

TAKEROOT JUSTICE

Testimony before the New York City Council Finance Committee November 19, 2019

[Int. 245-2018](#) (Reynoso) to exempt charities from the Department of Finance (DOF) tax lien sale
[Int. 1784-2019](#) (Louis) to require the mayor to establish an Office of Not-For-Profit Services
[Int. 1799-2019](#) (Rivera) to require DOF to create a guide for nonprofit organizations
[Int. 1776-2019](#) (Ayala) to require Department of Environmental Protection and DOF to develop a single application for property tax and water/sewer charge exemptions.

Thank you so much to the Committee, its staff and the Members who introduced the bills we are here to talk about today. I particularly want to extend my personal gratitude to Council Member Reynoso and Asher Freeman on his staff for their partnership over the five years it has taken to bring the unnecessary risks of dispossession that New York City's charity organizations face to light before this Council at the hands of decades-old policies that it is past time to eliminate. I likewise would like to thank DOF Commissioner Jacques Jiha and Deputy Commissioner Jeffrey Shear for being good listeners and for their active engagement with members of the Protect Our Places coalition¹ over the last two years.

TakeRoot is a non-profit legal services organization that works with grassroots and community-based groups in New York City to dismantle racial, economic and social oppression. My practice, Equitable Neighborhoods, works with directly impacted communities to respond to City planning processes and private developers, helping to 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." Unfortunately, DOF's method of administering the mandatory New York

¹ The Protect Our Places Coalition is the Mary Mitchell Family and Youth Center, Northwest Bronx Community & Clergy Coalition (NWBCCC), Al Muneer Foundation, Fifth Avenue Committee, Bangladeshi American Community Development and Youth Services (BACDYS), Fort Apache Youth Center, Haven Ministries, Masjid Al Aman, Judson Memorial Church, Bricks and Mortals NYC, St. Nicks Alliance, New York State Council of Churches, Interfaith Assembly on Homelessness and Housing, The New York Board of Rabbis, Lawyers Alliance for New York, United Methodist City Society, Nonprofit New York, the Presbytery of New York City & TakeRoot Justice.

State property tax exemption for charitable, religious and educational organizations practically ensures that such organizations will, in fact, be pushed out.

I have personally represented and counseled dozens of groups that own church buildings, community gardens, mosques and community centers that were on the brink of either foreclosure or losing tens of thousands of dollars in their dedicated program funds because they were trying to keep up with payments that DOF indicated they were required to make. It is bad enough that my clients regularly, over the last seven years, have received bills for money that they did not owe; what makes this devastating is that when they did not pay those bills, the City has been regularly selling the illusory debt as liens that can lead to foreclosure.

Our outreach and education partnerships with community-based organizations, the Manhattan Borough President's office, the former Public Advocate and current Attorney General, City College, Fordham Law School² and the DOF Tax-Payer Advocate's office have helped reduce the number of charity properties with illegal liens sold over the last few years, but that's not enough.³

The most recent lien sale included over 50 properties that have had property tax exemptions in at least one year since 2015, all of which have the same owner now as they did when DOF granted them the mandatory exemption.⁴ That is fifty places too many!

Intro 245 will go a long way towards protecting our community fabric, but will only really work if the new Ombudsperson is adequately funded to do outreach and case work. Only sixteen (16) of the fifty properties on which liens were sold in 2019 would have been automatically exempt from the sale via the look-back provision in Intro 245. The others would have needed more detailed analysis and case handling in order to help their administrators avoid the sale. Further, the new Ombudsperson's office must be empowered to help organizations that have had liens placed on their properties in previous years request that those liens be defected

² See e.g. the attached testimony from 596 Acres and Lincoln Square Legal Services from January 2017.

³ Despite all our efforts, DOF sold at least 284 liens on charity properties between 2012 and 2017. Sixty-seven (67) properties were on the 10-day lien sale list in 2018; DOF did not publish a list of those sold in 2018.

⁴ See https://www1.nyc.gov/assets/finance/downloads/pdf/lien_sale/2019/final/nfp-notice.pdf

and avoid foreclosure; and to assist groups that are entitled to refunds to get their money back. An amendment should be added connecting the Ombudsperson with the administrators of the NYC Housing Preservation and Development Third Party Transfer or a similar program so that, where charity organizations no longer have the capacity to steward real property, residents and the City as a whole can benefit from a controlled transfer to another responsible charity steward, as opposed to free fall into the open market which is the inevitable outcome of a tax lien trust foreclosure.

There are two additional changes that are key to a rational administration of the mandatory property tax exemption and must be added to the package of bills before the Council: (1) the Mayor's Office of Contract Services must be prohibited from using tax arrears as an indicator when doing a responsibility determination⁵ for charities that contract to carry out the services that the city offers its residents and (2) for cases concerning charity properties, the Council must mandate that all past and future written decisions of the New York City Tax Commission,⁶ which the appeals board where groups must apply to have DOF determinations examined and annulled, be published and made available to the public and those preparing future appeals.

Thank you again for being great partners. We all look forward to a future where how much our charity organizations contribute to the welfare of the City is reflected in how much the City contributes to *their* welfare and supports their administration.

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⁵ This is done via the Procurement and Sourcing Solutions Portal (PASSPort), which reports unpaid property tax bills as issues that must be resolved before a contract can be registered, even if the organization is in the process of appealing the denial of exemption. Tax Commission appeals can take up to three years, forcing groups to pay taxes they do not owe or put their City contracts at risk.

⁶ See Section 153 et seq. of the Charter of the City of New York.