CENTER FOR NYC NEIGHBORHOODS

Testimony before the New York City Council Committee on Finance
Submitted by the Center for New York City Neighborhoods

Preconsidered Intro. , a Local Law to amend the administrative code of the city of New York, in relation to the sale of tax liens.

January 8, 2015

Good morning, and thank you for inviting me to testify today. My name is Caroline Nagy and I am the Policy Manager at the Center for NYC Neighborhoods. Thank you, Chair Ferreras, along with the members of the Finance Committee, for holding today's hearing regarding the sale of tax liens in New York City.

About the Center for NYC Neighborhoods

At the Center for NYC Neighborhoods, our mission is to promote and protect affordable and sustainable homeownership in New York City. We believe that keeping homeownership affordable creates strong neighborhoods that allow for working and middle class New Yorkers to be a part of the economic opportunities that emerge as New York City continues to prosper. Through a network of community-based partner non-profits—what we refer to as our "Network Partners"—we provide homeowners with the essential support to prevent and overcome economic hardships of many kinds, and to make absolutely sure that they can afford to stay in their homes. Since 2008, our network of 36 community-based partners located throughout the five boroughs has assisted over 30,000 homeowners.

Tax Lien Sales in New York City

The sale of tax liens for one-to-four family homes in New York City causes financial hardships for thousands of low-income or otherwise vulnerable families each year, while presenting a serious challenge to our mission of promoting and protecting affordable and sustainable homeownership in New York City. Lien sales most frequently impact communities still reeling from the foreclosure crisis. Many of these neighborhoods provide the last remaining affordable housing for many seniors and homeowners of color. This year, we saw 2,729 tax liens sold for one-to-four family homes at an average value of $12,000. While the initial lien value can be relatively small at sale, once sold and compounded with steep interest rates and fees, homeowners can often find that their balance owed is rapidly increasing.

Ultimately, the City's sale of tax liens puts low-income, elderly, and disabled homeowners at risk of losing their homes through foreclosures. Here are three recent examples of the hardships caused to vulnerable New Yorkers from the sale of their tax liens. In each of these cases, homeowners were only able to avoid foreclosure on their homes due to the last-minute, heroic efforts of their legal services attorneys.

Mr. M

Two weeks ago, the Center and our Network Partner Legal Services NYC saved the home of a Bronx homeowner who was just days away from the auction of his home due to a foreclosure on his property tax lien. For over 45 years, Mr M. has lived in his home, recently appraised at $500,000, and has been mortgage-free since he paid off his mortgage in 1996. In 2010, Mr. M was laid off from his job at a nonprofit. He began working as an assistant to an elderly blind man until the man passed away last year, leaving him once again unemployed. His tenants, an elderly couple on a fixed social security income, fell behind on their rent after the husband fell ill with cancer. Given their situation, Mr. M refused to evict them or raise their rent. Unfortunately, due to the financial pressures this caused, Mr. M fell behind on his water charges. His debt was sold in a lien sale and resulted in a foreclosure action commenced against him by the Trustees who had purchased the lien.

A judgment of foreclosure was entered on May 5, 2014, and the sale was scheduled for October 20, 2014. The principal due on the lien was $27,000, which had ballooned to $32,000 by the foreclosure judgment last May. By Christmas Eve, Mr. M now owed over $42,000, due to mounting fees as well as interest payments of $9 a day. Fortunately, Mr. M received some last-minute help by a Legal Services NYC attorney, who obtained a stay on the auction. His attorney then applied for a loan through the new New York State Mortgage Assistance Program (based on the New York City pilot program), which had just begun allowing its loan fund to be used for tax liens. The loan closed on Christmas Eve and Mr. M, along with his elderly, disabled tenants, were able to avoid joining the growing ranks of homeless New Yorkers and remain safe and secure in their home.

Ms. G

Ms. G, a 78-year-old senior citizen, also faced foreclosure due to a tax lien that was sold in 2012 but was ultimately able to keep her home due to the last-minute efforts of the Center’s Network Partner JASA Legal Services for the Elderly in Queens (LSEQ). Ms. G, who has lived in her home for 46 years, experienced financial hardship when a roommate left her home unexpectedly leaving her to manage all of the household expenses on her own. She became depressed during this period, resulting in her falling behind on her property taxes. When Ms. G first received the summons and complaint, she was unaware of the free legal and housing counseling assistance available. So instead, she defaulted in answering.

Ms. G eventually sought assistance from JASA-LSEQ. They negotiated a payment plan with the servicer of the tax lien, whereby the tax lien company agreed to a payment plan only if Ms. G would pay at least 25% of the balance due and enter into payment plans for her late water charges and property taxes. JASA helped Ms. G review various payment options, to determine which one would work best for her current circumstance.

Additionally, JASA is currently working with the New York City Department of Finance to help Ms. G enter into an affordable payment plan for her most recent tax bill. After discovering that Ms. G had not filed any senior exemptions for her property taxes, JASA also began working with her to apply for these exemptions for the next year. Once Ms. G has entered into a repayment plan for the past year's property taxes, she will be able to enter into the repayment plan for the tax lien and the tax lien foreclosure will be dismissed.

Ms. L

Ms. L, a senior citizen, came to Network Partner MFY only two days before an auction sale on her home as a result of a tax lien foreclosure. Two years ago, when the case was first initiated, Ms. L, proceeding pro se, believed she paid off the lien. However, her payment was approximately $1,000 shy of what was in fact due, something the lienholder's counsel never told her. MFY filed an Order to Show Cause with a Temporary Restraining Order (TRO) to stop the sale. The TRO was granted, giving MFY the space to negotiate an affordable repayment plan.

Proposed Tax Lien Legislation

While the homeowners mentioned here were able to receive legal assistance and avoid foreclosure, they still face significantly increased debt and financial hardship as a result of the lien sale. Unfortunately, it is likely that others never receive help and ultimately lose their homes to lien foreclosure.

The proposed legislation addresses some of our concerns with the lien sale process. First, we support the proposed legislation's exclusion of Sandy-damaged homes from the lien sale. Homeowners impacted by Sandy have faced tremendous amounts of stress and financial hardship due to storm damage and the complexities of the rebuild process. Individuals and their communities, as well as the City, State, and Federal government, have invested significant time, money, and other resources into the recovery process, and it is justifiable and appropriate that the City's lien sale policy reflects the need for such exemptions. Second, the proposed legislation imposes quarterly reporting requirements on lien purchasers, which will increase transparency regarding the status of properties post-sale and hopefully lead to enforcement of existing limitations on interest rates and other fees. Finally, the bill calls for a temporary taskforce to evaluate the lien sale process over the next two years and develop recommendations to ensure that it is fair, efficient, and effective. We hope that this taskforce will result in further substantial improvement to the lien sale process and we look forward to working with this taskforce to achieve this goal, though we would prefer to see increased representation of community-based organizations on the taskforce.

Recommendations

We at the Center are grateful to the City Council and the Finance Committee for provisions within the proposed legislation which curb some of the harms we see caused by the lien sale, as well as for previous reforms to the lien sale process that resulted in greater notice to homeowners as well as restrictions on interest and fees that can be charged by lien purchasers. We also believe there is more work to be done to ensure that the lien sale process protects New York City's vulnerable homeowners. Given the hardship caused by the tax lien sale for these homeowners, we respectfully submit the following recommendations:

1. **Exempt owner-occupied Class 1 properties from the lien sale:**
   While provisions exist to exempt seniors and persons with disabilities from the lien sale, unfortunately homeowners who qualify for these exemptions do not always receive them. Additionally, current exemptions do not include a provision for homeowners who are low income and/or experiencing economic hardship. Given the hardships and increased foreclosure risk caused by the lien sale, we believe a blanket exemption for owner-occupied Class 1 properties is the optimal solution.

2. **Expand the DEP Water Debt Assistance program to cover low income homeowners and tax liens:**
   If an exemption for Class 1 properties is not feasible, the City should expand the DEP Water Debt Assistance program to cover low-income homeowners and tax liens. Currently, homeowners who are delinquent or in foreclosure on their mortgage are taken out of the water lien sale if they are able to make payments going forward. For qualifying homeowners, the outstanding lien amount is “frozen,” meaning it will not be sold but instead will be repaid upon sale, refinance, or death.The Water Debt Assistance program should be used as a model to expand exemptions for other low-income or vulnerable households. For example, many homeowners impacted by the tax lien sale do not owe a mortgage on their home, but fall behind on their payments due to economic hardship. Further, the current program applies to water liens but not tax lien. Ultimately, the City should extend program eligibility to low-income households as well as tax liens.

3. **Increase representation of community-based organizations in the new taskforce:**
   Our Network Partners work with New Yorkers impacted by the tax lien sale on a daily basis. They are familiar with household budgets of elderly and low-income New Yorkers and have advanced insights into the impacts of the various regulations involved in the lien sale process. Their input would be invaluable to the taskforce’s work, and therefore the taskforce should include at least two representatives of community-based foreclosure prevention organizations.

Thank you for the opportunity to testify. We appreciate the Council’s interest and work on the tax lien sale and look forward to working with you on this very important issue in the future.