Testimony before
New York City Council Committee on Finance
Proposed Int. No. 1385-A
January 11th 2017

Thank you members of the Committee on Finance for the opportunity to speak here today in the matter of Proposed Int. No. 1385-A. My name is Edward Ubiera, Director of Policy for the Local Initiatives Support Corporation's New York City Program. I am submitting this written testimony on behalf of LISC New York City.

About LISC

LISC is a national nonprofit community development financial institution (CDFI) supporting local champions of equitable development with financing, capacity building, and technical assistance. For almost 40 years, we've been on the ground building affordable housing and improving communities in collaboration with mission-driven organizations, government partners, and corporate leaders. Since our founding in 1979, we've helped to rebuild neighborhoods across New York City by investing over $2 billion in capital, resulting in over 40,000 units of affordable housing and over 2 million square feet of retail and community space. In 2016 alone, we supported our local partners in preserving or constructing roughly 2,000 units.

LISC Has Been A Close Partner To NYC In Preserving Affordable Housing, Low-Rent Housing Remains At-Risk

LISC was a partner to the City when disinvestment and abandonment necessitated the establishment of the *in rem* program whereby the City took direct ownership of tax delinquent properties and assumed responsibility for day-to-day maintenance and operating costs. As this portfolio grew and the City faced prohibitive maintenance costs associated with the *in rem* portfolio – over $500 million annually – we understood the need in 1996 for the creation of a Tax Lien Sale program to improve real property tax compliance, limit delinquent municipal charges, and encourage responsible stewardship of multifamily rental housing by private owners. To complement this new enforcement mechanism and help preserve properties in the *in rem* portfolio, LISC together with Enterprise and HPD founded the Neighborhood Restore Housing Development Finance Corporation (Neighborhood Restore) to oversee the management and rehabilitation of distressed housing through HPD's Third Party Transfer program (TPT). LISC also helped to launch the New York City Acquisition Fund, an initiative to fund property acquisition and predevelopment costs for affordable housing development.

The preservation of affordable housing remains a strategic priority for LISC. To that end, we applaud the Mayor's Housing New York Plan as an appropriate blueprint to preserve low-rent housing in each of the five-boroughs. At LISC, we are keenly aware that an overheated real estate market has created a crisis in housing affordability and supply. The facts on the ground are daunting. More than 50% of households in New York City are currently rent- burdened. The rental

vacancy rate hovers stubbornly at or near 3%, a threshold low-enough to continue to merit a housing emergency per the state's Rent Stabilization Laws. The supply of affordable unsubsidized rental housing, by far the largest housing stock available to low-income renters, continues to shrink at a rapid pace. The NYU Furman Center, analyzing data from the 2014 Housing Vacancy Survey, reports that between 2011 and 2014, the stock of affordable unsubsidized units decreased by approximately 124,000 units.

Preservation Opportunities Becoming Increasingly Difficult, Creative Strategies Needed
Community based organizations with strong track records in real estate development want to be part of the solution. However, inflated prices on land and speculative behavior from large private investors have made it very difficult for many mission-driven organizations to acquire and preserve multifamily properties in support of the Mayor's stated goal of preserving 120,000 units. At LISC, we believe that creative strategies must be pursued to preserve affordable housing in this highly competitive marketplace. We believe one such strategy is the better leveraging of municipal debts owed by owners of multifamily rental housing with a goal of affordable housing preservation.

Tax Lien Program, Successful As Enforcement Mechanism, In Need of Reform
As an enforcement mechanism and a cost saving measure, the Tax Lien Sale program has by all accounts been successful. Delinquencies for property taxes and other municipal charges have declined. The program has created a steady revenue stream for the City, netting over $70 million as of fiscal 2015. HPD and Neighborhood Restore, through the TPT program, have been successful in helping to reposition many of the units the *in rem* portfolio with over 5,000 units preserved. The stock of *in rem* housing declined dramatically saving the City millions.

Today, there is emerging consensus that the Tax Lien Sale program reflects somewhat of a missed opportunity for affordable housing preservation. Each year, debts on roughly 5,000 properties are sold. The debts of multifamily properties sold often reflect properties exhibiting some sign of physical and financial distress. Many of these properties are not eligible to enter the TPT program and are not directed into a preservation program. Based on field work by many of our local partners and public reporting by the IBO, the Citizens Housing Planning Council, University Neighborhood Housing, and the Public Advocate's Office, we observe that:

- ✓ Roughly 36% of multifamily properties become more physically distressed within one year of sale of their tax liens, increasing the risk of deterioration of nearby buildings,
- ✓ A significant share of multifamily properties – roughly 70% – cycle through the tax lien process multiple times with owners/operators never addressing the underlying conditions that contributed to tax delinquency in the first place,
- ✓ In order to pay their liens, owners often overleverage their properties by borrowing from private sources to raise revenue and in some cases make the decision to simply sell their properties. As debts pile up and the risk of foreclosure increases, there is greater likelihood that existing tenants may face eviction and displacement, and
- ✓ Small homeowners and many local nonprofits find it difficult to navigate the tax lien process often not knowing how to resolve municipal arrears, how to effectively claim property tax exemptions, or how to process and remain current on payment plans.

Reauthorization of Tax Lien Sale Program, Recommendations Going Forward
In our view, Intro 1385 brings some needed but mostly incremental changes to the Tax Lien Sale program. We welcome proposals in the bill that strengthen the mechanisms for notification and outreach to owners prior to lien sale including the requirement that owners be surveyed to better understand why their properties became subject to lien sale and the requirement that the City share post lien sale outcomes with the City Council.

LISC is broadly supportive of the need to expand preservation outcomes for physically and financially distressed properties that enter the tax lien sale program. We are encouraged with efforts underway by the City to explore administrative ways of more quickly identifying a larger pool of distressed properties that more effectively steer these properties into a preservation program prior to lien sale. These efforts include discussions on how to expand the scope and targeting of the TPT program.

We believe a recent proposal outlined by the Public Advocate's Office merits additional discussion and consideration by the City Council and aligns well with some of the observations from local partners. The Public Advocate proposes the creation of a mission-driven, Preservation Trust authorized to purchase liens of multifamily properties from HPD that meet the statutory definition of distress but are presently not included in the TPT program. This proposal includes amending the statutory definition of distress to include multifamily properties that have 3 code violations per unit, a lien to value ratio of 10 percent, and have cycled through the Tax Lien Sale program multiple times. This would greatly expand the pool of properties available for preservation. It is our further understanding that this proposal aims to be fiscally neutral, at least in relation to the revenues earned by the Tax Lien Sale program, and would require philanthropic capital to seed its operations.

Subsequent to a purchase of tax lien debts, this Preservation Trust would work with owners as well as the City to stabilize operations in these multifamily properties and enter into regulatory agreements. In other, and likely rare cases, the Preservation Trust would purchase the tax liens, seek a foreclosure resolution, and work to transfer ownership of these properties to a mission-driven owner. By some estimates, if a Preservation Trust had been in effect as of fiscal 2015 to purchase tax lien debt of projects not placed into TPT, roughly 6,000 units would be on a pathway towards preservation.

In summary, we encourage the City Council and the administration to remain proactive after reauthorization of the Tax Lien Sale program and consider additional options on how to best leverage delinquent municipal debt to preserve multifamily rental housing.

Thank you for the opportunity to testify.

Edward Ubiera
Director of Policy
Local Initiatives Support Corporation (LIS New York City)
212-455-9584
eubiera@lisc.org