

In 2004, the future of affordable housing in the Silk City was... **SOLD!**



Photos by LESLIE BARBARO/Herald News

With the Manhattan skyline as a backdrop, downtown Paterson offers its own myriad architectural splendor. But because of a lack of affordable housing, the city is struggling to undergo a rebirth. Critics say the city's selling of precious real estate to make up deficits has hurt its chance to grow.

Torres' lien deals leave Paterson in dire straits

By TOM MEAGHER
Herald News

PATERSON — Two years ago, Paterson faced fiscal ruin.

Mayor Jose "Joey" Torres needed to find a windfall to make up for a \$9 million deficit in the municipal budget, and he needed it fast.

He and his advisers assembled a battery of fundraising options. Torres seized on the most expedient: to sell in one tidy package hundreds of liens against "undesirable" properties whose owners had failed to pay taxes.

But by selling off the city's delinquent tax liens — many of which had languished for years after failing to sell at public auctions



Glen Fishman, managing director for Dornoch Holdings LLC, has long invested in undervalued properties in a number of the state's struggling cities, Paterson included.

— Torres made a deal with an unlikely savior, investor Glen Fishman.

Torres sold Fishman Paterson's one remaining vital resource for the construction of desperately needed affordable housing — land. By doing so, he handed the reins of the city's rebirth to Fishman, a developer with little track record of success. Then, when the city's coffers once more threatened to implode in 2005, Torres did it again.

This time, Fishman, a businessman who has long invested in undervalued land in New Jersey's depressed and downtrodden cities, agreed to purchase a derelict and

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AMY NEWMAN/Herald News

More than a year after a groundbreaking ceremony, excavation recently began on an abandoned Ellison Street plot which Glen Fishman's Dornoch Ellison firm purchased from the city for \$2.7 million. In the sale, the city agreed to pay \$25,000 in monthly rent for half of the building when it is completed, and then sublet it to Cablevision for a public access TV studio.

SOLD! Torres has run out of quick fixes

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abandoned downtown property, giving the city millions to help it remain solvent for another 12 months.

Today, the cost of running the state's third-largest city continues to outpace the value of its property taxes, but Torres has run out of quick fixes:

■ The lien sales cost the city millions of dollars in potential revenue and emptied its supply of neglected properties, an analysis of city and county land records by the Herald News has found.

■ Nonprofit community development organizations now must pay full market value for land they once could buy for a pittance — cheap land they need in order to build affordable housing in the city.

■ The downtown lot sold to Fishman in 2005 to balance the budget still sits empty, a few bulldozers just beginning to dig.

And now Torres has run out of property, money and options to keep the city afloat. Paterson no longer has any chips with which to barter its way back to financial health and this year, turned to the

state for a more than \$30 million bailout. In turn, the state has taken greater control of Paterson's spending.

A potential solution

In the early months of 2004, the city was in the process of foreclosing on scores of properties all but abandoned by owners. The Wayne law firm of Rubin & Connnelly had spent nearly a year working to push the liens through legal hurdles required for the city to foreclose, and thus own the properties outright. But as the mayor saw it, any revenue from the foreclosures — no matter how soon they happened — would be too late to make a difference in the city's sinking bottom line.

"You're not guaranteeing what type of money you're getting (with foreclosures)," Torres said in a recent interview. "We needed an infusion of cash."

So, in May 2004, the mayor placed liens against 161 lots up for sale to the highest bidder.

In the following weeks, the city's financial consultants from Livingston-based Goldman, Beale Associates warned against the

hasty approach of the mayor's proposed sale.

"The City could (over time) foreclose on the properties and in turn sell them via a public auction. For certain of the properties, that may well get a better result ..." wrote consultant Neil Grossman in a memo to Marge Cherone, who was then the city's finance director. "The private lien holder appears to be obtaining some of those properties at well below 'full value.'

Ultimately, the consultants approved the deal because of the fast cash it would bring.

The highest bidder and the city's financial lifesaver was Lakewood developer Glen Fishman. Backed by the capital of the New York-based investment firm M.D. Sass, Fishman bought liens against 143 properties, many of them in the city's poorest neighborhoods on the Northside and in the 4th Ward, for \$2.4 million.

With ownership of the liens, Fishman and M.D. Sass could either collect taxes owed the city, along with interest, or foreclose on the properties and own them for a fraction of the land's fair market

value.

Fishman did not return repeated telephone calls, beginning on Sept. 22, seeking comment on this story. He would not respond to a list of 24 questions e-mailed to his spokeswoman at her request. Instead, she issued a statement on his behalf summarizing his companies' \$17 million investment in Paterson and their intent to create viable residential and mixed-use neighborhoods.

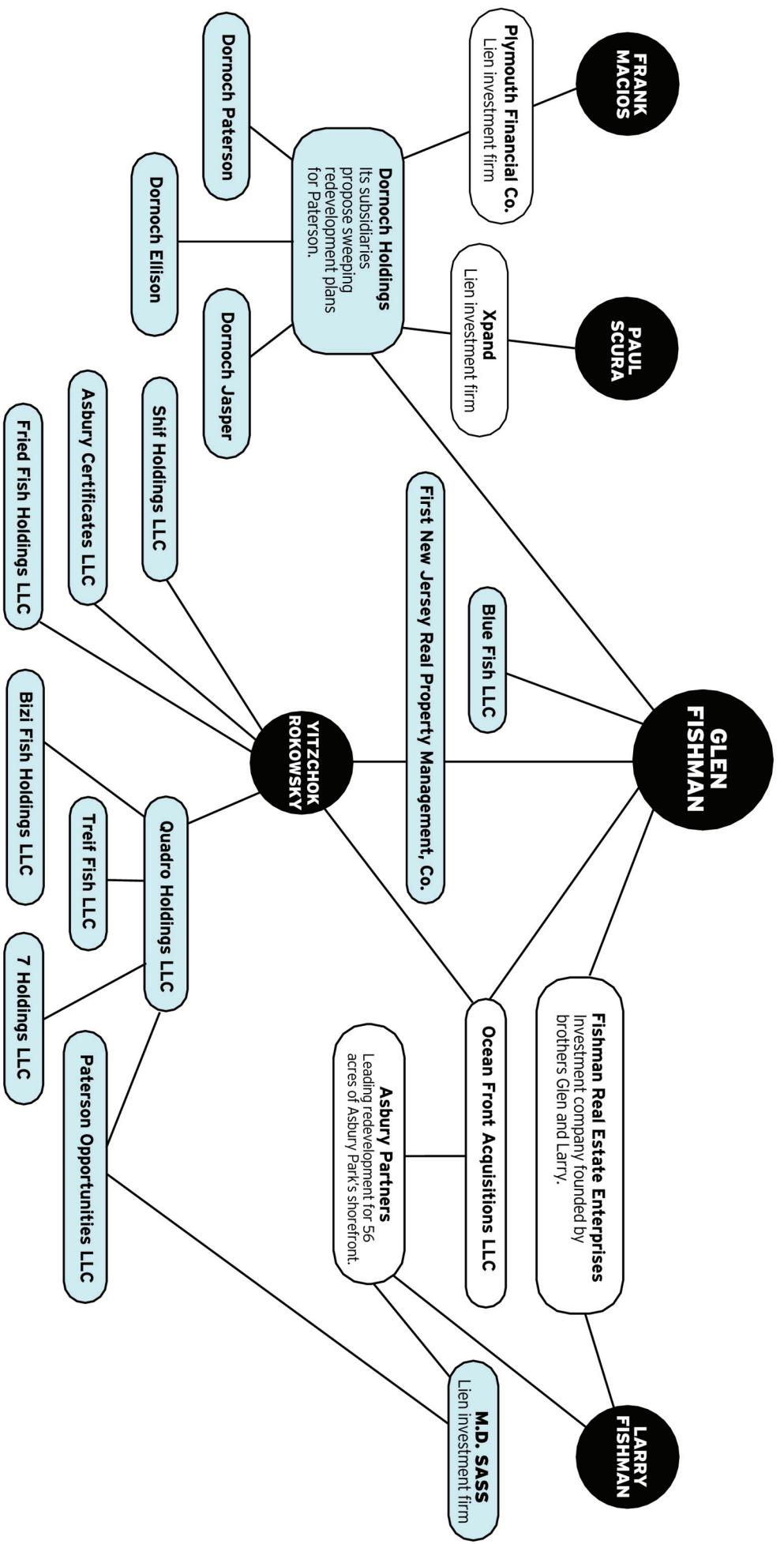
"We continue to believe that Paterson is an undervalued asset ... a City on the move, progressing in the right direction," the statement read.

Taxes and interest owed on the lots in the sale were worth \$8.4 million to the city. The true market value of the properties was \$13.3 million, more than five times what M.D. Sass and Fishman paid. For example, Fishman was able to pick up the lien against the lot owned by Perry Johnson at 169 N. Main St. By 2004, \$40,618.02 in taxes and interest had gone uncollected on the property. Fishman bought the lien against the garbage-strewn

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Web of liens

Glen Fishman and his associates have employed a complex array of dozens of companies to purchase liens and undervalued properties for their redevelopment plans in Paterson and Asbury Park.



SOLD! Non-profit builders must go to Fishman to get land

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vacant lot for \$15,500. The land's true value was nearly \$134,000.

But with the one-shot sale complete, Torres balanced the city's budget for another year. Under terms of the agreement, the city required M.D. Sass to ensure that all taxes be paid on the land, foreclose on the properties within two years, and then either develop or sell the lots within a year after that. If M.D. Sass failed to do so, the city had the option to take back the land.

Oceanfront experience

Paterson is not the first troubled New Jersey city to whom Fishman appeared as a redeemer.

Asbury Park, after decades of foiled and inept attempts at resurrecting its decrepit waterfront, was in 2001 in a similar situation as Paterson. A group led by Fishman's brother, Larry, and using money from Fishman and M.D. Sass, swept into the shore town, bought a bulk sale of liens, foreclosed on property and launched an ambitious redevelopment program.

The company formed by the Fishmans and M.D. Sass, known as Asbury Partners LLC, has acted as the master developer for the 56-acre Oceanfront Asbury area along the resort town's shoreline. It brought in three sub-developers to build condominium and townhouse projects.

But since then, Asbury Park landowners and city officials have feuded bitterly with Asbury Partners, accusing Fishman and his brother of monopolizing development.

While the subcontractors slowly and steadily began construction, Asbury Park City Council members have blamed the Fishman brothers for unnecessary delays and inadequate financing. After the council set an ultimatum last winter, the Fishmans vowed to complete renovations of the waterfront's historic Boardwalk and buildings by 2010.

The aftermath

In his rush to salvage Paterson from its long slide into fiscal chaos, Torres handed over the keys to the city's future — its ability to control development and benefit from the newfound popularity of reinvigorating ignored neighborhoods — to a developer with a resume based primarily on investment and short on completed large-scale development.

Since the deal between the city and M.D. Sass was completed in August 2004, M.D. Sass has foreclosed on more than half of the properties whose liens it bought. Nearly all of them were transferred to the ownership of one of Glen Fishman's companies, called Paterson Opportunities LLC.

In recent months, Paterson Opportunities, one of dozens of limited liability companies that Fishman and his associates have chartered to purchase land or liens, has flipped a number of properties it garnered from the lien sale, selling them for prices as much as 60 times more than what they paid.

One of the buyers has been the city's chapter of Habitat for Humanity, the nonprofit group dedicated to building affordable housing for working-poor families. Over the past three decades, Habitat had been able to get land at a cut rate by scooping up liens at the city's annual sale.

Now, Habitat and other non-profit builders like it must go to Fishman to get land on which to build. His companies now sell lots that once could be bought for a couple of thousand dollars for more than \$60,000.

"It's the most difficult challenge we've had in our 22 years," said Barbara Dunn, executive director of Paterson Habitat for Humanity. "The city is in such a financial situation, they needed to have cash and could no longer afford to give away (land)."

In a city where the median household income has dropped to about \$35,000 a year while rents skyrocketed, affordable housing has been among its most dire needs. During the 2002 election campaign leading up to his first term in office, Torres pledged to oversee the creation of 2,500 units of affordable housing during his first five years in office.

By relying on the vacant lots and abandoned properties left behind in the city's poorest neighborhoods, Habitat for Humanity has been able to acquire land cheaply and build more than 170 two-family houses, many of them in the city's Northside neighborhood.

Dunn said she had wanted for years to buy some of the properties on M.D. Sass' list of liens. Two of the properties had even been promised by the city administration to Habitat. But once the deal was arranged, Sass snatched up the whole list. Still, Torres kept his word, Dunn said, and allowed Habitat to buy the two promised plots.

The rest, however, Dunn had to buy from Fishman's Paterson Opportunities. Initially, the agreement was for Habitat to purchase lots for \$27,000 each, she said. That soon fell apart. A new deal, arranged by the mayor and Assemblywoman Nellie Pou, had Habitat paying \$62,000 for each of more than a dozen properties.

The Silk City's opportunities

Although Fishman and M.D. Sass' money allowed Torres to

keep Paterson's budget in the black, by 2005, it became clear that the city's finances were in trouble once more. Fishman again stepped in to save Torres' budget and in the process, scooped up a prime downtown property.

Early in the spring of 2005, Fishman introduced himself to the people of Paterson as one of the principal members of Dornoch Holdings, a development firm proposing to bring sweeping revitalization to the Great Falls Historic District on both sides of the Passaic River.

Dornoch's plan called for an eight-year, \$275 million project to build 975 housing units, as well as eateries, bars, cafes and a hotel across from the Falls.

Even as the council considered the Great Falls plan, the city faced another deficit, this time of \$13.7 million. In order to balance the 2005 budget, Torres needed to complete another series of land sales by June 30. Again, Fishman was there.

In an elaborate deal, Fishman's Dornoch Ellison firm bought an abandoned downtown plot on Ellison Street from the city for \$2.7 million. The city, in turn, agreed to pay a monthly rent of \$25,000 for half of the two-story retail building that Dornoch Ellison planned to construct. The city would then sublet the space to Cablevision for a public access television studio.

On the last day of the fiscal year, the City Council approved the deal. When sales to other developers fell through, Torres was forced to borrow \$3.3 million from the state to make ends meet.

More than a year later, the dirt lot and steel skeleton on Ellison Street that had been abandoned by a previous developer remain barren. Fishman's Paterson project manager, Warren King, said delays were caused by the need to make sure that engineering plans jibed with the infrastructure left by the previous developer. In September, some rudimentary excavation began in preparation for construction.

After the City Council refused last winter to name Fishman's company as the Great Falls' master developer, he began to scale back his plans elsewhere in the city. The 110 two-bedroom apartments that Fishman's Dornoch Jasper, yet another subsidiary of Dornoch Holdings, now plans to build along the north side of the river are a far cry from what Fishman and Torres originally planned.

According to city records, Torres has met with Fishman about 20 times since early 2004. The mayor said many of the meetings, often arranged by Assistant Business Administrator Nellie Pou,

dealt with development opportunities in the city.

Torres gave Fishman guided tours of lots around the city that could be developed. He also tried to interest Fishman in other failed projects, including the crumbling Fabian Theater and the Alexander Hamilton Hotel. At the same time that Torres and Pou worked to convince Fishman to invest in Paterson, Fishman and his associates gave at least \$4,500 to Pou's Assembly re-election campaign last year.

Fishman's business associates, including partners in Dornoch Holdings, gave Torres at least \$5,200 for his re-election in May.

Left behind

Even as Fishman's companies flip properties and sell them to non-profit builders, he has also actively lobbied for those builders' approval of his development projects. Both he and his subordinates have met with groups of affordable housing agencies in the city, and Fishman has followed up with them by e-mail to ask them to voice their support.

In the weeks ahead of a Planning Board hearing for Dornoch Jasper's project, however, the groups were unsure how Fishman's building plans would affect their work to bring affordable housing to the city. Some complained that Fishman's entreaties were scant on details of his projects. Affordable housing groups, including Habitat for Humanity and the New Jersey Community Development Corp., have run out of space to build in the city. They once relied on liens and the city's vacant property sales to find land. But now the city has no backlog of liens or residential property that it can auction.

The mayor's one-shot plans to balance his ballooning budget robbed Paterson to pay off his deficits. In general, NJCDC's Bob Guarasci and Habitat's Dunn support Fishman's proposal to build the most market-rate condos in the city's history, but they still find themselves in dire straits.

With nonprofits scrambling to find places to build the homes that the city's working-class and working-poor residents need, some worry that the kind of deals that Torres has made with Fishman have hurt the city's chances of recovery.

"You'd hope that at least there's a little bit longer planning and decision-making than just the current fiscal budget," Dunn said. "In a situation where you have to balance each budget, you don't want to be selling off something and heading the city in the long-term in a direction that isn't in its best interest."

A triple failure

Yet again this spring, for the third consecutive year, Paterson's budget lurched toward catastrophe. Only by the grace of the state's Department of Community Affairs, did Torres avert a fiscal meltdown. With no properties left from which to manufacture a lucrative land deal, and having sold all the liens against abandoned properties, Torres was out of options.

The state swooped in to give him \$30.8 million. But it also took greater control of Torres' spending and mandated that the city clear every major financial decision it makes with state overseers.

All the while, a vast majority of the lots from the bulk sale continue to sit tottering, abandoned or vacant. Of the 143 properties involved in the sale, seven have seen new housing built on them. Of those, three are buildings under construction by Habitat for Humanity.

And in spite of the terms of the agreement that M.D. Sass made to buy liens from the city, several of Fishman's Paterson Opportunities properties have again fallen off the tax rolls. In June, the city sold new liens against 58 of the lots that had been included in the 2004 bulk lien sale for failure to pay municipal taxes.

For example, Paterson Opportunities bought the lien against the old Hinchliffe Brewery and Maltинг Co. building at 49-55 Governor St. for \$100,000. It foreclosed in February, but skipped nearly \$12,000 in property tax payments.

Last spring, another Fishman company trumpeted its acquisition of the ramshackle Columbia Textile Mills near the animal shelter along Ryle Avenue and Ryle Road. The buildings are slated to be a part of his Dornoch Jasper project below the Great Falls' palisades. Despite foreclosing on the building and its neighbors last October, Paterson Opportunities ignored this year's nearly \$70,000 property tax bill.

Still, Torres is unrepentant, saying that the bulk lien sale to M.D. Sass and Fishman was the right move to save the city in its hour of need.

"Foreclosing doesn't secure money," Torres said. "We're not in the business to own real estate. We're in the business to collect our taxes."

The liens sold last June represented \$146,027 in unpaid taxes by the properties in Fishman's bulk sale two years ago. Of those, \$94,730 were owed by Fishman's Paterson Opportunities LLC.

HOW WE GOT THE STORY

This story is the result of an extensive, months-long investigation of public records and government documents held by city, county and state agencies conducted by Herald News reporter Tom Meagher.

Meagher reviewed hundreds of pages of city documents received through 18 requests under the state's Open Public Records Act. Those documents included inter-agency correspondence, memoranda and e-mails regarding the city's bulk lien sale and dealings with Glen Fishman and his various companies; three years of appointments recorded by Mayor Jose "Joey" Torres' scheduling secretary; payment records and correspondence from the city's foreclosure attorneys; and memoranda of analyses provided by an independent financial advisor to the city.

Among the other documents that contributed to the reporting of this story were state campaign finance records; county deeds and land records; city tax maps, property records and tax lien records; requests for proposals issued by the city for development and investment projects and the subsequent responses; multiple press releases and corporate Web sites for various companies with which Glen Fishman is associated; and state business incorporation filings.

Each of these documents were vetted and explained through interviews with more than 15 city and county officials, developers, nonprofit builders and community members.

The data generated by reviewing county land records, city tax liens and on-site visits were analyzed through the use of spreadsheet, database and mapping software.

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Visit <http://www.northjersey.com/taxliens> to read this story and view an interactive map of each lien sold to M.D. Sass in the bulk sale.

Affordable housing hurt by lien sale ‘circus’

By TOM MEAGHER
Herald News

PATERSON — For most property owners, a lien is a burden to be paid off before selling a house.

But for a growing crop of investors, the lien has become a key to getting land on the cheap in neglected neighborhoods.

Over the past decade, investors have swarmed into Paterson to buy liens against properties whose owners failed to pay their local taxes. With the promise of a high return on investment, the annual tax sales have grown to standing-room-only affairs in the crowded council chambers at City Hall.

“It is a circus,” said Tax Assessor Charlie Parmelli. “I’m scared to death when I walk in that room, there’s so much going on.”

This popularity has begun to crowd out affordable-housing groups that have long depended on such sales as a source of developable land in needy neighborhoods.

City Tax Collector Kathleen Gibson, who oversees the sales, said that over the past five years, the attendance has grown tremendously. At last June’s sale, 71 investors paid \$5.6 million for liens.

Barbara Dunn, the executive director of Paterson Habitat for Humanity, remembers when the sales were held outside Gibson’s office door.

“Kathy would have three chairs outside her door. Habitat would be in one of them,” Dunn said. “We’d buy up these liens for maybe \$1,000 (or) \$1,500. Now, it’s like a zoo.”

In years past, especially in the 1990s, liens against abandoned and derelict properties in “bad” neighborhoods would go unsold, year after year after year. Gibson said that now, investors will buy any they can get their hands on, regardless of

the property’s condition or location.

That’s making it tougher for nonprofits struggling to find cheap land on which to build.

“Lots that 10 years ago would have gone for a couple thousand dollars now are going for \$40-, \$50,000 or more,” said Bob Guarasci, executive director of New Jersey Community Development Corp. “It makes it increasingly difficult for those of us who are developers of affordable housing and supportive housing to do our work. ... It doesn’t mean we can’t continue to build affordable and supportive housing, but it does mean that we need to find more money to do it.”

Both M.D. Sass and Glen Fishman’s companies have been among those spearheading the lien acquisition boom in New Jersey. M.D. Sass has been the single biggest investor at Paterson’s annual tax sales for the past two years. One of Fishman’s company Web sites heralds his experience in the field:

“Glen was the mastermind in turning the company into the largest tax lien foreclosure entity in the state of New Jersey,” the site reads. “Much of this business has been as a joint venture with several Wall Street real estate investment firms such as Xpand and M.D. Sass.”

The resurgence of investment in Paterson can be construed as a positive sign for a long-struggling city, but for residents whose annual incomes hover below the city’s median of \$35,000, affordable housing is more necessary than ever.

“We try to reach families making \$26,500,” Dunn said. “There is no way that I can build a house on land that cost me \$62,500 and deliver it in a way that they can pay for it.”

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WHAT'S A LIEN?

If homeowners don’t pay local property taxes, the city will slap them with a lien against their house.

The lien, a legal claim against an unpaid debt, prevents the owner from selling the land or borrowing against it without paying money owed.

In an attempt to collect all of its taxes, Paterson holds an annual auction of the unpaid amount. It sells the taxes in the form of a certificate, which becomes, essentially, a lien held by a third-party investor.

If within two years that buyer does not collect the taxes owed to the city, along with as much as 18 percent interest, the investor can begin foreclosure procedures. By doing so, the lien buyer legally takes ownership of the house from the original property owner for the price of the lien rather than the full-market value of the property.

The M.D. Sass sale – of liens which had gone unpurchased for years – was a separate process. The city had become the de facto lien holder, and for many of the 143 properties, it had begun the foreclosure process to take ownership of the land.

In the deal, the city combined three lists of liens into one large batch, intended to go to a single investor. The city intended the sale to reap a windfall while unloading as many difficult and “undesirable” properties from its responsibilities as it could.

Under the terms of the bulk auction, the winning bidder had to buy all of the liens on the list, a move designed to prevent a developer from cherry-picking more developable properties from the rest.

It also allowed the buyer to pay less than full price for the liens – a departure from the annual sales – while still collecting interest on the investment.

— Tom Meagher