

Mayor Michael Nutter
215 City Hall
Philadelphia, PA 19107

cc: Revenue Commissioner Clarena Tolson
Finance Director Rob Dubow
Anna Adams, Deputy Director of Finance
Council President Darrell Clarke
Other members of City Council

June 11, 2015

Dear Mayor Nutter,

The undersigned organizations are writing to request that you postpone the tax lien auction scheduled for June 17, 2015 as outlined in a solicitation for proposals issued by the Department of Revenue on April 28th. We are concerned that this sale – and any future tax lien sales – could cripple the ability of the Philadelphia Land Bank to acquire privately owned vacant, tax delinquent properties in order to put them back into productive use. We understand the need to find revenue to fund the School District and other City services, but believe that **getting vacant, tax delinquent properties back into productive re-use is the most effective way to generate stable, long-term revenue.**

We urge that the Department first work with other relevant City agencies to evaluate the impact of the tax lien sale conducted during the Rendell Administration to ensure that any future lien sales do not repeat the unintended negative consequences of the past sale on neighborhood revitalization, and to release that evaluation to the public.

As you know, in 1997 the Rendell Administration sold tax liens in order to raise revenue to address a school funding crisis. This occurred following a tax amnesty program, which was designed to bring tax delinquents into compliance. The accounts that remained delinquent after the amnesty program – thus were part of the lien sale – tended to be the hardest to collect. We have heard from neighborhood redevelopers across the city that properties whose liens were sold remained in limbo for years and unavailable for redevelopment because tax balances continued to be uncollectable. Public agencies could not acquire the property without first paying the lien holder the value of the lien, plus their fees, which stymied efforts to get vacant, tax delinquent properties back into productive use. In fact, then-Chief of Staff to Mayor Rendell, David L. Cohen, acknowledged the City's miscalculation regarding the uncollectable accounts in a quote that appeared in a 2001 Philadelphia Inquirer editorial:¹ "The rating agencies missed it, the underwriters missed it, the insurer missed it, and the city missed it."

Although we understand there are some differences in the way the Department is planning to implement this tax lien sale, and that it will be done on a smaller scale initially of roughly 1500 properties that are primarily commercial, the situation Philadelphia is faced with today is similar. Over the last few years, your Administration has worked aggressively to improve tax collections and compliance, and City Council played a key role in crafting policies aimed at that goal. And it is still true that as much as \$360 million in delinquent accounts are uncollectable based on the value of the properties, their physical condition, the neighborhood, and other factors.ⁱⁱ

We fear that if the liens for those properties are sold to a private investor – either as individual parcels or part of a bulk sale – it is unlikely the investor will have substantially greater success than the City in collecting back taxes and penalties. Still, the investor will attempt to collect for months or years without success. A lien sale structured similarly to the 1997 sale—giving super priority to liens held by the private lien holder—will prevent the City from collecting ensuing debt. Meanwhile, the City’s hands are tied; because the lien has been sold, the City cannot seize the property for code violations nor tax delinquency while the investor is attempting to collect.

It would also cripple the Philadelphia Land Bank’s attempt to address the inventory of privately owned vacant properties. Under state authorizing legislation, the Land Bank has special powers to acquire vacant, tax delinquent properties and to easily clear municipal liens and title to facilitate re-use. As is, if the Land Bank wants to acquire properties that were part of the 1997 lien sale, it will need to find revenue to pay the private company that holds the lien, plus their fees. If the City sells tax liens placed between 1998 and today on those same properties again now, the Land Bank will have to then find even more resources to pay the private lien holder. Bill No. 150265, which is pending in City Council, would make this an even more expensive proposition for commercial properties by exempting them from limits on fees that can be charged by the lien holder. This will make it very expensive for the Land Bank to assemble contiguous parcels for redevelopment or other community benefit, particularly where there are already publicly held properties nearby. Selling commercial liens could have a particularly negative impact on the same commercial corridors the City is investing public resources into revitalizing.

Philadelphia can also learn from the experience of the City of Rochester. A studyⁱⁱⁱ commissioned by Rochester officials to evaluate the success of their tax lien sale policy concluded:

"The bulk sale of tax liens creates a category of properties ("Limbo Properties") which remain tax delinquent, increase destabilization, and are beyond control of the City."

"Community and City stakeholders report that Rochester’s bulk sale of tax liens presents several perceived challenges for community members including the creation of "Limbo Properties".....that deteriorate while remaining inaccessible to the private market, 2) difficulties accessing information on key parcels bearing liens held by ATFS, 3) a decrease in real property inventory available to local developers and investors, and 4) a perception that the bulk lien sale strategy prioritizes dollars over neighborhood stabilization."

Based on the findings of the report, the City of Rochester ended its tax lien sale program. A link to the full study can be found at <http://www.cityofrochester.gov/taxliens/>, and it **provides an example of the sort of data and analysis of the Rendell-era tax lien sales we urge the Revenue Department to do and make publicly available before pursuing another lien sale.**

We recognize that selling tax liens to private investors can generate up-front cash that the City desperately needs for our schools or other City services. But it's not known whether the lien sale planned for later this month will produce any meaningful amount of revenue. And in the case of blighted, vacant, tax delinquent properties, lien sales have been shown to be ineffective in bringing the property owner into compliance, and also to hinder redevelopment of those parcels for years to come. **The most effective way to turn delinquent accounts into predictable, long-term sources of tax revenue for the School District and the City is to get them into the hands of responsible property owners that can handle their tax liability, and who can put the properties back into productive use quickly.**

We hope you will consider our concerns before advancing tax lien auctions further.

Regards,

Rose Gray, Asociación Puertorriqueños en Marcha
Blane Stoddard, BFW Group LLC
Roy Diamond, Diamond & Associates
Maria Gonzalez, HACE
Frank Monaghan, Habitat for Humanity Philadelphia
Liz Hersh, Housing Alliance of Pennsylvania
Sandy Salzman, New Kensington CDC
Majeedah Rashid, Nicetown CDC
Julianne Schrader Ortega, Pennsylvania Horticultural Society
Rick Sauer, Philadelphia Association of Community Development Corporations
John Chin, Philadelphia Chinatown Development Corporation
Andrew Frishkoff, Philadelphia LISC
Jennifer Clarke, Public Interest Law Center
Mark Levin, Regional Housing Legal Services
David Feldman, Right Sized Homes LLC
Lamar Wilson, Wilson Associates

ⁱ "Wrecking Ball: A tax lien sale from years ago comes back to haunt antiblight plan," July 19, 2001; accessed at http://articles.philly.com/2001-07-19/news/25315612_1_tax-liens-wage-tax-unpaid-taxes

ⁱⁱ Thomas Ginsberg, "*Delinquent Property Tax in Philadelphia: Stark Challenges and Realistic Goals*," Pew Charitable Trusts, June 27, 2013

ⁱⁱⁱ Kim Graziani, "*Analysis of Bulk Tax Lien Sale, City of Rochester*," Center for Community Progress, February 25, 2013.