COUNCIL OF THE CITY OF PHILADELPHIA

COMMITTEE ON APPROPRIATIONS

Room 400, City Hall
Philadelphia, Pennsylvania
Monday, March 24, 2014
10:10 a.m.

PRESENT:
COUNCILMAN W. WILSON GOODE, JR., CHAIR
COUNCILMAN CURTIS JONES, JR.
COUNCILMAN DAVID OH

RESOLUTION 140071 - Resolution authorizing City Council to hold public hearings on the state of collections of licenses and permit fees and delinquent real estate taxes owed the City and School District of Philadelphia.

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COUNCILMAN GOODE: Good morning. This hearing is called to order. This is a public hearing of the Appropriations Committee on Resolution No. 140071. My name is W. Wilson Goode, Jr., Chair of the Committee.

I note that a quorum is not necessary. This is an informational hearing on a resolution. The title of the Resolution No. 140071, authorizing City Council to hold public hearings on the state of collections of licenses and permit fees and delinquent real estate taxes owed the City and School District of Philadelphia.

I will first give the primary sponsor of the resolution, Councilman Oh, a chance to make some opening remarks.

COUNCILMAN OH: Thank you very much, Mr. Chairman. It was last year that the news published many stories about a half billion dollars in uncollected delinquent taxes and fees. That number may be higher. I'm not sure.

But we have included in the information today at least one opinion that there is nearly $800 million in uncollected delinquencies, fees, and other types of things owed the City.

We are now in our budget process, and the issue of services that are needed that help our city are critical at a time where we have also just been through an increase in the property tax and it's very difficult for people to see how we're going to make ends meet.

The Pew Charitable Trust study indicated that they believed of the half billion dollars, $153 million was collectible. So now there's an issue with what are we doing, what can we do, and what are the best practices available to our city in order to ensure that we not only collect those delinquent taxes and fees as quickly as possible, but that we institute some type of procedures that we will not end up with this type of problem in the future.

So I thank you very much, Chairman, for holding this hearing.

COUNCILMAN GOODE: Thank you, Councilman.

We are scheduled to hear from at least four panels today. The first panel is Clarena Tolson, Revenue Commissioner, and Alan Butkovitz, the City Controller. Please come forward.

(Witnesses approached witness table.)

COUNCILMAN GOODE: Commissioner, we're going to ask you to start.

COMMISSIONER TOLSON: Good morning. Thank you, Councilman Goode.

Good morning, Councilman Goode and other members of -- Councilman Oh. My name is Clarena Tolson. I'm the Chief Revenue Collections Officer and Revenue Commissioner for the City of Philadelphia. I'm here today to testify on Resolution 140071 authorizing the

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Committee of the Whole to hold public hearings on the issues related to revenue collections. My testimony today focuses on updating Council on the measures the City has taken in the last year to enhance the collection of delinquent real estate taxes as well as others.

The Department's overall mission is to optimize revenues for schools and services by creating a culture of compliance where all taxpayers contribute their fair share. Over the last year, we have been employing several strategies to move us toward this end, including the following: creating stronger consequences for non-compliance; building partnerships to enhance collection activities; early action on delinquency; integrating technology to improve efficiencies and effectiveness.

I will discuss each of these four strategies and the initiatives we are implementing to meet our goal. However, I would like to highlight several key collection results as compared to last fiscal year.

Total school income tax is up 132 percent. Delinquent school income tax collections increased by 245 percent. Total liquor tax is up 22 percent. Delinquent liquor collections increased by 214 percent. Delinquent U&O collections increased by 33 percent. Thirty percent increase in total delinquent collections for the School District. Delinquent real estate collections are up 12 percent.

A centerpiece of new collection activity is the revocation of commercial activity licenses for those establishments that have been delinquent in their business taxes. The goal of the program is to change behavior and communicate a strong message that we can no longer subsidize businesses at the expense of children and City services. Fortunately, we believe the message is being understood, as we have had to shutter less than 40 businesses. In addition, we have seen the number of liquor accounts, a key focus early in the program, increase by 9 percent in just one year.

Seventeen million dollars have been collected since its inception last spring, with $6.5 million from liquor, $6.3 million from BIRT, and $2.3 million from wage tax. Another $7 million is committed in payment agreements generated by the program.

Sequestration is another innovative program where the courts appoint receivers for properties that owe back real estate taxes. We've revived this program such that receivers can collect the rental income from the properties and operate the properties until the net income from the property has satisfied all delinquent taxes. Since October, the program has collected approximately $2.9 million from 148 properties, with the first properties being assigned to a receiver. As with CAL revocation, the goal is to create an incentive for businesses to pay their taxes.

Sheriff Sales continue to be an effective tool even as we work in partnership with the Sheriff's Office towards improving the process. The average number of all properties placed in the Sheriff Sale process by the Law Unit and co-counsel has increased from 354 per month in Fiscals '11 and '12 to 1,065 per month for Fiscal '13 and the first five months of Fiscal '14.

As we talk about building partnerships, a key to our ability to create a culture of compliance is our ability to use all information available to identify those who owe. Two important partners in this effort are the federal and state governments. Each year, we receive information from the IRS that assists in our collection efforts. In addition, over the last several months,

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we have been building closer relationships with the state and have received information from them that will enable us to identify many more taxpayers that could owe significant school income tax.

I must say that I certainly appreciate all that Secretary Meuser has done. He's been a wonderful partner to the City and support to the City to work on our state initiatives such as confiscation of personal property, specifically automobiles, of tax delinquents.

In addition to outside collection agencies, we -- outside agencies, we continue to work closely with the City departments, such as Streets and Licenses and Inspections, to improve collections. For the first time, we will be placing delinquent small commercial trash fee accounts with an outside collection agency. This, coupled with the enforcement efforts of the

Department, should have significant impact on the outstanding delinquency. We also have been meeting with representatives of L&I on a regular basis to assure those businesses seeking various licenses and permits have the appropriate tax clearance. In addition, we are employing the Sheriff Sale process to deal with nuisance and dangerous buildings.

With regard to early action, a review of best practices across multiple jurisdictions strongly reinforces the need to address accounts early before they become long-term delinquencies, and the Department has expanded the capacity of outside collection agencies. For the first time, in the fall of 2012, we began to make referrals to business taxes, and now our goal is to make those referrals on a monthly basis. With U&O referrals, we are now attaching all business taxes so that one agency can work the entire account, and as mentioned earlier, CAL revocation is proving to be an excellent tool in the collection of those business taxes.

With regard to integrating technology, to fully maximize our collection efforts, the Department recognizes the need for state-of-the-art technology in both the processing of payments and the identification of delinquent accounts and the management of collections. Working with the Office of Innovation and Technology, the Department of Revenue kicked off implementation of a new cashiering and remittance system and a comprehensive data warehouse. We are well into the cashiering project and expect testing of the new system to begin in July, with full implementation to occur in the fall of this year. The Department is currently in the final stages selecting a vendor to develop and implement an integrated data warehouse. The system will allow the Department to better use and mine taxpayer information to drive collections. We expect the final selection decision to be made in April, with the design and implementation to take between 12 and 18 months. However, we expect to be able to use portions of the system within the first four to five months.

By implementing a diverse mix of strategies, including working cooperatively with various agencies, we continue to improve our collection efforts. We expect those efforts will improve the City and School District's financial position, and we are confident that we will meet revenue expectations.

This concludes my testimony. Thank you for having us here today.

COUNCILMAN GOODE: Thank you for your testimony.

Mr. Controller.

CONTROLLER BUTKOVITZ: Good morning, Chairman Goode, Councilman Jones, Councilman Oh. Thank you very much for this opportunity to come here.

I'm pretty frequently caricatured, I'd say, as a critic across the board, but I would like to take the opportunity to express my enthusiasm about Commissioner Tolson's leadership in the Revenue Department. I think that we've seen a new spirit there and new energy, and although I will characteristically have some gripes and requests at the end, I did want to start out by giving her a well-deserved pat on the back.

COMMISSIONER TOLSON: Thank you.

CONTROLLER BUTKOVITZ: Resolution 140071 is an opportunity to address the need for the City to explore all opportunities to generate new revenues and savings. As I have previously stated, uncollected taxes, fines, and fees for services, such as rescue squads and police security, are placing an extreme burden on the City's ability to provide the necessary services for all citizens.

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It is unfair to the hard-working people of this city who pay their taxes on time to be at the mercy of those who do not.

As you know, since 2006, our office has identified hundreds of millions of dollars worth of revenue and savings opportunities related to delinquencies. Over the last eight years, we have provided reports, guides, and recommendations outlining ways to collect and save millions of dollars to both the Administration and City Council.

Some of these have included $132 million from delinquent amounts for water and sewer services; $70 million in uncollected fines and fees for litter and false alarm violations; $50 million in outstanding bills for emergency medical services each year; $5 million for hired police services owed by private businesses and individuals.

Recently, we released a performance audit of bad checks submitted by individuals to the City that found $14 million was returned by the bank. For Fiscal Years 2009 through 2012, the bank returned 13,000 bad checks for payment of taxes, licenses, fees, and permits. These checks were returned due to insufficient funds, closed accounts or other reasons causing the bank not to cash the check.

In taking a closer look, we selected a random sample of 83 returned checks valued at more than $200,000 and discovered that nearly half of the checks remained uncollected.

We determined that the poor collection efforts were a result of the City's Bank Return Item Unit not identifying and flagging repeat offenders, not reconciling total bad checks processed by the City to the number of checks received from the bank, and allowing checks to be submitted with insufficient information such as a name, address or phone number.

In addition, we found it extremely troubling that there are no consequences for individuals who repeatedly submit bad checks.

To improve collection procedures and increase revenues through check payments, we recommend the City take action on the following:

The Department of Revenue needs to analyze bank return data and identify areas that need attention; require repeat offenders to pay with a certified check, money order, credit card or electronic fund transfer; accept only checks with appropriate identification.

In Philadelphia, there is much room for improvement in collecting what is owed. I believe that positive results can be achieved if appropriate action is pursued.

In 2010, for the first time in 70 years, our office utilized a provision in state law to implement an employee withholding program that deducted delinquent taxes from City employees' paychecks. This has yielded over $3 million in back taxes. After recognizing the success of our initiative, the First Judicial District followed our lead and implemented a similar program to collect overdue court fines and costs from City employees.

We cannot continually go back to those who pay and keep raising their taxes because others have been permitted to ignore the law. If the City was collecting revenues at the same rate as other large cities, the Administration and City Council would not be facing the daunting challenge of finding additional funds for schools.

The City must be diligent in the collection of all revenues owed and use all the modern and technological tools available as well as old-fashioned shoe leather. The City must employ better data systems and adopt more aggressive data-driven and site-inspection enforcement.

And if I can just put in a short add for one thing that has been a sore point with Revenue under the prior Commissioner and hopefully we'll be able to work out with the new Commissioner. It's been the unauditability of collections of revenue. The former Commissioner took the position that confidentiality requirements of the IRS law prevented us from looking at any revenue information that was based on federal information such as the federal IRS returns or federal business tax returns. We for years, six years probably, argued that we are as much a part, a component part, of the City government as the Revenue Department is. We are prepared to execute any necessary confidentiality agreements, but as the Councilmembers here know, Councilman Kenney has been extremely vocal on his own personal investigative efforts of seeing people stop at Home Depot and load up out-of-town contractors and everything, and as we try to run down those leads and see whether there's effective enforcement action, we are frustrated by this iron curtain, this iron wall of non-disclosure of enforcement information that takes us to original sources. There's no reason for it.

We've reviewed the IRS regulations. We do not see anything that prohibits the sharing of data with other City government departments, and we hope that as part of the energy and the can-do attitude that has been exhibited by the new Commissioner, that we can get over this obstacle as well and that we can probably work as effective partners in improving collections.

Thank you.

COUNCILMAN GOODE: Thank you for your testimony.

Let me formally note for the record that Councilman Curtis Jones,

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Majority Leader and Vice Chair of this committee, is in attendance.

Councilman Jones.

COUNCILMAN JONES: Thank you, Mr. Chairman, and thank you, Controller Butkovitz, and thank you, Commissioner Tolson, for your efforts in getting our money in. I mean, as we looked at AVI last year, one of the concerns and criticisms was that if you have accounts payable outstanding, why aren't we going after that, and I think the both of you are the answer to that criticism at this point.

A couple of questions about your testimonies in respect to BIRT. One of the challenges is that, as I understand it, where does a sale originate and how we verify whether my headquarters are here, but my sales were out of New York, or how do we process that kind of verification and are we leaving money on the table as a result.

COMMISSIONER TOLSON: Thank

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you. Excellent question. I'm going to ask one of the Deputy Commissioners who is our tax expert to answer that question with regard to point of sale.

COUNCILMAN JONES: And as they take their seats near the microphone, can you tell us how much -- I think the number was -- I think it was 25 million we're talking about, a universal potential revenue from that. It might have been more. Can you for the record tell us what that is.

DEPUTY COMMISSIONER BRESLIN: For the potential revenue for --

COUNCILMAN JONES: BIRT.

DEPUTY COMMISSIONER BRESLIN: The delinquency?

COUNCILMAN JONES: Yes.

DEPUTY COMMISSIONER BRESLIN: I have that with me.

The BIRT delinquency for the active period, meaning these are --

COUNCILMAN JONES: Say it again, please.

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DEPUTY COMMISSIONER BRESLIN: The BIRT delinquency for the active period -- these are within statute of limitations, basically the last six years -- in principal is about $90 million.

COUNCILMAN JONES: Okay, 90 million. And so how does the verification of where a point of sale happens? How do you determine that?

DEPUTY COMMISSIONER BRESLIN: Well, the BIRT is a self-assessed tax.

COUNCILMAN JONES: We're trusting them.

DEPUTY COMMISSIONER BRESLIN: Yeah. So the start is taxpayers report to us what their sales within and outside of Philadelphia are. Then we use screening techniques. So we look at tax returns. We have our Audit Unit. It's part of the Audit Unit. Part of the screening process is to review returns. That's done manually and also that's --

COUNCILMAN JONES: Is there a

sampling or is that 100 percent?

DEPUTY COMMISSIONER BRESLIN: That's a sampling.

COUNCILMAN JONES: Just give me a sense of how big a sampling.

DEPUTY COMMISSIONER BRESLIN: Well, we do it different ways. So some of it is actually a physical sampling, physical review. Other is technological. So we look for differences from one year to another year, things like that, and it spits out the exceptions --

COUNCILMAN JONES: So an anomaly might trigger an audit?

DEPUTY COMMISSIONER BRESLIN: Yes, would trigger an audit, and then we actually get an auditor to go in and look at the books. A large business we won't look at all of the documents, all the sales documents, but we'll pick a sample and look at the sample and compare those to the books and records to see if the actual sale was reported correctly.

COUNCILMAN JONES: The second

part of the question is, as it relates to -- another issue that came up during the whole AVI -- AVI just made us take a hard look at everything by way of receivables as to avoid increasing the millage rate one percentile, and all of you played a part in that, Controller. But what I want to know is, one of the things that we discovered was the large number of property owners in the City of Philadelphia that might be delinquent, both commercial and residential, but yet own properties in surrounding counties where their taxes were paid and how we might incentivize them to take care of their Philly properties as opposed to just their Bucks County, Montgomery County holdings, and see how we're doing on that level of collection.

COMMISSIONER TOLSON: Yes. Thank you, Councilman, for that question. I believe the number is 93, but Act No. 93 was recently passed by the State Legislature, which would allow us to lien properties outside of the County of Philadelphia within the State of Pennsylvania. We are working with the courts and with the prothonotaries of other counties to develop a process and a system to implement that strategy.

We agree, we think it's very important, and we are starting with -- our first tactic is to look at those folks who have a mailing address outside of the City of Philadelphia, and they'll be the first ones that we'll be addressing in terms of identifying their properties.

Unfortunately, there's no single source of data about where property is in the state. However, we do have some tactics that we think will be successful in trying to identify and assist other counties in identifying what's in their state that may be owned by some of our property owners and then likewise sharing information with the others in their efforts to receive money

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for their counties.

COUNCILMAN JONES: It was --

CONTROLLER BUTKOVITZ: If I may.

COUNCILMAN JONES: Controller Butkovitz.

CONTROLLER BUTKOVITZ: -- respond to that also. You know that we have a very serious backlog in Sheriff Sales in Philadelphia. It's been documented. It takes years to get a property to Sheriff Sale. You need the credibility of the idea that a Sheriff Sale is going to occur as an inducement to people to treat their delinquent taxes seriously.

There's an ongoing impasse. It's really hard to parcel out responsibility. There's been a fight between the Nutter Administration and the administration in the Sheriff's Office in terms of new computerization equipment, in terms of funding initiatives. There's an awful lot of finger-pointing going in

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every direction, and years after the release of what was a major forensic audit by our office, which I believe came out in 2011, we continue to get reports about problems getting refunds to people whose properties have been sold at sale, getting deeds recorded, at getting properties listed for Sheriff Sale. It's clearly contributing in a major way to the idea that anything goes in Philadelphia if you're a property owner.

COUNCILMAN JONES: We are going to note that when we do the budget analysis with the Sheriff, and I did read that report and was the genesis of some of the questions we've asked before. We'll see how they're progressing on that. And I think a couple of articles were actually written as a result of that report.

My question is, what is your general hope? Do you think by next year this time we'll have a better relationship with the counties to be able to more accurately --

COMMISSIONER TOLSON: Councilman, I think that -- we endorsed this legislation. We were encouraging our Legislature to pass it, and I believe that within 90 days, we're going to be using this tool. As I said, we have a legal team headed by Jim Zwolak in our group who has been working voraciously to implement since it passed Legislature. But it's simply a matter of one understanding the filing requirements in the other counties so that we meet their rules, working with the courts to make sure that we are doing it in a way that will be acceptable to them, and then we will be applying the measure.

COUNCILMAN JONES: What is your estimate of what that receivable amount is?

COMMISSIONER TOLSON: That I'm not sure as of yet. As I said, we'll have to look -- some people have their mailing addresses inside the City, so the tactic that I described earlier only addresses a portion of that, but we have a significant amount to deal with. So I'm hopeful that that will be one more tool in the toolkit.

Our delinquent taxpayers come in different forms, and they have different reasons for being delinquent and they have different motivations. So our plan and what we have been following is a strategy to use every tool in the toolkit. We want more tools, so that if you need a screw driver, we're going to give you a screw driver. If you need a hammer, we'll give you the hammer. We've offered the carrots. To the extent people have been willing to accept those, that's great, but I think by the numbers that I gave you earlier, we're showing everyone that we're sincere about collecting tax dollars. And I should say that Council has been very, very helpful and supportive in our efforts. The CAL revocation program that we first sent our letters out last May, I think that we now have $17 million that's been collected from businesses that were told that if they did not pay, ultimately their businesses would be shut, and those businesses figured out a way to come up with payments.

Our first strategic focus was upon those businesses that supported tax revenues for the schools. So specifically those who had a liquor license or were paying the liquor tax, because 100 percent of that went to the schools. As a result, we had bars and restaurants that were coming in with checks for $40,000, $100,000, because they did not want to be closed and they had believed that, as has been said by Mr. Butkovitz, that anything goes, and they paid those who clamored or who pushed them to get paid. And maybe the City didn't push in a way that they found worthy of their note. Now they do find that they need to pay attention to

Philadelphia, because we want our money and we're doing everything we have to do.

COUNCILMAN JONES: So certain consequences.

COMMISSIONER TOLSON: There are consequences. That's right. You do not pay and it's a business, we will look at our opportunities to address your business issues. If you do not pay your real estate taxes, we're going to encourage you to look into our systems programs, if you can apply to those. If not, develop a payment plan, or if not, understanding that there will be liens and then Sheriff Sales ultimately.

COUNCILMAN JONES: A couple of other quick questions and I'll turn it over to our Chair again. Licenses, being able to withhold the renewal of a license, is that one of the tools that you use, and how effective has it been?

COMMISSIONER TOLSON: Yes. We have a relationship with the Department of License and Inspections, specifically

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Commissioner Carlton Williams, and we enjoy the relationship to the extent that he has directed his staff that no permits or licenses can be issued unless the applicant is tax cleared. And that means that each applicant must come to their window with a tax clearance letter in order to apply for a permit or a license.

COUNCILMAN JONES: And, Mr. Controller, you also use that by way of payment to contractors who have contracts with the City of Philadelphia, there has to be a tax clearance before their payments?

CONTROLLER BUTKOVITZ: That's right. Yeah. We have to get a tax clearance from the Law Department if there's been a lien, if there's been a tax hold.

COUNCILMAN JONES: Okay. Water Department payments, one of the issues that we saw a couple years ago was there were some large entities, and I won't pull them out at this point, but they

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were government, some of them were government entities that did not pay their water bills. How are we doing by way of collecting that receivable?

COMMISSIONER TOLSON: Yes. We're working to address all the appropriate parties that should pay their water bills to get them to pay them, in negotiations with them or addressing meter issues as well as making sure that the right parties are identified, because we have had circumstances where the owners of the properties and who should be billed have changed and our records did not properly reflect that.

COUNCILMAN JONES: Finally, amnesty programs, have you done any recently and are you considering doing them and are they one of the tools that you will use?

COMMISSIONER TOLSON: Certainly amnesty is an appropriate tool. An important thing to be mindful with amnesty is that the timing is very important. The City recently did one three years ago, and we probably need to wait another decade before doing another one.

If you have regular amnesty programs, what you're going to find is that people won't pay, they will simply wait for the next amnesty. So inadvertently you will have the unintended consequence of people not paying their taxes as they wait. So your delinquency will rise as people wait for an amnesty program.

But it's certainly an appropriate tool. We had not done one prior to that one for many years. We did one three years ago, and now there's probably a need to wait a decade or decades before the next one.

I think that as we start to utilize the tools that we have in the toolkit, sequestration, Sheriff Sale -- sequestration we talk about receivership. It's amazing how fast people come in with their money when you tell them that you're going to take their rent from their tenants. They come in with money very, very quickly. From the time I wrote my testimony to today, we have another $500,000. I didn't change the testimony, but that's how well this program is running, and that's without ever having to take the property. That's with the threat of taking the property. People are complying so quickly, we haven't been able to get one to a receiver as yet to actually start to receive the funds. But we are still working on that, because we have some that are a little slower than others.

But between sequestration and CAL, liens, and all our legal remedies that we have available to us, judgments, we expect that we're going to be improving our lot very, very quickly.

COUNCILMAN JONES: These are impressive efforts, impressive results, and I really like the strategic

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partnerships with the realtors to take delinquent properties and actually improve the quality of those properties by improving physically some of the properties, and so that the renters are actually getting a better product out of it as well. So keep up the good work.

Thank you, Mr. Chairman.

COUNCILMAN GOODE: Thank you, Councilman.

Councilman Oh, do you have questions for this panel?

COUNCILMAN OH: Yes, if I may. Thank you very much, Mr. Chairman.

Good morning, and thank you for coming. And let me also state that I too am very happy to see Clarena Tolson as our Revenue Commissioner, and what a great job that you have done in the past and great job you're doing right now.

I do have some questions, and part of it has to do with this is a new position for you. You've come in and taken the bull by the horns, but still there's some issues that I'm curious about that I'd like to explore with you.

So you've done a fantastic job of getting the tax collections up, as you said, as the Revenue Commissioner. My question is, what about these past due delinquencies, this $500 million? Have you had an opportunity, as you settle into your new position, to address the collection of that half billion dollars?

COMMISSIONER TOLSON: Yes, Councilman. I think the efforts that we've been describing are intended to address that very issue. Collections of current is important as well as collection of the delinquency. As we build a culture in our city where people understand that it's important to be compliant and that's what our rules are and there are consequences when you are not, that our delinquency numbers will reduce.

I will say to you that our collections on real estate last year were

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at 94 percent collection within the year, and that's the highest it's ever been in probably two decades. We've worked aggressively to remind people that it's important to pay their current taxes, and they responded nicely with regard to real estate.

With regard to the delinquent taxes, measures such as revocation of the commercial activity license is very important. If you are a beauty salon or a major bar or restaurant or an accounting firm and you don't have a commercial activities license, you can't do business legally. So it's very important for people to have all their documentation in order in order to stay in business. And we have had to unfortunately, when people don't respond to other measures, go to the ultimate. When it comes to business taxes, the ultimate is not having a business in operation. When it comes to real estate, the ultimate is losing either the rents from the real estate or the sale of the property. And we've been willing to do that, and the reflection of that is in the results, in the numbers that I showed earlier.

COUNCILMAN OH: Yes. Thank you.

So according to the Pew Charitable Trust study, they believe that 153 million of the half billion dollars in delinquent taxes and fees are collectible. Some of these are very old delinquencies, so my question is, of the half billion dollars that was identified last year, how much, if any of it, has been actually collected?

COMMISSIONER TOLSON: So last year -- let me compare end of second quarter data for you. So $514 million was our delinquency at the end of December '13. At the end of December '12, it was $533 million.

COUNCILMAN OH: I'm sorry. Say that again.

COMMISSIONER TOLSON: At the end of December in 2012, it was $533 million.

COUNCILMAN OH: Oh, okay. Yes.

COMMISSIONER TOLSON: So we had a reduction in that delinquency of $18.8 million.

COUNCILMAN OH: So let me ask you this question then: In terms of addressing the collection of the delinquency, which is this half billion dollars that's out there, whatever amount is collectible, do you believe that your office itself is able to do the planning, strategy, and collection, obviously with expert input, or do you believe that going to a third-party collection agency is a viable option? What is your opinion on that?

COMMISSIONER TOLSON: We continue to use third-party collection agencies for our real estate and our business taxes. In fact, those parties and those companies handle the majority

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of our collection work. So it's very appropriate that those who are -- who focus solely on the collection activities are heavily involved in our collection work.

COUNCILMAN OH: Have they been collecting this half billion dollars in outstanding debt? I mean, have they been doing that continuously since last year, before last year?

COMMISSIONER TOLSON: Yes. They have certainly been involved, and I think that the City is responsible for providing strategy to them in terms of where the focus should be and then also how it should be done. Additionally, the City is responsible for providing some leadership in terms of structuring the entire process.

I believe that we've done some things that have been helpful to remind people of their delinquencies and even their current taxes that are due, and there's changes that we have made and that we will continue to make, such as how frequently we bill. We're examining opportunities to more frequently bill people and to provide some type of unified billing system, but additionally we send out reminders.

Presently we send people a bill in December for real estate taxes that are not due until the end of March. Many people who have to pay their bills directly oftentimes misplace them and honestly forget. Some people have no intention of paying obviously. And those that are paid by mortgage companies always get paid on time.

But what we've done this year to try to help those who may forget is that we send out a second bill just recently to say, Reminder, bills are due the end of March, please if you have not already paid, please pay. That's a common practice in other industries to bill frequently or to remind people. Here to date we had not done that. We're doing it now.

Also the amount of innovation, we did a calling system. We use a robo call to -- it's actually called SwiftReach, the company we use, to reach out to those whose bills we do not have noted being paid for the current bill. I'm sure -- it was a nice reminder. It was not a dunning type of phone call. However, it was a reminder that the bills are due, and if you need another copy of your bill or if you just need to be reminded, please take care of the important task of paying your real estate bills.

I think that we're going to continue to look towards best practices and look towards the support of our collection agencies and co-counsel to address the delinquency problem that we have and the collection problem that we have.

COUNCILMAN OH: Thank you. I do have a concern that I'm expressing about the level of expertise of your collection companies and your consultants. And I don't know them, so maybe they're tremendous experts. But these delinquencies are, some of them, many years old and the issue of why these third-party collectors and consultants have not collected these very long outstanding debts. The question is, how much of this half billion dollars has been reduced to judgements? Do you know that?

COMMISSIONER TOLSON: Whenever any of the delinquency becomes overdue, talking about the real estate, the lien is immediately placed. I think the commentary earlier about one of the challenges that we have had a culture where people didn't believe that there were consequences is true. So if you could not pay your bill and then not see your information go to a collection agency or not see your property go up for Sheriff Sale, you might think that you'll just continue to not pay.

COUNCILMAN OH: And my concern, Commissioner -- and this pre-dates you obviously -- is that prior to you being here, that culture was allowed to occur because the City did not properly and timely collect those delinquent taxes and fees, and throughout various points in time in our city's history, there may have been a deemphasis on collecting. There may have not been a priority for that. And so the issue of how do we now get to a point where we collect those back taxes and fees and we institute a procedure that for future Administrations does not allow for these decades-old delinquencies to occur.

So one of the concerns that I have to have -- I'll speak personally as a Councilman -- is, we're going to have to vote on a budget, and while the tax collections are up, there's 23,000 appeals on the property tax, so overall we're not anticipating getting as much

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money as was hoped for for this year. We're looking at various types of promises and intentions stated by the Administration, which all adds up to me to be a tax increase. I don't see that I would be comfortable with increasing taxes if I did not see that we were collecting these back taxes.

So if there has been a City department with consultants, with third-party collectors, and at the end of it all since last year there hasn't been a stepped-up process to get these back taxes, I mean, they're so old that we should be able to collect whatever portion of it is outstanding. I personally don't know the City can do that right now. Maybe in the future, but going to third-party collectors would seem to be a way of getting in money today, right now before we have to deal with voting on tax increases by the end of this budget hearing.

COMMISSIONER TOLSON: Thank

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you, Councilman. I think that part of the answer to what you're stating is that if some of the hypothetical were our situation, we probably would all agree with that. However, we are seeing, one, significant changes in our collection activity, the money that is coming in. Two, we are utilizing the outside collection agencies and co-counsel. Three, the consequences have been increased such as the Sheriff Sales nearly more than doubling in the last fiscal year. So I think that, though you weren't necessarily asking a question, I think the statement that you're making, that some of the elements are now our reality now, so we don't have that same concern. You would not need to have that same concern, because our world is changing.

COUNCILMAN OH: Okay. Thank you.

I have no further questions, Mr. Chairman. Thank you very much.

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COUNCILMAN GOODE: Thank you, Councilman.

Thank you to this panel.

COMMISSIONER TOLSON: Thank you.

COUNCILMAN GOODE: The next panel is Kevin Gillen, Thomas Ginsberg, and Nicholas Panerella.

(Witnesses approached witness table.)

COUNCILMAN GOODE: Mr. Gillen, good morning.

MR. GINSBERG: Good morning. Thank you very much, Councilman Goode, Councilman Jones, Councilman Oh. Thank you very much for having us here today. I will start and say a few words, and then Kevin can talk about his part of our work.

I am Thomas Ginsberg of the Pew Charitable Trusts. I'm the author of our study last year that looked at delinquent property tax in Philadelphia. Thank you again for this opportunity to present our findings on this hearing about collections.

So last year we set out to understand the problem of property tax delinquency in Philadelphia, to look at the collection and enforcement practices in other cities, and to see how much of this tax debt in Philadelphia is really collectible. We did not prescribe specific solutions. We just tried to identify some of the trends and the challenges.

For the comparison in this study, we chose the core city and the 30 most populus metro areas in the country, and we added six other cities or counties with certain conditions we wanted to measure against, like high poverty. The latest data available last year was from 2011. We took it from the official documents posted online by each city, except here in Philadelphia where we took it directly from the Department of Revenue.

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I have some handouts, some copies that include some of the charts, but I'll just summarize here with some of the headlines of what we found.

Philadelphia had made some progress on delinquency collections, but its delinquency rate was still higher than in most cities, although it was mostly in line with other low-income cities. In comparing Philly to the other cities, we found that many low delinquency cities tend to notify taxpayers swiftly, as soon as they fall behind, which can keep them from becoming long-term delinquent. On harsher actions against long-term delinquency, such as foreclosure, we found that cities have widely varying lengths of time to take action, but no matter how long or short those deadlines, the key was sticking to it and making it credible.

On tax foreclosures in other cities, we found cities using property sales or tax lien sales or both to recover the money, but we found no clear correlation between any one of those strategies and the same year delinquency rate in the City. In other words, there was no single best path.

What we did find also was that most cities have installment payment plans for some delinquents to pay off their tax debt, but that high delinquency cities like Philadelphia also tend to have a high default rate on those payment plans.

We found that Philadelphia, if it used its current powers at that time fully and enjoyed a stabler growing real estate market, it could reasonably expect to collect about 30 percent of the outstanding delinquency taxes over a course of a few years. At last year's total, that came to about 155 million.

And now I'll go over a few more of the details and then I'll hand it off to Kevin.

So we looked just at the same

year delinquency rates; that is, the real estate taxes going unpaid in the same year they were due. That does not reflect delinquencies that are paid or not paid over the course of several years, a long-term delinquency.

So just on the same year delinquencies, Philadelphia had been markedly above the median at the official numbers last year, 9 percent delinquency against the median of about 4 percent in those 36 cities.

The picture changes a lot when looking just at the cities with high poverty like Philadelphia. The poorest city median has been consistently higher than the all-city median in this group that we looked at. In 2011, it was about 6 percent for the poorest cities, again, against 9 percent in Philly and 4 percent for all cities. So that means poverty and probably unemployment are also clearly a major correlation to delinquency, but we found it is not destined to be that way. Some cities with high poverty rates, including Atlanta, Baltimore, and Milwaukee, have delinquency rates that are actually closer to the median, lower than Philadelphia's.

Another correlation we saw was with mortgages. Cities with relatively fewer mortgaged homes and more free and clear homes tend to have a higher delinquency, at a median of almost 10 percent. Those included Detroit, Cleveland, Pittsburgh, Miami, and Philadelphia where around 40 percent of homes are free and clear. So there are a couple of reasons for this. First, the free and clear homeowners might sometimes just forget or become unable to pay without a mortgage company automatically paying for them, and, secondly, without a mortgage company, there is one less entity that the tax collectors can go after, and that just makes it more likely that the taxes won't be paid.

City by city, we saw Boston, Orlando, Las Vegas, and Seattle did the best when it came to the same year delinquency rate, as low as 1 or 2 percent delinquent. On the other end, Detroit, Cleveland, St. Louis among the big cities had the highest same year delinquency rates, as high as 20 percent. Philadelphia was fifth out of the list at 9 percent. Again, those were the numbers from the Department of Revenue for 2011.

After compiling the numbers, we looked at some specific strategies in the other cities and in Philadelphia. The biggest stick in any city's arsenal is the power to seize or leverage the delinquent property or vacant land in order to recover the taxes. All the cities and counties -- or counties use either the sale of the actual property or a sale of the lien on the property or both. A handful in this group also had land banks to which the local authorities can transfer title, something that is now in the works here in Philadelphia.

We found that 15 of 30 cities we looked at back then were selling just properties. Ten were selling both properties and liens, and five were selling just liens. We did not find that any one particular strategy; that is, selling properties or liens or both, was clearly or necessarily associated with higher same year tax collection rates. It is safe to say that many other factors are at play, including the health of the local real estate market and the particular auction process that's used in each place.

Philadelphia had been one of the 15 only selling properties, not liens. As you know, the Administration has been weighing this idea. Council has voted to explore this option. Our study did not delve into the many varieties of lien sales used elsewhere.

When it comes to collection actions, we found that other low

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delinquency cities tend to adhere to strict timetables and that those timetables are often set by state laws. Denver, for example, starts foreclosure after just five months. San Francisco actually may go five years. But by every indication, these cities don't have much choice but to initiate these actions, and strictness contributes to a culture of compliance.

Philadelphia has had a lot of discretion under a Pennsylvania statute dating back to 1923. This law was amended a few years ago to empower a city to begin foreclosure at one year after delinquency, but there is no enforcement mechanism in the law, and as of last year, Philadelphia had chosen not to strictly enforce this one-year deadline on itself. Then last June, Council passed and the Mayor signed a local ordinance requiring the City to start acting on this deadline.

As I mentioned, the key is

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strictness, not the duration of the deadline. And the rest of Pennsylvania, other than Pittsburgh, most counties follow a different state law, and this law carries a detailed two-year timeframe for foreclosure and collection actions, and we found that it tends to be pretty strictly enforced. There have been some disputes over this law, I'll note, and a few counties, including Montgomery, have been experimenting with a hybrid of using both laws as a basis for their actions.

Another common practice is an installment or hardship payment plan on the theory that paying even a little over time is better than paying nothing. Most cities we studied have such a plan. Only a few don't, Denver and the counties in Florida, and all of them have very low delinquency rates.

We found that the plans are usually administered locally and granted locally, but their terms are often laid down in state law. We found none that was codified in a local ordinance, except here in Philadelphia.

We also found that none of the cities published very detailed figures on these payment plans. With some digging in Philadelphia, we found that about 15 percent of all property taxpayers had been granted a payment plan of some kind in 2012. Their outstanding taxes represented about 11 percent of the total delinquency due on the books that year.

One key figure, as I said, related to payment plans is the default rate; that is, the percentage of payers who stick with the plan versus those who fall behind or stop paying on the plan. Philadelphia was estimated at 30 to 40 percent defaulting on their payment plan back in 2012. Detroit and Cleveland, also with both high delinquency rates, put their default rates around 45 percent each. New York City with a slightly lower delinquency rate was at 22 percent default. Pittsburgh was 10 to 15 percent default. We were not, unfortunately, able to find the others.

It is safe to say that increasing or expanding the number of plan payers can backfire if that default rate is also high or rising. This would be a very instructive figure to know. Philadelphia, as I said, does not publish it, but it would be helpful to know as more people sign on to these payment plans going forward.

In addition to the City comparison, we looked at Philadelphia's total tax debt working with Kevin Gillen in association with the Fels Institute of Government. Using records from April 2012, we found that nearly 103,000 tax delinquent properties owed officially at that time about $515 million. Those numbers, as we've heard already, are different today.

COUNCILMAN JONES: I'm sorry. Repeat that.

MR. GINSBERG: I'm sorry?

COUNCILMAN JONES: Repeat that.

MR. GINSBERG: We found that it was nearly 103,000 parcels. I can get the exact number for you if you'd like. And at that point, the total debt was about a little less than $515 million.

Let me be clear. Also, again, those numbers have changed, as the Commissioner has already testified. Our study in particular did not look -- in compiling these numbers, we did not look at the impact of a land bank, which is now in process, and contrary to some reports, our 30 percent figure actually did not account for the use of a tax lien sale.

I'm going to hand it off to Kevin now to explain some of the details of how we arrived at those numbers.

MR. GILLEN: Thank you.

Good afternoon. My name is Kevin Gillen. I am an economist who's currently employed as a Senior Research Consultant by the Fels Institute of

Government at the University of Pennsylvania. Thank you, Councilman Oh, for inviting us here today to testify. I presume I was invited given the past research I've done of the issue of tax delinquencies in Philadelphia with colleagues at both the Pew Charitable Trusts and the Philadelphia Inquirer.

I'll keep my prepared remarks brief and focus on the key findings of our research on best practices in property tax collection as practiced by other municipalities comparable to Philadelphia.

First, the money that Philadelphia is metaphorically leaving on the table as a result of a low tax collection rate is quite real. We found that every percentage point that Philadelphia could reduce its delinquency rate by would result in an average increase in the annual revenues of $13 million per year. If Philadelphia's delinquency rate could be lowered to be the same as the U.S. average for all large cities, Philadelphia would collect an additional $65 million per year.

When examining the best practices in property tax collection by other cities, several recurring themes became apparent, and you've heard several of them already this morning. First, early intervention in delinquent accounts is critical. Properties that are less than three years delinquent typically have a very high probability of collection given active attempts to do so by the City. Conversely, properties that are more than ten years delinquent have a very low probability of collection regardless of the efforts expended by the taxing jurisdiction to collect. Historically, Philadelphia typically waited until a property owner was more than two years delinquent before serving a delinquency notice.

Second, delinquent properties tend to geographically cluster, and delinquencies in a given neighborhood tend to beget even more delinquencies in the same neighborhood. This suggested enforcement of collections can yield the biggest gains if they are targeted at those neighborhoods that are just beginning to see a proliferation in delinquencies. Not only is the probability of collection for these accounts relatively high, but tax collection policy, if properly used, can prevent further delinquencies in these neighborhoods, which further helps to support property values and socioeconomic stability in these same neighborhoods.

Third, delinquent properties do not typically occur in independent isolation from each other, but tend to exhibit spillover and cascade effects on nearby properties. Typically we found that five delinquencies was the significant threshold for a given neighborhood. That is, once a particular neighborhood has five delinquent properties, the number of additional delinquencies tends to proliferate thereafter quite rapidly. This provides further support to the use of delinquent tax collection policy in a geographically targeted way since the biggest gains in collection are likely to be in those neighborhoods which are at this numeric threshold and for which delinquencies are no more than a few years old.

Fourth, cities which have high collection rates actively deploy both a carrot and stick policy. The carrot typically takes the form of a payment plan, which are offered to delinquent owners in hardship cases in lieu of immediate full payment on their account. If the property owner fails to enter into a payment plan or fails to keep up these regular payments, the stick that is deployed is aggressive enforcement of foreclosure proceedings, which ends when either the owner complies with the original payment plan or the property is seized and sold at Sheriff's auction.

It should be noted that to date Philadelphia has been very uneven in both its use of payment plans and the disposition of delinquent properties at Sheriff Sale.

In summary, while much of Philadelphia's 500 million plus dollars in total delinquent taxes may be uncollectible, the data suggests that a significant portion of that amount is. Relatively young delinquencies in neighborhoods that are either stable or just at the tipping point of decline are the ones that have the highest probability of collection, and the resources devoted to collection will likely yield the highest gains if these neighborhoods are the ones that are focused on.

Going forward, the best way to reduce future delinquencies is immediate and early intervention once an account becomes delinquent, and its intervention should take the form of offering the owner the carrot of a payment plan or the stick of foreclosure, both of which should be offered with sincerity, firmness, and credibility.

Thank you very much.

COUNCILMAN GOODE: Thank you.

Mr. Panerella, do you have testimony?

MR. PANERELLA: Thank you. I would like to thank this Honorable Council for the opportunity and the privilege of appearing before you today.

By way of summary personal background, I was born and raised in Camden, New Jersey. I had two concurrent professions. I proudly served the United States Army as a Special Forces/Infantry Officer for over 17 years in both war and in peace and in both the active and reserve components. My overseas assignments included Central America, Republic of Vietnam, and numerous deployments to Europe. I am both a

Vietnam and Gulf War era veteran. Locally I commanded the A Company 1st 111th Infantry up at Southampton Road, and my prodigies, deployed twice in post 9/11 actions.

Professionally, after returning from Vietnam, I attended law school. My first position was as an Assistant City Solicitor for the City of Philadelphia. After having developed an expertise in City tax matters, I passed the New Jersey Bar, resigned my position with the City, and became the City's New Jersey co-counsel, where I represented the City's interest in collecting wage taxes from New Jersey residents who generally worked for federal installations but worked within the City and were refusing to pay their lawful obligations. They formed a pre -- starting with one administrative assistant and 74 New Jersey cases, I grew that business into a national tax administration and enforcement agency that was fully integrated with my law firm. At its peak, located in Philadelphia, we employed over 250 employees and tax professionals. We operated in 14 states and had over 60 client jurisdictions. Notable clients included the States of New Jersey, California, and Oklahoma, the District of Columbia, and the Cities of Philadelphia, New Orleans, Detroit, Pontiac, Flint, Kansas City. Locally, we also were the tax administrator; in other words, I was its Department of Revenue, for the City of Chester, Norristown, Media, West Chester, and Bensalem. We were proudly endorsed by the National Conference of Black Mayors and was awarded in 1996 the Department of Public Welfare's prestigious Employer of the Year Award for our program of training and then hiring former Philadelphia area public welfare recipients.

I noted the personal background because only one of the City's co-counsels I believe is physically located -- or I'm sorry. One of the collection agencies is physically located in Philadelphia.

Some of the high points of my representation of the City include successfully litigating over 30,000 cases against non-resident federal civilian employees. This group of taxpayers had organized themselves into a prepaid legal services and lobbying organization that systematically tried to prevent the City from collecting delinquent wage tax liabilities. This group picketed my home and office, had my father arrested and tried to have me disbarred. It failed, and today there is near virtual compliance by this taxpayer group.

We initiated the first taxpayer discovery program ever mounted by the City. Most notably, this included bringing all of professional sports into tax compliance. We also conducted several regional programs such as the creation and use of regional tax returns to ease the compliance burden on multi-jurisdictional taxpayers such as law and construction firms. All of these programs were conducted without using collection agency tactics. Instead, we relied upon the judicial system to reduce our claims to judgment. In doing so, and in conjunction with the City Solicitor's Office, we helped sustain the creation of tax courts in both the Court of Common Pleas and Municipal Courts.

When we talk about tax administration, I think it's important that it's a house. The roof is tax return processing. It is supported by three pillars. They are delinquent account collections, audits, and discovery. I want to briefly touch on each.

Tax return processing: Reduced to its simplest function, this is the process of sending and receiving tax returns and accounting for all payments. It accounts for the overwhelming percentage of tax collection. Indeed, bond ratings are measured in part based on your percentage of overall voluntary tax compliance. Most of the technology that the City purchased in the 1990s and has contemplated today is designed to account and track voluntary compliance. When fully functional, it will identify non-filers and delinquent accounts and suggest possible audit candidates. It is not a useful tool in discovery, simply because it does not know that a potential taxpayer exists.

All tax enforcement efforts must be looked at as an attempt to increase the overall percentage of voluntary compliance. Accounting for and posting voluntary payments is very cost effective. Compelling compliance is both costly and time consuming. There is no magical technology-based tool or solution that can change human behavior and that can change non-compliance into voluntary compliance.

Rather, non-voluntary tax compliance is about coerced modification of behavior. It involves a forced reprioritization of how a taxpayer spends his allocated resources. I liken the process to a fruit tree. Some fruit is very ripe. It will fall off with a minimum of effort. Some fruit is less ripe and requires shaking. That shaking is what distinguishes tax administration from tax enforcement.

There are three primary tools in tax enforcement: delinquent account collections, audit, and discovery.

Delinquent account collection is the integrated collection of a known liability. The liability could be a tax, fine or user fee. Unlike the United States government, which can pursue liabilities via administrative remedies, a state and much more so a local government must rely upon virtually the same rights and remedies that any other creditor has. It basically loses its sovereignty when it files suit.

During my tenure with the City, our principal tool in enforcing tax claims was the civil litigation process; that is, reducing our tax liabilities into civil judgments. From the list of the co-counsel as it appears on the website that the City maintains, it is readily apparent that the City has made a conscious effort to move away from this method of recovery. Except for the collection of real estate taxes, none of the firms listed are law firms. Revenue recovery services, which does discovery work, does have an affiliation with a law firm. Recall the fruit tree analogy and ask yourself what, if anything, can a collection agency do if the taxpayer says no or more likely places the agency's phone number on its delete call list. Remember, unlike the IRS and some very narrow City exceptions such as with employees and board members, the City has very limited effective administrative actions to compel compliance.

To compound the problem, the City, and by extension its collection vehicles, voluntarily adhere to the limitations of the Fair Debt Practices Collection Act. That Act was never intended as to apply to taxes, and it was even an Eastern District Court that excluded water and sewer from the ambit of the Act. Nevertheless, the consumer debt industry accepted the Act's limitation because, in return, the Act virtually eliminated the statute of limitations as it applied to commercial debt, as that debt can remain on the credit report even after the expiration of the statute of limitations. Protected by taxpayer confidentiality, no such protection exists for City income-based taxes. Unless reduced to civil judgment, they expire after six years.

One of the questions in determining that large pool of revenue, the $500 million, is what portion is real estate, what portion is business or income-based taxes. You should ask what percentage of that income-based taxes goes stale, goes outside the statute of limitations each year.

Collection agencies have very limited tools to compel compliance of the payment of taxes. Again, what can a collection agency do when the taxpayer says no or, oh, by the way, never call me again, or I will sue you if you keep harassing me and, by the way, I'll add the City of Philadelphia as a co-defendant.

To extract the highest percentage of compliance, there must be a credible, well-publicized program that moves a delinquent claim from a delinquent account to an administrative notice to a civil judgment. To be most effective, that process should be seamless and uniform. My organization did that for the City. We used litigation to enhance the effectiveness

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of our delinquent account collectors. Our collectors spoke about what was happening with a taxpayer account as it works its way through our system. Our collectors never needed to resort to calling, because we generally would get calls in response to the compliance programs that we had ongoing.

Collection agencies have a lot of false bravado. It's really a lot of this could happen maybe, sometime in the indefinite future. Collection agencies neither file nor litigate cases. They cannot seek the imposition of judicially sanctioned execution remedies.

Applying, again, the fruit tree analogy, the initial contact with a taxpayer should be reserved for the City. I read that in one of the contracts, the City was paying a firm 18 percent to send out first notices relative to business taxes. That should be the province of the City to collect the easiest money. Reserved for the outsourcing should be the most delinquent taxes or accounts.

Audits: Audits validate the accuracy and completeness of a filed tax return. A credible and well-publicized audit program compels a higher, more accurate rate of voluntary compliance. The absence of an effective comprehensive audit program invites underreporting. Audits are also a good discovery, as unregistered businesses doing business with registered businesses within the City may well be City taxpayers as well.

For the City of Philadelphia, an effective audit program must extend beyond the reach of a SEPTA bus ride. I say this as one of the programs that was eliminated when I left was a program sanctioned by then Mayor Rendell and implemented by our company. We were responsible for all audits outside of a more or less 50-mile radius of Philadelphia. It was becoming a highly successful program. There is no such program today, and no distant audits are taking place. It is axiomatic that the absence of a credible enforcement program invites non-compliance.

In preparation for my remarks, I called a very noted state and local tax attorney in the City and said, What is the City doing in this area?

He said, Nick, absolutely nothing.

Discovery: Discovery is challenging the known taxpayer base with a series of programs that are designed to find taxpayers who are not registered with the City. This group is particularly heinous as the unregistered taxpayer competes with a compliant taxpayer for City-based business, and the absence of the inherent cost of City tax compliance gives that non-compliant taxpayer a distinct advantage over a compliant taxpayer.

Between 1992 and 1998, we collected more or less $50 million of new found revenue for the City of

Philadelphia from our discovery operations. Of equal importance, we created a new generation of non-resident business taxpayers. With over 20 years of compliance, those initial payments, substantial as they may well be, pale in comparison with the years of voluntary compliance that have occurred since. Most notably was the compliance program that we instituted relative to a whole industry, which was professional sports. And not only the teams, but all of the attendant support businesses that supported those teams came into voluntary tax compliance.

One of the most important elements of a successful discovery program is its deterrent effect on future taxpayer decisions to comply or not comply. For example, we conducted a program to compel non-resident attorneys and law firms to comply with the City tax code. All of those firms continue to pay taxes today, and new firms, knowing that

that's what is required and the City has maintained a discovery program that supports that, know that they have to come into compliance. Again, that's that balance between voluntary compliance and some form of enforced or coerced behavior modification.

I want to make a couple suggestions for the City to pursue. I love the City. I spent virtually my adult life and certainly all of my professional life protecting it. I believe that there are things that the City could do right now to increase its tax collections. I also believe that the City should look to change some of the execution laws that it must adhere to. Simply stated, once a civil judgment is entered, the City loses its governmental status and becomes just another judgment creditor. I think that the taxpayers deserve more and that Harrisburg could be lobbied in order to enhance the City's arsenal of collection remedies.

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One of the things I noted was when the Revenue Commissioner spoke of if somebody is going to take out a license, that person had to be tax compliant. We face that in many, many jurisdictions. So what would happen, what you have to be careful of -- this is sort of like my practical, in-the-dirt suggestions. If the contractor wasn't compliant, the owner went in, or if the contractor had to go in, he sent his sub in. You have to make sure that you look at the whole tree in order to make that program work.

I mentioned if you want to raise some revenue, remember, we talked about the writing off of business and income-based taxes? Have a program that reduces them to judgment as they reach near the end of the fifth year. Sell those judgments. You no longer have any issue relative to taxpayer confidentiality because the judgment is a public record. That's instant revenue for the City, because you can sell those as opposed to just letting them dry up and become expired by the statute of limitations.

The voluntary disclosure of unregistered taxpayers, that's incident to the discovery program. I want to bring up two points. The City only has a six-year look back. We faced this issue in the Rendell Administration, and basically when we had sort of an amnesty program for discovery, we went back six years, but what we said, and certainly was the policy of the City through 1998 because we had basically done a mass publication and notified everyone and all of the basically state and local tax practices, what we said was, we are going to go back six years. You had some sort of an interest and penalty waiver, but then we said but from here on out, we are always going to go back to that base year, that six years. So we were collecting ten years worth of liabilities. We did not reward somebody for waiting. If you only have a fixed six-year look back, you sort of invite a person to pick and choose. Of course, they're playing a risk, but they pick and choose when they want to come in and settle.

The City also has a no audit pledge. In other words, if you come in for your pre-designated six years, pay the liability, we won't audit you. To me that's a concession too far. Why would you give up the right of audit if you -- to me it's just, as I said, remember the movie A Bridge Too Far? It's a concession too far.

A lot has been talked about regarding delinquent real estate taxes. You have a statutory redemption period relative to owner-occupied dwellings. Why? A mortgage company doesn't have that. If you -- now, here's the practical effect. Whatever process you use to make a determination on what properties get sold and they go through this laborious system, which it was testified here today is so long and cumbersome and everything else, but ultimately a property gets sold. Whoever buys that is at risk that the owner can come in for -- I think Cindy White says it's 12 months, the Sheriff's website says nine, but it's a long period. He is at risk to make any improvement during that statutory redemption period. It renders the property less valuable. It renders that sale to maximize the recovery because of that risk factor. You should look at doing away with that. Again, private industry does not have that.

You talk in terms of -- and I've heard it exclusively here -- that the remedy for delinquent real estate taxes is Pavlovian Sheriff Sales, right? Pennsylvania is unique and different than New Jersey, for example. You can personalize the liability. You can leave somebody -- you talk about sequestration.

I would have some concerns if I was in negligence -- if I was in the negligence section of the City Solicitor's Office. If one of my agents is collecting money, then I'm prioritizing what gets paid and not paid. Somebody has a negligent case, a slip and fall. Is the City in that chain of liability because it's collecting the money?

What we did, when we had a situation where you had a non-resident landowner, particularly if he lived in New Jersey, what we did is we sued personally that individual on the delinquent real estate tax, reduced it to judgment, took it to New Jersey. Well, guess what? That has a chilling effect, because suddenly now that property, his home, is at risk in and out of state.

So what I'm getting at, there are programs that can be mounted outside of a real estate sale in order to collect delinquent real estate taxes.

I'm not sure that you can do

this. I'll cover it very quickly. I had mentioned to these gentlemen that in order to compare cities and rates of recovery, you have to look at really the status of how properties are owned. So, for example, in New Jersey, there are -- everybody has and would be familiar with the concept of tenants by the entirety. In Pennsylvania, that's envolee (ph). You can't break it. In New Jersey, you can. What happens is, you take a judgment. Remember, I brought that real estate judgment from Philadelphia over to New Jersey -- and I did this. We did it for years. And what we did is, we sued. The wife wasn't liable, but what happened is, we could become a tenant in common subject to a right of survivorship with the wife. Our taxpayer is now out of the loop. Beyond that, that loss, that breaking of the tenancy is a technical default on his mortgage, because there's been a change in ownership. Guess what? We've gotten somebody's attention and we didn't need to burden the Sheriff of Philadelphia County in order to get our tax paid.

There are orders to pay. Now, here is where I can cover these -- there are orders to pay. Essentially, a judicial order that if all else failed, we bring somebody before a court. You have discovery and you say, Okay, these are your assets, these are your liabilities, this is what you make, these are your expenses, you can afford to pay X. You don't have that remedy here. You should.

Now, what happens is, in an extreme case when somebody doesn't pay a judicial order, well, that's civil contempt. We actually had to have somebody arrested once in order to compel compliance with a court order.

There is nothing wrong in asking Harrisburg to say for all taxes generated by cities of the first class, that we would have a right to a wage garnishment. Okay? Get a judgment. You say, Oh, my God, you're going to garnish somebody's wages. If somebody -- you have people live side by side. One gets 1099 income, the other works and gets a W-2. The W-2 has been withheld. The guy who worked and gets the 1099 is not withheld. But it's the same remedy, right? At the end of the day, it's the same thing. They should be held -- each party is getting the same level of City services. You should ask for that remedy from Harrisburg, say, Hey, guess what? We're not a stepchild. We want to be self-sustaining. Help us to help you.

Travel audits: I went to -- we audited, as I mentioned, some of the list of my clients. We audited for those client jurisdictions. The City wasn't. The City doesn't now. A successful discovery program invites compliance by remote taxpayers. When state and local practitioners look at where they allocate revenue, boy, isn't it good to allocate it outside of a high tax jurisdiction, ala Philadelphia, as opposed to a lesser tax jurisdiction. If there's no credible audit program, it invites underreporting, and the City doesn't have that now.

Interstate tax enforcement: You heard the Revenue Commissioner mention with pride, and I agree, that there are exchange agreements with the state and with the federal government. They are domicile-driven databases. In other words, what the City is getting is taxpayer information with anyone filing a zip code with a 191, because that's Philadelphia.

When I represented the City, I represented as the tax administrator all of the county seats and the State of New Jersey, and we had an information exchange agreement that allowed us to share data with each client jurisdiction. It was immensely beneficial to Philadelphia. It was a significant aid in discovery and in audit selections.

The City should have something like that now. As she indicated, you don't.

I have to tell you, the Goode Administration was instrumental in helping resolve the issue of federal civilian employees, the non-resident federal civilian employees, and bringing literally a whole class of taxpayers into compliance. There are elaborate rules that deal with allocation of income by generally a state or federal worker in terms of work that's performed outside the City of Philadelphia. The City is like a magnet, though. It is drawing in a similar amount of state and local workers. Absent professional sports, there is no program that really looks at that non-resident coming in, and it does not audit it. That's even worse. But federal civilian employees, state employees who come to Philadelphia should be subject to our wage tax because they're working here. That should be an audit priority. I don't think that program exists today.

I have been a very strong advocate for law firms. I don't have one now, so I think I can speak. I owned both. Within my law firm, I had a delinquent account -- an account representative section. But, again, there's a limit to what, if any -- what a collection agency can do, and you should -- I believe the mix should include law firms that can litigate on behalf of the City.

They are my prepared remarks. If you have any questions, I invite them.

COUNCILMAN GOODE: Thank you for your testimony, Mr. Panerella. Interesting enough, the resolution did not necessarily deal with business and income taxes, but I thought the testimony was so compelling that we should put it on the record anyway, which leads to my question for Mr. Ginsberg or Mr. Gillen or anyone who wants to answer the question.

As you look at comparable cities and you examine delinquency rates, if you look at tax structure in terms of what percentage of all tax revenue comes from property taxes, I believe I heard in your remarks at one point you talked about people with stricter enforcement, and I think you said because they have to. So, in other words, if someone is getting 60 percent of their revenue, 60, 70 percent of their revenue from property taxes, which a lot of cities rely more upon property taxes than business income taxes, does that force them to be stricter?

MR. GINSBERG: In each of the cities we looked at -- we looked at 30 major cities and then six additional ones for a smaller group -- we did not do an analysis of the structure in each place, not methodically. With a few that we happened to notice -- and we did try to look at the amount of the revenues that go to a school district versus a city general fund, and in that particular case, we found that Philadelphia was at the higher end. A higher percentage of its revenues were earmarked for the School District than other cities do. But as for general tax structure, it was a hard one. We didn't actually get at that. From other analysis that we've done apart from this report, I can say that Philadelphia does depend less on property tax than some other cities do. Philadelphia has a wider mix. It has three major income, property, and sales tax in different proportion and a higher reliance on wage and income taxes than other cities do for general operations.

COUNCILMAN GOODE: And do you think that possibly can affect property tax delinquency, also considering the fact that other jurisdictions have an actual separate school tax?

MR. GINSBERG: Again, unfortunately, it's something we just didn't nail a definitive answer on. It

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wasn't part of our study to answer that. I think it is fair to say that when you have a big source of money coming from one particular tax, you're probably going to pay attention to it as part of a total spending. But our study didn't answer that question specifically.

MR. GILLEN: I think it's an excellent point that the Councilman makes. I get asked all the time why exactly do you think Philadelphia has such a high delinquency rate, and people ask what are the specifics? Is it the fact that our Sheriff is independently elected as opposed to being appointed by the Mayor or our foreclosure process in Pennsylvania is not as well defined as, say, in Texas or what-have-you? I'll say, Well, ultimately at the end of the day, as you well know, Philadelphia is unique among cities in that it relies disproportionately on wage and business taxes as a primary source of revenue. Property taxes I believe constitute only

15 percent of all revenues.

So given that the City has finite resources on which to collect taxes, I would imagine it's going to disproportionately devote those resources towards those revenue streams which offer the biggest payoff. So the incentive actually is just not there because of the unusual composition of our tax mix. And as you know, it points up to the bigger issue of broader tax reform in Philadelphia, of shifting away from wage and business and sales taxes and more towards the property tax.

COUNCILMAN GOODE: Mr. Panerella.

MR. PANERELLA: When you look at Philadelphia, you have to remember that it's the county seat. We did a study. Over 30 percent of the real estate in Philadelphia is tax exempt because it's supporting federal, state, and local institutions. There are so many higher education facilities. What happens is, Philadelphia is a regional asset. Those properties are regional assets. When you rely on real estate tax, what you're doing is you're passing a disproportionately higher burden to the citizens of the City of Philadelphia to maintain those regional assets. So I think somewhere along the line somebody figured that we were better off using an income-based tax structure in order to address that disparity, if you will. And, remember -- and the other thing is, if you're going to consider real estate, the taxes, you also have to consider U&O taxes, because at the end of the day, that's actually a business-oriented real estate tax.

COUNCILMAN GOODE: Thank you.

Councilman Jones.

COUNCILMAN JONES: I'm really beginning to worry. My colleague suggests that I may become a little geeky because I actually was enjoying your guys' testimony.

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MR. GINSBERG: Join the club here.

COUNCILMAN JONES: I'm making the crossover, I guess, Councilman Oh, to like this kind of stuff.

But you in particular, Mr. Panerella, you had a smile on your face as you were going through the various processes of collection. I've never seen somebody approach this with such glee.

MR. PANERELLA: Listen -- I said listen. It was a privilege to serve, you know.

COUNCILMAN JONES: I see, and thank you for your service.

A couple quick questions. Can you drill down on the issue of travel audits and give us a better clarification on what you mean.

MR. PANERELLA: Okay. I read that the City has delinquent taxpayers in all 50 states. I'm sure that if you were to look and do a scan of all zip codes, you would find them all over the United States.

When we approached the Rendell Administration about this issue, we said, Well, what is the City doing now? We don't want to do what the City is doing. We want to do what it's not doing. It ended up that the travel audit radius of the City of Philadelphia was a SEPTA bus ride. Okay? That's it.

If you don't audit, you invite underreporting, especially when a state and local tax practitioner knows he's not going to be audited and he can allocate money outside of a high tax jurisdiction. If you do not maintain -- remember, tax compliance is about coercion. At the end of the day, that's what it's about, and they are afraid of not complying. So if you don't have a compliance program, then it invites non-compliance. You need to audit nationally.

It's very difficult for the City to mount that type of operation. It should be outsourced. The City has no outsourced entity doing that, to my knowledge. And, again, relying on what a very noted tax practitioner told me, and he has many, many out-of-state clients, the City does not audit again outside that SEPTA bus radius.

COUNCILMAN JONES: And then the second piece in your testimony, tenants in the entireties, how you manage to circumvent the marital partner. I was intrigued about that process. I don't want to do it wholesale because then I really would be republican, but I was intrigued.

MR. PANERELLA: You own a business. You're a taxpayer. You go delinquent. But guess what? You live with your wife in the suburbs or in New Jersey, right? You commute to work. What we did was, we took the real estate judgment, reduced it -- we took that in rem liability, made it a personal liability, which you can do here, and then took that liability over to New Jersey. In New Jersey, the laws regarding tenancy by the entirety are different. Here you cannot -- unless you have a judgment against husband and wife, you can't break the tenancy. In New Jersey you could. It's the same right of survivorship, but what happens is, the judgment creditor becomes a tenant in common with the wife --

COUNCILMAN JONES: So at the point of sale.

MR. PANERELLA: -- who is a non-taxpayer, and they play Russian roulette as to who dies first. But the incentive is --

COUNCILMAN JONES: Please don't smile when you say that. It's scary.

MR. PANERELLA: Listen, when you don't pay your taxes, it did not lessen the cost of government, did it? It just shifted a higher burden to those who do comply. And if you're going to impose a tax, if you're going to raise

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the tax, then isn't it incumbent to say, Guess what, we are doing everything we can in order to collect the taxes that we've already levied. So if you don't want to levy them, don't. But at the end of the day, if you're going to impose a tax, then make sure it's administered fairly.

So my point is, then what happens is, if you become a tenant in common with the wife, well, there's a mortgage. If you look at the judgment note, it will say if there's a change in ownership, it's a technical default. Bingo, they got to comply.

COUNCILMAN JONES: Okay. It's something we should look at, and we should have some limits on it, because I think, you know, primary resident and things like that -- if it's an investment property, that's one thing. If I'm living there -- we differ on some of that, but I just have to put some safeguards in there for common folk. But it is intriguing. I'm just going to say it, it's intriguing.

MR. PANERELLA: What you're doing is -- remember, I was a Green Beret. We were taught to think outside the box.

COUNCILMAN JONES: No doubt about that.

MR. PANERELLA: Seventeen years.

COUNCILMAN JONES: Just a couple other -- the triggers, the early triggers, to let people know as soon as out the gate. But one of the things I would ask -- and this is for the entire panel. I happen to take a trip a couple of years ago up to the Commonwealth of Pennsylvania, and their continuum of collection practices and when they go after defaults and what the progressive means of collection are. What was also interesting was how they targeted underreporting, underpaying segments and identifying those segments and with

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particular strategies about how to go after them. One of the questions was if it's a doctor's office and what licenses can be attached. But how do you identify -- what do you think we should be doing to identify people that are willing to pay if contacted, but also people that -- at what point should we do what we did under the Rendell Administration, sell off the bad receivables, get a payment? Where are the levels of those two extremes? So, one, when we identify -- they called them rabbits or people that are particular communities, whether it's dentists, whether it's lawyers, whether it's this batch of folk. How do we identify them and develop a customized strategy to collect?

MR. PANERELLA: One, you have to make sure -- we did this for my client jurisdictions. One is, if the state does an audit, you bootstrap it. And what happens, if it changes and it's -- if it does an audit change, then you should make sure you're getting that information if it's a Philadelphia-based taxpayer.

You have to maintain a good personal relationship with the state if they've done the audit, because if the auditor comes back and says, Guess what, this individual would have exposure to Philadelphia, but it wasn't necessarily registered in Philadelphia, then that was -- what I'm getting at, I didn't do what you're asking. I'm sure that if the City is spending a lot of money on its technology, then as my primary remarks said, it should be able to detect audit candidates. I would ask -- I would bring them back here and say, Okay, tell me in this new system -- listen, the taxpayer 2000 system was designed to do everything that the new one is supposed to do, right? And also be -- it was taxpayer 1999 to 2000 compliant. It was an Anderson Consulting system. It was great. I used it in Detroit.

So if it's gotten better, then it should be able to sense underreporting. That would be my short answer to you. That could very well be -- remember, technology isn't going to modify behavior, but it is going to give you some audit criteria. And if you do that, it's important to publicize everything you do. It's not a professional boxer saying, Guess what, you're going to pay. It's actually saying, Here, this is what happened to this taxpayer, right?

COUNCILMAN JONES: It reminds me of when I was in the playground, they said, Make your first fight notable and then you won't have to fight so much.

MR. GINSBERG: If I could just make one point on your question. What we found in other cities and in analyzing what we did with the numbers here was that there is a difference between the new delinquencies and the long-term ones in how you approach them and how you look

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for leverage and methods to go after that. And going after the new ones very quickly with notifications and aggressive phone calling or mailings and those strategies are different than you would use for the long-term ones. And if you imagine the delinquency is this giant pot and it's being fed from two different sources, reducing one is very important, but if the other one keeps filling in every year with more delinquencies, if those young ones, you let them become old, that just keeps that one growing.

COUNCILMAN JONES: Because I remember selling off -- I didn't do it, but the Rendell Administration sold off about 20 million, or what was it? They got a one-time payment.

MR. PANERELLA: Right. And, remember, I was involved in that. That actually had a AAA from MBIA, if you recall.

I want to make two points. There are cycles to tax compliance or non-compliance. Like, for example, if you do a discovery program, it has to be done every ten years.

You know, in the Army, you look for centers of gravity. If you look at a battlefield, who is the -- what is the thing that you most want to dominate in order to win the battle? The center of gravity in dealing with a sophisticated business environment is the state and local tax practitioner. It's not the taxpayer. It's the individual that the taxpayer goes to for advice.

You mount credible programs, publicize that to the state and -- to the SALT community, you have a collection multiplier.

MR. GILLEN: You had mentioned the Rendell lien sale the number of years ago. Those delinquent accounts are actually still in the data that we analyzed as still being delinquent. We actually showed the distribution of delinquent accounts by number of years delinquent, and there's a big spike right around 1997 or so, which is most of those accounts. So it didn't exactly work out very well.

COUNCILMAN JONES: Clarify that. Did it work out for the City getting the advance payment or did it work out for the collector trying to make good on those bad debts?

MR. GILLEN: They're still delinquent, is what I mean.

MR. GINSBERG: The City did collect a fair amount of money then, but you have to remember that that was a securitization of the liens at that point. That wasn't actually the removal and the resolution of all those liens. A lot of properties remain delinquent, and that's one of the issues with securitization versus a lien sale.

MR. GILLEN: As far as targeting goes, we came up with a scoring system in our report to analyze the probability of collection. Every account got a score. So based upon that scoring system I mentioned, you could use smart geographic targeting, if you will, to maximize the probability of collection.

In terms of just dealing with individuals, I had mentioned that most municipalities who have a low delinquency rate have the carrot and stick approach. Psychologically, we found anecdotally from talking to the collection agencies, they said it's psychologically very important that even no matter how hardship of a case you are, to get on a payment plan and at least be paying something. Even if it's a nominal amount, you want people committed to the fact that they are a taxpayer, they're still consuming public services, they have to pay something. I know that in New Jersey if you'll hear -- I believe Allan Domb was invited to testify. He's a big advocate of tax lien sales. He'll mention that the tax collection rate in places like Newark and Camden and Trenton

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is as high as 96, 97, 98 percent. That doesn't mean that 98 percent of all taxpayers in Camden are current on their accounts. It means that 98 percent of all households in Camden are at least paying something every year, even if it's just a nominal amount.

Psychologically, it's very important to have people committed to their civic duties. Again, even if financially it may not be a meaningful amount, psychologically it very much is, and of course that incentivizes them to keep maintaining their property and stay in the City.

In regards to stick or foreclosure, if you can understand, many officials we spoke with are reluctant to use that because it's unpopular. As one elected official told me, his personal nightmare is grandma on Fox News at night being evicted from her home by the City, saying the City is using her delinquent account as an excuse to gentrify the

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neighborhood. But we found in municipalities that have -- it's like the nuclear options. If you have the credibility of foreclosure, you actually don't have to use it that often. As long as people -- you work with them to get them on a payment plan that they can pay, and as long as they stay on it and they believe that you will foreclose, chances are you actually won't have to go through the proceedings that much. And that's good for the City, because foreclosures themselves are an expensive process. You have to get the Sheriff and the deputies to evict people. You have to get lawyers and judges involved. Much better that people just pay their bill, right, even if it's a fraction of it?

So, again, the credible threat of foreclosure is actually much more powerful than the actual active use of it over the long run.

And, lastly, I'd also suggest if you can make the delinquent account file publicly available as part of the City's open transparency, there's plenty of watchdog groups out there in academics and grad students that can analyze that data for you and produce research that could help inform the City.

COUNCILMAN JONES: Thank you, Mr. Chairman.

MR. PANERELLA: I was involved in that tax lien sale. The Administration and City Council was very risk averse in 1997. So what it did was, you recall, it first had a program, said, Okay, this is the pool. Anybody who comes in and settles, guess what, we're not going to -- settles and makes a payment and enters into a settlement agreement, well, we're not going to -- you're not going to be in that pool. And then I don't know who, but a lot of properties then were cherry picked out of the pool. So it ended up, you see -- I mean, if you're going to do it, you have to have the political courage to put the properties in, because it ultimately affects the value of the pool, right? And it was like you can't be afraid of Fox News if you're going to do it, because that one regrettably -- I think bringing those 30,000 people in New Jersey to tax compliance, maybe we sold two or three homes, but there's an axion, what you do to one, you do to all to a known taxpayer group. So if I'm going to actually go to Sheriff Sale, the best thing I could do -- if you were going to have a Sheriff Sale, it should be on Fox News, because everybody will see it, and then that's the deterrent effect. And I think that's what he's saying, but that's really, at the end of the day, that's what you want, because free news is much cheaper than trying to go through the Sheriff Sale process.

COUNCILMAN GOODE: Any other questions?

Councilman Oh.

COUNCILMAN OH: Just one

question. Thank you. Looking back to last year when this news broke about the half billion dollars in delinquent taxes, in your mind, any of you, could we have collected some of that money by today's date, and if so, how much could we have collected?

MR. GINSBERG: I'll state -- we're just going off of what the Commissioner has said. It sounds like they have been whittling down that total, but I'll emphasize that what our research showed was a very high proportion of this was old debt, which led us to conclude that only 30 percent of it or so was collectible. That means that if they are making progress on some part of that 30 percent or on some part of that 70 percent, then that is some progress. But 70 percent we found is uncollectible, or nearly that much. It's just old and really hard to get at. It's money or debt that's spread out all over the region and in perhaps the country.

MR. GILLEN: Even if it's collectible, the cost of doing so was so high relative to the actual value of the property, the revenues you could get, that it actually would cost you more money to collect than what you would receive.

MR. GINSBERG: I'll just make one other point too. Philadelphia is, when it comes to the collection rate being relatively lower, Philadelphia we found was in line with some other poor cities. There are other factors that are at play here. The real estate market, the poverty in the City, all of these things play into it.

COUNCILMAN OH: Your report in your testimony is that about $153 million is collectible. Is that correct?

MR. GINSBERG: Correct. Correct. That's what our analysis showed based on the numbers in the delinquency file as of the spring of 2012.

COUNCILMAN OH: Okay. And your

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report, however -- and I don't think that's part of your report -- is when that can be collected, but certainly every year you don't collect it, less of it becomes collectible.

MR. GINSBERG: Right. We did an analysis that was based on interviews and methodically collecting impressions from tax collections of what constitutes collectible, what is the characteristics of a tax debt that makes it collectible, and we didn't put a timeframe on that. It's fair to say that we're talking over a period of some years, not in one year.

MR. GILLEN: One of the factors that actually determines the probability of collection is how large penalties and interest are relative to the actual delinquent debt. Once P&I starts to pile up, people become very disincentivized to pay, and collection becomes that much harder. But, again, one of the recurring themes I think that we found out is that it's actually much more cost effective to prevent people from going delinquent in the first place than it is letting them go delinquent, then trying to collect the back taxes. So going forward, I would suggest devoting just as much resources to that as trying to collect and identify what is already owed.

COUNCILMAN OH: Yes. Thank you. So what I'm getting out of this panel -- and I agree and appreciate everything you've said -- is that collecting the taxes that are collectible would seem to indicate that they should be taken to judgment and pursued right away, and that there's a question of whether or not we are taking these delinquencies to judgment and trying to collect them as quickly as possible. That's not any one of your testimony. That's what I collectively get out of it, primarily from the testimony of Nick Panerella. If I am mistaken, you could correct me in my impressions. Thank you.

MR. GINSBERG: If I could just

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add, in our research we didn't look at the actual numbers, but the City does file judgments and does convert some of these in rem to personal judgments. It's a different process. It requires lawyer time on behalf of the City or a contractor to do it, but the City does have a number of personal judgment cases in process at any one time.

COUNCILMAN OH: Okay. Thank you.

COUNCILMAN GOODE: Thank you, Councilman.

Thank you very much.

MR. GILLEN: Thank you.

COUNCILMAN GOODE: Our next panel is Darrell Zaslow and Robert Zuritsky.

(Witnesses approached witness table.)

MR. ZASLOW: Good morning, Mr. Chairman, members of the Committee. Councilman Oh, thank you. My name is Darrell Zaslow. I am legal counsel to

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HAPCO, the Homeowners Association of Philadelphia. Victor Pinckney, our Vice President, and Harvey Spear, our President, send their regrets not being here today.

Initially, if I may, allow me to -- here's Mr. Pinckney, if he can come sit. He's walking in, I see, as I begin speaking.

Initially, we would like to offer our appreciation to Councilman Oh and to this committee and to Council for convening this hearing in the first place. One of the significant problems of government, from our perspective, is the failure to follow up after an issue has passed out of the headlines, and your determination to not allow this critical issue of uncollected revenue to pass with talking about it but no action is much appreciated and really should be recognized by the public, your good efforts to try to solve this problem.

The resolution references

hearings and proceedings back in February of 2013, a year ago. We had the privilege to sit in these very chairs one year ago and discuss this exact problem, and we proposed at that time as one component of this matter -- only one; there are many obviously -- the legal concept of sequestration. Those of you that know me and know HAPCO, you know that we have been trying to champion this as a vehicle to implement real change for some time, and we will renew that suggestion today.

The resolution which Councilman Oh introduced further discussed the appointment of a Chief Revenue Collections Officer. I want to tell you just from our personal experience that you are here on a fact-finding mission, you want to know what's working and what is not working. When our initial discussions regarding sequestration as a potential vehicle were presented to City Council, members of City Council, department heads, it was a voice crying out in the wilderness. We had no success really, because every one of you, everybody in the government is busy with a lot of things and it's hard to branch off and do something different. It took one person who, Mr. Knudsen, was appointed to that position. When he received a memo that we prepared -- you have a copy of it attached to your -- a copy of our testimony today -- within a week Mr. Knudsen was on the phone with me saying, You come down, discuss it with us, tell us what it's about, we had something 20 years ago that we did, and convening everyone in the same room at the same time who had something to do with the issue, and that's what's critical, is to gather all the players from all the various departments. And of course you know that, but I draw it to your attention that Mr. Knudsen was able to accomplish that.

Now, as to the sequestration

concept itself, it's very gratifying to hear the Revenue Commissioner talk about the success of the program, that they have managed to bring in nearly $3 million in revenue because of the program. And if I understood her testimony correctly, that is without firing a shot. That is without appointing someone to go to court to collect the money or manage a property. That is just telling people, threatening them we will do this if you do not comply, and it brought in $3 million.

It was 148 properties, is what I heard the Director mention, the Revenue Director. Also impressive that they've accomplished that. When I look at the Pew study, which was so magnificently in color laid before us today, that there are over 102,000 delinquent properties and we have managed to perform sequestration on 148 properties out of 103,000, the number is staggering.

I would like to suggest to you

again that sequestration be implemented on a much larger scale. The Revenue Department is busy. The Law Department is busy. The Law Department is cautious, as they should be. They're doing what they need to do, but it's not exactly the Revenue Department's bailiwick to come up with a new large program to pour in all the properties and let neighborhood community groups under the auspices of City Councilmembers look at every delinquent property in your districts and put your heads together and say, These 250 properties should go into a program of sequestration.

Just to remind us of what it is, the City has a sequestrator, like a receiver, who is appointed, with full power to collect the property's rental value, either from the owner if it's owner-occupied or from a tenant if it's tenant-occupied or to put money into a property, a modest amount of money, to make a property habitable and then rent that property out, commercial or residential. The owner pays for everything, every dollar.

I heard the really so enlightening testimony of Mr. Panerella. I'm not sure if he's still in the room. Brilliant in his knowledge of these topics. He raised the one issue which is an issue that needs to be addressed on sequestration, and, that is, the potential for liability. We want to be careful about you being the owner of properties, which is why foreclosure can be dangerous. But, again, the statute back from 1923 provides for that. The City has the ability, like anyone who has an interest in real estate, to apply for insurance policies, not at the City's cost, at the cost of the owner of the property, because the owner doesn't get the property back until every dollar of delinquent tax, every dollar of penalty, every dollar of interest, every dollar of management fee, every dollar of maintenance cost, every dollar of insurance cost is all paid back to the City of Philadelphia. If it takes 50 years to do it, the owner is not going to see their property for 50 years. Plus the City has an opportunity to set the level of rent.

You could take properties that you have sequestered and you could say, This is a commercial property, it could be -- the rental value could be $5,000 a month. We'll rent it for a thousand dollars a month and give some entrepreneur the ability in one of these neighborhoods to get in on the ground level and start some viable commercial enterprise. We commend to you the opportunity to think further about sequestration.

I also appended for you today a brief review of the Pennsylvania statute which allows creation of the land bank. The land bank is a natural mesh for the sequestration project. The land bank statute allows the land bank board to manage interests in real estate, not just owning real estate, but all kinds of estates and interests in real estate, meaning a rental estate as well. So to have a sequestration concept poured into the land bank for us is a no-brainer, and we commend to you, Councilman, that somehow it be made to happen.

You know us, we are here constantly. We are prepared to serve. We're a non-profit organization. We are looking to serve and help our city. We're looking to lower property taxes for property owners. We believe that this can accomplish something.

His Honor, the President of City Council, had a fanfare, a very interesting idea to have 1,500 new housing units created. The cost of it seems staggering. I saw hundreds of millions of dollars being mentioned as the cost of that. With sequestration, I could get you 1,500 properties within a month of getting the program rolling, and you could deal with those properties, take the low-hanging fruit, which is the right word to use, which the Revenue Department collects on its own. You don't have to put that in the sequestration land bank. Let the Revenue Department collect with a letter the money that it can. The hard properties, the hundred thousand properties, the properties which Councilman Oh says, Well, you mean to tell me that we've got a half a billion dollars, but most of it we're never going to see, you could take every property that is delinquent and put it into the program, evaluate the property as to its ability to get back onto the market, residential or commercial.

So we commend that. We will probably commend you again if you will somehow assist us and point us in the direction to make it happen. We're ready to do that.

Just a few other points, because I know your time is late and you've been very patient with all of the testimony.

We've talked about the state-of-the-art delinquency data warehouse case management system. Councilman Oh, your resolution specifically says, What is going on with that. I see in the testimony today that hopefully there's going to be an award of a contract in April, and it may take a year or a year and a half after that until this is finally up and running. It's so critical. You don't need me to tell you that or anyone to tell you that, but it has to be done. And if you're looking to say what's the problem, the inability of all of the City agencies to mesh with each other and interlink is a large component of the problem. I'll give you a very simple example, could have saved us a hundred thousand dollars or some number. I don't know what the number would be.

Just by having a linkage of systems, the Revenue Department did a fabulous job in notifying all the owner-occupants of the City about the LOOP program. Beautiful letters, beautiful colored brochures, an envelope, and a stamp. They do studies, how much does it cost to send a letter, how much was this envelope. If it was a dollar or less, I'd be surprised if it's less than a dollar. The problem is is that every rental property owner in the City also received the same notice. I have a little stack here. This is just one little stack that I had laying on my desk running in here this morning. But with a cross-referencing, property owners, landlords are required to have a housing license. The purpose of the housing license is for you to cross-reference who we are. With the cross-referencing of housing license properties and not housing license properties, you could have avoided sending this one dollar letter to every landlord in the City. We got them by the mountainful, and it's just really -- it doesn't apply to landlords, because it's only for long-term owner-occupants, nothing to do with a person who is renting out their property. So why we wouldn't have a system with the push of a button which spits out these are the people with housing license, they're not owner-occupied. Just one example among many examples.

The same concept with a housing license, with any license, can be applied to cross-reference and see who is who in the City. If you know who a property owner is, if you have a PGW bill in one name and the deed in another name, it's a no-brainer. It's a tenant-occupied property. Go after that property owner who is renting their property without a license.

The City is losing revenue for

the license. It undercuts good property owners who pay for the license. There are myriad instances across every discipline in the City. Every little business in the City has the same issue that with cross-referencing we could solve problems and bring money in.

And, again, this is nobody's fault. It's the fault of old computers and busy people in the City and cutting staff and everyone is working double time to try to make up for it, but it is a solution.

Councilman Oh, your resolution wants to know what the status of matters are, and I since remember the number of $29 million, that all these improvements were going to bring in $29 million. I have no idea if it happened or it didn't. I see here some numbers that have been mentioned. If you want to really know what's going on, you want to see the data, the real hard data of what the numbers are.

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The increases are very impressive in some areas. The Revenue Commissioner's testimony regarding an increase of 200-some percent on this kind of revenue and 245 percent is all very impressive, until you get to real estate where it was 12 percent. 200 percent, then 100 percent, 245 percent. Look at the Revenue Commissioner's fine testimony. You'll see that the increase -- wonderful that it's an increase. Twelve percent and other things are 100 percent? Something needs to be done, which brings us back to the new bold thinking, something different. What has not worked for the last 50 years is not going to work this coming year either. We are not all that smart to make it happen. A new program might have that ability to do it.

So I would suggest to you that you look over the programs that were mentioned a year ago as producing money by this June. Sequestration was one, liquor by the glass, cooperating with the state. A lot of overlapping revenues between the State and the City. And the State, from my understanding, was enthusiastic about saying, Yeah, we'll give you our data on who is paying us and how much, and then take a simple look at what they're paying the City to see if it matches. If it doesn't, then you know that there's people who are avoiding their taxes.

And one last item. You talked about the modification of the collection of use and occupancy. I have no idea where that stands, to have owners pay or collect the U&O tax instead of the tenant. I'm not sure if that ever saw the light of day. Just so the record is clear, we are against that concept of forcing owners to become tax collectors of U&O for tenants.

That is our testimony this morning. I thank you very much for your attention and, again, compliments on trying to get to the bottom of the problem.

Thank you.

COUNCILMAN GOODE: Thank you.

Mr. Zuritsky.

MR. ZURITSKY: Good afternoon, Councilmen Goode, Jones, and Oh, and thank you for having this hearing. Robert Zuritsky. I'm President of Parkway Corporation, an 86-year-old business proudly headquartered in our great city, and I'm also here representing the Philadelphia Parking Association, which is -- we represent the majority of the private parking operators in the City, which consist of about 200 parking facilities and about 2,500 terrific employees.

History of taxes on our industry, the parking industry has a history of being the highest taxed industry in the City. We are taxed 20 percent of our gross. That was increased 33 percent in 2008. We also have a

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tradition of not being audited in the City. And since I have been a professional in my company, which is over 25 years, we have not been audited, which is an amazing thing. The City is anticipating some $74 million, $73 million from the parking industry and they don't -- they haven't been checking at least until -- they haven't been checking as long as I've been a professional in this city.

When the tax went up in 2008, the City was anticipating something like $76 million, a 33 percent increase in the tax. They did the math and it came out to $76 million. That year they collected I think roughly $70 million. That was at the beginning of a recession, which business was hurt, but, again, I think the fact that there is no auditing in our industry also hurt their efforts.

Since that tax increase, real estate taxes have gone up in 2010, 2011, and '12. Use and occupancy taxes increased 19 percent in '12 and 16 percent for my company in '13. Use and occupancy taxes are now roughly 80 percent of the real estate taxes that you pay. That was traditionally 55 percent. So the tax burden has grown dramatically, especially on our industry. The parking industry is supposed to pay 100 percent of the U&O tax regardless of the occupancy of our facilities, unlike other commercial real estate. So we have really been singled out pretty dramatically.

The impact of lax enforcement by the City impacts the City in a number of ways. First, the City I think, I believe, needs the money. So bringing in those -- auditing and checking these companies would bring in more money, I believe.

Second, the lack of enforcement breeds a culture of lawlessness where operators don't feel that they're going to be caught, so why pay all the taxes.

The impact on the parking industry has been devastating. These are two books from 2010 that some individuals from my industry went out and found 165 parking facilities that weren't licensed in our city. I told you, my association represents only 200 parking facilities. So 165 of them we found are not even licensed. So these people are probably cheating a lot, and there are -- I think there are other operators that are cheating less because they don't feel that they're being audited.

So as a company, what this does is, you have good operators, like I consider our company a good operator. I'm paying between 35 and 45 percent of everything we charge our companies to the City in taxes and fees. So the rogue operators who, let's say, on average are getting a 40 percent profit margin advantage over our company. The higher the taxes go on the good operators, the harder we can compete against the bad

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operators. So over time, the City won't have to worry about the good operators because we'll be gone. We can't compete against the bad operators. These guys are growing and gals are growing, and over time that's what the City will be left with if there's no enforcement and higher taxes.

I think there is some good news. Commissioner Tolson is making strides, I believe. Last year she from her department hired a couple of auditors, and I understand they are continuously -- they're being trained now to start to audit the parking industry. Also, the City hired an industry expert to map out the City, and I think there is a process going on right now where this gentleman is going to be looking for where the problems are, and this person has been very successful in other cities in finding the rogue operators and going after them.

If the culture of lawlessness

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is not changed in the City, this is just affecting -- this is not just affecting our little industry, the parking industry. We have the cycle of raising taxes on the good businesses and they struggle and they probably leave. The City has lost hundreds of thousands of jobs over the last couple decades. Office rents are the same as they were 30 years ago. They're projecting another 70,000 job losses over the next ten years if the cycle does not change.

The solution is better enforcement, then lowering of taxes on businesses and wages and parking business, and jobs will be -- will come in and the City will be more prosperous.

Lastly, the Controller was here. Alan Butkovitz did a study and released it last week about the effectiveness of KOZ's in the City. Regardless of KOZ's, whether you like them or not, what was fascinating about his study was that the City is not keeping records of who is going into these KOZ's. The City created this program, had a philosophy, which was to better the City, whether that's good or bad. They drove -- there's this huge hole in the system right now where you can claim that you're in a KOZ zone and not pay a lot of the taxes that are required by law. If the City is not checking this program, which has only been about 10 or 15 years old -- I cannot believe that I read that, that there isn't some auditors that are checking just this one function. It's worth a hundred million dollars a year in revenues to the City. And if that happened in my company, whoever was in charge of that would have been let go, because they're not doing their job.

So that was -- I was pretty shocked by that, and it was an amazing revelation for the City.

Anyway, I'm an optimist. I think there's a lot of hope, and I'm very encouraged by some of the things that are going on, and I think that we need to put the fear of God into the bad operators and go after a couple of them, make a couple of examples, and then I think magically revenues will be enhanced in the City.

Thank you.

COUNCILMAN GOODE: Thank you for your testimony.

Any questions for this panel?

COUNCILMAN JONES: Yes.

COUNCILMAN GOODE: Councilman Jones.

COUNCILMAN JONES: First of all, thank you for -- I've been here long enough now to hear some of the good testimony, and even though the needle moves slowly in the right direction, it is beginning to move in the right direction. And I want to state that Clarena Tolson does hear us. We have to just empower her enough to be able to cut through some of the red tape by way of sequestration and to get agencies to talk to each other for a common purpose, and we need to do that right now during the budget period.

And the other thing is, you're right. By way of audits, I had a shocking meeting with -- I won't say the industry, but I can just tell you, it was right around the time we were considering the sugary beverage tax. And they sat me down and in a sobering way said, Councilman, it's fine to put another tax on the books, but it's better if you collect the ones that are there. And they said there is a standard in that industry -- and I won't again talk about it; I may talk about it privately -- where they said it is better to take your chances on an audit, get caught, get fined. The probability of being audited was so low that it was just worth it. So if you get hit every 10, 15 years, so be it.

We have to do a better job of

being consistent, predictable to the fact that if you cheat, we will come after you, so that it provides that change of behavior that we need to do. And bandit parking garages are one way to kind of level the playing field for those of you who are citizen, Philadelphian enough to pay your taxes.

So we're going to look at those two things. And one thing I know is that the Administration always listens to these hearings and many times actually responds to it, and we hope this is one of those occasions.

Thank you, Mr. Chairman.

COUNCILMAN GOODE: Councilman Oh.

COUNCILMAN OH: Thank you very much. I don't have a question, just a comment, that I do think that one of the things that we can do is -- I think that we should consider doing as a Council body -- is, we should not continue to provide high taxes on industries where only half the operators are paying the tax. I think it's an incentive not to enforce the regulations. I think we should lower the taxes and force the prioritization of enforcement and collection. And I think that is also one of the considerations, at least it's on my mind.

Thank you very much.

COUNCILMAN GOODE: Thank you very much.

MR. ZASLOW: Thank you, Mr. Chairman.

COUNCILMAN GOODE: Our last panel is Elizabeth Shay and Montgomery Wilson.

(Witnesses approached witness table.)

MS. SHAY: Good afternoon.

COUNCILMAN GOODE: Please state your name for the record and proceed with your testimony.

MS. SHAY: My name is Elizabeth Shay. I work at the SeniorLAW Center and

I coordinate the Homeowners Assistance Program there, and I'm here to offer our insights into the urgent and immediate need for funding for legal assistance for low-income Philadelphia seniors age 60 and older who are facing real estate tax foreclosure.

For 35 years, SeniorLAW Center has dedicated itself to protecting the rights of seniors in a wide universe of legal problems affecting their lives, health, and safety, including saving their homes, preventing homelessness, and helping seniors live safe and independent in their communities, allowing them to age in place. We accomplish our mission in many ways, serving over 8,000 seniors in Pennsylvania each year, the majority of whom are right here in Philadelphia. We focus on low income, minorities, the most vulnerable seniors, homeowners, and tenants in our city. We address the full universe of critical legal issues affecting senior homes, including direct legal representation to seniors in Mortgage Foreclosure Diversion Court, and we address an array of mortgage and reverse mortgage problems and crises and also serve elderly tenants facing eviction in Landlord-Tenant Court. We pursue quiet title for seniors who are living in homes with tangled title, remedying the theft of homes through fraudulent deed transfers. We negotiate on behalf of seniors faced with real estate tax delinquencies and work to protect seniors from financial exploitation and to get stolen funds refunded by banks and credit card companies. Our statewide SeniorLAW Help Line provides daily legal counsel, advice, information, and referral to seniors over the phone. We make home visits to homebound seniors in order to serve those who are severely disabled, chronically ill, and extremely vulnerable. We conduct five community legal clinics each month in diverse neighborhoods of the City, from the Greater Northeast to West Philadelphia and Kensington. We educate, train, and advocate for individuals and collaborate with our partner legal service agencies on systemic problems facing our seniors.

Philadelphia has the largest percentage of seniors of the ten largest cities in the country and one of the poorest. Almost 20 percent of Philadelphians are 60 and older, and almost 20 percent, one in five, of our seniors live in poverty. Based on 2012 census figures, we estimate there are 215,000 senior homeowners in Philadelphia. Many of these seniors have lived in their homes for decades, and the mortgage used to purchase the home was paid off years ago. That means there's no longer a mortgage company watching to make sure real estate taxes get paid. When the tax bills come, many seniors living on fixed incomes and with increasing medical, food, and heating bills and family expenses have a hard time keeping up and often fall behind with tax payments. And in many cases, those tax delinquencies have accumulated over the course of ten or more years. Seniors who want to pay these taxes are often overwhelmed with the amount they owe. Acknowledging this, the Revenue Department created the Owner-Occupied Payment Agreement Program for homeowners with delinquent taxes and based the monthly payments on household income. So SeniorLAW Center staff advises seniors about these agreements on our Help Line, in our neighborhood clinics, and during emergency walk-in hours. We assist the frail and homebound to complete these applications. Many homeowners can apply for these agreements themselves, and help is also available through the OHCD-funded housing counselors.

But applying for a payment agreement is not so simple for the delinquent taxpayers living in approximately 14,000 Philadelphia properties with tangled titles. Many seniors and others who occupy properties assume they own the home because they have lived in the property for their entire life, possibly residing there with their grandparents and parents and now with their children and grandchildren. Many seniors are surprised when we explain the probate process and what must be done to make them the record owner of the home. One SeniorLAW Center client is 72 years old and he moved into his aunt's home 41 years ago when he was 31. He cared for his aunt until she died in the mid '90s. After her death, the tax bills continued to come in her name and our client tried to keep up. When the client called our Help Line, he had already been sued for tax foreclosure and was threatened with loss of his home. SeniorLAW Center stopped in to unravel his problems and advocate with the City on his behalf to get him into an owner-occupied agreement. We also enrolled him in the homestead exemption, LOOP, and an installment plan for 2014 taxes. Now we're probating the aunt's estate and working with her five heirs to transfer the property to our client. During our meeting to work on probate issues, the senior always proudly brings his payment receipts from Revenue, showing that he is keeping up with his tax agreement, making his property compliant and allowing the City to focus its efforts and resources on more valuable unpaid accounts.

We are grateful that OHCD has funded a tangled title program which pays the probate fees for our low-income clients living in tangled title properties, but the process of untangling titles and probating the intervening estate consumes considerable legal resources. SeniorLAW Center has experienced a 120 percent increase in the demand for property tax services in the past 12 months. With our current resources, which include no City or OHCD funding, we are able to provide extended legal representation to probate estates and untangle titles for only 31 percent of the seniors who seek our assistance. We offer advice and limited representation to the remaining 69 percent who contact us with property issues. We have reassigned staff and added an ABA Fellow and Drexel Public Interest Fellow to handle this work, but the need is overwhelming and both Fellows will leave in the next ten months, with no replacement funding identified.

We appeal to City Council to prioritize the funding needed to protect seniors in our communities, those who built our country and provide us with many of the opportunities we all enjoy today. We also have a civil justice gap in Philadelphia and in our country today, and we all should be concerned that only 20 percent of the poor who need legal help obtain it, including in the area of shelter. The approach of SeniorLAW Center is multi-faceted. We represent, educate, and advocate for seniors and their rights. We appear several times each month at various forums throughout the City providing legal instruction and education, since we believe that seniors, when armed with legal information, can better protect themselves and thereby lessen the need for legal services in the future. We have gone out into the neighborhoods and instructed seniors about AVI, senior citizen tax freeze, property tax rebate, homestead exemption, owner-occupied payment agreements for delinquent taxes, as well as the changes in the government-guaranteed reverse mortgage product and how to protect themselves from unscrupulous repair contractors and deed fraud. We educate thousands of seniors and their families and professionals working with them every year to also prevent legal problems and strengthen communities.

For the past 35 years, we have worked hard to create working relationships with all the players in the diverse aging network in the City and throughout the Commonwealth, and we have established our agency as the expert on legal issues affecting seniors. We are happy to share our insights and have done so for many years as a member of the Tangled Title Committee, administering OHCD funds to low-income homeowners to untangle titles, and at the request of the Department of Records, we joined the Fraudulent Deed Conveyance Committee and we co-chair the Housing Working Group of the Civil Gideon and Access to Justice Task Force, among others.

We are a small, nimble agency with a large impact, and we hope to do much more for the seniors of our community in partnership with City Council in the future. We are well positioned to respond to crises as they develop in the senior community in Philadelphia, and this is why I am here making this appeal for funding for SeniorLAW Center and for a new focus on the needs of senior homeowners in our city. Housing is the number one issue facing Philadelphia seniors, and the idea of aging in place is only a dream if those houses are uninhabitable after seniors are ripped off by home repair contractors or if those homes are foreclosed upon due to delinquent real estate taxes or delinquent mortgages or stolen through fraudulent deeds.

In response to the rising demand for property tax assistance, SeniorLAW Center developed a targeted intake for seniors threatened with foreclosure due to unpaid taxes, to evaluate and enroll them in the various City and State real estate tax programs. Our quick action has meant that many seniors applied on time for the homestead exemption, the senior citizen tax freeze, the property tax rebate, and the 2014 installment plan, and LOOP. In many cases, seniors who opted into these City and State programs saved their homes from foreclosure, reduced their real estate taxes, which allowed them to balance their household budget and provide security to them and their family.

Our city and state had the foresight to build programs and protections for seniors, but funding for legal services is critical if seniors are to be able to access these protections. Meanwhile, SeniorLAW Center struggles to meet the increasing legal needs of seniors with no funding from the City. We ask that you recognize the special needs of senior homeowners, including the critical role of legal services in protecting the rights of seniors. The City's support and partnership would be tremendously meaningful and appreciated by the elders of our community, to whom we all owe our respect, attention, and

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gratitude.

Thank you.

COUNCILMAN GOODE: Mr. Wilson.

MR. WILSON: Do you have questions or shall I...

Thank you. Council, my name is Monty Wilson. I'm a lawyer with Community Legal Services in Philadelphia, where I've been defending mortgage foreclosures from private banks since 2001, increasingly since, pick a year, 2004, 2008. I've been representing more and more homeowners facing property tax foreclosures. Most of you know me. I've been working with the City to try to urge the passage of the tax collection reform ordinance that you voted for unanimously last June and I think was a terrific success.

Basically, I represent homeowners, but there are days, Council, that I think it's fair to say I also work for Clarena Tolson. She'd probably be surprised to hear that, but the function of that act isn't just to preserve homes. It's to help the City collect those taxes while the people remain in their homes. And that's an important distinction. This isn't -- this wasn't just a law to keep people in their homes and permanently excuse them from paying taxes. No one who testified here today, including myself, thinks that's a good idea and that the past strategy of make a payment agreement, break it is the way to go. We need to have a strategy that let's homeowners who owe delinquent property taxes remain in their home, yet at the same time pay both the property taxes that are delinquent and maintain their current property taxes that are due each year.

One of the things Kevin Gillen pointed out, or perhaps it was Mr. Ginsberg, was the need not just to have the delinquency continually rolling over and aging. We have to let people work their way out of the hole while maintaining their current taxes.

I'm here -- we've had a lot of suggestions about things to do to improve collection in the City of Philadelphia, and I have a few for you, but I'm here to also tell you about something we're doing successfully right now. Because of that statute you passed in October, we started moving homeowners into payment agreements. As Mr. Ginsberg pointed out, no other city of the major 30 cities they surveyed has a statutory program like Philadelphia. In my opinion, that makes us a leader in the nation. We are not doing something way out in left field. We are leading the way, and we are doing that by setting up a formal system of written agreements that will let people make affordable payments and pay their current taxes. That is not just something we should think about as an afterthought. That is key to the collection efforts you are making.

You've heard a lot about early

intervention. That is a form of early intervention. I have a dream, to use another metaphor -- we've heard a lot of metaphors here today -- that one day no one will come into my office who is more than two years delinquent on their property taxes.

COUNCILMAN JONES: Amen, brother.

MR. WILSON: That it's easy to get them into a payment agreement, they pay their current taxes. If they're a senior, perhaps they're eligible for LOOP or for the senior freeze, and that's the end of it. We don't have to deal with $20,000, $30,000 property tax delinquencies for homeowners.

The item I passed out to you when the hearing began is a copy of the current contract homeowners get now when they enter an owner-occupied payment agreement. I wanted you to see what's happening right now every day at the Revenue Department and at the City's two co-counsels.

In the past when we've heard about default rates on written hardship agreements, in my opinion, those have often been written agreements where there was no actual agreement or form of writing saying these are your obligations to the City and this is what we will do and, at the same time, these are your options. Many of those agreements in the past were simply verbal. You went in, you agreed -- you met with someone at Revenue, and you agreed to make a $50 payment. You made it for a few months and then it fell off the edge of the earth. This is a contract with the City. If you pay and we'll keep your payments affordable, they're tiered to your income, we'll keep you in your home. If you maintain your current taxes, we'll keep you in your home. But like Mr. Gillen noted, if you breach this agreement, there is no second chance, there is no third chance, there is no fourth chance. The Department has discretion to give some people the chance to try again, but in most cases, they will enforce within a year. What we need to do is make sure that that initial break is there to give them the opportunity to remain in their homes.

The other thing that that statute did was say that homeowners will be referred to legal service agencies and housing counseling agencies to assist them in getting in these agreements. That is a home -- that is a form of homeowner preservation and a form of tax collection. So when we talk about different ways to get the message out, that non-compliance is no longer acceptable and that we need to let neighborhoods know that they need to pay their taxes, there's already an entire system in place in Philadelphia to help homeowners struggling with their mortgages. We have legal services and homeownership agencies that are funded by

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OHCD to do work with delinquent mortgage homeowners. We now have, pursuant to that statute, the same expectation that legal services and housing counseling agencies will work with delinquent taxpayers to help them get into the programs they need to get into and start paying on their taxes.

I think that will decrease delinquency and, of course, increase payments to the City. That is working to collect taxes for the City. Unfortunately, right now it is unfunded work to collect the taxes for the City. No one would expect the Department of Revenue to do this collection work or their co-counsels to do the collection work, yet not be paid.

Currently, as Ms. Shay said, they've seen a 120 percent increase in the number of homeowners coming in. We've seen a 70 percent increase. We are helping and advising hundreds of homeowners how to get into these agreements, as well as on the LOOP program, the deferral program, the homestead exemption. We do it all. But we cannot handle the increasing load and we cannot get these numbers where you want them to be without funding.

The article that was in Plan Philly and in the Inquirer last year that set off a lot of this pointed out that there are 40,000 homes in Philadelphia that are residential property tax delinquent properties. Twenty-one thousand of those are probably low- and middle-income families. We need to get those numbers up to where we are advising and assisting 20,000, even 40,000 of those homeowners over the next couple years. We simply can't do that without funding.

There are two issues I did not put in my prepared testimony that I want to cover quickly today because they came up and I think they're highly relevant to homeowners. One, I got into this work

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initially in 2004 because the securitization liens came due in that year, and suddenly over night we literally had 60 people in our office one day on intake, all holding notice of delinquent tax collection based on those old liens that had been securitized, and we began to see more and more increased tax collection for homeowners. What I learned that day very quickly was, there was very few -- well, there were no systematic and formal protections for homeowners in that original securitization agreement. There was -- and I sometimes wonder if I'm the only person who has an extant copy of that -- an agreement by City Council that no senior would lose their homes and that there would be a hardship payment program and that there would be something called the Lien Substitution Program and that there would be a million dollars set aside out of that lien sale as a grant program for low-income homeowners. Very little of that happened. I do not know what happened to the million dollars. As far as I know, no low-income homeowners that I ever represented received any of those funds. The Lien Substitution Program did happen for years, and I think that's what made the program largely keep homeowners with delinquencies off the radar, but in 2004, it was just unilaterally ended by the City.

I'm not against securitization, but I would urge you to recognize that if you're going to securitize the liens or if you're going to sell the liens or the properties at private third-party sales, you need to make sure those same homeowners have either had the opportunity to get into a payment plan with the City and breach and therefore should be eligible for subsequent sale or that those same protections are available for homeowners regardless of who you sold the liens to. We cannot have two different classes of homeowners, those who are lucky enough to be collected on by the City and those who unluckily find themselves privatized.

Secondly, I want to talk for a minute about redemption. There was some brief testimony that redemption is unfair and that perhaps it should be eliminated. I do not agree. I would urge Council, before you consider urging Harrisburg or taking any action to eliminate redemption, to look at it carefully. The law does allow right now that you can purchase your property back for nine months from the date the deed is acknowledged. We'll call that nine months from the date of sale. Upon payment in full, if you are an occupant of the property who has lived there for three months. That essentially means this is not an option for everyone. You have to have lived in the property. It has to have been a residential property. You have to have been there for three months at least, and you must make

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payment in full. This is simply not an option for most people in Philadelphia if they haven't paid the taxes already.

I would urge Council, number one, before considering moving against redemption to get the data. Are we suffering from a flood of redemptions in the courts? Ninety percent of the work I do is with homeowners, and I am doing an increasing number of redemptions, but I've still in the past 10 years have perhaps done only 10 or 15. If we have a flood of redemptions and purchasers at these sales are complaining that their title is impaired, there are steps we could take beyond elimination. We could shorten the period for redemption. The buyer isn't even required to make payment until 60 days after the auction. We could limit the redemption period until the deed is recorded. We could limit redemption to owner-occupants so it would be something for homeowners only.

But I also want to highlight

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for you with redemption that the reason I don't think there's a hue and cry is because those third-party purchasers aren't upset when someone redeems, because they are paid back in full, all their costs must be covered, and they must be paid back with interest by statute. So by and large, in every case where I have had a client where I could do redemption, there's been no problem. In fact, the City has been the party who has come in and said, Well, it's not just the taxes, remember you must pay all the liens in full, water, gas, any lien on the property in order to redeem.

I understand why there was a feeling why should someone be able to do that if they let the property go for sale, but I would urge you to look at it carefully and get the data on whether this is really a problem before you make a decision to say where someone can buy back the property that they live in and pay the City in full, why would we stop that?

I've already gone over essentially for why we are already working for the City and doing work that needs to be done to collect the taxes. Right now I have a law intern and a Penn law student intern who are doing a lot of the work for homeowners who are your constituents, including -- and I think Council will be interested in this -- drafting a comprehensive real estate property tax handbook, which we intend to be a guide, not just to our low-income program and the owner-occupied delinquency program, but all the tax programs. Hopefully that will become something that Revenue finds useful enough to give to its employees, perhaps even adopt, hopefully something that your staff will want, that all counselors will want. That level of message needs to get out there so that the people that are doing this work have the expertise.

We've had a lot of metaphors

today. The one I want to use besides being a tree or a house is, we're a little bit of a virus. We are in the position to be out there in the community already to get the word out. Legal services has a reputation in North Philadelphia and South Philadelphia and West Philadelphia. Homeowners know they can come to us. Beyond us, the housing counseling agencies, the HUD-funded ones in Philadelphia, of which there are 26, are already in those neighborhoods. You want to get the word out about tax collections and the options that are available? Get the word out through what's already there, and just like the common cold, pretty soon everybody will have it and everyone will be getting paid.

The last suggestion I want to make is one that I think is a winner for everyone. Right now, to the best of my knowledge, it is possible for a taxpayer to pay their property taxes in one lump

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sum via a credit card electronically to the City of Philadelphia. However, it is not possible to pay it in installments electronically automatically debited from their bank account, not their current taxes, not their delinquent taxes. Mortgage companies have been doing this for years, not because they're the friend of the homeowner, but because it works for them. You want to reduce default rates on taxes, you want to reduce default rates on agreements, you want to reduce the erraticness of collection and make collection easier? I think it is a win-win both for the homeowner and for the City to set up a system, not just where you can call in and make a credit card payment, but where you can authorize the automatic monthly electronic deduction of your current taxes, hopefully in advance so that when you arrive at the end of the year, you've paid in full, and a separate withdrawal for delinquency, if that's necessary.

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That will guarantee a certain flow of income to the City and keep the homeowner in their home. I don't see how we could not possibly work towards it, and I would urge Council to urge the Revenue Department to make that a priority.

In closing, we're doing good work. You're moving forward. Surprisingly, I want to be one of the tools in Ms. Tolson's toolbox, but in order for legal services, the SeniorLAW Center, and the housing counseling agencies to do that, we need the funding, and I hope you can see your way to not just giving us the money because it helps homeowners, but giving us the money because it helps you collect the property taxes each year.

Thank you.

COUNCILMAN GOODE: Thank you for your testimony.

Councilman Jones.

COUNCILMAN JONES: I just want to thank both of you, the SeniorLAW project, who is meeting with my staff today, I believe, and Community Legal Services for what you do. You are the moral compass for me not to come and affix with Nicholas Panerella's kind of intoxicating collection efforts. I understand there are unintended consequences that come with that, and one of them is homelessness, and those things have an adverse effect on poor people trying to maintain.

So I applaud you on your work with reverse mortgages. We just had a case come into our office where individuals after demise of their parents, six or so kids that lived in the house are now going to become homeless because they are calling due the amount that was given while the mother was alive. And so those are the kinds of services that we need continued. And I heard at least seven times -- I counted the number of times -- that we don't pay you, we don't fund you. So it got through to at least me.

MR. WILSON: Good.

COUNCILMAN JONES: So we will take a look at that.

Predatory lending, something that Councilwoman Tasco has long been a voice against, and we did something together on the Mortgage Diversion Program calling stakeholders together when we saw the high number of Sheriff Sales coming in the City to bring banking institutions, advocacy groups to come with Judge Rizzo to do an award-winning national model for diversion. And I also salute Maria Sanchez and Bill Green for introducing the bill and law that you spoke about approved by members of Council.

So we appreciate what you're doing. We know that we should pay you at least attention, and if not, something else for what you do for our constituents, and we get it.

AVI and the tangled title

issue, it came to light because a lot of the remedies for people that might be long-term homeowners, particularly in older parts of the City. North, South, West Philadelphia, even Northeast experience the fact that families, three generations, four generations, bought the house, but now have never updated the title to reflect the current owners, and so many of them aren't necessarily eligible for some of the reliefs that we have.

MS. SHAY: Well, when we created -- the legal services community weighed in on those payment plans. We advocated and were successful in getting equitable owners eligible. So an equitable owner is somebody who you won't find their name in the City's land bank -- the land records. It's somebody who is living in it and is an heir of the person who owns that property, and that makes them the equitable owner. And thank goodness we were able to work with

Revenue to get those equitable owners protected, but the City wants those titles cleared and they want those deeds transferred to those owners so that the day will come that our record owners will be listed on our rolls and not just the heir of the --

COUNCILMAN JONES: So that's when the issue came to at least my light. And the other part of the shoe to fall to that is they can't get loans on home improvement.

MS. SHAY: And the City's basic repair programs, for instance, they can't opt into those, right. It's terrible. And that's when the repair scams happen, because there's no other alternative for these poorer individuals.

COUNCILMAN JONES: So I just want to thank you, and we heard you loud and clear at least on several occasions that we have not funded you, which comes as a basic surprise to me, because you're an integral part of what we do by way of our outreach and protection for our constituents.

So thank you.

MS. SHAY: Thank you.

COUNCILMAN GOODE: One slight correction in the record, Councilman. We don't pay SeniorLAW Center. We do pay Community Legal Services. Maybe not enough, but we do pay them.

MR. WILSON: I was going to make that correction. You don't fund us for this work, though.

COUNCILMAN GOODE: Councilman Oh.

COUNCILMAN OH: Thank you.

COUNCILMAN JONES: Councilman, just real quick. We've committed some money for expungements for CLS. My staff told me that. So it's a different column.

MR. WILSON: Yes. You do fund other projects. I think that since this is work to help the City collect, this should be on your list of priorities.

On the tangled title issue, if you could just speak for one minute.

COUNCILMAN JONES: I'm sorry, Councilman.

COUNCILMAN GOODE: Councilman Oh.

COUNCILMAN OH: Yes. Thank you very much. Well, I just wanted to thank you both for coming in and adding that balance to these hearings. I think there are a lot of very valuable programs that need to be funded, such as yours. We are faced with the issue of the fact that if we increase taxes and fees and other things once again upon this population, it makes it even more burdensome, and we have a lot to fund. We're short on funds. Everybody is aware of the schools and things like that. What's on the table is this uncollected money, and to the extent that we can aggressively and effectively collect it while being balanced and fair and ensuring that we are not doing things that are harmful to

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our community, we really have to pursue that to the best of our ability, and I hope what comes from this, with your input, is an ability to put all our heads together to come up with a way of ensuring that we are able to receive these resources and put them to work as quickly as possible.

So thank you for your testimony and time.

MR. WILSON: Thank you.

MS. SHAY: Thank you.

COUNCILMAN GOODE: Thank you very much.

MS. SHAY: Thank you.

COUNCILMAN GOODE: Is there anyone else to testify on this resolution?

(No response.)

COUNCILMAN GOODE: Seeing none, the hearing on this resolution is recessed to the call of the Chair.

Thank you very much.

(Committee on Appropriations

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recessed at 1:05 p.m.)

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CERTIFICATE

I HEREBY CERTIFY that the proceedings, evidence and objections are contained fully and accurately in the stenographic notes taken by me upon the foregoing matter, and that this is a true and correct transcript of same.

MICHELE L. MURPHY

RPR-Notary Public

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