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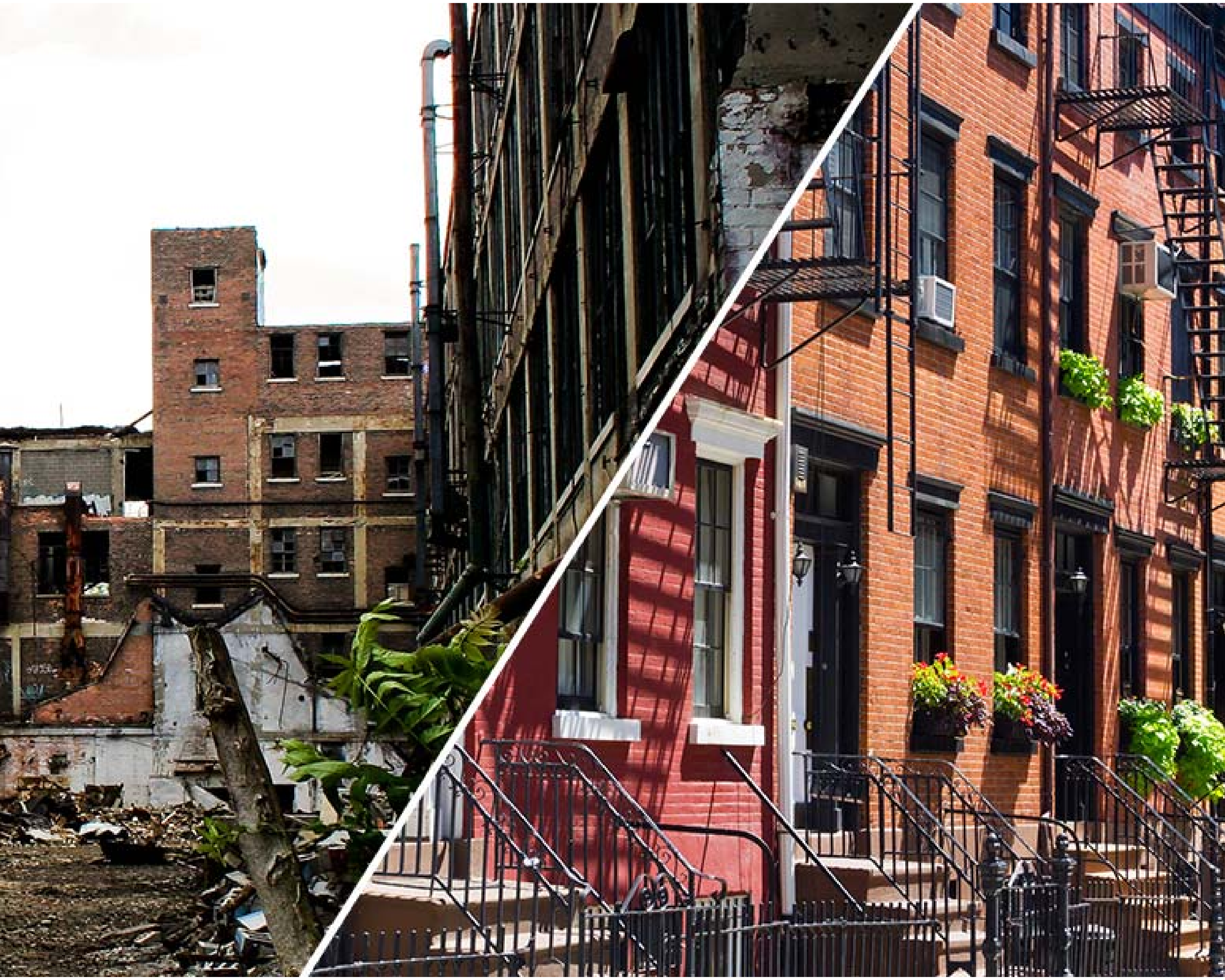


Building An Affordable Future:

The Promise of a New York City Land Bank

TABLE OF CONTENTS

I. Executive Summary 4

II. A History of New York City's In Rem and Tax Lien Sales Programs 6

III. Land Banks in the Empire State 9

IV. The Promise of a New York City Land Bank and the Community Land Trust Model 12

V. How a New York City Land Bank Would Operate 14

VI. Conclusion 27

VII. Methodology 28

VIII. Acknowledgments 29

I. EXECUTIVE SUMMARY

New York City is in the grip of an affordable housing crisis that threatens to undermine the city's reputation as a place that welcomes people from every corner of the globe and offers every individual the opportunity to put down roots and contribute to our communities.

Since 2000, the city has lost over 400,000 apartments renting for $1,000 a month or less, with the harshest consequences being felt by working New Yorkers earning less than $40,000 a year.[1] Today, more than 56 percent of New York City renters spend more than one-third of their income on rent, with nearly 30 percent spending more than half their income on rent.[2] These pressures have contributed to a surging homeless population, with more than 58,000 people living in the City's shelter system, including more than 23,000 children.

Tackling this crisis will require the City to leverage all its assets, including one that until now has been largely overlooked: the 1,459 vacant properties owned by the City that currently sit unused and undeveloped, as outlined in a recent audit of the Department of Housing Preservation and Development (HPD) by New York City Comptroller Scott M. Stringer. The Comptroller's Office has also identified 247 persistently tax delinquent properties that could be readily converted into affordable housing with the right tools and focus.

This report uses a first-of-its-kind analysis to assess the potential for converting these underutilized properties into affordable housing, while also outlining a core strategy for realizing this goal: the establishment of a New York City Land Bank.

Land banks are government-created nonprofit corporations designed to convert tax-delinquent and vacant properties into affordable housing or other productive uses. For decades, these banks have been used in cities across the country—from Cleveland and St. Louis to Buffalo and Syracuse—to "reactivate" vacant or underused property for important civic purposes.

For years, New York City's primary strategy for developing affordable housing on City-owned lots has been to sell the property to a developer in exchange for the developer setting aside a percentage of affordable units for a limited duration. While this model has facilitated the creation of thousands of affordable units, the City loses leverage by transferring title, which weakens its ability to hold developers accountable and negotiate for greater and permanent affordability.

In contrast, a land bank would maintain title to the land—potentially through a community land trust model—and work with non-profit developers to achieve deeper and permanent affordability. Unlike HPD, which has left scores of City-owned lots vacant for a half-century or more, a land bank would have the sole mission of transforming City-owned and tax delinquent properties into affordable housing, enhancing the City's ability to advance projects in an expeditious manner and enforce affordability thresholds over generations.

Looking just at ***City-owned, vacant property***, this report finds that a land bank could support the development of:

- 53,116 units of permanently affordable housing located on 1,459 vacant, City-owned properties. Of these, 1,342 are zoned for residential uses as-of-right, while the remaining 117 are manufacturing sites that could be evaluated for rezoning to residential uses.
- These potential units on City-owned properties span all five boroughs, with the highest numbers in Queens (26,025), Brooklyn (21,570), and The Bronx (2,665).

Additionally, a land bank could be used to secure title to hundreds of ***persistently tax-delinquent, underutilized properties*** (defined as vacant land or parking lots) throughout the five boroughs, many of which are currently zoned for residential development.

This report estimates that a land bank could support the development of:

- 4,159 additional units of affordable housing on 247 persistently tax-delinquent, underutilized properties that the City placed tax liens against and sold to a trust in 2013-2015, all of which are either zoned residential or permit residential development.[3] Additional properties that become persistently delinquent can be added to the pipeline in coming years.
- These potential units also span all five boroughs, with the highest numbers in Brooklyn (2,027), The Bronx (965), and Queens (617).

For nearly two decades, New York City has sought to recoup money owed by delinquent property owners by selling tax liens to a trust. While this effort has yielded millions of dollars in revenue for the City's coffers and helped decrease a scofflaw culture, it has done little to address the desperate need of millions of New Yorkers for affordable housing.

Specifically, the Office of the Comptroller recommends that the City:

- Pass legislation in the City Council to authorize a New York City Land Bank. Last year, New York City Councilmember Brad Lander filed legislation to create a land bank, which has since garnered nine additional sponsors;[4]
- Draft by-laws that allow the land bank to manage properties under a community land trust model in order to ensure permanent affordability on properties acquired by maintaining long-term control of the properties.
- Begin working with Empire State Development Corporation to prepare a land bank application;
- Seed the land bank by transferring vacant, city-owned properties and/or redirecting a portion of outstanding tax liens to the land bank, rather than to the existing trust; and
- Allow the new land bank to manage foreclosure of tax-delinquent properties that are either vacant or underutilized to create a pipeline for affordable housing.

While a land bank cannot transform every vacant property, it can be one of the tools used to create permanent, affordable housing in New York City's neighborhoods.

II. A HISTORY OF NEW YORK CITY'S IN REM AND TAX LIEN SALES PROGRAMS

In recent decades, New York City has pursued two distinct strategies to address tax-delinquent properties: "in rem" foreclosures and tax lien sales. Comptroller Stringer believes that the City can adapt and blend elements of these programs to create an effective New York City Land Bank that will develop permanent affordable housing.

In Rem

Prior to 1996, properties that were significantly delinquent in their taxes (property taxes and/or water/sewer bills) faced foreclosure by New York City through the "in rem" program, by which the City took control of delinquent properties through foreclosure.

By 1979, the City had taken ownership of 100,000 units of vacant, occupied, and partially occupied housing.[5] These units were eventually included in Mayor Koch's 1985 "10-Year Housing Plan," which aimed to renovate 82,000 units in occupied in rem buildings, rebuild 47,000 units in vacant in rem buildings, build 37,000 new units, and upgrade 87,000 units in privately owned buildings.[6] The program remained in place through the Dinkins and Giuliani administrations.

Due to the City's poor management of these buildings, the City began to dispose of its in rem property to the private market. Since 1994, the City has sold 98.2 percent of its vacant in rem units, retaining only 775 units as of June 2013.[7]

Today, the City rarely uses the in rem process. In fact, while the City recently announced that it would seek to foreclose on 370 properties for failure to pay a collective $110 million in taxes, prior to this action, the last in rem proceeding occurred in 2008.[8] It is not clear how many of these properties will actually end up being foreclosed, as delinquent property owners can pay off ("redeem") their liens at any time prior to foreclosure.

In certain circumstances, delinquent properties that are distressed and have existing tenants may be selected for the Department of Housing Preservation and Development's (HPD) Third Party Transfer (TPT) program.[9]

Under TPT, the City forecloses on tax-delinquent residential properties that are currently occupied and in poor physical condition. Ownership is transferred directly to Neighborhood Restore, a non-profit organization, which in turn "works with qualified non-profit and for-profit developers to stabilize, manage, and plan for the rehabilitation and future ownership of these properties," including potential financing via HPD and Low Income Housing Tax Credit sources. Neighborhood Restore then transfers ownership of the properties to the qualified developer, who must rehabilitate the building if necessary and continue to manage the property as affordable housing.

Since 1996, the City has collected at least $536 million in revenue associated with properties targeted through TPT, with more than 500 buildings transferred to for-profit and non-profit owners.[10]

Since TPT focuses almost exclusively on properties that already have buildings on them, a land bank could augment the TPT program by addressing vacant and underutilized properties and adopting a community land trust model to ensure permanent affordability.

Tax Lien Sales Program

In 1996, as a result of the City's inability to adequately manage properties secured through the in rem program, the City largely turned away from in rem foreclosures in favor of tax lien sales. From 1996 to January 2015, the sale of tax liens resulted in the collection of $1.3 billion in delinquent taxes and charges.[11]

New York's tax lien sale program works as follows:[12]

1. When a property owner falls behind on property taxes, water/sewer bills, or certain other payments to the City,[13] the unpaid charges become a lien on their property.[14]

2. The City notifies property owners of the existence of the lien and of its proposed sale, advising owners to pay the debt in advance of a lien sale. According to the New York City Department of Finance (DOF), notification includes "at least four mailings by the DOF to property owners and interested parties before the sale; full page ads in daily, community and ethnic newspapers; and numerous outreach events by DOF staff."[15]

   As a result, roughly four out of five property owners with liens avoid the lien sale altogether, either by paying their outstanding balance; demonstrating that they qualify for senior citizen, veterans or disability exemptions; informing DOF that the property in question is a Build it Back property recovering from Hurricane Sandy; or entering into a payment plan with DOF.[16]

3. The City sells the majority of liens that remain unpaid to a trust. Properties may be eligible for the lien sale if they have at least $1,000 in delinquent property taxes that are more than three years old or have other outstanding charges, including water/sewer fees, payments for repairs made through programs like the Emergency Repair or Alternative Enforcement Programs,[17] and miscellaneous municipal fees.[18]

   The holder of the tax liens has the right to foreclose on a property if the lien remains unpaid for a certain period of time. Property tax and water/sewer late payment penalties are set each year by the New York City Council based on recommendations of the Banking Commission and have historically been at 18 percent annually for properties valued over $250,000. As a result, the liens are of significant value.

   The trust makes an upfront payment to the City based on the value of the underlying liens. This amount varies from year to year, but according to the Independent Budget Office (IBO) has been around 73 percent of the total value of unpaid liens in recent years.[19] For example, if the City holds $100 million in unpaid liens, it will sell the liens to the trust for approximately $73 million, providing an immediate boost to the City's coffers. The discounted sale price reflects the benefit of this direct infusion of cash, the uncertainty surrounding the ability to collect the full value of liens from delinquent property owners, and the desire of the City to sell bonds with a AAA credit rating which generally require additional collateral.

4. In turn, the trust sells bonds that are backed by the value of the liens to private investors. The trust hires lien servicing companies to seek payment from delinquent property owners. In addition to the outstanding value of taxes and charges owed, property owners must pay a penalty, plus fees and interest.

5. The trust then uses money collected by the servicing companies to pay off bondholders, with any remaining money ("residual") returned to the City's general fund.

6. If property owners still do not pay their back taxes and charges, the lien servicing company can foreclose on the property and sell it at a foreclosure auction.

While many liens are paid off ("redeemed") prior to foreclosure, a total of 227 properties with liens sold to the trust between 2008 and 2015 went all the way to foreclosure, including 62 underutilized properties that are either in a residential zoning district or are in a commercial zoning district that permits residential uses.[20]

It is worth noting that, in general, the more time that passes from the date of the lien sale, the more properties are foreclosed (see Chart 1). This is because the foreclosure process takes years to play out and property owners maintain a right to pay off ("redeem") their lien at any time up to the date of the foreclosure auction.

Chart 1: New York City Lien Sales, 2008-2015

Year Lien Sold to Trust	Number of Foreclosed Properties
2008	86
2009	59
2010	45
2011	27
2012	9
2013	1
2014	0
2015	0

New York City's tax lien sales program has been successful in increasing the payment rate of taxes and ensuring the City recoups money owed.[21] However, unlike the in rem program, the current tax lien program does little to address the affordable housing crisis gripping New York City.[22] That's where a land bank comes in.

III. LAND BANKS IN THE EMPIRE STATE

New York State authorized the creation of local/municipal land banks with the passage of the New York Land Bank Act in 2011. The land banks are non-profit, quasi-governmental corporations.

New York State's land bank legislation, which was signed into law by Governor Andrew Cuomo in 2011, was designed to target the "crisis in many cities and their metro areas caused by disinvestment in real property and resulting in a significant amount of vacant and abandoned property."[23] The legislative intent indicated that, "[T]he need exists to strengthen and revitalize the economy of the state and its local units of government by solving the problems of vacant and abandoned property in a coordinated manner and to foster the development of such property and promote economic growth."[24]

The state law initially permitted 10 banks statewide. A subsequent amendment expanded the maximum total pool to 20.[25]

The creation of a land bank is conditioned upon approval of the Empire State Development Corporation (ESDC) pursuant to Section 1603 of the Act.

The New York State program has very specific application guidelines,[26] including:

- The nature and extent of the aggregate inventory of vacant, abandoned, tax-delinquent and tax-foreclosed properties within the jurisdiction; and
- The willingness of a municipality to sell some or all of the delinquent tax liens to the land bank.

A total of ten Empire State communities were approved for land banks between 2012 and 2014.

These land banks are:

1. Broome County Land Bank Corporation
2. Buffalo Erie Niagara Land Improvement Corporation
3. Chautauqua County Land Bank Corporation
4. Greater Syracuse Land Bank
5. Land Reutilization Corporation of the Capital Region
6. Newburgh Community Land Bank
7. Rochester Land Bank Corporation
8. Suffolk County Land Bank Corporation
9. Albany County Land Bank Corporation
10. Troy Community Land Bank

In addition to receiving funds through tax revenue generated by newly activated properties, land banks in New York have been supported by grants from the Office of State Attorney General Eric Schneiderman. In 2013, Attorney General Schneiderman announced a $20 million competitive grant program, funded by the national mortgage settlement, for local land banks.

Dubbed the Land Banks Community Revitalization Initiative,[27] the first round of grants in 2013 awarded $13 million to the following land banks statewide:

- Buffalo Erie Niagara Land Bank Corporation ($2.087 million);
- Rochester Land Bank Corporation ($2.78 million);
- Greater Syracuse Property Development Corporation ($3 million);
- Chautauqua County Land Bank Corporation ($1.5 million);
- Newburgh Community Land Bank ($2.45 million);
- Suffolk County Land Bank Corporation ($675,000);
- Capital Region Land Bank ($150,000); and
- Broome County Land Bank ($150,000).

These grants funded a variety of projects, including:

- Environmental assessments for brownfields (Suffolk County);
- A demolition program for 80 properties (Chautauqua County); and
- Rehabilitation and demolition of blighted homes and new construction (Newburgh).

The second round of grants, awarded in 2014, totaled nearly $20 million and went to the eight land banks above, as well as the Albany County Land Bank Corporation and the Troy Community Land Bank.[28] In December 2015, Enterprise Community Partners announced an additional $4.3 million in funding for land banks created in 2015 or 2016.[29]

While land banks are relatively new to New York, they are already seeing signs of success—from eliminating blighted, abandoned homes that wreak havoc on communities to investing in renovations to single- and multi-family homes.

The **Chautauqua County Land Bank** serves a largely rural county in western New York that has some of the oldest housing stock in the country. It received a total of $2.8 million from Attorney General Schneiderman for its 2014 – 2016 activities, allowing it to hire a full-time Administrative Director and to establish a $2 million demolition program targeted at approximately 80 properties, the most of any New York State land bank. 75 percent of the demolition funds are budgeted for residential properties, with the remainder reserved for mixed-use properties.[30]

The Land Bank's board reviews properties scheduled for upcoming county foreclosure auctions and, in consultation with the municipalities, selects those that should be acquired.[31] As of July 2015, the Chautauqua Land Bank had demolished 24 properties, 23 of which were located in Dunkirk and Jamestown, the two largest cities in the county.[32] Community Development Block Grant and local funds are being used by these cities to demolish additional properties.[33]

While many of the targeted properties might not appear to the casual observer to be candidates for demolition, the interiors tell a different story. "With four inches of mold and collapsed floors, these houses are uninhabitable," observed Gina Paradis, Administrative Director for the land bank.[34]

Many of these houses have been vacant for years, attracting vandals, methamphetamine labs and homeless individuals. Some become targets for arsonists. As a result, the land bank selects neighborhoods where its work will have the most impact. With demolition costs ranging from $700 to $44,000 depending on the level of asbestos abatement and other pre-demolition preparation costs, the number of demolitions the land bank can carry out in a given year varies, and it had 31 properties in the pipeline in early fall 2015.

The Chautauqua County Land Bank has also been involved in renovating foreclosed homes for working class New Yorkers.[35]

In Syracuse, the **Greater Syracuse Land Bank** is partnering with local affordable housing developers who can purchase, renovate, and sell single-family homes to income-eligible buyers.

Forty homes had been renovated using funds from the Attorney General's grant program as of September 2015, allowing them to be sold at an affordable price to income-qualified buyers. The Land Bank has also sold properties at below-market rates to affordable housing developers who have then accessed other funding sources to cover rehabilitation expenses for the property. In addition, four land bank-acquired properties will be the site of newly-constructed affordable homes that should be completed in 2016.[36]

In addition to renovating housing, the Land Bank has also helped bolster tax revenue in Syracuse.[37] Using the threat of sale to the Land Bank as a spur to collect taxes, Syracuse collected more than $5 million in additional delinquent tax revenue *above* historic levels in the first two years of its land bank. In addition, the Syracuse Land Bank itself acquired 407 tax-delinquent properties and sold 54.

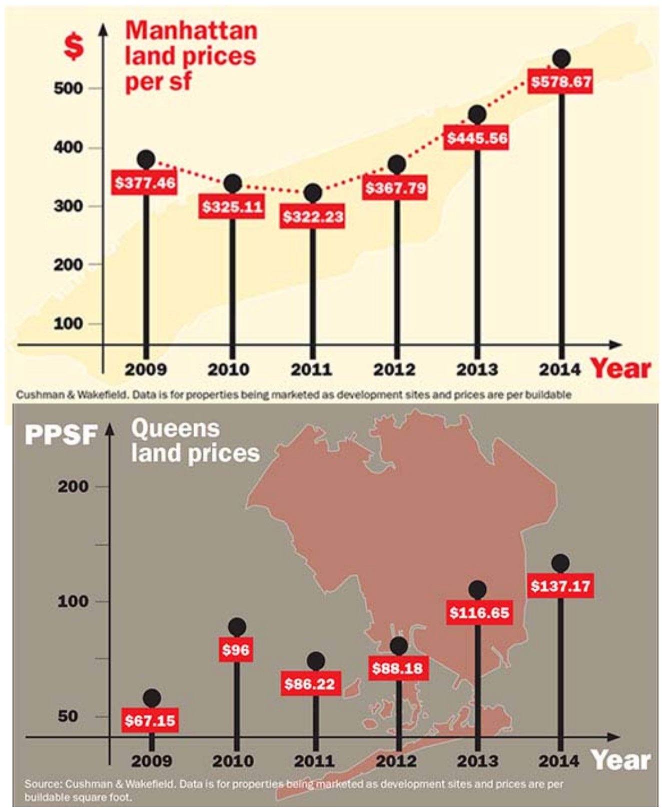
For those properties that were acquired by the land bank, local leaders agreed to share a portion of the "new" tax revenue with the land bank to help with the costs of managing its new inventory. Indeed, while every tax-delinquent property the city forecloses is transferred to the land bank for $151 ($150 to cover expenses incurred by the City for transaction costs, and $1 as the actual sale price), funds are needed to return these properties to productive use.

IV. THE PROMISE OF A NEW YORK CITY LAND BANK AND THE COMMUNITY LAND TRUST MODEL

Land banks have traditionally been employed by cities that are suffering from vacant lots and blighted property.

While New York City fit that description in the 1980s, the City is in the midst of a boom that has sent land values soaring to unprecedented heights. In April 2015, *The Real Deal* examined the soaring cost of developable land across the five boroughs.[38]

In Manhattan south of 96th Street, the cost of land per buildable square foot jumped 30 percent between 2013 and 2014 alone, to nearly $580. In other words, prior to even constructing the building, the cost of land for an average 1,000-square foot apartment in Manhattan south of 96th street is $580,000.



Outside of Manhattan, land costs are soaring as well, with the price of land in Brooklyn jumping 96 percent from 2009 to 2014, to $183 per buildable square foot, and the price of land in Queens leaping 104 percent between 2009 and 2014, to $137 per buildable square foot.

Simply put, these land prices jeopardize the ability of developers to fund affordable housing. Leonard Grunstein, a real estate expert who has tracked the New York City market for years summed it up best:

> *"While the cost of new buildings is a major factor behind New York's affordable housing crisis, the bigger problem may lie underneath the buildings. There is little, if any, land available in the private sector at prices low enough to permit the creation of affordable housing."*[39]

The soaring cost of land in New York City makes a land bank both an attractive mechanism to ensure permanent affordability and a challenge to implement successfully. It also highlights how HPD's transfer of City-owned land to private developers is potentially short-sighted. In contrast, a land bank would maintain title, while working with non-profit developers to ensure affordability.

Of course, as land costs continue to rise, property owners who face liens are much more likely to pay off their debts when threatened with the loss of their valuable land. As explained below, data from the Department of Finance shows that only a small fraction of properties with tax liens sold by the City to the trust make it all the way through to foreclosure auction.

Nevertheless, with no end in sight for the City's housing crisis and more and more neighborhoods seemingly on the front lines of gentrification, a land bank could make a small, but meaningful contribution to fostering affordable housing growth.

In fact, by using a community land trust model, the land bank could create a pipeline of *permanently* affordable housing by insulating property from the seemingly inexorable rise in land costs that threaten to undermine other efforts to build and maintain affordable housing.

Community land trusts are non-profit entities that acquire land with the goal of maintaining control in perpetuity for a given use, such as open space or affordable housing. They traditionally differ from land banks in modest but important ways.

Community land trusts anticipate holding onto property indefinitely, while land banks traditionally seek to transfer vacant and undeveloped properties to third parties to combat blight and encourage thoughtful development. In addition, while land banks acquire abandoned lands wherever they are located through a broader range of powers, land trusts typically target properties through purchase or donation.[40]

Despite these differences, land banks and community land trusts often share a common mission of preserving or creating a public use or benefit such as the creation of affordable housing.[41]

New York's land bank law allows for the combination of "best practices" from land banks and land trusts. Specifically, it allows land banks to:

- Enter into contracts for the management of, the collection of rent from, or the sale of real property of the land bank;
- Design, develop, construct demolish, reconstruct, rehabilitate, renovate, relocate or otherwise improve real property;
- Fix, charge and collect rents, fees and charges for the use of real property;
- Grant or acquire a license, easement, lease, or option with respect to real property; and
- Enter into partnerships, joint ventures, and other collaborative relationships with municipalities and other public and private entities for the ownership, management, development and disposition of real property.[42]

As a result, the New York City Land Bank could maintain title to the land while entering into long-term leases with affordable housing developers (including local for-profit and not-for-profit developers, public and private pensions, or individuals) or transfer title of the land to a community land trust in perpetuity, ensuring *permanent* affordability.

V. HOW A NEW YORK CITY LAND BANK WOULD OPERATE

As laid out in the New York State enabling legislation, one factor which determines whether a municipality is granted approval for a land bank is its willingness to sell all or part of its tax liens to a land bank.

To meet this standard, the City could redirect a portion of liens currently sold to the trust to the New York City Land Bank.

The land bank could either partner with the existing trust or directly employ the lien servicing companies to continue seeking payment on tax-delinquent properties. Revenue from liens assigned to the land bank could be returned to the City or retained by the land bank to support its work.

However, unlike the tax lien sale model that focuses on capturing revenue, the land bank could actively seek to foreclose on delinquent, vacant, or underutilized properties for the creation of permanent affordable housing.

These properties are not only attractive targets because development would not displace existing residents, but also because owners of vacant properties are less likely than other property owners to pay their tax liens quickly (see chart below).

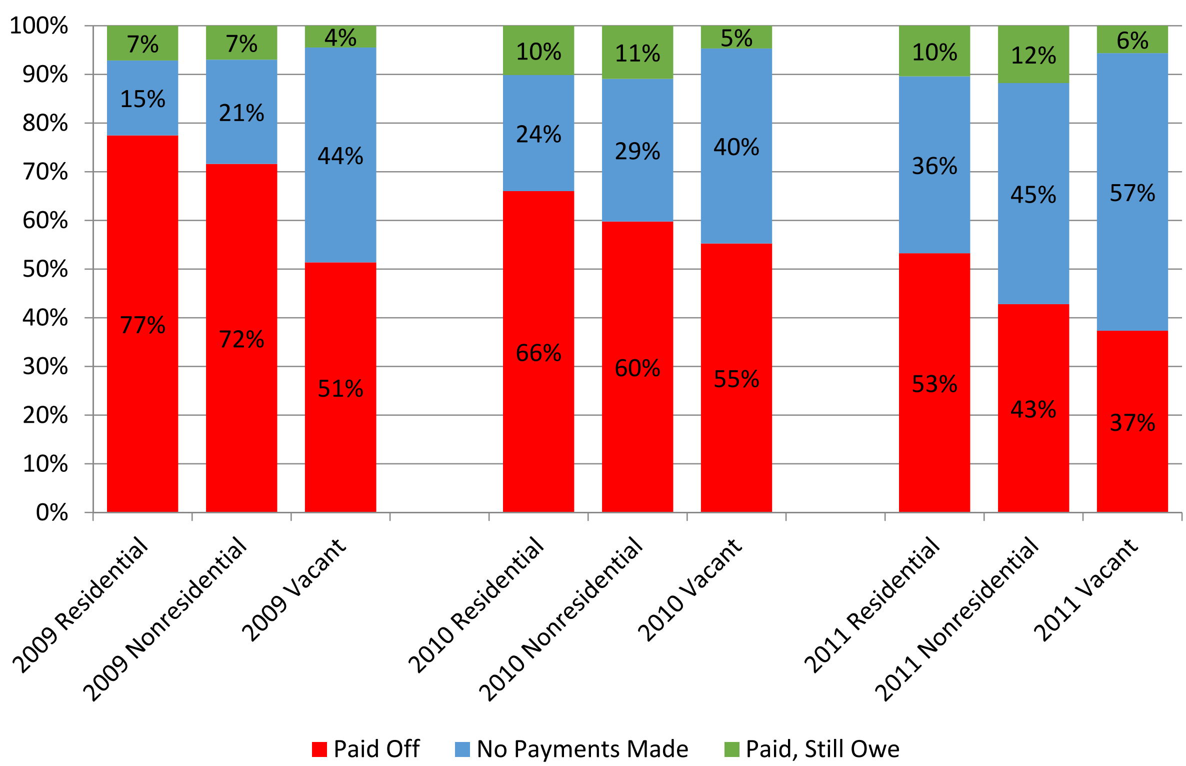


Figure 1 Source New York City's Independent Budget Office, Fiscal Brief, Property Owners' Delinquencies for Sale, Page 7.

Indeed, as noted above, of the 227 delinquent properties the trust foreclosed on between 2008-2014, 62 (27 percent) were underutilized properties.

In practice, assuming a New York City land bank was created, it would be 'seeded' with City-owned vacant land to be developed into affordable housing.

The land bank would then put together a package of subsidies and identify a developer, in most instances a non-profit corporation, with whom to partner. Because these developers do not have the primary goal of making a profit, this partnership would allow for the creation of more housing for lower-income New Yorkers than the current system.

In addition to City-owned properties, the land bank would also have the ability to target tax-delinquent vacant properties that it could seek to foreclose upon more quickly than the current system.

Finally, instead of selling the land, the land bank would enter into a long-term leases with developers, allowing the City to enforce affordability and ensure that the affordability is permanent.

The Potential Contribution of a New York City Land Bank

A New York City Land Bank can tap into two potential sources of properties for permanent affordable housing development: (1) city-owned vacant, underutilized properties and (2) persistently tax-delinquent privately-owned properties. In addition, it can be flexibly structured to be responsive to future opportunities for additional land acquisition in the private market.

New York City-Owned Properties

A recent audit by the New York City Comptroller's Office identified 1,131 City-owned vacant sites under the jurisdiction of HPD that are potentially suitable for residential development, with an additional 340 lots assigned to other city agencies that are inactive and in need of redevelopment.

The audit presented the following findings:

- City-owned vacant lots, a majority of which could be developed, have languished for as long as 50 years;
- HPD has not established realistic timeframes for development of its vacant properties; and
- HPD should coordinate with other agencies to review other City-owned lots to determine whether they would be better suited for development of affordable housing.

Of the 1,459 total lots, the Comptroller found that 1,342 are zoned for residential development and could potentially serve as affordable housing. The remaining 117 are zoned for manufacturing uses.

These sites span all five boroughs, with the highest number in Brooklyn (694), Queens (443), and The Bronx (170). HPD indicated that approximately 400 of the properties are currently designated or earmarked for developer designation within the next two years. The remaining properties are delayed because they are under another agency's jurisdiction (340 lots), have development challenges (310 lots), may not be suited for residential development (150 lots) or simply have no developer selected yet (270 lots).

Given the great need for affordable housing, it is urgent that all these properties be fully evaluated and advanced as quickly as possible. This is precisely what a land bank is designed to accomplish.

To further the analysis of the utility of a land bank in New York City, the Office of the Comptroller analyzed the number of permanently affordable housing units that could be created on the City-owned sites.[43] Further, the Office only calculated units on properties listed as either vacant or parking facilities as these are the most likely to be redeveloped quickly.

As shown in Chart 2 below, the 1,342 City-owned sites that are zoned for residential uses could generate up to 53,116 permanently affordable housing units.[44]

Only 10 of these units would be developed on parcels zoned for single-family homes. The remainder would be apartments in low-, medium-, and high-density neighborhoods throughout New York City.

The majority of the affordable housing units could be constructed in Queens and Brooklyn, with 47,595 units in those two boroughs alone.

Chart 2: City-Owned Properties, by Borough/Zoning Density

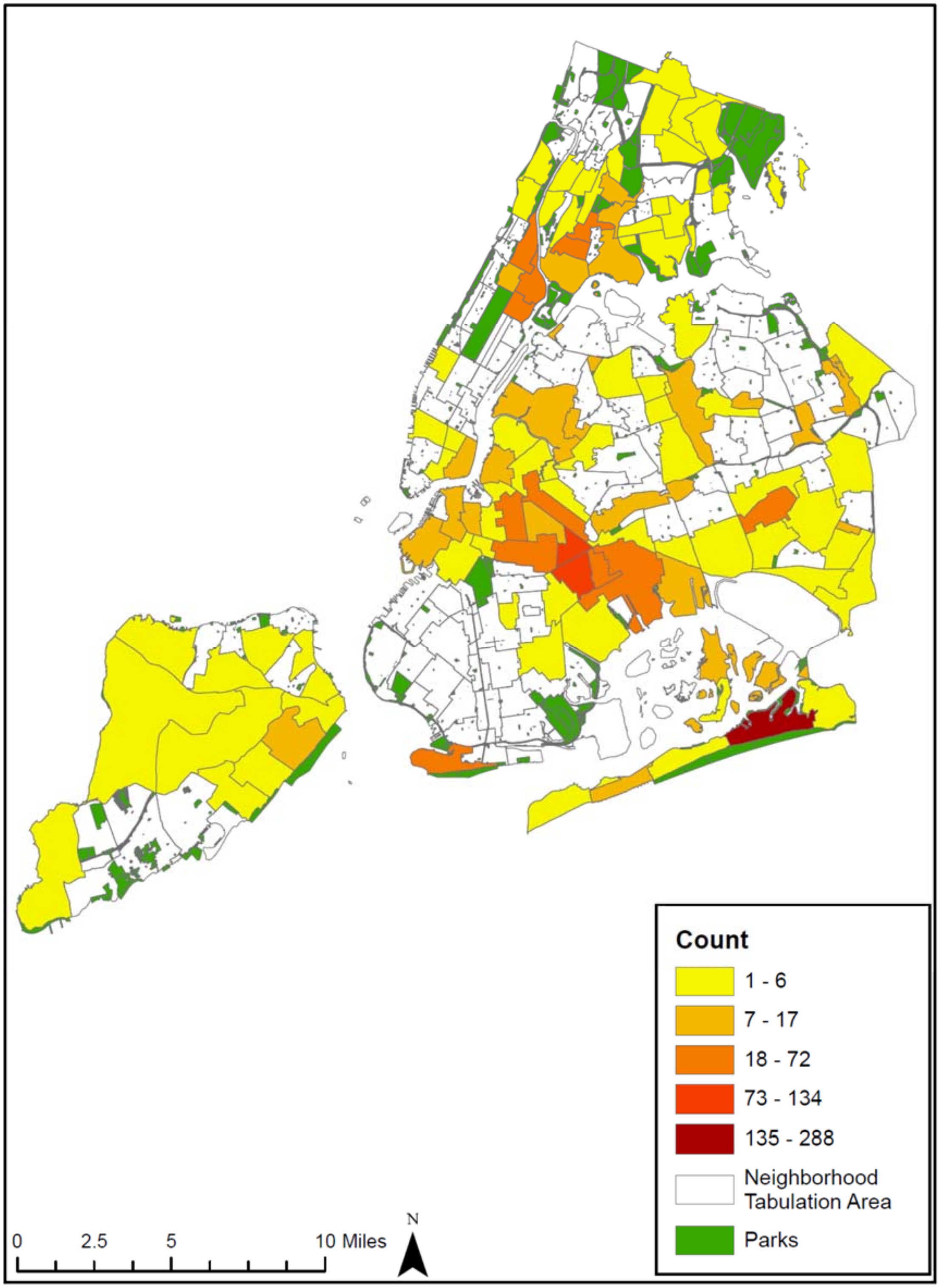
Borough By Zoning Density	City-Owned Lots[1]	Total Units
BK	**694**	**21,570**
Manufacturing	70	0
Low	89	1,368
Medium	528	19,775
High	7	427
BX	**170**	**2,665**
Manufacturing	7	0
Low	10	78
Medium	131	1,941
High	22	646
MN	**127**	**2,429**
Manufacturing	7	0
Medium	102	1,447
High	18	983
QN	**433**	**26,025**
Manufacturing	31	0
Single-Family	4	4
Low	287	1,214
Medium	105	21,828
High	6	2,980

Borough By Zoning Density	City-Owned Lots[1]	Total Units
SI	**35**	**427**
Manufacturing	2	0
Single-Family	6	6
Low	26	204
Medium	1	217
Grand Total	1,459	53,116

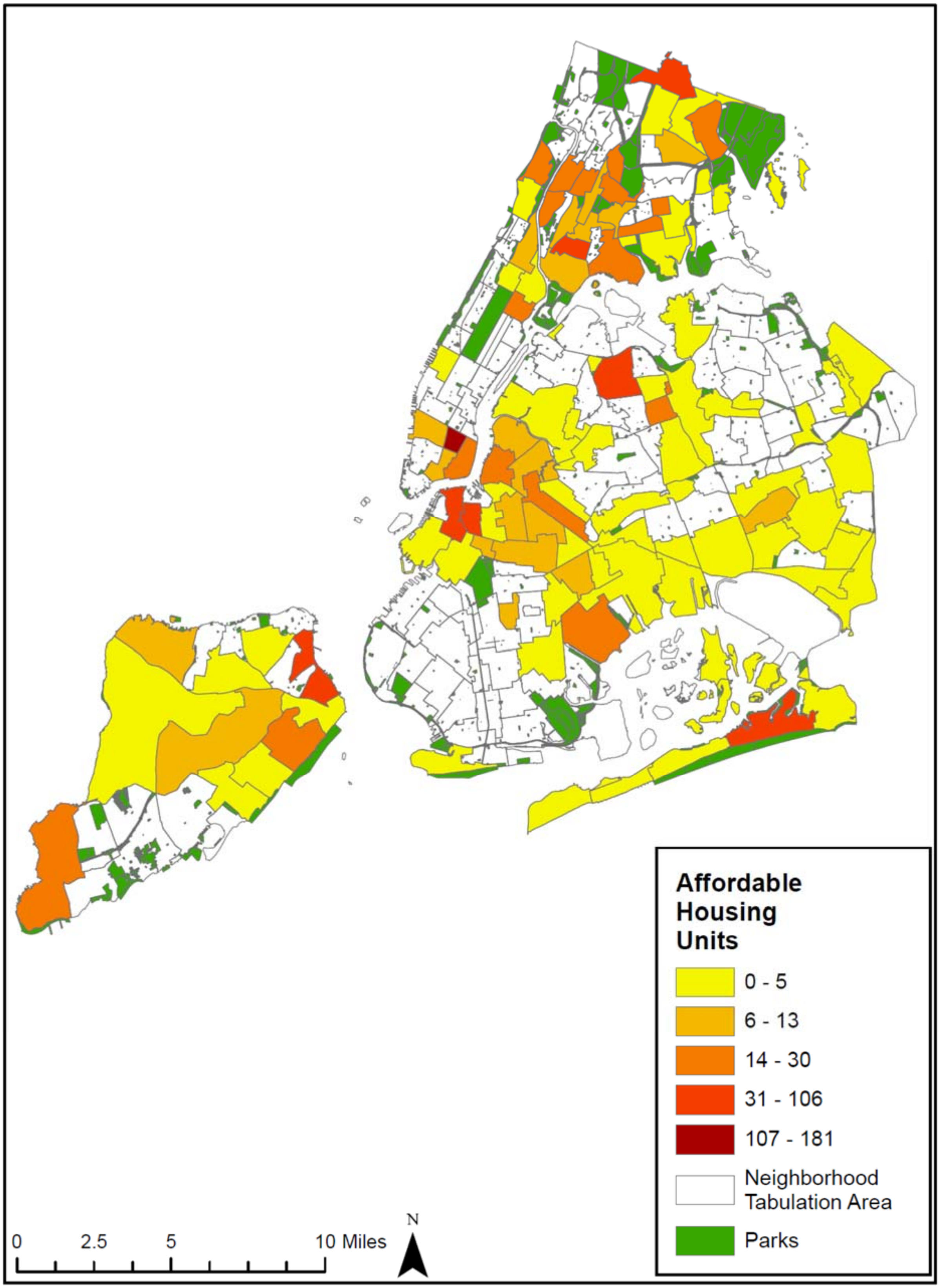
1. Total number of properties identified in the New York City's Comptroller's audit on vacant land; however 12 properties that were not found in NYC Planning's MapPLUTO database were removed.

The maps on the following pages denote where these properties are located and how many units they could produce.

Number of New York City Owned Vacant Properties



New York City Owned Vacant Properties Potential Unit Production



Persistently Delinquent Tax Lien Properties

To determine the extent of vacant properties that are tax delinquent across multiple years and the potential number of units that could be developed, the Office of the New York City Comptroller analyzed the list of parcels that were sold in the 2013, 2014, and 2015 tax lien sales and examined the list of tax-delinquent properties sold to the trust between 2008 – 2015 that were ultimately foreclosed upon.

As shown in Chart 3 below, of the 9,004 tax liens sold by the City to the trust between 2013 and 2015, 1,638 were underutilized sites and 2,152 were persistently delinquent. In fact, nearly a quarter of all properties (24 percent) subject to lien sale appear in multiple years, and nearly a fifth (18 percent) were underutilized.

The Office found that 352 sites were in both categories. Of those persistently delinquent, underutilized sites, 247 of those lots were able to support as-of-right residential development.

Properties that are subject to multiple lien sales should be of particular interest to a potential land bank. The City would lose less tax revenue by having the land bank seize properties with consistent delinquencies, thereby reducing the opportunity cost of pursuing these properties for affordable housing purposes.

These sites span all five boroughs, with the highest number in Brooklyn (142), Queens (66), and The Bronx (66).

Chart 3: Properties with Liens Sold in 2013-2015, by Borough/Zoning Density

Borough By Zoning Density	2013-2015 Lien Sales[1]	Underutilized sites[2]	Persistently Delinquent Sites[3]	Persistently Delinquent Underutilized sites[4]
BK	**3,813**	**536 (14%)**	**977 (26%)**	**142 (26%)**
Manufacturing	436	111 (25%)	150 (34%)	46 (41%)
Single-Family	17	2 (12%)	2 (12%)	
Low	1,353	215 (16%)	333 (25%)	48 (22%)
Medium	1,988	205 (10%)	489 (41%)	47 (23%)
High	19	3 (16%)	3 (16%)	1 (33%)
BX	**1,539**	**308 (20%)**	**390 (25%)**	**66 (21%)**
Manufacturing	152	42 (28%)	63 (41%)	16 (38%)
Single-Family	6	3 (50%)		
Low	658	132 (20%)	136 (21%)	14 (11%)
Medium	672	117 (17%)	176 (26%)	32 (27%)
High	51	14 (27%)	15 (29%)	4 (29%)
MN	**308**	**44 (14%)**	**84 (27%)**	**13 (30%)**
Manufacturing	12	2 (17%)	3 (25%)	1 (50%)
Medium	244	34 (14%)	68 (28%)	12 (35%)
High	52	8 (15%)	13 (25%)	

Borough By Zoning Density	2013-2015 Lien Sales[1]	Underutilized sites[2]	Persistently Delinquent Sites[3]	Persistently Delinquent Underutilized sites[4]
QN	**2,540**	**457 (18%)**	**526 (21%)**	**66 (14%)**
Manufacturing	182	48 (26%)	63 (35%)	13 (27%)
Single-Family	228	59 (26%)	26 (11%)	
Low	1,784	302 (17%)	351 (20%)	38 (13%)
Medium	328	39 (12%)	81 (25%)	14 (36%)
High	18	9 (50%)	5 (28%)	1 (11%)
SI	**804**	**293 (36%)**	**175 (22%)**	**65 (22%)**
Manufacturing	104	52 (50%)	47 (45%)	29 (56%)
Single-Family	48	22 (46%)	6 (13%)	1 (5%)
Low	611	210 (34%)	111 (18%)	31 (15%)
Medium	41	9 (22%)	11 (27%)	4 (44%)
Grand Total	9,004	1,638 (18%)	2,152 (24%)	352 (21%)

1. Total Lien Sales with duplicates removed
2. Total Vacant and Parking Facilities with duplicates removed
3. Appearing on at least two years of tax lien sales over three years
4. Appearing on at least two years of tax lien sales (percent based on total underutilized sites)

In addition, a number of properties were identified as zoned for manufacturing uses. While these properties could not be used for affordable housing as-of-right, they could be rezoned for affordable housing or other economic development purposes.

To further the analysis, the Office of the Comptroller analyzed the number of permanently affordable housing units that could be created on the persistently-delinquent, underutilized lots facing tax liens.[45]

As shown in Chart 4, a land bank could generate 4,159 units of affordable housing by converting the 352 (247 residentially zoned) underutilized, persistently tax delinquent properties from 2013 – 2015. Only four of these units (0.1%) would be developed on parcels zoned for single-family homes. The remainder would be apartments in low-, medium-, and high-density neighborhoods throughout the City of New York.

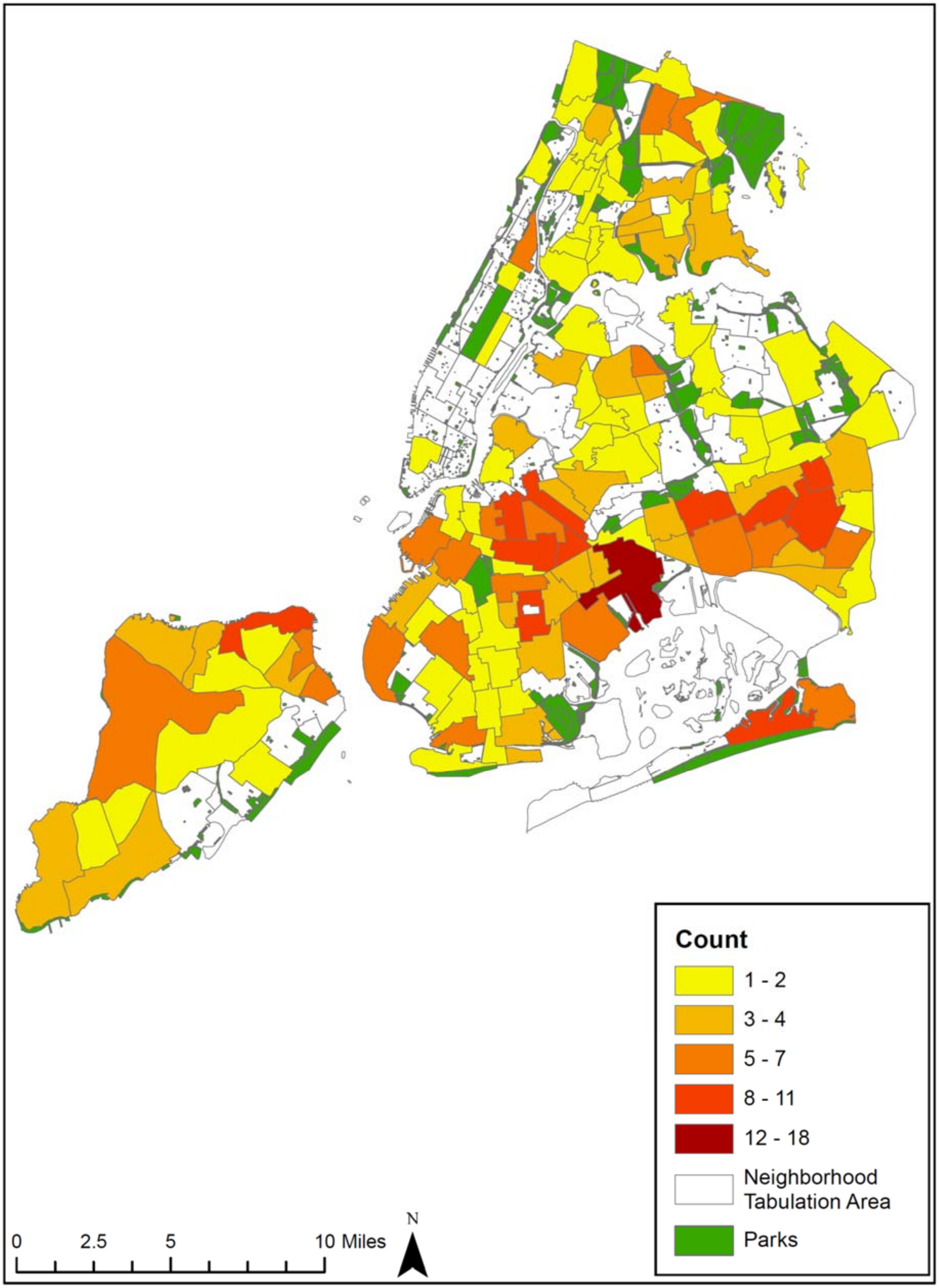
Chart 4: Number of Affordable Units that Could be Created on Underutilized, Persistently Delinquent Lots

Borough By Zoning Density	Persistently Delinquent Lots	Total Number of Units
BK	**142**	**2,027**
Manufacturing	46	0
Single-Family	0	0
Low	48	189
Medium	47	453
High	1	1,385
BX	**66**	**965**
Manufacturing	16	0
Low	14	171
Medium	32	716
High	4	78
MN	13	104
Manufacturing	1	0
Medium	12	104
High	0	0
QN	66	617
Manufacturing	13	0
Single-Family	0	0
Low	38	248
Medium	14	335
High	1	33
SI	65	446
Manufacturing	29	0
Single-Family	1	4
Low	31	400
Medium	4	42
Grand Total	352	4,159

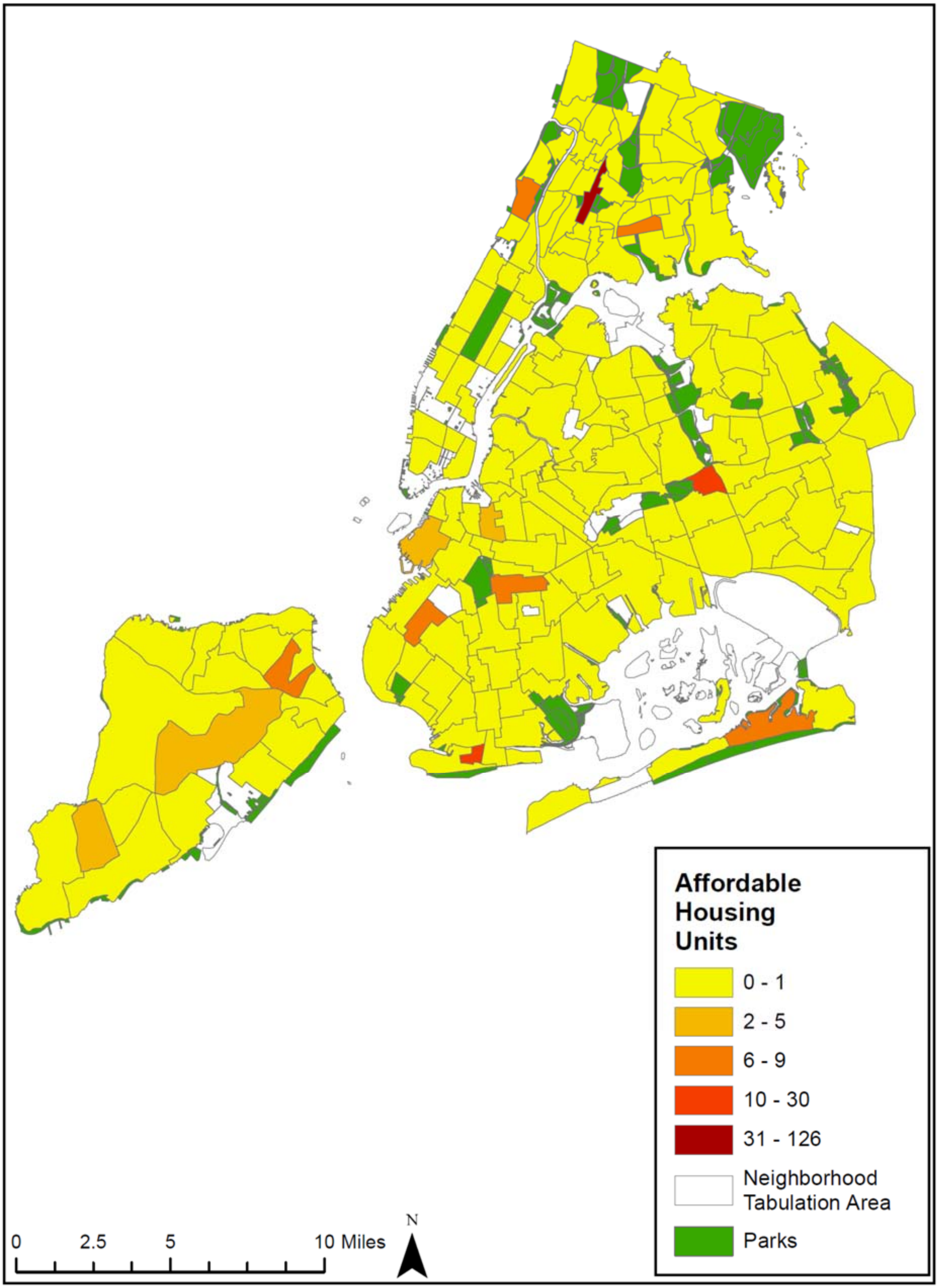
**Units generated only using underutilized properties and removing any property with only a water lien.*

The maps on the following pages denote the locations where the sites are located and where these 4,159 units could be built.

Number of Properties with Two Years of Delinquent Tax Liens



Persistently Tax Delinquent Properties Potential Unit Production

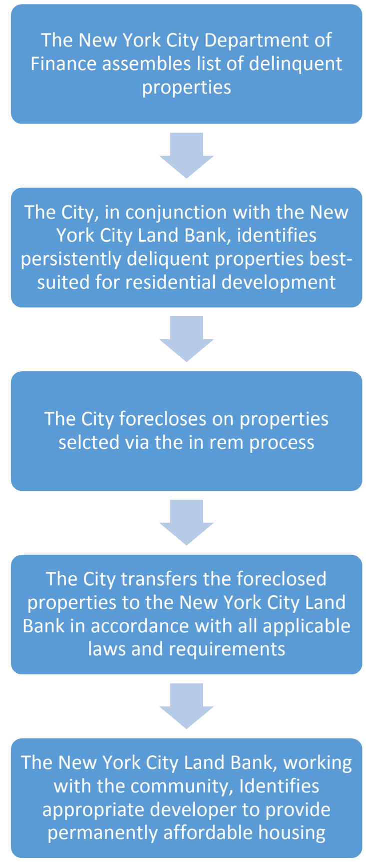


Delinquent Properties Process

While persistently delinquent, underutilized properties could be transferred through the normal foreclosure process, this process has disadvantages. First, the process would not include Uniform Land Use Review Procedure (ULURP) or any formal disposition review—which limits public input. Second, a property may be tax delinquent for years prior to ever entering the foreclosure process.

In order to maximize its ability to assume control of these properties, the City could utilize its in-rem process to remove them from the tax lien sale. However, rather than transferring the properties to the third party transfer system, the City could transfer the properties directly to the land bank.

This process would allow for quicker transfers than waiting for properties to enter the foreclosure process. Further, the City would maintain control and properties would be disposed subject to all applicable laws. This would allow for full public review in addition to any public discussions entered into by the land bank.



Additional Opportunities in the Private Market

In addition to developing City-owned properties and persistently delinquent properties, a land bank can also be structured to be responsive to future opportunities for additional land acquisition in the private market.

In 2007, the bursting of the housing bubble precipitated a surge in foreclosure filings throughout the country. Foreclosure filings in the Empire State surged, with the rate more than doubling between 2006 and 2008.[46]

In New York City, the number of foreclosure filings rose by 31.7 percent between 2006 and 2009 and the number of actual foreclosures in the City rose tenfold between 2006 and 2008. This rise affected both 1-3 family homes and multifamily rentals. In fact, between 2006 and 2010, the annual rate of foreclosures among multifamily rental properties in New York City was 50 percent higher than the rate between 2000 and 2005.[47]

In general, property owners facing foreclosure in New York City often choose to sell the property to a third party in arm's length transactions. However, as the Furman Center found, the ability of property owners facing foreclosure to find such buyers fell sharply during the housing crisis.[48] In 2004, 30 percent of properties that received a *lis pendens* (foreclosure notice) sold within a year, compared to only 6.5 percent of properties that received a *lis pendens* in the first three quarters of 2008.

In other words, in the midst of the greatest financial crisis since the Great Depression, there was an opportunity for government to step in and purchase properties that could be dedicated to permanently affordable housing.

Unfortunately, there was no mechanism in place at the time for the City to do this.[49] It was only in 2013 that the City created Preserving City Neighborhoods (PCN), an entity designed to acquire overleveraged properties and take them through the foreclosure process in an effort to ensure permanent affordability.[50]

However, by then it was too late to turn the surge of foreclosures into the next generation of affordable housing. The market had regained its footing, with private equity companies pouring billions of dollars into residential real estate across the country, including right here in the five boroughs.[51]

A New York City Land Bank could ensure that we are prepared for any future disaster (whether financial or natural) by being able to flexibly respond to market conditions and secure at-risk properties for long-term affordability.

VI. CONCLUSION

New York City's housing crisis demands that we use every tool at our disposal to increase affordable housing. That's why New York City should follow the lead of its sister cities across the Empire State and launch a New York City Land Bank, which can transform vacant or tax-delinquent properties into the next generation of affordable housing.

Specifically, the City should:

- Pass legislation in the City Council to authorize a New York City Land Bank. Last year, New York City Councilmember Brad Lander filed legislation to create a land bank, which has since garnered nine co-sponsors;[52]
- Draft by-laws that allow the land bank to manage properties under a community land trust model in order to ensure permanent affordability on properties acquired by maintaining long-term control of the properties;
- Begin working with Empire State Development Corporation to prepare a land bank application;
- Seed the land bank by transferring vacant, city-owned properties and/or redirecting a portion of outstanding tax liens to the land bank, rather than to the existing trust; and
- Allow the new land bank to manage foreclosure of tax-delinquent properties that are either vacant or underutilized to create a pipeline for affordable housing.

VII. METHODOLOGY

The New York City's Comptroller's Office analyzed tax lien sales for years 2013, 2014 and 2015 using data from the Department of Finance's website, as well as a list of City-owned property analyzed by the Comptroller's Audit Bureau.[53] Properties were joined to New York City Department of City Planning "Pluto Data" to determine land use and zoning. Any lien or city lot where the block and lot did not join was discounted to ensure accuracy, making this a conservative analysis. The majority of these liens included individual condominiums, which have separate tax lots.

The Office used this information to determine the location of properties with delinquent taxes and cross referenced them by their land use code in the "Pluto Data" to determine whether they were underutilized. The Office considered any vacant property or property that was listed as a parking facility as underutilized as these properties could quickly be redeveloped. Further, parking spaces could be potentially relocated in a below ground facility to prevent unintended negative parking impacts.

The Office then examined the zoning district densities. Any property with no residential floor area potential was considered manufacturing as it is either in a manufacturing or C8 zoning district and is only currently available for either commercial or industrial uses. Any property with a floor area ratio (FAR) of less than .59 was considered single-family density. Any property with an FAR of between .59 and 2 was considered low density. An FAR between 2 and 6 was considered medium density and an FAR greater than 6 was considered high density.

To determine total number of units, the Office assumed 800 square feet per unit and did not include common spaces. Additionally, any site designated as zoned for single-family density was assumed to have only one family. It should be noted that the total number of units could rise or fall based on either a rezoning of the property, assembling or subdividing sites, or by assuming larger or smaller units.

The Office removed any property subject to lien sale that that was recorded as having only a water lien, as properties with a single, water lien are more likely to pay per the IBO analysis.

The Comptroller's Office also analyzed a dataset provided by the Department of Finance on October 1, 2015, which highlighted liens sold to the trust between 2008 and 2015 that were ultimately foreclosed.

For mapping purposes, the properties were aggregated to the Neighborhood Tabulation Areas available on the New York City Department of City Planning website.

VIII. ACKNOWLEDGMENTS

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Endnotes

[1] New York City Comptroller Scott M. Stringer, "The Growing Gap: New York City's Housing Affordability Challenge," (April 2014) p. 6. http://comptroller.nyc.gov/wp-content/uploads/documents/Growing_Gap.pdf
[2] http://www1.nyc.gov/site/hpd/about/press-releases/2015/02/24.page.
[3] Persistently delinquent properties were defined as being subject to two or more lien sales in the three year period.
[4] http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1797000&GUID=652DD51E-25B0-4A49-8B98-5485026DDBD6&Options=ID|Text|&Search=Int.+335.
[5] http://furmancenter.org/files/publications/AHistoryofHousingPolicycombined0601_000.pdf, p. 2.
[6] IBID, p. 3.
[7] http://www.nycrgb.org/downloads/research/pdf_reports/14HSR.pdf, p. 11.
[8] http://nypost.com/2015/09/02/president-or-not-donald-trump-will-keep-being-a-great-developer/; If property owners fail to pay their taxes and are foreclosed upon, the City will use its third party transfer program to transfer the properties to a not-for-profit manager until a long-term purchaser can be found.
[9] http://furmancenter.org/institute/directory/entry/third-party-transfer-program;
[10] http://www.nycrgb.org/downloads/research/pdf_reports/15HSR.pdf; Note that no properties were transferred in 2014.
[11] http://www1.nyc.gov/assets/finance/downloads/pdf/press_release/shear_testimony_lien_sale010815.
[12] http://www1.nyc.gov/site/finance/taxes/property-lien-sales.page; http://cnycn.org/taxliensale/.
[13] These payments can include charges related to the Emergency Repair Program (ERP) or Alternative Enforcement Program (AEP).
[14] There are over one million properties in New York City. 98 percent of property owners pay their taxes on time. Annually, about 25,000 property owners are notified that a lien may be sold in relation to their property.
[15] http://www1.nyc.gov/assets/finance/downloads/pdf/press_release/shear_testimony_lien_sale010815.
[16] IBID; http://www1.nyc.gov/site/finance/taxes/property-payment-plans.page; Payment plans can be as long as ten years, with an annual interest rate of 18 percent.
[17] http://www1.nyc.gov/site/hpd/owners/compliance-housing-quality-enforcement-programs.page.
[18] http://www1.nyc.gov/assets/finance/downloads/pdf/press_release/shear_testimony_lien_sale010815; http://www.nyc.gov/html/dep/html/customer_services/lienfaq.shtml; Under new legislation passed on January 22, 2015, the City can sell liens on water/sewer charges under the following circumstances: (a) for Tax Class 1 mixed use, two and three family homes with $2,000 or more in water and sewer charges outstanding for a year or more; (b) Tax Class 2 multi-family homes including condos with $1,000 or more in water and sewer charges outstanding for a year or more; (c) all commercial properties with $1,000 or more in water and sewer charges outstanding for a year or more.
[19] http://www.ibo.nyc.ny.us/iboreports/2014taxlien.pdf, p. 2.

[20] The data was provided to the Comptroller's Office by the New York City Department of Finance (DOF) on October 1, 2015. While 250 properties appeared on the DOF list, an analysis by the Comptroller's Office revealed that 23 properties were individual condominiums within larger buildings. For the purpose of this analysis, these units have been removed.
[21] http://www1.nyc.gov/assets/finance/downloads/pdf/press_release/shear_testimony_lien_sale010815; In testimony before the New York City Council in January 2015, DOF stated that the lien sale program has "contributed to the decline in the rate of delinquent property taxes to 1.4 percent in FY14 from a 4.4 percent average in the three years before the first lien sale, resulting in an enhanced collection of $5.4 billion."
[22] http://www.ibo.nyc.ny.us/iboreports/2014taxlien.pdf.
[23] § 1601 of the Not-for Profit Corporation Law.
[24] IBID.
[25]http://esd.ny.gov/BusinessPrograms/NYSLBP.html.
[26]http://esd.ny.gov/_private/BusinessPrograms/Data/NYSLBP/112111_LandBankGuidelines.pdf; ESDC issued land bank guidelines in November 2011, which include the purpose of the Act, the legal requirements, the criteria for assessment of applications, and the application approval process.
[27] http://www.ag.ny.gov/feature/land-bank-community-revitalization; the AG's Office partnered with Enterprise Community Partners to assist with the oversight and management of the Land bank Community Revitalization Initiative.
[28] http://www.ag.ny.gov/press-release/ag-schneiderman-awards-20m-land-banks-across-new-york-state.
[29] http://www.enterprisecommunity.com/news-and-events/news-releases/new-york-land-bank-expansion; http://www.enterprisecommunity.com/servlet/servlet.FileDownload?file=00P1400000jorfSEAQ.
[30]http://www.planningchautauqua.com/_pdfs/Land%20Bank/Financial%20Information/2014/1427292739_CCLBC_2014AnnualReport%20_3-9-2015.pdf
[31] The County of Chautauqua makes the taxing municipality whole for unpaid taxes before it exercises its foreclosure authority. Presently the land bank pays the first year of taxes on the property, closing costs and a token consideration of $1 when acquiring the property.
[32]http://www.buffalonews.com/city-region/chautauqua-county/demolition-of-blighted-homes-among-priorities-for-land-bank-in-chautauqua-20150712.
[33] http://www.chautauqualandbank.org/news/city-continues-demolitions-officials-to-destroy-condemned-houses-by-dennis-phillips-postjournal.
[34] Phone interview, September 30, 2015.
[35] http://www.post-journal.com/page/content.detail/id/671520/Renovated-Residence.html?nav=5057.
[36] Phone interview with Katelyn Wright, Executive Director, Greater Syracuse Land Bank, September 30, 2015.
[37] For years, Syracuse had been reluctant to foreclose on tax-delinquent properties, leaving unpaid tax bills uncollected. Specifically, the city was concerned about the liability associated with owning blighted structures and lots and was wary of the auction process because past sales had led to bad outcomes. Furthermore, Syracuse officials believed that they lacked the institutional capacity to be an effective property manager.
[38] http://therealdeal.com/issues_articles/486631/; The Federal Reserve Bank of New York also performed an analysis of land costs in the NYC Metro area in 2008 (http://www.newyorkfed.org/research/current_issues/ci14-3.pdf).
[39] http://republic3-0.com/answer-affordable-housing-nyc-leonard-grunstein/; Jonathan Rose, an affordable housing developer, added that in high-cost markets, "the cost of new construction is higher than the cost of providing affordable and middle-income housing." *See*: https://nextcity.org/features/view/new-york-city-affordable-rent-affordable-housing-de-blasio-alicia-glen.
[40] http://www.communityprogress.net/filebin/LandBanksLandBankingVer2DigitalFinal.pdf, pp. 45-46.
[41] IBID.
[42] § 1607 of the Not-for Profit Corporation Law.
[43] All lots were analyzed because HPD did not specify which lots were moving forward and which were not. The analysis includes manufacturing properties, even though they cannot be used for residential uses as-of-right, since these properties could be redeveloped for either economic development purposes or rezoned for residential uses, where appropriate.
[44] 61 of the 1,342 lots were excluded from the unit calculation, as they contained a structure and were not listed as either vacant or parking. The unit calculation assumes an average unit size of 800 square feet, unless it was in a single-family zoning district, which was assumed to hold only one family unit.
[45] For the purpose of this analysis, all lots with only water liens were removed.
[46] https://www.osc.state.ny.us/osdc/rpt13-2011.pdf.

[47] http://furmancenter.org/files/sotc/Multifamily_Rental_Housing_2010.pdf.
[48] http://furmancenter.org/files/publications/Furman_Center_Fact_Sheet_on_REO_Properties.pdf.
[49] http://www.villagevoice.com/news/scott-stringers-state-of-the-borough-address-reclaim-city-for-middle-and-working-class-6675033; In 2012, then-Manhattan Borough President Stringer proposed a $250 million fund that would transform properties in foreclosure or at risk of foreclosure into permanently affordable housing through partnerships with non-profit developers.
[50] http://www.nychdc.com/content/pdf/BoardMaterial/092513/Memo-HDC%20Limited%20Guaranty%20for%20Preserving%20City%20Neighborhoods.pdf.
[51] http://www.wsj.com/articles/SB10000872396390443768804578034821658901916; http://www.bloomberg.com/news/articles/2016-01-08/blackstone-becomes-no-1-nyc-real-estate-buyer-sees-more-deals.
[52] http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1797000&GUID=652DD51E-25B0-4A49-8B98-5485026DDBD6&Options=ID|Text|&Search=Int.+335.
[53] The Audit Bureau derived its list of City-owned properties from a list of 1,131 properties provided by HPD of vacant lots under its jurisdiction and supplemented this list with Department of Finance records that identified properties under the jurisdiction of other City agencies.

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