

DATA BRIEF | JULY 2016

# Selling the Debt: Properties Affected by the Sale of New York City Tax Liens

When properties in New York City accrue taxes or assessments, those debts become liens against the property.<sup>1</sup> If the debt remains unpaid for long enough, the city is authorized to sell the lien to a third party. In practice, the city retains some liens (because it is legally required to do so in some cases and for strategic reasons in other cases), but it sells many of the liens that are eligible for sale.<sup>2</sup> In this fact brief, we explore the types of properties subject to tax lien sales but exclude Staten Island due to data limitations and exclude condominium units. Between 2010 and 2015, we find that 15,038 individual properties with 43,616 residential units were impacted by the tax lien sale. We answer three questions: (i) what kinds of properties have had a municipal lien sold in recent years? (ii) where are those properties located in the city? (iii) what happens to a property following a lien sale?

We present this information to shine a light on a somewhat obscure process that affects a significant number of properties in the city. Also, the lien sale has a number of policy implications. Tax delinquency can be an indicator of distress; property owners who have not paid their taxes may also cut back on building maintenance and investment. This could have ramifications for owners, tenants, and neighborhoods. The city, social service providers, and practitioners in the community development and housing fields may find this descriptive information helpful as they think about interventions related to the health of housing and neighborhoods.

In addition, the choice of whether to retain a tax lien or to sell the lien also presents a policy choice for the city—selling the lien allows the city to collect needed revenue it is owed; but, with the sale, the city gives up the leverage that it holds over delinquent property owners, which can be used in some cases to move properties into affordable housing programs or meet other strategic goals. The city could retain that leverage by selling fewer liens; but, then it would not

<sup>1</sup> The phrase “tax lien” is used by the city to refer to “the lien arising pursuant to the provisions of this chapter [11-301] as a result of the nonpayment of taxes, assessments, sewer rents, sewer surcharges, water rents.” New York City, N.Y., Code § 11-301.

<sup>2</sup> Perrine, J., Shultz, H., & Marazzi, S. (2011). *Invisible Transformation: Turning Debt Into Revenue* (Report). Citizens Housing and Planning Council. Retrieved from: <http://chpcny.org/wp-content/uploads/2011/02/final-report1.pdf>.



only lose the revenue generated by the sale, it would also incur the cost of foreclosing or alternative interventions. The lien sale is part of the city’s municipal debt collection program, and the city must be careful that policy changes do not undermine the city’s debt collection efforts.

With this fact brief, we aim to shed some light on the real world consequences and opportunities triggered by the city’s current treatment of municipal liens.

## I. Brief History and Overview of the Municipal Lien Sale Process

In 1976, the city enacted Local Law 45 authorizing *in rem* foreclosures<sup>3</sup> on properties with tax liens after one year.<sup>4</sup> In the following years, the city proceeded to acquire thousands of properties through this process.<sup>5</sup> By 1993, because of the rising costs of managing the city’s still substantial stock of foreclosed properties, the city placed a moratorium on further *in rem* foreclosures until it settled

on a new approach.<sup>6</sup> In 1996, the city authorized the Commissioner of the Department of Finance to sell municipal liens and additionally created a Third Party Transfer Program for distressed multifamily properties, permitting the city to transfer title to a property directly to a new owner following an *in rem* foreclosure.<sup>7</sup>

Currently, there are multiple types of municipal debts that can eventually result in a lien placed on the property generating the debt. These debts include unpaid property taxes, Emergency Repair Program fees, and unpaid water and sewer bills, among others.<sup>8</sup> All of these liens are referred to as “tax liens” in the law regardless of the source of the original debt,<sup>9</sup> so for the remainder of this brief we refer to all municipal liens as tax liens. Pursuant to city law, after a lien has remained unpaid for a certain amount of time, it can be sold. The buyer of the tax lien has the same rights that the city had to collect the debt, including the right to pursue a foreclosure action against the property owner.<sup>10</sup>

The sale of tax liens brings in substantial revenue for the city. Between 1997 and 2015, the city received more than \$1.3 billion from the sale of liens.<sup>11</sup> The New York City Independent Budget Office found that, on average, the city received 73 percent of the total value of a lien pool at the

<sup>3</sup> “In rem” means “against a thing,” and is the name for the foreclosure process under which the city forecloses on a property when there are unpaid municipal debts. The *in rem* foreclosure action is given priority over any other debts involving the property, including those that predate the city’s. New York City, N.Y., Code § 11-410. Upon final judgment for the city, the Commissioner of Finance records a deed conveying the property to the city. New York City, N.Y., Code § 11-412.1(b)(1).

<sup>4</sup> *In Rem* foreclosures were permitted for unpaid taxes, assessments, and other legal charges. 1976 N.Y.C. Local Law No. 45, N.Y.C. Admin. Code § 11-412 (1976). Retrieved from: [http://www.laguardiawagnerarchive.lagcc.cuny.edu/FILES\\_DOC/Microfilms/05/009/0000/00001/050313/05.009.0000.00001.050313.10451976.pdf](http://www.laguardiawagnerarchive.lagcc.cuny.edu/FILES_DOC/Microfilms/05/009/0000/00001/050313/05.009.0000.00001.050313.10451976.pdf).

<sup>5</sup> David Reiss, *Housing Abandonment and New York City’s Response*, 22 N.Y.U. Rev. L. & Soc. Change 783 (1996).

<sup>6</sup> As of 1994, the New York City Department of Housing Preservation and Development had 4,755 tax-foreclosed properties with 44,033 residential units. Perrine, Shultz, & Marazzi, *supra* note 2.

<sup>7</sup> Perrine, Shultz, & Marazzi, *supra* note 2.

<sup>8</sup> New York City, N.Y., Code § 11-301.

<sup>9</sup> *Id.*

<sup>10</sup> New York City, N.Y., Code § 11-332.

<sup>11</sup> *City Council Hearing on Legislation to Extend the City’s Authority to Sell Tax Liens*, 2015 New York City Council (2015, January 8) (testimony of Jeffrey Shear, deputy commissioner for Treasury, Payments and Operations at the New York City Department of Finance). Retrieved from [https://www1.nyc.gov/assets/finance/downloads/pdf/press\\_release/shear\\_testimony\\_lien\\_sale010815.pdf](https://www1.nyc.gov/assets/finance/downloads/pdf/press_release/shear_testimony_lien_sale010815.pdf)



time of sale.<sup>12</sup> A trust is used to purchase the liens from the city with money borrowed from investors. Once investors are paid back, surplus revenue collected is remitted to the city. Consequently, it is difficult to ascertain the total revenue of the lien sales made in a given year.

While most outstanding liens are sold, not all are.<sup>13</sup> The city has the power to pull liens from the sale list and to foreclose instead of selling them.<sup>14</sup> Additionally, the city’s administrative code prohibits the sale of liens on “distressed” property.<sup>15</sup> These distressed properties are pulled from the lien sale. The city must then commence an *in rem* foreclosure action or monitor the building and target it for programs to encourage rehabilitation and preservation of the housing (see sidebar: “In Rem Foreclosure and Its Limits”).<sup>16</sup>

The city may choose to pull additional liens from the list; and it has pulled liens other than those meeting the statutory definition of distress, including liens on properties owned by Housing Development Fund Companies, properties in housing subsidy programs, and properties the city identifies as distressed but do not meet the statutory definition.<sup>17</sup>

12 Bland, J. (2014, June). *Property Owners’ Delinquencies For Sale: City’s Annual Lien Sales Trigger Payments From Owners, Often Exceeding Original Amount Owed* (Report). New York City Independent Budget Office. Retrieved from <http://www.ibo.nyc.ny.us/iboreports/2014taxlien.pdf>.

13 For one- to three-unit properties, an owner who is elderly, a veteran, on active military duty, or a person with a disability may qualify to have debt excluded from a lien sale. See New York City Department of Finance, 90 Day Notice of Intention to Sell Tax and Water Liens Test Form (Feb. 10, 2015). Retrieved from [http://www1.nyc.gov/assets/finance/downloads/pdf/lien\\_sale/2015/90\\_day/90\\_day\\_notice\\_of\\_intent.pdf](http://www1.nyc.gov/assets/finance/downloads/pdf/lien_sale/2015/90_day/90_day_notice_of_intent.pdf).

14 New York City, N.Y., Code § 11-404.

15 New York City, N.Y., Code § 11-401.1(a).

16 New York City, N.Y., Code § 11-401.1(c).

17 Perrine, Shultz, & Marazzi, *supra* note 2.

## Defining “Distressed” Properties

Buildings that are deemed “distressed” must be pulled from the lien sale list. The city can then pursue a foreclosure or not as it sees fit. Distressed properties are removed from the list as part of a 1995 compromise between housing advocates and city tax planners.<sup>18</sup> According to the law, a distressed property is:

“Any parcel of class one or class two real property that is subject to a tax lien or liens with a lien or liens to value ratio, as determined by the commissioner of finance, equal to or greater than fifteen percent and that meets one of the following two criteria:

- i. Such parcel has an average of five or more hazardous [class B] or immediately hazardous [class C] violations of record of the housing maintenance code per dwelling unit; or
- ii. Such parcel is subject to a lien or liens for any expenses incurred by the department of housing preservation and development for the repair or the elimination of any dangerous or unlawful conditions therein... in an amount equal to or greater than one thousand dollars.”<sup>19</sup>

The likelihood of future deterioration, the high cost of future remedies, the impact on tenants, and the potential loss of an affordable housing resource are all cited as reasons to remove extremely troubled buildings from the lien sale list.<sup>20</sup>

18 Perrine, Shultz, & Marazzi, *supra* note 2.

19 New York City, N.Y., Code § 11-401(4).

20 Perrine, Shultz, & Marazzi, *supra* note 2.



When the city pursues an *in rem* foreclosure, in some instances the owner will avoid foreclosure by paying what she owes to the city before the case concludes. But, if the city successfully forecloses, title can be transferred from the delinquent owner directly to a new owner chosen by the city (without the city having to take ownership first).<sup>21</sup> This transfer, pursuant to the Third Party Transfer Program, is designed to rehabilitate the housing, with city subsidy, for the purpose of providing affordable housing. Of the 2,295 properties subject to an *in rem* foreclosure proceeding with an intention to transfer ownership to a third party between 1996 and 2008, 1,859 properties had an owner who paid the debt and 436 properties went through the Third Party Transfer Program.<sup>22</sup>

### ***In Rem* Foreclosure and Its Limits**

To initiate an *in rem* foreclosure on a tax lien, the city must file a foreclosure action on all the liens it holds that are in the same property tax class and on the same block.<sup>23</sup> As nearly all tax blocks in New York City contain multiple properties, this rule can hinder the city's ability to foreclose. For example, Brooklyn houses 277,564 tax lots on 7,614 tax blocks, for an average of 36 lots per block.<sup>24</sup> The city may have to pass on pursuing *in rem* foreclosures on some properties because there are other properties in the same tax class and on the tax block with tax liens on which it does not wish to foreclose.

## II. What Properties Have Had a Lien Sold in Recent Years?

In this section we report the types of properties, by property tax class, for which a lien has been sold in recent years. This typology offers insight into the types of owners and occupants affected by the sales.

Between 2010 and 2015, 15,038 properties in New York City (excluding Staten Island) had at least one tax lien sold.<sup>25</sup> In Table 1, we report the number of lots with at least one lien sold in each property tax class and the number of lots with two or more liens sold between 2010 and 2015. We highlight properties with two or more liens sold during this period because the existence of multiple years of unpaid municipal debts may indicate a higher level of owner distress and physical distress. The New York City Independent Budget Office (IBO) found a “striking difference in rates of repayment between properties with a single lien and those with multiple liens,” finding that those with multiple liens were less likely to repay.<sup>26</sup>

Residential properties with one to three units (Class 1) accounted for more than half of all tax liens sold between 2010 and 2015 in New York City. 7,751 properties of this size had at least one lien sold during this period; of that group, 1,949 properties had multiple tax liens sold during this period. During this period, there were also 1,107 residential vacant lots with one or more tax liens sold.

<sup>21</sup> New York City, N.Y., Code § 11-401.1.

<sup>22</sup> Perrine, Shultz, & Marazzi, *supra* note 2.

<sup>23</sup> New York City, N.Y., Code § 11-405(a).

<sup>24</sup> Data available from *MapPLUTO*, New York City Department of City Planning. Retrieved from <http://www1.nyc.gov/site/planning/data-maps/open-data/dwn-pluto-mappluto.page>.

<sup>25</sup> Because lien sale data is not available for Staten Island on the Department of Finance's ACRIS site, we do not show data for Staten Island throughout the brief. Also, our universe of analysis includes only tax lots with land area (so excluding condominium BBLs).

<sup>26</sup> The IBO report defined a property with “multiple liens” as those properties with a lien sold in 2012 that also had at least one lien sold in 2009, 2010 or 2011. See Bland, *supra* note 13.





**Table 1: Lots with a Tax Lien Sold Between 2010 and 2015 by Tax Class (Excludes Staten Island)**

Tax Class	Sub-Class	Type	Total Lots	Lots with 1 or More Liens Sold (2010-2015)	% Lots with 1 or More Liens Sold (2010-2015)	Lots with Multiple Liens Sold (2010-2015)	% Lots with Multiple Liens Sold (2010-2015)
1	1	1-3 Unit Residences	553,898	7,751	1.4%	1,949	0.4%
	1B	Residential Vacant Land	14,957	1,107	7.4%	194	1.3%
	1D	Select Bungalow Colonies	29	-	0.0%	-	0.0%
2	2	11 Units or More	38,177	530	1.4%	178	0.5%
	2A	4-6 Unit Rental	39,926	1,877	4.7%	717	1.8%
	2B	7-10 Unit Rental	13,923	652	4.7%	231	1.7%
	2C	2-10 Unit Coops/Condos	1,979	3	0.2%	1	0.1%
3		Utilities	2,684	28	1.0%	14	0.5%
4		All Others	69,792	3,090	4.4%	1,449	2.1%
Total			735,365	15,038	2.0%	4,733	0.6%

Sources: PLUTO, NYC Department of Finance, ACRIS, NYU Furman Center

There were also a number of multifamily (Class 2) buildings that had tax liens sold between 2010 and 2015. 530 properties with 11 or more residential units had one or more tax liens sold (1.4% of all 11+ unit properties). The number and share of smaller multifamily buildings with lien sales were higher: 1,877 properties with four to six residential rental units had liens sold (4.7% of all 4-6 unit rental buildings) and 652 properties with seven to 10 units had at least one lien sold between 2010 and 2015 (4.7% of all 7-10 unit rental buildings).<sup>27</sup> Overall, Class 2 properties were more likely to have had a lien sold than Class 1 properties (3.3% vs. 1.4%).

Although there were more *properties* in Class 1 than Class 2 with a tax lien sold between 2010 and 2015 (8,858 vs. 3,062), there were more residential *units* affected by lien sales in Class 2 than in Class 1 (26,531 vs. 15,950). Focusing on the subset of properties with more than one lien sale between 2010 and 2015, affected Class 2 properties contained 126 percent more residential units than Class 1 properties (9,340 vs. 4,137).

We also explored the number of *units* in residential properties with liens sold. Between 2010 and 2015, there were 43,616 units in residential properties with liens sold; we estimate that 34,752 of them were rental units.<sup>28</sup> While we cannot say how many of these rental units were subject to rent stabilization or rent control, we estimate that 20 percent of these rental units (6,990 units) were in a building that contained at least one rent stabilized or controlled unit as of 2013. In 2012, 45 percent of the city's rental stock was rent stabilized or controlled.<sup>29</sup>

### III. Where are the Properties with a Lien Sale?

In this section, we describe the location of properties with lien sales between 2010 and 2015, and then isolate the location of properties in Class 1, Class 2, and Class 4.<sup>30</sup> We also show the concentration of lots with a lien sale. These properties

<sup>27</sup> Tax Class 2 includes four Tax Sub-Classes: 2, 2A, 2B and 2C. See: *Definitions of Property Assessment Terms*, New York City Department of Finance (n.d.), retrieved March 11, 2016, from <http://www1.nyc.gov/site/finance/taxes/definitions-of-property-assessment-terms.page>.

<sup>28</sup> To estimate the number of rental units we add together units from Class 1 (we assume 1 owner-occupied unit), Sub-Class 2A, Sub-Class 2B, and Sub-Class 2 (excluding co-op units).

<sup>29</sup> *State of New York City's Housing and Neighborhoods in 2013*. (2014). NYU Furman Center. Retrieved from [http://furmancenter.org/files/sotc/SOC2013\\_HighRes.pdf](http://furmancenter.org/files/sotc/SOC2013_HighRes.pdf)

<sup>30</sup> We do not separately look at Class 3 (utilities) properties as there were only 31 Class 3 lots with a lien sold between 2010 and 2015.



**Table 2: Residential Units on Lots with a Tax Lien Sold Between 2010 and 2015 (Excludes Staten Island)**

Tax Class	Sub-Class	Type	Total Res Units	Res Units with 1 or More Liens Sold (2010-2015)	% Res Units with 1 or More Liens Sold (2010-2015)	Res Units with Multiple Liens Sold (2010-2015)	% Res Units with Multiple Liens Sold (2010-2015)
1	1	1-3 Unit Residences	930,261	15,911	1.7%	4,116	0.4%
	1B	Residential Vacant Land	41,138	39	0.1%	21	0.1%
	1D	Select Bungalow Colonies	4,010	-	0.0%	-	0.0%
2	2	11 Units or More	2,013,692	13,211	0.7%	4,383	0.2%
	2A	4-6 Unit Rental	179,678	8,398	4.7%	3,248	1.8%
	2B	7-10 Unit Rental	106,946	4,906	4.6%	1,707	1.6%
	2C	2-10 Unit Coops/Condos	12,963	16	0.1%	2	0.0%
3		Utilities	37,846	31	0.1%	3	0.0%
4		All Others	53,124	1,104	2.1%	228	0.4%
Total			3,379,658	43,616	1.3%	13,708	0.4%

Sources: PLUTO, NYC Department of Finance, ACRIS, NYU Furman Center

**Table 3: Lots with a Tax Lien Sold Between 2010 and 2015 by Borough**

Borough	Total Lots	Lots with 1 or More Liens Sold (2010-2015)	% Lots with 1 or More Liens Sold (2010-2015)	Lots with Multiple Liens Sold (2010-2015)	% Lots with Multiple Liens Sold (2010-2015)
Bronx	90,037	2,872	3.2%	925	1.0%
Brooklyn	278,138	7,009	2.5%	2,322	0.8%
Manhattan	43,015	667	1.6%	213	0.5%
Queens	324,175	4,490	1.4%	1,273	0.4%
Total	735,365	15,038	2.0%	4,733	0.6%

Sources: PLUTO, NYC Department of Finance, ACRIS, NYU Furman Center

are concentrated in just a few neighborhoods in the city. As an indicator of distress, and possibly an opportunity for neighborhood-based intervention, the location and concentration of tax liens is information that may be useful to policymakers and community development practitioners. For instance, policymakers might increase housing counseling resources in neighborhoods where a high share of Class 1 properties had a tax lien sale. Or, the city might focus housing preservation efforts in neighborhoods where a high proportion of Class 2 properties had a tax lien sale. Such intervention might make sense if there is concern that tax delinquency could be associated with failure to maintain quality housing and that physical distress

in several nearby properties could result in blight. Thus, both the decision about which liens to sell and other outreach efforts directed by the city may be informed by information about the types and location of properties eligible for the lien sale.

**a. All Properties Combined**

Overall, lots with a tax lien sale between 2010 and 2015 were concentrated in Brooklyn. Brooklyn contained just 38 percent of the city’s lots but housed 47 percent of the city’s lots with a lien sale. Though there were far fewer lots with a lien sale in the Bronx than in Brooklyn (2,873 vs. 7,009), Table 3 shows that a higher proportion of Bronx lots had a lien sold (3.2% vs. 2.5%).



**Table 4: Class 1 Lots with a Tax Lien Sold Between 2010 and 2015 by Borough**

Borough	Total Lots	Lots with 1 or More Liens Sold (2010-2015)	% Lots with 1 or More Liens Sold (2010-2015)	Lots with Multiple Liens Sold (2010-2015)	% Lots with Multiple Liens Sold (2010-2015)
Bronx	64,739	1,564	2.4%	404	0.6%
Brooklyn	204,818	3,463	1.7%	919	0.4%
Manhattan	6,079	45	0.7%	13	0.2%
Queens	278,262	2,679	1.0%	613	0.2%
Total	553,898	7,751	1.4%	1,949	0.4%

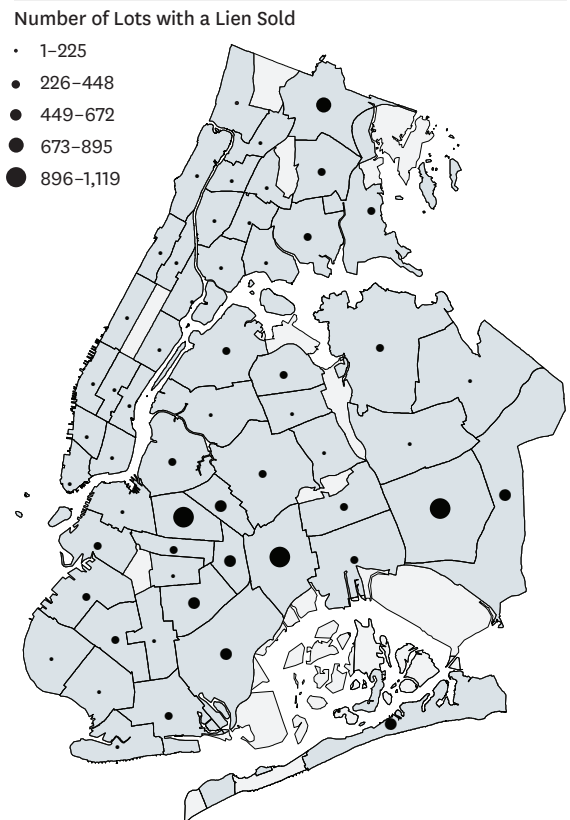
Sources: PLUTO, NYC Department of Finance, ACRIS, NYU Furman Center

Figure 1 shows the concentration of lots with a lien sale by community district. There were two community districts with more than 1,000 lots with at least one lien sale during the 2010-2015 period: Brooklyn Community District 5 (East New York/Starrett City) with lien sales on 1,119 lots (5% of the community district's lots) and Queens Community District 12 (Jamaica/Hollis) with lien sales on 1,095 lots (3% of the community district's lots). Eleven community districts (BK 05, QN 12, BK 03, BX 12, BK 17, QN 13, BK 04, BK 18, BK 16, QN 14, and BK 08) contained 50 percent of the lots citywide with at least one lien sold during the 2010-2015 period.

**b. Class 1: One- to Three-Unit Residential Properties**

Brooklyn had the greatest number of Class 1 properties with a tax lien sold between 2010 and 2015. In Table 4, we show the number of lots with one- to three-unit residences with liens sold (we have removed vacant lots); in Figure 2, we map the location of these lots. The 3,463 Brooklyn properties in Class 1 with at least one lien sale made up 45 percent of Class 1 properties with a lien sold during the 2010-2015 period and comprised 1.7 percent of all Brooklyn Class 1 properties. Although the Bronx had fewer Class 1 properties with at least one lien sold during the 2010-2015 period than Brooklyn or Queens (1,564) it had the highest rate among all boroughs of Class 1 properties with a lien sale at 2.4 percent.

**Figure 1: Lots of All Property Tax Classes with a Lien Sold Between 2010 and 2015 by Community District**



Sources: PLUTO, NYC Department of Finance, ACRIS, NYU Furman Center



**Table 5: Class 2 Lots with a Tax Lien Sold Between 2010 and 2015 by Borough**

Borough	Total Lots	Lots with 1 or More Liens Sold (2010-2015)	% Lots with 1 or More Liens Sold (2010-2015)	Lots with Multiple Liens Sold (2010-2015)	% Lots with Multiple Liens Sold (2010-2015)
Bronx	10,796	473	4.4%	191	1.8%
Brooklyn	41,405	1,731	4.2%	643	1.6%
Manhattan	25,009	429	1.7%	134	0.5%
Queens	16,795	429	2.6%	159	0.9%
Total	94,005	3,062	3.3%	1,127	1.2%

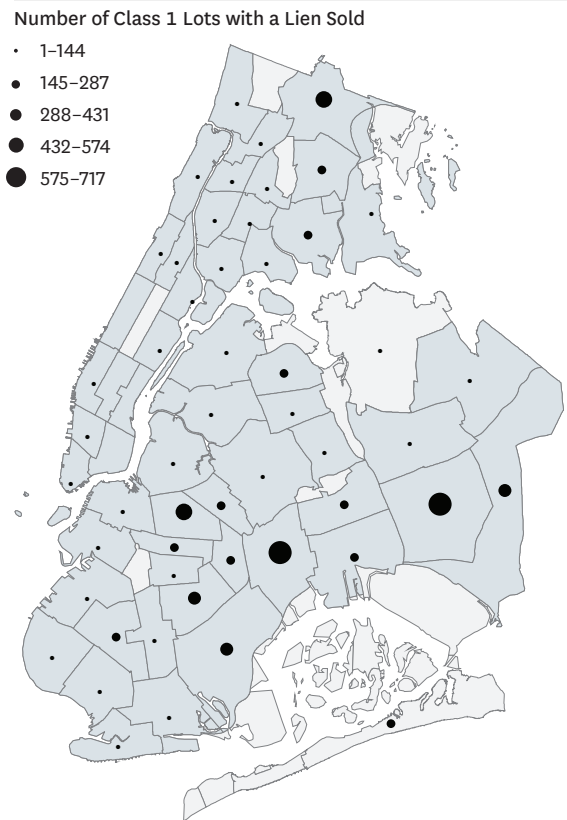
Sources: PLUTO, NYC Department of Finance, ACRIS, NYU Furman Center

As Figure 2 shows, Class 1 lots with at least one lien sold between 2010 and 2015 are not uniformly distributed within each of the four boroughs. Queens Community District 12 (Jamaica / Hollis) had 717 Class 1 properties with at least one lien sale (and 184 properties with two or more liens sold). This comprised 27 percent of Queens Class 1 properties with a 2010 lien sale. And Brooklyn Community District 5 (East New York/Starrett City) had 673 Class 1 properties with at least one lien sale (and 182 properties with two or more liens sold)—making up 19 percent of all Class 1 properties with a lien sale in 2010. Not surprisingly, many of the Class 1 properties with a lien sale were in areas with high rates of homeownership.

**c. Class 2: Multifamily Properties**

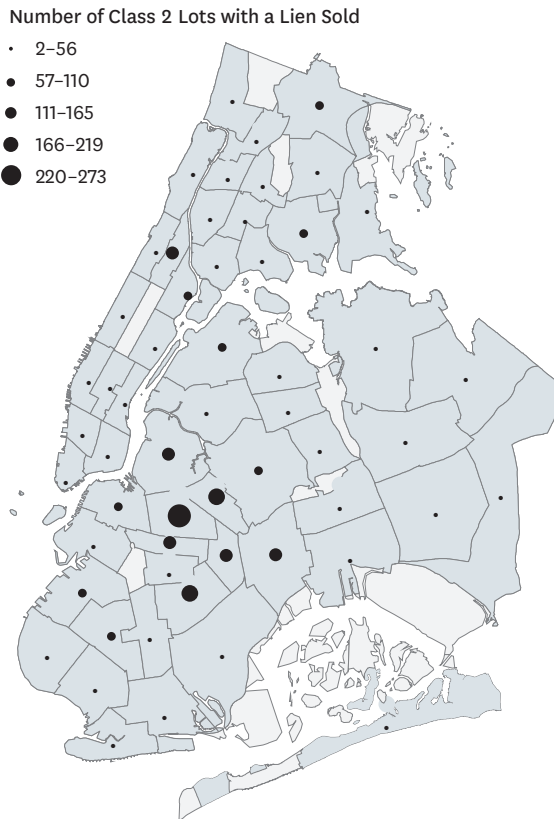
The Class 2 properties (excluding condominiums) with liens sold between 2010 and 2015 were much more concentrated. As Table 5 shows, more than half of Class 2 properties with a tax lien sale were located in Brooklyn (1,731 lots), which is not surprising because Brooklyn is home to many more Class 2 properties than the other boroughs. However, the Bronx, as with Class 1 properties, had the largest share of Class 2 properties with a tax lien sold during our period (4.4% of all Class 2 lots).

**Figure 2: Class 1 Lots with a Lien Sold Between 2010 and 2015 by Community District**



Sources: PLUTO, NYC Department of Finance, ACRIS, NYU Furman Center

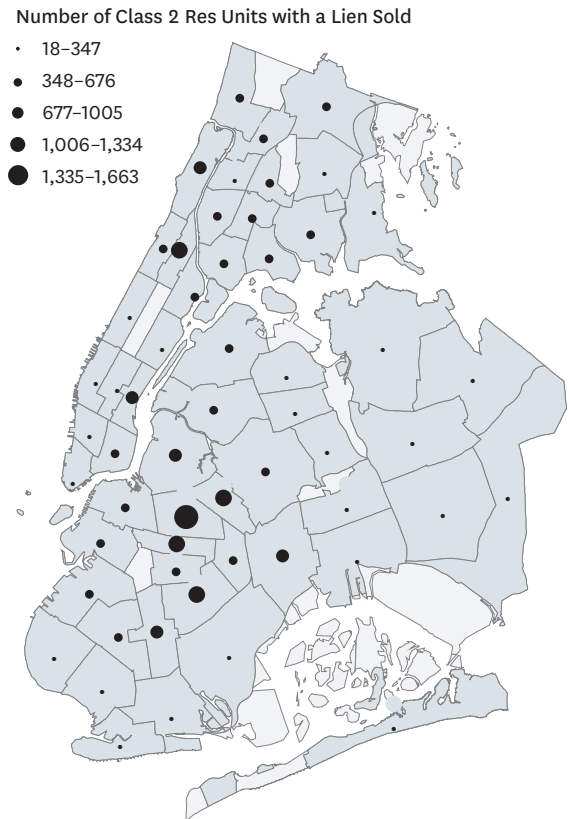
**Figure 3: Class 2 Lots with a Lien Sold Between 2010 and 2015 by Community District**



Sources: PLUTO, NYC Department of Finance, ACRIS, NYU Furman Center

Figure 3 shows that Class 2 lots with at least one lien sold between 2010 and 2015 are concentrated in just a few community districts in Brooklyn. Brooklyn Community District 3 (Bedford Stuyvesant) had 273 Class 2 properties with at least one lien sale (and 85 properties with two or more lien sales) while Brooklyn Community District 4 (Bushwick) had 210 Class 2 properties with a lien sale (and 72 properties with two or more lien sales).

**Figure 4: Class 2 Residential Units with a Lien Sold Between 2010 and 2015 by Community District**



Sources: PLUTO, NYC Department of Finance, ACRIS, NYU Furman Center

Figure 4 shows the number of residential units, rather than lots, in Class 2 properties with a lien sale between 2010 and 2015. While Brooklyn Community District 3 (Bedford Stuyvesant) also had the greatest number of residential units in buildings with a lien sale (1,663), Manhattan Community District 10 (Central Harlem) had the second highest number (1,319).





**Table 6: Class 4 Lots with a Tax Lien Sold Between 2010 and 2015 by Borough**

Borough	Total Lots	Lots with 1 or More Liens Sold (2010-2015)	% Lots with 1 or More Liens Sold (2010-2015)	Lots with Multiple Liens Sold (2010-2015)	% Lots with Multiple Liens Sold (2010-2015)
Bronx	10,796	575	5.3%	281	2.6%
Brooklyn	26,276	1,457	5.5%	691	2.6%
Manhattan	11,560	190	1.6%	65	0.6%
Queens	21,160	868	4.1%	412	1.9%
Total	69,792	3,090	4.4%	1,449	2.1%

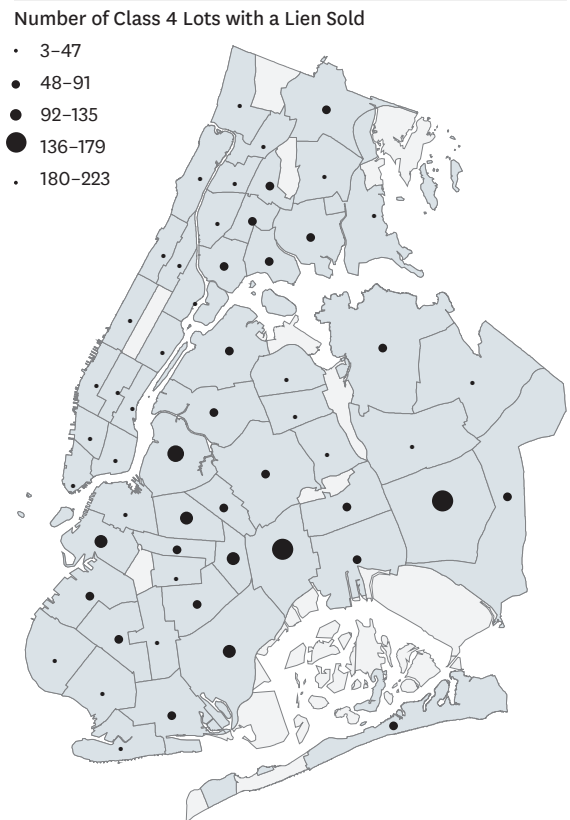
Sources: PLUTO, NYC Department of Finance, ACRIS, NYU Furman Center

**d. Class 4: Commercial Properties**

As with Class 1 and Class 2 properties, the greatest concentration of property tax Class 4 (commercial properties) lots with a lien sold between 2010 and 2015 is in Brooklyn, illustrated in Table 6. The 1,457 Class 4 lots in Brooklyn represent 47 percent of all Class 4 liens sold in the city between 2010 and 2015; they also represent 5.5 percent of all Class 4 properties in Brooklyn. Between 1.9 and 2.6 percent of all Class 4 lots in the Bronx, Brooklyn, and Queens had multiple liens sold during this period.

Also similar to the experience of other property types, Class 4 properties with lien sales during this period are not evenly distributed throughout the boroughs. They are concentrated in Brooklyn and Queens, as shown in Figure 5. In Brooklyn Community District 5 (East New York/Starrett City), 223 Class 4 lots had at least one lien sold, and 121 lots had two or more liens sold. In Queens Community District 12 (Jamaica / Hollis), 202 Class 4 properties had at least one lien sold, and 102 lots had two or more lien sales. In Brooklyn Community District 1 (Greenpoint/Williamsburg), 143 lots had at least one lien sold, and 55 lots had two or more liens sold.

**Figure 5: Class 4 Lots with a Lien Sold Between 2010 and 2015 by Community District**



Sources: PLUTO, NYC Department of Finance, ACRIS, NYU Furman Center



## IV. What Happens to a Property After a Lien Sale?

Some advocates argue that the city should retain more liens for strategic purposes, for example, to retain leverage over apartment buildings that are a source of affordable housing. To explore whether the city would be likely to complete a foreclosure in the event that it pulled more liens from sale, we took one year’s lien sale properties and explored what happened to those properties after the sale.

We used foreclosure filing data and New York City Department of Finance records to identify foreclosure and repayment activity following a lien sale for properties on which liens were sold in 2010. The foreclosure and property tax records do not provide insight on the outcome for 43 percent of properties with a tax lien sold in 2010 because there is no indication of a foreclosure filing or discharge of the tax lien in the records.<sup>31</sup> However, we can draw some conclusions about the remaining properties, which we report in Table 7.

Thirty-five percent of properties with a tax lien sale in 2010 paid off the tax lien debt without a foreclosure filing. Seven percent of lots with a 2010 tax lien sale paid off the debt following a foreclosure filing.<sup>32</sup> Of lots with a 2010 tax lien, one percent had a completed tax lien foreclosure as evidenced by a foreclosure filing and a deed transfer with a referee. Fourteen percent of the 2010 tax lien sale lots had a foreclosure filing with no record of a deed transfer with a referee or that

**Table 7: Outcome for Lots with a 2010 Tax Lien Sale (as of 2015)**

Outcome	Lots with Tax Lien Sale in 2010	% of Lots with Tax Lien Sale in 2010
Discharge of Tax Lien	1,447	35%
Tax Lien Foreclosure Initiated + No Discharge of Tax Lien	561	14%
Tax Lien Foreclosure Initiated + Discharge of Tax Lien	277	7%
Tax Lien Foreclosure Completed	61	1%
Unknown	1,763	43%
Total	4,109	-

Sources: PLUTO, NYC Department of Finance, ACRIS, Public Data Corporation, NYU Furman Center

the tax lien debt was paid. This may mean that the cases are still pending or that they were resolved, but the discharge of the lien was not filed.

While certainly not conclusive, these statistics suggest that even if the city were to retain more liens in order to foreclose and then use the property for strategic purposes (like affordable housing), many if not most debts would be repaid before foreclosure. However, if the city retains the liens on properties that would be appropriate for affordable housing subsidy programs, it can target property owners for programs as it proceeds through the debt collection process, where appropriate. Or, it may be able to help negotiate a sale that results in an affordable housing provider purchasing the property. Thus, the city’s ability to obtain the property through a foreclosure is not the only measure of the opportunity presented when the city retains a lien. Though, full weighing of the options would, of course, also require a consideration of the costs to the city of foregoing the revenue for the lien sale and the costs of collecting the debt.

<sup>31</sup> The lack of records could be because the lien is still outstanding and no foreclosure has been filed or it could be because the available data do not reflect activity that has occurred.

<sup>32</sup> Information about paid-off liens is based on Discharge of Tax Lien notices filed in the New York City Department of Finance’s online city register, the Automated City Registry Information System (ACRIS). Information about foreclosure filings comes from the Public Data Corporation.



## V. Conclusion

Between 2010 and 2015, New York City sold tax liens that it held on 15,038 properties in the Bronx, Brooklyn, Manhattan, and Queens. These liens were on all different types of properties. One- to three-unit properties (Class 1) accounted for the largest number of properties with liens sold. However, more residential units in Class 2 were affected by a lien sale between 2010 and 2015. Properties with liens sold during this period are located throughout the city, but they were concentrated in central and eastern Brooklyn and southeast Queens. Eleven community districts (with all but one in Brooklyn or Queens) contained 50 percent of the lots citywide with at least one lien sold between 2010 and 2015. Of properties with a lien sold in 2010 for which data is available, only one percent had a completed tax lien foreclosure. Forty-two percent of those properties have repaid the debt.

As policymakers consider the lien sale process in future years, decisions about reforming the process may be informed by information about affected residential units, the concentration of properties,

and the likelihood that an *in rem* foreclosure would allow the city to obtain a property. We examined these questions in order to shed some light on this process and to inform the public debate around the lien sale.

There are, of course, other factors that should inform future decisions about the lien sale, including the value of possible reforms weighed against their cost, both in terms of foregone lien-sale revenue and other costs to the city. Further, the city would want to make sure that no policy changes undermine the way in which the existing program encourages owners to pay their debts.

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*This research has been prepared by a Center affiliated with New York University School of Law and Wagner Graduate School of Public Service, but does not purport to present the schools' institutional views, if any.*

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The NYU Furman Center advances research and debate on housing, neighborhoods, and urban policy. Established in 1995, it is a joint center of the New York University School of Law and the Wagner Graduate School of Public Service. More information about the Furman Center can be found at [www.furmancenter.org](http://www.furmancenter.org).