



Action. Access. Progress.

November 25, 2019

Dear Housing Committee:

My name is Ebony Griffin and I am a staff attorney at the Public Interest Law Center focusing on environmental justice and the Law Center's Garden Justice Legal Initiative. Thank you for allowing me to testify today about an issue which very deeply effects my practice and the preservation of greenspace in communities of color and low income neighborhoods in Philadelphia. The Law Center commends you for convening this hearing to find meaningful solutions to the problem at hand.

In our environmental work, the Law Center uses a variety of methods to ensure that Philadelphia's most vulnerable residents have access to a healthy natural and built environment, but also that they have a seat at the table and a voice in what happens in their neighborhoods. The Garden Justice Legal Initiative accomplishes this by providing pro bono legal representation to urban farmers and community gardens in Philadelphia in efforts to protect and preserve the City's greenspace, which is being lost due to development pressure. This development pressure in part stems from the 1997 securitization of tax liens. The 1997 tax lien securitization and remaining US Bank liens contribute to gentrification, displacement, urban blight, and a reduction in greenspace. This testimony explains how and provides potential solutions to the problem.

BACKGROUND

Research and our own experience demonstrates that cleaning and greening vacant lots across Philadelphia results in significant reductions to both perceived risks to safety and actual violent crimes in neighborhoods, including gun violence.¹ Further, thousands of these lots have the potential to be repurposed as food producing gardens and greenspaces, improving the quality of life in low income neighborhoods while simultaneously mitigating impacts of climate change by reducing the surface temperature, creating a cooling effect in areas densely packed with concrete and reducing mortality rates among vulnerable populations during heat waves.² As climate change increases, the planet warms and sea

¹ William Spelman, *Abandoned Buildings: Magnets for Crime?*, 21.5 J. CRIM. JUST. 481 (1993); BRANAS, CHARLES C., ET AL., URBAN BLIGHT REMEDIATION AS A COST-BENEFICIAL SOLUTION TO FIREARM VIOLENCE (2016), available at http://www.urbanhealthlab.org/uploads/2/3/2/0/23203352/branas_et_al_urban_blight_and_gun_violence_aj_ph_2016.pdf.

² HEATHER KNIZHNIK, THE ENVIRONMENTAL BENEFITS OF URBAN AGRICULTURE ON UNUSED, IMPERMEABLE AND SEMI-PERMEABLE SPACES IN MAJOR CITIES WITH A FOCUS ON PHILADELPHIA, PA, UNIV. OF PA. 33(2012), available at https://repository.upenn.edu/cgi/viewcontent.cgi?article=1044&context=mes_capstones.

levels rise. This results in hotter overall temperatures and more severe weather events such as flooding. In urban areas, minor increases in surface temperature can be deadly.

In 1997 the City bundled together 30,000 tax liens and sold them to US Bank, a private corporation in order to raise revenue to address a school funding crisis. The City lost money in this effort when investors were unable to collect on many of the securitized liens.³ The Philadelphia Department of Revenue, in a November 2013 report, described the results of the 1997 sale as the worst-case scenario for a tax lien securitization.⁴

We have heard from neighborhood redevelopers across the City that properties whose liens were sold remained in limbo for years -- 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: "The rating agencies missed it, the underwriters missed it, the insurer missed it, and the City missed it."⁵

THE PROBLEM

The consequences of the fallout from the 1997 securitization are still evident today. While the exact number is unclear, data from the City estimates that between 3,600 and 5,500 properties in Philadelphia are encumbered by US Bank liens. The liens on these properties are between \$18 and 20 million with a total debt to the City of \$41 million. Approximately half of the potential clients who reach out to us for help in preserving a garden, manage lots burdened by a US Bank lien. The problems associated with a US Bank lien on a garden parcel manifest in a number of ways.

The Law Center regularly receives requests for help from gardeners threatened with losing parcels to sheriff sale. In the absence of a US Bank lien, removing a parcel from the Sheriff Sale list necessitates a phone call to the appropriate Council Person's office and a subsequent conversation with the Philadelphia Land Bank about acquisition of the parcel and eventual disposition to the gardener. However, more often than not, we learn that the parcels were part of the large-scale securitization of 1997. In these instances, even with council support, there is little that can be done to save the garden, as growers are often unable to pay the lien and the exorbitant fees that accompany it. This usually leads to a

³ See DEP'T. OF REVENUE, DELINQUENT REAL ESTATE TAXES: CHANGES REQUIRED TO IMPROVE COLLECTABILITY 17 (2013), available at http://www.philadelphiacontroller.org/publications/other%20reports/DelinquentRealEstateTaxes_November2013.pdf.

⁴ "In the worst case scenario, the liens will fail to perform, the trust will be unable to recoup its investment in foreclosure, the bonds will not pay adequate returns, and the municipality will be on the hook to the investors -- which is precisely what happened in Philadelphia in the late 1990s." *Id.*

⁵ *Wrecking Ball: A tax lien sale from years ago comes back to haunt antiblight plan*, THE PHILA. INQUIRER, July 19, 2001, at 22, available at http://articles.philly.com/2001-07-19/news/25315612_1_tax-liens-wage-tax-unpaid-taxes.

developer purchasing the property and replacing the garden with luxury housing units out of the reach of the existing community. This dynamic ultimately contributes to a sharp increase in property taxes and displacement of long term, lower income residents.

One such garden in Council District 7 was lost to a developer because of a US Bank lien. The garden had been tended by an elderly resident who used the produce from the garden to feed himself. He had previously reached out to the City inquiring about a title transfer; however, the presence of the US Bank lien made this impossible. Eventually, a developer purchased the garden at Sheriff Sale and plans to replace it with a luxury condominium.

US Bank liens even make it difficult for low income gardeners to use the law as a means to preserve their gardens. Because of the increase in gardens being lost to Sheriff Sale, the Law Center developed a training program to teach other attorneys throughout the City how to represent gardens. Since April 2018, we have held 6 training programs, with 1 more scheduled for this year, and have recruited over 100 attorneys interested in assisting with our mission. However, often large law firms represented on our list of volunteers have conflicts of interest and cannot represent clients on parcels with US Bank liens.

A garden in Council District 3 was nearly lost at Sheriff Sale after US Bank attempted to collect on its lien. The parcel was home to a community memorial garden, formed after a gas explosion destroyed four houses and killed at least two people in 1973. The Sheriff Sale process was postponed; however, the Land Bank was unable to acquire the parcel for disposition to the gardeners due to the US Bank lien. Moreover, the US Bank lien made it impossible for the garden to secure legal counsel. Ultimately, unable to reach an agreement with US Bank, the gardeners resorted to a crowd funding campaign in order to clear the lien and obtain an attorney.

The presence of US Bank liens significantly impairs the ability of the Land Bank to put vacant land back into productive reuse. As such, long abandoned parcels remain overgrown, littered with trash, drug paraphernalia, and other debris. Abandoned, tax delinquent properties create a vicious cycle of blight in urban areas throughout the Commonwealth. With approximately 43,000 vacant lots, the problem is particularly acute in Philadelphia. The majority of vacant land in Philadelphia is clustered in Council Districts 3, 5, and 7.⁶ These districts also have the highest poverty rates in the City, on average.⁷ Over 300,000 Philadelphians live on blocks with one or more abandoned houses or parcels.⁸ This large inventory of vacant land not only decreases the value of neighboring

⁶ See generally, THE PHILA. LAND BANK, 2019 DRAFT STRATEGIC PLAN, FIGURE 8: MAP OF ESTIMATED VACANCY CITYWIDE (2019), available at https://secureservercdn.net/104.238.71.140/k05.f3c.myftpupload.com/wp-content/uploads/2019/07/2019_StrategicPlan_DRAFTREPORT_PublicRelease_060519_PRINT-6.5.19-REDUCED.pdf.

⁷ PHILA. CITY COUNCIL, NARROWING THE GAP REPORT, FIGURE 1: POVERTY RATE BY COUNCIL DISTRICT (2017), available at <http://phlcouncil.com/wp-content/uploads/2019/03/NarrowingTheGapReport.pdf>.

⁸ See Jake Blumgart, *Philly's 43,000 Vacant Lots Faces a Fresh Political Battle*, PLAN PHILLY, July 9, 2018, available at <http://planphilly.com/articles/2018/01/26/philly-s-43-000-vacant-lots-face-a-fresh-political-battle>.

properties, but burdens residents and local government as vacant properties create significant health and safety issues.⁹

SUGGESTED SOLUTIONS

To mitigate the inevitable and continued gentrification, displacement, and loss of greenspace facilitated by the presence of US Bank liens, the City must develop a short term and long term strategy. As the first step of the short term strategy, the City must place a moratorium on sending garden parcels to Sheriff Sale until it can ensure that it has the ability to acquire those parcels if US Bank liens are present. This will prevent the gardens from being lost to developers while the City develops a longer term solution. Secondly, we encourage the City to pass legislation authorizing the Land Bank to acquire parcels with US Bank liens, re-empowering them to work towards putting vacant blighted parcels back into productive re-use. Finally, for gardens able to pay a portion of the US Bank liens, the City must negotiate an easily navigable, accessible system that eliminates penalties and allows individuals to enter into payment arrangements for the principal balance.

For the long term strategy, the City must allocate funds to pay off the US Bank liens in their entirety. The estimated total cost to the City to pay off the US Bank lien balance is \$41 million; however, the City likely could negotiate a reduction in penalties with the lien holder. Additionally, while the exact amount of US Bank liens on garden parcels is not yet available, the amount would be significantly less.¹⁰ Finally, the City must commit to developing a an equitable property tax collection system that does not include securitizing land containing community greenspace or real property that threatens Philadelphia's most vulnerable residents.

The Law Center looks forward to continuing the conversation around eliminating US Bank liens on the City's vacant land. We are happy to engage and work through solutions. Thank you for listening.

Respectfully,

Ebony H. Griffin, Esq.

⁹ See generally, NAT'L VACANT PROPS. CAMPAIGN, VACANT PROPERTIES: THE TRUE COST TO COMMUNITIES (2005), available at <https://www.smartgrowthamerica.org/app/legacy/documents/true-costs.pdf>; ERWIN DE LEON & JOSEPH SCHILLING, URBAN INSTITUTE, URBAN BLIGHT AND PUBLIC HEALTH: ADDRESSING THE IMPACT OF SUBSTANDARD HOUSING, ABANDONED BUILDINGS, AND VACANT LOTS (2017), available at https://www.urban.org/sites/default/files/publication/89491/2017.04.03_urban_blight_and_public_health_vprn_report_finalized.pdf.

¹⁰ Currently, the City is undergoing its first Urban Agriculture strategic planning process and one of its goals is to determine the amount of US Bank liens present on garden parcels. The planning process will last between 12 and 18 months.