

Leaving the Speculators in the Rear- View Mirror

Preserving Housing with
Municipal Arrears through
Off-Ramps from the
Speculation Superhighway

Policy Framework by the Abolish the Tax Lien Sale Coalition

Community Service Society of New York
East New York Community Land Trust
New Economy Project
TakeRoot Justice
Western Queens CLT
Brooklyn Level Up
Bronx Community Land Trust
Northwest Bronx Community and Clergy Coalition
Coalition for Community Advancement
New York City Community Land Initiative (NYCCLI)
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New York Communities for Change

Abolish the Tax Lien Sale Coalition

Who We Are

We are a coalition of community land trusts, non-profit developers, and housing advocacy and policy organizations, calling on the City of New York to abolish the predatory tax lien sale forever and develop an alternative system of tax collection and property disposition that promotes neighborhood stability and equity, through community land trusts (CLTs) and other strategies. Collectively, our organizations have decades of experience working for affordable housing and equitable development.

Since 2020, we have successfully organized to stop the reauthorization of the Tax Lien Sale, conduct outreach and education to hundreds of low-income homeowners and tenants affected by the lien sale, and design a replacement framework that preserves affordable housing and community wealth.

Member Organizations



East New York CLT represented our Coalition on the Lien Sale Task Force created by Local Law 24 of 2021 and shared the basic framework we present here.

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Introduction

A system to replace the tax lien sale should advance critical affordable housing and equitable development goals. This document outlines a framework through which New York City can enforce the collection of property tax arrears and other debts, in ways that prevent the displacement of vulnerable homeowners, preserve affordable rental units, and expand the pipeline of properties for new development. We look forward to working with the City Council and Administration to refine and implement a comprehensive, equitable plan.



For 25 years, New York City privatized the collection of property tax and other debts, through the lien sale. Investor-backed trusts purchased the liens and aggressively collected on the debts, tacking on high fees and interest that pushed property owners into further distress. While the lien sale consistently generated only a small fraction of overall property taxes New York City collected each year, it came at a steep cost: as the City surrendered its leverage to move tax-delinquent properties into affordable housing programs or achieve other public policy goals. The lien sale disproportionately harmed low-income homeowners and communities of color, contributing to predatory lending, foreclosures and the erosion of Black and brown wealth for decades.

Mounting opposition to the lien sale and our coalition's organizing stopped the reauthorization of the lien sale in 2022. To replace it permanently, the City must adopt a new debt collection framework. The one proposed in this document is informed by our discussions with housing counselors, grassroots organizations, members of the City Council and staff at the Departments of Finance and Housing Preservation and Development.

We propose a system that would lead to one of five outcomes for any property with municipal debt that an owner does not pay within a year of it accruing.

1. Resolution of the debt by paying it off
2. Enrollment in a protective program like a payment plan or tax exemption
3. Transfer of land through the City to a community land trust in exchange for debt forgiveness while keeping title to the building
4. Foreclosure and preservation as affordable housing with tenant protections
5. Foreclosure and sale, with any remaining funds from sale after debt and costs paid to former owner

In addition, the City must forgive debt that is either unlawful or unfair.¹ The City must commit to fund outreach efforts by City employees and community-based organizations (CBOs) to help the Department of Finance identify owners with property-related bills that they should never have received and do the necessary paperwork to correct or seek the relief from debt through proper channels. The City will need to pay for staff and CBO partners to do the outreach; since there is already a foreclosure prevention infrastructure among CBOs, this can be built on that base.

All notices and counseling must be available in the ten (10) most commonly spoken languages in NYC, as required by the City's language access law.

Improving enforcement of protective statutes is a crucial part of the solution. Many of the problems with the lien sale are caused by the Department of Finance's ineffective implementation of statutes intended to protect vulnerable homeowners. Owners of small homes that have historically ended up in the lien sale are overwhelmingly elderly, disabled, and low-income; many are eligible for property tax reductions or exemption from the lien sale but do not receive these benefits. The City must also implement strong mechanisms to intervene in multifamily rental properties with delinquent municipal debt,

particularly those properties that are physically distressed. Many larger Class 2 properties are part of much larger portfolios, and frequently multiple buildings in these portfolios enter the tax lien sale. For example, in zip codes 11207 and 11208, 24 of 90 buildings in the tax lien sale from 2014 to 2019 were owned by landlords with multiple other properties in the lien sale. In nearly all cases, the buildings have significant numbers of housing violations. The proposals and strategies below prioritize tenant safety and permanent affordability while offering clear offramps for property owners that have abdicated their responsibilities to the City and to their tenants.

Without the threat of intervention and applicable consequences, tools to hold landlords accountable remain weak. Where owners do not take the offramps offered to them voluntarily, the City must prioritize enforcement of responsible rental housing operation and remove a delinquent landlord from ownership.

One of the strategies incorporated in this framework is revision of the Third Party Transfer (TPT) program that was created as a companion to the Tax Lien Sale over two decades ago. That program has allowed over 600 properties with tenants at risk to be transferred to landlords obliged to bring buildings up to code and maintain affordable housing through the terms of the program. We can harness TPT's power to target slumlords while making sure that a comprehensive approach to debt collection provides information and services to family landlords.

Keeping all municipal debt in the control of the City will give City officials the opportunity to resolve such debts without placing our neighbors' ownership at risk or incurring the cost of defecting liens purchased by third parties.

We cannot talk about property tax collection without acknowledging the need for substantial reform of the City's property tax system. The Tax Equity Now coalition highlights the pressing need to address the property tax system; they join other analyses which consistently find that property owners in neighborhoods with higher concentrations of minorities pay taxes at higher rates than owners in majority white neighborhoods with more expensive properties.²



Proposal Summary

Most property owners who owe the City money pay their bills. Many who do not pay qualify for an exemption or other protective status and this proposal seeks to ensure that such owners are made aware of and given the benefit of any exemptions to which they are entitled.

As for those who do owe taxes, but do not pay them, this proposal outlines how the City should address those owners based on characteristics of the property on which debt is unpaid:

1. Owner-Occupied Properties (including Housing Development Fund Corporation cooperatives)
2. Investment Properties
3. Occupied Multifamily Buildings in Physical Distress and Unoccupied Buildings
4. Vacant lots that Present Opportunities for Proactive Planning

Definitions

Department of Finance (DOF) market value

Department of Finance (DOF) market value is the estimate the Department makes for the property for the current tax year. DOF calculates this value by applying a statistical analysis to selling prices of properties with similar characteristics in the neighborhood where the subject property is located.³

Physical Distress

Physical distress is any of the following:

- Environmental Control Board debt or liens equal to 25% of the DOF market value of the property,
- Enrollment in the Alternative Enforcement Program,
- Assigned an administrator under Article 7A of the New York State Real Property Actions and Proceedings law,⁴
- Debt to the Emergency Repair Program for \$1000 or more,
- An average of 1.5 or more open hazardous or immediately hazardous (B or C) Department of Buildings (DOB) violations per unit, or
- Buildings with DOB vacate orders that are 3 years old or older without significant signs of renovations.⁵

Vacant Lot

A vacant lot is one that has no building on it, is classified as “VACANT” by the Department of City Planning (DCP) or by the Local Law 29 of 2018 vacancy survey, and is not actively being used as community open space.

Unoccupied Building

An unoccupied building is one for which city records of physical conditions and services indicate that there is no present use for the building, and where the owner has no plan for changing these conditions in the next five (5) years. Charity properties for which a use is contemplated under the Real Property Tax Law are not considered unoccupied buildings for the purpose of this proposal.

Improvement

All property is the sum of the land and any “improvements” to it. Improvement to real property means a permanent addition to or betterment of real property that enhances its capital value and that involves the expenditure of labor or money. Improvements include buildings and garden fixtures. Land and improvements can be owned together or separately.

Municipal Debt

Municipal debt includes property taxes, bills for repairs, and Department of Environmental Protection (DEP) water and sewer charges, the collection of which is permitted using a lien process⁶ and allows those liens to either be placed by the City itself or sold to a third party.⁷ Of the 3,154 properties on the City’s 2020 lien sale list for unpaid property taxes and/or water and sewer bills, 681 properties had only water/sewer debts.

Municipal Lien

Municipal lien means debt recorded as a lien by the City; the City will not act on these liens until thresholds for the CLT offer or foreclosure are reached. These liens will be paid if the property is sold or otherwise changes hands.

Debt Accumulated on a Property

Throughout this document, references to debt accumulated on a property refers to the total owed to the City and the Tax Lien Trust.

What is a Community Land Trust?

Community land trusts (CLTs) are community-controlled not-for-profit organizations that own land and ensure it is used to provide permanently affordable housing and meet other critical community needs.

CLTs typically issue 99-year, renewable ground leases that lay out affordability requirements and other terms for the buildings on CLT land. Typical ground lease terms govern purchases, sales, refinancing, enforce safe conditions for residents, provide tenancy protections and set parameters for selecting future occupants and owners of buildings and other “improvements” on CLT land. Ground leases can be sold or passed down to heirs, as can the ownership of improvements.⁸

CLTs provide democratic governance and community decision-making over development through ongoing organizing and their board structure. Most CLT boards are composed of three groups that provide a balanced democratic approach to decision-making: people who live or work in improvements on CLT

land, members of the surrounding community, and public stakeholders—such as advocates and technical assistance providers—with a professional interest in and a commitment to sustainability and success of CLTs. CLTs are, therefore, flexible, and can be used to preserve multifamily rental housing, multifamily cooperative housing, single-family housing with deed and resale restrictions, and even commercial and community properties with specifications for use and below-market rent structures.

CLTs more often than not partner with responsible housing providers and operators to directly manage the housing. These developers and owners are bound by the terms of ground leases with CLTs and are accountable to the CLT governing body.

CLTs in NYC

In NYC, at least 19 CLTs are organizing in Black, brown and immigrant neighborhoods across NYC to stabilize housing, combat speculation, and ensure a just recovery from the COVID-19 Pandemic.

On April 19, 2022, City Limits reported that there were around 400 CLT units citywide and about 1,000 CLT units had been in “predevelopment” with the Department of Housing Preservation and Development (HPD) per their testimony at a Council hearing last year.⁹





EXIT



Preventing Property Owners from Falling Behind



Ensure substantial funding for outreach to homeowners.

It is imperative that the DOF increase their funding for outreach and dedicate significant resources and staff time to contact every NYC homeowner in arrears in good faith, with accessible, easy-to-understand options to resolve their arrears.

In addition to increasing staff capacity within DOF, the City must allocate continuous and robust funding to community based organizations, including housing counselors and legal service providers, so they can counsel homeowners directly about their options.

DOF must make sure that all agencies and community-based providers have up-to-date information about renewals.

Additionally, the City should increase cooperation among city agencies to maximize outreach. Many property owners access HRA One-Shot deals to address their arrears; the City could devote more resources to directly connect homeowners with these and other available resources.



Provide explicit communication to homeowners about their debts.

DOF must exhaust every available option to contact homeowners in debt, including mailers, phone calls, and partnering with the offices of elected officials. Creative and bold solutions are needed.

DOF's communication should not only be robust, but it should outline all loss mitigation information, including payment plans, refinancing options, tax exemptions, deadlines and opportunities to sell.

All homeowners in distress should be automatically referred to a housing counselor or legal service provider for help.

DOF should use envelopes of a different color to mail advanced debt notices to homeowners to make these notices more visible for property owners, who are bombarded with information by mail.

Language accessibility, including translation to every language spoken by New Yorkers, as well as braille and audio alerts, must be provided in all DOF communication.



Improve access to exemptions, abatements, payment plans and annual renewals.

DOF must provide detailed information for homeowners about all the exemptions, delivered with the Notice of Property Value (NOPV) at the top of the year through an annual mailer that reads in part, "You may be eligible for an exemption. Apply by March 15."

DOF renewal notices should be mailed and emailed. Mailed renewal notices should come in bright-colored envelopes.

DOF should apply exemptions retroactively whenever appropriate.

Offramp Quickstart Guide

Because each property situation is unique, multiple offramps are available to provide maximum flexibility.

1

City Review

For all properties other than multi-family properties in physical distress, unoccupied buildings and vacant lots.

2

Municipal Liens

For all properties other than multi-family properties in physical distress, unoccupied buildings and vacant lots, including HDFC co-ops.

3

Option to Transfer Land to a CLT

Offered to all properties except vacant lots.

4

Foreclosure, Sale with Funds Remaining Transferred to Former Owner, Land to CLT

For all properties other than multi-family properties in physical distress, unoccupied buildings and vacant lots.

5

Foreclosure + Preservation Transfer

For multi-family properties in physical distress, unoccupied buildings and vacant lots.

Offramps from Municipal Arrears

Paying the debt is always an option. Owners can access funds through:

- Loans from Community Development Financial Institutions (CDFIs) and other community-based lenders who can offer favorable terms.
- Grants where available/applicable.
- One-shot deals from the Human Resources Administration.

Owners can also sell their home to pay off arrears until the point of foreclosure.

Owner-Occupied Home: Owned in Fee Simple

Offramps



1. Once municipal debt accumulated on a property is **more than \$5K** (owed to the City and / or the Tax Lien Trust) and is past-due **for over two (2) years**, with the help of CBO partners, DOF and DEP, affirmatively present an opportunity of review to owners to explore potential exemptions and qualification for protective measures under the law, like payment plans.
2. If the owner is non-responsive or review fails, once lawful debt on property is **more than \$5K past due for over three (3) years**, DOF records a lien that will only be collectible if property is sold.
3. **After debt exceeds a substantial percentage of DOF market value**,¹⁰ DOF gives the owner the option to transfer their land to the City for transfer to a CLT in exchange for municipal debt forgiveness while keeping the improvements on the land (house or building).¹¹
4. **If the owner does not take the CLT option in a year**, the City initiates foreclosure.¹² Post-judgment, the property is sold. Current tenant(s), CLTs, and not-for-profit community-based organizations given right of first refusal

to purchase at a price set via an appraisal; if no tenant(s), CLT, or not-for-profit exercises its right to purchase, the sale can be to any party and the price can be set through bidding. **Any funds remaining after arrears due to the City and other creditors, and cost of foreclosure, are paid to the former owner.**

Owner-Occupied Home: Housing Development Fund Corporation (HDFC) Cooperative

Offramps



1. Once municipal debt accumulated on a property is **more than \$5K** (owed to the City and / or the Tax Lien Trust) is past-due **for over two (2) years**, with the help of CBO partners, DOF and DEP affirmatively present an opportunity of review to owners to explore potential exemptions and qualification for protective measures under the law, like payment plans. Review will include an option to renew or establish Article XI tax exemption.
2. If the owner is non-responsive or review fails, once lawful debt on property is **more than \$5K past due for over three (3) years**, DOF records a lien that will only be collectible if property is sold.

3. **After debt exceeds a substantial percentage of DOF market value,**¹³ DOF gives the HDFO the option to transfer their land to the City for **transfer to a CLT in exchange for municipal debt forgiveness** while keeping the building.
4. **If they don't take that option,** the City initiates **foreclosure.**¹⁴ Post-judgment, there will be no sale; instead the City will **transfer land to a CLT and partner with CDCs for renovations** and allow tenants to petition to become a cooperative again upon meeting certain requirements.

Investment Property: Occupied, No Distress

Offramps



1. Once municipal debt accumulated on a property is **more than \$5K** (owed to the City and / or the Tax Lien Trust) is past-due **for over two (2) years**, with the help of CBO partners, DOF and DEP affirmatively present an opportunity of **review** to owners to explore potential exemptions and qualification for protective measures under the law, like payment plans.
2. If the owner is non-responsive or review fails, once lawful debt on property is **more than \$5K past due for over three (3) years**, DOF records a **lien** that will only be collectible if property is sold.
3. **If the property is not owner-occupied, only allow municipal debt to accrue until it is a much less substantial percentage of DOF market value**¹⁵ DOF offers the owner **option to transfer their land to the City for transfer to a CLT in exchange for municipal debt forgiveness** while keeping the improvement (house or building).
4. **If the owner does not take the CLT option,** the City initiates **foreclosure;**¹⁶ post-judgment, **the City transfers the land to a CLT and the improvements are sold to buyers eligible per ground lease terms.** The value of the land will be partial satisfaction for arrears owed to the City by the investor; **any funds remaining from the sale of the improvements after remaining debt and cost of foreclosure are paid to go to the former owner.**

Investment Property: Distressed

Offramps



1. **Distress** is identified (see definition above).
2. Regardless of enrollment in any other program, **after debt on a property exceeds \$1,000 for over one (1) year**, give owners the **option to transfer their land to a CLT in exchange for municipal debt forgiveness** while keeping the improvements.
3. If the owner does not take the CLT option, **foreclosure by the City and transfer to CDCs working with CLTs** to stabilize housing; the owner loses all equity. This pathway is designed for property owners that have disinvested from our neighborhoods.¹⁷

Unoccupied Building

Offramps



1. Regardless of enrollment in any other program, **after debt exceeds \$5K for over a year**, give owners the **option to transfer their land to a CLT in exchange for municipal debt forgiveness** while keeping the improvements, if there are any.
2. If the owner does not take that option, **in rem foreclosure by the City and transfer to CDCs working with CLTs** to stabilize housing; the owner loses all equity.¹⁸ This pathway is designed for property owners that have disinvested from our neighborhoods.

Vacant Lot

Offramps



1. After all debt on a property **exceeds \$5K for over one (1) year**, **in rem foreclosure by the City** and community planning process to determine best future use of land; the owner loses all equity. This would allow for new housing development in partnership with a CLT¹⁹ or the creation of community open space to be owned by either the City Parks Department or a land trust in the place of privately-created blight.

Offramp Details

1. City Review

Owners of occupied commercial or multi-family buildings without an indicator of physical distress will be offered review. Multi-family properties in physical distress, unoccupied buildings and vacant lots are excluded from this offramp.

Based on lien sale data from 2017 and 2018, this is approximately 5,200 properties in a given year:

**Tax Class (TC) 1: ~2,200
TC 2: ~1,500
TC 4: ~1,450**

Review is triggered by total debt to City and Tax Lien Trust that exceeds \$5K owed for 2 years.

1. As an initial step in the new system, DOF staff and funded CBO partners will work together to identify properties that need to be reviewed for eligibility for exemption or another protective status when there has been \$5K in debt for 2 years or more.

NOTE that this requires consistent funding for community-based organizations to engage in review.

2. Initially, reviewers affirmatively present property-owners an opportunity of screening for eligibility for exemptions:
 - Senior Citizen Homeowners' Exemption²⁰
 - Disabled Homeowners' Exemption²¹
 - Charity Exemptions²²
 - Clergy Exemption²³
 - Veterans Exemption²⁴
 - Disabled Crime Victim/Good Samaritan Exemption²⁵
 - DEP financial assistance programs,²⁶
 - Office of Temporary and Disability Assistance Low Income Household Water Assistance Program (LIHWAP), as long as the program is funded,²⁷ and
 - For HDFC Cooperatives, option to renew or establish Article XI tax exemption.

3. If a review leads to an exemption or other reduction in charges due, that reduction will be applied retroactively to the prior three tax years.²⁸
4. All owners would also be screened for the Property Tax and Interest Deferral (PT AID) Program²⁹ and the option of enrolling in a payment plan.³⁰
5. Where eligible, counseling will be provided to ensure that homeowners have clear information and accessibility in terms of technology and language.
6. Where review results in (1) determination that debt should not be owed, see scenarios in Appendix B, (2) exemption or other reduction, or (3) payment plan, City will defect any Tax Lien Trust liens on the property as of the date of the review.
7. The cost of defecting the liens can become a debt from the owner to the City, and be part of the total due for municipal debt, availability of the CLT option, or foreclosure. DOF can choose to forgive some debt as well.
8. All owners will also be connected to counseling that will be available as long as they have municipal debt and can help in evaluating all options for resolution. Counselors will explore options for loans and other financial support at this stage.

2. Municipal Liens

Owners of occupied commercial or multi-family buildings without an indicator of physical distress will have liens placed if review does not result in a resolution. Multi-family properties in physical distress, unoccupied buildings and vacant lots are excluded from this step.

Liens will be placed automatically on all properties with lawful debt that exceeds \$5K owed for 3 years, as long as all debt on property is less than thresholds defined for the next off ramp, the CLT option.

1. City staff now assigned to lien sale duties can be reassigned to review cases and process municipal liens
2. City offers to pay off / defect existing liens held by Tax Lien Trust - value to be included in the lien City places on property to eliminate risk of foreclosure by the Tax Lien Trust - in exchange for imposing tenant protections for properties that have tenants through regulatory agreement with HPD
3. Taxes will accrue as usual, but if they are not paid they will not result in a foreclosure unless the debt exceeds 15% of DOF market value (25% if property is owner-occupied); prior to foreclosure, the owner will be given the option to transfer the deed to the land to a CLT to resolve the debt
4. Creditors will be able to see that equity in the property is limited / reduced by the lien amount and not extend as much credit as they would had the liens not been there
5. Upon sale
 - a. Land and improvements will be sold together, on the open market for "fair market value"
 - b. The liens will be paid from the sale price, reducing the amount that goes to the owner - the city will get the initial debt + interest





3. Option to Transfer Land to a CLT

Offered to all properties except vacant lots.

If property meets the definition of physical distress, all debt exceeds \$1,000 for over one year, regardless of enrollment in any other program,³¹

If property is owner-occupied, all debt on property exceeds a substantial portion of DOF market value for over one year, *e.g.* 25%,³²

In 2018, based on lien sale data, 153 properties with buildings on them owned by individuals³³ reached this threshold:

Tax Class (TC) 1: 31 | TC2: 89 | TC4: 33

If property is an unoccupied building, all debt exceeds \$5,000 for over one year; and

If property is any other class of property, including HDFC co-ops, and all debt exceeds a less substantial portion of DOF market value of the property for over one year, *e.g.* 15%.³⁴

In 2018, based on lien sale data, 221 properties with buildings on them owned by corporations³⁵ reached this threshold:³⁶

TC1: 13 | TC2: 137 | TC3: 71

1. The City makes an offer to forgive debt in exchange for deed to land.³⁷
2. The City will need to have staff to make offers, execute deals (housed at the Law Dept, or HPD); homeowners to be provided with legal representation & counseling.
3. If the owner agrees, the city will forgive debt.³⁸
4. The owner will deed the land to the City and create a new deed to memorialize that they are keeping improvements (the building).³⁹

NOTE: At this point, a property that formerly had a single deed (for both land and improvements) will become one that has two distinct deeds: one for the land,

the other for the improvements. Going forward, each can be owned separately and the relationship between the two distinct owners will be governed by a ground lease.

5. City will deed land to the CLT⁴⁰

NOTE: Approval for transfer of deed to land from City to CLT could be done via proceedings before the Urban Development Action Area Program (UDAAP)/Uniform Land Use Review Procedure (ULURP) that include multiple properties.

6. The CLT will enter into a ground lease with the owner of the improvements that requires the owner to maintain permanent affordability of rental units, as well as to make a commitment to tenant protections and maintenance standards.
7. The CLT does physical and capital needs assessment; as appropriate, creates a rehabilitation plan, which can include preservation financing from government sources.
8. The Owner will pay a ground lease fee to the CLT; this can either be nominal or a real contribution to the CLT budget, see Appendix H.
9. Going forward, taxes will either:
 - Be exempt because the CLT will get Article XI tax exemption that covers the whole property.
 - Paid by the owner for the improvements only - reducing the tax bill by up to 40% to reflect that the land is owned by a charity

organization.⁴¹

- Either way, the carrying costs for the owner will be reduced.
10. Existing Tax Lien Trust liens would continue to attach to improvements.⁴² CLT could assist owner in getting financing to pay those off/assist in paying off; the City could create funding stream
 11. The CLT will steward the property (see model CLT budget, Appendix H)
 - Will have the right to step in in the event of future arrears or mortgage default;
 - Will be able to share price reductions for things like heating oil and other bulk purchasers;
 - Regulate resale terms;
 12. Heirs will have succession rights for improvements and ground lease;
 13. Upon sale of improvements:
 - Owner will sell the building per the terms of the ground lease, which might dictate an income range for buyers.
 - Sales price will be lower than similar buildings by approximately 40% because the buyer will not be purchasing the land, making purchasing the home much more affordable for future residents.⁴³



4. Foreclosure, Sale with Funds Remaining Transferred to Former Owner, Land to CLT

Owners of occupied commercial or multi-family buildings without an indicator of physical distress will face foreclosure if they do not take an earlier offramp. Multi-family properties in physical distress, unoccupied buildings and vacant lots are excluded from this exit.

If property is owner-occupied: all debt on property exceeds 25% of DOF market value (or 50% for owner-occupied condo) for over one year.

In 2018, based on lien sale data, 153 properties with buildings on them owned by individuals reached this threshold (same as for the CLT offer).

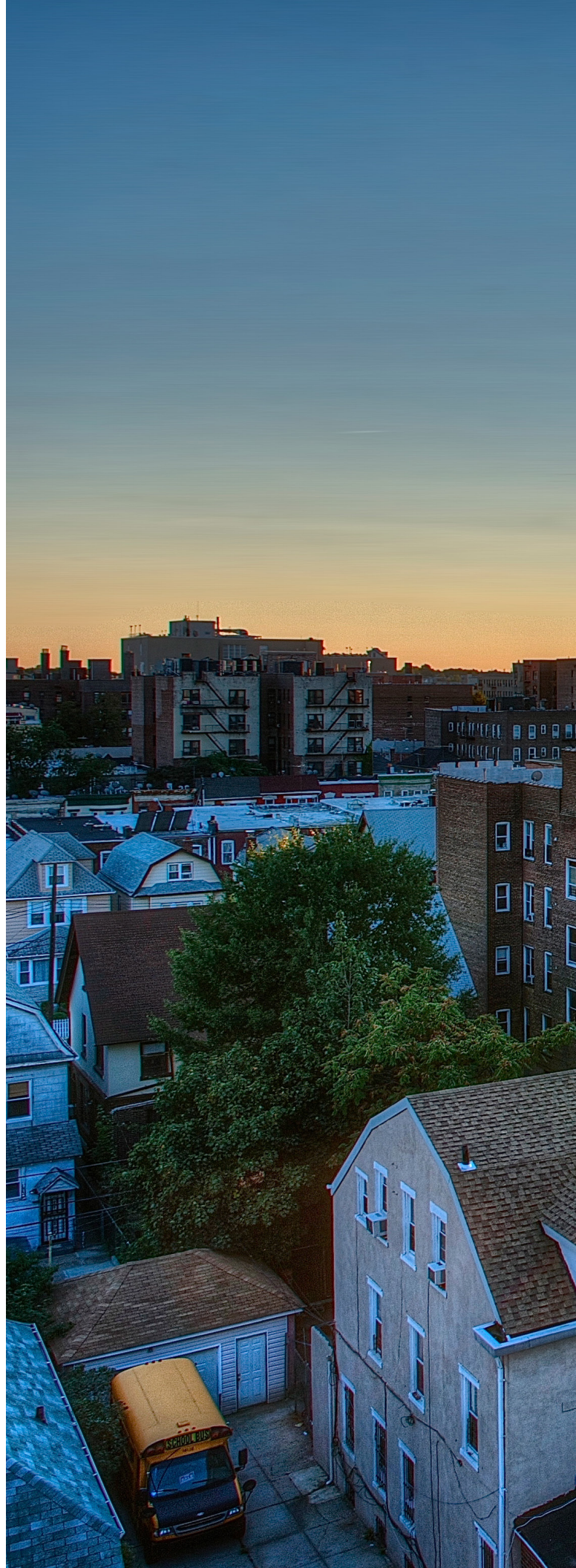
All other properties, including HDFC coops: all debt exceeds 15% of DOF market value of the property for over one year.

In 2018, based on lien sale data, 221 properties with buildings on them owned by corporations reached this threshold (same as for the CLT offer).⁴⁴

1. Foreclosure⁴⁵ initiated after over two years of debt meeting thresholds above (this will give owners a year to consider CLT option)
2. There will need to be staff to do the foreclosure, deed land to CLT where a CLT is involved post-judgement, run sales, transfer remainder
3. Post-judgement:
 - a. Owner-occupied properties - property to be sold:
 - i. Any tenants in the property to be given the right of first refusal to purchase at a price set via an appraisal, followed by CLTs, then not-for-profit organizations.
 - ii. If no tenant, CLT or not-for-profit exercises its right to purchase, the sale can be to any party and the price can be set through bidding.
 - iii. Any funds remaining after arrears due to City and other creditors, and cost of foreclosure, go to the former owner.
 - iv. Any funds remaining after arrears due to City and other creditors, and cost of foreclosure, go to the former owner.
 - b. HDFC Co-ops:⁴⁶
 - i. Transfer land to CLT that will support future owner(s) of improvements, when the owner is a reconstituted cooperative or a not-for-profit landlord.
 - ii. Partner with CDCs for renovations.
 - iii. Allow HDFC co-ops to petition to have an opportunity to become an HDFC cooperative again upon meeting certain requirements after transfer.
 - c. Investment properties:
 - i. City splits the deed so there are distinct deeds for land and improvements (buildings).
 - ii. City transfers land to a CLT.
 - iii. City will sell improvements (buildings) to buyers eligible per ground lease terms:
 - iv. Purchase price will be reduced by the value of the land because the land will not be sold; this will satisfy part or all of debt to City.
 - v. If there is additional debt to the City, or debt to the Tax Lien Trust or the Water Board, it will be paid with part of sale proceeds; subtracted from payout to owner;
 - vi. After debt and interest are paid, plus litigation/attorney fees, any remaining funds go to the former owner.
 - vii. The CLT enters ground lease with new owner;
 - viii. The Owner will pay a ground lease fee to

the CLT - this can either be nominal or a real contribution to the CLT budget, see Appendix G;

- ix. If there is a commercial space, income from it would be split with the CLT;
- x. Going forward, taxes will either:
 - 1. Be exempt because the CLT will get Article XI that covers the whole property.
 - 2. Paid by the owner for the improvements only - reducing the tax bill by up to 40% to reflect that the land is owned by a charity org
 - 3. Either way, the carrying costs for the owner will be reduced from what they would be at market rate.
 - 4. The CLT will steward the property:
 - a. Will have the right to step-in in the event of future arrears or mortgage default
 - b. Will be able to share price reductions for things like heating oil and other bulk purchasers
 - c. Will regulate resales to make sure they remain affordable





5. Foreclosure + Preservation Transfer

For multi-family properties in physical distress, unoccupied buildings and vacant lots.

Expand definition of physical distress:

- **Physical distress** is any of the following:
 - Environmental Control Board debt or liens equal to 25% of the DOF market value of the property,
 - Enrollment in the Alternative Enforcement Program,
 - Assigned an administrator under Article 7A of the New York State Real Property Actions and Proceedings law,
 - Debt to the Emergency Repair Program for \$1000 or more,
 - An average of 1.5 or more open hazardous or immediately hazardous (B or C) Department of Buildings (DOB) violations per unit, or
 - Buildings with DOB vacate orders that are 3 years old or older without significant signs of renovations
- Multi-family properties become eligible when debt exceeds \$1,000 for over a year, including debt to the Tax Lien Trust
- Vacant lots and unoccupied buildings become eligible for foreclosure once there is more than \$5,000 in municipal debt that is more than a year past-due

In 2018, based on lien sale data, 557 vacant lots reached this threshold:
 Tax Class (TC) 1: 260 | TC4: 297

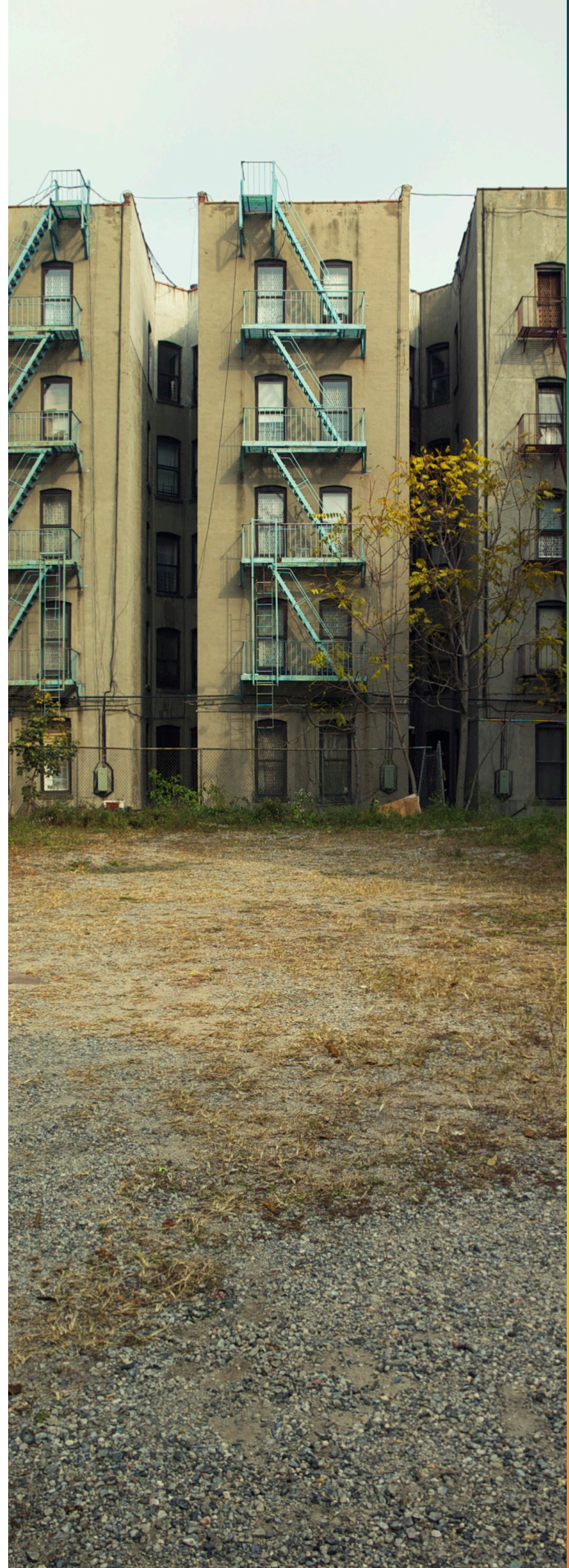
In 2021, at least 71 unoccupied buildings reached this threshold:⁴⁷
 Tax Class (TC) 1: 47 | TC2: 6 | TC4: 18

1. The City foreclosure will be similar to the current TPT. The City will need staff to do the foreclosure, deed land to CLT/CDC, develop projects - similar to current TPT staff needs.
2. Foreclosure process to require prior landlord to pay for repairs where their actions were grossly negligent or intentional.

3. The City to pay off / defect existing liens and water debt⁴⁸
4. No equity remains for former owner (these are grossly negligent owners who have let tenants suffer and whose debt to the Tax Lien Trust had to be paid b the City).
5. Where the property is a vacant lot: City engages in planning to determine what use is appropriate for the site, including analysis of current zoning:
 - a. If outcome of planning process concludes that lot should be dedicated to social housing:
 - i. The City transfers land to CLT after getting necessary approval via UDAAP/ULURP⁴⁹
 - a. At this point, property that formerly had a single deed (for both land and improvements) will become one that has two distinct deeds: one for the land, the other for the improvements. Going forward, each can be owned separately and the relationship between the two distinct owners will be governed by a ground lease.
 - ii. The CLT enters ground lease with CDC / NFP or does development on its own then sells improvements
 - iii. The City will support development of housing with a forgivable loan (if the lot is not zoned residential, it can be rezoned or developed as another use: e.g. commercial or open space).⁵⁰
 - b. If outcome of planning process concludes that lot should be dedicated to open space, the City has two options:
 - i. Keep property in Parks Dept inventory or
 - ii. transfer to CLT for stewardship as open space
6. Where the property has a building on it: City transfers land to CLT after getting necessary approval via UDAAP/ULURP
 - a. At this point a property that formerly had a single deed (for both land and

improvements) will become one that has two distinct deeds: one for the land, the other for the improvements. Going forward, each can be owned separately and the relationship between the two distinct owners will be governed by a ground lease.

7. The CLT enters ground lease with CDC / NFP
8. The Owner will pay a ground lease fee to the CLT - this can either be nominal or a real contribution to the CLT budget
9. The CLT will steward the property (see model CLT budget, Appendix G)
 - a. Will have the right to step in in the event of future arrears or mortgage default
 - b. Will be able to share price reductions for things like heating oil and other bulk purchasers
10. For new owner, taxes will either:
 - a. Be exempt because the CLT/CDC will get Article XI tax exemption that covers the whole property.
 - b. Paid by the owner for the improvements only - reducing the tax bill by up to 40% to reflect that the land is owned by a charity organization;
 - c. Either way, the carrying costs for the owner will be reduced.
11. The City will support repairs / development with a forgivable loan.
12. City, CLT and new owner enter into regulatory agreement.



Appendix A

Anticipated Costs

Program Costs

- Contracting with Community Organizations for outreach and offering resolution options to owners of properties with more than \$5,000 in arrears over two years.
- Legal services and counseling for Housing Development Fund Corporation (HDFC) cooperatives with more than \$5,000 in arrears over two years
- Legal services and counseling for homeowners considering a CLT offer and/or facing foreclosure
- City Agency staff

Foregone Revenue

- One-time payments of municipal debt owed that City will forego
- Future taxes on land not due annually based on charity exemption for CLT land

Direct Costs

- One-time payments to Water Board for any debt that cannot be forgiven due to water bond obligations when owners accept the CLT offer
- One-time defect of Tax Lien Trust liens for some properties:
 - **Post-foreclosure:** multi-family properties in physical distress, unoccupied buildings, vacant lots.
 - **At recording of city lien:** owners who accept a regulatory agreement with tenant protections in it after debt exceeds threshold.
 - **Upon accepting CLT offers:** as many properties as the city can afford.

Appendix B

Scenarios in which Debt Should be Forgiven without Any Owner Concessions

Example 1

- Water meters that combine more than one property and send a huge bill to only one owner.

Example 2

- When a lapse in exemption/abatement renewals is sole the reason for arrears.

Example 3

- Debt accrued while owner did not have title to property due to fraudulent deed transfer that was subsequently reversed or where the perpetrators were found guilty of a crime.

Appendix C

Example Owner-Occupied 1-3 Unit Property



The owner of this home is a 66-year-old, disabled, Vietnam Era veteran.

His home was purchased by his parents in 1969, and he has lived there throughout his life. The house was transferred to his name when they died. Due to personal hardships, the owner was unable to manage his personal finances for a number of years, and 3 successive tax liens were sold on the property in 2017, 2018 and 2019. There are two units in the house, but only the owner's is occupied. The second unit needs renovations.

The total amount in liens sold to the tax lien trust is approximately \$61,000 (plus added fees and interest).

DOF market value = \$825,000
Annual taxes = ~\$5,560

Offramps

1

City Review

For all properties other than multi-family properties in physical distress, unoccupied buildings and vacant lots.

2

Municipal Liens

For all properties other than multi-family properties in physical distress, unoccupied buildings and vacant lots, including HDFC co-ops.

3

Option to Transfer Land to a CLT

Offered to all properties except vacant lots.

4

Foreclosure, Sale with Funds Remaining Transferred to Former Owner, Land to CLT

For all properties other than multi-family properties in physical distress, unoccupied buildings and vacant lots.

Offramp #2

Debt Over \$5K but Less than 25% of DOF Market Value (Municipal Lien)

1. Debt is reviewed and owner is screened for eligibility for exemptions
2. Owner is offered payment plan if eligible
3. If lawful debt, after exemptions, exceeds \$5K for three years and owner does not enter into payment plan, the City will record lien(s) on the property for the amount of new municipal debt (up to \$206,250)
4. City offers to pay off / defect existing liens held by Tax Lien Trust in exchange for imposing tenant protections for properties that have tenants through regulatory agreement (right to renew, reasonable rent increases) and owner agrees
5. City defects Tax Lien Trust liens; their value to be recorded as a second lien City places on property
6. Eliminates risk of foreclosure by the Tax Lien Trust
7. Interest accrues on all lien debt
8. Creditors will be able to see that equity in the property is limited / reduced by the lien amount and not extend as much credit as they would had the liens not been there (\$825,000 minus \$206,250 plus interest and any new debts)
9. Upon sale
 - a. Land and improvements will be sold together on the open market
 - b. The liens will be paid from the sale price, reducing the amount that goes to the owner - the city will get the initial debt + interest; the owner will get approx. \$550,000 from the sale, depending on how much interest has accrued on municipal debt

Outcome

Homeowners continue to own their home until it is sold for market value.

Offramp #3

Taking the Option to Transfer Land to CLT

1. Owner accrues over \$206,250 in debt to the City or Tax Lien Trust (25% of DOF market value), outstanding for more than a year.
2. City makes offer to transfer land to a CLT in exchange for forgiveness of debt
3. Legal counseling to consider the offer is provided by an independent organization funded by the City or private attorney hired by the owner
4. The owner agrees, deeds the land to the City, memorializes that they are keeping improvements (the building)
5. City gets approval via UDAAP/ULURP and deeds the land to a local CLT
6. The CLT enters into a ground lease with the owner
7. Owner will pay a nominal ground lease fee to the CLT
8. Going forward, taxes will either:
 - a. Be exempt because the CLT will get Article XI tax exemption that covers the whole property; or
 - b. Be paid by the owner for the improvements only - reducing the tax bill by up to 40% to reflect that the land is owned by a charity org, *e.g.* now \$3600 per year.
 - c. Either way, the carrying costs for the owner will be reduced.
9. Existing Tax Lien Trust liens would continue to attach to improvements, CLT could assist the owner in getting financing to pay those off/assist in paying off; City could create a funding stream to help resolve these outstanding debts.
10. Owner becomes a voting member of the CLT and helps select its leadership and set its policies
11. CLT will steward the property
 - a. Will have the right to step-in in the event of future arrears or mortgage default;
 - b. Will be able to share price reductions for things like heating oil and other bulk purchasers;

- c. Regulate resale terms.
12. Upon sale
- a. The owner will have to sell the improvements (usually the house on the property) per the terms of the ground lease, which might dictate an income range for buyers;
 - b. Price will be lower than other properties with similar improvements by approximately $\frac{1}{3}$ because the buyer will not be purchasing the land - making purchasing the home much more affordable for future residents

Outcome

Homeowner continues to own home, land in CLT, home for sale for less than market value when owner is ready to sell.

Offramp #4

Not Taking Option to Transfer Land to CLT (Foreclosure + Sale)

1. Municipal liens are applied to the property until debt is worth 25% of the DOF market value or more, outstanding for more than one year (\$206,250 debt to City or Tax Lien Trust).
2. City makes offer to transfer land to a CLT in exchange for forgiveness of debt
3. Legal counseling to consider the offer is provided by an independent organization funded by the City or private attorney hired by the owner
4. Owner **rejects the offer**
5. City initiates foreclosure
6. Post-judgement, property is sold:
 - a. Any tenants in the property to be given the right of first refusal to purchase at a price set via an appraisal, followed by CLTs, then not-for-profit organizations.
 - b. If no tenant, CLT or not-for-profit exercises its right to purchase, the sale can be to any party and the price can be set through bidding.

- c. Any funds remaining after arrears due to City and other creditors, and cost of foreclosure, go to the former owner.

Outcome

Owner is paid out with money from sale of land and improvements, minus the amount needed to cover debts and costs of foreclosure.

Appendix D

Example Landlord of a 16-Unit Physically Distressed Building



**16 unit building in Bed Stuy.
2+ open HPD violations per unit.**

Sold for \$4,100,000 in 2019

If the building price were amortized over 11 years, the rent per unit would average \$1,941, which is about \$400 over the median rent in Brooklyn Community District 3.

**DOF market value:
\$1,784,000**

**Annual property
tax: \$86,600**

The building is in debt to the Emergency Repair Program for \$1000 or more.

Offramps

3

Option to Transfer Land to a CLT

Offered to all properties except vacant lots.

5

Foreclosure + Preservation Transfer

For multi-family properties in physical distress, unoccupied buildings and vacant lots.

Offramp #3

Taking the Option to Transfer Land to CLT

1. Debt to the City or Tax Lien Trust of over \$1,000, outstanding for more than a year (regardless of enrollment in Landlord Ambassador Program or similar)
2. City makes offer to accept transfer of land to a CLT in exchange for forgiveness of debt
3. Legal counseling to consider the offer is provided by an independent organization funded by the City or private attorney hired by Landlord
4. The Landlord agrees, deeds the land to the City, memorializes that they are keeping improvements (the building)
 - a. Many owners won't take this option, but if they do, and then want to do a preservation purchase (e.g. tenants create a coop, buy the building like they did here: <https://www.nytimes.com/2022/05/06/realestate/tenants-eviction-port-morris-bronx.html>) transferring land to CLT first will (1) make sure that any public investment in that process will be protected and (2) make the purchase cheaper by the land value.
5. City gets approval via UDAAP/ULURP and deeds the land to a local CLT
6. The CLT enters into a ground lease with the Landlord
7. CLT does physical and capital needs assessment; as appropriate, creates rehabilitation plan, which can include preservation financing from HPD / HDC
8. Owner will pay a ground lease fee to the CLT (e.g. \$200 per unit per year x 16 = \$3,200/year)
9. Going forward, taxes will either:
 - a. Be exempt because the CLT will get Article XI that covers the whole property.
 - b. Paid by the owner for the improvements only - reducing the tax bill by up to 1/3 to reflect that the land is owned by a charity org, e.g. now approx. \$55,000/year
 - c. Either way, the carrying costs for the owner will be reduced (from \$82,600 to either \$3,200 or \$58,200).
10. Existing Tax Lien Trust liens would continue to attach to improvements, CLT could assist owner in getting financing to pay those off/assist in paying off; City could create funding stream to help resolve these outstanding debts
11. Ground Lease provides for tenant protections and maintenance requirements for building
12. Landlord and all tenants become voting members of the CLT and help select its leadership and set its policies
13. CLT stewards the property
 - a. Will have the right to step-in in the event of future arrears or mortgage default;
 - b. Will be able to share price reductions for things like heating oil and other bulk purchasers;
 - c. Assist in repairs;
 - d. Regulate resale terms.
14. Upon sale
 - a. The Landlord will have to sell the improvements per the terms of the ground lease, which might dictate an income range for buyers,
 - b. Price will be lower than other properties with similar buildings by approximately 1/3 because the buyer will not be purchasing the land - making lower rents possible.

Outcome

Landlord continues to own property, land in CLT, city supports preservation, building for sale for less than market value when owner is ready to sell.

Offramp #5

Not Taking Option to Transfer Land to CLT (Foreclosure + transfer to redevelopment entity)

1. Debt to the City or Tax Lien Trust of over \$1,000, City offers to accept transfer of land to a community land trust in exchange for forgiveness of debt
2. Legal counseling to consider the offer is provided by an independent organization funded by the City or private attorney hired by Landlord
3. Landlord rejects the offer
4. City foreclosure similar to current TPT
5. Post-judgement:
 - a. City to pay off / defect existing liens
 - b. No equity remains for former owner (these are bad owners who have let tenants suffer; and the City had to pay their debt to the Tax Lien Trust)
6. City transfers land to CLT after getting necessary approval via UDAAP/ULURP
7. CLT enters ground lease with a CDC /NFP
8. Owner will pay a ground lease fee to the CLT - this can either be nominal or a real contribution to the CLT budget
9. CLT will steward the property (see model CLT budget, Appendix G)
 - a. Will have the right to step in in the event of future arrears or mortgage default
 - b. Will be able to share price reductions for things like heating oil and other bulk purchasers
10. For new owner, taxes will either:
 - a. Be exempt because the CLT+CDC will get Article XI tax exemption that covers the whole property.
 - b. Paid by the owner for the improvements only - reducing the tax bill by up to 1/3 to reflect that the land is owned by a charity org;
 - c. Either way, the carrying costs for the owner will be reduced.

11. City, CLT and new owner enter into regulatory agreement
12. City will support repairs with forgivable loan

Outcome

Slumlord loses property, land in CLT, city supports preservation.

Appendix E

Example Multi-Family Building Landlord (no physical distress, investment property; owner not in occupancy)



**8 unit building in Crown Heights.
Less than 1 HPD violation per unit.**

No sales for value since the 1960s (seemingly passed down in the family since then).

**DOF market value:
\$2,834,000
Annual property tax: \$15,000**

Offramps

1

City Review

For all properties other than multi-family properties in physical distress, unoccupied buildings and vacant lots.

3

Option to Transfer Land to a CLT

Offered to all properties except vacant lots.

4

Foreclosure, Sale with Funds Remaining Transferred to Former Owner, Land to CLT

For all properties other than multi-family properties in physical distress, unoccupied buildings and vacant lots.

Offramp #3

Taking the Option to Transfer Land to CLT

1. Debt is reviewed and owner is screened for eligibility for exemptions
2. Owner is offered payment plan if eligible
3. If lawful debt, after exemptions, exceeds \$5K for three years and owner does not enter into payment plan, the City will place subordinate lien(s) on the property for the amount of new municipal debt (up to \$425,100)
4. After debt of over 15% of DOF market value accrues (over \$425,100), City staff make an offer to transfer land to a community land trust in exchange for forgiveness of debt.
5. Legal counseling to consider the offer is provided by an independent organization funded by the City or private attorney hired by Landlord
6. The Landlord agrees, deeds the land to the City, memorializes that they are keeping improvements (the building)
7. City gets approval via UDAAP/ULURP and deeds the land to a local CLT
8. The CLT enters into a ground lease with the Landlord
9. Owner will pay a ground lease fee to the CLT (e.g. \$200 per unit per year x 8 = \$1,600/year)
10. Going forward, taxes will either:
 - a. Be exempt because the CLT will get Article XI that covers the whole property.
 - b. Paid by the owner for the improvements only - reducing the tax bill by up to 1/3 to reflect that the land is owned by a charity org, e.g. now approx. \$10,000/year
 - c. Either way, the carrying costs for the owner will be reduced (from \$15,600 to either \$1,600 or \$11,600).
11. Existing Tax Lien Trust liens would continue to attach to improvements, CLT could assist owner in getting financing to pay those off/assist in paying off; City could create funding stream to help resolve these outstanding debts
12. Ground Lease provides for tenant protections and maintenance requirements for building
13. Landlord and all tenants become voting members of the CLT and help select its leadership and set its policies
14. CLT stewards the property
 - a. Will have the right to step in in the event of future arrears or mortgage default;
 - b. Will be able to share price reductions for things like heating oil and other bulk purchasers;
 - c. Assist in repairs;
 - d. Regulate resale terms.
15. Upon sale
 - a. The Landlord will have to sell the improvements per the terms of the ground lease, which might dictate an income range for buyers,
 - b. Price will be lower than other properties with similar buildings by approximately 1/3 because the buyer will not be purchasing the land - making purchasing the building much more affordable for future owners

Offramp #4

Not Taking the Option to Transfer to CLT (Foreclosure + Sale)

1. Debt is reviewed and owner is screened for eligibility for exemptions
2. Owner is offered payment plan if eligible
3. If lawful debt, after exemptions, exceeds \$5K for three years and owner does not enter into payment plan, the City will place lien(s) on the property for the amount of new municipal debt (up to \$425,100)
4. After debt of over 15% accrues (over \$425,100), City staff makes offer to transfer the land to a community land trust in exchange for forgiveness of debt
5. Legal counseling to consider the offer is provided by an independent organization funded by the City or private attorney hired by Landlord
6. Landlord rejects the offer
7. City initiates foreclosure

8. Post-judgement, City gets required approval and transfers land to CLT; the value of the land will be partial satisfaction for arrears owed to the City by the investor; CLT will develop ground lease for property.
9. The City sells the building(s):
 - a. The buyer must be eligible per CLT ground lease terms;
 - b. Purchase price will value of building minus the value of the land;
 - c. Debt to City and Tax Lien Trust in excess of DOF assessed market value of lande paid with part of sale proceeds; subtracted from payout to owner
 - d. After debt and interest are paid to the city, plus litigation/attorney fees, any remaining funds go to former owner.
10. CLT enters ground lease with new owner;
11. The owner will pay a ground lease fee to the CLT (e.g. \$200 per unit/year = \$400/year)
12. Going forward, taxes will either:
 - a. Be exempt because the CLT will get Article XI tax exemption that covers the whole property.
 - b. Paid by the owner for the improvements only - reducing the tax bill by up to 1/3 to reflect that the land is owned by a charity org; e.g. a current bill of \$15,000 per year will be reduced to \$10,000 per year.
 - c. Either way, the carrying costs for the owner will be reduced from what they would be at market rate.
13. CLT will steward the property
 - a. Will have the right to step in in the event of future arrears or mortgage default
 - b. Will be able to share price reductions for things like heating oil and other bulk purchasers
 - c. Will regulate resales to make sure they remain affordable.

Outcome

Land in CLT, building for sale for less than market value, owner is paid out with some equity from sale of improvements.

Appendix F

Example Vacant Lot



The same owner has owned the lot since 1984.

Unpaid tax debt was included in the tax lien sale in 1997, 1999, 2009 and 2015; foreclosure never initiated by the Tax Lien Trust (the lot was subsequently purchased, but not selling the tax debt would have saved the community decades of disinvestment and vacancy).

DOF market value: \$223,000

Annual property tax: \$285

Offramps

5

Foreclosure + Preservation Transfer

For multi-family properties in physical distress, unoccupied buildings and vacant lots.

Offramp #5

Dedicated to Social Housing

1. City *in rem* foreclosure
2. City to pay off / defect existing liens
3. No equity remains for former owner
4. City engages in planning to determine what use is appropriate for the site, including analysis of current zoning; concludes it should be housing
5. City transfers land to CLT after getting necessary approval via UDAAP/ULURP
6. CLT enters ground lease with CDC / NFP or does development on its own then sells improvements
7. City will support development of housing with a forgivable loan (if the lot is not zoned residential, it can be rezoned or developed as another use: *e.g.* commercial or open space).

Outcome

Speculator loses property, land in CLT, city supports redevelopment.

Dedicated to Permanent Community Open Space

1. City *in rem* foreclosure
2. City to pay off / defect existing liens
3. No equity remains for former owner
4. CLT engages in planning to determine what use is appropriate for the site, including analysis of current zoning; concludes it should be open space
5. Options:
 - a. keeps property in Parks Dept inventory or
 - b. transfers to CLT for stewardship as open space

Outcome

Speculator loses property, land in CLT, creation of new accessible open space.

Appendix G

Example Property with Non-Residential Improvement



Commercial property.

DOF market value: \$3,373,000

Annual property tax: \$152,000

Offramps

1

City Review

For all properties other than multi-family properties in physical distress, unoccupied buildings and vacant lots.

3

Option to Transfer Land to a CLT

Offered to all properties except vacant lots.

4

Foreclosure, Sale with Funds Remaining Transferred to Former Owner, Land to CLT

For all properties other than multi-family properties in physical distress, unoccupied buildings and vacant lots.

Offramp #3

Taking the Option to Transfer Land to CLT

1. Debt is reviewed and owner is screened for eligibility for exemptions
2. Owner is offered payment plan if eligible
3. If lawful debt, after exemptions, exceeds \$5K for three years and owner does not enter into payment plan, the City will place lien(s) on the property for the amount of new municipal debt (up to \$505,950)
4. After debt of over 15% of DOF market value accrues (over \$505,950), City staff make an offer to transfer his land to a community land trust in exchange for forgiveness of debt.
5. Legal counseling to consider the offer is provided by an independent organization funded by the City or private attorney hired by owner
6. The owner agrees, deeds the land to the to City, memorializes that they are keeping improvements
7. City gets approval via UDAAP/ULURP and deeds the land to a local CLT
8. The CLT enters into a ground lease with the owner
9. Owner will pay a ground lease fee to the CLT (to be determined in negotiations)

10. Going forward, taxes will either:
 - a. Be exempt because the CLT will get Article XI tax exemption that covers the whole property.
 - b. Paid by the owner for the improvements only - reducing the tax bill by up to 1/3 to reflect that the land is owned by a charity org, e.g. now approx. \$100,000/year
 - c. Either way, the carrying costs for the owner will be reduced (from \$152,000 to \$100,000 + ground lease fee).
11. Existing Tax Lien Trust liens would continue to attach to improvements, CLT could assist owner in getting financing to pay those off/assist in paying off; City could create funding stream to help resolve these outstanding debts
12. Ground Lease provides for tenant protections and maintenance requirements for building
13. Owner and any tenants become voting members of the CLT and help select its leadership and set its policies
14. CLT stewards the property
 - a. Will have the right to step in in the event of future arrears or mortgage default;
 - b. Will be able to share price reductions for things like heating oil and other bulk purchasers;
 - c. Assist in repairs;
 - d. Regulate resale terms.
15. Upon sale
 - a. The owner will have to sell the improvements per the terms of the ground lease, which might dictate an income range for buyers, or particular types of buyers
 - b. Price will be lower than other properties with similar buildings by approximately 1/3 because the buyer will not be purchasing the land - making purchasing the home much more affordable for future residents

Offramp #4

Not Taking the Option to Transfer to CLT (Foreclosure+Sale)

1. Debt is reviewed and owner is screened for eligibility for exemptions

2. Owner is offered payment plan if eligible
3. If lawful debt, after exemptions, exceeds \$5K for three years and owner does not enter into payment plan, the City will place lien(s) on the property for the amount of new municipal debt (up to \$505,950)
4. After debt of over 15% of DOF market value accrues (over \$505,950), City staff make him the offer to transfer his land to a community land trust in exchange for forgiveness of debt
5. Legal counseling to consider the offer is provided by an independent organization funded by the City or private attorney hired by Landlord
6. Landlord rejects the offer
7. City initiates foreclosure
8. Post-judgement, City gets required approval, transfers land to CLT; the value of the land will be partial satisfaction for arrears owed to the City by the investor; CLT will develop ground lease for property.
9. The City sells the buildings and/or other improvements to new owner(s):
 - a. Purchase price will value of building minus the value of the land;
 - b. The buyer must be eligible per CLT ground lease terms;
 - c. City and Tax Lien Trust paid with part of sale proceeds; subtracted from payout to owner
 - d. After debt and interest are paid to the city, plus litigation/attorney fees, any remaining funds go to former owner;
10. CLT enters ground lease with new owner;
11. Owner will pay a ground lease fee to the CLT (to be determined)
12. Going forward, taxes will either:
 - a. Be exempt because the CLT will get an Art XI that covers the whole property.
 - b. Paid by the owner for the improvements only - reducing the tax bill by up to 1/3 to reflect that the land is owned by a charity org; e.g. a current bill of \$152,000 per year will be reduced to \$100,000 per year.
 - c. Either way, the carrying costs for the owner will be reduced from what they would be at market rate.
13. CLT will steward the property
 - a. Will have the right to step-in in the event of future arrears or mortgage default

- b. Will be able to share price reductions for things like heating oil and other bulk purchasers
- c. Will regulate resales to make sure they remain affordable.

Outcome

Land in CLT, building for sale for less than market value, owner is paid out with some equity from sale of improvements.

Appendix H

CLT Sample Annual Budget

Assumes 75 residential units; larger numbers will mean more staff, more tenant expenses.

| | |
|---|------------------|
| EXPENSES | \$290,000 |
| CLT Staff + OTPS Costs | \$260,000 |
| Emergency Tenant Expenses | \$30,000 |
| INCOME | \$297,500 |
| Ground Lease Fees (\$200 per unit/per year fee + 2% every year) | \$15,000 |
| CLT Initiative | \$150,000 |
| Foundations + Individual Donations | \$140,000 |

Note: management co. gets 8% of rents directly from owners of improvements.

Appendix I

Legislative Opportunities

General

- Define Community Land Trusts for general purposes in the Admin. Code
- If NYC creates a land bank, legislation authorizing it can give it power to execute all or part of this framework.
- Require funding for CBOs to play a significant role in outreach and review.

Third Party Transfer

- Amend eligibility for Third Party Transfer (TPT), including debt threshold and definition of physical distress.
- Set criteria for HDFC co-ops to petition to become an HDFC cooperative post-foreclosure upon meeting certain requirements after transfer.
- Amend Admin Code § 11-405(a) to eliminate block pick up for TPT program.
- Amend TPT authorization to add CLTs as part of disposition.

Water / Sewer

- Amending Title 11, Chapter 3 of the Admin. Code to include the new framework for water/sewer debt collection.
- Create new eligibility criteria for DEP Multi-Family Water Assistance Program and Water Debt Assistance Program, which currently rely on a lien sale notice.

Protective Measures for Property Owners

- Enact the Coalition for Affordable Homes' policy proposals for senior exemptions, heirs, and the Property Tax and Interest Deferral (PT AID) Program.
- There might be a need for legislation to further clarify when debt must be forgiven.
- Get authority from the State for retroactive application of exemptions and abatements for property owners that are not charities.

The Coalition of Affordable Homes, a broad coalition of homeowner advocates, has recommended the below changes that would improve the available protections.

General

- Allow seniors to start receiving their exemptions at any point during the taxable year after an application has been approved (now they have to wait until the next year); and
- Allow heirs that can establish that they live in the property to enter into payment plans (now they cannot do so until the deed is transferred to their name).

Property Tax and Interest Deferral (PT AID) Program

Note that as of December 2020, PT AID had only 187 participants, demonstrating that few property owners were effectively screened for eligibility for this program and that the program has not yet been calibrated for maximum effect.

Recommended Changes

- Adjust income thresholds for PT AID program to account for household size
- Increase the threshold for renewals of PT AID to \$86,400 to prevent owners from being removed from the program when their income has not changed (this is the income limit for the initial program applications per Local Law 24 of 2021);
- Allow owners enrolled in PT AID a minimum of three (3) defaulted payments before being required to show any additional information regarding loss of household income (currently just one default raises the documentation threshold);
- Make PT AID available to 4-6 unit owner-occupied properties.

Endnotes

1. There might be a need for legislation to further clarify when debt must be forgiven. See Appendix B for some examples. Many properties that will have debt in the future have liens held by the Tax Lien Trust on them already. The expenses associated with resolving those liens must be part of the accounting for the future system (our understanding is that defecting a lien costs the City the amount of original debt, interest and the original transaction fee). For property owners that have unlawful or otherwise forgivable debt, if similar prior debt had been sold as liens to the Trust, the City will need to defect those prior liens as well as forgive the outstanding debt.
2. See <https://taxequitynow.nyc/about/>
3. Note that DOF market value is distinct from assessed value. The thresholds we suggest are calculated in reference to DOF market value.
4. See <https://www.nyc.gov/site/hpd/services-and-information/7a-program.page>
5. This definition builds on the work of the Third Party Transfer (TPT) Working Group, convened by the Department of Housing Preservation and Development and former council member Robert Cornegy. See Third Party Transfer Working Group Final Report (Nov. 8, 2021), available at <https://www1.nyc.gov/assets/hpd/downloads/pdfs/services/tpt-working-group-final-report.pdf>. The current definition for TPT is Class 1 or 2 property subject to ECB tax liens of an amount greater than or equal to 25 percent of the property's value; or an average of five or more hazardous or immediately hazardous (B or C) violations of the housing maintenance code per dwelling unit; or \$1,000 or more in unpaid Emergency Repair Program charges.
6. See NYC Admin. Code § 11-301.
7. See NYC Admin. Code § 11-319. Eliminating the lien sale does not require any changes to this section of the Code but might require that Title 11, Chapter 3 be amended to include the new framework for debt collection. The current framework is limited to municipal liens, liens sold to the Tax Lien Trust, and water shut-offs in specific circumstances (for unmetered properties and in some instances where there is an unresolved leak).
8. There is a definition in the admin code for the limited purpose of giving HPD permission to enter into regulatory agreements with community land trusts that meet a specific set of requirements:

Community land trust. The term “community land trust” means a corporation that satisfies the following criteria: (i)(a) is incorporated pursuant to article 11 of the private housing finance law and section 402 of the not-for-profit corporation law; (b) the certificate of incorporation of which specifically provides for the provision of housing for persons of low income, as such term is defined in subdivision 19 of section 2 of the private housing finance law, in the form of a community land trust; (c) has submitted such disclosure statements as shall be required by the department and received the approval of such department; (d) lawfully acquired all of its real property in full compliance with such corporation's certificate of incorporation and any agreements with a governmental entity with respect to such property or such corporation; and (ii) provides in its by-laws that it will (a) acquire parcels of land, primarily for conveyance under long-term ground leases, (b) transfer ownership of any structural improvements located on such leased parcels to the lessees, (c) retain a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low-income households, and (d) have a board of directors composed of lessees of housing associated with the entity, an adult resident of a particular geographic area specified in the bylaws of the organization and any other category of persons described in the bylaws of the organization.

Admin Code § 26-2001.

9. See David Brand, Community Land Trusts Would Get First Dibs at Buying Properties Under Revised Council Bill (April 19, 2022), <https://citylimits.org/2022/04/19/community-land-trusts-would-get-first-dibs-at-buying-properties-under-revised-council-bill/>
10. E.g. the current threshold for Property Tax and Interest Deferral (PT AID) program for 1-3 family owner-occupied homes is 25% and for condominiums is 50%.
11. Where the independently appraised value of the land exceeds arrears owed to the City, the owner can be paid the difference by the CLT; policy could mandate such payment.
12. This foreclosure can be done by the City as an *in rem* foreclosure or the City can transfer all debt on properties for which it has completed steps 1-3 to a newly-created NYC Land Bank, which would do a judicial foreclosure and manage sale of property and transfer of any funds left to the former owner. Note that the City currently uses *in rem* foreclosure as part of the TPT program, but that foreclosure is simply one step in that program; foreclosure here is an independent tool.
13. E.g. the current threshold for the TPT program is 15% of DOF market value and can be applied here.
14. This foreclosure can be done by the City as an *in rem* foreclosure or the City can transfer all debt on properties for which it has completed steps 1-3 to a newly-created NYC Land Bank, which would do a judicial foreclosure and manage transfer of land to CLT, sale of improvements and transfer of any funds left to the former owner.
15. The current threshold for the TPT program is 15% of DOF market value; this threshold makes sense here.
16. This foreclosure can be done by the City as an *in rem* foreclosure or the City can transfer all debt on properties for which it has completed steps 1-3 to a newly-created NYC Land Bank, which would do a judicial foreclosure and manage transfer of land to CLT, sale of improvements and transfer of any funds left to the former owner.
17. This pathway is similar to the currently frozen TPT program but the set of properties that would be included would be slightly different than the current program: the definition of distress is expanded, but only multi-family properties that are not HDFC coops would be included.
18. This pathway likewise is similar to the currently frozen TPT program.
19. If NYC creates a land bank with the ability to finance development, the City could transfer this property to it to pursue redevelopment.
20. See <https://www1.nyc.gov/site/finance/benefits/landlords-sche.page>; can reduce property tax by 5 to 50% for seniors age 65+, specific reduction depends on income. DOF has gathered all the exemptions here: <https://www1.nyc.gov/assets/finance/images/content/misc/exemptions-at-a-glance.png>.
21. See <https://www1.nyc.gov/site/finance/benefits/landlords-dhe.page>; can reduce property tax by 5 to 50%, specific reduction depends on income.
22. See <https://www1.nyc.gov/site/nfp/eligibility/eligibility.page>.
23. See <https://www1.nyc.gov/site/finance/benefits/landlords-clergy.page>.
24. See <https://www1.nyc.gov/site/finance/benefits/landlords-veterans.page>.
25. See <https://www1.nyc.gov/site/finance/benefits/landlords-disabled-crime-victim.page>.
26. See <https://www.nyc.gov/site/dep/pay-my-bills/financial-assistance-programs.page>; Amnesty Program; Home Water Assistance Program; Leak Forgiveness Program; Multi-Family Conservation Program; Multi-Family Water Assistance Program; and Water Debt Assistance Program. Note that both the Multi-Family Water Assistance Program; and Water Debt Assistance Program currently have the existence of the lien sale for individuals' eligibility; these criteria will need to be updated.

27. See <https://otda.ny.gov/programs/water-assistance>, funded through the federal American Rescue Plan. As of March 22, 2022, of LIHWAP's \$69 million in funding, \$5.4 million has been allocated. OTDA pays up to \$2500 for water, \$2500 for sewer. Some NYC applicants have arrears over \$5,000 and haven't been able to get 100% forgiven. The average NYC benefit so far is \$2587; average outside NYC benefit is \$847. People can reapply for additional funds in the next fiscal year if \$5000 doesn't cover all of their arrears. OTDA expects 45,000 households to ultimately be served by the \$69 million. All money must be allocated by September 2023.
 28. For property owners that establish a Real Property Tax Law § 420a charity property exemption, this look-back shall go to the date of deed as required by NYS Real Property Tax Law § 494-a. For the other exemptions and abatements, the City may need to get statutory authority to look back three years from the State.
 29. <https://www1.nyc.gov/site/finance/taxes/pt-aid.page>.
 30. <https://www1.nyc.gov/site/finance/taxes/property-payment-plans.page>.
 31. See e.g. <https://www1.nyc.gov/site/hpd/services-and-information/landlord-ambassador-program.page>.
 32. E.g. the current threshold for Property Tax and Interest Deferral (PT AID) program for 1-3 family owner-occupied homes is 25% and for condominiums is 50%.
 33. This is a proxy for "owner-occupied;" it is not exact, but gives a sense of the potential scale.
 34. The current threshold for the TPT program is 15% of DOF market value.
 35. This is a proxy for "investor-owned."
 36. Note that HDFC coops were excluded from the 2018 lien sale by legislation.
 37. Based on authority in NYC Admin Code § 11-422.
 38. For water debt, the City should create a fund to pay the Water Board for any debt that cannot be forgiven due to water bond obligations, similar to how Neighborhood Restore resolves water/sewer debt now.
 39. The land can be independently appraised and where the value of the debt is less than the value of the land, the CLT can pay the difference to the homeowner to make them whole.
 40. If the City creates a land bank, it can play a role here as well.
 41. Tax Class 1 land percentage of value = 36%
TC2 land percentage = 15%
TC4 land percentage = 40%
- These numbers reflect the average percentage of land value by tax class, derived by analyzing the assessed property values assigned by DOF in 2022 to all non-vacant properties that reached thresholds for the CLT offer based on delinquency in 2018.
42. It is possible for the City to defect these liens as well, as long as budget allows.
 43. DOF already assesses land value separately from the value of the property as a whole. Here are the calculations for a sample property in East New York: total estimated market value = \$825,000; land portion is \$168,000.
 44. Note that HDFC coops were excluded from the 2018 lien sale by legislation.
 45. This foreclosure can be done by the City as an *in rem* foreclosure or as a judicial foreclosure by a newly-created NYC Land Bank.

46. If the HDFC coop has water debt, the City should create a fund to pay the Water Board for any debt that cannot be forgiven due to water bond obligations, similar to how Neighborhood Restore resolves water/sewer debt now.
47. This is based on 2021 lien sale data and a list of likely vacant properties generated by the Mayor's office per Local Law 28 of 2019 (that the authors received through a Freedom of Information Law request). The lien sale required three years of delinquency before the sale; reducing this time threshold will likely capture more unoccupied properties that can be returned to productive use.
48. See Title 11, Chapters 4 of the NYC Administrative Code. Admin Code § 11-405(a) should be amended to eliminate block pick up. If there is a land bank, it could play a role here.
49. The City should create a fund to pay the Water Board for any debt that cannot be forgiven due to water bond obligations, similar to how Neighborhood Restore resolves water/sewer debt now.
50. If NYC creates a land bank with ability to finance development, the City could transfer this property to it instead; the land bank would then have the obligation to transfer to a CLT if there is one in the area within a statutory timeframe.
51. See e.g. NYC HPD Multifamily Disposition and Finance Programs Term Sheet <https://www.nyc.gov/assets/hpd/downloads/pdfs/services/multifamily-disposition-and-finance-term-sheet.pdf>

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