

February 16, 2021

Poughkeepsie City Council
Council Chambers
62 Civic Center Plaza, 3rd Floor
Poughkeepsie, NY 12601

Honorable Poughkeepsie City Council Members, City Leaders, and Residents,

Thank you for the invitation to submit testimony on behalf of the Center for Community Progress in support of the proposed Local Law 21-01 (*Local Law Opting into the State Provisions for the Enforcement of Unpaid Taxes, Fees, and Assessments, and Repealing those Portions of the City's Administrative Code Providing for the Local Enforcement of Unpaid Taxes, Fees, and Assessments*). This law would effectively replace the City's current practice of selling tax liens with a judicial *in rem* enforcement procedure, as defined by NYS Real Property Tax Law, Article 11. This law will have many positive impacts, such as offering greater protections to Poughkeepsie residents, ensuring more equitable outcomes, reclaiming an important revenue stream to the public coffers back from investor's pockets, and positioning the City to work, in time, more strategically with the newly created Land Bank in support of inclusive, equitable community development.

Our mission at the Center for Community Progress is to foster strong, equitable communities where vacant, abandoned, and deteriorated properties are transformed into assets for neighbors and neighborhoods. As a national nonprofit and leaders in the field, we have unmatched expertise in housing and building code enforcement systems, property tax enforcement systems, and land banking. We have provided technical and legal support to more than 300 communities across 30 states, including ten years of engagement in NY with state leaders, local mayors, and the NY Land Bank Association. I have also gladly served as a thought partner to leaders right here in Poughkeepsie and Dutchess County for nearly two years, as they have explored ways to emulate some of the nation's leading best practices that promise a more equitable approach to problem properties.

The sale of a tax lien to a private investor transfers significant governmental power to collect unpaid taxes, including the power to earn a statutorily prescribed rate of interest, collect significant fees and costs, and to foreclose on or direct the path of the property if not redeemed. In our work, we have seen again and again how problematic this practice is for communities, particularly for Black and Brown neighborhoods and vulnerable low-income property owners.

There are about 20 states that outright prohibit the sale of tax liens, or whose state policy virtually prohibits the practice. We have proudly worked alongside local leaders in NY,

Maryland, and elsewhere to unwind this harmful practice, and design and reinstate more equitable collection and enforcement systems that center people while still meeting a community's fiscal needs. Fortunately, outside of the NYC area the sale of tax liens is rare across New York, and becoming even rarer—the City of Rochester ended the practice last year and the City of Ogdensburg is moving in the same direction.

Eliminating the sale of a property owner's tax debt to a private investor and adopting the new judicial *in rem* system will help local governments more effectively and equitably enforce unpaid taxes in a number of ways, including:

- 1. Local governments will have more opportunities to work with property owners to develop equitable solutions for those struggling to pay taxes.** NYS RPLT, Article 11, expressly grants local governments the option to develop payment plans and hardship provisions to maximize what all public leaders should desire: allowing an owner to catch up on their tax obligation, preserve their equity, and remain stably housed. This benefit is even more important amidst a pandemic, when stable housing is key to protecting public health, and at a time when Americans in all facets of life are challenged to rethink practices and decisions with a focus on racial equity and justice. Moreover, the court adjudicated process affords owners far more protections than an unregulated private collection industry.
- 2. Local governments can acquire and steward vacant and abandoned property back to productive and more equitable uses.** For vacant and abandoned properties, it is incredibly important for a local government, on behalf of the public and driven by the common good, to foreclose on a tax-delinquent, vacant property, temporarily steward it so it doesn't become a nuisance and safety hazard to neighbors, and return it to a responsible owner consistent with community priorities. Even better, a judicial *in-rem* foreclosure approach linked to a transparent, accountable land bank committed to equitable outcomes is the optimal alignment of policies, legal systems, and programs in addressing problem properties. City and County leaders should be commended for concurrently advancing such thoughtful systemic reforms in service to the neighbors and neighborhoods in Poughkeepsie.
- 3. Local governments can capture interest and penalties due to taxpayers to fund the administration of the *in rem* program and other public services.** Our analysesⁱ and other researchⁱⁱ show that local governments that privatize the delinquent property collection process to tax lien investors are in effect *giving away* revenue. In a judicial *in rem* system, interest and penalties from late tax payments are collected by the local government, on behalf of all taxpayers, and those proceeds can be used to administer the collections and *in rem* program and fund other public services that support healthy, safe, and equitable communities.

As with any systemic reform, there will be challenges in the transition to a judicial *in rem* enforcement, including a potential and temporary revenue gap. Luckily, and as many communities have shown, these and other challenges can be addressed. For example, the

City can easily utilize short-term borrowing instruments, like tax anticipation notes, to help with cash flow needs through the transition.

My colleagues at Community Progress and I cannot emphasize enough how impressed we are by this City Council and your partners for moving forward with the creation of the land bank and this reform to your tax systems. This work may seem technical and wonky—and it is—but trust us when we say that you are following in the footsteps of many other municipal leaders here in NY and across the country who reformed complex property tax systems that were producing inequitable outcomes and harming vulnerable constituents.

We can say this because we've seen it: This is not just some insignificant technical tweak. You are setting the stage for hopeful and impactful work over the next ten years and beyond. You are embarking on a more equitable approach to your constituent's health and wealth, to housing stability, and to neighborhood vitality that invites and rewards partnerships, community, and creativity.

You all should be very proud of moving this systemic reform forward, because it truly does matter.

Thank you for the invitation to share our national experience and insights with you, and please know that we are here to assist in the important work ahead however you may need us.

Sincerely,

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ⁱ *Analysis of Bulk Tax Lien Sale: City of Rochester*, Center for Community Progress, 2013. Available at: https://www.communityprogress.net/filebin/pdf/new_resrcs/022513_Final_Rochester_Report.pdf

ⁱⁱ *Going, Going, Gone: Tax Lien Auctions, Hidden Costs, and Missed Opportunities for the City of Poughkeepsie*, Joshua Simons, The Benjamin Center at SUNY New Paltz, 2018. Available at: <https://tinyurl.com/PoughkeepsieTaxSaleAnalysis>