

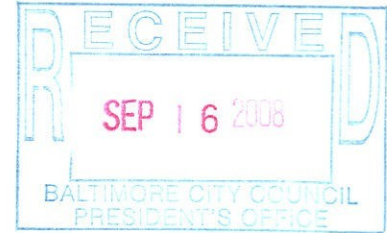
FROM	Name & Title	Henry J. Raymond, Chief <i>HJR</i>
	Agency Name & Address	Bureau of Revenue Collections 200 N. Holliday Street, Baltimore Md. 21202
	Subject	CC 08-0060R Informational Hearing – XSPAND -Tax Lien Servicer

City of
Baltimore
MEMO



Date: September 15, 2008

TO **The Honorable President and
Members of the City Council
City Hall, Room 400
100 N. Holliday Street**



CITY COUNCIL RESOLUTION

The City Council has introduced resolution # 08-0060R for the purpose of inviting XSPAND to make a presentation to the City Council on the services the company offers as a lien servicer providing local governments with cash advances and other resources needed to turn delinquent property liens into government revenue.

BACKGROUND:

In accordance with Maryland Tax-Property law (Title 14, Subtitle 8), the City of Baltimore, as well as all other Maryland counties, is required to sell its tax liens through public auction, a process known as Tax Sale. The sale is used by local jurisdictions, including Baltimore City as a method to collect delinquent real estate taxes and/or other unpaid municipal liens and charges owed to the City of Baltimore. The City generally holds this sale once each year in May. The winning bidder does not purchase the deed to the property, but purchases a Tax Lien Certificate. A Tax Lien Certificate is valid for two years from the date of the certificate. To redeem a property from tax sale, the property owner must pay to the City the total amount paid at the tax sale including interest, penalties, and legal fees/expenses, if applicable.

In order for the Tax Lien Certificate holder to acquire the deed, the law requires the purchaser to file a Complaint in the Circuit Court for Baltimore City to foreclose the right of redemption. The foreclosure procedure includes obtaining a decree from the Circuit Court for Baltimore City, preparing a deed, paying all liens that have accrued from the date of the Tax Lien Certificate Sale, and recording the deed in the Land Records of Baltimore City. The owner of the property may redeem the property at any time up until the right of redemption has been finally barred by a decree of foreclosure.

If there are no bids for a property, the Tax Lien Certificate is held by the Mayor and City Council. These Tax Lien Certificates are available for assignment at a scheduled Assignment Sale, normally in mid-May each year. The certificates are assigned for the amount of the lien and are redeemable for the amount of the lien plus 18% interest per year to the date of purchase. After the Tax Sale and Assignment Sale, Tax Lien Certificates are available to purchasers on a first come-first served basis and can be assigned over-the-counter directly from the City.

PRESENT TAX SALE STRATEGY:

The City Finance Department's strategy is to prevent liens from entering the Tax Sale by more aggressively working to collect on delinquent accounts earlier in the collection cycle. During the 2008 legislative session, the City successfully lobbied to raise the threshold for a delinquent account to go into Tax Sale from \$100 to \$250. This reduces the probability that a property will go to Tax Sale. This was part of a comprehensive effort to reduce the number of accounts with water delinquencies, in particular, that go to Tax Sale. Other components of the effort included: a reduction in the threshold for a delinquency to result in water service turn-off from \$500 to \$250 and an expansion of

Comments

the turn-off program to include tenant-occupied properties; an increase in the water low-income assistance grant from \$100 to \$125; a new low-income senior citizen water rate discount program; and a new water payment agreement program. These efforts are focused on assisting residents in resolving delinquent accounts prior to the delinquencies becoming unmanageable. Tax Sale is used as a last resort collection mechanism.

Additionally, with the plans to create a Land Bank Authority, the City is embarking on a new model for managing distressed and vacant properties. Many of the stakeholders involved in crafting the authorizing legislation for the Land Bank would like to see it play a greater role in the Tax Sale. Furthermore, the Land Bank Authority's success will depend upon its ability to at least continue to acquire vacant property through tax sale foreclosure, as the Department of Housing and Community Development does now. Any impact that turning these liens over to a third party vendor would have on the Land Bank Authority must be carefully considered.

SUMMARY OF DATA FINDINGS:

A review of the 2008 Tax Sale results in two main findings.

First, the data shows the present Tax Sale process produces very good results in terms of the number of liens converted from delinquent receivables into cash. Liens sold as a percentage of liens offered for sale in Fiscal 2008 were 88.3%. Of 10,177 liens offered for sale, 8,982 were sold. The total rises to 9,121 including Assignment Sale, an addition of 139 lien purchases.

Second, the data shows that liens offered for sale in Assignment Sale (i.e., those that do not sell at the public auction) are not generally attractive to lien purchasers. 1,056 properties with lien amounts significantly greater than their assessed values were not sold through the Assignment Sale. In Fiscal 2008, the 1,056 unsold liens represented 10.4% of the total liens available for sale (10,177) yet comprised 57.7% or \$31.6 million of the \$54.8 million of the liens offered up at Tax Sale.

PRESENT TAX SALE RESULTS:

Fiscal 2008 Tax Sale data demonstrates a high success rate in the number of liens sold. Table A shows the sale rate was 88.3% in Fiscal 2008.

Table A, Lien Certificates offered for Sale – Fiscal 2008

Certificates offered	10,177
Certificates sold	8,982
Certificates Unsold	1,195
Percentage Sold	88.26%
Percentage Unsold	11.74%

Source: Bureau of Revenue Collections

Table B, displays the dollar value of liens sold as a percentage of liens offered for sale during the same time period. The data shows that in the 2008 Tax Sale, 41.48% of the dollar value of liens offered for sale was purchased. The unsold dollar value of liens was 58.5%. The future trend of unsold liens is expected to continue to be above 50%.

Table B, Dollar value of Liens offered for Sale – Fiscal 2008

Lien value offered	54,803,874.69
Lien value sold	22,732,095.85
Lien value unsold	32,071,778.84
Percentage Sold	41.48%
Percentage Unsold	58.52%

Source: Bureau of Revenue Collections

A review of the value of unsold liens as a percentage of the assessed value of the properties is displayed below. Table C shows the dollar value of unsold liens significantly surpasses the assessed values of the properties. This is the primary reason why this portion of the portfolio is generally unattractive to lien purchasers.

Table C, Liens vs. Assessed Value – Fiscal 2008

FY 2008	TOTAL LIENS	ASSESSED VALUE	LIENS/ASSESSED VALUE
UNSOLD	\$32,071,779	\$10,927,925	293%
SOLD	<u>22,732,096</u>	<u>899,132,109</u>	3%
TOTAL	\$54,803,875	\$910,060,034	

Source: Mayor's Office of Information Technology

PRESENT ASSIGNMENT SALE RESULTS:

Assignment Sale does not yield material results in the Tax Sale Process due to the fact that this group of properties has liens that are far greater in value than the assessed value of the properties. Table D shows that the Assignment Sale does not significantly reduce the dollar value of unsold liens. For instance, in the Fiscal 2008 Tax Sale, the unsold dollar value of liens was 58.52% (Table B). Combining the results of the Fiscal 2008 Assignment Sale with the Fiscal 2008 Tax Sale, the unsold dollar value of liens was 57.68%.

Table D, Tax Sale & Assignment Sale Lien Data Combined – Fiscal 2008

Lien value offered	54,803,874.69
Less: Tax Sale & Assignment	
Lien value sold (Tax Sale)	22,732,095.85
Lien value sold (Assignment)	<u>463,362.56</u>
Liens Unsold	31,608,416.28
Percentage Unsold	57.68%

Source: Bureau of Revenue Collections

Assignment Sale also does not have a major impact in reducing the number of unsold liens. Table E displays the number of lien certificates offered for sale and those sold through Tax Sale and Assignment Sale. The data shows that in 2008, the Assignment Sale did not significantly reduce the number of unsold liens following the Tax Sale.

Table E, # of Liens sold Thru Tax Sale & Assignment Sale – Fiscal 2008

Certificates offered	10,177
Less: Tax Sale	
Certificates sold	<u>8,982</u>
Certificates Unsold	1,195
Less: Assignment Sale	
Certificates sold	<u>139</u>
Total Certificates Unsold	1,056
Liens Unsold	\$31,608,416.28
Average Lien Unsold	\$29,932
Average Property Value	\$10,348

Source: Bureau of Revenue Collections

FINANCE DEPARTMENT CONCERNS:

The Department of Finance offers the following concerns regarding the type of proposed business model this vendor is bringing to the table.

- 1) Since the City operates its Tax Sale pursuant to State law, the proposal would require changes to present State law. The vendor is proposing that the City move from a system of public auction of tax liens to one whereby the City contracts with a vendor for collection of all liens. This type of change would require a change to the State law governing Tax Sale.
- 2) Under current State law, the Tax Sale is operated pursuant to the High Bid Premium auction format. In Fiscal 2008, \$42.6 million was collected due to High Bid Premiums. The Department's review of the vendor's proposal suggests that the City would lose interest earnings on this revenue since their proposal does not incorporate the High Bid Premium format.
- 3) The vendor's proposal suggests that many liens currently go unsold under the Tax Sale process. In fact, nearly 90% of the liens are normally sold through the annual Tax Sale process. The City collects all money owed to it immediately for those liens that sell at Tax Sale.
- 4) The proposal infers that the City could share in the profits of the vendor's collections. The Department does not believe this should be a motivation for the City to attempt to change the current State-mandated Tax Sale process, since the City would not necessarily want to profit at the expense of the City's residents. The City merely wants to collect what is due to the City for the services provided.
- 5) The vendor's proposal indicates that large and controversial legal fees are charged to delinquent taxpayers. In response, we note that the Dixon Administration worked closely with the General Assembly in 2008 to place thresholds on legal and other fees charged at redemption (Tax-Property Sect. 14-483(a)).
- 6) The vendor's proposal suggests that the City does not have oversight of the collection methods employed by the lien holders. However, part of the 2008 changes to State Tax Sale law included the ability for the City to require that all redemptions of Tax Lien Certificates be handled by the City rather than between the tax sale purchaser and the property owner directly. The City formally notifies all property owners in writing that all liens, fees, and expenses must be paid to the City and not to the holder of the Tax Lien Certificate. This is an effort to reduce the extent to which tax sale purchasers can take advantage of property owners at redemption. Additionally, State law is very specific with regard to the requirements the tax sale purchasers must follow post-Tax Sale with regard to proper notice to property owners and due process.

RECOMMENDATION:

Current State law precludes the City from entering into the type of contractual relationship that the vendor has proposed as an alternative to the public auction of tax liens. Furthermore, with recent changes to State law governing Tax Sale and with the possible creation of a Land Bank Authority in the near future, the Department of Finance does not recommend that the Administration pursue further changes in State law regarding the public auction of tax liens at this time. Finally, the Department is open to exploring what type of role a contracted vendor might play with regard to the collection of the approximately 10% of liens that do not sell at Tax Sale or Assignment Sale. This vendor, or any other party, is free to purchase these liens today on a first come/first served basis if it believes that would be a beneficial investment.

Cc: Mr. Edward J. Gallagher
Ms. Helene Grady
Mr. Andrew Kleine

BACKGROUND INFORMATION REGARDING HIGH BID PREMIUM

The Tax Lien Certificate Sale auction is held using the High Bid Premium method as provided for in the Annotated Code of Maryland, Tax Property Article §14-817(b)(2) et.seq.

The High Bid Premium is calculated on the amount of the Bid Amount that exceeds the threshold: either 40% of the property's Assessed Value or the property's Lien Value (whichever is greater). In Baltimore City the high-bid premium shall be 20% of the amount by which the highest bid exceeds the greater of a.) the lien amount; or b.) 40% of the property's full cash value (note the full cash value is the assessed value).

The High Bid Premium is to be paid on the date of the sale along with all taxes and other municipal liens, interest and penalties, and all costs incurred in the Tax Lien Certificate Sale. In accordance with State law no interest is paid to the Tax Lien Certificate Holder on the High Bid Premium. The City will refund the High Bid Premium, **without interest**, to the holder of the Tax Lien Certificate on redemption of the property or to the Plaintiff in an action to foreclose the right of redemption on delivery of the deed for the property for which the Tax Lien Certificate was issued. The High Bid Premium is not refunded until or unless the property is redeemed or the deed is delivered subsequent to an action to foreclose the right of redemption.

Here is an example:

Assessed Value of the Property: \$10,000.00
40% of Assessed Value is: \$4,000.00
Lien Amount is: \$200.00
Bid Amount of: \$6,000.00
The Bid Amount Exceeds 40% of the Assessed Value by: \$2,000.00
The High Bid Premium: \$400.00 (20% x \$2,000.00 = \$400.00)
Total Amount Due at Sale: \$ 600.00 (High Bid Premium plus Lien amount)

The balance of the bid price is the amount of the bid (\$6,000.00) less the amount paid at the sale (\$600.00) or \$5,400.00. The balance of the bid price is the amount that is subsequently paid to the property owner for the property once the deed is processed and all subsequent charges have been paid.

In the above example, the property is valued at \$10,000.00. A High Bid Premium of 20% is applied to the amount by which the bid exceeds 40% of the Assessed Value. Bids start at the lien amount (\$200.00) and proceed upwards. The amount by which the bid exceeds 40% of the Assessed Value in the above example is \$2,000.00 and this amount is subject to the High Bid Premium of 20%.