CENTER for NYC NEIGHBORHOODS

Testimony before the City Council Committee on Finance:
Int. No. 1143: A Local Law to amend the administrative code of the city of New York, in relation to installment agreements for the payment of real property taxes, assessments and other charges

November 20, 2018

Good afternoon. My name is Leo Goldberg, and I am the Policy and Research Manager at the Center for NYC Neighborhoods. I would like to thank Chair Dromm and the members of the Committee on Finance for holding today's hearing regarding installment agreements for New York City homeowners.

About the Center for NYC Neighborhoods

The Center promotes and protects affordable homeownership in New York so that middle- and working-class families are able to build strong, thriving communities. Established by public and private partners including the City Council, the Center meets the diverse needs of homeowners throughout New York State by offering free, high quality housing services. Since our founding in 2008, our network has assisted over 74,000 homeowners. We have provided more than $33 million in direct grants to community-based partners, and we have been able to leverage this funding to oversee another $30 million in indirect funding support. Major funding sources for this work includes the New York City Council, the New York City Department of Housing Preservation and Development, and the Office of the NYS Attorney General, along with other public and private funders.

Every year, the Center works to keep as many homeowners as possible out of the lien sale by conducting direct outreach to homeowners on the pre-lien sale lists, and by coordinating with our network partners to assist homeowners in obtaining a payment plan or by qualifying for an exemption. We also support homeowners who have had tax liens sold by connecting them to foreclosure prevention services and, in cases where a tax lien foreclosure is imminent, by providing interest-free loans through our New York State Mortgage Assistance Program to pay off liens.

Property Tax Burdens and New York City's Tax Lien Sale

Many NYC homeowners struggle to afford property tax, water, and other municipal charges. These charges can be a substantial burden for homeowners trying to keep their properties amidst rising real estate values and maintenance costs. We recently surveyed homeowners in East New York, Brooklyn, a community home to thousands of working- and middle-class homeowners, most of whom are people of color. Only 18% of homeowners surveyed reported that they had income left over each month after paying all their bills, while 58% said they break even, and 24% reported that they have to borrow or use credit cards to cover their regular expenses.[1]

A recent report from the NYC Comptroller demonstrated that property taxes place a disproportionate burden on lower-income homeowners. For homeowners making below $50,000 per year, their property tax burden is 12.7%, as compared to higher income homeowners, whose burdens are between 2% and 6%. The study also found that property taxes have soared since 2005 for homeowners across the income

[1] Center for NYC Neighborhoods, East New York: Preserving Affordability in the Face of Uncertainty, Oct. 2017. Available at: https://cnycn.org/eastnewyork/

spectrum, while incomes have only risen moderately overall and have actually decreased for the lowest income homeowners.[2]

Rising tax burdens also put more LMI homeowners at risk of having their liens sold through the City's annual tax lien sale. As we have testified at previous hearings, the lien sale causes severe financial hardships for the hundreds of homeowners who have their liens sold each year, and thus presents significant challenges to our mission of promoting and protecting affordable and sustainable homeownership in New York City. In November 2016, the Center joined with our fellow members of the Coalition for Affordable Homes to release an analysis of the tax lien sale's impacts on homeowners of Class 1 properties (properties with 1-3 units).[3]

The analysis confirmed many of the Center's concerns about the lien sale –specifically its disproportionate impact on communities of color, the steep interest and fees charged to homeowners, and the loss of affordable housing in New York:

- **The tax lien sale disproportionately impacts communities of color.** Tax liens that are sold through the City's lien sale are heavily concentrated in communities of color, the same communities that have been hard hit by predatory lending and high rates of foreclosure. For Class 1 liens sold in 2016, the analysis found that the City is six times more likely to sell a lien in a majority African American neighborhood than in a majority white neighborhood. The City is twice as likely to sell a lien in a majority Hispanic neighborhood than in a majority white neighborhood.

- **Once sold to private investors, debts to homeowners mount quickly.** While homeowners may enter into the tax lien sale with relatively little debt, interest rates and fees often double in a relatively short period of time. The Coalition for Affordable Homes analysis of a sample of lien sale payoff statements found that the median debt of $6,562 increased by 65 percent to $10,847 once fees and interest rates were included. Homeowners in the sample paid an average of $2,730 in legal expenses, an excessive amount. These debts can further destabilize homeowners who were already in a precarious financial position.

- **The tax lien sale contributes to property turnover and speculation.** The communities most affected by the sale of Class 1 liens, such as East New York and Jamaica, are already those most impacted by speculative property transactions.[4] For homes that have liens sold, the analysis found that the tax lien sale process may contribute to the displacement of longtime homeowners and their renters: of Class 1 liens sold in Brooklyn in the 2011 lien sale, nearly half

[2] "Growing Unfairness The Rising Burden of Property Taxes on Low-Income Households", Office of Comptroller Scott Stringer, September 6, 2018. Available at: https://comptroller.nyc.gov/reports/growing-unfairness-the-rising-burden-of-property-taxes-on-low-income-households/

[3] Coalition for Affordable Homes, Compounding Debt: Race, Affordability, and NYC's Tax Lien Sale, Nov. 2016. Available at: https://cnycn.org/report-compounding-debt-tax-lien/

[4] Center for NYC Neighborhood, House flipping in NYC: How It Deprives New Yorkers of Affordable Homes, April 2018 Available at: https://cnycn.org/house-flipping-in-nyc-affordable-homes/

(42 percent) were sold within five years of the lien sale, compared to 13 percent of all such properties in the borough during that period.

The Proposed Legislation Would Help Preserve Homeownership for Low-Income Families

Given the negative consequences of the lien sale, the Center strongly supports reforms that would provide affordable payment options for lower-income homeowners and allow them to avoid the sale. Intro 1143 would expand financial options for homeowners at risk of default on municipal charges by providing means-based and deferred payment options, providing crucial assistance to low-income NYC families. We commend the de Blasio administration for seeking new options for LMI homeowners struggling with delinquent taxes, as well as the Council Finance committee for its advocacy on this issue. We support the legislation and have several recommendations for its implementation.

Means-based payment plans

Means-based payment plans allow homeowners to repay their arrears based on a set percentage of their income. They help lower-income families avoid displacement by lowering their payments to what they can afford. While a good fit for some property owners, the current installment plan can be exceedingly burdensome for families dealing with multiple financial strains such as cumbersome mortgage payments, sudden home repair costs, or unexpected medical bills.

By basing payments on a homeowner's ability to pay, a means-based payment option is well suited to meet the needs of the large population of financially precarious homeowners.

Deferred payment options

The Center has extensive experience with deferred loans through our New York State Mortgage Assistance Program (NYS-MAP). NYS-MAP provides essential interest-free deferred loans for homeowners homeowners so they can avoid foreclosure by paying off mortgage arrears or by satisfying tax liens. Unfortunately, the current NYS-MAP program has a limited lifespan and will most likely be fully subscribed by summer of 2019.

Deferred loans are a good option for lower-income senior homeowners, relieving them from the month-to-month strain of making payments and freeing up money to address other critical housing and medical needs. Today, about a third (349,000) of homeowners in New York City are age 65 or older, and this number is likely to grow in the coming years. Of these, nearly two thirds are moderate- or low-income.[5] Easy-to-understand, accessible payment options are crucial in order to allow these lower-income senior homeowners to age in place.

Recommendations

We believe that these new installment plan options represent a significant step forward for the City. Based on our experience working with financially-vulnerable LMI homeowners, we believe that several

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[5] Center for NYC Neighborhoods, Aftermath: Affordable Homeownership 10 Years After the Crisis, Oct. 2018. Available at: https://cnycn.org/affordable-homeownership-10-years-after-the-crisis/

measures can be taken to ensure that these plans are accessible to and utilized by the homeowners who need them most.

Reduce barriers in the application process

We fear that the bill's current procedures for installment plan applications and renewals may be too onerous for many homeowners who are in need of this assistance, particularly seniors. We recommend the following measures:

- Consider how to implement and communicate the title search and appraisal requirements, as they may confuse applicants or discourage them from applying. The bill currently gives applicants the secondary option of having the title searches and appraisals conducted by the City. However, it may be more straightforward to have the City take on these requirements as the default option.
- The requirement that all owners of the property sign the application will hinder applicants with complicated family situations. We recommend that there be some leeway on this rule at the discretion of the administering agency.
- The requirement that homeowners submit renewal applications every year has the potential to needlessly reduce installment plan uptake by those who need it. We recommend that rather than requiring renewal applications, the agency draws on other data sources to determine the ongoing eligibility of recipients of the senior low-income installment agreement.
- The bill proposes limiting the value of liens subject to a payment plan to 25% of the applicant's net equity in the property for homes and 50% for condos. While this approach has some merit for the deferred senior option, we recommend that it not be part of the criteria for the other installment plans since it would limit their usefulness without added benefit to the city.
- The hospitalization, nursing home, and rehabilitation facility exemption to primary residence requirements for seniors should be administered in an easy-to-understand and minimally burdensome way.

Adjust income eligibility

- Aligning income eligibility for the senior low-income installment agreement with the Senior Citizen Homeowners' Exemption (SCHE) will allow for eligibility to be cross-referenced between the programs and potentially ease the renewal process for the installment plan. The current proposed upper income limit for the installment plan is $50,000, while it is $58,399 for SCHE.
- Among non-senior applicants to the NYS-MAP seeking to pay off tax liens, 42% earned more than $50,000. This suggests there is a need for more affordable tax payment options at higher incomes. We propose increasing the income limit to at least the SCHE threshold if not higher to accomodate families in need. The installment agreements could be structured with tiered interest rates: higher income applicants (perhaps $50,000 to $80,000) could be deemed eligible but subject to higher interest rates than applicants with incomes below $50,000.

Lien subordination and mortgages

- Intro 1143 does not provide guidance on what position the installment plan liens will have in relation to other liens on the property. If the installment plans liens are not subordinate to mortgage liens they may trigger defaults by mortgage servicers.

Beyond installment agreements: Preserving low-income homeownership
Intro 1143 will help these low-income New Yorkers by providing an opportunity to address their tax arrears, but heavy tax burdens for LMI homeowners may well mean that the number of homeowners in this vulnerable position will increase.

- In addition to new installment agreements, we need to enhance the tax credits, exemptions, and abatements available to low-income homeowners to ensure that they are not unfairly burdened or forced out of gentrifying neighborhoods. Cities around the country have implemented progressive "circuit breaker" measures or homesteading exemptions which aim to preserve the homeownership of vulnerable families in the context of hot housing markets.[6] New York City should do the same as part of a comprehensive property tax reform effort.
- The need for condo owners to submit an appraisal of the fair market value of their home also highlights the problematic nature of the current system for appraising condos and coops. Condos are valued based on the value of nearby rental properties rather than homeownership units, creating frequent inaccuracies. We believe that a comprehensive property tax reform effort should assess and tax these properties in a similar manner as Tax Class 1 properties.

Program administration should be sensitive to homeowner needs

- In cases of homeowner default on the new installment programs, thorough notice is key to ensure that families have every opportunity to get back on track. We would be happy to partner with City Council and the de Blasio administration in developing outreach and communication strategies to homeowners.
- We know that more often than not, homeowners struggling to keep up with their municipal charges are also dealing with other financial and legal difficulties. Screening for the installment plans should involve referrals to other essential services.

We welcome the opportunity to work the Department of Finance, Chair Dromm, and the committee to ensure that Intro 1143 fulfills its promise and delivers much-needed assistance to low-income homeowners. Thank you for the opportunity to testify.

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[6] Institute on Taxation and Policy, Property Tax Circuit Breakers in 2017, Sept. 2017. Available at https://itep.org/property-tax-circuit-breakers-in-2017/