

# Recommendations of the Temporary Task Force on Tax Liens

## Introduction

Local Law 82 of 2024 re-authorized the sale of liens for real property taxes, water and sewer charges, and certain other property-based charges, subject to a number of reforms and changes designed to help property owners resolve their debt more easily and avoid the sale of liens on their property. As the City's primary tool to fairly enforce outstanding municipal charges, the additional reforms made in the 2024 legislation were aimed at making this vital tool more equitable for taxpayers by providing numerous new protections, while maintaining its function to help the City collect hundreds of millions of dollars annually in revenue that supports key City services.

The law also established a temporary Task Force, consisting of members appointed by the Administration and the City Council. The mandate of the Task Force is to review ways in which the current lien sale mechanism, authorized under Chapter 3 of Title 11 of the Administrative Code and involving the use of a specialized trust to finance the sale of unresolved liens, may be improved along the following lines:

- a) ensure the collection of tax liens is performed in an efficient, timely, and fair manner;
- b) reduce the risk that tax liens are sold to such a trust repeatedly in connection with the same property;
- c) preserve and produce affordable housing and promote homeownership; and
- d) improve transparency of operations and outcomes in the collection of tax liens.

To address these points, the Task Force has identified 16 recommendations. They are presented in a way that aligns them with concerns and goals that have been identified and discussed by members of the task force. These are recommendations and do not bind the Administration or the City Council.

## *Members*

Co-Chair: Council Member Sandy Nurse  
Co-Chair: Annette Hill, Department of Finance  
Andrew Bourne, City Council Legislative Division  
Emre Edev, City Council Finance Division  
Joshua Goldstein, Office of Management & Budget  
Albert Kramer, Department of Environmental Protection  
Michael Moore, Law Department  
Lyna Saad, City Council Land Use Division  
George Sweeting, Center for New York City Affairs  
Alec Schierenbeck, Department of City Planning

## Address Chronically Unresolved Properties

Chronically Unresolved Properties are properties which have had their liens sold or transferred to the New York City 1998-2 Tax Lien Trust (Trust), but remain without a final disposition for a prolonged period, and for which existing tools may not be sufficient to resolve the delinquency status. Many of these properties remain unresolved due to various legal issues which limit the Trust from moving the properties toward final disposition. Some owners of chronically unresolved properties have demonstrated an inability or unwillingness to meet basic obligations, such as paying taxes, meaning these properties may pose a heightened risk of disinvestment and blighting the surrounding communities.

It is recommended that the Trust take steps to clearly identify such properties, develop a clear plan of action to address the underlying conditions blocking disposition, identify shortfalls in the existing policy toolkit, and minimize negative impacts arising from such properties on the surrounding communities. Improving outcomes here would address points a, b, and d in the task force's mandate.

### Identify Chronically Unresolved Properties

1. **Define "Chronically Unresolved"**. A chronically unresolved property is defined as a property that has been transferred to the Trust and has been unresolved for over 36 months after a lien has first been transferred to the Trust. Unresolved means that the lien has not been redeemed and/or efforts to dispose of the property via foreclosure auction did not result in any buyers.
2. **Identify and Define Common Reasons for Failure to Resolve Liens**. The Trust should develop and maintain a list of reasons that cause properties to remain unresolved and include clear definitions for each of these reasons. Properties may have multiple reasons for failing to reach a final disposition. Some of these reasons as identified by the Task Force include:
  - a. probate/guardian issues
  - b. city hold
  - c. service issues
  - d. debtor protracted litigation
  - e. protracted bankruptcy
  - f. title issues
  - g. trust marketing winning auction bid
  - h. potentially defective
  - i. court delays

### Clearly Demonstrate Plans of Action

3. **Develop a standard process** that the 1998-2 Trust will use to address the various reasons for being chronically unresolved as identified above, with prioritization of residential properties to help address point c of the task force's mandate.

#### Take Steps to Reduce the Number of Chronically Unresolved Properties

4. **Sliver Lots Resolution Plan.** Such properties are often unresolved because they have no development value and therefore foreclosure fails as an enforcement mechanism. As a result the City has little to no leverage to ensure compliance with all City laws and regulations, not just taxation. The City should develop and report on a specific plan that removes the property from the tax roll as a stand-alone tax lot to ensure that they can be held accountable. Ideas include, but are not limited to:
  - a. Resolve a sliver lot adjacent to streets by merging them with the adjacent street.
  - b. Reviewing DOF market valuation process for these properties
5. **Wetlands & Underwater Lots Resolution Plan.** Like sliver lots, these properties often remain without resolution because they have little to no economic value. The City should similarly develop and report on a plan to resolve wetland & underwater properties including exploring:
  - a. Opportunities identified by DEP to include the property in an existing or future storm water management project to mitigate flooding, such as a Bluebelt.
  - b. Reviewing DOF market valuation process for these properties
6. **Secondary Use Condos Resolutions.** Secondary use condo units, like parking spaces, storage units, or roof-deck spaces, are not always easy to enforce due to the pool of interested parties being largely limited to other tenants of the particular condo development. This makes it hard to use foreclosure auctions as a successful enforcement tool for the taxes owed on these properties, and so the City should explore modifying the enforcement strategy here. Some ideas include:
  - a. Notification of delinquency to the condominium board of directors (or their managing agent). The City should make other condo owners in the development aware that a particular secondary use unit is at risk of foreclosure and possible sale to an outside party. This may incentivize the condo development to resolve the debt to avoid unintended use of the secondary use unit by outside parties.
  - b. Provide opportunity for condo board to purchase winning bids. If the 1998-2 Trust has the winning bid at auction, it should pro-actively engage with the condo board to sell the winning bid.

### Improve Reporting & Accountability

7. **Designate a Trust Coordinator.** The Administration should identify the existing staff & title of the staff member responsible for overseeing activities of the Trust on behalf of the City and is responsible for coordinating any inter-agency work related to the Trust.
8. **Notification to Enforcement Agencies.** The Trust should provide on an annual basis to enforcement agencies (i.e. DOB, HPD, DSNY, FDNY, DEP) a list of chronically unresolved properties as these are properties at higher risk of needing enforcement action. Agencies should report back to the Trust Coordinator on an annual basis any enforcement or inspection activities taken against such properties.
9. **Annual Reporting.** The Trust should consider creating an annual report on activities and outcomes relating to chronically unresolved properties in the Trust, including the following data: number of liens classified as chronically unresolved at the beginning and end of the reporting period; number of liens newly classified as chronically unresolved during the year; number that were resolved; tenure of property in the Trust system; property type and tax class; inspections by agencies for property related enforcement; violations data; debt outstanding; reason for lack of resolution; debt collected broken out by value of lien originally transferred to 1998-2 Trust and additional charges imposed post sale; results of foreclosure auctions; and other relevant available data. The Council should receive data on parcel level and lien level, though public reporting should be on a summary level to avoid threats from predatory actors.

### Clearly Communicate All Debts to the Owner

It is in the City's interest to ensure that every property owner is aware of all the debts they owe to the City and make it easy for the property owner to find this out. Currently, the Trust communicates to the property owner separately based on the year the lien was sold, which it must do until a lien is transferred to the 1998-2 Trust.

To help make owners aware of all debts owed to the Trust or the City:

10. **Communicate Existence of Other Liens.** Where a property may have liens from multiple years, the servicer should include in any communication with owners regarding a tax lien that the property also has unresolved tax liens from other years and the total amounts owed. Additionally, the servicer should provide information on how to identify additional BBL-based debt owed to the City not subject to the tax lien sale.
11. **Continuation of Notifications.** The Trust should mail semi-annual bills to the property owner advising of the property status once a request is made for judgement and will continue until the property is foreclosed or redeemed.
12. **Additional Legal Services.** The Trust will offer referrals to legal services for owners that the trust have filed for final judgment with the Court. This will ensure the owner can be made aware of the status of their property and of their options at this point.

## Leverage Potential Housing & Community Development Opportunities

### Situations where the 1998-2 Trust has the winning bid at a Foreclosure Auction

Properties that do not resolve their debts with the Trust will eventually end up in judicially supervised foreclosure auction. In this process, the Trust will place a minimum bid to protect the City's fiscal interest in the property. There are times where no other bid comes in higher, and the Trust ends up holding the winning bid. Currently, in most cases it attempts to collect as much of the arrears that are owed by reselling the winning bid to any interested third party. While most of these properties have minimal to no development potential, some do. Therefore, the City should take steps to develop a disposition of the property that takes in consideration the best value for the City.

13. **Implement standards.** Create a set of standards that all bidders on such properties must meet to avoid sales to individuals or companies with records of poor building or fiscal management.
14. **Create a preservation track for Trust winning bids where appropriate.** The City should explore ways to allow for qualified third parties to acquire the winning bid from the Trust as part of an affordable housing preservation or development plans. This should include research to:
  - a. Identify the stock of properties that could be a contender for an alternative second auction path (aka preservation track) that would further housing preservation and other community development goals.
  - b. Determine the potential lost revenue by forgoing arrears compared as the opportunity cost associated with this preservation. (cost benefit analysis)
  - c. Flag to the Council and HPD in a timely manner when Trust has the winning bid of residential properties or developable vacant land to provide an opportunity to divert to a preservation track if analysis finds this path is worthwhile.

### Explore Viability of Resolutions pre-Foreclosure

15. **Pro-actively bid at first auction.** Create & publish on the Department of Finance' website the list of upcoming foreclosure auctions initiated by the Trust with sufficient time for organizations to put together a viable bid.
16. **Explore using Settlement/Buy-out Offers.** The Trust and City should explore a framework where in certain cases, properties heading to foreclosure could be purchased by a third party prior to auction to reduce the time it takes to resolve the debt. This would save on legal and interest costs which could help the prior owner get more equity and allow the City to resolve the debt more quickly. The City would need a third party lined up ahead of time to take ownership of said property.

In addition to the 16 recommendations in this report the Task Force examined and discussed the opportunity for a land bank however could not find consensus within the time available. For context, as defined by the New York State Land Bank Act, land banks are not-for-profit corporations created to, “facilitate the return of vacant, abandoned, and tax delinquent properties to productive use.”<sup>1</sup>

The Council appointees believe that the establishment of a Land Bank may have the potential to further reforms recommended in this report. This is partially based off initial conversations that Council appointees had with Land Banks in the New York State cities of Rochester, Syracuse, and Albany.

For example, Council appointees think that incorporating a Land Bank into the post-tax lien sale process could assist with recommendations in this report around leveraging the tax enforcement process to further potential housing and community development opportunities. They also believe there could also be opportunities to streamline activities with a reconstituted Third-Party-Transfer process, depending on the outcome of that reform.

Further, Council appointees note that as an entity established under New York State Not-for-Profit law, a Land Bank would be subject to additional reporting and governing requirements, such as oversight by a board, that could assist in the goal of improving accountability and reporting.

Appointees from the Mayor focused on the importance of ensuring property tax collection remains the priority to ensure fairness across enforcement. The appointees from the Mayor are open to exploring how a Land Bank could be integrated into preserving housing opportunities within the context of the current structure. However, they do not believe the creation of a Land Bank would be an effective property tax collection tool, and that further legal and policy research is needed on this topic.

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<sup>1</sup> New York State Not-for-Profit Corporation Law § 1601