

Series: Local Laws

Box# 050313

Local Law 45

In rem, one year period, Int.

No. 956-A

1976

NY NO 956-A

Reduction of time, foreclosure of 1st lien

CHARTER & GOVERNMENTAL OPERATIONS

Affiliated Property Owners -

2nd, Kego, Richmond - 5/10/76 - Against

Real Est Bldg Inc - 8/2/76 - Approval

Strand Realty Corp - 9/13/76 - appears

And H. Hill - 9/13/76 - appears

5-14-76 -20

M-374-Report of Committee
in 5/7/76

8-10 -76

G.O. - as

amended

A.L.D. 8/27/76

H.O. 9/16/76

L.L. 45/76

DARK

COPY

8/13 - File furnished by
The Council of My Law Associates
36 W 44 St
NY NY 10036

By Roger Cunningham (840-1541)

LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1976

No. 45

Introduced by Mr. Sadowsky, the Vice-Chairman (Mr. Cuite), Mr. Steingut, Ms. Friedlander, Messrs. Wagner, Stern, Gerges, Spigner, Vallone and Rev. Gigante—

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the reduction of the period of time after which a proceeding for foreclosure of a tax lien by action in rem may be begun.

Be it enacted by the Council as follows:

Section 1. Section D17-4.0 of title D of chapter 17 of the administrative code of the city of New York is hereby amended to read as follows:

§ D17-4.0. Foreclosure by action in rem.—Whenever it shall appear that a tax lien which has been due and unpaid for a period of at least one year from the date on which the tax, assessment or other legal charge represented thereby became a lien, such tax lien, except as otherwise provided by this title, may be summarily foreclosed in the manner provided in this title, notwithstanding the provisions of any general, special or local law and notwithstanding any omission to hold a tax sale prior to such foreclosure. Ownership by the city of a transfer of tax lien or of a tax sale certificate or of any other instrument evidencing such tax lien shall be evidence of the fact that the tax, assessment or other legal charge represented thereby has not been paid to the city or assigned by it.

§ 2. Subdivision a of section D17-13.0 of such title, chapter and code is hereby amended to read as follows:

a. The commissioner of finance may, prior to final judgment, withdraw a parcel from a proceeding under this title for any of the following reasons: (1) a question which the commissioner deems meritorious has been raised as to the validity of the tax liens affecting the parcel, (2) the city collector, has accepted a payment of all taxes and interest which rendered the parcel subject to foreclosure hereunder because the records in his office indicated that the principal amount of such taxes was exceeded by the principal amount of subsequent taxes which would not have rendered the parcel subject to foreclosure hereunder and which had been paid prior to the commencement of said proceeding, (3) on or before the last date for redemption an agreement was duly made, executed and filed with the commissioner of finance, for the payment of the delinquent taxes, assessments or other legal charges and interest and penalties in installments, the first of which was equal to at least twenty-five per centum of such arrears and was payable upon filing of the installment agreement with the commissioner of finance and each remaining installment of which was equal to at least an amount produced by dividing the balance of such arrears by the number of quarters of such arrears which are outstanding at the time of filing the agreement but in no event less than six and twenty-five one hundredths per centum of the balance of such arrears, and was payable quarterly with each quarterly payment of cur-

rent taxes, assessments or other legal charges, and there has been no default in such agreement or (4) in cases where the tax foreclosure action can not be maintained such as, but not limited thereto, where the charges which rendered a parcel subject to foreclosure hereunder have been cancelled or were paid before the commencement of the foreclosure proceeding but such payment was not reported or did not clear for payment until after the commencement of said proceeding, or where a name and address appearing on an owner's registration card or an in rem card filed pursuant to section D17-16.0 or D17-17.0 of this title and contained in the files of the city collector did not appear in the mailing list used by the commissioner of finance for mailing notices of foreclosure in such proceeding.

§ 3. If section one of this local law or the amendment made by such section to section D17-4.0 of title D of chapter seventeen of the administrative code of the city of New York shall be declared by final order or decree by any court of competent jurisdiction to be invalid or unconstitutional, the provisions of section D17-4.0 of the administrative code as they existed immediately prior to their amendment by this local law shall be deemed to be revived and to be in full force and effect thereafter; in the event of such declaration of invalidity or unconstitutionality, the amendments made by section two of this local law to subdivision a of section D17-13.0 of title D of chapter seventeen of the administrative code of the city of New York shall be deemed to have expired and the provisions of said subdivision a of section D17-13.0 of the administrative code as they existed immediately prior to their amendment by this local law shall be deemed to have been revived and to be in full force and effect thereafter.

§ 4. Except as otherwise provided in section three hereof, if any section of this local law or the amendments made by such section shall be finally adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate any other section of or amendment made by this local law, but shall be confined in its operation to the section or amendment directly involved in such judgment, or to the person and circumstances therein involved.

§ 5. This local law shall take effect on January 1, 1977.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, S.S.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on September 16, 1976, and approved by the Mayor on October 6, 1976.

DAVID N. DINKINS, City Clerk, Clerk of the Council.

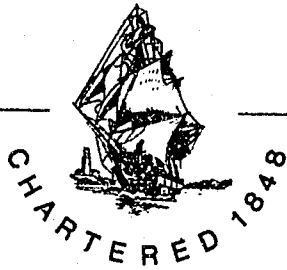
CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW SECTION 27

Pursuant to the provisions of Municipal Home Rule Law Section 27, I hereby certify that the enclosed local law (Local Law 45 of 1976, Council Int. 956-A) contains the correct text and, received the following vote at the meeting of the New York City Council on September 16, 1976: 26 for, 11 against.

Was approved by the Mayor on October 6, 1976.

Was returned to the City Clerk on October 7, 1976.

STANLEY BUCHSBAUM, Acting Corporation Council.



DRY DOCK SAVINGS BANK

742 LEXINGTON AVENUE - NEW YORK, N. Y. 10022 (212) 644-6000

JOSEPH E. KAHT
SENIOR VICE PRESIDENT
& ATTORNEY
(212) 644-6143

September 13, 1976

Honorable Thomas J. Cuite
Vice Chairman
The Council
New York, New York 10007

Dear Mr. Cuite:

We wish to record our opposition to the Bill
(Int. No. 956-A) which would shorten the "in rem" fore-
closure proceeding from three years to one year.

Although we are in favor of reforms and methods
which would enable the City to collect its taxes promptly,
we feel that this bill is deficient and will if passed
result in increased abandonment of property in New York City.

As a result of tax lien foreclosures, purchasers
will undoubtedly apply for reductions in assessments, thereby
shrinking the tax base. We also believe that the City will
wind up with a large amount of property which it is in no
position to manage.

The proposed legislation would create problems for
commercial properties which we feel would be permanent. We
believe that indications of improved rental conditions tend
to show that the problem being faced by commercial properties
may well work itself out in a year or two and we therefore urge
that this Bill be defeated.

Very truly yours,

JEK:ad



THE BROOKLYN SAVINGS BANK

Main Office
CORNER OF FULTON AND MONTAGUE STREETS
BROOKLYN, NEW YORK 11201
212 624-4100
IN THE BROOKLYN CIVIC CENTER

September 16, 1976

Hon. Thomas J. Cuite
Vice Chairman
The Council
New York, N.Y. 10007

Dear Mr. Cuite:

A bill (Int. No. 956-A) which would shorten the period from three years to one year before which an "in rem" foreclosure proceeding for non-payment of real estate taxes, has been reported favorably by the Council committee to which it was referred and we have been advised it should come before the full Council for vote sometime in September.

We would like to take this opportunity to advise you that we are opposed to this measure and urge that this bill be defeated.

Very truly yours,

Harry A. Baierlein, Jr.
Vice President & Mtge. Officer

AV



PARK T. ADIKES
CHAIRMAN OF THE BOARD

Jamaica Savings Bank

303 MERRICK ROAD
LYNBROOK, N.Y. 11564
516-887-7000
212-895-2600

September 20, 1976

Honorable Thomas J. Cuite
Vice Chairman
The Council
New York, New York 10007

Dear Sir:

I write to comment on Int. No. 956-A which would shorten the "in rem" foreclosure from three years to one year. There seems to be much to be said in favor of any action which would cause real estate taxes to be paid as they become due. This is based on good business logic, and the City's current need for cash, due to its fiscal crises. On the other hand, short-term solutions which create long-term problems have been the cause of so many of the City's ills. This particular action fits exactly into that prior unfortunate pattern.

I believe that the real fault in the City's taxing procedure is in the failure to reduce assessed valuation and, therefore, taxes, as property values decline and income generated becomes inadequate to meet operating expenses and taxes. The power to tax is truly the power to destroy. The assessed valuation on many of the properties in the City of New York is far above current realistic valuation, and current ability to generate cash flow to pay operating expenses and taxes. The effect can only be a loss of hope by the owner and a desperate act to capture whatever sums may be available to reduce the loss on a bad investment, rather than to maintain, and even improve the property.

By setting and then retaining excessive valuations, the City administration is confiscating and destroying the very assets upon which the credit of the City was built. It is said that "Justice delayed is justice denied". In the case of appeals from excessive valuation, the delay in securing reduction through negotiation and ultimately certiorari, effectively denies justice to the owners of the property.

If the City were required to pay any property owner the amount of the assessed valuation of the property, if he should choose to sell it to the City, you would find an astonishing number of deeds tendered immediately. Yet, in fact, by setting and holding assessed valuations

Honorable Thomas J. Cuite
Vice Chairman
The Council

September 20, 1976

the City represents that value is really there. In fact, both you and I know that it is not.

I am sure you and all members of The Council will recognize that this is the problem that must be dealt with and dealt with soon, if the City is to survive. Further acts to increase the harassment of property owners, such as the above mentioned bill, is a step in the wrong direction at this particular time.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Paul J. Quirk".

Chairman

PTA:jmc
cc: Mayor Abraham Beame

CHARLES WALD & RICHARD WALD
ATTORNEYS AT LAW
145 EAST 49TH STREET
NEW YORK, N. Y. 10017
TELEPHONE 753-7833

September 17, 1976

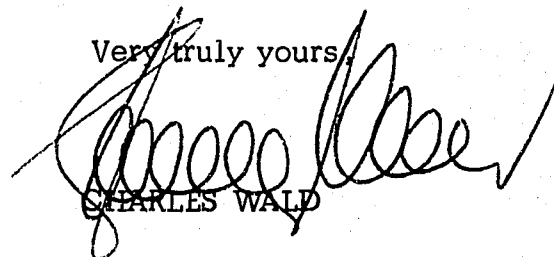
Hon. Thomas J. Cuite, Vice Chairman
The Council
New York, N.Y. 10007

Dear Sir:

Bill Int. No. 956-A is so self-defeating that I find it very difficult to understand how the council can entertain it. Not only will the city get back more property, which it obviously cannot handle, but if you take the property away from the owner (really a janitor at this time) and resell it at a much lower price, which it will have to do, then the total assessed valuation of New York City's properties will be substantially reduced and tax collections will be substantially reduced and the city will continue plunging further and further down until it becomes like Newark.

I represent small and medium sized property owners and I know the situation at first hand; can't we bring some sanity to the City's legislature - - it is already very late.

Very truly yours,



CHARLES WALD

CW:sk

9/15/76

Honorable Thomas Chite
City Council - City Hall
NYC 10007

Dear Councilman:

I am writing to you in opposition to bill
Int.No.956-A.(In Rem Foreclosure Legislation).

In my own case this legislation will result in
abandonment of our property.

Things must be done by the City Council that
will make it possible for the owners to have
enough funds from the rents to pay the taxes.

The taxes are going up as are all other
operating costs,while the rents are "controlled",
which is grossly undemocratic.

As it is now the city cann't manage the
already thousands of buildings that are
abandoned - with the new bill there will be
many more buildings for the city to manage,
and these buildings will be out of the tax
picture altogether (not paying taxes at ALL).

I await your reply.

Respectfully yours,

Moses Winner

Moses Winner
concerned owner

323 Kingston Ave
B'klyn,NY 11213



GERRITSEN BEACH

Property Owners Ass'n. inc.

Agnes V. Kennedy, Civic-Chairlady
73 Abbey Court, Bklyn. N.Y. 11229

Hon. Thomas Cuite, President
The City Council
City Hall, N. Y.

September 17, 1976

Dear Mr. Cuite:

Re: Sadowsky Bill No. 956A

We vehemently protest the passage of the above bill by the Council which deals with foreclosure of real estate taxes in arrears more than one year.

Our Association has been actively engaged, for many years, in helping our deprived homeowners, senior citizens, pensioners, and those on fixed incomes, and those who have had long periods of illness, and those who are experiencing mental depression because of a change in their financial condition. We have been their watchdog and have been able to just about keep them out of "REM", in some cases paying back taxes ourselves. It is hard for them to get caught up. You see we care about our homeowners who have been living in our community for about 50 years.

We are aware of the reductions in assess valuations that have been meted out to big corporations, large realty interests, marinas, and large hotels, which have caused a loss to the City of New York of billions of dollars in real estate taxes. We protested this wheeling and dealing several years ago. We also protested the large scale tax abatement privileges afforded to a chosen few.

We have the real estate leeches who are just waiting to get their foot in the door to take over our one and two family homes that will wind up in the hands of the City if they become delinquent more than a year. Welfare is all around us, - people getting everything for nothing. Here we have some poor souls who have been paying taxes for years and who now find themselves in danger of losing their homes. Does the City want them to also go on welfare and have to pay out more than they would receive in late taxes?

We go along with Councilman Leon Katz and think that the one and two family taxpayer paying no more than \$2000 in real estate taxes, should be eliminated from this Bill. We beg of you to listen to Councilman Katz and reconsider this Bill and amend it in accordance with the Councilman's wishes.

Respectfully yours

Agnes V. Kennedy
Civic-Chairlady

Mrs. John J. Kennedy

509 Madison Avenue
New York, New York
September 17, 1976

Hon. Thomas J. Cuite, Vice Chairman
The Council
New York, New York 10007

Re: Int. No. 956-A

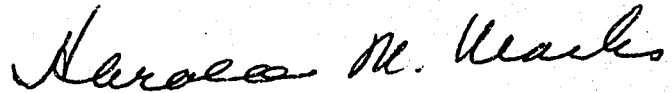
Gentlemen:

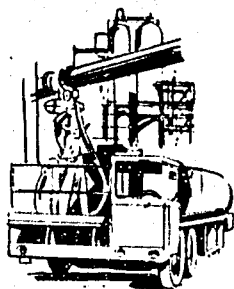
As a concerned owner of New York City real estate, I strongly oppose passage of the above mentioned bill, re "in rem foreclosure.

This bill can only hasten the already deteriorating housing industry, and create more havoc on an industry that is already over-burdened.

I strongly urge you to vote against this legislation.

Very truly yours,


Harold M. Marks



D. Calleia
INCORPORATED

3298 ATLANTIC AVENUE
BROOKLYN, N.Y. 11208
(212) 647-0700

PUMP OUTS • SQUEEGIE CLEANING • BURIED & VAULTED TANKS • MANHOLES

September 20, 1976

Hon. Thomas J. Cuite
Vice Chairman
The Council
New York, New York 10007

Dear Mr. Cuite:

Our company being in the business of cleaning fuel oil storage tanks for landlords in New York City, is very much aware of the problems of the real estate landlord.

In reference to Int. No. 956-A, In Rem Foreclosure legislation, we are definitely against shortening the period from three years to one year on In Rem Foreclosures. Some of our reasons being -

- It would definitely result in increased abandonment of property
- The City will end up getting reduced real estate taxes upon resale of the property they do take over
- The City will end up with a large amount of property which they absolutely cannot manage

Mr. Cuite, we beg your assistance in defeating this bill.

Yours truly,

D. CALLEIA, INCORPORATED

David Calleia

DC:cb

J MCCORD
2792 BATCH ELDER
BROOKLYN NY 11235

 **Mailgram**[®]
western union



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2126486813 MGM TDMT BROOKLYN NY 100 09-17 0222P EST

TOM CUITE COUNCIL MAJORITY LEADER
CITY HALL
NEW YORK NY 10007

BILL NO 956A MUST BE AMENDED TO EXEMPT DELIGUENCY WHEN THE ANNUAL TAX
BILL IS UNDER \$2,000.00. THE OWNERS OF ONE AND TWO FAMILY HOMES DO NOT
MEET THIS EXTRA BURDEN, IN THIS TIME OF HIGH UNEMPLOYMENT

THE PLUMB BEACH CIVIC ASSNOF SHIPSHEAD BAY

17:46 EST

MGMCOMP MGM

TO REPLY BY MAILGRAM, PHONE WESTERN UNION ANY TIME, DAY OR NIGHT:

FOR YOUR LOCAL NUMBER, SEE THE WHITE PAGES

OF YOUR TELEPHONE DIRECTORY

OR

DIAL (TOLL FREE) 800-257-2241

(EXCEPT IN NEW JERSEY 800-632-2271)

OR DIAL WESTERN UNION'S INFOMASTER SYSTEM DIRECTLY:

FROM TELEX 6161

FROM TWX 910 420 1212

JEFFREY MANAGEMENT CORP.

370 SEVENTH AVENUE

NEW YORK, N. Y. 10001

212 - 565-6557

September 16th, 1976

Hon. Thomas J. Cuite
Vice Chairman
The Council
New York, New York 10007

Dear Mr. Cuite:

I urge that you help defeat the "In Rem Foreclosure Legislation".

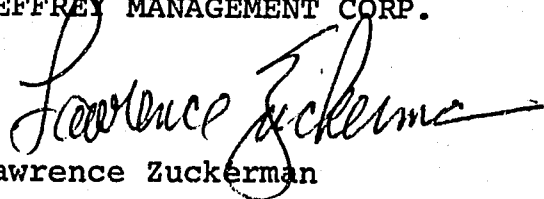
It is my opinion, as well as the opinion of the Real Estate Board of New York, Inc., that this legislation if enacted would further the deterioration of this city.

I am enclosing a copy of a letter from the Real Estate Board of New York, Inc. dated September 9th, 1976 outlining the opposition to the legislation.

I fully agree with them.

Very truly yours,

JEFFREY MANAGEMENT CORP.


Lawrence Zuckerman

LZ:mc
encl.

The Real Estate Board of New York, Inc.

12 East 41st Street, New York, N. Y. 10017

Telephone 212-532-3100



B U L L E T I N

September 9, 1976

IN REM FORECLOSURE LEGISLATION

A bill (Int. No. 956-A) which would shorten the period from three years to one year before which an "in rem" foreclosure proceeding for non-payment of real estate taxes, has been reported favorably by the Council committee to which it was referred. It should come before the full Council for vote about the middle of September.

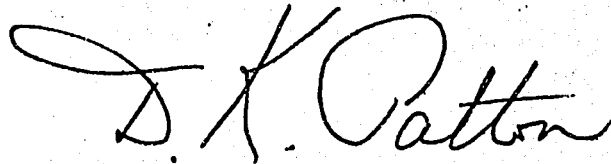
Your Board, on recommendation of its Legislation Committee, has recorded its opposition to this measure. We are of course in favor of reforms and methods which enable the City to collect its taxes promptly (including reform of the rent laws). In fact, many of our members went so far as to prepay taxes during the current fiscal crisis. However, we feel that this bill is self-defeating for the following reasons:

- ... It will discourage the already oppressed property owner and ultimately result in increasing the abandonment of property.
- ... If the tax lien is foreclosed and purchased at the foreclosure sale, the purchaser will immediately apply for an assessment reduction based on the small amount at which he acquired the property, thus permanently shrinking our tax base and transferring costs to other properties.
- ... The City will wind up with a large amount of property which it is in no position to manage.
- ... Commercial properties will be stripped of their tenants before being foreclosed and will be blighted for a considerable period of time.

.... /2

- ... Commercial properties with escalation clauses must wait more than a year to recoup tax payment from the tenants.
- ... The problems created by the legislation in commercial properties in particular would be permanent. Current indications of improved rental conditions tend to show that the problem being faced may well work itself out in a year or two. Current interest rates are such that owners are confronted with a penalty of about five percent over prime already. This is adequate to promote payment wherever means are available.

Members are urged to write to Hon. Thomas J. Cuite, Vice Chairman, The Council, New York, N.Y. 10007, urging that this bill be defeated.

A handwritten signature in cursive script, reading "D. K. Patton". The signature is written in dark ink and is positioned above the printed name and title.

D. Kenneth Patton
President

The Real Estate Board of New York, Inc.

12 East 41st Street, New York, N. Y. 10017

Telephone 212 - 532-3100



B U L L E T I N

September 9, 1976

IN REM FORECLOSURE LEGISLATION

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Members are urged to write to Hon. Thomas J. Cuite, Vice Chairman, The Council, New York, N.Y. 10007, urging that this bill be defeated.



D. Kenneth Patton
President

Hon. Thomas J. Cuite,
Vice Chairman, The Council,
New York, N.Y. 10007

Dear Mr. Cuite;

If you would take the time to find out what happens to a building when the city takes it on in Rem you would be surprised.

Last year we turned over 3 buildings and the Super said the tenants all quit paying rent immediately, two have been binned out and the third one fully rented and no violations was turned over to the Super and he could not collect rents and the city would not send any oil so the first freeze ruined the plumbing and the city moved all the tenants to the cheap hotels and the building then was completely vandalized. The city would fare better if they eliminated even the three year deal and go back to selling Tax liens to investors like they used to do.

ESTATE OF
EUGENE A. HOFFMAN
INCORPORATED

55 WEST 42ND STREET · NEW YORK, N. Y. 10036
736-4853

September 15, 1976

Hon. Thomas J. Cuite
Vice Chairman
The Council
New York, N. Y. 10007

Dear Sir:

I am writing in protest against the passage of a bill (Int. No. 956-A). This would shorten the period to one year from three years in which an "in rem" foreclosure for non-payment of real estate taxes could take place. This places an intolerable burden on those who for more than half a century have paid real estate taxes on time, and now due to conditions over which they have no control, namely the general economic climate of the country and New York City commercial real estate in particular, are faced with losing their property. I strongly urge you to reject this bill.

Sincerely,

Adams H. Nickerson

Adams H. Nickerson
President

AHN:MD

F. M. WEISS REALTY CORP.

120 WESTCHESTER SQUARE

• BRONX, N. Y. 10461 •

TEL: 892-9200

9/15/76

Hon Thomas J Cuite
Chairman, The Council
New York, NY 10007

Dear Mr Cuite:

We are strongly against Bill Int # 956-A which will shorten the period of the in rem procedures.

Our office has been paying taxes on our properties and we are current at this time.

What is needed is a positive approach by the City so that our buildings remain economically viable and in a position to pay taxes.

Unless we ~~as~~ owners receive some relief from City Council in the form of at least a fuel pass along we expect that our currently viable buildings will start to loose money and the first place that we will have to cut back is payment of taxes. All other expenses, such as payroll, electric, fuel and repairs will take precedent and the City suffers. We want to survive and we want the City to survive.

Please make every effort to enact positive legislation so that Real Estate and the City can weather this current economic storm.

Very truly yours,

F M Weiss Realty Corp

Robert E Weiss
Robert E Weiss

ESTATE OF
EUGENE A. HOFFMAN
INCORPORATED

55 WEST 42ND STREET • NEW YORK, N. Y. 10036
736-4853

September 16, 1976

Hon. Thomas J. Cuite
Vice Chairman
The City Council
City Hall
New York, N. Y. 10007

Dear Sir:

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Sincerely,

William H. Nickerson

William H. Nickerson
Vice President and
Secretary

WHN/ms



CITIZENS TAX COUNCIL INC.
230 PARK AVENUE • NEW YORK CITY 10017 • (212) 684-2236

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WILLIAM KAUFMAN Vice President
ROBERT V. TISHMAN Vice President
CHARLES B. BENENSON
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Jackson Management Corp.
HOWARD M. KASKEL President
Carol Management Corp.
WILLIAM KAUFMAN President
Willam Kaufman Organization
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LAURENCE A. TISCH President
Loews Corporation
ROBERT V. TISHMAN President
Tishman Realty & Construction Co., Inc.
WILLIAM ZIMMERMAN Partner
Zimmerman & Scanlan

May 12th, 1976

Michael M. Pocost, Esq.
Assistant Counsel
City Council
City Hall
New York, New York, 10007

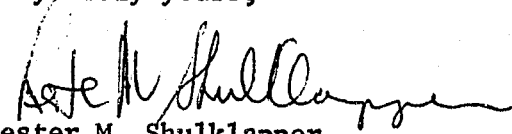
Re: Intro Nos. 956, 957, 958 and 959

Dear Mr. Pocost:

I regret that I will not be in the City to testify personally on May 14th, but I would greatly appreciate you and the Committee giving consideration to our comments that are submitted herewith.

Thank you for calling these matters to our attention.

Very truly yours,


Lester M. Shulklapper,
Executive Director

lgk
enc.



CITIZENS TAX COUNCIL INC.
230 PARK AVENUE • NEW YORK CITY 10017 • (212) 684-2236

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Zimmerman & Scanlan

May 14th, 1976

TESTIMONY OF

CITIZENS TAX COUNCIL

BY **LESTER M. SHULKLAPPER**
EXECUTIVE DIRECTOR

RE:

INTRO NOS. 956, 957, 958 and 959

The testimony of Citizens Tax Council will be directed at all four of the above Bills as a unit, rather than attempting to analyze and discuss each of these separately. This can be done since the intent of each of the laws is the same --- to force compliance and tax dollars from the property owner regardless of the individual circumstances.

The basic premise underlying this legislation is that the delinquency is a voluntary one and that non payment of realty taxes is the way of doing business in the City of New York rather than the exception. A number of headline cases where the non payment of taxes was voluntary has been used to support the need for this type of legislation. Punitive measures had been

*note amendment
to 959- 20% interest
10%*

ETC

attempted in the past to gain compliance with the code enforcement statutes in the City. This method was a dismal failure causing increased hardship and abandonment. Rather than proceeding with this type of counterproductive legislation, the Council should attempt to deal with the underlying conditions that cause these tax delinquencies to exist.

Insufficient income in both the commercial and residential sectors are at the root of the problem that the Committee is attempting to deal with. In the commercial sector vacancies have never been greater and we have not seen the number of foreclosures that are presently occurring within the City of New York since the depression of the 1930s. Businesses are continuing to leave the City and this will not abate as long as the conditions here are not conducive to their remaining. This legislation in no way attempts to deal with that problem. If anything, it goes in the opposite direction.

In the residential quarter you are trying to get blood from a stone. The owner is constantly faced with the option of making needed repairs, paying his oil bill, his maintenance salaries or paying his taxes. If he is foolish enough to want to retain the ownership of his building, what choice does he have. This legislation would make his situation that much more difficult and cause him to choose to invest in neither of the above.

Last year the Council imposed a record tax increase on the

ETC

property owner. This year you will impose another astronomical increase on the property owner. Now, you are considering legislation that is a further burden on these people. It is quite apparent that they make an unusually good target for this Council.

I would also be most interested in knowing what the City would do with the additional buildings that they acquire as a result of the accelerated in rem procedures. The City has shown itself to be totally incapable of handling its present housing stock and whatever buildings it takes title to fall into a greater state of disrepair, deservedly giving the City the status of the worst slumlord of all. I would suggest that if the Council in its wisdom passes Intro. Nos. 956, 957 and 958, that it amend Intro. No. 959 to include a twenty (20) percent reserve for uncollected real estate taxes instead of the ten (10) percent presently provided for in Intro. No. 959.

I urge that the Council not act on this legislation, but consider the true plight of property owners in this City. The disease causing the problem must be addressed by all branches of government and this cannot be cured by dealing only with one of the indicia of the malady.

The Real Estate Board of New York, Inc.

12 East 41st Street, New York, N. Y. 10017

Telephone 212-532-3100



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WILLIAM J. HUNTER *Exec. Secy. Management Div.*
JOHN R. O'DONOGHUE *Exec. Secy. Owners & Builders Division*

August 2, 1976

Michael M. Pocost, Esq.
Assistant Counsel to
the Majority Leader
The Council
City Hall
New York, N.Y. 10007

Re: Council Bill Int. No. 956

Dear Mr. Pocost,

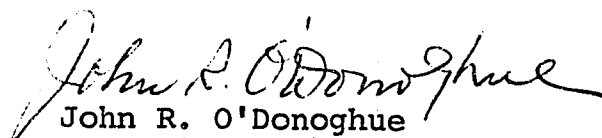
Thank you for your interest in requesting our comments on the above bill, in relation to proceedings for foreclosure of a tax lien by action in rem.

After consideration of this bill by our Legislation Committee, we have the following comments:

The principle problem with this amendment is its timing. Whatever else is happening to the economy, real estate is experiencing difficult times. Property owners who struggle and adjust in order to allow their property to recover from a bad experience by virtue of this bill will have an additional obstacle thrown in their way. It can only have a further depressing effect on an already depressed industry.

This bill is disapproved.

Very truly yours,


John R. O'Donoghue
Executive Secretary
Owners & Builders
Division

BERLEY & CO., INC.
REAL ESTATE & INSURANCE

MEMBER REAL ESTATE BOARD OF NEW YORK

SINCE 1919

BERLEY
& CO., INC.

11 EAST 36TH STREET
NEW YORK, N.Y. 10016

685-9810

September 10, 1976

Hon. Thomas J. Cuite
Vice Chairman
The Council
New York, New York 10007

Re: Bill Int. No. 956-A

Dear Honorable Cuite:


I must urge you to vote against the above captioned bill relating to the "in rem" foreclosure legislation which will shorten the period from three years to one year for the non-payment of real estate taxes. This proposed legislation is short-sighted and will only discourage owners from trying to work their property out of the serious dilemma facing all property owners in New York City.

The result will be depressed selling price of foreclosed property which will result in lower assessed valuation thereby shrinking our tax base and the City will wind up with property which it is in no position to manage.

Commercial buildings will not rent space in buildings whose reputation is damaged by an "in rem" foreclosure proceeding further compounding the problem.

Knowing that you have the future of the City at heart I trust that you will see to it that this bill is defeated.

Very truly yours,


WILLIAM BERLEY
President

WB/mr

from the desk of **Jeanne Jackson**

126 E. B'WAY

New York N.Y. 10002

Dear Hon. Thomas Cuete,

The council bill (INT. NO 956-A)
regarding in rem foreclosure
legislation must be
defeated. The truth is
many building are losing
money due to rent control,
welfare tenants, high fuel
& repair costs of maintaining
old tenements, taxes, etc.
I manage 15 old-law
tenements & everyone is losing
\$5000 - \$7000 a ~~month~~ month.

If you find this hard to
believe I'll be willing to open
up my books & prove this

paint. Without small
landlords ~~being~~ ^{being able to hold}
on to their properties, the
N.Y.C. real estate market is
falling apart already, due to
outside forces in which the
small landlord cannot contend
with financially or emotionally.

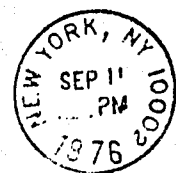
Yours, sincerely

Jeanne Jackson



LEE JACKSON AGENCY

126 EAST BROADWAY
NEW YORK, N. Y. 10002



Hon. Thomas G. Cuete
Vice Chairman

The City Council
New York NY 10007



STRAND REALTY CORPORATION
REALTORS

Real Estate and Mortgages

276 FIFTH AVENUE
NEW YORK, N. Y. 10001

TEL. MURRAY HILL 4-2626

Againt



Sept. 13, 1976

Hon. Thomas J. Cuite
The Council
City Hall
New York, N.Y. 10007

Dear Councilman Cuite:

I write in opposition to Int. No. 956-A, relating to unpaid real estate taxes.

The present rate, of 12% (except on small properties) would be usurious in most loans on property where an individual is the owner.

The usual mortgage forms provide that the mortgagee can foreclose for failure to pay real estate taxes. Therefore, if the property is doing reasonably well the mortgagee normally sees to it that taxes are paid (so as not to create a lien ahead of the mortgage).

I have heard the Commissioner of Real Estate say, publicly, that the City is not equipped to manage any substantial additional amount of real estate.

Yours truly,

Simeon H. F. Goldstein

Simeon H.F. Goldstein

Received

Samson Management Corp.

REAL ESTATE
MANAGEMENT



97-77 QUEENS BLVD.
REGO PARK, N. Y. 11374

(212) 370-3500 830-0131

September 14, 1976

Hon. Thomas J. Cuite
Vice-Chairman
The Council
New York, N.Y. 10007

RE: Int. No. 956-A

Dear Sir:

The Real Estate Board of New York, Inc. has brought to our attention that in rem foreclosure legislation has been reported favorably by the Council Committee.

We are large property owners and fortunately have never been in a position where in rem foreclosure proceedings were necessary. However, it seems to us that shortening the period from 3 years to 1 year would have disastrous effects. We are sure that New York City is not anxious to find itself burdened with foreclosing on large amounts of property. This would most certainly happen in the event the in rem proceeding period is shortened. The solution to the serious problems that now confronts the real estate industry is not this type of legislation. The City Council should address itself to the causes of non-payment of real estate taxes. The main causes are, of course, the unrealistic limitations imposed by Rent Control and Rent Stabilization. Obviously, if these limitations were lifted property owners would be in a better position to pay taxes. We realize that Rent Control is a politically volatile issue but someone must take a stand and have the courage of his convictions if we are to save our most valuable asset . . . the residential housing stock of the City of New York.

Very truly yours,

SAMSON MANAGEMENT CORP.

BY: 

ARNOLD GOLDSTEIN, Vice-Pres.

AG:mm

THE CITY OF NEW YORK
Intradepartmental Memorandum

To: Martha Holstein
From: Jerry Rosenthal


Date: August 20, 1976
Subject: City Council Intro.No. 956-A

As we discussed today, Intro. No. 956-A seeks to amend subdivision a of section D17-13.0 of the Administrative Code. I have just learned that subdivision a of section D17-13.0 was amended by Chapter 816 of the Laws of 1976 (S.8019), which was signed into law on July 26. The Council bill does not amend the same portion of subdivision a as was amended by Chapter 816; however, since the entire text of subdivision a is set forth in the Council bill it should reflect the changes made by Chapter 816.

Although I don't yet have a copy of Chapter 816, I am sending you a copy of S. 8019; subdivision a is set out starting on line 17 of page 3.

If you have any questions, please let me know.

JR:sw
Att.


Jerry Rosenthal

**POOR
QUALITY**

STATE OF NEW YORK

8019

IN SENATE

February 24, 1976

Introduced by Sen. FLYNN—read twice and ordered printed, and when printed to be committed to the Committee on Cities

AN ACT

to amend the administrative code of the city of New York, in relation to in rem tax foreclosure by providing for a severance as to parcels on which litigation is pending and by revising provisions relating to the effect of the entry of an in rem judgment of foreclosure, the issuance of certificates of withdrawal and the registration of owners and other interested parties

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1: Subdivisions c and f of section D17-9.0 of the administrative code of
- 2 the city of New York, as added by chapter eight hundred twenty-three of the
- 3 laws of nineteen hundred seventy-five, are hereby amended to read, respectively,
- 4 as follows:
- 5 c. A party who has interposed an answer as to property included in an in rem
- 6 tax foreclosure action shall have the right, at any time prior to the final dis-
- 7 position of a motion to strike his answer, to pay all taxes and interest owing on
- 8 said property. Such payment shall be made after written request to the finance
- 9 administrator for a statement of tax arrears. Where all tax arrears, together with
- 10 lawful interest thereon, are paid, the [judgment of foreclosure thereafter entered
- 11 in the in rem action should provide for the discontinuance of said action as to the
- 12 property on which such payment has been made and for the cancellation of the
- 13 lis pendens pertaining thereto] *finance administrator shall issue a certificate of*
- 14 *withdrawal as to the property on which such payment has been made pursuant to the*

EXPLANATION—Matter in *italics* is new; matter in brackets [] is old law to be omitted.

1 provisions of section D17-13.0 of this title. [Where such payment is made after
2 judgment of foreclosure has been entered in the in rem action, a further
3 supplemental order shall be entered in said action to provide for such discon-
4 tinuance and cancellation.] The request for a statement of tax arrears shall con-
5 stitute a waiver of the answering party's right to a severance from the in rem ac-
6 tion. If said answering party thereafter fails to pay the amounts set forth in said
7 statement within thirty days of the issuance thereof, the city shall acquire the
8 property as to which said statement was issued by including same in the
9 judgment of foreclosure to be entered in the in rem action. If judgment of
10 foreclosure has already been entered in the in rem action such property shall be
11 acquired by the entry of a supplemental judgment of foreclosure as to said
12 property.

13 f. Where an answer of the type described in subdivision e of this section is in-
14 terposed and taxes are paid within the period set forth in such subdivision e, the
15 [city shall discontinue the in rem action and cancel the lis pendens pertaining
16 thereto] finance administrator shall issue a certificate of withdrawal as to the
17 property on which such payment has been made pursuant to the provisions of section
18 D17-13.0 of this title. When taxes are not paid within the period set forth in such
19 subdivision e, it shall be deemed that there was no equity over the city's tax liens
20 and the answer shall be deemed to be without merit. The city in that event may
21 proceed to judgment of foreclosure against such property without moving
22 against the answer.

23 § 2. Section D17-9.0 of such code is hereby amended by adding thereto a new
24 subdivision, to be subdivision h, to read as follows:

25 h. The corporation counsel, when submitting an in rem judgment roll pursuant to
26 the provisions of this title, may request a severance as to any parcel on which litigation
27 is pending.

28 § 3. Subdivision b of section D17-12.0 of such code, as amended by chapter
29 eight hundred twenty-three of the laws of nineteen hundred seventy-five, is here-
30 by amended to read as follows:

31 b. The court shall make a final judgment awarding to the city the possession of
32 any parcel described in the list of delinquent taxes not redeemed or withdrawn as
33 provided in this title and as to which no answer is interposed as provided herein.
34 In addition thereto such judgment shall contain a direction to the finance ad-
35 ministrator to prepare, execute and cause to be recorded a deed conveying to the
36 city full and complete title to such lands subject only to tax liens accrued or
37 accruing subsequent to those contained in the list of delinquent taxes. Upon the
38 execution of such deed, the city shall be seized of an estate in fee simple absolute

1 in such land and all persons, including the state of New York, infants, in-
2 competents, absentees and non-residents who may have had any right, title, in-
3 terest, claim, lien or equity of redemption in or upon such lands shall be barred
4 and forever foreclosed of all such right, title, interest, claim, lien or equity of
5 redemption, *except as otherwise provided in section D17-25.0 of this title. The ap-*
6 *pointment and tenure of receivers, trustees or any other persons, including ad-*
7 *ministrators under article seven-a of the real property actions and proceedings law,*
8 *appointed by an order of a court to manage real property, shall terminate when title to*
9 *such property vests in the city pursuant to the provisions of this title. After such ter-*
10 *mination, said receivers, trustees or administrators shall be accountable to the courts*
11 *that appointed them for the faithful performance of their fiduciary obligations during*
12 *the term of their appointment and to the city for any rents and income received by*
13 *them for any period subsequent to the date of the vesting of title in the city.*

14 § 4. Subdivision a of section D17-13.0 of such code, as added by chapter
15 eight hundred twenty-three of the laws of nineteen hundred seventy-five, is here-
16 by amended to read as follows:

17 a. The finance administrator may, prior to final judgment, withdraw a parcel
18 from a proceeding under this title for any of the following reasons: (1) a question
19 which the administrator deems meritorious has been raised as to the validity of
20 the tax liens affecting the parcel, (2) the city collector[, on or before the last date
21 for redemption,] has accepted a payment of all taxes and interest which rendered
22 the parcel subject to foreclosure hereunder because the records in his office in-
23 dicated that the principal amount of such taxes was exceeded by the principal
24 amount of subsequent taxes which would not have rendered the parcel subject to
25 foreclosure hereunder and which had been paid prior to the commencement of
26 said proceeding, (3) on or before the last date for redemption an agreement was
27 duly made, executed and filed with the finance administrator, for the payment of
28 the delinquent taxes, assessments or other legal charges and interest and
29 penalties in installments, the first of which was equal to at least twenty-five per
30 centum of such arrears and payable upon filing of the installment agreement
31 with the finance administrator, and each remaining installment of which was
32 equal to at least two years of such arrears and was payable with each year of
33 current taxes, assessments or other legal charges, and there has been no default in
34 such agreement or (4) in cases where the tax foreclosure action cannot be main-
35 tained such as, but not limited thereto, where the charges which rendered a
36 parcel subject to foreclosure hereunder have been cancelled or were paid before
37 the commencement of the foreclosure proceeding but such payment was not
38 reported or did not clear for payment until after the commencement of said

1 proceeding, or where a name and address appearing on an owner's registration
2 card or an in rem card filed pursuant to sections D17-16.0 or D17-17.0 of this ti-
3 tle and contained in the files of the city collector did not appear in the mailing list
4 used by the finance administrator for mailing notices of foreclosure in such
5 proceeding.

6 § 5. Section D17-13.0 of such code is hereby amended by adding thereto a
7 new subdivision, to be subdivision e, to read as follows:

8 *e. The finance administrator shall issue a certificate of withdrawal whenever taxes*
9 *and interest are paid as to any parcel which was previously severed pursuant to*
10 *section D17-9.0 of this title because an answer or litigation was pending.*

11 § 6. Subdivision a of section D17-16.0 of such code, as added by chapter eight
12 hundred twenty-three of the laws of nineteen hundred seventy-five, is hereby
13 amended to read as follows:

14 a. The finance administrator shall maintain [in each of the borough offices of
15 the city collector] a file of owner's registration cards submitted by owners of real
16 property. Each such owner's registration card shall be signed by the owner or a
17 duly authorized representative and shall state the date on which it was filed, the
18 owner's full name and post office address and a description of the premises by
19 reference to the section, block, and lot numbers on the tax map.

20 § 7. Subdivision a of section D17-17.0 of such code, as added by chapter eight
21 hundred twenty-three of the laws of nineteen hundred seventy-five, is hereby
22 amended to read as follows:

23 a. The finance administrator shall, in addition to the file maintained by him
24 pursuant to section D17-16.0, maintain [in each of the borough offices of the city
25 collector] a file of in rem cards submitted by any person having an interest in real
26 property who is not entitled to have tax bills mailed to him by the finance ad-
27 ministrator, including mortgagees, lienors, encumbrancers and owners who have
28 filed owner's registration cards designating someone else to receive bills and
29 notices. Each such in rem card shall be signed by the person filing such card or a
30 duly authorized representative, shall contain a description of the premises by
31 reference to the section, block and lot numbers on the tax map and shall state the
32 date on which said card was filed, the full name and post office address of the
33 person filing said card and the nature of the interest said person has in said
34 premises.

35 § 8. This act shall take effect immediately.

36

37

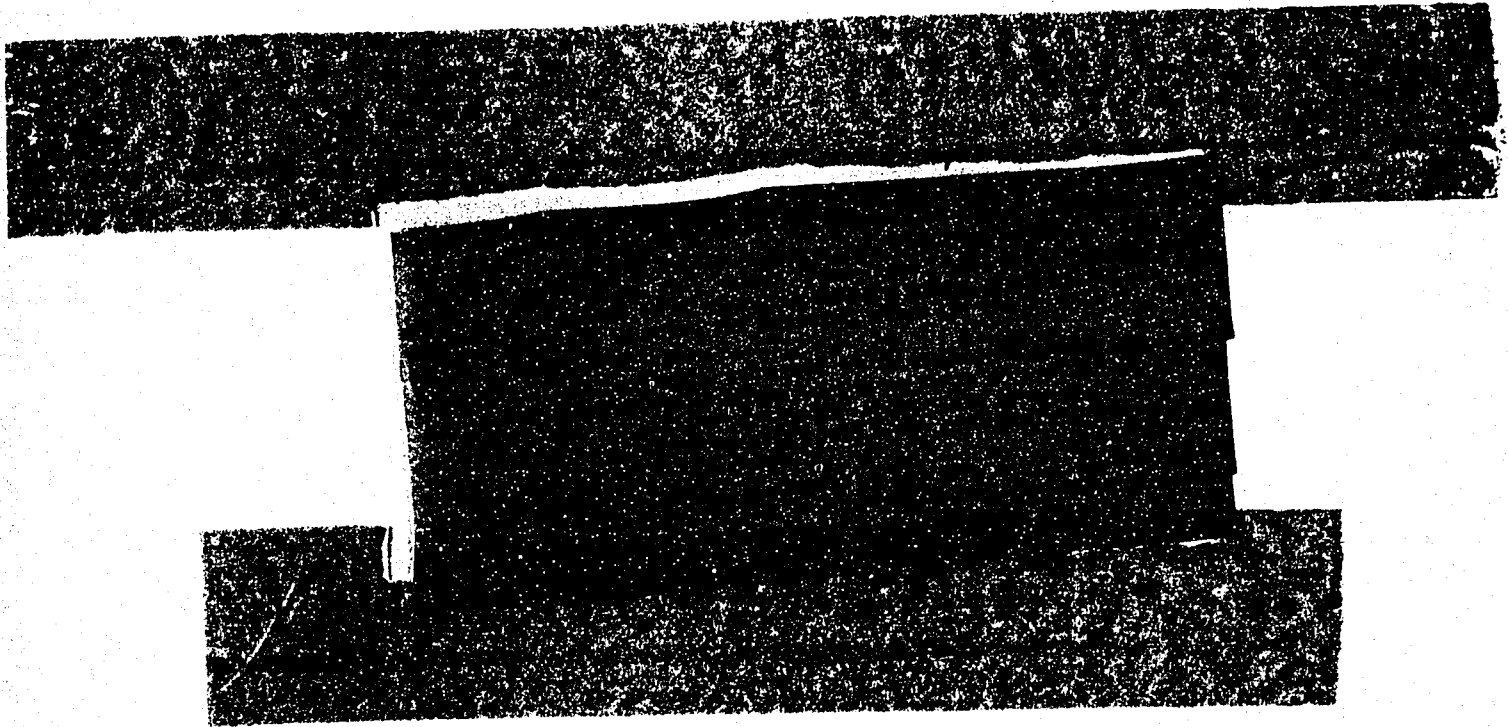
38

DARK

COPY

NEW YORK DAILY NEWS
8/27/76

INTRO. NO. 956



Passed

*Corporate Offices of the Undersigned
14 East 52nd Street
New York, N. Y. 10022
Plaza 9-3211*

Sept. 13, 1976

Hon. Thomas J. Cuite, Vice Chairman
The Council
New York, N. Y. 10007

My dear Mr. Cuite:

I understand that your Committee is in favor of shortening the "in rem" period from three (3) years to one (1) year.

If you wish to have all of New York abandoned or taken over by the City you are absolutely right in doing this, and I wish you luck.

However if you look at this impartially you will see that this is not a good idea because it takes away the possibility that a landlord who went into arrears with the bank and with the City and finally through some increase in rents can work his way out of the situation, only has one (1) year to do it; maybe this is not the year. Maybe a second or the third year will do it. But you are taking away the opportunity if you shorten the period.

I drove through the Bronx, and through upper Manhattan, yesterday and if this becomes Law I assure you the spread of the burned-out and abandoned buildings I saw on this trip will grow so rapidly that no effort to save The Big Apple could be successful.

Therefore please reconsider, and think twice before you sign the death warrant for the City Of New York.

Very respectfully yours,

FRED H. HILL

FHH:fg

C 40

AFFILIATED PROPERTY OWNERS of Queens, Kings & Richmond Counties, Inc.

MRS. GRACE LIOTTA, PRESIDENT
69 MESEROLE AVENUE
BROOKLYN, N. Y. 11222
EVERGREEN 9-5934

May 16, 1976.

INTRO. NO 956

PROCEEDING FOR FORECLOSURE OF A TAX ~~LIEN~~ LIEN
BY ACTION IN REM MAY BE BEGUN.

*file
against*

MEMBER ASSOCIATED ORGANIZATIONS

SUNNYSIDE WOODSIDE
TAXPAYERS
PROPERTY OWNERS UNION
OF QUEENS COUNTY
GLENDALE TAXPAYERS
ASSOCIATION
GREENPOINT PROPERTY
OWNERS ASSOCIATION
NORTH QUEENS HOME OWNERS
CIVIC ASSOCIATION
ASTORIA HEIGHTS TAXPAYERS
ASSOCIATION
NORTHSIDE TAXPAYERS &
CIVIC ASSOCIATION
WINDSOR PROPERTY OWNERS
ASSOCIATION
FOREST HILLS TAXPAYERS
& CIVICS
THE UNITED TAXPAYERS
ASTORIA PROPERTY OWNERS
ASSOCIATION
SEA VIEW TERRACE
CIVIC ASSOCIATION
ELMURST COMMUNITY COUNCIL
ANNANDALE PARK CIVIC
ASSOCIATION
EAST NEW YORK &
WILLIAMSBURGH
PROPERTY ASSOCIATION
COLLEGE POINT
TAXPAYERS & CIVICS
PROPERTY OWNERS OF MASPETH
BRIGHTON-MANHATTAN BEACH
CHAMBER OF COMMERCE
PROPERTY OWNERS OF
BROOKLYN, INC.
SHORE FRONT TAXPAYERS
ASSOCIATION, INC.
JACKSON HEIGHTS TAXPAYERS
BROOKLYN PROPERTY OWNERS
PROTECTIVE ASSOCIATION
RIDGEWOOD PROPERTY
& CIVIC ASSOCIATION
BUSHWICK TAXPAYERS
& CIVIC ASSOCIATION
RICHMOND COUNTY
TAXPAYERS ASSOCIATION

D 17-4-0 RECOMMENDATION:

Whenever a tax ~~li~~ lien has
not been paid for-TWO- (2) YEARS from the date is due
Notwithstanding the ownership by the city shall not
take effect until SIX (6) month after the two year
period.

This extra 6 month period of grace is to give
an owner an extra opportunity to redeem his debt.

Grace Liotta

THE COUNCIL
THE CITY OF NEW YORK

CHARTER AND GOVERNMENTAL OPERATIONS

DATE: 8.10.76

INTRO. NO. 955-959 RES. NO. _____ M- _____ SUBJECT IN REIM

CONVENED 10:40

ROLL	AFFIRM.	NEG.	NOT VOTING
SADOWSKY ✓	✓		
KATZMAN			
SALMAN			
GIGANTE ✓	✓		
SPIGNER ✓	✓		
STEINGUT ✓	✓		
VALLONE ✓	✓		
WAGNER ✓	✓		
GERGES ✓	✓		
MURATORI			

ABSENT: _____

+ Stern
+ Katz
+ Olmedo

AFFIRMATIVE: _____

NEGATIVE: _____

NOT VOTING: _____

August 18, 1976

M E M O R A N D U M

TO: HONORABLE STANLEY M. FRIEDMAN,
DEPUTY MAYOR

FROM: THOMAS J. CUI TE

RE: INT. NO. 956A

In response to your memorandum, please be advised that at the Charter and Governmental Operations Meeting of August tenth among the amendments to the above bill was the inclusion of the January 1, 1977 effective date.

Unfortunately, no printing is available at present but this is clearly noted on the Committee Report.

Kind regards.

TJC

tjc/mg



LAW DEPARTMENT
MUNICIPAL BUILDING
NEW YORK, N. Y. 10007

Hadley W. Gold
Special Assistant Corporation Counsel

M E M O R A N D U M

August 16, 1976

To: Stanley M. Friedman
Deputy Mayor

From: Hadley W. Gold
Special Assistant Corporation Counsel

Re: Effective Date of Local Law 956A
(In Rem Foreclosure)

On August 10, 1976, the City Council's Committee on Charter and Governmental Operations voted out a Local Law, Int. No. 956 A, which will reduce the period of tax delinquency for In Rem Tax Foreclosure from three years to one year. The effective date specified in said bill was October 1, 1976.

The Committee's attention is directed to the fact that the Finance Administration had already begun preparation of Queens In Rem Action No 36, based on a tax delinquency period of three years, and had already fixed October 26, 1976 as the filing date for said action. It should be noted moreover that during the past two years such filing dates have invariably been delayed for at least one to four weeks.

In order to avoid any question as to the propriety of filing a three year In Rem Action after the effective date of the one year In Rem bill, it is respectfully suggested that the Committee change the effective date of the bill to January 1, 1977.

To: Tom Cuite

*IS THIS possible,
ie to amend effective
date to 1-1-77?*

[Signature]

TORN PAPER

roduced by Mr. Sadowsky, the Vice-Chairman (Mr. Cuite), Mr. Steingut, Ms. Friedlander, Messrs. Wagner and Stern - read and referred to the Committee on Charter and Governmental Operations.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the reduction of the period of time after which a proceeding for foreclosure of a tax lien by action in rem may be begun.

Be it enacted by the Council as follows:

Section 1. Section D17-4.0 of title D of chapter 17 of the administrative code of the city of New York, is hereby amended to read as follows:

§D17-4.0 Foreclosure by action in rem. -Whenever it shall appear that a tax lien which has been due and unpaid for a period of at least [three years] one year from the date on which the tax, assessment or other legal charge represented thereby became a lien, such tax lien, except as otherwise provided by this title, may be summarily foreclosed in the manner provided in this title, notwithstanding the provisions of any general, special or local law and notwithstanding any omission to hold a tax sale prior to such foreclosure. Ownership by the city of a transfer of tax lien or of a tax sale certificate or of any other instrument evidencing such tax lien shall be evidence of the fact that the tax, assessment ^{has} or other legal charge represented thereby [have] not been paid to the city or assigned by it.

§2. Subdivision a of section D17-13.0 of such title; chapter and code is hereby amended to read as follows:

a. The commissioner of finance [administrator] may, prior to final judgement, withdraw a parcel from a proceeding under this title for any of the following reasons: (1) a question which the [administrator] commissioner deems meritorious has been raised as to the validity of the tax liens affecting the parcel, (2) the city collector, ^{ch 816} [on or before the last date for redemption], ^{had} accepted a payment of all taxes and interest which rendered the parcel subject to foreclosure hereunder because the records in his office indicated that the principal amount of such taxes was exceeded by the principal amount of subsequent taxes which would not have rendered the parcel subject to foreclosure hereunder and which had been paid prior to the commencement of said proceeding, (3) on or before the last date for redemption, an agreement was duly made, executed and ^{the} filed with the commissioner of finance [administrator], for the payment of ^{the} delinquent taxes, assessments or other legal charges and interest and penalties in

INSERT A

installments, the first of which ^{was} ~~was~~ equal to at least twenty-five per centum of such arrears and was payable upon filing of the installment agreement with the commissioner of finance [administrator], and each remaining installment of which was equal to at least [two years of such arrears] an amount produced by dividing the balance of such arrears by the number of quarters of such arrears which are outstanding at the time of filing the agreement but in no event less than six and twenty-five one hundredths per centum of the balance of such arrears, and was payable quarterly with each [year] quarterly payment of current taxes, assessments, or other legal charges, and there has been no default in such agreement,

TORN PAPER

~~was~~
~~Insert A~~

installments, the first of which ~~shall be~~ ^{was} equal to at least twenty-five per centum of such arrears and ^{was} payable upon filing of the installment agreement with the ~~commissioner of finance~~ [administrator], and each remaining installment of which, where such delinquent taxes and other charges have been due and unpaid for a period of three years or less, was equal to [at least two years of such arrears] ^{at least} the amount of the balance of such arrears divided by the number of quarters during which such taxes and other charges have been unpaid at the time of the filing of the agreement, or, where such taxes and other charges have been due and unpaid for a period of more than three years, was equal ^{at least} to six and twenty-five one hundredths per centum of ^{the balance of} such arrears, and was payable quarterly with each [year] quarterly payment of current taxes, assessments ^{or} and other legal charges, and there has been no default in such agreement ^{or} (4) in cases where the tax foreclosure action can not be maintained such as, but not limited thereto, where the charges which rendered a parcel subject to foreclosure hereunder have been cancelled or were paid before the commencement of the foreclosure proceeding but such payment was not reported or did not clear for payment until after the commencement of said proceeding, or where a name and address appearing on an owner's registration card or an in rem card filed pursuant to sections D17-16.0 or D17-17.0 of this title and contained in the files of the city collector did not appear in the mailing list used by the ^{commissioner of} finance [administrator] for mailing notices of foreclosure in such proceeding.

~~Insert~~ → ~~§3. Section D17-13.0 of such chapter and code is hereby amended by adding thereto a new subdivision, to be subdivision e, to follow subdivision d, and to read as follows:~~

8 { ~~e. If any provision of this law shall be held to be invalid by final decree of a court of competent jurisdiction, the provisions of this section as they read prior to this amendment law shall apply.~~

9. ⁵ §4. This local law shall take effect on ~~October 1, 1970~~ ^{JANUARY 1, 1971}.

*by final order
or decree*

§3. If section one of this local law or the amendment made by such section to section D17-4.0 of title D of chapter seventeen of the administrative code of the city of New York shall be finally declared by any court of competent jurisdiction to be invalid or unconstitutional, the provisions of section D17-4.0 of the administrative code as they existed immediately prior to their amendment by this local law shall be deemed to be revived and to be in full force and effect thereafter; in the event of such declaration of invalidity or unconstitutionality, the amendments made by section two of this local law to subdivision a of section D17-13.0 of title D of chapter seventeen of the administrative code of the city of New York shall be deemed to have expired and the provisions of said subdivision a of section D17-13.0 of the administrative code as they existed immediately prior to their amendment by this local law shall be deemed to have been revived and to be in full force and effect thereafter.

§4. Except as otherwise provided in section three hereof, if any section of this local law or the amendments made by such section shall be finally adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate any other section of or amendment made by this local law, but shall be confined in its operation to the section or amendment directly involved in such judgment, or to the person and circumstances therein involved.

LL 45

2

The first hearing is on Introductory Number 956-A, sponsored by Councilmembers Sadowsky, Cuite, Steingut, Friedlander, Wagner, Stern, Gerges, Spigner, Vallone and Father Gigante. This bill will reduce from three years to one year the period of time which must elapse before a proceeding for foreclosure of a tax lien by in rem action may be initiated.

Is there anyone to speak in opposition?

Is there anyone to speak in favor?

There being no one (else) to be heard,
this hearing is closed.

Among us all, there has been widespread concern about the more than \$570 million in unpaid and overdue property taxes which, at present, are uncollected. The E.F.C.B., along with State authorities, have been urging us to step up our efforts to reduce as much of this deficit as possible. And we are the first to realize ourselves that we need this money. Our friends and our critics have suggested that we establish a reduction in the in rem waiting period. Introductory Number 956-A would accomplish this goal.

Our experience has demonstrated that, when the in rem foreclosure action becomes imminent, approximately 75% of property owners who have delinquent tax payments, manage to bring their payments up to date rather than lose their investments. For those owners who never pay their delinquent taxes, the present lawful three year period of tax delinquency merely allows a further deterioration of the property to occur. Those deteriorating properties are eventually taken over and managed by the City, and are that much harder to restore to the tax rolls later. Either way, a one year in rem waiting period provides better alternatives to the City than the existing law.

This bill is a vitally important tool, but it is not intended to be abused. It is offered to speed up payments properly due to the City, and to help eliminate the situation in which an owner allows his property to languish while collecting rental money and not paying his or her fair share of property taxes.

The members of the City Council know, as I do, that there may well be some negative ripples from this measure. There will be a need for increased manpower in certain City agencies to administer the program; additional properties taken in rem will necessarily be completely removed from the tax rolls for a time; some homeowners may be penalized through loss of their properties. As our experience in enforcing this legislation develops, it may well prove necessary to amend or modify the in rem law again to remedy special situations or shortcomings. I expect to work closely with the City Council and the State Legislature, where necessary, to keep our laws current with the real property and taxation fluctuations.

I will sign this bill.

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THE COUNCIL

The City of New York

Int. No. 956-A

April 27, 1976

Introduced by Mr. Sadowsky, the Vice-Chairman (Mr. Cuite), Mr. Steingut, Ms. Friedlander, Messrs. Wagner, Stern, Gerges, Spigner, Vallone and Rev. Gigante—read and referred to the Committee on Charter and Governmental Operations. Amended August 27, 1976. Ordered reprinted and laid over.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the reduction of the period of time after which a proceeding for foreclosure of a tax lien by action in rem may be begun.

Be it enacted by the Council as follows:

1 Section 1. Section D17-4.0 of title D of chapter 17 of the administrative code of the
2 city of New York is hereby amended to read as follows:

3 § D17-4.0. Foreclosure by action in rem.—Whenever it shall appear that a tax
4 lien which has been due and unpaid for a period of at least [three years] *one year* from the
5 date on which the tax, assessment or other legal charge represented thereby became a lien,
6 such tax lien, except as otherwise provided by this title, may be summarily foreclosed in the
7 manner provided in this title, notwithstanding the provisions of any general, special or local
8 law and notwithstanding any omission to hold a tax sale prior to such foreclosure. Owner-
9 ship by the city of a transfer of tax lien or of a tax sale certificate or of any other instrument
10 evidencing such tax lien shall be evidence of the fact that the tax, assessment or other legal
11 charge represented thereby *has* [have] not been paid to the city or assigned by it.

12 § 2. Subdivision a of section D17-13.0 of such title, chapter and code is hereby
13 amended to read as follows:

14 a. The *commissioner of finance* [administrator] may, prior to final judgment,
15 withdraw a parcel from a proceeding under this title for any of the following reasons:

Note—New matter in *italics*, old matter in brackets [] to be omitted.

1 (1) a question which the [administrator] *commissioner* deems meritorious has been
2 raised as to the validity of the tax liens affecting the parcel, (2) the city collector,
3 has accepted a payment of all taxes and interest which rendered the parcel subject
4 to foreclosure hereunder because the records in his office indicated that the principal
5 amount of such taxes was exceeded by the principal amount of subsequent taxes
6 which would not have rendered the parcel subject to foreclosure hereunder and
7 which had been paid prior to the commencement of said proceeding, (3) on or
8 before the last date for redemption an agreement was duly made, executed and
9 filed with the *commissioner of finance*, [administrator] for the payment of the delin-
10 quent taxes, assessments or other legal charges and interest and penalties in install-
11 ments, the first of which was equal to at least twenty-five per centum of such arrears
12 and *was* payable upon filing of the installment agreement with the *commissioner*
13 *of finance* [administrator] and each remaining installment of which was equal to
14 at least *an amount produced by dividing the balance of such arrears by the number*
15 *of quarters of such arrears which are outstanding at the time of filing the agreement*
16 *but in no event less than six and twenty-five one hundredths per centum of the bal-*
17 *ance of such arrears*, [two years of such arrears] and was payable *quarterly* with
18 each [year] *quarterly payment* of current taxes, assessments or other legal charges,
19 and there has been no default in such agreement or (4) in cases where the tax
20 foreclosure action can not be maintained such as, but not limited thereto, where
21 the charges which rendered a parcel subject to foreclosure hereunder have been can-
22 celled or were paid before the commencement of the foreclosure proceeding but such
23 payment was not reported or did not clear for payment until after the commencement
24 of said proceeding, or where a name and address appearing on an owner's registration
25 card or an in rem card filed pursuant to Section D17-16.0 or D17-17.0 of this title and
26 contained in the files of the city collector did not appear in the mailing list used by the
27 *commissioner of finance* [administrator] for mailing notices of foreclosure in such
28 proceeding.

1 § 3. If section one of this local law or the amendment made by such section to section
2 D17-4.0 of title D of chapter seventeen of the administrative code of the city of New York
3 shall be declared by final order or decree by any court of competent jurisdiction to be in-
4 valid or unconstitutional, the provisions of section D17-4.0 of the administrative code as
5 they existed immediately prior to their amendment by this local law shall be deemed to be
6 revived and to be in full force and effect thereafter; in the event of such declaration of
7 invalidity or unconstitutionality, the amendments made by section two of this local law to
8 subdivision a of section D17-13.0 of title D of chapter seventeen of the administrative
9 code of the city of New York shall be deemed to have expired and the provisions of said
10 subdivision a of section D17-13.0 of the administrative code as they existed immediately
11 prior to their amendment by this local law shall be deemed to have been revived and to be
12 in full force and effect thereafter.

13 § 4. Except as otherwise provided in section three hereof, if any section of this local
14 law or the amendments made by such section shall be finally adjudged by any court of
15 competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect,
16 impair or invalidate any other section of or amendment made by this local law, but shall
17 be confined in its operation to the section or amendment directly involved in such judgment,
18 or to the person and circumstances therein involved.

19 § 5. This local law shall take effect on January 1, 1977.

About Real Estate

Effects of New Law to Speed Takeovers of

By ALAN S. OSER

The city may be in store for an unpleasant surprise once the City Council enacts, as currently predicted, a law to speed up the takeover of tax-delinquent property. The surprise could be not merely the numbers but also the types of properties falling into city hands, setting in motion an even greater writedown in property values than has already been witnessed in the mid 1970's.

The city's Finance Administration, which is supporting the speed-up, estimates that it will triple—to 15,000—the numbers of properties taken over in a year by the Real Estate Department, which manages them and ultimately sells them at auction. The maintenance budget of \$10 million would have to double, said Real Estate Commissioner Ira Duchan.

But, in the commercial sector, which includes office buildings, "many owners who are now paying taxes will stop pay-

ing them knowing that in a year after they stopped paying they will no longer own them," said David Baldwin, president of the Charles F. Noyes Company, one of the largest downtown real estate companies. Taxes are not infrequently paid directly by owners rather than mortgagees on older office buildings, and there is at present severe underoccupancy in the Manhattan office market in certain locations.

The bills in question have been put forward by Councilman Edward L. Sadowsky of Queens. The key one would shorten to one year from three years the grace period before which the city starts a foreclosure action for nonpayment of taxes. Another bill would raise the penalty for late real estate taxes to 15 percent a year from 12 percent, when the annual tax is more than \$2,000. The annual penalty would stay at the present 7 percent if the tax bill is under \$2,000.

The sponsors hope and expect that

the threat of foreclosure will be enough to draw in 75 percent of tax arrears, currently at \$220 million by some estimates. Academic specialists said they doubted that the figure would be that high. "At most there would be a 20 percent greater collection," said George Sternlieb, director of the Center for Urban Policy Research at Rutgers University, which has studied this issue for Cleveland and Pittsburgh.

So far city takeovers have been largely limited to vacant land and residential buildings. But it is in the commercial sector that the greatest financial and administrative implications for the city lie. They are illustrated most dramatically in the not necessarily typical case of a 29-story Manhattan office building, fully up to date on its taxes. The owner insisted on anonymity for himself and his building.

This property has a current annual tax bill of \$650,000 on an assessment that was recently raised to \$5 million.

956-A
WEDNESDAY, SEPTEMBER 15, 1976

Tax-Delinquent Property May Surprise City

from \$4.5 million. The major property in the parcel, an office building with 274,000 square feet of space, is 60 percent vacant, but rent flows in until next year from a major tenant who moved out in 1973 despite a lease that expires in 1977.

The building is owned "free and clear"—with no mortgage. The owner has signed personally on a bank loan of \$750,000 to help keep the building going until the rental market improves. New mortgage money, it needs hardly be said, is unavailable.

The loan is due next year with a "balloon" payment. Tax deferrals, the owner expected, would help to keep the property going while renting gradually improved. "If the city is going to demand the taxes in one year," the owner said the other day, "I'll just move my remaining tenants into some of my other properties and let the city have the building."

But the policy of putting pressure on

owners through tax takeover threats in a weak market is more frequently likely to lead to bank takeovers and valuation writedowns, many specialists believe.

A few years ago the interest rate that the city imposed as a penalty for late tax payments was lower than the rate owners could get by putting tax funds in some short-term, high-yield investment. This spawned late tax payments. That situation has faded with the decline in short-term rates and an increase in the penalty. But the memory of it has supplied some of the impetus against late-payers of real-estate taxes.

Another impetus is the much-despised speculator who "milks" a building, buying distressed properties with no cash investment, collecting rents but paying no taxes and a minimum of other bills, and letting the property run down beyond the point where city takeover in a foreclosure can save it.

In the poorest markets of the city, rapid city takeover, for all its costs, is perhaps the best hope of property salvation. But "marginal" properties that stand a chance of being nursed back to economic health—whether residential or commercial—are the ones that have benefited by leeway on tax collections.

In Cleveland, where the takeover time recently was cut to three years from 12, the city refuses to take occupied properties at all. "The last thing we need is to become manager of last resort in occupied properties," said Norman Krumholz, the chief planning there. The same attitude was expressed by Pittsburgh's treasurer, Joseph Coselli.

Here the policy on delinquency and other rent issues has traditionally been tougher. The Sadowsky bill will make it tougher still, while holding a prospect for benefit that many consider uncertain at best.

Act to Clamp Down On Tax Delinquents

By NEAL HIRSCHFELD

Efforts to spur the collection of million of dollars in unpaid city real-estate taxes gained ground yesterday with the passage of four bills by a City Council committee.

Staffers said that the measures would probably be considered by the full Council in early September. The committee vote was 7 to 0.

The bills were voted out by the Committee on Charter and Governmental Operations after a seven-month investigation.

Statement by Sadowsky

Councilman Edward Sadowsky (D-Queens), chairman of the committee, said that the probe concluded that more than \$200

sponsored similar legislation to boost tax collections more than a year ago, but it never was acted upon.



Councilman Edward Sadowsky
Four measures are approved

million in unpaid taxes were collectible, but that the city would receive less than half of that unless corrective action was taken.

The measures passed yesterday were introduced by Sadowsky and Council Majority Leader Thomas Cuite (D-Brooklyn). They would:

- Reduce from three years to one year the period for starting foreclosure proceedings against tax-delinquent property.
- Boost the rate of interest on unpaid real taxes.
- Boost the rate of interest on unpaid water and sewer charges.
- Require the city to create a reserve for uncollected real-estate taxes in order to offset those tax revenues that are calculated in the city budget but never actually collected.

Councilman Henry Stern (L-Manhattan) noted that he had

Letters to the Editor

Delinquent Realty Tax: How to Collect . . .

To the Editor:

Concerning your editorial of Aug. 18, "Taxing Delinquents," I must first correct an inaccuracy. The interest rate on unpaid water, sewer and real estate taxes is not 7 percent. That rate applies only to water and sewer taxes. The interest on delinquent real estate taxes is, and has been for some time, 12 percent. Although there is clearly no justification for a 7 percent charge for delinquent water and sewer taxes, it should be understood that unpaid real estate taxes exceed by five times unpaid water and sewer taxes.

Two other bills emanated from my committee's year-long study of tax delinquencies whose impact will probably be far more significant than the increase in interest rates. The first bill shortens from three years to one year the period before which the city may commence a foreclosure proceeding for nonpayment of real estate taxes. Seventy-five percent of taxpayers pay their delinquent taxes once a foreclosure proceeding is commenced. Acceleration of such proceedings, if the law is vigorously enforced, will have

a significant impact on the city's financial plan.

The second bill will put an end to a self-deception which the city has practiced over the years. In projecting revenues, the city has assumed at the outset of each fiscal year that it will collect all of the taxes billed to real property owners. Since in recent years the failure to pay real estate taxes has run as high as 7½ percent a year, the city has been spending money, which it had no prospect of collecting. Our bill will write into the Charter the requirement that the city, in calculating its real estate tax revenues at the outset of each fiscal year, set up a reserve for uncollected taxes.

Even our bills increasing the interest rate on delinquent taxes are, in one respect, significantly different from other proposals. Our bills will require interest rates for delinquent taxes to be adjusted annually to 6 percent above the prime rate, so that interest will fluctuate with market conditions.

EDWARD L. SADOWSKY
City Councilman, Queens
New York, Aug. 18, 1976

. . . Or Increase Housing Abandonment

To the Editor:

I agree with your Aug. 18 editorial that "a financially strapped city cannot afford to ignore sound revenue-raising ideas from whatever source." But that is precisely why you should oppose Councilman Sadowsky's bill allegedly designed to speed up the collection of real estate taxes by increasing the annual interest penalty from 12 percent (except in the smallest properties where the rate is 7 percent) to 15 percent and reducing the *In Rem* foreclosure period from three years to one year.

I use the word "allegedly" because both you and I know that rent controls prevent owners from properly maintaining buildings and paying real estate taxes because of inadequate rental income. Your editorials have pressed the city on the issue of rent controls repeatedly this year. On May 20, you stated: "The crazy-quilt of rent-control and stabilization programs needs drastic overhaul as an initial step toward phased decontrol. It is a disgrace that there is not enough political courage in either the State Legislature or the City Council to cope with this problem. Until there is, the toll will remain heavy in building

abandonments and unpaid real-estate taxes."

The Sadowsky bill is shortsighted. It will increase the rate of abandonment, and, yes, increase nonpayment of real estate taxes. Banks and other financial institutions will have even less reason to invest in mortgages in New York City real estate. The redlining around New York City for private investment will grow a brighter red and Sadowsky will have added to the city's uncreditworthiness.

We all know New York City's real estate tax collections are bad. In addition to \$440 million of real estate tax cancellations and remissions during the period 1971-1976, a further \$893 million remain uncollected, according to The City Record of July 29.

The Sadowsky bill fails to deal with the causes of unpaid real estate taxes and will serve neither our city, nor the tenants, nor the owners. And business will continue to flee, fearful of being the sole bearer of the heavy tax burden needed to support this metropolis.

WILLIAM A. MOSES
Chairman, Community Housing
Improvement Program
New York, Aug. 19, 1976

Bills to Help New York City Improve Its Tax Collections Gaining in Council

By EDWARD RANZAL

Legislation designed to accelerate the collection of millions of dollars in delinquent real estate taxes in New York City and to increase penalties on unpaid real estate, water and sewer taxes was voted out yesterday by the City Council's Charter and Governmental Operations Committee.

The committee also voted out a bill that would mandate the city to create a realistic reserve fund to offset uncollected real estate taxes.

The bills have been under consideration for almost a year. It was expected that the full Council would pass the legislation at its first meeting in September and that Mayor Beame would sign the bills into law.

Edward L. Sadowsky, Democrat of Queens, chairman of the committee, said that as of June 30, 1975, there was \$502 million in outstanding real estate taxes due the city. He said, however, that the true tax delinquency figure should be about \$220 million because the remainder represented taxes that should not have been charged in the first place since the properties involved were tax-exempt.

The major change to be brought by the proposed legislation, Mr. Sadowsky said, would be to reduce the period before the city could initiate foreclosure proceedings against tax delinquent properties from three years to one year.

Mr. Sadowsky noted that past

experience had shown that 75 percent of the delinquents paid up their taxes once foreclosure against their properties began. He estimated that on this basis the city would realize about \$80,000 over the next two years once the bill became law.

He said that some owners "milk their property, including nonpayment of taxes" for three years, finally abandoning the property when the three-year

period ends and foreclosure begins. He also noted that "many of the tax-delinquent properties are deteriorating when foreclosure begins and are often worthless when finally taken over by the city." He said the legislation would prevent much of this.

Two of the bills would increase the rate of interest on unpaid real estate, water and sewer taxes for this year from 7.7 percent to 15 percent. Thereafter, the rate would be established at 6 percent above the prime lending rate fixed by commercial banks.

As for the bill requiring the city to create a reserve fund for uncollected real estate taxes, Mr. Sadowsky said:

"Every prudent businessman sets up a reserve for bad debts or uncollected accounts receivable. It is certainly time for New York City to adopt this policy."

He said it was time to "stop the deception that the city will collect all the dollars on its rolls." He said the rate of delinquency had been running at about 7.5 percent, with the city spending more money than it actually collected from real estate taxes.

The bill would mandate the establishment of a reserve margin of not less than 7.5 percent against the anticipated uncollectable portion of the tax receivables. The rate would be fixed annually by the Budget Director and the Finance Commissioner.

G.O. No. 57—Int. No. 956-A

Report of the Committee on Charter and Governmental Operations in Favor of Adopting, as Amended, a Local Law to Amend the Administrative Code of The City of New York, in Relation to the Reduction of the Period of Time After Which a Proceeding for Foreclosure of a Tax Lien by Action In Rem May be Begun.

The Committee on Charter and Governmental Operations to which was referred on April 27, 1976 (Minutes, page 492) the annexed appended local law, respectfully

REPORTS:

This legislation will reduce from three years to one year the period of time which must transpire prior to the commencement of an action in rem against a property affected by real estate tax delinquencies. Presently, the non-payment of any real estate taxes, water and sewer charges and any interest and penalties thereon would accumulate over a course of three years before the City would be allowed to initiate a foreclosure action and either retrieve the property or obtain the payment of such arrearages.

As stated in the report on "Real Estate Tax Delinquencies" adopted by this Committee on May 7, 1976: The present statutory requirement of three years simply means that the City is the last creditor to be paid in a distress situation. Indeed, with respect to housing which is "going out of business", the three-year period also means that the property which the City receives at the end of the period is more likely to be in such a state of disrepair as to be uninhabitable, making the City's maintenance or demolition costs that much more expensive. No one benefits from the three-year period. The taxpayer simply defers the date of judgement at costly interest rates. The City stands by while other creditors get paid and the properties frequently deteriorate.

Furthermore, experience shows that a high percentage of taxes are paid once the proceeding is commenced indicating that acceleration of the period in which the proceeding is commenced will also accelerate the collection of the taxes.

This package of legislation was directly derived from the investigation and report of this Committee on Real Estate Tax Delinquencies. Compiled within approximately 2000 pages of notes and material, it was the judgment of a majority of the Committee that remedial action within the general areas espoused in the foregoing bills was necessary. It must be stressed that the adoption of the report by no means reflects an adoption of the specifics of these bills at this time. They will, of course, be subject to individual discussion, amendment and adoption.

To date, no letters of comment on the bills have been received by the Committee expressing support or objection to the legislation other than that of the initial Citizens Tax Council, Inc. who have stated their opposition hereto.

Several technical changes, as applicable to various effective dates, within the several bills must be duly noted prior to adoption.

On May 14, 1976, this committee was convened for the purpose of a preliminary hearing on Intros. 955-959, inclusively. Testimony was elicited from representatives of the administration, namely the Corporation Counsel's Office and Department of Finance as regards their positions on these matters. Although generally supporting the intent of these bills, Mr. Luis Neco, former First Assistant Corporation Counsel, questioned various aspects of the legislation.

Subsequent to this committee meeting, discussions ensued among staff of the committee, the Department of Finance, Corporation Counsel's Office and Deputy Mayor's Office at which time several amendments to the bills were drafted and are now proposed for your consideration.

The amendments to this bill reflect a change from annual payments of tax arrears to quarterly payments in accordance with the normal procedures. Additionally a limitation on the pay out period has been stated to be equivalent to the period of arrearages or a maximum of three years. Also a savings clause has been inserted to protect the status of the law in case of a successful legal challenge to this legislation in the Courts.

Councilmen Gerges, Spigner, Vallone and Gigante were added as co-sponsors.

Accordingly, your committee recommends its adoption as amended.

A LOCAL LAW to amend the administrative code of the city of New York, in relation to the reduction of the period of time after which a proceeding for foreclosure of a tax lien by action in rem may be begun.

Be it enacted by the Council as follows:

Section 1. Section D17-4.0 of title D of chapter 17 of the administrative code of the city of New York is hereby amended to read as follows:

§ D17-4.0. Foreclosure by action in rem.—Whenever it shall appear that a tax lien which has been due and unpaid for a period of at least [three years] *one year* from the date on which the tax, assessment or other legal charge represented thereby became a lien, such tax lien, except as otherwise provided by this title, may be summarily foreclosed in the manner provided in this title, notwithstanding the provisions of any general, special or local law and notwithstanding any omission to hold a tax sale prior to such foreclosure. Ownership by the city of a transfer of tax lien or of a tax sale certificate or of any other instrument evidencing such tax lien shall be evidence of the fact that the tax, assessment or other legal charge represented thereby *has* [have] not been paid to the city or assigned by it.

§ 2. Subdivision a of section D17-13.0 of such title, chapter and code is hereby amended to read as follows:

a. The *commissioner of finance* [administrator] may, prior to final judgment, withdraw a parcel from a proceeding under this title for any of the following reasons: (1) a question which the [administrator] *commissioner* deems meritorious has been raised as to the validity of the tax liens affecting the parcel, (2) the city collector, has accepted a payment of all taxes and interest which rendered the parcel subject to foreclosure hereunder because the records in his office indicated that the principal amount of such taxes was exceeded by the principal amount of subsequent taxes which would not have rendered the parcel subject to foreclosure hereunder and which had been paid prior to the commencement of said proceeding, (3) on or before the last date for redemption an agreement was duly made, executed and filed with the *commissioner of finance*, [administrator] for the payment of the delinquent taxes, assessments or other legal charges and interest and penalties in installments, the first of which was equal to at least twenty-five per centum of such arrears and *was payable upon filing of the installment agreement with the commissioner of finance* [administrator] and each remaining installment of which was equal to at least *an amount produced by dividing the balance of such arrears by the number of quarters of such arrears which are outstanding at the time of filing the agreement but in no event less than six and twenty-five one hundredths per centum of the balance of such arrears*, [two years of such arrears] and was payable *quarterly* with each [year] *quarterly* payment of current taxes, assessments or other legal charges, and there has been no default in such agreement or (4) in cases where the tax foreclosure action can not be maintained such as, but not limited thereto, where the charges which rendered a parcel subject to foreclosure hereunder have been cancelled or were paid before the commencement of the foreclosure proceeding but such payment was not reported or did not clear for payment until after the commencement of said proceeding, or where a name and address appearing on an owner's registration card or an in rem card filed pursuant to Section D17-16.0 or D17-17.0 of this title and contained in the files of the city collector did not appear in the mailing list used by the *commissioner of finance* [administrator] for mailing notices of foreclosure in such proceeding.

§ 3. If section one of this local law or the amendment made by such section to section D17-4.0 of title D of chapter seventeen of the administrative code of the city of New York shall be declared by final order or decree by any court of competent jurisdiction to be invalid or unconstitutional, the provisions of section D17-4.0 of the administrative code as they existed immediately prior to their amendment by this local law shall be deemed to be revived and to be in full force and effect thereafter; in the event of such declaration of invalidity or unconstitutionality, the amendments made by section two of this local law to subdivision a of section D17-13.0 of title D of chapter seventeen of the administrative code of the city of New York shall be deemed to have expired and the provisions of said subdivision a of section D17-13.0 of the administrative code as they existed immediately prior to their amendment by this local law shall be deemed to have been revived and to be in full force and effect thereafter.

§ 4. Except as otherwise provided in section three hereof, if any section of this local law or the amendments made by such section shall be finally adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate any other section of or amendment made by this local law, but shall be confined in its operation to the section or amendment directly involved in such judgment, or to the person and circumstances therein involved.

§ 5. This local law shall take effect on January 1, 1977.

Note—New matter in *italics*, old matter in brackets [] to be omitted.

EDWARD L. SADOWSKY, Chairman: REV. LOUIS R. GIGANTE, ARCHIE SPIGNER, ROBERT S. STEINGUT, PETER F. VALLONE, ROBERT F. WAGNER, JR., ABRAHAM G. GERGES, Committee on Charter and Governmental Operations, August 19, 1976.

Laid over.

A. L. O.

8/27/76



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

ROSEMARY R. GUNNING
~~XXXXXX~~
QUEENS COUNTY
1867 GROVE STREET
RIDGEWOOD, N. Y. 11237
37th District

Sept. 2, 1976

956A

WABC Radio
1330 Avenue of the Americas
New York, N.Y., 10019

Gentlemen,

As the Ranking Minority Member of the Assembly Standing Committee on Housing and its former chairman, I read with interest your comment on the City Council Bill on Tax Delinquency.

There is no doubt that delinquent real estate taxes are a great problem and a great loss to the city and it is important that every effort be made to collect them promptly.

However, it will be even more disadvantageous to the city if the enforcement of the proposed bill results in the city being obliged to take over many more residences, office buildings and industrial establishments. It is not logical to offer tax incentives, as the city is now doing, to builders and rehabilitators to produce needed housing and to business and industry to retain them in the city, and then crack down so severely on existing owners of all types of real estate. In addition to making this city an unwilling and inept owner of additional property, in many instances the financial institutions will be obliged, to protect their mortgages, to foreclose before the city does. This will not only result in many boarded up residential properties, but also weaken the financial institutions and make mortgage investment in this city even more unattractive than it is now.

I would earnestly suggest that the proposed bills contain a provision that where the owner demonstrates that the income of the city is inadequate to pay the taxes that a designated official be permitted to defer payment and, where it is possible, as with rent controlled and rent stabilized properties, that they be permitted to authorize in cooperation with the appropriate rent control agency, a restructuring of rents then so as to provide sufficient income to make the payment of taxes possible.

If this had been the situation when owners were suddenly hit with a 300% increase in their fuel and utility bills, the situation in the city would be even worse. Owners would have had to abandon at that time and the occupants of the buildings would not have received heat or utility service. It was only through the application of the tax money and some mortgage payments, that the owners were able to keep the buildings going.

When it comes to restructuring rents, it must be recognized that there are tenants who are unable to pay an economic rent. We must give some thought to providing for these tenants. I have suggested that we permit rent exemption certificates on the same basis as for senior citizens to those tenants who qualify. This may seem as though it were a further erosion of the tax base but the fact is if owners can receive economic rents from those able to pay, more taxes will be paid.

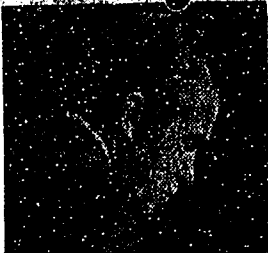
Sincerely,

Rosemary R. Gunning
Member of the State Assembly

cc: Councilman A. Katzman, Councilman E. Sadowsky, Councilman Thomas Cuite
RRG:jw

NYT
8.18.76

Days

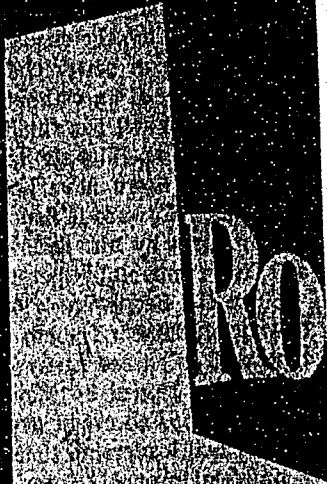


CARL
BERNSTEIN
Club Full Selection
AND SCHUSTER

Back Bestseller!
since
which also had
e on it.

STEVEN R. WEISMAN
The New York Times

NATION



THE ROCKEFELLERS
An American Dynasty
by Peter Collier & David Horowitz

Taxing Delinquents

On Aug. 11, 1975, Councilman Henry J. Stern charged that the city was losing \$5,000 a day because of the Council's failure to act on bills sponsored by Stern and others that would substantially raise the interest on unpaid water charges, sewer rents and real estate taxes.

At the time, the Council's lone Liberal Party member pointed out that the 7 percent interest rate charged by the city is so much lower than prevailing bank rates that it actually makes delinquency profitable. Any taxpayer can borrow from the city at 7 percent simply by not paying his water or sewer charges or taxes for three years.

One year, and an estimated \$2 million in lost revenue, later, the Council has finally moved to correct this ludicrous situation. Bills similar to the rejected measures of Councilman Stern have been introduced by Democratic Councilman Edward L. Sadowsky and have been approved unanimously by Mr. Sadowsky's Committee on Charter and Governmental Operations.

Since the Sadowsky bills also enjoy the endorsement of Majority Leader Thomas Cuile, there is little doubt that they will be passed easily by the full Council early next month and signed by Mayor Beame. That is all to the good. But it is no credit to the Beame administration and the Council leadership that it took so long to respond to a practical proposal from the minority ranks. A financially strapped city cannot afford to ignore sound revenue-raising ideas from whatever source; nor can it afford to discourage the initiatives of intelligent elected officials, of whatever political persuasion, who are able to contribute to New York's salvation.

From the desk of

EDWARD L. SADOWSKY

August 18, 1976

I thought you might be interested in
the enclosed.

ELS



THE COUNCIL
OF
THE CITY OF NEW YORK
CITY HALL
NEW YORK, N. Y. 10007

EDWARD L. SADOWSKY
COUNCILMAN, 19TH DISTRICT, QUEENS
13-15 160TH STREET
BEECHHURST, N. Y. 11357
566 2936

August 18, 1976

CHAIRMAN:
CHARTER & GOVERNMENTAL OPERATIONS
—
COMMITTEE MEMBER:
FINANCE
ECONOMIC & INDUSTRIAL DEVELOPMENT
RULES, PRIVILEGES & ELECTIONS
STANDARDS & ETHICS

Mr. John B. Oakes
Editorial Page Editor
New York Times
229 West 43rd Street
New York, N. Y. 10036

Dear Mr. Oakes:

A year ago when you were urging a freeze of municipal wages, I wrote to you suggesting that you had overlooked the fact that I had introduced legislation to accomplish such a result. You very graciously acknowledged the oversight, and I therefore am encouraged to write to you again concerning your editorial of August 18, 1976, "Taxing Delinquents".

I must first correct an inaccuracy. The interest rate on unpaid water, sewer and real estate taxes is not seven percent. That rate applies only to water and sewer taxes. The interest on delinquent real estate taxes is, and has been for some time, twelve percent. Although there is clearly no justification for a seven percent charge for delinquent water and sewer taxes, it should be understood that unpaid real estate taxes exceed by five times unpaid water and sewer taxes.

Secondly, our bills to increase the present rates on all such taxes are, in my judgment, the least important aspect of a package of bills which emerged from a year-long study by the Council of tax delinquencies. The study resulted in a report, a copy of which is enclosed, together with copies of our bills. I urge you to peruse it because I think you may find it contains a thoughtful, and perhaps even provocative, analysis of a problem whose dimensions are far broader than the interest rate charged on delinquent taxes.

Two other bills emanated from my committee as a result of the report whose impact will probably be far more significant than the increase in interest rates. The first bill shortens from three years to one year the period before which the City may commence a foreclosure proceeding for nonpayment of real estate taxes. As the report reveals, 75 percent of taxpayers pay

Mr. John B. Oakes

-2-

August 18, 1976

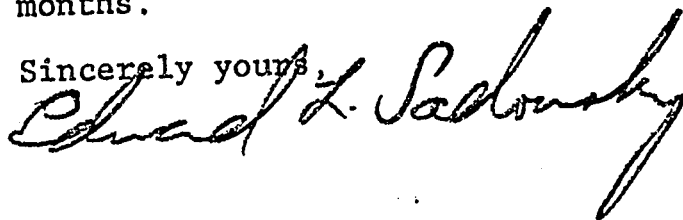
their delinquent taxes once a foreclosure proceeding is commenced. Acceleration of such proceedings, if the law is vigorously enforced by the Mayor, will have a significant impact on the City's financial plan.

The second bill will put an end to a self-deception which the City has practiced over the years. In projecting revenues, the City has assumed at the outset of each fiscal year, that it will collect all of the taxes billed to real property owners. Since in recent years, the failure to pay real estate taxes has run as high as 7-1/2 percent a year, the City has been spending money which it had no prospect of collecting. Our bill will write into the Charter the requirement that the City, in calculating its real estate tax revenues at the outset of each fiscal year, set up a reserve for uncollected taxes.

Even our bills increasing the interest rate on delinquent taxes are, in one respect, significantly different from Councilman Stern's nonetheless highly laudable efforts. Our bills will require interest rates for delinquent taxes to be adjusted annually so that they will float at at least 6 percent above the prime rate. As you know, the cost of money in recent years has been on a roller coaster. Our bill will now permit the interest rate to fluctuate with market conditions.

It is appropriate to ask why our legislative process took so long. I can only respond that sometimes even obvious solutions to municipal problems are extremely complicated to implement. For instance, when our bill to shorten the period for tax foreclosures was considered, the City's Corporation Counsel raised a question as to whether the legislation could be passed by the City Council or whether, in fact, it required State legislation. In response, the legal staff of our committee prepared a memorandum supporting the right of the Council to act. I am also enclosing a copy of that memorandum because, although it will be clearly of tangential interest to you, it does illustrate the manner in which one legal problem delayed legislative action by several months.

Sincerely yours,



ELS:ssk
Encls.

Statement by Luis M. Neco, Special Assistant Corporation Counsel before the New York City Council Committee on Charter and Governmental Operations, in relation to Intro. Nos. 959 and 956.

Mr. Chairman, Members of the City Council Committee on Charter and Governmental Operations.

* * * * *

My name is Luis M. Neco and I am the Special Assistant Corporation Counsel.

I have been requested to appear before you this morning to comment on Intro. No. 959 and Intro. No. 956.

Intro. No. 959 seeks to amend sections 1513 and 1515 of the Charter to establish a "reserve" for uncollected real estate taxes. These provisions currently provide for the fixing of the real estate tax rate as follows: The Finance Administrator prepares assessment rolls which are submitted to the Council. The Council deducts estimated receipts from the amount of the budget. The balance is provided for by tax on real property. The tax rate is the percentage of the total valuation on the assessment rolls necessary to provide for the balance.

Essentially, the proposed local law would create the fiction that the total assessed valuation of property

was 10% less than in fact it is. Using this figure would increase the tax rate and provide for a built-in reserve for uncollected real estate taxes.

Several problems with this approach are readily apparent. Briefly stated:

// (1) The 10% figure is arbitrary and inflexible and may have no relationship to the actual rate of tax delinquency in a given year.

K (2) The proposed local law appears to be inconsistent with the Financial Emergency Act (§8) which provides for the balancing of the City's expense budget "in accordance with the accounting system and procedures" prescribed in Public Authorities Law, §3038, subd. 2 (MAC legislation). This refers to State Comptroller's uniform system of accounting for municipalities, which may be modified as provided in that provision. These procedures are being implemented and may provide for the inclusion in the budget of a reserve for uncollected taxes.

K (3) Similarly, the proposed local law appears to be inconsistent with Charter, §1515, which has been revised and effective January 1, 1977 will contain language similar to that of the Financial Emergency Act. The revised provision directs that:

"The tax rate shall be such to produce a balanced budget within generally accepted accounting principles for municipalities."

Thus, while its intent is to eliminate or reduce budget deficits resulting from non-payment of real estate taxes, the proposed local law may interfere with changes in budgetary procedures mandated by the financial plan and the revised Charter.

We, therefore, recommend that Intro. No. 959 not be adopted.

* * * * *

As to Intro. No. 956, that proposed Local Law seeks to amend Sec. D17-4.0 of the Administrative Code, in order to reduce the period of time after which an unpaid tax lien may be foreclosed from three years to one year. Section D17-4.0 was added by Chapter 411 of the Laws of 1948 which established a procedure of foreclosure in rem for tax liens owned by the City. It was subsequently amended by Chapter 746 of the Laws of 1970 and by Chapter 823 of the Laws of 1975. Both amendments provided for a reduction in the time period within which an unpaid tax lien could be foreclosed and both were enacted by the State Legislature. Subdivision 1(e)

of section 11 of the Municipal Home Rule Law provides that a local legislative body may not adopt any local law which supersedes a state statute if such local law, "[a]pplies to or affects the courts as required or provided by Article Six of the Constitution."

Section D17-3.0 of the Administrative Code which was added by Chapter 411 of the Laws of 1948 gives jurisdiction over in rem foreclosure proceedings to the Supreme Court. The proposed local law, by changing the time at which an in rem proceeding may be brought and the court's jurisdiction attaches, would affect such jurisdiction. That would conflict with the present state enactment which sets that time limit at three years.

In plain language, Chapter 823 of the Laws of 1975, provides that the Supreme Court obtains jurisdiction in in rem foreclosure proceedings after the lapse of three years. Intro. No. 956 would provide that jurisdiction attaches after the lapse of one year. This shortened period of time clearly affects the jurisdiction of the court, and violates the provisions of Municipal Home Rule Law, §11, subd. 1(e).

Pursuant to the New York State Constitution,
Article 6 and Article 9, Section 3, only the State Legislature
may act on legislation affecting the court's jurisdiction
in the manner sought to be accomplished.

Thus, we recommend that Intro. No. 956 not be
adopted.

Dated: May 14, 1976.

**POOR
QUALITY**

M-374

Report of the Committee on Charter and Governmental Operations in Favor of Adopting a Report on Real Estate Tax Delinquencies.
The Committee on Charter And Governmental Operations, respect fully

SUBMITS:

Report on Real Estate Tax Delinquencies

COMMITTEE ON CHARTER AND GOVERNMENTAL OPERATIONS

EDWARD L. SADOWSKY, Chairman
ARTHUR J. KATZMAN
BARRY SALMAN
REV. LOUIS R. GIGANTE
ARCHIE SPIGNER
ROBERT S. STEINGUT
PETER T. VALLONE
ROBERT F. WAGNER, JR.
ABRAHAM G. GERGES
JACK R. MURATORI

EX-OFFICIO

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THOMAS J. CUIE, Vice-Chairman and Majority Leader
ANGELO J. ARCULEO, Minority Leader

FOR THE COUNCIL

HERBERT BIRNBAUM, ESQ., Director

STAFF COUNSEL

STANLEY KALMON SCHLEIN
ANDREW MCGEE
HARVEY FERTIG
GERARD M. CAREY
JAMES FAY
JAMES DARCY

I N D E X

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THE FISCAL IMPACT OF DELINQUENCIES
WHAT PROPERTIES ARE DELINQUENT
LEGISLATIVE HISTORY
PRESENT IN REM PROCEDURES
ADMINISTRATIVE PROCEDURES LEADING TO IN REM FORECLOSURE
THE HEARING ON SEPTEMBER 24, 1975
CONCLUSIONS AND RECOMMENDATIONS
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A local law in relation to an increase in the rate of interest to be charged for nonpayment of water rent.

A local law in relation to the reduction of the period of time after which a proceeding for foreclosure of a tax lien by action in rem may be begun.

A local law in relation to increasing the rate of interest on unpaid taxes on real estate and the imposition of a fine for failure to pay taxes on real estate.

A local law in relation to the establishment of a reserve for uncollected real estate taxes.

A local law in relation to the appointment of a receiver of rents in tax delinquency properties.

INTRODUCTION

As of June 30, 1975, \$502.3 million of uncollected Real Estate Taxes were carried on the City's books. Of this sum, the state comptroller estimated that only \$94 million could be conceivably expected to be realized as revenue. The uncollectibility of \$408 million in expected receivables, needless to say, has played a major role in the creation and exacerbation of the City's fiscal crisis.

The magnitude of the problem prompted this committee to investigate the history and efficacy of laws intended to insure tax collection and the current practices and procedures of the Finance Administration and Law Department. *Our inquiry reveals that our present laws and procedures almost seem deliberately designed to encourage the non-payment of taxes or, at the very least, to insure that the City will be the last creditor paid. Furthermore, our laws and procedures for estimating anticipated real estate revenues seem designed to deceive ourselves and others by systematically overstating these revenues.*

Extensive data has been compiled by our staff and received by the Committee. In addition, the Committee took testimony from representatives of the Finance Administration and Law Department on September 24, 1975. The list of exhibits received and witnesses heard is annexed hereto as Appendix A.

THE FISCAL IMPACT OF DELINQUENCIES

The \$502.3 million of cumulative uncollected real estate taxes as of June 30, 1975 fall into two distinct categories. Approximately \$282.6 million consists of assessments made against properties which should not have been included in the tax rolls in the first place because they are entitled to an exemption of one kind or another. The balance of \$219.7 million represents a true delinquency in the sense that these are taxes which should be collected from fully assessable properties.

It is obvious that to the extent that the taxes in either category are uncollected, the City sustains a shortfall of revenues since its budgets are predicated on the full collectibility of all of the taxes assessed.

The shortfall, prior to the present crisis, caused the City to make short-term loans which mushroomed to such an extent that the City is no longer able to borrow in the open market to meet its immediate needs.

Since these short-term borrowings were based upon the false assumption that all of the uncollected taxes would be recovered sooner or later, the City's budget, for this and other reasons, fell hopelessly out of balance.

The deception was, therefore, two-fold. The appearance of a balanced budget was misleading because in no year would all the taxes assessed be collected. Secondly, the borrowings were based on anticipated revenues which were never realized.

Furthermore, the tax rate which emerged each year was unrealistically low. The rate is reached by dividing the total value of all assessable property by the total revenue to be obtained from real estate taxes. To the extent that non-tax producing property is included within all assessable property, the latter number is overstated, resulting in an illusory reduction in the tax rate. While understating the tax rate may have made annual increases more palatable, the "saving" was, of course, illusory, as the proliferation of nuisance taxes to make up the budget deficiency clearly demonstrates.

Finally, the inclusion of real property on our assessment rolls from which no revenue could be obtained permitted the City to overstate the dollars which the City could borrow for capital construction, since the limit of such borrowings is determined by the taxable assessed valuation.

It is apparent, therefore, that the inclusion of real property on our assessment rolls which does not properly belong there, either because it is exempt from taxation or because the taxes assessed are not likely to be collected, profoundly distorts the City's fiscal condition; the steps taken thus far to correct these distortions have been woefully inadequate.

WHAT PROPERTIES ARE DELINQUENT

As already noted, a significant portion of the \$502 million of real estate tax delinquencies results from assessments against properties which should not have been on the tax rolls in the first place. These include publicly held properties in which the delinquency is \$126.6 million, diplomatic property, \$4.7 million, the Mitchell Lama properties, \$53.0 million, properties already undergoing in rem foreclosure—\$54.4 million—for a total of \$238.7 million.

These properties are included only because the administrative steps needed to remove them had not been taken at the time the tax was levied. The remaining \$263.3 million represents taxes which have been properly assessed but not yet collected.

Contrary to the impression held by many, the delinquencies are by no means limited to rent controlled property. Rather, they pervade the entire real estate market. There are 17,383 parcels which are in arrears for a period of more than one, but less than two years. The total amount of taxes owed for that period was approximately \$55 million. Of this amount, approximately \$15 million, or 27 per cent, consisted of walkup apartments and another \$7 million or 13 per cent consisted of elevator apartments. However, another 27 per cent consisted of commercial structures and another 12 per cent consisted of one and two family houses. The balance of 21 per cent of properties in tax arrears consisted of all other uses such as; transportation facilities, vacant land and condominiums. The chart annexed hereto as "appendix A" sets forth by categories of property the source of all delinquent taxes.

Even with respect to multiple dwellings, it is unlikely that rent control is the dominant cause of tax delinquencies, according to one comprehensive survey of the rent control market. Furthermore, while in some sectors of the real estate market, it may be that nonpayment of the taxes is merely a convenient way of borrowing from the City, at least with respect to the weaker sections of the housing market, such is not the case. Rather, it seems that for that kind of housing, nonpayment of taxes is a symptom of "going out of business." Characteristically, these weaker sections of the market consist of smaller old-law dwellings owned by less sophisticated owners, generally in declining neighborhoods. In such housing, owners can experience difficulties obtaining the maximum controlled rent except from welfare tenants. As tax arrears accumulate building violations increase, utilities are shut down, vandalism increases, sooner or later the owners abandon the premises and the tenants frequently abandon them as well.

* *The Urban Housing Dilemma: The Dynamics of New York City Rent Controlled Housing*, George Sternlieb, Rutgers University Center for Urban Policy Research—1972.

LEGISLATIVE HISTORY

Since before the incorporation of Greater New York City in 1897 the procedures for the collection of delinquent real estate taxes have been established in a series of special and local laws, resulting in changes in the charter and administrative code. In all that time the general laws of the state with regard to collection of unpaid realty taxes have never applied to this City.

COUNCIL—CO 6

Chapter 410 of the laws of 1882, "An Act to Consolidate and Declare the Special and Local Laws Affecting Public Interests of the City of New York", established the procedure for collection of unpaid taxes for the City of New York when the City only included New York County. The statute was a codification of laws pertaining to New York City and was in effect the first Administrative Code. Section 926, *et seq.*, of the Act provided for a procedure quite similar to an in rem foreclosure. Property more than three years in arrears in real estate tax payments was summarily sold in auction. The price of property sold at auction was the full price of past due taxes, water rents, and accruing interest. At auction the takers would bid the period of years and months for which they would pay the full amount of arrears in return for a leasehold interest. The only notice requirement was that the lists of property to be sold were to appear for a period of time in *THE CITY RECORD* or in daily newspapers. After such a sale of such lease the successful bidder was obligated to notify the owner. The bidder's lease did not take effect for two years and during that time the record owner, or anyone else with a prior interest, could redeem the property by paying the bidder his purchase price plus interest. If the property was not redeemed the City Clerk could convey the lease.

This lengthy, though simple, procedure was incorporated in the Greater New York Charter, enacted in 1897, which created the City as we know it today.

In a later special Act, L. 1908, c. 490, § 14 *et seq.*, the legislature provided for a system of sales of tax liens not very dissimilar to lien sale provisions now in the Code. Purchasers of tax liens, instead of a leasehold interest, received a lien which could only be foreclosed upon court action.

The general laws for real estate taxation were codified in L. 1909, c. 62. Its provisions were not very different from those in the charter, providing for sales of liens for unpaid taxes. But since there was another special law in effect for New York City the Consolidated Laws did not apply to the City.

The New York City procedure was amended a number of times in the following years in a series of special laws: L. 1911, c. 490; L. 1913, c. 326; and L. 1918, c. 63; but the provisions of the general Consolidated Laws were never made applicable to New York City.

In 1930, under L. 1930, c. 809, the Consolidated Laws were amended by the addition of a simplified procedure for foreclosure of tax liens, but this law again did not apply to this City.

The first law establishing a procedure for in rem foreclosure of tax liens was adopted in 1939 and was known as the Stagg Act (L. 1939, c. 692). This general law was an enabling act and would apply to any tax district that chose to adopt it by local law. The law provided a very detailed procedure for foreclosure of tax liens on properties delinquent for four or more years. Some of the details of procedure were thought to be unworkable in the City.

The Stagg Act required that all delinquent properties in the City be sold at one time. In a City as large as New York this would be unwieldy. Secondly, it would not allow the City to forego in rem takings in areas of the City where such takings might work to the eventual economic disadvantage of the City. As a result, the City did not adopt the 1939 procedures and they never applied here.

In L. 1948, c. 250, the legislature amended the Stagg Act to allow a tax district with a population of fifty thousand or more to file separate lists for parcels in whole geographic sections of the City. This would seem to have eliminated much of the problems in the 1939 system.

The Council and Mayor did not adopt the amended procedure because in that same year, in Chapter 411, a procedure for in rem foreclosure of properties more than four years delinquent in the payment of real estate taxes was inserted in the Administrative Code. This special act was enacted, after receipt of the appropriate Home Rule Message from the Mayor and the Council, and passed by the Council on February 24, 1948. This act promulgated Title D of Chapter 17 of the Administrative Code.

In L. 1958, c. 959, the general law with regard to in rem foreclosure was amended again, establishing the enabling act as it stands today, but since an in rem procedure had been established in the City's administrative code, the 1958 procedure, like all other general laws, has never applied to the City. That law made no changes in the In Rem procedure but only renumbered the sections.

Since 1948, there have been amendments to Title D of Chapter 17. By special act in 1953, 1956, and 1959, changes were made concerning filing procedure, periods of redemption and public notice procedure. These amendments were passed by the legislature upon receipt of a Home Rule Message from the Council and the Mayor. In 1963, by special act, a number of minor cosmetic changes were made in the title to conform to the new Charter. Since that time, in 1969, 1970, 1972 and 1975, the legislature has made a number of changes without the benefit of a Home Rule Message from the Council and the Mayor. The 1975 changes took effect January 1, 1976.

It is unfortunate that the changes made since 1969 were done without local legislation since Article IX of the State Constitution may be interpreted as requiring a Home Rule Message before such changes could be enacted. Furthermore, it seems that the methods and techniques used by a municipality to satisfy its tax liens are of a particularly local concern and an area in which the City may act without the benefit of State Legislation.

In rem taking of delinquent property is not the only means of tax enforcement that has been used in the City. In 1941, mounting tax arrearages, the market for tax liens and for resaleable property taken in rem, and the fact that property owners were "milking" their properties resulted in the adoption of section 415(1)-53.3 of the Administrative Code. This statute provided for the appointment of the City Treasurer as receiver of rents in properties that had fallen delinquent without notice to the property owner. The Court of Appeals, in *Application of The City of New York*, 801-815 East New York Avenue, 290 N.Y. 236, 48 N.E. 2d 503 (1943), held that the receivership provision was constitutional. However, the statute expired by its terms in 1946.

Interest rates to be charged for unpaid taxes have been increased over the years. Prior to January 1, 1934, the interest rate for unpaid taxes was 7 per cent per year. From January 1, 1934 to May 1, 1937, the rate was 10 per cent per year; but this rate could be reduced to 7 per cent in appropriate cases. From May 1, 1937 to August 1, 1969, the rate was set at 7 per cent; and from August 1, 1969 to the present, the rate has been set at 7 per cent for properties with annual tax bills of \$2,000 or less, and at the rate of 1 per cent a month, or 12 per cent annually, for properties with tax bills of more than \$2,000 and for abandoned property.

PRESENT IN REM PROCEDURES

Even with the changes adopted in 1975 and effective January 1, 1976, the existing procedures for enforcing the City's lien for non-payment of taxes were awkward, cumbersome and time-consuming.

The City must wait until the property owner has been three years of tax delinquency before it may commence a legal action. Any payment by the property owner which reduces the period of delinquency to less than three years stalls the legal proceeding. Thus, a property owner may consistently avoid foreclosure by being 2 3/4 years' delinquent and by paying interest on the delinquent sums.

Upon the expiration of three years, a list of delinquent taxes is published and the taxpayer has a 10-week period in which to redeem the property. During the redemption period, the Finance Administrator is authorized to enter into agreements with the property owners to accept a down payment of twenty-five per cent of the delinquent taxes and the payment of the balance in quarterly installments. Even after the expiration of the period of redemption and the taking of the property by the City, the Corporation Counsel can enter into a redemption agreement with any person having an interest in the property upon the payment of all delinquent taxes and a 5 per cent penalty. However, the penalty may not exceed \$500. This period of redemption lasts for two years, and for the first four months of that two-year period, the City cannot sell or assign the acquired property.

ADMINISTRATIVE PROCEDURES LEADING TO IN REM FORECLOSURE

As previously noted, the City can do nothing to collect delinquent taxes until three years have elapsed. Thereafter, the procedure to enforce its lien can take another three years. The steps are as follows:

After having compiled a list of parcels delinquent in taxes for a Borough, certain properties are excluded from that list upon application to, and the consent of, the Board of Estimate, so that an original list of approximately 11,000 parcels may be reduced to 5,600 parcels to be filed with the County Clerk as a "List of Delinquent Taxes".

This revised list is approved by the Board of Estimate for publication in THE CITY RECORD and two other newspapers for six consecutive weeks, which notice includes a date seven weeks hence within which time the property may be redeemed. (Section D17-5.0, Subdivisions 1 and 2, and Section D17-6.0 of the Administrative Code).

This revised list is forwarded to the Corporation Counsel who, as attorney for the Finance Administrator, files said list with "Public Notice of Foreclosure," with the County Clerk of the County wherein the parcels are located. Section D17-5.0 indicates that said procedure is to be done by the Finance Administrator, although it is actually done by the Corporation Counsel. Said list of delinquent taxes constitutes the complaint in the action in the Supreme Court in the county where the parcels are located.

From the date of filing to the date set seven weeks hence, the Finance Administrator handles those property owners who desire to redeem their properties on the payment of the taxes and penalties which are then issued a "Certificate of Redemption"; negotiates with those who enter into agreements with the Finance Administrator requiring a down payment of 25 per cent of all delinquent taxes and interest, and payment of balance in quarterly installments, and receives "Certificates of Withdrawal."

During this period of time, the In Rem section of the Law Department is busy moving to strike answers to the proceedings on legal basis.

After the period of redemption, a list is compiled of all those who have "Certificates of Redemption," together with a list of those who entered into the 25 per cent settlement, which is then submitted to the Board of Estimate for a resolution which often takes a year from the last date of redemption.

After the period of redemption ends, there can be no payment under the present law. However, the Law Department has been entering into stipulations with defaulting parties to permit them to pay all taxes, interest and penalties owing to the City in one lump sum payment, which stipulation must be approved by the court and filed in the action.

When the resolution is received from the Board of Estimate certifying the "Certificates of Withdrawal," the Law Department then prepares the necessary affidavits and default judgments as to those parcels which have not been redeemed by stipulated payments agreed to.

Depending on the number of parcels originally filed against, compiling the list of redemptions, the Certificates of Withdrawals and Stipulations of Payments, the preparation of the Final Default Judgment may take several months.

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When a Final Default Judgment is entered in the court and title is vested in The City of New York to those parcels, the Corporation Counsel then notifies the Department of Real Estate.

The Department of Real Estate then sends representatives or receivers of each parcel to notify all tenants that the City now owns the property, and that they are to pay the rent to The City of New York.

After taking of the property by the City, any party with a real interest in the property, including owners, mortgagees, or holders of liens or encumbrances, can redeem the property within two years of the date from the date on which the City acquired the property. The City, however, can sell the property at any time after four months from the date of acquisition. Once sold, the right of redemption is cut off. To redeem the property, all taxes, assessments, water and sewer rents, required interest and an additional 5 per cent redemption fee (not to exceed \$500) must be paid.

The effect of the laws concerning release and sale of the property is to give the owner, or other interested party, an equity of redemption for only four months. After that date, the City can sell or assign the property with clear title. After four months, the Code only limits the price of the property at resale to the owner.

The experience of the Department of Real Estate is that 10 per cent of the properties taken are redeemed at this latter time.

THE HEARING ON SEPTEMBER 24, 1975

On September 24, 1975, the Committee took testimony concerning the real estate tax delinquency problem, in rem statutes and New York City agency and administrative procedures which presently govern this field. Witnesses who were invited and appeared before the panel were:

Ivan Irizarry	Finance Administrator
Harry Tishelman	First Deputy Finance Administrator
John Fava	Fiscal Research Director
Gerald Honan	Finance Administration
Hyman Weber	Asst. Corporation Counsel, In Rem Bureau Chief

The Committee first dealt with the State Comptroller's contention that of the uncollected \$502.3 million in taxes, more than \$400 million will never be collected.

The Finance Administration conceded that at least \$385 million will not be recovered. The principal difference between this total and that estimated by the State Comptroller is accounted for by their dispute over the possibility of eventual realization of approximately \$44 million in arrears owed by the bankrupt Penn Central Corporation.

Subsequent inquiry dealt with ascertaining the basis for, and chronology of, the deception of both the public and investment community as to the City's estimate of expected collections of real property taxes. This is directly pertinent to the degree of borrowing and opportunity for prompt repayment; specifically, why the tax rolls reflect the inclusion of municipally-owned parcels, diplomatic properties, and inflated tax liability for Mitchell Lama projects.

Deputy Administrator Tishelman responded that, pursuant to existing law, certain City properties were required to be maintained on the list of taxables: diplomatic properties which have not filed with the Department of Finance exemption forms (although under no legal obligation to do so pursuant to international law) were so reflected as taxable, and "shelter rent," tax abatements which are granted to Mitchell Lama Housing Projects were extensively behind in computation thereby causing the maintenance of an inflated dollar figure of real property tax liability.

No adjustments were ever made to compensate for the over-estimate resulting in the deficit financing whereby the City borrowed on uncollectible receivables. Asked as to what the consequences would have been if the City had maintained a reserve fund for uncollectibles and/or routinely "wrote off" for bad debts, Mr. Tishelman responded that the adoption of such procedures would have inherently mandated either curtailment of expenditures or the substantial increment of existing or additional taxes to raise revenue otherwise accounted for through such deficit financing.

Discussion next centered on procedures. Deputy Administrator Tishelman proceeded to give to the Committee a detailed analysis and explanation of in rem procedures as currently followed by his office, and thereafter proceeded to specifically account for the statutory steps involved in preparing a particular in rem action from commencement through vesting of title in The City of New York, to wit:

1. Promulgation of in rem list (properties in tax arrears over three years).
2. Presentation of said list to the Board of Estimate.
3. Publication of the list in THE CITY RECORD.
4. Presentation of the list for the second time to the Board of Estimate.
5. Commencement of the action in the Supreme Court.
6. Publication of list to allow for period of redemption.
7. Presentation of final list to the Board of Estimate for a resolution.
8. Preparation of final judgement.*

As of January 1, 1976, pursuant to the enactment of Chapter amendments during the previous session of the state legislature, it is no longer necessary for the Corporation Counsel to wait for the Board of Estimate resolution prior to preparation of the final judgment. However, these changes will probably not speed up the process significantly because the Corporation Counsel is effectively handcuffed by personnel shortages. The In Rem Foreclosure Division is staffed by three attorneys and two clerical personnel to handle 8,500 procedures per year. Thus, five years are required to either realize real property tax revenues (inclusive of any interest or penalties thereon) or otherwise conclude legal proceedings which would obtain the parcel in lieu of the payment of such obligations.

A major thrust directed toward the resolution of this problem can be made through the reduction of the present three-year in rem period to one-year. Our cash-flow position would be greatly enhanced as a result of the adoption of such legislation inasmuch as the receipt of real estate tax payments would occur at a more significant pace. Furthermore, those properties which would not be redeemed by the delinquent owners would be taken by the City through foreclosure without the effects of two additional years of deterioration and owner neglect. They would present a more attractive commodity for possible resale by the Department of Real Estate, necessarily resulting in a greater increase in City revenue.

The above concepts were strongly supported in testimony given by the representatives of the Finance Administration as well as several members of this Committee. Statistics were presented which revealed that upon publication of the initial list of delinquent parcels, 50 per cent of the properties are immediately redeemed through the tender of sufficient payment by their respective owners. Prior to the conclusion of the foreclosure procedure, 50 per cent of those properties remaining on the list are likewise redeemed through the remittance of the necessary payments. Thus, as the graph contained within the appendix indicates, 75 per cent of the individual parcels reflected on the in rem list eventually pay their arrearages. This figure has translated to a dollar recovery of 38 per cent of the outstanding amount or approximately \$80 million of the \$207 million which was the deficiency accrued during the previous year.

Most significantly derived from this statistic is the projection of the financial benefits to our current cash-flow position. As a result of shortening the in rem period to one year, we can realistically anticipate an analogous tax arrearage recovery *albeit at a hastened pace*; this expeditious repayment of tax arrearages will undoubtedly serve to substantially facilitate this City's financial recovery in that it provides for a further and major correction of our fiscal practices.

Also discussed was the revision of the penalty and interest rate structure as applicable to tax delinquencies. Presently, as detailed in the background to this report, interest rates chargeable to properties with a tax liability in excess of \$2,000 per year is 12 per cent per annum. This, under certain favorable market conditions, allows the defaulting taxpayer to, in effect, opportunistically use the City as a credit agency whereby he can invest monies otherwise applicable toward his tax payments at a higher interest rate in the private sector. A revision of this interest rate structure must occur so as to negate the desirability of the investment of such monies in non-tax paper. At minimum, such rates must be increased to, at least, 15 per cent with the possibility of establishing a fluctuating rate at a set percentage above the prime interest rate. Additionally, it is mandatory, as advocated by the response of the Finance Administrator, that the City of New York conform its collection periods to those of other jurisdictions by returning to a semi-annual, rather than a quarterly, payment schedule. If such were structured on a January and July basis, our receivables would be realized during the first six months of each fiscal year, thereby again greatly enhancing our cash-flow position.

At the date of this hearing, no specific statistics were made available by the Finance Administration as to the amount of greater revenue expected to be generated by an increment of the interest rate.

Another point in Comptroller Levitt's report questioned the need for the maintenance of bureau offices of the Finance Administration. It was averred by Mr. Tishelman that such offices serve a necessary function in the community inasmuch as they inform a parcel owner of his current tax status as well as acting as a collection outpost for seven per cent of the outstanding real property taxes due. Representatives of the Finance Administration indicated strong support for their continuance despite the Comptroller and Mr. Sadowsky's reflection that the monetary expenditure on such offices, now in excess of \$4 million, was clearly inappropriate in view of the service benefits performed therein.

CONCLUSIONS AND RECOMMENDATIONS

This inquiry has revealed that there are three principal areas of concern, requiring five prompt legislative or administrative changes:

Conclusion one—Chronic overstatement of real estate taxes collectible each year must not continue.

In good times and in bad, there is bound to be some portion of the real estate levy which will go uncollected either because of administrative procedures accurately reflecting valid tax exemptions have not been completed or because of weakness in some sectors of the real estate market.

Every prudent business sets up a reserve for bad debts or uncollected accounts receivable. This is generally expressed as a percentage of the total receivables, and the percentage is determined by past experience. It is assumed that a certain portion of the amounts due will not be collected in the ensuing year. The City of New York should do likewise. Based upon recent experience, the reserve should be 10 per cent of the amount of the real estate tax levy. *Recommendation one—We, therefore, propose a charter amendment which would provide such a reserve.*

This means that in calculating the receipts from real estate taxes, the City will, in its annual budget, assume that 10 per cent of the total amount expected will not be collected either because of exemption or uncollectibility. The adoption of such legislation will present a more realistic estimate of the amount to be collected from the real estate tax levy in the ensuing year.

Conclusion two—The period in which IN REM procedures may be commenced must be shortened, interest rates adjusted and a City receivership procedure for special situations established.

The present statutory requirement of three years simply means that the City is the last creditor to be paid in a distress situation. Indeed, with respect to housing which is "going out of business," the three-year period also means that the property which the City receives at the end of the period is more likely to be in such a state of disrepair as to be uninhabitable, making the City's maintenance or demolition costs that much more expensive. No one benefits from the three-year period. The taxpayer simply defers the date of judgment at costly interest rates. The City stands by while other creditors get paid and the properties frequently deteriorate.

Furthermore, experience shows that a high percentage of taxes are paid once the proceeding is commenced indicating that acceleration of the period in which the proceeding is commenced will also accelerate the collection of the taxes.

Recommendation two—We propose a shortening of the three-year period to one year.

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Recommendation three—Interest rates for delinquent taxes should float 6 per cent above the prime interest rate.

When the current rate of 12 per cent per annum was adopted, it seemed high enough to act as a deterrent to delinquency. However, as interest rates soared, the 12 per cent rate came very close to the market cost for money and, therefore ceased to have a deterrent effect. The interest rate as applicable to all future real estate tax arrearages should adjust itself to changing market conditions and should "float" at 6 per cent above the prime interest rate. Furthermore, interest rates for water and sewer charges which are presently at 7 per cent per annum should be amended to conform them with the rate for real estate tax arrearages.

Recommendation four—A receivership bill for special situations is needed.

Sometimes real estate taxes are deferred for a variety of special circumstances which are temporary and which do not indicate that the owner is going out of business. This may result from a dispute between an owner and a net lessee, a dispute with a mortgagee or some other problem. Under such circumstances, the City should not sit by while the problem is resolved. The proposed legislation would permit the City to become the receiver of the property for the purpose of collecting taxes due and then to return the property to the owner.

Conclusion three—Improper administration of in rem proceedings is costing the city money.

As we have noted, there are two periods of time delay. First is the three years which the City must wait before commencing a proceeding. This is followed by a two- to three-year period in which the proceeding is consummated. The latter delay results principally from inadequate staffing in the corporation counsel's office. To provide three lawyers and two clerical help to process an expected ten thousand in rem proceedings—as is done now—is an absurdity. Whatever the present fiscal constraints may be, this kind of "saving" on personnel is illusory. The plain fact is that the addition of personnel to handle in rem procedures with the acceleration of those proceedings and the consequent acceleration of income will pay back the cost of additional personnel many times over.

** Recommendation five—The establishment of a task force to properly administer the in rem program should be engaged promptly.*

Recap of Arrears as of June 30, 1975

	Millions
Total average arrears as above	\$242.0
1969-70 Arrears	15.0
1968-69 Arrears	6.0
1967-68 and Prior Arrears	12.0
Publicly-owned Property, Diplomatic Property, Mitchell-Lama Property, In Rem Properties	227.0 (approx.)
Uncollected Real Estate— Tax Levy as of June 30, 1975	\$502.0

CITYWIDE AVERAGE REAL ESTATE TAXES ARREARS (PRIVATE SECTOR) 1970-1971 to 1974-1975—BY PROPERTY USE CATEGORIES (as of June 30, 1975)

Category	1974-1975			1973-1974		
	No. Parcels	Less Than 1 Year Average Arrears	Dollar Arrears	No. Parcels	1 Year—Less Than 2 Years Average Arrears	Dollar Arrears
One-Family	9,293	\$428	\$3,977,404	3,107	\$903	\$2,805,621
Two-Family	9,252	490	4,533,480	3,674	991	3,640,934
Walk-Up Apartments ..	10,842	1,515	16,425,630	5,562	2,814	15,651,468
Elevator Apartments ..	845	16,508	13,949,260	239	28,463	6,802,657
Warehouses	246	5,452	1,341,192	127	9,740	1,236,980
Factories	717	4,828	3,461,676	337	8,558	2,884,046
Garages	777	2,220	1,724,940	352	1,438	506,176
Hotels	68	77,072	5,240,896	25	117,695	2,942,375
Theatres	26	20,551	534,326	16	13,028	208,448
Store Buildings	1,108	3,547	3,930,076	493	5,514	2,718,402
Loft Buildings	465	10,137	4,713,705	154	15,679	2,414,566
Office Buildings	220	33,233	7,311,260	53	49,952	2,647,456
Miscellaneous	409	6,896	2,820,464	194	6,315	1,225,110
Vacant Land	4,458	627	2,795,166	2,470	418	1,032,460
Hospitals and Health Churches Etc.	27	22,225	600,075	10	33,644	336,440
Non-Exempt	60	1,931	115,860	31	3,867	119,877
Asylums and Homes ..	8	4,967	39,736	3	10,511	31,533
Places of Public Ass., Indoors	62	11,176	692,912	38	24,727	939,626
Outdoor Recreation Facilities	19	4,280	81,320	5	7,233	36,165
Condominiums	128	243	31,104	36	470	16,920
Transportation Facilities	5	81,510	407,550	5	95,676	478,380
Utility Bureau Property	11	23,563	259,193	10	48,669	486,690
Educational Structures	29	7,200	208,800	6	11,282	67,692
Exempt	14	8,188	114,632	8	12,582	100,656
Government Installations	4	4,160	16,640	4	7,954	31,816
Others	1,147	4,026	4,617,822	424	11,631	4,931,544
Totals	40,240		\$79,945,119	17,383		\$54,294,038

	7	8	9	10	11	12
Category	1972-1973			1971-1972		
	2 Years— No. Parcels	Less Than 3 Years Average Arrears	Dollar Arrears	3 Years— No. Parcels	Less Than 4 Years Average Arrears	Dollar Arrears
One-Family	1,864	\$1,349	\$2,514,536	1,383	\$1,765	\$2,440,995
Two-Family	2,415	1,444	3,487,260	1,906	1,855	3,535,630
Walk-Up Apartments ..	4,260	4,073	17,350,980	3,270	5,016	16,402,320
Elevator Apartments ..	94	37,697	3,543,518	49	43,277	2,120,573
Warehouses	87	11,913	1,036,431	31	14,517	450,027
Factories	252	10,430	2,628,360	159	13,181	2,095,779
Garages	261	1,107	288,927	137	834	114,258
Hotels	10	181,612	1,816,120	7	223,281	1,562,967
Theatres	9	6,062	54,558	4	6,008	24,032
Store Buildings	341	7,165	2,443,265	180	8,023	1,444,140
Loft Buildings	96	19,228	1,845,888	44	22,240	978,560
Office Buildings	46	67,484	3,104,264	26	88,022	2,288,572
Miscellaneous	194	2,305	447,170	79	2,762	218,198
Vacant Land	2,713	313	849,169	1,805	286	516,230
Hospitals and Health Churches Etc.	5	35,779	178,895	5	37,609	188,045
Non-Exempt	37	5,383	199,171	12	6,785	81,420
Asylums and Homes ..						
Places of Public Ass., Indoors	3	29,424	88,272			
	34	45,999	1,563,966	12	97,142	1,165,704
Outdoor Recreation Facilities	6	8,729	52,374	3	9,501	28,503
Condominiums	1	812	812			
Transportation Facilities						
Utility Bureau Property	7	72,660	508,620	3	102,650	307,950
Educational Structures	16	16,053	256,848	1	16,237	16,237
Exempt	9	14,796	133,164	4	15,050	60,200
Government Installations	4	11,718	46,872			
Others	145	31,245	4,530,525	88	43,858	3,859,504
Totals	12,909		\$48,969,965	9,208		\$39,899,844

	13	14	15	16	17	18
Category	1970-1971			No. Parcels	Private Sector Total Dollar Arrears	Per- centage of Private Sector Arrears
	4 Years— No. Parcels	Less Than 5 Years Average Arrears	Dollar Arrears			
One-Family	729	\$2,128	\$1,551,312	16,376	\$13,289,868	5.48
Two-Family	1,125	2,144	2,412,000	18,372	17,609,304	7.26
Walk-Up Apartments ..	899	6,141	5,520,759	24,853	71,351,157	29.43
Elevator Apartments ..	21	49,428	1,037,988	1,248	27,453,996	11.32
Warehouses	10	19,374	193,740	501	4,258,370	1.76
Factories	32	15,415	493,280	1,497	11,563,141	4.77
Garages	31	1,457	45,167	1,558	2,679,468	1.11
Hotels	8	372,816	2,982,528	118	14,544,886	6.00
Theatres	1	2,288	2,288	56	823,652	.34
Store Buildings	45	8,869	399,105	2,167	10,934,988	4.51
Loft Buildings	4	24,305	97,220	763	10,049,939	4.15
Office Buildings	15	125,946	1,889,190	360	17,240,742	7.11
Miscellaneous	31	8,592	266,352	907	4,977,294	2.05
Vacant Land	313	567	177,471	11,759	5,370,496	2.21
Hospitals and Health Churches Etc.	1	41,723	41,723	48	1,345,178	.56
Non-Exempt	10	8,995	89,950	150	606,278	.25
Asylums and Homes ..				14	159,541	.07
Places of Public Ass., Indoors	2	121,354	242,708	148	4,604,916	1.90
Outdoor Recreation Facilities				33	198,362	.08
Condominiums				165	48,836	.02
Transportation Facilities	2	106,275	212,550	12	1,098,480	.45
Utility Bureau Property	4	137,574	550,296	35	2,112,749	.87
Educational Structures	1	19,988	19,988	53	569,565	.24
Exempt	4	17,279	69,116	39	477,768	.20
Government Installations				12	95,328	.04
Others	23	44,390	1,020,970	1,827	18,960,365	7.82
Totals	3,311		\$19,315,701	83,051	\$242,424,667	100.00

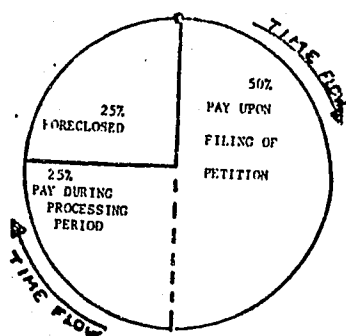
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APPENDIX B

FACT: THE INITIAL FILING OF AN IN REM PETITION RESULTS IN THE IMMEDIATE PAYMENT OF TAX ARREARAGES BY THE OWNERS OF 50 PER CENT OF THE DELINQUENT PARCELS.

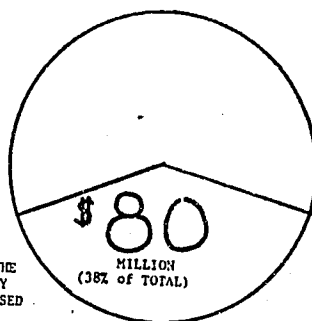
FACT: PRIOR TO THE COMPLETION OF THE PROCEDURES WHICH END IN FORECLOSURE, AN ADDITIONAL 25 PER CENT OF THE PROPERTIES ARE REDEEMED.

FACT: THIS TOTAL OF 75 PER CENT OF THE PARCELS WHICH ARE REMOVED FROM IN REM TRANSLATES TO A RECOVERY OF 38 PER CENT OF THE OUTSTANDING DOLLAR ARREARAGES. THUS:



PER CENT OF PARCELS THROUGH IN REM PROCEDURES

THE REDUCTION OF THE 3-YEAR IN REM PERIOD TO 1-YEAR WILL ENABLE THE CITY TO RECOVER THE TAX ARREARAGES MORE QUICKLY AND TO RECOVER THE FORECLOSED PROPERTIES WITHOUT MAJOR DETERIORATION!!!



\$ TAX ARREARAGE RECOVERY 1974-1975 FISCAL YEAR PROJECTION (\$207 MILLION ARREARAGES TOTAL)

Proposed Legislation

By Mr. Sadowsky—

A LOCAL LAW to amend the administrative code of the city of New York, in relation to the appointment of a receiver of rents in tax delinquency properties.

Be it enacted by the Council as follows:

Section 1. Title A of chapter 17 of the administrative code of the city of New York is hereby amended by adding thereto a new section 415 (1)-53.3 to read as follows:

§ 415 (1)-53.3. Additional method to enforce payment of transfer of tax liens held by city, appointment of receiver of rents and profits.

a. In addition to any other remedy or procedure by law, whenever the city is the owner or holder of a transfer of tax lien, the sum of which amounts to five thousand dollars or more, the city, upon application ex parte to the supreme court, shall bring an action to obtain the immediate appointment of the finance administrator as receiver of rents, issues and profits of the property affected by such transfer of tax lien.

b. The finance administrator acting as receiver pursuant to this section shall serve without any additional bond and shall collect the accrued and accruing rents, issues and profits in satisfaction of such unpaid taxes, assessments, water rents, penalties and interest and the costs and charges of the administration of the receivership.

c. When such unpaid taxes, assessments, water rents, penalties, interests, costs and charges are paid in full, the receiver shall apply to the court for discharge after payment of the surplus money, if any, to the owner.

§ 2. This local law shall take effect immediately.

By Mr. Sadowsky—

A LOCAL LAW to amend the administrative code of the city of New York, in relation to the reduction of the period of time after which a proceeding for foreclosure of a tax lien by action in rem may be begun.

Be it enacted by the Council as follows:

Section 1. Section D17-4.0 of title D of chapter 17 of the administrative code of the city of New York is hereby amended to read as follows:

§ D17-4.0. Foreclosure by action in rem.—Whenever it shall appear that a tax lien which has been due and unpaid for a period of at least [three years] one year from the date on which the tax, assessment or other legal charge represented thereby became a lien, such tax lien, except as otherwise provided by this title, may be summarily foreclosed in the manner provided in this title, notwithstanding the provisions of any general, special or local law and notwithstanding any omission to hold a tax sale prior to such foreclosure. Ownership by the city of a transfer of tax lien or of a tax sale certificate or of any other instrument evidencing such tax lien shall be evidence of the fact that the tax, assessment or other legal charge represented thereby have not been paid to the city or assigned by it.

§ 2. Subdivision a of section D17-13.0 of such title and chapter of such code is hereby amended to read as follows:

a. The finance administrator may, prior to final judgment, withdraw a parcel from a proceeding under this title for any of the following reasons: (1) a question which the administrator deems meritorious has been raised as to the validity of the tax liens affecting the parcel, (2) the city collector, on or before the last date for redemption, accepted a payment of all taxes and interest which rendered the parcel subject to foreclosure hereunder because the records in his office indicated that the principal amount of such taxes was exceeded by the principal amount of subsequent taxes which would not have rendered the parcel subject to foreclosure hereunder and which had been paid prior to the commencement of said proceeding, (3) On or before the last date for redemption an agreement was duly made, executed and filed with the finance administrator, for the payment of delinquent taxes, assessments or other legal charges and interest and penalties in installments, the first of which was equal to at least twenty-five per centum of such arrears and payable upon filing of the installment agreement with the finance administrator, and each remaining installment of which was equal to at least the amount of the first installment, but in no event more than the amount of the greatest two years of such arrears and was payable annually with each year of current taxes, assessments or other legal charges, or each remaining installment of which was equal to at least one quarter of the amount of the first installment and was payable quarterly with each quarterly payment of current taxes, assessments or other legal charges, and there has been no default in such agreement or (4) in cases where the tax foreclosure action cannot be maintained such as, but not limited thereto, where the charges which rendered a parcel subject to foreclosure hereunder have been cancelled or were paid before the commencement of the foreclosure proceeding but such payment was not reported or did not clear for payment until after the commencement of said proceeding, or where a name and address appearing on an owner's registration card or an in rem card filed pursuant to sections D17-16.0 or D17-17.0 of this title and contained in the files of the city collector did not appear in the mailing list used by the finance administrator for mailing notices of foreclosure in in such proceeding.

§ 3. This local law shall take effect on June 1, 1976.

Note—New matter in italics.

By Mr. Sadowsky—

A LOCAL LAW to amend the administrative code of the city of New York, in relation to increasing the rate of interest on unpaid taxes on real estate and the imposition of a fine for failure to pay taxes on real estate.

Be it enacted by the Council as follows:

Section 1. Subdivision a of section E17-24.0 of title E of chapter 17 of the administrative code, as last amended by local law no. 46 of 1969, is hereby amended to read as follows:

§ E17-24.0. Interest on unpaid taxes.—a. If any tax on real estate which shall have become due and payable prior to January first, nineteen hundred thirty-four, is unpaid in whole or in part, the finance administrator shall charge, receive and collect interest upon the amount of such tax or such part thereof, to be calculated to the date of payment at the rate of seven per centum per annum from the date when such tax or such part thereof became due and payable on January first, nineteen hundred thirty-four, at the rate of ten per cent per annum from January first, nineteen hundred thirty-four to May first, nineteen hundred thirty-seven, or at the rate of seven per centum per annum for such period if the comptroller and the finance administrator of such city, in their discretion, both determine that the payment of any tax arrears at such reduced rate of interest may operate to save the property upon which such taxes are in arrears from foreclosure or encourage its development or is otherwise in the public interest, at the rate of seven per centum per annum from May first, nineteen hundred thirty-seven to August first, nineteen hundred sixty-nine, [and] from August first, nineteen hundred sixty-nine to October first, nineteen hundred seventy-five, at the rate of seven per centum per annum if the annual tax on a parcel is two thousand dollars or less, and at the rate of one per centum per month if the annual tax on a parcel is more than two thousand dollars or, irrespective of the annual tax, if a parcel consists of vacant or unimproved land and from October first, nineteen hundred seventy-five at the rate of seven per centum per annum if the annual tax on a parcel is two thousand dollars or less, and at the rate of fifteen per cent per annum if the annual tax on a parcel is more than two thousand dollars or, irrespective of the annual tax, if a parcel consists of vacant or unimproved land.

§ 2. Subdivision b of section E17-24.0 of such title and chapter of such code is hereby amended to read as follows:

b. If any tax on real estate which shall have become due and payable after January first, nineteen hundred thirty-four and prior to April first, nineteen hundred thirty-seven, is unpaid in whole or in part, the finance administrator shall charge, receive and collect interest upon the amount of such tax or such part thereof, to be calculated to the date of payment at the rate of ten per cent per annum from the date on which such tax or such part thereof became due and payable to May first, nineteen hundred thirty-seven, or at the rate of seven per cent per annum for such period if the comptroller and the finance administrator of such city, in their discretion, both determine that the payment of any tax arrears at such reduced rate of interest may operate to save the property upon which such taxes are in arrears from foreclosure or encourage its development or is otherwise in the public interest, at the rate of seven

COUNCIL—CO 10

per cent per annum from May first, nineteen hundred thirty-seven to August first, nineteen hundred sixty-nine, [and] from August first, nineteen hundred sixty-nine to October first, nineteen hundred seventy-five, at the rate of seven per cent per annum if the annual tax on a parcel is two thousand dollars or less, and at the rate of one per cent per month if the annual tax on a parcel is more than two thousand dollars or, irrespective of the annual tax, if a parcel consists of vacant or unimproved land and from October first, nineteen hundred seventy-five, at the rate of seven per cent per annum if the annual tax on a parcel is two thousand dollars or less, and at the rate of fifteen per cent per annum if the annual tax on a parcel is more than two thousand dollars or, irrespective of the annual tax, if a parcel consists of vacant or unimproved land.

§3. Subdivision c of section E17-24.0 of such title and chapter of such code is hereby amended to read as follows:

c. If any tax on real estate which shall have become due and payable on or after April first, nineteen hundred thirty-seven and prior to August first, nineteen hundred sixty-nine is unpaid in whole or in part, the finance administrator shall charge, receive and collect interest upon the amount of such tax or such part thereof, to be calculated to the date of payment at the rate of seven per cent per annum from the day on which such tax or such part thereof became due and payable to August first, nineteen hundred sixty-nine, [and] from August first, nineteen hundred sixty-nine, to October first, nineteen hundred seventy-five, at the rate of seven per cent per annum if the annual tax on a parcel is two thousand dollars or less, and at the rate of one per cent per month if the annual tax on a parcel is more than two thousand dollars or, irrespective of the annual tax, if a parcel consists of vacant or unimproved land, and from October first nineteen hundred seventy-five at the rate of seven per cent per annum if the annual tax on a parcel is two thousand dollars or less, and at the rate of fifteen per cent per annum if the annual tax on a parcel is more than two thousand dollars or, irrespective of the annual tax, if a parcel consists of vacant or unimproved land.

§4. Subdivision d of section E17-24.0 of such title and chapter of such code is hereby amended to read as follows:

d. If any tax on real estate which shall have become due and payable [at any time] on [and] or after August first, nineteen hundred sixty-nine and prior to October first, nineteen hundred seventy-five, [shall remain] is unpaid [on the first day of the calendar month next following the calendar month during which the same shall become due and payable] in whole or in part, the finance administrator shall charge, receive and collect interest upon the amount of such tax or such part thereof [remaining unpaid on that date], to be calculated from the day on which such tax or such part thereof became due and payable to [the date of payment] October first, nineteen hundred seventy-five, at the rate of seven per cent per annum if the annual tax on a parcel is two thousand dollars or less, and at the rate of one per cent per month if the annual tax on a parcel is more than two thousand dollars or, irrespective of the annual tax, if a parcel consists of vacant or unimproved land, and from October first, nineteen hundred seventy-five, at the rate of seven per cent per annum if the annual tax on a parcel is two thousand dollars or less, and at the rate of fifteen per cent per annum if the annual tax on a parcel is more than two thousand dollars or, irrespective of the annual tax, if a parcel consists of vacant or unimproved land.

§5. Subdivision e of section E17-24.0 of such title and chapter of such code is hereby relettered to be subdivision f of such section.

§6. Section E17-24.0 of such title and chapter of such code is hereby amended by adding thereto a new subdivision, to be subdivision e, to follow subdivision d, to read as follows:

e. If any tax on real estate which shall become due and payable at any time after October first, nineteen hundred seventy-five, shall remain unpaid on the first day of the calendar month next following the calendar month during which the same shall become due and payable, the finance administrator shall charge, receive and collect interest upon the amount of such tax or such part thereof remaining unpaid on that date, to be calculated from the day on which such tax or such part thereof became due and payable to the date of payment at the rate of seven per cent per annum if the annual tax on a parcel is two thousand dollars or less, and at the rate of fifteen per cent per annum if the annual tax on a parcel is more than two thousand dollars or, irrespective of the annual tax, if a parcel consists of vacant or unimproved land.

§7. Section E17-24.0 of such title and chapter of such code is hereby amended by adding thereto a new subdivision, to be subdivision f, to follow subdivision e, and to read as follows:

f. No later than the twenty-fifth day of May of each year, the banking commission shall transmit a written recommendation to the Council of a proposed interest rate to be charged for nonpayment of taxes on real estate. In making such recommendations the commission shall consider the prevailing interest rates charged for commercial loans extended to prime borrowers by commercial banks operating in the city and shall propose a rate at least six per cent per annum greater than such rates. Note—New matter in italics, old matter in brackets [] to be omitted.

§8. This local law shall take effect immediately.

By Mr. Sadowsky—

A LOCAL LAW to amend the administrative code of the city of New York, in relation to an increase in the rate of interest to be charged for nonpayment of water rent.

Be it enacted by the Council as follows:

Section 1. Section 415(1)-17.0 of title A of chapter 17 of the administrative code of the city of New York is hereby amended to read as follows:

§ 415(1)-17. Water rent; when payable; penalty for nonpayment.—a. One-half (i) the uniform annual water charges and extra miscellaneous charges for water not metered and (ii) annual service charges shall become due and payable, in advance if entered on January first, nineteen hundred seventy-four for the period commencing January first nineteen hundred seventy-four and ending June thirtieth nineteen hundred seventy-four. Commencing on June thirtieth nineteen hundred seventy-four, uniform annual water charges and extra miscellaneous charges for water not metered and annual service charges shall be due and payable in advance on the thirtieth day of June in each year, if entered. If such rents and charges are not paid to the city collector on or before the last day of the month following the month of entry, it shall be the duty of the city collector to charge, collect and receive interest at the rate of [seven] fifteen per cent per annum to be calculated to the date of payment from the date when such charges became due and payable. If not so entered and payable but entered at any time subsequent thereto, they shall be due and payable when entered and notice thereof shall be mailed within five days of such entry to the premises against which they are imposed, addressed to either the owner or occupant and if not paid on or before the last day of the month following the month of entry, it shall be the duty of the city collector to charge, collect and receive interest thereon at the rate of [seven] fifteen per cent per annum to be calculated to the date of payment to the date of entry.

b. All charges for meters and their connections and for their setting, repair and maintenance, and all charges in accordance with meter rates for supply of water measured by meter, including minimum charges for the supply of water measured by meter, shall be due and payable when entered, and notice therefor shall be mailed within five days of such entry stating the amount due and the nature of the rent or charge to the last known address of the such person whose name appears on the record of rents and charges as being the owner, occupant or agent or, where no name appears, to the premises addressed to either the owner or occupant, and if not paid on or before the last day of the month following the month of entry, it shall be the duty of the city collector to charge, collect and receive interest thereon at the rate of [seven] fifteen per cent per annum to be calculated to the date of payment from the date of entry.

c. No later than the twenty-fifth day of May in each year, the banking commission shall transmit a written recommendation to the council of a proposed interest rate to be charged for nonpayment of water rents. In making such recommendations the commission shall consider the prevailing interest rates charged for commercial loans extended to prime borrowers by commercial banks operating in the city and shall propose a rate at least six per cent per annum greater than such rates.

§ 3. This local law shall take effect immediately.

By Mr. Sadowsky—

A LOCAL LAW to amend the New York city charter, in relation to the establishment of a reserve for uncollected real estate taxes.

Be it enacted by the Council as follows:

Section 1. Subdivision 2 of section 1513 of chapter 58 of the New York city charter, is hereby amended to read as follows:

2. As soon as such rolls are completed, the administrator shall annex to each of such rolls his certificate that the same is correct in accordance with the entries and corrected entries in the several books of annual record. *The administrator shall thereupon total all of said rolls and shall reduce said total by a sum equal to ten percentum of said total.* The rolls so certified, totaled and reduced must, on or before the twentieth day of June in each year be delivered by the administrator to the Council.

§ 2. Section 1515 of such chapter of such charter, is hereby amended to read as follows:

§ 1515. Fixing of tax rate.—The council shall meet not later than the twenty-fifth day of June to fix the annual tax rate. The council shall deduct the total amount of receipts as estimated by the Mayor from the amount of the budget, as fixed for the ensuing fiscal year, and shall cause to be raised by tax on real property such sum as shall be as nearly as possible but not less than, the balance so arrived at, by fixing a tax rate in cents and thousandths of a cent upon each dollar of assessed valuation as reduced pursuant to the provisions of section 1513 subdivision 2 hereof.

§ 3. This local law shall take effect immediately.

Note—New matter in italics, old matter in brackets [] to be omitted.

Your Committee recommends adoption of the report by the full Council, with the understanding that the proposed local laws herein contained are to be discussed at a future meeting of the Committee and while a part of the report are not to be considered adopted at this time.

EDWARD L. SADOWSKY, Chairman; ARTHUR J. KATZMAN, ARCHIE SPIGNER, ROBERT S. STEINGUT, PETER F. VALLONE, ABRAHAM G. GERGES, JACK R. MURATORI, Committee on Charter and Governmental Operations, May 7, 1976.

Received, ordered printed and filed.

August 18, 1976

Senator William Rosenblatt
50 Court Street
Brooklyn, New York 11201

Dear Senator Rosenblatt:

Enclosed please find copies of the In Rem
Bills 956A-959A which you requested. Please excuse
the appearance of same, but the printed version has
not yet been returned to us.

Kind personal regards.

Sincerely yours,

SKS/mg
Enclosures

Stanley K. Schlein

THE COUNCIL

The City of New York

Int. No. 956-A

April 27, 1976

Introduced by Mr. Sadowsky, the Vice-Chairman (Mr. Cuite), Mr. Steingut, Ms. Friedlander, Messrs. Wagner, Stern, Gerges, Spigner, Vallone and Rev. Gigante—read and referred to the Committee on Charter and Governmental Operations. Amended August 27, 1976. Ordered reprinted and laid over.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the reduction of the period of time after which a proceeding for foreclosure of a tax lien by action in rem may be begun.

Be it enacted by the Council as follows:

1 Section 1. Section D17-4.0 of title D of chapter 17 of the administrative code of the
2 city of New York is hereby amended to read as follows:

3 § D17-4.0. Foreclosure by action in rem.—Whenever it shall appear that a tax
4 lien which has been due and unpaid for a period of at least [three years] *one year* from the
5 date on which the tax, assessment or other legal charge represented thereby became a lien,
6 such tax lien, except as otherwise provided by this title, may be summarily foreclosed in the
7 manner provided in this title, notwithstanding the provisions of any general, special or local
8 law and notwithstanding any omission to hold a tax sale prior to such foreclosure. Owner-
9 ship by the city of a transfer of tax lien or of a tax sale certificate or of any other instrument
10 evidencing such tax lien shall be evidence of the fact that the tax, assessment or other legal
11 charge represented thereby *has* [have] not been paid to the city or assigned by it.

12 § 2. Subdivision a of section D17-13.0 of such title, chapter and code is hereby
13 amended to read as follows:

14 a. The *commissioner of finance* [administrator] may, prior to final judgment,
15 withdraw a parcel from a proceeding under this title for any of the following reasons:

Note—New matter in *italics*, old matter in brackets [] to be omitted.

1 (1) a question which the [administrator] *commissioner* deems meritorious has been
2 raised as to the validity of the tax liens affecting the parcel, (2) the city collector,
3 has accepted a payment of all taxes and interest which rendered the parcel subject
4 to foreclosure hereunder because the records in his office indicated that the principal
5 amount of such taxes was exceeded by the principal amount of subsequent taxes
6 which would not have rendered the parcel subject to foreclosure hereunder and
7 which had been paid prior to the commencement of said proceeding, (3) on or
8 before the last date for redemption an agreement was duly made, executed and
9 filed with the *commissioner of finance*, [administrator] for the payment of the delin-
10 quent taxes, assessments or other legal charges and interest and penalties in install-
11 ments, the first of which was equal to at least twenty-five per centum of such arrears
12 and *was* payable upon filing of the installment agreement with the *commissioner*
13 *of finance* [administrator] and each remaining installment of which was equal to
14 at least *an amount produced by dividing the balance of such arrears by the number*
15 *of quarters of such arrears which are outstanding at the time of filing the agreement*
16 *but in no event less than six and twenty-five one hundredths per centum of the bal-*
17 *ance of such arrears*, [two years of such arrears] and was payable *quarterly* with
18 each [year] *quarterly payment* of current taxes, assessments or other legal charges,
19 and there has been no default in such agreement or (4) in cases where the tax
20 foreclosure action can not be maintained such as, but not limited thereto, where
21 the charges which rendered a parcel subject to foreclosure hereunder have been can-
22 celled or were paid before the commencement of the foreclosure proceeding but such
23 payment was not reported or did not clear for payment until after the commencement
24 of said proceeding, or where a name and address appearing on an owner's registration
25 card or an in rem card filed pursuant to Section D17-16.0 or D17-17.0 of this title and
26 contained in the files of the city collector did not appear in the mailing list used by the
27 *commissioner of finance* [administrator] for mailing notices of foreclosure in such
28 proceeding.

1 § 3. If section one of this local law or the amendment made by such section to section
2 D17-4.0 of title D of chapter seventeen of the administrative code of the city of New York
3 shall be declared by final order or decree by any court of competent jurisdiction to be in-
4 valid or unconstitutional, the provisions of section D17-4.0 of the administrative code as
5 they existed immediately prior to their amendment by this local law shall be deemed to be
6 revived and to be in full force and effect thereafter; in the event of such declaration of
7 invalidity or unconstitutionality, the amendments made by section two of this local law to
8 subdivision a of section D17-13.0 of title D of chapter seventeen of the administrative
9 code of the city of New York shall be deemed to have expired and the provisions of said
10 subdivision a of section D17-13.0 of the administrative code as they existed immediately
11 prior to their amendment by this local law shall be deemed to have been revived and to be
12 in full force and effect thereafter.

13 § 4. Except as otherwise provided in section three hereof, if any section of this local
14 law or the amendments made by such section shall be finally adjudged by any court of
15 competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect,
16 impair or invalidate any other section of or amendment made by this local law, but shall
17 be confined in its operation to the section or amendment directly involved in such judgment,
18 or to the person and circumstances therein involved.

19 § 5. This local law shall take effect on January 1, 1977.

Report of the Committee on Charter and Governmental Operations in Favor of Adopting, as Amended, a Local Law to Amend the Administrative Code of The City of New York, in Relation to the Reduction of the Period of Time After Which a Proceeding for Foreclosure of a Tax Lien by Action In Rem May be Begun.

The Committee on Charter and Governmental Operations to which was referred on April 27, 1976 (Minutes, page 492) the annexed amended local law, respectfully

REPORTS:

This legislation will reduce from three years to one year the period of time which must transpire prior to the commencement of an action in rem against a property affected by real estate tax delinquencies. Presently, the non-payment of any real estate taxes, water and sewer charges and any interest and penalties thereon would accumulate over a course of three years before the City would be allowed to initiate a foreclosure action and either retrieve the property or obtain the payment of such arrearages.

As stated in the report on "Real Estate Tax Delinquencies" adopted by this Committee on May 7, 1976: The present statutory requirement of three years simply means that the City is the last creditor to be paid in a distress situation. Indeed, with respect to housing which is "going out of business", the three-year period also means that the property which the City receives at the end of the period is more likely to be in such a state of disrepair as to be uninhabitable, making the City's maintenance or demolition costs that much more expensive. No one benefits from the three-year period. The taxpayer simply defers the date of judgement at costly interest rates. The City stands by while other creditors get paid and the properties frequently deteriorate.

Furthermore, experience shows that a high percentage of taxes are paid once the proceeding is commenced indicating that acceleration of the period in which the proceeding is commenced will also accelerate the collection of the taxes.

This package of legislation was directly derived from the investigation and report of this Committee on Real Estate Tax Delinquencies. Compiled within approximately 2000 pages of notes and material, it was the judgment of a majority of the Committee that remedial action within the general areas espoused in the foregoing bills was necessary. It must be stressed that the adoption of the report by no means reflects an adoption of the specifics of these bills at this time. They will, of course, be subject to individual discussion, amendment and adoption.

To date, no letters of comment on the bills have been received by the Committee expressing support or objection to the legislation other than that of the initial Citizens Tax Council, Inc. who have stated their opposition hereto.

Several technical changes, as applicable to various effective dates, within the several bills must be duly noted prior to adoption.

On May 14, 1976, this committee was convened for the purpose of a preliminary hearing on Intros. 955-959, inclusively. Testimony was elicited from representatives of the administration, namely the Corporation Counsel's Office and Department of Finance as regards their positions on these matters. Although generally supporting the intent of these bills, Mr. Luis Neco, former First Assistant Corporation Counsel, questioned various aspects of the legislation.

Subsequent to this committee meeting, discussions ensued among staff of the committee, the Department of Finance, Corporation Counsel's Office and Deputy Mayor's Office at which time several amendments to the bills were drafted and are now proposed for your consideration.

The amendments to this bill reflect a change from annual payments of tax arrears to quarterly payments in accordance with the normal procedures. Additionally a limitation on the pay out period has been stated to be equivalent to the period of arrearages or a maximum of four years. Also a savings clause has been inserted to protect the status of the law in case of a successful legal challenge to this legislation in the Courts.

Councilmen Geroges, Spigner, Vallone and Gigante were added as co-sponsors. Accordingly, your committee recommends its adoption as amended.

A LOCAL LAW to amend the administrative code of the city of New York, in relation to the reduction of the period of time after which a proceeding for foreclosure of a tax lien by action in rem may be begun.

Be it enacted by the Council as follows:

Section 1. Section D17-4.0 of title D of chapter 17 of the administrative code of the city of New York is hereby amended to read as follows:

§ D17-4.0. Foreclosure by action in rem.—Whenever it shall appear that a tax lien which has been due and unpaid for a period of at least [three years] *one year* from the date on which the tax, assessment or other legal charge represented thereby became a lien, such tax lien, except as otherwise provided by this title, may be summarily foreclosed in the manner provided in this title, notwithstanding the provisions of any general, special or local law and notwithstanding any omission to hold a tax sale prior to such foreclosure. Ownership by the city of a transfer of tax lien or of a tax sale certificate or of any other instrument evidencing such tax lien shall be evidence of the fact that the tax, assessment or other legal charge represented thereby *has* [have] not been paid to the city or assigned by it.

§ 2. Subdivision a of section D17-13.0 of such title, chapter and code is hereby amended to read as follows:

a. The *commissioner of finance* [administrator] may, prior to final judgment, withdraw a parcel from a proceeding under this title for any of the following reasons: (1) a question which the [administrator] *commissioner* deems meritorious has been raised as to the validity of the tax liens affecting the parcel, (2) the city collector, has accepted a payment of all taxes and interest which rendered the parcel subject to foreclosure hereunder because the records in his office indicated that the principal amount of such taxes was exceeded by the principal amount of subsequent taxes which would not have rendered the parcel subject to foreclosure hereunder and which had been paid prior to the commencement of said proceeding, (3) on or before the last date for redemption an agreement was duly made, executed and filed with the *commissioner of finance*, [administrator] for the payment of the delinquent taxes, assessments or other legal charges and interest and penalties in installments, the first of which was equal to at least twenty-five per centum of such arrears and was payable upon filing of the installment agreement with the *commissioner of finance* [administrator] and each remaining installment of which was equal to at least an amount produced by dividing the balance of such arrears by the number of quarters of such arrears which are outstanding at the time of filing the agreement but in no event less than six and twenty-five one hundredths per centum of the balance of such arrears, [two years of such arrears] and was payable quarterly with each [year] *quarterly* payment of current taxes, assessments or other legal charges, and there has been no default in such agreement or (4) in cases where the tax foreclosure action can not be maintained such as, but not limited thereto, where the charges which rendered a parcel subject to foreclosure hereunder have been cancelled or were paid before the commencement of the foreclosure proceeding but such payment was not reported or did not clear for payment until after the commencement of said proceeding, or where a name and address appearing on an owner's registration card or an in rem card filed pursuant to Section D17-16.0 or D17-17.0 of this title and contained in the files of the city collector did not appear in the mailing list used by the *commissioner of finance* [administrator] for mailing notices of foreclosure in such proceeding.

§ 3. If section one of this local law or the amendment made by such section to section D17-4.0 of title D of chapter seventeen of the administrative code of the city of New York shall be declared by final order or decree by any court of competent jurisdiction to be invalid or unconstitutional, the provisions of section D17-4.0 of the administrative code as they existed immediately prior to their amendment by this local law shall be deemed to be revived and to be in full force and effect thereafter; in the event of such declaration of invalidity or unconstitutionality, the amendments made by section two of this local law to subdivision a of section D17-13.0 of title D of chapter seventeen of the administrative code of the city of New York shall be deemed to have expired and the provisions of said subdivision a of section D17-13.0 of the administrative code as they existed immediately prior to their amendment by this local law shall be deemed to have been revived and to be in full force and effect thereafter.

§ 4. Except as otherwise provided in section three hereof, if any section of this local law or the amendments made by such section shall be finally adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate any other section of or amendment made by this local law, but shall be confined in its operation to the section or amendment directly involved in such judgment, or to the person and circumstances therein involved.

§ 5. This local law shall take effect on January 1, 1977.

Note—New matter in *italics*, old matter in brackets [] to be omitted.

EDWARD L. SADOWSKY, Chairman; REV. LOUIS R. GIGANTE, ARCHIE SPIGNER, ROBERT S. STEINGUT, PETER F. VALLONE, ROBERT F. WAGNER, JR., ABRAHAM G. GERGES, Committee on Charter and Governmental Operations, August 19, 1976.

On motion of the Vice-Chairman (Mr. Cuite), the foregoing matter was made a General Order for the day and at the request of Mr. Katz, was laid aside for discussion. (See ROLL CALL ON ITEM LAID ASIDE.)

26. 9/16/76

THE COUNCIL

The City of New York

Int. No. 956

April 27, 1976

Introduced by Mr. Sadowsky, the Vice-Chairman (Mr. Cuite), Mr. Steingut, Ms. Friedlander, Messrs. Wagner and Stern—read and referred to the Committee on Charter and Governmental Operations.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the reduction of the period of time after which a proceeding for foreclosure of a tax lien by action in rem may be begun.

Be it enacted by the Council as follows:

1 Section 1. Section D17-4.0 of title D of chapter 17 of the administrative code of the
2 city of New York is hereby amended to read as follows:

3 § D17-4.0. Foreclosure by action in rem.—Whenever it shall appear that a tax
4 lien which has been due and unpaid for a period of at least [three years] *one year* from the
5 date on which the tax, assessment or other legal charge represented thereby became a lien,
6 such tax lien, except as otherwise provided by this title, may be summarily foreclosed in the
7 manner provided in this title, notwithstanding the provisions of any general, special or local
8 law and notwithstanding any omission to hold a tax sale prior to such foreclosure. Owner-
9 ship by the city of a transfer of tax lien or of a tax sale certificate or of any other instrument
10 evidencing such tax lien shall be evidence of the fact that the tax, assessment or other legal
11 charge represented thereby have not been paid to the city or assigned by it.

12 § 2. Subdivision a of section D17-13.0 of such title, chapter and code is hereby
13 amended to read as follows:

14 a. The finance administrator may, prior to final judgment, withdraw a parcel from
15 a proceeding under this title for any of the following reasons: (1) a question which the
Note—New matter in *italics*, old matter in brackets [] to be omitted.

1 administrator deems meritorious has been raised as to the validity of the tax liens af-
2 fecting the parcel, (2) the city collector, on or before the last date for redemption, ac-
3 cepted a payment of all taxes and interest which rendered the parcel subject to fore-
4 closure hereunder because the records in his office indicated that the principal amount of
5 such taxes was exceeded by the principal amount of subsequent taxes which would not
6 have rendered the parcel subject to foreclosure hereunder and which had been paid prior
7 to the commencement of said proceeding, (3) on or before the last date for redemption
8 an agreement was duly made, executed and filed with the finance administrator, for the
9 payment of delinquent taxes, assessments or other legal charges and interest and penalties
10 in installments, the first of which was equal to at least twenty-five per centum of such
11 arrears and payable upon filing of the installment agreement with the finance adminis-
12 trator, and each remaining installment of which was equal to at least *the amount of the*
13 *first installment, but in no event more than the amount of the greatest two years of such*
14 *arrears and was payable annually with each year of current taxes, assessments or other*
15 *legal charges, or each remaining installment of which was equal to at least one quarter*
16 *of the amount of the first installment and was payable quarterly with each quarterly*
17 *payment of current taxes, assessments or other legal charges, and there has been no*
18 default in such agreement or (4) in cases where the tax foreclosure action can not be
19 maintained such as, but not limited thereto, where the charges which rendered a parcel
20 subject to foreclosure hereunder have been cancelled or were paid before the com-
21 mencement of the foreclosure proceeding but such payment was not reported or did not
22 clear for payment until after the commencement of said proceeding, or where a name
23 and address appearing on an owner's registration card or an in rem card filed pursuant to
24 sections D17-16.0 or D17-17.0 of this title and contained in the files of the city collector
25 did not appear in the mailing list used by the finance administrator for mailing notices
26 of foreclosure in such proceeding.

27 § 3. This local law shall take effect on June 1, 1976.



THE CITY OF NEW YORK
VICE CHAIRMAN OF THE COUNCIL
CITY HALL
NEW YORK, N. Y. 10007

MICHAEL M. POCOST
ASSISTANT COUNSEL

TELEPHONE
566-5088

May 5, 1976

See Int # 955 for list of invitees

Please find enclosed herewith copies of Int. Nos: 955, 956, 957, 958 and 959 in relation to delinquent taxes and in rem matters.

The Committee on Charter and Governmental Operations will hold an open invitational hearing on May 14, 1976 at 10:00 A.M., in the Council Committee Room, City Hall, second floor, New York, N.Y., at which time these proposed local laws will be considered.

You are invited to attend this hearing and participate therein.

It would be appreciated if you would forward to us, as soon as possible, your comments, suggestions or recommendations pertaining to these bills.

Very truly yours,

Michael M. Pocost,
Assistant Counsel

mmp/amm
enclosures

By Mr. Sadowsky, the Vice-Chairman (Mr. Cuite), Mr. Steingut, Ms. Friedlander, Messrs. Wagner and Stern—

A LOCAL LAW to amend the administrative code of the city of New York, in relation to the reduction of the period of time after which a proceeding for foreclosure of a tax lien by action in rem may be begun.

Be it enacted by the Council as follows:

Section 1. Section D17-4.0 of title D of chapter 17 of the administrative code of the city of New York is hereby amended to read as follows:

§ D17-4.0. **Foreclosure by action in rem.**—Whenever it shall appear that a tax lien which has been due and unpaid for a period of at least [three years] *one year* from the date on which the tax, assessment or other legal charge represented thereby became a lien, such tax lien, except as otherwise provided by this title, may be summarily foreclosed in the manner provided in this title, notwithstanding the provisions of any general, special or local law and notwithstanding any omission to hold a tax sale prior to such foreclosure. Ownership by the city of a transfer of tax lien or of a tax sale certificate or of any other instrument evidencing such tax lien shall be evidence of the fact that the tax, assessment or other legal charge represented thereby have not been paid to the city or assigned by it.

§ 2. Subdivision a of section D17-13.0 of such title, chapter and code is hereby amended to read as follows:

a. The finance administrator may, prior to final judgment, withdraw a parcel from a proceeding under this title for any of the following reasons: (1) a question which the administrator deems meritorious has been raised as to the validity of the tax liens affecting the parcel, (2) the city collector, on or before the last date for redemption, accepted a payment of all taxes and interest which rendered the parcel subject to foreclosure hereunder because the records in his office indicated that the principal amount of such taxes was exceeded by the principal amount of subsequent taxes which would not have rendered the parcel subject to foreclosure hereunder and which had been paid prior to the commencement of said proceeding, (3) on or before the last date for redemption an agreement was duly made, executed and filed with the finance administrator, for the payment of delinquent taxes, assessments or other legal charges and interest and penalties in installments, the first of which was equal to at least twenty-five per centum of such arrears and payable upon filing of the installment agreement with the finance administrator, and each remaining installment of which was equal to at least *the amount of the first installment, but in no event more than the amount of the greatest two years of such arrears and was payable annually with each year of current taxes, assessments or other legal charges, or each remaining installment of which was equal to at least one quarter of the amount of the first installment and was payable quarterly with each quarterly payment of current taxes, assessments or other legal charges.* and there has been no default in such agreement or (4) in cases where the tax foreclosure action can not be maintained such as, but not limited thereto, where the charges which rendered a parcel subject to foreclosure hereunder have been cancelled or were paid before the commencement of the foreclosure proceeding but such payment was not reported or did not clear for payment until after the commencement of said proceeding, or where a name and address appearing on an owner's registration card or an in rem card filed pursuant to sections D17-16.0 or D17-17.0 of this title and contained in the files of the city collector did not appear in the mailing list used by the finance administrator for mailing notices of foreclosure in such proceeding.

§ 3. This local law shall take effect on June 1, 1976.

Note—New matter in *italics*, old matter in brackets [] to be omitted.

Referred to the Committee on Charter and Governmental Operations.

By Mr. Sadowsky:

A LOCAL LAW

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§2. Subdivision a of section D17-13.0 of such title and chapter of such code is hereby amended to read as follows:

a. The finance administrator may, prior to final judgment, withdraw a parcel from a proceeding under this title for any of the following reasons: (1) a question which the administrator deems meritorious has been raised as to the validity of the tax liens affecting the parcel, (2) the city collector, on or before the last date for redemption, accepted a payment of all taxes and interest which rendered the parcel subject to foreclosure hereunder because the records in his office indicated that the principal amount of such taxes was exceeded by the principal amount of subsequent taxes which would not have rendered the parcel subject to foreclosure hereunder and which had been paid prior to the commencement of said proceeding. (3) On or before the last date for redemption an agreement was duly made, executed and filed with the finance administrator, for the payment of delinquent taxes, assessments or other legal charges and interest and penalties in installments, the first

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C. S. O.

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§3. This local law shall take effect on June 1, 1976.

C. G. O.

DATE April 16, 1976

TO: Vice-Chairman Thomas J. Cuite

FROM: Legal Services Division

This is a copy of legislation sent to Councilman Sadowsky

The purpose of the bill is:

To decrease the period before the city can foreclose on tax delinquency to one year.

An abbreviated title would be:

LOCAL LAW

In Rem, One Year Period

RESOLUTION

SKS:pjd

*Resolutions are self-explanatory.

April 16, 1976

TO: Mrs. Mildred Zuckerman
Vice-Chairman's Office

FROM: Adele Paley

One copy of this legislation was sent to; Sadowsky

These are for introduction at the next Council meeting at Councilman's
request.

pjd