COMMUNITY LAND TRUSTS AS A STRATEGY FOR TAX DELINQUENCY: PRESERVATION AND DEVELOPMENT OPPORTUNITIES.

1.

All property owners in NYC owe taxes and money for water, with a few exceptions.*

The city sends bills to property owners for water, property taxes, emergency repairs, etc.

Most property owners pay their bills when they are due in the current system and will continue to do that.

2.

Some will not pay when they are due, but will pay when they get late notices and interest starts accruing, just like today.

3.

Some will not pay when bills are due, or when interest starts accruing, just like today. For those owners, the City can offer to resolve their debts in exchange for the deed to the land on which any improvements they own are situated. If the owner accepts, the debt will be resolved, and the deed can be transferred to a community land trust (CLT). The owner will keep their improvements and enter into a ground lease with the CLT. The City may also enter into a regulatory agreement with the owner of the improvements and / or the CLT. Both the ground lease and regulatory agreement will be oriented towards keeping improvements on CLT land affordable to present and future residents.

4.

Some will not pay when bills are due, or when interest starts accruing, and will not accept the City's offer to resolve the debt by transferring the land to a CLT. For those owners, the City must initiate a foreclosure in court.

Some owners will pay their bills, with interest, after the foreclosure is started.

5.

For those that don't, the City can make the same offer of accepting the deed to the land as a resolution to the foreclosure.

6.

For those that don't pay their bills and don't accept the City's offer, foreclosure will result in a judgement, and it will be up to the City to decide what to do with the deed to the entire property.

7.

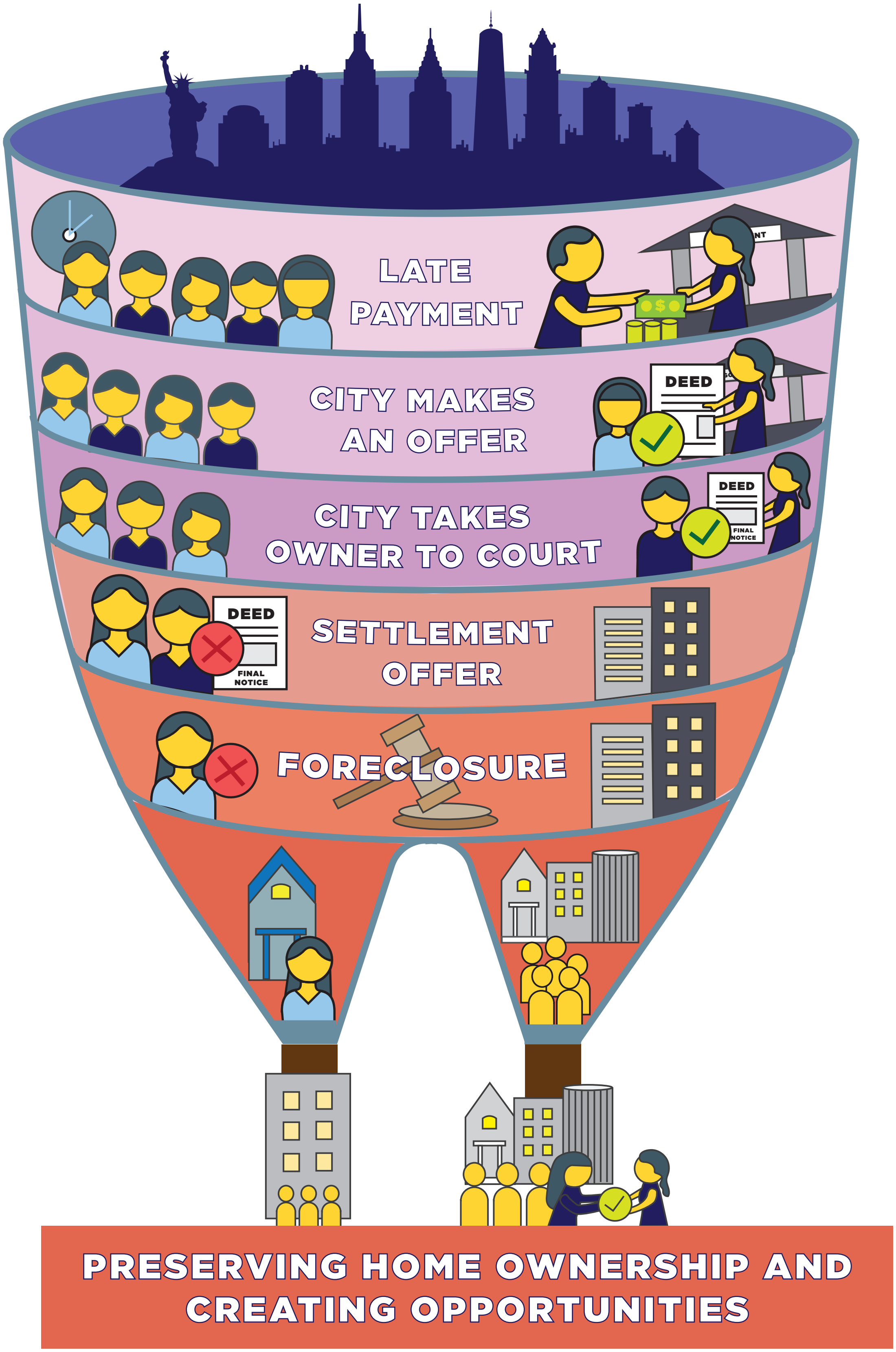
For owner occupied properties (tax class 1), the City can transfer the property to a CLT, which will work out an arrangement through which residents who want to stay in place can stay, and potentially even preserve some equity.

For rental housing (tax class 2), commercial properties (tax class 4) and vacant lots, the City can transfer the property to a CLT that will partner with a not-for-profit developer to stabilize the housing, create and protect community, commercial and manufacturing and spaces, build new housing on vacant land, and determine the long-term ownership structure in partnership with residents.

* Example exceptions:

- Charity property owners that own churches, cemeteries, community gardens, theaters, and community centers are exempt from property taxes. Properties with some specific uses are exempt from water bills (e.g. Day Care Centers, Places of Public Worship, Shelters, and a specific list of others).
- Properties receiving housing property tax abatements for affordable or luxury housing (421-a, temporary).
- Government-owned and affiliated property such as the City itself (e.g. Parks), NYCHA and EDC is exempt from all municipal charges.

COMMUNITY LAND TRUSTS AS A STRATEGY FOR TAX DELINQUENCY: PRESERVATION AND DEVELOPMENT OPPORTUNITIES.



BY TAKEROOT JUSTICE AND THE ABOLISH THE TAX LIEN SALE COALITION
DESIGNED BY RAIDA SARWAR

FREQUENTLY ASKED QUESTIONS

1. Can NYC afford to get rid of the tax lien sale?

A tax lien sale is not at all an essential ingredient in an effective tax collection process. NYC is the only city in the U.S. that uses a bulk tax lien securitization process, and yet, many cities perform better than NYC in tax collection. For the last years that we have data to compare, NYC's on-time tax collection rate was 92.4%, while Los Angeles' was 94% and Boston's was 98%.[1] L.A. County holds a public auction of individual properties with tax arrears; Boston takes title to tax delinquent properties. NYC can make a new model that takes into account values such as racial and economic equity and community ownership.

NYC's lien sale itself generates very little revenue. Given that taxpayers in cities without a lien sale system nonetheless overwhelmingly pay their taxes, the amount of revenue attributable to NYC's tax lien sale is only what the city receives for the debt it sells to the tax lien trust. In 2019, this amount was only $74.23 million[2] – which was less than 1/10 of 1% of the city's total revenue.[3]

2. Wouldn't it cost a lot of money for NYC to take on this increased role in tax collection and property management?

Redirecting distressed properties into community land trusts (CLTS) does require more upfront costs such as spending on DOF staff, debt forgiveness, foregone revenue from the lien sale, and support for CLTs. These costs are worth it, though, in that they enable a system that would keep wealth within NYC communities, while also creating cost-effective opportunities to preserve affordable housing.

Our proposed alternative system also reduces many of the harms created by the current system, such as evictions, foreclosures, and speculation overwhelmingly concentrated in communities of color.

3. Do NYC's CLTs have the capacity to acquire distressed properties on such a large scale, and can the CLT model address the underlying financial issues of homeowners that led to tax delinquency?

CLTs already exist in most NYC neighborhoods where tax-delinquent property is concentrated, and are poised to gain capacity quickly with public support. Like other organizations, CLTs gain capacity as they grow. As entities that own and steward land – rather than develop it directly – CLTs increase their capacity as they acquire more land because residents and other users of the land are key players in CLT decision-making. Residents also provide CLTs a steady income stream through payment of reasonable ground lease fees.

The CLT model has also been successful at helping homeowners address a range of financial issues. For years, the City of Lakes CLT in Minneapolis has assisted families with tax arrears to stay in their homes through a transfer of land ownership to the CLT.[4] This model is already being used in NYC today: Interboro CLT recently acquired the land beneath several single-family homes that were facing debt. These transactions provided funds to the owners to pay the debt and continue to own the homes themselves, enabling the homeowners to stay in place.

4. Would abolishing the tax lien sale negatively impact NYC's bond rating?

It's not likely. A city's tax collection policies account for only "a fraction of a fraction in the overall framework for rating General Obligation debt."[5] In fact, NYC's bond rating increased in 2020, a year when NYC canceled its tax lien sale.[6] Further, many cities without tax lien sales have comparable or better bond ratings than NYC.[7]

5. Wouldn't this system bring back the 70s and 80s, when NYC was overwhelmed with tax delinquent properties, leading to their further physical and financial deterioration?

Current economic conditions in NYC are vastly different than they were in the 70s, and our proposal is not comparable to the city's former *in rem* foreclosure policy. Speculation and skyrocketing rents have replaced property abandonment and disinvestment as central issues. Additionally, in our proposal, NYC would not be the final owner – CLTs are poised to steward tax-foreclosed properties.

1. Irene Tung, *Financializing Urban Governance: Cities, Capital Markets and Property Tax Liens* 136 (Oct. 2014) (Ph.D dissertation, Rutgers University): bit.ly/3rd6RZs.
2. *Comprehensive Annual Financial Report of the Comptroller for FY19*: on.nyc.gov/3fi4Khs. No data appears to be publicly reported about how much - if any - ongoing revenue NYC receives from the Tax Lien Trusts.
3. NYC's Actual General Fund Revenues for FY19 were $91.34B. See *NYC Popular Annual Financial Report*: on.nyc.gov/3GmoNHs.
4. City of Lakes CLT Project: Sustained Legacy: bit.ly/3FiVnIY.
5. Amanda Kass, Government Finance Research Center at the University of Illinois, Chicago.
6. See May 19, 2021 NYC Office of the Mayor Press Release: on.nyc.gov/3zRPPnz.
7. In Dec. 2020, NYC's rating from Moody's was Aa1 (on.wsj.com/3zP03Fj) and from S&P was AA (bit.ly/3zMrLmh), Boston and S.F. had AAA ratings from both.