

Testimony before the New York City Council Finance Committee
Intro 26—A local law to amend the administrative code of the City of New York in relation
to the sale of water liens
May 6, 2010

Thank you, Council Member Vann for your leadership and support of tax lien reform and all of the Council Members who are co-sponsors of Intro 26 — a local law to amend the administrative code of the city of New York in relation to the sale of water liens. I am Herman DeJesus, Senior Program Associate at the Neighborhood Economic Development Advocacy Project (NEDAP), a resource and advocacy center that works with community groups to promote financial justice in low-income communities and communities of color.

With thousands of one- to three-family homes on the 2010 lien sale list, the sale of both property tax and water/sewer liens is a massive problem. Both this year and in past years, tax and water liens are disproportionately concentrated in New York City's communities of color —the same communities that have already been hard hit by predatory lending, foreclosure and the worsening economy. Changes to the lien sale system are critical to strike a balance and ensure that low income families who are struggling to stay afloat and make ends meet do not have the added burden of paying 18% interest and high fees to a private collector, rather than working out an equitable solution with the City.

Stand alone water liens are a particular problem. Because a stand alone water lien can now be sold after only one year of nonpayment, a huge number of stand alone water liens now dominate the lien sale, putting struggling homeowners and communities at particular risk. In the latest lien sale, for example, more than 4/5 of the liens on Class One properties in some of the City's most distressed neighborhoods are stand alone water liens. Amending the administrative code of the City of New York in relation to water liens is certainly a good first step to assist struggling homeowners preserve their homes.

NEDAP supports the amendments included in Intro 26 that would:

- extend to three years the minimum period of partial or full nonpayment of tax liens before a sale may occur;
- extend to 120 days the notice period required before a tax lien may be sold;
- exempt a broader range of senior citizens and low-income homeowners from water lien sales;
- require the Commissioner of Finance to try to identify elderly, disabled and low-income homeowners who are eligible for such exemptions;
- give the Commissioner discretion to exempt such homeowners from water lien sales;
- require the Commissioner to provide homeowners written information on the tax lien sale process and the exemptions available each quarter.

In particular, NEDAP believes that the extension to three years the minimum period for water arrears to be converted to a lien, will help to mitigate the for a water lien Your efforts to limit the damage caused by water lien sales are commendable, but we think that further changes are required to protect homeowners most at risk of losing their homes and equity because of a lien sale.

The exemptions from the tax lien sale must be expanded to include all owners of one- to four-family homes. Currently, homeowners must self-identify if they are eligible for an exemption. This means that many homeowners who may be eligible are not identified and therefore have the lien on their property sold. This costs the homeowner more money and can lead to foreclosure. If all one-to four-family homes were exempted from the lien sale, the City could still collect the arrears by entering into affordable payment agreements with homeowners.

All exemptions should apply not only to water liens, but also to property tax liens. Many of the exotic loan products, which were targeted to African American and Latino communities do not escrow real estate property taxes. Homeowners were given the impression that they had a low-cost loan, but when the separate property tax bill came, they were unable to afford both the mortgage and tax payments and therefore built up arrears. Likewise, many homeowners are unpleasantly surprised when they receive outrageous water bills. Not to mention a 14% increase in rates two years in a row! Both categories of lien sales have had devastating effects on struggling homeowners. Given the fact that the enabling legislation will sunset in 2010, they should be considered jointly.

Should exemptions of all one- to four-family homes not be established, then homeowners who are identified as eligible for exemptions must be removed from the lien sale pool. It has been NEDAP's experience that the overwhelming majority of homeowners who may be eligible for exemptions are unaware of the exemptions and therefore of their eligibility. Take Mr. W a homeowner in Brooklyn. He and his wife have owned their home for over 10 years. He is now retired, but worked for the city. His wife is also retired. They should have qualified for the senior citizen's exemption, but didn't know about it. Because of illness they were unable to pay their property tax bill and went into the lien sale. They are now facing foreclosure—and the \$15,700 that they owed has now jumped to \$27,000—on a three year debt! Luckily, they are in the process of getting a loan through NEDAP's Foreclosure Prevention Gap Loan Program and will be able to save their home. This change would ensure consistent treatment of vulnerable homeowners and will simplify administration of the lien sale program by eliminating the need for a case by case review.

The minimum debt owed prior to a lien being sold should be raised to \$5,000. Increasing the minimum will allow the homeowner a greater chance to seek resolution to the debt before facing the risk of losing his or her home.

The amended code must contain a remedy for homeowners whose liens are erroneously sold. In order to prevent irreparable harm to homeowners in this situation, the code must provide a means for the City to defect erroneously sold liens at no cost to the homeowner.

NEDAP worked extensively with many organizations, community boards and elected officials in early 2009 to inform homeowners of the lien sale. We attended dozens of meetings over a four month period to alert communities and homeowners of the upcoming sale, possible exemptions and how to apply if they were eligible. Despite our efforts (and the efforts of DOF and DEP staff) there were still thousands of tax liens sold. Over 4,000 were stand alone water liens on one- to three-family homes. We are regularly contacted by homeowners who are facing foreclosure because of the lien sale. We have been able to help some of them through our Foreclosure Prevention Gap Loan Program which was created to help homeowners seeking affordable loan modifications but who needed a small sum of money to complete the transaction. Since the last lien sale we have been getting more and more calls from advocates and homeowners with unaffordable tax liens bills which threaten their continued ownership.

So many homeowners and neighborhoods are suffering during this economic crisis, the same homeowners and neighborhoods that are reeling from abusive loans and foreclosure. It is short sighted to sell liens to investors and enrich Wall Street at the expense of our Main Streets. Thank you.