TAKEROOT JUSTICE

Testimony to the NYC City Council

Committee on Finance

On Pre-considered Intro on Tax Lien Sale

December 9, 2020

Good afternoon. My name is Paula Segal. I am speaking today as Senior Attorney in the Equitable Neighborhoods practice of TakeRoot Justice. TakeRoot works with grassroots groups, neighborhood organizations and community coalitions to help make sure that people of color, immigrants, and other low-income residents who have built our city are not pushed out in the name of "progress." We work together with our partners and clients to ensure that residents in historically under-resourced areas have stable housing they can afford, places where they can connect and organize, jobs to make a good living, and other opportunities that allow people to thrive.

Thank you so much for the opportunity to comment on potential language for a bill reauthorizing the city's lien sale. I am here today with a simple message on behalf of our partners, our clients and TakeRoot: the Council should not re-authorize the City's Lien authority. It's time to put Rudy Giuliani's ghosts to bed.

The behavior of the tax lien trust administrators through the pandemic is illustrative of the anti-civic and anti-New Yorker attitude of the Tax Lien Trusts. Since courts re-opened for new cases this summer after being closed in March 2020 as part of the Governor's PAUSE, the Tax Lien Trusts have initiated over 1125 new foreclosure cases across the City.[1] These cases were all started, and continue, despite the fact that mortgage foreclosures are prohibited as a way of protecting families from losing their homes during to the pandemic. I want to caution to Council about what the number the Department shared earlier – I gathered that Deputy Director Shear shared that there had been 26 judgements of foreclosure resulting from the 2017 lien sale. That number does not reflect foreclosure cases initiated where the owner resolved before a judgement from the court; such resolutions frequently include the sale of the property. This

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[1] These actions were filed by the different Lien Trusts, some going back as far as 1998; 124 of them were filed by the 2019 Tax Lien Trust.

number also does not include the liens sold in 2017 that have not yet been filed as foreclosure actions. My review of the court's records this morning confirms that liens sold as long ago as 1998 are just this year having foreclosures initiated.

The City is able to turn a blind eye to the predatory behavior of the trust because it simply does not collect information about it. Despite multiple requests, including requests made by the staff of this Committee and by Committee members today, the City has never been able to provide information about post-lien sale outcomes for property owners. The City cannot answer very basic questions: "Do properties get flipped as a result of the Lien Sale before foreclosure is initiated by the Trust?" "What percentage have a foreclosure action started against them by the Trust?" "How many sell at a lower than market price as opposed to facing the Trust in court?" "How many foreclosures result in judgments?" "What is the value of post-foreclosure remainders and how frequently they are claimed, if ever?" "How much money do property owners pay to the Trust and its investors above the amount of arrears that the owner owed at the time of a sale, enriching the Trust's investors?"

As Council Member Adams noted today, the City is quite capable of collecting debt in arrears without a lien sale: since Governor Cuomo postponed the 2020 lien sale in August, the Department of Finance has successfully resolved the debts of nearly 6,000 property owners; their properties are presumably off the list because they have entered into payment plans, fully paid the arrears or been determined to have been included on the list in error. As Commissioner Jiha explained to the Committee today, this reduction took only *time and* labor by Department of Finance and City Council staff.

To address the Commissioner's comments before you directly: not selling debt to a third party at a discount is simply not "relief," and characterizing the carve out in the proposed reauthorization that way is misleading.

In addition to threatening low-income BIPOC homeownership, the Lien Sale lets opportunities to stabilize affordable multi-family housing slip and cedes vacant land in our neighborhoods to investors. Our office is part of the New York City Community Land Initiative and counsel to several of the Community Land Trusts whose representatives are also testifying before the Committee today, likewise calling for the abolition of the Lien Sale. Community Land Trusts stand by to work with the City to help transform multi-family buildings with irresponsible and delinquent owners who do not pay their debts to the City in stable, community owned housing in perpetuity via rental or homeownership models. I shared a report with the Committee outlining the opportunities from the perspective of the Community Land Trust movement with the Committee earlier today.[2] A highlight of that report–the closing of the East Harlem/El Barrio

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[2] Julia Duranti-Martínez, New Economy Project; John Krinsky, City College; Paula Segal, TakeRoot Justice, "Commodifying our communities:" The case for abolishing NYC's tax lien sale and prioritizing community land trusts in a new tax collection and property disposition system (December 2020), https://takerootjustice.org/wp-

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Community Land Trust on four apartment building properties at the end of November–was only made possible because the City did not transfer its leverage over those properties when they fell into arrears to a third-party investment-backed Trust. The debt, and eventually the buildings, stayed in City control; thus the City was able to work with residents and advocates to create secure housing in perpetuity.

Community Land Trusts and our allies in the non-profit housing development community likewise are eager to aid in the transformation of vacant properties and parking lots[3] that cycle through the sale every year into housing for low income New Yorkers. The latest list of 2020 Lien Sale eligible properties includes 800,992 residential zoning square feet on buildable lots (over 2,500 square feet). This is enough existing floor area to build approximately 890 units, using 900 sq ft as average unit size, and does not include properties that could be rezoned to either increase density or allow residential where it is not allowed now. At the 2017 reauthorization, the Council legislated at our request that the Department produce a separate list of these vacant properties so that we can clearly see what opportunities are lost. I thank the Council for that, and urge it to take advantage of the opportunities that are so clearly before it for the production of new social housing in New York City, a need the pandemic has put into sharp relief.

Thank you so much for the opportunity to testify today.

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content/uploads/2020/12/Commodifying-Our-Communites-The-case-for-abolishing-NYC%E2%80%99s-tax-lien-sale-Updated-Dec-2020.pdf

[3] Over a quarter (26%) of all tax class 4 properties on the 2020 lien sale eligible lists are used for parking. See https://www1.nyc.gov/site/finance/taxes/property-lien-sales.page (analysis performed based on 11/9/2020 lists). A majority of other tax class 4 properties in the sale are "one story retail," "miscellaneous commercial" and "retail with other uses;" these are all also potential sites of housing or other community-supportive uses.

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