're legally
18 obligated to do. Then they have to clear them and
19 so forth. So I mean, while there certainly could
20 be exceptions and this may be one of them, we'll
21 make sure. As I said, nobody who pays their bill
22 on time should be paying a late fee.

23 COUNCIL MEMBER BREWER: I will send
24 it to you and you will let me know if there are
25 other examples. Number two is the water bills go

2 up, maybe other colleagues understand this,
3 because we're paying back debt service for things
4 like Van Cortlandt filtration, which I voted
5 against, but are there other examples? Why did
6 the water bills go up? In addition to the people
7 who don't pay, we have to pay. Is that the only
8 reason they go up?

9 CAS HOLLOWAY: Because of people
10 who don't pay?

11 COUNCIL MEMBER BREWER: Right, is
12 that the only reason they're going up?

13 CAS HOLLOWAY: No. The primary
14 driver of water rate increases for the past
15 several years has been an increase in debt service
16 that's been necessary to fund a massive increase
17 in capital construction for water system
18 infrastructure. Most of the biggest projects
19 there are legally mandated projects that we don't
20 have any choice about whether to build them or on
21 what timeframe.

22 So that's two important
23 distinctions because it's not necessarily the case
24 that just because something is legally mandated
25 that you wouldn't otherwise build it, but you do

2 have a choice about the timeframe that you build
3 it in. So you mentioned the Croton Water
4 Filtration Plant. That's a \$2.8 billion project.
5 There's also the ultraviolet disinfection plant
6 that's being built in Kensico just south of the
7 Kensico Reservoir. There is a \$5 billion upgrade
8 of the Newtown Creek Wastewater Treatment Plant.
9 Most of that work is legally mandated. We have a
10 billion dollar consent order for combined sewer
11 overflows.

12 What am I doing about that? Well
13 some of these big mandated projects like the
14 Croton filtration plant and the ultraviolet
15 disinfection plant are going to be coming online
16 in 2012 and 2013. So they're pretty much already
17 done. But I've already begun a pretty aggressive
18 engagement with the EPA and state DEC to try to
19 shift the paradigm so that some of these
20 investments can be made on a timeframe that New
21 Yorkers can afford.

22 So for example, in February we
23 announced \$115 million in additional investments
24 to remove nitrogen from wastewater that's going to
25 be done over a ten year timeline that is going to

2 be aggressively monitored. DEC, EPA, the National
3 Resources Defense Council all stood with us and
4 the Mayor in support of it. We did some modeling
5 and showed that that was going to materially
6 improve water quality. Instead of having a court
7 demand that we do it in two years, everybody came
8 to an agreement that we could do it in ten.
9 That's how we'd like this to work.

10 COUNCIL MEMBER BREWER: So that
11 means that the water bill won't go up if in fact
12 this increase goes through ever again?

13 CAS HOLLOWAY: No. The water rate
14 increases are based on a projection of what we
15 think the utility's cash flow needs are going to
16 be going forward. So right now, as I said, the
17 ultraviolet disinfection plant, the Croton
18 Wastewater Treatment Plant and all the other
19 construction we have underway costs about \$9
20 million a day.

21 That's going to continue for at
22 least the next two years, even though the capital
23 commitment level is going to drop from \$3.2
24 billion last year to about \$1.6-\$1.7 billion next
25 year. But we are still going to have to be

2 issuing an additional amount of debt in order to
3 fund the cash needs to pay the construction
4 workers who are finishing these projects. Then,
5 as you know, when you issue a 30-year bond, you're
6 making that payment for 30 years.

7 We did some calculations and I
8 presented these in the community meetings as part
9 of my rate presentation which you can get online
10 at nyc.gov/dep. But they've added approximately
11 \$177 for the next 30 years to New Yorkers' water
12 bills every year. It's something we need to work
13 on.

14 COUNCIL MEMBER BREWER: Thank you.

15 CHAIRPERSON RECCHIA: Thank you,
16 Council Member Gale Brewer. I have a question for
17 you, Commissioner. Can you confirm the interest
18 rate you charge on a Class 2 homeowner who enters
19 into a payment agreement?

20 CAS HOLLOWAY: Yes, I can. Joe,
21 it's 9%?

22 JOSEPH SINGLETON: 9%.

23 CAS HOLLOWAY: 9%.

24 CHAIRPERSON RECCHIA: It's 9%?

25 CAS HOLLOWAY: Yes.

2 JOSEPH SINGLETON: Correct.

3 CHAIRPERSON RECCHIA: And is it 9%
4 the late payment for most class 1 homeowners?

5 JOSEPH SINGLETON: For all class 1
6 late?

7 CAS HOLLOWAY: Yes, if you're late,
8 it's 9%.

9 CHAIRPERSON RECCHIA: All right, so
10 if you enter into your payment agreement, it's 9%,
11 correct?

12 CAS HOLLOWAY: Correct.

13 CHAIRPERSON RECCHIA: Let's say on
14 that payment you're late, does it go up another
15 9%?

16 CAS HOLLOWAY: Joe, you want to
17 explain?

18 JOSEPH SINGLETON: Like anything
19 else, if you didn't pay the bill that month,
20 that's going to your outstanding balance so the
21 interest calculation, is on that new balance. So
22 essentially, as long as you're staying current,
23 you're at 9%. There's only one interest rate
24 charge in our billing system and that's 9% for all
25 tax classes.

2 CHAIRPERSON RECCHIA: I just wanted
3 to clarify that because we've got some other
4 situations that we'll talk to you about where
5 people are claiming that the interest rate was
6 higher, much higher.

7 CHAIRPERSON VANN: If I might, on
8 that point, is it clear that not only must they be
9 current on their payment agreement, but they also
10 have to maintain that payment as well?

11 CAS HOLLOWAY: You mean for water
12 that they're using as they're in the agreement?

13 CHAIRPERSON VANN: Right, their
14 current bill.

15 CAS HOLLOWAY: Correct.

16 CHAIRPERSON VANN: If they become
17 delinquent on that, are they defaulting on both
18 the payment agreement as well?

19 JOSEPH SINGLETON: Councilman,
20 you're right, there is always some confusion no
21 matter how many times we sit down with
22 constituents. When we give someone a payment
23 agreement, they need to stay current on the
24 payment agreement, which is a monthly charge and
25 their quarterly bill. You're right, there is some

2 confusion and most of the time when someone calls
3 us with that and it's been, I don't know, a month,
4 two months, well say okay, we'll explain it again
5 and we'll let the individual cure. So we'll say
6 do you need some time to catch up on the two
7 payments that you missed, and that's what we do.
8 But there is a certain amount of confusion on
9 that.

10 CAS HOLLOWAY: I think that touches
11 on something that is very important and we have
12 tried to work on, particular in the last few
13 months, which is outreach and communication about
14 the programs that are available, not only in the
15 creation of the new Water Debt Assistance Program
16 and to the extent that we can do more working with
17 you.

18 Council Member, I just wanted to
19 thank you in particular because we've done I think
20 a total of 19 outreach meetings since January. I
21 did a round of five boroughs before this round now
22 of water rate public hearings. Joe has been out
23 and done just on the lien sale a number of public
24 meetings where we can resolve bill issues and help
25 people figure it out. But I think without

2 question the best turnout has been your help in
3 getting the word out. We want to continue that
4 because people need to know what their options
5 are.

6 CHAIRPERSON RECCHIA: I'd like to
7 recognize Helen Diane Foster has joined us,
8 Council Member Sanders and Council Member Jimmy
9 Van Bramer. I have another question for you,
10 Commissioner. How many seniors that were on the
11 90-day list but not enrolled in SCHE are now on
12 the ten-day list? You talk about seniors on SCHE
13 and we're a little bit concerned about the other
14 senior who are not on SCHE. How vigorous are your
15 efforts to remove seniors from the lien sale list?
16 We are very concerned about the seniors.

17 CAS HOLLOWAY: As a general matter,
18 we want to make sure that if people are eligible
19 either for the senior exemption or any exemption
20 that they're able to take advantage of it. In
21 terms of those specific percentages, Joe do we
22 have to get back to them or do you have them?

23 JOSEPH SINGLETON: I can bring you
24 through the process as we've been implementing it
25 this time through.

2 CHAIRPERSON RECCHIA: Do you have
3 the numbers for us?

4 JOSEPH SINGLETON: We do not keep
5 age data in our billing system. So working with
6 the Department of Finance, they mailed on the 30-
7 day list forms explaining to everyone that was
8 still on the 30 that you may be eligible for these
9 exemptions.

10 CHAIRPERSON RECCHIA: I understand
11 that. How many seniors who don't get SCHE are on
12 that ten-day list that you're going after? That's
13 pretty disturbing, if I understand you right, that
14 you can't tell us how many seniors are on the ten-
15 day list. Is that correct?

16 JOSEPH SINGLETON: We do not keep
17 an age profile in our billing system.

18 CHAIRPERSON RECCHIA: So there
19 could be many seniors on that list and you don't
20 know about it?

21 JOSEPH SINGLETON: There could be
22 seniors on the list above the income thresholds
23 that the city has established those exemptions
24 for. So yes, there could be seniors with income
25 in excess of, I believe it's \$37,500, on the SCHE

2 this year who are on that list.

3 CHAIRPERSON RECCHIA: That's the
4 SCHE.

5 JOSEPH SINGLETON: That's possible.

6 CAS HOLLOWAY: And Council Member,
7 I mean just to state the obvious, just because
8 somebody is a senior doesn't mean that can't
9 afford to pay.

10 CHAIRPERSON RECCHIA: No, but the
11 senior who's on a fixed income who's children live
12 in California, has no way to make extra money or
13 maybe got into a little bit of a problem, what are
14 we doing in city government to help them and where
15 could they turn? Because they call up your
16 office, they say I'm a senior, what could you do
17 for me, what do you respond?

18 JOSEPH SINGLETON: We give them a
19 payment agreement if we need to.

20 CHAIRPERSON RECCHIA: Well let's
21 say they don't have money to pay for the payment
22 agreement.

23 JOSEPH SINGLETON: If someone has
24 no money that usually manifests itself in some
25 level of mortgage delinquency. So as we've

2 explained--

3 CHAIRPERSON RECCHIA: [interposing]
4 No, but what I'm saying is let's say the house is
5 paid off. They're on a fixed income. They own
6 their house. What are we going to do? I mean
7 this is a problem.

8 CAS HOLLOWAY: We would really need
9 to get into the specifics of a specific case to
10 see whether there are options that somebody with
11 that profile couldn't take advantage of if they
12 have a fully paid off asset which is the house and
13 they can't afford to enter a payment agreement and
14 they don't qualify for SCHE. In terms of whether
15 we need to do additional to that group, I'm
16 certainly open to doing that.

17 CHAIRPERSON RECCHIA: I'm a little
18 bit concerned because a lot of seniors complain
19 that they don't understand the application. We've
20 been hearing that back. But I think this is a
21 problem for the seniors. I think we have to have
22 dialogue and we have to sit down and negotiate and
23 figure out how we could address this problem for
24 seniors. What I'm afraid of is there is no
25 mechanism for them to get help and there's no one

2 telling them exactly what they should do or they
3 can't do.

4 CAS HOLLOWAY: The enhanced Star
5 proposal does address that to some extent, right,
6 because it's another exemption.

7 CHAIRPERSON RECCHIA: There is no
8 more enhanced Star after this budget. Everybody
9 is cutting that out.

10 CAS HOLLOWAY: To the extent that
11 the exemptions are defined by references to
12 exemptions in the property code that are in there,
13 we support that.

14 CHAIRPERSON RECCHIA: I just think
15 this is a problem that we have to discuss is the
16 issue of seniors. Mr. Fernando Cabrera from the
17 Bronx has questions.

18 COUNCIL MEMBER CABRERA: Thank you
19 so much, Mr. Chairman. I have just a couple of
20 quick questions. I'm curious to know as to how
21 many first time delinquents have you found this
22 year versus last year and the previous year.

23 CAS HOLLOWAY: You mean people who
24 for the first time are eligible for the lien sale?

25 COUNCIL MEMBER CABRERA: Right.

2 CAS HOLLOWAY: I think the number
3 is about 18,000 accounts.

4 JOSEPH SINGLETON: About 18,000,
5 that's correct.

6 COUNCIL MEMBER CABRERA: For the
7 first time?

8 CAS HOLLOWAY: So we had about
9 18,000 who were eligible for the first time this
10 year and then there are about 3,400 who are called
11 subsequents, which means that they're back.

12 COUNCIL MEMBER CABRERA: That was
13 this year?

14 CAS HOLLOWAY: Yes.

15 COUNCIL MEMBER CABRERA: How does
16 that compare to the previous year? Do you see an
17 increase?

18 CAS HOLLOWAY: 18,000 last year.

19 JOSEPH SINGLETON: [off mic]

20 CAS HOLLOWAY: I'm happy to send
21 you a breakdown.

22 COUNCIL MEMBER CABRERA: I would
23 appreciate that list. Also, has there been any
24 studies regarding what Chairman Al Vann mentioned
25 earlier regarding the ten Council districts that

2 there seems to be a concentration of these
3 delinquent cases as to what is the main cause and
4 the genesis of these delinquencies?

5 CAS HOLLOWAY: Not studies that DEP
6 has done. I was going through this in preparation
7 for this hearing today and I'll certainly work
8 with HPD to get some more information, in terms of
9 the profile. I mean the lien sale is a lien for
10 all municipal debt. So if you're looking at an
11 overall profile, I'm sure that it's the complete
12 financial picture. I don't know. We have not
13 done that study. That information certainly I'm
14 sure would be helpful to the committee.

15 COUNCIL MEMBER CABRERA: I'm a new
16 member here and just for my own curiosity, any
17 water bill revenues that are brought in, are any
18 of those revenues used for outside of DEP?

19 CAS HOLLOWAY: Outside of DEP?

20 COUNCIL MEMBER CABRERA: Yes.

21 CAS HOLLOWAY: Well, depending on
22 what you mean by outside, there are a couple of
23 things. The water revenues go to four broad
24 classes. The first is debt services. The second
25 is operations and maintenance. The third is

2 rental payment. That's generally between 4-6% of
3 our revenues. That's a payment to the city; from
4 DEP to the city for essential services such as
5 police, fire, sanitation and so forth. I can
6 explain more about that if you want to know.

7 Then there's a series of other
8 costs though that really are Water Board related.
9 There's the Water Board fee itself, sustaining the
10 Water Board itself. That's about 1%. There's an
11 operations and maintenance reserve fund that's two
12 months worth of O&M.

13 COUNCIL MEMBER CABRERA: Let me
14 rephrase it. Are there any revenues that are
15 brought in that are used outside of the
16 jurisdiction of DEP?

17 CAS HOLLOWAY: Do you have anything
18 specific in mind?

19 COUNCIL MEMBER CABRERA: None at
20 all. I'm brand new. I'm trying to find out.

21 CAS HOLLOWAY: Outside the
22 jurisdiction? Maybe what we should do is talk
23 through what those categories might be, I mean in
24 terms of expenses that the utility has, that DEP
25 has or obligations that we have due and owing.

2 The answer to that question would be no. There is
3 no money that's going for any purpose outside of
4 the maintenance of the water system. Water
5 revenues are not used for non-water related
6 operating costs. We get tax levy money for the
7 enforcement and asbestos work that we do, which is
8 about 10% of our operating budget. I'm trying to
9 answer the question.

10 COUNCIL MEMBER CABRERA: Thank you
11 so much.

12 CHAIRPERSON VANN: Council Member
13 Fidler to be followed by Council Member Sanders.

14 COUNCIL MEMBER FIDLER: Thank you,
15 Chairman Vann. I would be absolutely remiss if I
16 didn't start by thanking you, Commissioner, and
17 your agency. Not just for the outreach events but
18 I will say that you're one of the most responsive
19 city agencies when my offices calls on behalf of
20 the constituent who has a problem with a bill. I
21 cannot frankly think of one time when you did not
22 come to an accommodation, whether the constituent
23 was entirely happy or not, that wasn't at least
24 reasonable. So I really want to thank you.

25 In some respects it colors how I

2 look at some of the situation because I know that
3 when people do reach out, you are responsive and
4 you do try and avoid the foreclosures by working
5 things out with people. So I certainly want to
6 say that to begin with.

7 On the bill itself, this is a very
8 tough one because I'm very sensitive to what
9 Council Member Vann is trying to do here, which is
10 to avoid forecloses. But I also understand two
11 things that come clear to me from your testimony.

12 The first is we're not necessarily
13 doing people a favor by delaying the foreclose
14 date because the foreclose notice forces people
15 who have their head in the sand to come out and to
16 say I need help. My first comment indicates that
17 you provide it. You will provide it. But if they
18 come too late, when the amount of the debt has
19 reached an unmanageable portion it's much harder
20 to help them. So I'm not sure we're doing them a
21 favor.

22 And then of course the other point
23 is that every dollar that's not paid by a
24 delinquent payer pushed the rate up for everybody
25 else and puts additional foreclose pressure on

2 every other homeowner in the City of New York.

3 So, I worry about that balance. I don't know how
4 I reconcile it at this point. So I'm going to ask
5 maybe for a different kind of solution.

6 In the case of perhaps seniors, has
7 any thought been given to what would happen to the
8 revenue stream if in lieu of the foreclosure, we
9 allowed the lien to continue until the time of a
10 deed transfer or the death of the homeowner with
11 an appropriate rate of interest? I would imagine
12 in the short term that would cost us some money,
13 but in the long term would that not maybe even
14 generate more money?

15 CAS HOLLOWAY: Well, there are a
16 number of issues there. The Water Debt Assistance
17 Program is basically doing what you described.
18 For people who are either on the threshold or
19 actually in mortgage foreclosure, they can enter
20 the Water Debt Assistance Program, set aside the
21 existing debt, which sits with the property and
22 then enter a payment agreement with us and stay
23 current going forward. Then that debt on the
24 property gets resolved.

25 COUNCIL MEMBER FIDLER: Does the

2 payment agreement require that they pay down the
3 arrears?

4 CAS HOLLOWAY: I'm sorry, no
5 payment agreement. You have to stay current on
6 your bills going forward.

7 COUNCIL MEMBER FIDLER: So the
8 arrears get?

9 CAS HOLLOWAY: The arrears sit with
10 the property. It's basically in a holding
11 account. That gets resolved either at transfer of
12 the property because you would have to resolve
13 that when you sell, or when the homeowner gets
14 back on their feet, then they can enter into a
15 payment plan to pay off the outstanding debt.

16 JOSEPH SINGLETON: If they choose
17 to.

18 CAS HOLLOWAY: Now, it's all about
19 categorization I think. What you're suggesting is
20 could we categorically put seniors into that same
21 kind of a situation. My immediate reaction to
22 that is we have certain exemptions that already
23 exist based on certain thresholds.

24 You don't want to be over broad in
25 your exemptions precisely because you want to

2 distribute the burden as fairly as possible and
3 you want, to the extent possible, for people who
4 can afford to pay to pay. So to categorically say
5 everybody who is at a certain age, for example,
6 would be placed in that wouldn't necessarily be
7 where you'd want to go with it.

8 But that's why I think the
9 exemptions that exist we're supportive of this
10 exemption with the Star credit is also something
11 we're supportive of. With this program that we
12 have in place, I think we're doing to a large
13 extent what you're suggesting.

14 COUNCIL MEMBER FIDLER: The program
15 that you have in place is something that you guys
16 have just initialized. Might it make sense to
17 give it some kind of statutory structure and
18 permanency so that we could rely on it? That it
19 will continue to be there? Does that make any
20 sense?

21 CAS HOLLOWAY: We would be willing
22 to look at any proposal. I think you're right
23 that we're in the first year of the program. We
24 think as a general matter there are 553 households
25 in the program. That's a good thing. They have

2 come to us and we're working with them. I think
3 we would need to look at and maybe have some more
4 data under our belts before we would be able to
5 have an opinion on that.

6 COUNCIL MEMBER FIDLER: The
7 anniversary of that program will be in February of
8 next year.

9 CAS HOLLOWAY: Correct.

10 COUNCIL MEMBER FIDLER: You'll have
11 a year's worth of data.

12 CAS HOLLOWAY: We'll have a year's
13 worth of data. We'll have more of the revenue
14 impact. I think, as the Mayor released his
15 Executive Budget today and said that the economic
16 outlook looks slightly better, a lot of factors
17 can play into where you end up as a general
18 matter. So is a year enough data? Is this year
19 the right year? Is it really the year that is
20 going to give us a really good idea? You might
21 want to have even another year's data.

22 COUNCIL MEMBER FIDLER: Why don't
23 we agree to make that decision together as a
24 Council and the Administration? Could I ask that
25 a reasonable period after the year is complete

2 that you provide a report to the chairs and to the
3 Council Members as to what happened with the
4 program so we can see whether or not it should be
5 formalized? Perhaps that might be a partial
6 solution to the issues being raised by this bill.

7 CAS HOLLOWAY: We will put together
8 an assessment of the program within a couple of
9 months of the year and it will be widely
10 available, including to you.

11 COUNCIL MEMBER FIDLER: Thank you
12 very much.

13 CAS HOLLOWAY: I would like to just
14 say for what you said in the beginning in terms of
15 responsiveness, a lot of credit really goes to Joe
16 and his Bureau of Customer Service. And then Mark
17 Lanaghan and Matt Mahoney are here from our
18 Intergovernmental Affairs and that responsiveness
19 I think is really something that we are trying to
20 do.

21 COUNCIL MEMBER FIDLER: I would
22 have mentioned that, but I didn't want it to go to
23 their heads. I will tell you that it filters down
24 to your entire staff. My office couldn't say
25 enough. It's really very pleasant.

2 CAS HOLLOWAY: Thank you.

3 COUNCIL MEMBER FIDLER: Thank you.

4 COUNCIL MEMBER SANDERS: Thank you,
5 Mr. Chair. I also start out by saying that I've
6 enjoyed a good relationship with your agency, sir.
7 I have also found you guys to be very responsive
8 and we're doing some incredibly creative things
9 together in my community. I represent the 31st
10 Southeast Queens.

11 We stood together at Meadowmere and
12 saw a problem, that for 30 years or more, of
13 people dumping raw sewage into Jamaica Bay and
14 under this administration we finally brought that
15 to an end. So I have certainly found your agency
16 committed to really working with people. I've
17 found you knowledgeable and passionate on these
18 issues. So I commend you.

19 CAS HOLLOWAY: Thank you.

20 COUNCIL MEMBER SANDERS: I also
21 want to just point out what should be obvious to
22 anyone with eyes in here that if we took the list
23 of the debt liens and overlaid it with the
24 foreclosures, and overlaid it with predatory
25 lending, we will find that these areas have been

2 preyed upon.

3 That a great crime has been
4 committed that has yet to be addressed by this
5 City and part of a great crime nationwide.
6 There's a social crime that we've allowed this to
7 happen. Foreclosures are at the back end of a
8 crime. The crime is predatory lending.
9 Foreclosures, of course, are one of the results.

10 The Council knows it well. We
11 passed in 2002 the strongest anti-predatory law in
12 the nation. Many of the people sitting up here
13 championed that one, which unfortunately, was
14 overturned. If it had stayed a law, we may not be
15 having this conversation. It would be far less of
16 a problem. I have to remind all of my colleagues
17 that we found a way to bailout Wall Street; we
18 just haven't gotten around to Main Street.

19 So I see the program that you have
20 come up with, sir, as a very creative way under
21 these conditions, understanding that your agency
22 did not create these problems. That you are just
23 trying to grapple with it and you're trying to
24 make heads or tails of this and serve the people
25 of New York at the same time. So I commend you

2 for creating a creative project, a creative
3 program.

4 I have the distinction of being the
5 second highest Council District with water lien
6 sale, the 31st of Southeast Queens. That means
7 that we are doing some things together to put this
8 information out. But I believe that I could give
9 you 500 people from my district alone that may be
10 able to qualify. Maybe my numbers are a little
11 high but we should struggle to see how close to
12 that we can get. So I am calling upon both of us
13 to redouble our efforts to get to these folks to
14 say that there is help if you find yourself in
15 this situation. But yes, you must avail yourself
16 and let us do it together. So I commend you.

17 CAS HOLLOWAY: Well thank you, for
18 all of those comments. For a minute I thought we
19 were in the predatory lending group, which we're
20 not.

21 COUNCIL MEMBER SANDERS: No, I
22 would let you know if you were, sir.

23 CAS HOLLOWAY: Thank you. In terms
24 of the outreach, yesterday I put out another
25 release to remind people about the Water Debt

2 Assistance Program. This really comes down to
3 being very targeted. So, if there are community
4 board emailing addresses, listservs, anything that
5 you have, Matt Mahoney will follow up after. If
6 there are phone trees that can be activated,
7 anything in your community in particular because
8 at the end of this week, you know we're on a tight
9 timeline. So people need to call and we've got
10 extra people on staff to deal with it. So we want
11 to get as many people who are potentially eligible
12 for the program in.

13 COUNCIL MEMBER SANDERS: Let me
14 just say that I will put a full time person there
15 just to deal with this issue. That's not good
16 distinction in this case, so we'll give you a full
17 time person. Call my office and you'll get your
18 contact person and all they will do is just work
19 on this. Thank you very much.

20 CAS HOLLOWAY: Thanks.

21 CHAIRPERSON VANN: Council Member
22 Jackson.

23 COUNCIL MEMBER JACKSON: Thank you,
24 Mr. Chair. Good afternoon Commissioner. Can you
25 tell me and my colleagues, are all residential

2 properties metered?

3 CAS HOLLOWAY: Are all residential
4 properties metered? Many are.

5 COUNCIL MEMBER JACKSON: What
6 percentage isn't? Are they one-family homeowners,
7 two, three, four, whatever, if you have any
8 details?

9 JOSEPH SINGLETON: Sure. The vast
10 majority of the 834,000 accounts we deal with are
11 metered, about 98%.

12 COUNCIL MEMBER JACKSON: And the
13 834,000 accounts are those residential?

14 JOSEPH SINGLETON: Those are all
15 encompassing. You have about 663 tax class 1
16 properties.

17 COUNCIL MEMBER JACKSON: 663,000?

18 JOSEPH SINGLETON: Yes.

19 COUNCIL MEMBER JACKSON: Tax class
20 1.

21 JOSEPH SINGLETON: Tax class 1.
22 The balance is big residential properties and
23 commercial properties. The vast majority of tax
24 class 1 is metered and is billed on a quarterly
25 bill. You do have a very small percent of tax

2 class 1 properties that have not installed meters,
3 either because the building is constrained or
4 there's not an area to put either a meter inside
5 or a pit. But the vast majority of tax class 1
6 properties are metered.

7 COUNCIL MEMBER JACKSON: In your
8 opinion, what percentage and/or what number of tax
9 class 1 properties are not metered? So is it like
10 1,000, is it 2,000, is it 10,000?

11 JOSEPH SINGLETON: It would be
12 under 5,000.

13 COUNCIL MEMBER JACKSON: Under
14 5,000?

15 JOSEPH SINGLETON: Yes, for tax
16 class 1.

17 COUNCIL MEMBER JACKSON: Are they
18 in a specific borough? The outer boroughs were
19 developed later than Manhattan, so I'm curious.
20 While you think about that, how do you then
21 determine what their cost factors are from a
22 process point of view?

23 JOSEPH SINGLETON: You're right,
24 there's not a lot of tax class 1, one, two, three-
25 family homes in Manhattan. The outer boroughs

2 it's predominate where we see that ownership
3 structure.

4 If you don't have a meter, you're
5 billed on what they call a frontage calculation.
6 It's an old sort of legacy calculation of how many
7 baths you have, and things of that nature with
8 width and height of building. It's not optimal.
9 Some people have refused to come off that. They
10 receive a surcharge for that and they continue to
11 pay on a surcharge bill.

12 The vast majority of homeowners in
13 tax class 1 are better off with a meter and they
14 should install the meter.

15 COUNCIL MEMBER JACKSON: But
16 there's nothing in the law that would mandate them
17 or mandate DEP to meter the properties? I'm
18 curious more so than going in any direction.

19 JOSEPH SINGLETON: If someone wants
20 to install a meter in their house and they want
21 their own plumber to do it, they can do that and
22 submit a meter reimbursement fee. So there's a
23 fee schedule based on the size of the meter we
24 will reimburse.

25 COUNCIL MEMBER JACKSON: That DEP

2 will reimburse.

3 JOSEPH SINGLETON: That's
4 absolutely right. Then as long as the plumber
5 returns the permit so we can actually start
6 billing on the meter, everything is fine.

7 COUNCIL MEMBER JACKSON: I'm
8 curious of the cost factor. In general, I'm not
9 trying to hold you to anything.

10 JOSEPH SINGLETON: I don't know a
11 cost factor off the top of my head. It varies by
12 situation.

13 CAS HOLLOWAY: In terms of meter
14 installations, just as a note, because we're doing
15 the automated meter reading installations. So
16 there are 834,000 of those, roughly, that we're
17 installing. We're also doing 400,000 meter
18 replacements as part of that.

19 JOSEPH SINGLETON: 400,000, yes.

20 COUNCIL MEMBER JACKSON: To get
21 them up to speed you mean?

22 JOSEPH SINGLETON: Correct.

23 CAS HOLLOWAY: In terms of
24 upgrading the infrastructure to do the tallies,
25 we're going to do 50% of the city which is pretty

2 amazing.

3 COUNCIL MEMBER JACKSON: What is
4 that going to cost DEP overall, give or take?

5 CAS HOLLOWAY: The overall cost of
6 the project is \$253 million, the capital cost.

7 COUNCIL MEMBER JACKSON: Over what
8 period of time?

9 CAS HOLLOWAY: It's four years?

10 JOSEPH SINGLETON: Three years.

11 CAS HOLLOWAY: Three years. Joe is
12 doing about 9,000 installs a week. As of
13 yesterday, we're at about 307,869. I know that
14 because I have the number going on a ticker in the
15 bullpen at LeFrak City. Once this is installed,
16 the ability of our customers to have real
17 transparency into every single day what their
18 consumption is, to detect leaks, for us to be able
19 to get to them, it's going to be revolutionary.

20 COUNCIL MEMBER JACKSON: So you
21 mean for example, if I'm a customer, I'll be able
22 to go online and basically see what my billing
23 factors are?

24 CAS HOLLOWAY: Yes. Every day.
25 You'll be able to see on a daily, monthly,

2 quarterly basis. We are also looking at ways that
3 we can put ticklers in the system. If you're not
4 checking every day, if there's a leak you can end
5 up with a substantial cost. On a quarterly
6 billing you might not even recognize that until
7 significantly after it's detected. So this is
8 going to enable us also to really make the system
9 more efficient.

10 COUNCIL MEMBER JACKSON: I believe
11 the question was asked about how many foreclosures
12 have occurred as a result of the water liens in
13 class one. I believe your response was an overall
14 number that was auctioned off. Auctioned off is
15 different than moving in foreclosing. Auctioned
16 off is the end of a foreclosure process. I
17 believe that was the question, if I'm not
18 mistaken. Do you have a direct answer to how many
19 went into foreclose versus how many were auctioned
20 off? Because you gave a statistic as far as
21 auctioned off with all class properties, and I
22 believe the question was relating to class 1.

23 CAS HOLLOWAY: Just to context, for
24 the Water Debt Assistance Program and then if
25 there's s lis pendens filing you're not going to

2 be in the lien sale at all. So there's a several
3 step process getting from lien sale to
4 foreclosure. So there are a lot of categories
5 here. Joe, what can we say?

6 JOSEPH SINGLETON: I'll just have
7 to restate some of the numbers. I didn't have the
8 sheet in front of me. I said a number of 1,085.
9 It was actually 1,067 tax class 1 properties from
10 '96 to 2006.

11 COUNCIL MEMBER JACKSON: That was
12 auctioned off?

13 JOSEPH SINGLETON: Those that were
14 auctioned off by the trust as a result of them
15 taking out the debt from the municipality. 685 of
16 that 1,067 were vacant properties, vacant land.

17 COUNCIL MEMBER JACKSON: I believe
18 your initial response was 400-500?

19 JOSEPH SINGLETON: Yes.

20 COUNCIL MEMBER JACKSON: Okay,
21 continue.

22 JOSEPH SINGLETON: So overall, over
23 that ten year period, when you include tax class 2
24 and tax class 4, that number goes to 2,467.

25 COUNCIL MEMBER JACKSON: Class 1 is

2 one, two and three-family homes?

3 JOSEPH SINGLETON: Correct.

4 COUNCIL MEMBER JACKSON: What
5 number would that be in the ten-year period?

6 JOSEPH SINGLETON: Tax class 2, 267
7 properties. Tax class 4, 1,133 properties.

8 COUNCIL MEMBER JACKSON: And tax
9 class 1 again?

10 JOSEPH SINGLETON: Tax class 1,
11 1,067, of which 685 were vacant land.

12 COUNCIL MEMBER JACKSON: By not
13 being part of DEP and not being knowledgeable, is
14 this because these property owners failed to pay
15 the water charge?

16 JOSEPH SINGLETON: These numbers
17 that I mentioned to you were combined water and
18 tax over that ten-year period.

19 COUNCIL MEMBER JACKSON: Water and
20 what type of tax?

21 JOSEPH SINGLETON: Property tax.

22 COUNCIL MEMBER JACKSON: This is
23 the number you got from Finance, is that correct?

24 JOSEPH SINGLETON: Correct.

25 CAS HOLLOWAY: The lien is

2 combined.

3 COUNCIL MEMBER JACKSON: When you
4 were responding and saying vacant land, most
5 vacant land I know doesn't have water running to
6 it. You know what I mean? I was curious about
7 that. Do you know, of that class 1, that was
8 auctioned off, besides the vacant land, how many
9 of that was just for water? The reason why I'm
10 trying to separate that is because we're talking
11 about water liens and DEP. I'm not just talking
12 about property tax. I just want to separate out
13 how many were in that category for not paying
14 their water bills and that their homes were sold
15 off. Do we have that?

16 JOSEPH SINGLETON: No, we don't
17 have that right now.

18 CAS HOLLOWAY: We don't have the
19 breakout now. We'll work on getting that
20 breakdown. So let us get back to you on that.

21 COUNCIL MEMBER JACKSON: That
22 shouldn't be too difficult though, right? That
23 shouldn't be difficult at all.

24 ANDY: [off mic] We'll try to get
25 that.

2 CAS HOLLOWAY: That's Deputy
3 Commissioner for Operations and Finance Andy--

4 COUNCIL MEMBER JACKSON:
5 [interposing] Okay. Since we were dealing with
6 water, I just wanted to know how many were in the
7 category for water, not necessarily for not paying
8 their property taxes. That's another ballgame by
9 itself.

10 CAS HOLLOWAY: We'll get back to
11 you.

12 COUNCIL MEMBER JACKSON: Thank you,
13 Mr. Chair.

14 CHAIRPERSON VANN: You're very
15 welcome, Mr. Jackson. I am very eager to get to
16 the public testimony but I have two other brief
17 questions I would ask. Then we will receive the
18 public. Sometimes the problem is in the details.
19 When customers receive their bill, at what point
20 are they considered to be delinquent?

21 In other words, when does interest
22 for late payment begin? When do you begin to
23 apply that? On their bill, do they know their
24 payment must be in by a certain time otherwise
25 it's considered delinquent?

2 CAS HOLLOWAY: You have 28 days, a
3 month, when you get the bill to pay it and be free
4 and clear until the next bill. After that point,
5 for example if you get your quarterly bill, on the
6 day after the month you would get charged 9% on
7 whatever that bill is. That is delinquent. But
8 you're only eligible for the lien sale if you have
9 more \$1,000 in debt and you've been delinquent for
10 a year or more.

11 CHAIRPERSON VANN: If I receive a
12 bill today, 28 days hence I'm considered
13 delinquent. Is that correct?

14 CAS HOLLOWAY: Correct, a month.

15 CHAIRPERSON VANN: Is that clear to
16 the customer? Is that on the statement that they
17 should submit their payment by such and such a
18 date otherwise they're delinquent?

19 JOSEPH SINGLETON: There is a due
20 date on the bill. So it says payable within that
21 particular date. Obviously if it's not paid by
22 that date the bill is delinquent.

23 CAS HOLLOWAY: I think part of the
24 question is, is it obvious. So do we say on the
25 bill failure to pay this by date certain will

2 result in a 9% charge.

3 JOSEPH SINGLETON: Yes, it is
4 explicitly stated.

5 CHAIRPERSON VANN: You haven't seen
6 one lately I gather.

7 JOSEPH SINGLETON: I don't
8 personally own in the City of New York.

9 CHAIRPERSON VANN: Are we on track
10 to move to monthly billing instead of quarterly
11 billing? Wouldn't that seem like it would help
12 quite a bit?

13 CAS HOLLOWAY: Yes. Part of what
14 the automated meter reading system is going to
15 enable us to do, at the same time we're working on
16 a new customer information billing system that's
17 going to go with that. We very much want to move
18 to monthly billing because we not only think it's
19 going to enable consumers to have a much clearer
20 picture but we're also going to be able to do a
21 lot more in terms of what we present on the bill.

22 I will say that I will go
23 immediately after this and look at the bill and
24 make sure that the message is clear enough about
25 the late fee. We've already made some adjustments

2 in our communications so that it is clear and that
3 people know how to get in touch with us and what
4 their options are.

5 CHAIRPERSON VANN: Finally, in 2007
6 the MOU that we entered into, it required DEP to
7 provide quarterly reports on a wide range of
8 performance factors, including the number of
9 properties noticed for service termination and
10 corresponding payment, delinquency data, spike
11 notifications, dunning notices, and so on. The
12 last quarterly report the Council received was in
13 March of 2009. Then we inquired about that again
14 in October 2009 and your response was that you
15 were finalizing the report and would submit it
16 shortly. We haven't seen that. How can we obtain
17 these required reports? Are you the one to make
18 it happen?

19 CAS HOLLOWAY: Yes. I'm told that
20 it is correct, that we need to get that report to
21 you. We'll turn it around very quickly and ensure
22 that it's on time in the future.

23 CHAIRPERSON VANN: Thank you.
24 You've been very forthcoming. We appreciate your
25 testimony. You've been very helpful with a lot of

2 information. Of course, I still think 26-A is
3 necessary but we'll work on that. Thank you for
4 coming forward, I appreciate it.

5 CAS HOLLOWAY: Thank you, Council
6 Member. We really appreciate it. I know we work
7 together on a lot of issues and will continue to
8 do so. I do hope the Council will take into
9 consideration the thoughts that we've put forward,
10 particular on single family homes and some of the
11 things that we can do to increase our ability to
12 help people but also collect.

13 CHAIRPERSON VANN: I'm sure we'll
14 agree to disagree too.

15 CAS HOLLOWAY: Thank you.

16 CHAIRPERSON VANN: Thank you very
17 much. Chair would like to call Herman De Jesus, a
18 senior from NEDAP and also Emily Storm from South
19 Brooklyn Legal Services. To those who are here,
20 there are only about six or seven to give
21 testimony, so we'll be fairly brief. You may
22 begin.

23 HERMAN DE JESUS: Thank you,
24 Council Member Vann for your leadership and
25 support of tax lien reform and all the Council

2 Members who are co-sponsors of Intro 26-A. I
3 would like to start off by saying a couple of
4 things and a couple of things that we've heard
5 today.

6 For a number of years I worked for
7 a legal services organization and one of my former
8 colleagues is here. Having worked for a number of
9 years in this legal services organization, I've
10 seen quite a number of both seniors, non-seniors
11 who unfortunately because they were victims of
12 abusive mortgage lending, were also unfortunately
13 able to make their payments on their water bills
14 and their property taxes. Unfortunately, as a
15 result of that ended up in the tax lien sale.

16 I think that some of things that
17 were said today that once they got notice that
18 their places were up for foreclosure that they
19 would immediately pay these debts off. What we've
20 seen is that in a large percentage of those cases,
21 they ended up paying their water bills and their
22 property tax arrears through taking out one of
23 these horrible egregious mortgages. That's how
24 they were able to pay their water bills.

25 It wasn't because they were hiding

2 from their responsibilities. It wasn't because
3 they felt that they could postpone payment to
4 their water bills. It was because they couldn't
5 afford it. In a lot of those cases, they were
6 already deeply victimized by unscrupulous mortgage
7 lending that takes place in a lot of the
8 communities that your constituents are from and
9 where our legal services organizations are trying
10 to protect folks.

11 Just to sort of say something on
12 those comment because, unfortunately, having
13 worked in this for many years, it touches a nerve.
14 These folks are not irresponsible. It's just the
15 fact that they're poor, they're working poor and
16 there are other problems that exist. And everyone
17 knows that the economy right now has tanked and
18 it's very bad, especially for folks that were
19 working poor. It's gotten worse for them. So to
20 call someone irresponsible, I think that's
21 irresponsible.

22 Sorry, I haven't said my name yet.
23 I'm Herman De Jesus. I'm a senior program
24 associate for the Neighborhood Economic
25 Development Advocacy Project, a resource and

2 advocacy center that works with community groups
3 to promote financial justice in low income
4 communities and communities of color.

5 With thousands of one to three-
6 family homes on the 2010 lien sale list, the sale
7 of both property tax and water/sewer liens is a
8 massive problem. Both this year and in past
9 years, tax and water liens are disproportionately
10 concentrated in New York City's communities of
11 color. The same communities that have already
12 been hard hit by predatory lending, foreclosure
13 and the worsening economy.

14 Changes to the lien sale system are
15 critical to strike a balance and ensure that low
16 income families who are struggling to stay afloat
17 and make ends meet do not have the added burden of
18 paying 18% interest and high fees to a private
19 collector rather than working out an equitable
20 solution with the city.

21 Often homeowners whose tax or water
22 lien has been sold turn to abusive, high cost
23 credit to avoid foreclosure, further exacerbating
24 the deep financial problems that working families
25 are increasingly facing.

2 Standalone water liens are a
3 particular problem. Because a standalone water
4 lien can now be sold after only one year of non-
5 payment, a huge number of stand alone water liens
6 how dominate the lien sale, putting struggling
7 homeowners and communities at particular risk.

8 In the latest lien sale, for
9 example, more than four out of five of the liens
10 on Class 1 properties were in some of the city's
11 most distressed neighborhoods. They were all
12 standalone water liens. Amending the
13 Administration Code of the City of New York in
14 relation to water liens is certainly a good first
15 step to assist struggling homeowners trying to
16 preserve their homes.

17 NEDAP supports the amendments
18 included in Intro 26-A that would extend to three
19 years the minimum period of partial or full non-
20 payment of tax liens before sale may occur.
21 Extend to 120 days the notice period required
22 before a tax lien may be sold. Exempt a broader
23 range of senior citizens and low income homeowners
24 from water lien sales. Require the commissioner
25 of Finance to try to identify elderly, disabled,

2 and low income homeowners who are eligible for
3 such exemptions. Give the commissioner discretion
4 to exempt such homeowners from water lien sales.
5 Require the commissioner to provide homeowners
6 written information on the tax lien sale process
7 and the exemptions available each quarter.

8 In particular, NEDAP believes that
9 the proposed extension to three years of the
10 minimum period for water arrears to be converted
11 to a lien will help to mitigate the onerous
12 effects of the standalone water lien sale. Your
13 efforts to limit the damage caused by standalone
14 water lien sales are commendable. We think that
15 further changes are required to protect New York
16 City homeowners most at risk of losing their homes
17 and equity due to a lien sale.

18 The most effective way to address
19 the harmful impact of the lien sale on lower
20 income neighborhoods and communities of color is
21 to exempt all owner occupied class 1 properties
22 from the tax and water lien sale.

23 In order to determine whether a
24 homeowner qualifies for an exemption from the lien
25 sale, the Department of Finance necessarily relies

2 in large part on documentation provided by the
3 homeowner claiming eligibility for exemptions.
4 This approach excludes homeowners who are less
5 able to assert their rights, and also fails to
6 protect financially troubled families who do not
7 fall within one of the existing exemptions.

8 If all owner occupied class 1 homes
9 are exempted from the lien sale, the city would
10 still be able to collect from exempted homeowners
11 by entering into affordable payment plans,
12 ensuring a more equitable balance between revenue
13 collection and the preservation of homeownership
14 for lower income residents. The benefits of this
15 approach would outweigh any costs associated with
16 exempting more homeowners from the tax lien sale.

17 All exemptions should apply not
18 only to water liens but also to property tax
19 liens. Given the fact that the enabling
20 legislation will sunset later this year, they
21 should be considered jointly. Should exemptions
22 of all owner occupied class 1 homes not be
23 established, then homeowners who are identified as
24 eligible for exemptions must be removed from the
25 lien sale pool.

2 It has been NEDAP's experience that
3 the overwhelming majority of homeowners who may be
4 eligible for exemptions are unaware of the
5 exemptions and therefore of their eligibility.
6 For example, Mr. and Mrs. W, who own a home in
7 Brooklyn, are now retired and should have
8 qualified for the senior citizens exemption, but
9 they were not aware of it. Because of illness,
10 they were unable to pay their property tax bill
11 and went into the lien sale. The \$15,700 that
12 they owed jumped to more than \$27,000 after the
13 lien sale, putting them even more at risk of
14 foreclosure.

15 Removing eligible homeowners from
16 the lien sale would ensure consistent treatment of
17 vulnerable homeowners and would simplify
18 administration of the lien sale program by
19 eliminating the need for a case by case review.

20 The minimum debt owed prior to a
21 water lien being sold should be raised to at least
22 \$5,000. Increasing the minimum will allow the
23 homeowner a greater chance to seek resolution to
24 the debt before facing the risk of losing his or
25 her home.

2 The amended code must contain a
3 remedy for homeowners whose liens were erroneously
4 sold. In order to prevent irreparable harm to
5 homeowners in this situation, the code must
6 provide a means for the city to defect erroneously
7 sold liens at no cost to the homeowner.

8 As New York City neighborhoods and
9 huge number of residents are suffering during this
10 economic crisis, it is urgent that the city
11 rethink the lien sale process to ensure that the
12 right balance is struck between the city's
13 responsibilities for collecting revenue,
14 preventing foreclosures and stabilizing distressed
15 neighborhoods.

16 Lastly, if I could just point out
17 Council Members to the map that's attached to the
18 package, you'll see that we conducted a study of
19 2009 New York City tax lien sales of class 1
20 properties. You'll see that predominately all the
21 sales that took place were very concentrated in
22 communities of color.

23 With that said, we definitely
24 commend you for all the hard work that you've put
25 into writing this bill and also for your continued

2 efforts to help the New York City homeowners that
3 are not only at risk of losing their homes but are
4 struggling to stay afloat on a variety of
5 different aspects of their lives. Thank you again
6 for having us.

7 EMILY STORM: Good afternoon. My
8 name is Emily Storm and I'm a paralegal in the
9 Foreclosure Prevention Project at South Brooklyn
10 Legal Services. I want to thank you for inviting
11 South Brooklyn to speak today.

12 For more than ten years our project
13 has represented low and moderate income homeowners
14 at risk of losing their homes because of abusive
15 lending practices. Through litigation and
16 advocacy we have been able to save hundreds of
17 homeowners from foreclosure.

18 Right now, New York City is facing
19 a catastrophe in its low and middle income
20 communities as record numbers of families are at
21 risk of losing their homes, many as a result of
22 predatory subprime lending. The crisis is
23 devastating to homeowners and destabilizing our
24 neighborhoods. Exacerbating the impact of the
25 subprime lending crisis are the many homeowners

2 who are being threatened with foreclosure because
3 of past due property tax and water liens.

4 In the past year, our office has
5 received dozens of calls from homeowners, mostly
6 elderly, who have been threatened with foreclosure
7 because of a tax or water lien. Many should have
8 been exempt from the lien sale but either did not
9 receive proper notification or did not understand
10 the notices sent to them.

11 Most of the homeowners who have
12 reached out to South Brooklyn paid off their
13 mortgage long ago but struggle to meet their
14 current expenses on a limited income. Others fell
15 behind because they were trying to make
16 unaffordable mortgage payments or thought their
17 tax and water bills were being paid by their
18 mortgage company.

19 Excluding escrow payments for
20 monthly mortgage bills was one of the ways
21 unscrupulous lenders misled vulnerable homeowners
22 into believing their payments were affordable.
23 These homeowners, struggling with subprime and
24 high cost loans, often discovered too late that
25 their taxes are not being paid. And one tax and

2 water liens are sold to companies like Expand,
3 homeowners have a very difficult time avoiding
4 foreclosure.

5 Expand routinely charges 18%
6 interest on the debt owed and in our experience
7 refuses to negotiate settlements with homeowners
8 who are unable to pay the amount in full.

9 I just want to give you a couple of
10 examples from the many that we've seen at our
11 office. Mr. and Mrs. W are in danger of losing
12 the home that they've in since 1966 due to an
13 erroneously sold water lien. Both homeowners are
14 elderly and disabled, supporting themselves and
15 their disabled adult son solely on social security
16 benefits and Mr. W's pension. Mr. W is also a
17 retired veteran, making him eligible for several
18 exemptions.

19 They're managed to remain current
20 on their mortgage and property taxes. However,
21 given their limited income, high medical costs and
22 unaffordable monthly mortgage payments, they were
23 unable to pay their water bill. About one year
24 ago they received a notice in the mail stating
25 that the unpaid debt for water charges would be

2 sold if they did not make a payment of almost
3 \$25,000. This extremely high bill was based on
4 estimated charges, or frontage as we heard about
5 earlier, and not on their actual usage.

6 So Mr. W went personally down to
7 DEP's office in Brooklyn to dispute the charges,
8 work out a payment plan and stop the lien sale.
9 At that time he was told that he qualified for a
10 senior tax exemption and not to make any payments
11 at that time. The debt was erroneously sold in
12 August 2009 and now they are in foreclosure and at
13 risk of losing their only home.

14 To compound an already difficult
15 situation, the property was again erroneously
16 placed in this year's lien sale coming up next
17 week. SLBS has submitted an exemption form to
18 remove the property from the upcoming sale, but
19 unfortunately we have not received confirmation
20 that it's been processed yet.

21 In another case, the homeowner, Mr.
22 G is an 84-year-old homeowner who purchased his
23 home in 1970 and paid off his mortgage in 1986.
24 He suffers from severe cataracts in both eyes and
25 depends on rental income from the store that

2 occupies the ground floor of his property.

3 When the store owners defaulted on
4 their rent payments for over a year, Mr. G
5 simultaneously fell behind on his water and
6 property taxes. He received no notice prior to
7 the sale of his property tax lien last year and
8 only recently received a letter notifying him that
9 he might be eligible for the property tax
10 exemption.

11 The current tax lien holder Expand
12 has been charging him 18% interest on the debt
13 which has accrued to approximately \$38,000 at this
14 point. Expand may move forward to foreclose on
15 the property, leaving this elderly homeowner
16 vulnerable to losing his home of almost 40 years.

17 We applaud the proposed amendments
18 to extend to three years the minimum period of
19 partial or full nonpayment of tax and water liens
20 before a sale may occur. Extend to 120 days the
21 notice period required before a lien sale may be
22 sold. Require the commissioner to provide
23 homeowners on a quarterly basis with written
24 information on the tax lien sale process and the
25 exemptions available.

2 We urge the Council to provide
3 these increased protections to homeowners at risk
4 of tax as well as water lien sales and also
5 further amend the Local Law to provide even
6 greater protections for homeowners struggling with
7 tax and water liens.

8 First, the law must require that
9 homeowners who are identified as eligible for an
10 exemption under the law be removed from the lien
11 sale list. This change is necessary to ensure
12 consistent treatment of vulnerable homeowners and
13 will simplify administrating the tax lien sale
14 program.

15 Second, we urge the Council to
16 consider exempting all owner-occupied one to four-
17 family residences. From a strictly pragmatic
18 perspective, this step simplifies the work of the
19 Department of Finance and Department of
20 Environmental Protection, which otherwise must
21 devote substantial time and resources determining
22 which homeowners fall within the discrete
23 exemptions set forth in the current code.

24 Most importantly, to broaden the
25 scope of exemption is an equitable solution that

2 will alleviate the crisis in home ownership
3 currently confronting our communities. The
4 efficiency of this approach, combined with the
5 substantial benefit that New York City will gain
6 from improved stability in home ownership will in
7 all probability outweigh any costs associated with
8 making more homeowners exempt from tax lien sales.

9 Third, we recommend that the code
10 be amended to increase to \$5,000 from \$1,000 the
11 minimum tax lien debt required before the lien can
12 be sold. Increasing the minimum will allow
13 homeowners the opportunity to seek a resolution to
14 the debt before being faced with the risk of
15 losing his or her home and equity and accruing all
16 the interest that piles up.

17 Finally, the amended code must
18 contain a remedy for homeowners whose tax liens
19 are erroneously sold. Our office has seen a
20 number of cases of homeowners served with a tax or
21 water lien foreclosure but who had proof that they
22 had paid their bills, others who had never
23 received proper notice and still others who should
24 have been exempted from the lien sale in the first
25 place.

2 In order to prevent irreparable
3 harm to homeowners in this situation, the code
4 must provide a means for the city to reacquire
5 erroneously sold tax liens.

6 We share your sense of urgency in
7 addressing this critical issue. Creative
8 solutions are required to manage the financial
9 crisis that threatens the stability of our
10 communities. We thank you again for inviting us
11 to speak and look forward to working with the
12 Council to prevent these unnecessary foreclosures.

13 CHAIRPERSON VANN: Thank you very
14 much. I think Council Member Jackson has a
15 question for Mr. Jesus.

16 COUNCIL MEMBER JACKSON: Thank you.
17 Let me first thank both of you for your
18 organizations coming in and giving testimony on
19 this very important issue. Mr. Jesus, you had
20 given an example of a homeowner. I'm curious as
21 to know what the final outcome of that homeowner's
22 property was.

23 HERMAN DE JESUS: In a lot of these
24 cases, unfortunately, though we don't want to go
25 this route because a lot of these properties are

2 paid off, the only alternative for this family was
3 to do a reverse mortgage to save their home
4 because they were elderly.

5 I'm sure you guys know what a
6 reverse mortgage is. But when you're 62-years of
7 age or older, you're entitled to apply for a
8 reverse mortgage and for the rest of their lives,
9 they're not liable for mortgage payments but the
10 debt does increase on the property. Once they
11 pass away, their inheritors have to pay that debt
12 off. For this family, they didn't have any other
13 family but him and his wife.

14 COUNCIL MEMBER JACKSON: Ms. Storm,
15 you're still waiting for that matter to be
16 resolved?

17 EMILY STORM: Yes.

18 COUNCIL MEMBER JACKSON: Whose
19 Council district is it in? Did you reach out to
20 the Council Member whose district the homeowner is
21 in?

22 EMILY STORM: We have not. That is
23 in Canarsie, but we have not.

24 COUNCIL MEMBER JACKSON: I'm sure
25 that you're going to do that.

2 EMILY STORM: Yes.

3 COUNCIL MEMBER JACKSON: Is that
4 Domenic Recchia for Canarsie? I think you should
5 reach out to the Council Member. Even though
6 you're involved with it from an organizational
7 point of view, reaching out to the Council Member
8 I think may be very helpful also. Thank you, Mr.
9 Chair.

10 CHAIRPERSON VANN: Thank you very
11 much. Appreciate it.

12 HERMAN DE JESUS: Thank you so
13 much.

14 CHAIRPERSON VANN: The chair would
15 like to call Ms. Rhonda Lewis from Bridge Street
16 Development Corp, Brooklyn and Michael Hickey from
17 the Center for New York City Neighborhoods.
18 Rhonda Lewis?

19 RHONDA A. LEWIS: Yes.

20 CHAIRPERSON VANN: You may begin.

21 RHONDA A. LEWIS: Good afternoon.

22 CHAIRPERSON VANN: Good afternoon.

23 RHONDA A. LEWIS: Good afternoon
24 members of the Finance Committee and the Community
25 Development Committee and other distinguished

2 guests. My name is Rhonda Lewis and I president
3 of Bridge Street Development Corporation. Bridge
4 Street is a community development corporation
5 which evolved from 244 years of sustained
6 community activism of the Bridge Street African
7 American Wesleyan Church.

8 Bridge Street work is focused on
9 assisting residents with creating and sustaining
10 assets. And as such, we are alarmed at the number
11 of residents who are losing their properties
12 because of past due water and sewer debt.

13 Central Brooklyn has not only one
14 of the highest concentrations of water liens, but
15 also some of the highest rate of unemployment.
16 Even though the median household income for
17 Central Brooklyn is below the national average and
18 unemployment remains high, the monthly costs of
19 owning a home in Central Brooklyn is above the
20 national average.

21 According to the 2000 Census, the
22 monthly cost of homes in zip code 11216 is \$1,700.
23 And in zip code 11221, it is \$1,500. In zip code
24 11233, it is \$1,300. That averages out to about
25 \$500 above the national monthly owner's cost of

2 \$1,000.

3 Bridge Street firmly believes that
4 it is essentially important to the continued
5 viability of our community to bail out the
6 residents who have remained committed to their
7 neighborhoods and have recently struggled to keep
8 their homes.

9 Bridge Street for years has been at
10 the forefront of assisting residents who are on
11 the tax lien list for delinquent real estate taxes
12 and has made an impact on reducing the number of
13 homeowners on the list. This year there are
14 nearly 14,000 people on the tax lien list, with
15 more than half of them listed having water liens.

16 With the introduction of water and
17 tax liens, there is a marked increase in the
18 number of residents in jeopardy of losing their
19 homes, as you have heard by several people who
20 testified earlier.

21 It is critically important to aid
22 our senior residents whose fixed incomes means
23 that they are often hit the hardest by water rate
24 increases. This is the fourth year in which there
25 has been double digit increase in water and sewer

2 bills. These rates were raised 11.5% in 2007,
3 14.5% in 2008 and 2009 and as you heard earlier,
4 they're proposing a 12.9% increase for 2010.

5 Added to that proposed increase for service
6 termination for those customers who have failed to
7 settle their water and sewer debt and you have a
8 good number of seniors who will be facing an undue
9 financial burden.

10 Senior citizens have contributed to
11 many of the Central Brooklyn cultural and
12 traditional rich neighborhoods that is there
13 today. After working hard for years to maintain
14 homes for their family, it is only right that we
15 find a way to come to the aid of those who have
16 lost their homes to water liens.

17 Bridge Street supports initiative
18 26 and its goal of increasing the number of
19 seniors who will be exempt from the lien sale.
20 Currently there is no way for the Department of
21 Environmental Protection to identify those on the
22 lien list who are senior citizens. You heard that
23 earlier.

24 The Department of Finance and the
25 Department of Environmental Protection can help

2 our senior immensely by simply reviewing the liens
3 to make sure that the eligible seniors and the
4 disabled persons are exempt from the sale. This
5 is in conjunction with lengthening the delinquency
6 threshold from one year to three years and
7 providing more frequent and transparent
8 notification concerning water debt. It will
9 ensure that more homes in Central Brooklyn stay
10 off the tax lien list and subsequently avoid
11 foreclosure. Thank you.

12 CHAIRPERSON VANN: Thank you. Mr.
13 Hickey.

14 MICHAEL HICKEY: Michael Hickey,
15 Executive Director of the Center for New York City
16 Neighborhoods. Rather than read my testimony
17 which as usual is pithy and incisive, it really
18 covers a lot of the territory that's been
19 discussed already. So I'll just focus on a couple
20 of key points.

21 One of the most important issues
22 for us that we discover in providing foreclosure
23 prevention is that when a lien is sold, that third
24 party really doesn't have any incentive to
25 negotiate on that lien. They own it and they're

2 in first position, meaning that whatever happens
3 to that property, they get their cash out first.

4 So we'll be going along with a
5 homeowner and negotiating with the bank and trying
6 to put a modification together and find that
7 there's someone that's purchased a water lien for
8 \$3,000 or \$4,000 or \$5,000 and it'll stop the
9 process in its tracks because the homeowner just
10 doesn't have the money to knock that lien out of
11 existence and proceed with their modification.

12 So it's very, very critical that we
13 move quickly to identify people who are risk of
14 foreclosure before those liens get sold. Because
15 once it's sold, there's really not a whole lot you
16 can do to get it out of that mess.

17 One of the things that the
18 commissioner talked about, and he didn't discuss
19 it in great detail, but we actually took the time
20 to take the lien sale list and run it against what
21 we know about people who have a lis pendens
22 filing. We just matched those lists and we found
23 about 1,200-1,300 families that were on both.
24 That was when we made the decision to actually
25 pull those homes out of the lien sale. It's a

2 tremendous benefit for those homeowners. It
3 really preserves a lot of options for them.

4 We strongly recommend having that
5 kind of a strategic approach in identifying people
6 at risk of foreclosure and pulling them from the
7 lien sale process. It can be very targeted and
8 allows us to combine that with a lot of existing
9 outreach strategies that are already prevalent in
10 your neighborhoods.

11 The other recommendations in the
12 proposal, particularly around education and
13 outreach are very vital. The lien sale process is
14 actually a complex one. It's difficult for people
15 to understand. Some of the material that's
16 provided to communicate to constituents about what
17 it involves and impacts to them are not totally
18 accessible. And even very experienced and trained
19 advocates who work on foreclosure prevention in
20 our network consistently have a hard time
21 understanding how the lien sale process works and
22 how they can kind of combat it. So, additional
23 work done by DEP to coordinate with other
24 providers is critical as well.

25 Finally, there's the question of

2 extending the term out to three years. We have to
3 admit we're ambivalent about that. We have seen
4 some situations where it gives people the
5 necessary room to kind of undertake their
6 situation and try to remediate it. But we've also
7 seen a lot of situations where people do just dig
8 themselves a deeper hole.

9 What we'd recommend instead is a
10 much stronger outreach strategy built around
11 partnerships with community based organizations
12 that already have deep relationships and a good
13 understanding of the issues to really, again,
14 combat people from getting into these difficulties
15 in the first place. We think it could be done
16 effectively.

17 RHONDA A. LEWIS: Can I say
18 something? Bridge Street is a partner in the
19 Center for New York City Neighborhoods network.
20 We do find that a lot of people who are in the
21 foreclosure process are also having problems with
22 water and sewer charges or real estate taxes. So
23 it is a significant benefit by crossing those
24 names. Because helping to give the individual
25 more time to work out their foreclosure issues

2 with their services is very important.

3 And that's why also though that the
4 three years is also helpful because you need that
5 period of time. Not only is it helpful or
6 confusing for people to figure out the whole water
7 and sewer lien process with the city, it's also
8 very confusing dealing with services for the
9 mortgages. So you need that extra time just to
10 really work through the whole process.

11 CHAIRPERSON VANN: Thank you. Are
12 either of you familiar with the program the DEP
13 said they implemented as of February of this year?

14 MICHAEL HICKEY: Yes, the WDAP
15 program.

16 CHAIRPERSON VANN: How effective
17 has it been?

18 MICHAEL HICKEY: Actually, I think
19 it's been pretty effective. I think, looking at
20 their comments earlier today, they already have
21 500 people enrolled in the program, which is
22 actually a pretty good number since they started
23 it so recently. The program itself holds a lot of
24 promise. The ability to forebear a portion of
25 municipal debt and just get someone back on track

2 provides a lot of flexibility.

3 CHAIRPERSON VANN: What is your
4 understanding of who that program applies to? Who
5 is eligible to be a part of it?

6 MICHAEL HICKEY: Anybody at risk of
7 foreclosure.

8 CHAIRPERSON VANN: Any stage of
9 foreclosure?

10 MICHAEL HICKEY: I think you have
11 to have a lis pendens filing against you in order
12 to qualify for the program. Council Members have
13 noted already that DEP is a very good agency to
14 work with on these issues and we've found that as
15 well.

16 CHAIRPERSON VANN: Anything
17 further? Thank you very much.

18 RHONDA A. LEWIS: Thank you.

19 MICHAEL HICKEY: Thank you.

20 CHAIRPERSON VANN: Chair calls
21 Judith Goldiner with The Legal Aid Society and
22 Stephan Dookeram from PACC. Then there's only one
23 other to give testimony after this panel.

24 JUDITH GOLDINER: My name is Judith
25 Goldiner and I'm a supervising attorney at The

2 Legal Aid Society. We also work as a partner with
3 Center for New York City Neighborhoods and
4 represent many homeowners who are faced with
5 foreclosure because of the problems with both
6 predatory lending, and water and sewer lien
7 problems.

8 I'm not going to repeat what's
9 already been said except to say that we continue
10 to see, as people have already said, a huge crisis
11 in foreclosures. That crisis, unfortunately, has
12 not abated. I do want to thank Council Member
13 Vann for his leadership in putting this bill
14 together. We think it's a really important step.
15 We do have some proposals that we think would
16 strengthen the bill, so I want to go through
17 those.

18 I also wanted to raise the fact
19 that the authorization for tax lien sales
20 altogether sunsets this year. I think really this
21 is an opportunity to look at the program overall
22 and try and figure out whether it's really working
23 the way it should. Or whether, in fact, what's
24 happening, as so many people have testified, that
25 many people are losing their homes or the equity

2 in their homes because of rather small debt that
3 they have trouble paying because they are so
4 income. And whether that makes sense in a city
5 that's facing the kind of foreclose crisis that
6 we're looking at right now.

7 There was just a study that came
8 out that said New York City had among the worst
9 rates of predatory lending in the whole country.
10 We're all in the neighborhoods that we serve
11 seeing that fallout.

12 We would like to see a few things
13 added to this bill, and we would welcome meeting
14 with Council Member Vann and your staff to talk
15 about them further, if that would be appropriate.
16 We would like to see the enhanced exemptions that
17 are contemplated for the water lien sales extended
18 to property tax liens as well.

19 We would like homeowners who are
20 identified as eligible for one of the enumerated
21 exemptions to be removed from the tax lien pool
22 altogether, which would simplify the
23 administration.

24 We'd also like to see people who
25 are included in the tax lien sale in error, have

2 the city reverse that sale and restore the
3 homeowner to where they should have been had that
4 not happened. That's a consistent problem. We
5 see people who shouldn't end up in tax lien sales
6 who get on the list. Trying to get them off the
7 list is virtually impossible because you're no
8 longer dealing with the city, which can be
9 difficult to deal with, but you're dealing with a
10 company that's really impossible to deal with
11 because they really have no interest in dealing.
12 But it's late and there's been a lot of testimony
13 already. So I'll finish my testimony here. Thank
14 you for giving us the opportunity.

15 STEPHAN DOOKERAM: Good afternoon.

16 CHAIRPERSON VANN: Excuse me, just
17 before you go ahead. Do you have some specific
18 cases of people who have lost their homes?

19 JUDITH GOLDINER: We do.

20 Unfortunately, we learned of this hearing rather
21 late, which I don't know why, but only a couple of
22 days ago. So we weren't able to gather those
23 stories. But we definitely have many stories of
24 people who are losing or have lost their homes
25 because of this. We're happy to provide more

2 information.

3 CHAIRPERSON VANN: Is that
4 erroneous?

5 JUDITH GOLDINER: Because they
6 should have been eligible for exemptions and they
7 did not understand that for various reasons. But
8 I'm happy to provide more information about those
9 cases at a later time.

10 CHAIRPERSON VANN: Thank you.

11 STEPHAN DOOKERAM: Good afternoon.
12 My name is Stephan Dookeram and I'm a foreclosure
13 counselor and Pratt Area Community Council,
14 serving the Central Brooklyn neighborhoods of Fort
15 Greene, Clinton Hill, Bedford-Stuyvesant and
16 Prospect Heights.

17 We would like to thank the
18 committee and most especially Councilman Al Vann
19 for holding this hearing on this most important
20 revision to Local Law 68, the water and sewer lien
21 legislation passed in 2007.

22 Pratt Area Community Council fully
23 supports Intro 26 as a means to amend Local Law 68
24 and alleviate the hardship it has caused. Intro
25 26 will protect seniors, disabled and those

2 eligible for enhanced Star from facing the
3 possibility of losing their homes.

4 This year in Bedford-Stuyvesant,
5 over 1,500 homeowners remain on the tax lien list.
6 Many of these liens are solely water and sewer
7 arrears as Local Law 68 allowed for only one year
8 of arrears or \$1,000 in charges to be placed on
9 the lien sale list. Many of these homes are also
10 in mortgage foreclosure, so the owners are facing
11 a double threat.

12 In the past two years, PACC's Home
13 Services Department, which consists of two
14 foreclosure counselors, myself and Bonita Dowling,
15 has assisted 534 homeowners facing default or
16 foreclosure on their mortgage payments.

17 Many of our clients have faced
18 major increases in their mortgage payments due to
19 interest rate adjustments and also have to face an
20 increase with their water and sewage costs of
21 11.5% in 2008, 14.5% in 2009 and a proposed
22 increase of 12.9% for this year. That's an
23 additional burden onto the homeowners.

24 A perfect example that I have of a
25 person that's current on the mortgage and falling

2 behind on their water and sewer bills that caused
3 them to ultimately go into foreclosure was a
4 senior citizen. She came into our office about
5 six months ago. She was current on her mortgage
6 but she didn't understand why her mortgage payment
7 dramatically increased by \$500 per month when
8 she's been paying it on time and her interest rate
9 didn't adjust.

10 So I looked at her mortgage
11 statement and I immediately saw that there was an
12 escrow shortage of \$3,000. I called up the
13 servicer. When I contacted the servicer, they
14 said they had to pay off a past due water bill
15 because of the risk of them possibly beginning a
16 foreclosure process on it. So when they paid it
17 off they took that \$3,000 that she owed in the
18 water bill and she had to pay that off in six
19 months to the mortgage company. So it increased
20 her mortgage payment by \$500.

21 This was a senior citizen on a
22 fixed income. They would not accept a partial
23 payment. Originally her mortgage payment was
24 \$1,200 per month. So this raised her mortgage
25 payment to \$1,700 per month. She couldn't afford

2 \$1,700 a month. So she said she was just going to
3 send in the \$1,200. I immediately knew that if
4 she only sent in \$1,200 they wouldn't apply it to
5 the account. They would put it in unapplied funds
6 and wait until they got the additional \$500 to
7 take care of that payment.

8 She was unable to make the payment
9 that month, so we continued to monitor the
10 situation with her calling up the servicer to work
11 it out. What happened was obvious. She fell
12 behind on the mortgage because of this. So we had
13 to apply for a modification now for her which was
14 completely unreasonable because this was a
15 homeowner that's been paying her mortgage on time.

16 So she was approved for a
17 modification, but as you know with a trial
18 payment, it puts you further behind sometimes if
19 they decrease the mortgage payment.

20 So now she went from being current
21 to all of the sudden having a past due balance in
22 six months of over \$6,000. She just couldn't
23 understand it. She just didn't understand why the
24 servicer would do this to her. Falling behind on
25 the water and it goes to the tax lien; it's a

2 ripple effect that truly does affect senior
3 citizens.

4 PACC also applauds the outreach
5 efforts to seniors, disabled veterans and enhanced
6 Star one to four-family homeowners that is
7 mandated by Intro 26. Many of our clients are not
8 aware of the fact that arrears in their water and
9 sewer can lead to a lien sale.

10 Our counselors make a point of
11 asking each client about any property tax or water
12 and sewer arrears and instruct them make a payment
13 agreement. Given the number of homes on the lien
14 sale list, there are obviously thousands who are
15 not aware of Local Law 68 and the significance of
16 water sewer charge arrears.

17 PACC also supports Intro 26 to make
18 the water and sewer lien arrears eligible for the
19 lien list at three years, which is consistent with
20 property tax arrears instead of the current one
21 year of arrears.

22 During these economically trying
23 times, many of our clients are facing foreclosure
24 now mainly due to loss of income, whether it's a
25 job loss or a tenant not paying their rent because

2 they lost their job. From me personally looking
3 at when clients come into the office that have
4 suffered a job loss, some are unemployed for
5 greater than 12 months, most of them are. So
6 extending it from one to three years will be
7 greatly beneficial to these people.

8 Again, I thank the committee for
9 holding this hearing on this important topic as it
10 significantly affects the lives of our clients.

11 CHAIRPERSON VANN: Thank you. I
12 appreciate your testimony. It was very helpful
13 from both of you. Our final person to give
14 testimony today is Anita Burson from Our Family.

15 ANITA BURSON: Good afternoon.

16 CHAIRPERSON VANN: Do you have a
17 copy of your testimony?

18 ANITA BURSON: Yes I do. I need to
19 make copies because I made a correction and some
20 other people have asked for copies, but I only
21 brought one. Let me read from this one and then I
22 can give it.

23 Mr. Chairman, Council Members,
24 committee members, fellow New Yorkers, advocates
25 who are here, I'm speaking today as part of a

2 disenfranchised class. We're not represented.

3 There is no classification in the code for my home

4 and for me. I live in a family-owned and occupied

5 six unit building. The statement that I'm

6 reading, prepared by my sister, who handles the

7 affairs, says I would never have imagined that

8 managing a water bill in the City of New York

9 would be such an arduous task that I'd have to ask

10 myself if it's worth staying.

11 During my numerous trips to the

12 Water Board, I have encountered some especially

13 kind representatives who to their credit have done

14 a yeoman's job. But on the other hand, there have

15 been others that have not been so kind.

16 My journey began two years ago in

17 October of 2008 when I went to negotiate my bill

18 after having come off a bank mortgage. I was able

19 to arrange a payment agreement for 60 months and

20 was assured that when the next bill arrived that I

21 would be able to negotiate another agreement

22 without issue.

23 When the next bill arrived, I was

24 informed that I would have had to have paid off

25 the old agreement in full, even though it had been

2 far less than the 60 months I was originally
3 given, before I could make another arrangement. I
4 could make one with a 25% down payment, much
5 different from the 10% I had previously done. I
6 asked the representative why I wasn't told this
7 previously and that I had initially asked for 12
8 months but was encouraged by DEP Water Board
9 representative to take a 60 month.

10 Might I say at this point that the
11 bill from my family's six unit building seemed
12 excessively high compared to a family friend of
13 two nine-family homes with more than twice the
14 number of people in occupancy than ours.

15 The representative told me and my
16 sister that it was imperative that we get a water
17 meter and stop being billed on frontage. We'd see
18 a significant difference, thousands of dollars of
19 difference they told us. The bill would be
20 readjusted. I told them that it would take time
21 and that my building does not generate a
22 significant amount of income.

23 I was told to continue making
24 payments on my original agreement and work on
25 getting a meter and/or come up with more than

2 \$3,600 to get a new agreement with a 25% deposit.

3 By the way, if I were to need an agreement for the
4 year following, then the down payment becomes 50%.

5 I asked what would be my priority as finances
6 dictate what can be done. I was told I had to
7 make a choice. Then get the meter, it will make
8 all the difference. We did.

9 We scrambled to get the meter in,
10 only to be told last week that putting the meter
11 in was a waste of time. "What did you do that
12 for?" You told us to. Everyone told us to. Well
13 it would have been better if you hadn't. It would
14 not make a difference in our bill.

15 I asked would it have been more
16 efficacious to skip the meter being installed for
17 the time being and put the money toward the bill
18 and she said yes, I should have done that, not pay
19 the plumber, just pay the bill.

20 I also asked when the meter would
21 be read and was told that it had been read but I
22 hadn't requested metered reading. Now why on
23 earth would I put a meter in that you told us to
24 put in and then told that it was read but you
25 can't talk to me about it because I haven't

1 requested meter bill reading?

2
3 I was given a never seen before
4 form to formally request to have the meter read.
5 Since I was being told that the meter would not
6 make a difference in my bill and that once I went
7 on metered billing I could not go back to frontage
8 if metering turned out to be higher. Then could I
9 please receive a comparison between say March 2009
10 and March 2010 since there had been a reading so I
11 could make an educated choice. Apparently that's
12 not the procedure. We were not allowed. That's
13 an unfair procedure because it only benefits DEP.

14 We've been to DEP more than a half
15 dozen times since October. I can't say I've
16 received the same information twice. It began to
17 feel like a little puzzle. We were in a Kafka
18 movie. You receive a new piece of secret
19 information each time you go.

20 I'm not going to take the time to
21 rigorously recall all of the experiences I've had
22 in the five visits that we've made to DEP in the
23 last ten days, including last night. I guess the
24 bottom line is this, consistency of information.
25 If I am visiting the office, then please give me

2 something in writing to make it plain. Isn't
3 every consumer entitled to receive information in
4 writing so it becomes less arbitrary and not at
5 the whim of the city worker?

6 A lot of the time running around
7 associated with information, or misinformation as
8 it were, could have been avoided if anything had
9 been provided, such as options, other than a bill
10 and notice of potential sale.

11 When your name is on a lien list
12 for potential sale, you are hurting. You don't
13 have anywhere to turn and you're facing the
14 possible loss of everything your family has worked
15 for and sunk your life's blood and savings into.
16 The last thing you need to hear is that
17 unnecessary time and financial resources have been
18 possibly wasted.

19 Finally, I've heard all the
20 glorious words about the possibility of still
21 saving your home even after it's being sold in a
22 lien sale. But I might say that none of the
23 advocates who were here can help us. If I came to
24 your office, Council Member, you couldn't because
25 I don't classify. There is no such thing as a

2 family-owned and occupied six unit. We qualify as
3 commercial. We don't fit. We're not considered,
4 even for mortgages. I can't get a residential
5 mortgage as a first time homebuyer if I bought my
6 building because it would be commercial.

7 Finally I've heard, as your lien
8 has been sold, you enter a huge gray area where
9 you have to wonder what the terms for salvation
10 will be. DEP stops telling you that you do have
11 an opportunity to save your home but neglects to
12 tell you unless pressed that the terms might be
13 pretty harsh and even more unattainable than
14 coming up with funds to enter into an agreement.

15 Please be honest with us. We're
16 not stupid, we're just homeowners. Some of us are
17 just poor or have been hit hard by the recession.
18 It's needless cruelty to pacify us with the hope
19 of actually being able to buy back the lien
20 without even knowing what to expect from the
21 purchaser of the lien.

22 This is the most progressive city
23 in the world, but we need to get it together.
24 I've always known that one can lose their home
25 over taxes or mortgage foreclosure, but water?

2 Please City of New York and DEP, work with us.

3 Allow multiple payment plans for different years

4 without increasing a down payment to a

5 ridiculously high percentage. Because after all,

6 if we can't make the regular agreement, how are we

7 going to make something 50% more? We're part of a

8 disenfranchised class.

9 At the time of the purchase of our

10 building, my father didn't know. He was intent on

11 doing the old southern custom. You cut up the

12 family farm and as each child becomes an adult,

13 you give them a parcel of land and the whole

14 community helps put a home there. He couldn't do

15 that here. So he bought a unit where five

16 children could each have their own home and he

17 could have his.

18 He did not know. I call it OBJ's

19 folly. What a terrible mistake he made. He was

20 ignorant of the law. He didn't know he was

21 subjecting us to what appears to be a lifetime of

22 struggle to save the family home.

23 The tenants in this building, it

24 took us 14 years to get two nonpaying tenants

25 evicted. We have one unit that pays \$153 a month

1
2 in rent. They give us \$160. The lady has lived
3 in the building since she was 14. If she were
4 alive, she'd be way past 90 now. Her husband
5 holds that unit. \$160 a month. It does not pay
6 the common hallway light bill.

7 We have struggled with DEP and the
8 Water Board. My sister is often treated like an
9 imbecile when she goes to that office. Every time
10 she goes there's a different story, snide remarks,
11 sarcasm. We cannot afford an architect to convert
12 the building to four units to meet the code of a
13 family home. That's \$50,000 just to retain him.
14 Then the construction costs and Building
15 Department fees and licensing will put us in
16 approximately \$300,000 of debt.

17 Who speaks for those of us who are
18 voiceless? We're not even in a category and we're
19 not alone. Yesterday I spoke to a woman. Her
20 father bought their building. It's six units. In
21 their own fashion they converted it to two. But
22 they have to be out. She will be 66-years-old and
23 on the street June 1. She had a payment plan.
24 Three days before they were to begin their payment
25 plan, to make the first payment, their lien was

1 sold. There was no one to help them because it's
2 not considered a private home, even though it's
3 just she and her sister and one elderly lady like
4 us who's 90 that they can't put out on the street.
5 So she will be on the street.
6

7 A father buys to make a home
8 purchase for his family, not realizing that the
9 dream will crumble with everyone becoming homeless
10 in the next generation. What is needed for us to
11 have a voice? I'm certain there are others like
12 us. What is needed for us to be desired and
13 considered homeowners and home dwellers?

14 We're not designed to be investors.
15 And there's really no desire to be landlords.
16 Certainly my father did not plan on that. He
17 wanted to provide a home for each of us, much like
18 the southern tradition in which he was raised.
19 Once the children are grown, dad separates the
20 family land into plots and each child builds a
21 home on the land.

22 Except our version is an urban one.
23 Dad buys a building with just enough room for each
24 child he has and his dream to give us a start in
25 our own home. How do we get a class for a

2 situation like our? How can we be considered as
3 citizens and not as disenfranchised homeowners
4 forever classified as commercial?

5 Where and when will you hear our
6 voices? We must be heard. I don't know the
7 system well, but I promise you in the last 15 days
8 when I saw my sister collapse at the Water Board
9 and the way she was sarcastically spoken to, I
10 carried her to Bridge Street at Boys and Girls
11 High School two weeks Thursday, or was it last
12 week Thursday? Two weeks ago Thursday. I have
13 begun studying this system because I watched the
14 hell my father went through to maintain a family
15 home. I witnessed the hell my faithful sister
16 goes through in managing our home.

17 And worse, this requires a hearing
18 all its own. I wish the hellish treatment of city
19 employees in the Water Board and DEP who play
20 games. Like for instance, when I came in, the
21 gentleman who was speaking. They have a due date
22 on the bill. Well how many bills do you get a
23 month with a due date? How many people can meet
24 that due date every month on every bill they get
25 in their homes? It's just not possible. It's

2 like a game, a Kafka movie.

3 Please hear the voices of the
4 voiceless. Tell us what we can do so that we can
5 be considered, so that we can take advantage of
6 all the homeowner mortgages and relationships.
7 I'm certain there have to be others. I am in a
8 brownstone. It is 111 years old this year. There
9 is great detail there. My father loved old homes.
10 It has beveled glass, claw foot tubs, original
11 wainscoting, original plank floors and our
12 original layout.

13 My brownstone is my home too, not a
14 commercial dwelling or income producing property.
15 Thank you, Anita Burson, disenfranchised
16 homeowner.

17 CHAIRPERSON VANN: Thank you for
18 coming out and sharing that story. I don't know
19 if you've had any contact with either Bridge
20 Street or any other of the community based groups
21 or if they've been able to give you any advice or
22 not. It seems like a complicated problem. But at
23 minimal I would suggest meeting with Miss Rhonda
24 and seeing if there is any direction they can give
25 you.

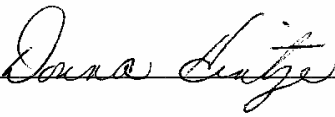
2 ANITA BURSON: They did a great job
3 by having them come to the community. It really
4 cleared up a lot of clouds so we could know where
5 we were and where we stood. But we got a payment
6 agreement yesterday. They had given us close to
7 \$800 a month. Then miraculously, because
8 everybody is praying, they came down to \$500 and
9 change beginning June 15th on the arrears. And
10 they gave us a payout plan. I have a copy of it
11 here with me.

12 However, July 1st, we're going to
13 be right back in the sinkhole because when the new
14 bill comes, we can't fold that into this payment
15 plan. We have to pay 50% of the total amount owed
16 to get a payment plan for that and to get a
17 payment plan for this. So we got like 30 days of
18 grace.

19 CHAIRPERSON VANN: Thank you. To
20 be continued. Thank you ladies and gentleman,
21 everyone, we stand adjourned.

C E R T I F I C A T E

I, Donna Hintze certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature 

Date May 13, 2010