

Testimony of The Legal Aid Society Before a Joint Oversight Committee
Hearing on Int. No. 26
to Amend the Administrative Code of the City of New York
in Relation to the Sale of Water Liens
held by the
New York City Council
Committee on Finance and Community Development

May 6, 2010

The Legal Aid Society is the oldest and largest provider of legal assistance for low income families and individuals in the United States. The Society's Civil Practice operates 14 neighborhood offices and city-wide units serving residents of all five boroughs of New York City, providing comprehensive legal assistance in housing, public assistance, and other civil areas of primary concern to low income families and individuals.

We appreciate the opportunity to testify before the Committee.

New York City is in the midst of a tidal wave of home foreclosures. Yet, at the same time, the City is poised to conduct its yearly sale of tax liens to a trust which further exacerbates this crisis by putting several thousand low income and elderly homeowners at risk of losing their home. Based on the 10-day notice list, the anticipated tax lien sale will affect over 9000 New Yorkers who own homes with one-to three units (Class 1 properties) alone. Of these over 7000 liens are being sold based solely on arrears for water and sewer

charges. While the sale of liens based on unpaid property taxes require arrears of three years, water liens can be sold based on arrears of only one year. The sale of so-called 'stand-alone' water liens was authorized by local law in 2007, presumably to lower tax delinquencies. However, this policy has had a deleterious effect on low income homeowners who may stand to lose their home for arrears of as little as \$1000. Moreover, sales based on such stand-alone water liens disproportionately affect communities of colors which are already devastated by the overall foreclosure crisis.

The harsh effects of the overbroad application of the tax lien process are particularly felt by low-income senior citizens. Many have paid off their mortgages and may no longer pay their taxes to the lender as part of their monthly payments. Quarterly tax bill may involve several hundred dollars which many seniors on fixed income cannot afford. Although current law exempts low income homeowners from lien sale whose property taxes are reduced pursuant to the Senior Citizen or Disabled Homeowners exemptions, many elderly homeowners are not made aware of such programs and failing to apply remain subject to the lien sale. Moreover, eligible homeowner can only apply once a year to qualify for such exemption for the next fiscal year.

Once the tax debt is sold the trust can charge interest on the lien at the exorbitant rate of 18% compounded daily, turning what started out as a minor delinquency into a major crisis for the homeowner and ultimately resulting in the trust foreclosing on the home.

The bill before this Council, Int. 26, which would amend Sections 11-319 and 11-320 of the Administrative Code of the City of New York, if enacted represents a first step in mitigating the harm caused by the sale of stand-alone water liens to home owners. The bill would extend the period of delinquency from one year to three years; increase the number of seniors who would be exempted from the lien sale; require the Commissioners of the Department of Environmental Protection in conjunction with the Commissioner of Finance to use "best efforts" to identify homeowners eligible for exemptions from lien sales and provides the Commissioner with discretion to exclude such properties from the lien sale; extend to 120 days the notice period required prior to the tax sale; and require the Commissioner of Finance to provide owners of class 1 properties on a quarterly basis with comprehensive information on lien sales and the various property tax exemptions which may exclude certain properties from lien sales.

As critical as these amendments to the Code are, we believe that additional changes would further protect homeowners from the harsh consequences of the tax lien sales. In particular, the enhanced exemptions contemplated for water lien sales should be extended to property tax liens as well. And homeowners who are identified by the Commissioner as eligible for one of the enumerated exemptions should be removed entirely from the pool of the tax lien sale. This would not only ensure consistent treatment of vulnerable homeowners but simplify the administration of the lien sale by eliminating the case-by-case review. Also, where the sale was conducted in error, the City should reverse the sale and

restore the homeowner to the position they would have been in but for the erroneous sale.

However, pursuant to Section 11-319(b) the law authorizing tax lien sales sunsets by the end of this year which should provide the City Council with the opportunity to reevaluate its approach to tax lien sales, especially as it affects owner-occupied class 1 homes in low income neighborhoods. Such reevaluation should include an analysis of the social and fiscal impact of tax lien foreclosures on families and senior citizens and on their communities, and, moreover, should consider a complete exemption of owner-occupied homes from the tax lien sale in conjunction with providing delinquent homeowners with affordable plans to cure their tax arrears.

CONCLUSION:

Thank you again for the opportunity to testify before the Committee.

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