



THE CITY OF NEW YORK
OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN

SCOTT M. STRINGER
BOROUGH PRESIDENT

Manhattan Borough President Scott M. Stringer
Statement at New York City Council Committee on State & Federal Legislation
In Support of Resolution 711
May 2, 2007

Good morning. Thank you Chairperson Baez for holding this hearing on Resolution 711 which supports State Assembly bills A.795, A.797, and A.352.

In March, my office's Mitchell-Lama Taskforce and the Mitchell-Lama Residents Coalition held a conference to strategize around preserving and protecting our precious stock of Mitchell-Lama housing. More than 700 people from across the city attended the conference—a testament to the urgency felt by Mitchell-Lama and other expiring subsidy residents to protect their homes and to maintain a city that is affordable for peoples of all incomes. The shortage of affordable housing is a critical problem—a problem exasperated by the accelerating loss of Mitchell-Lama developments. Assembly bills A. 795, A. 797, and A. 352 were mentioned repeatedly at the conference as legislative means for protecting current Mitchell-Lama residents and helping to preserve our City's stock of affordable housing.

New York City acquired over 120,000 units of rental and cooperative affordable housing through the Mitchell-Lama program. The first buyout in the City occurred in 1987 and represented a loss of 738 units. According to a Community Service Society report, the City has lost 22,668 Mitchell-Lama rental units or 34 percent of its rental stock since then. Another 14 percent, or 9,300 rental units, are currently threatened with buyouts. The rate of loss has accelerated significantly since the 1990's.

Mitchell-Lama housing is in dire straits. With each buyout, we not only chip away at one of the City's largest sources of housing affordable for families and individuals with moderate incomes, but we also fail to protect the people who helped this city to thrive. Immediate state legislative action is necessary to stem the tide of buy-outs leaving Mitchell-Lama tenants at risk. The New York City Council's support of Assembly Bills A.795, A.797, and A.352 is essential to their chances of passage in Albany. Each of these bills seeks to apply unique protections to Mitchell-Lama developments and residents if and when they leave the Mitchell-Lama program—as a package they would help alleviate the loss of the Mitchell-Lama program.

Every Mitchell-Lama development that leaves the program is an acute loss for the City, but a lack of protection for certain categories of Mitchell-Lama developments makes that loss even more crippling for residents and for the City. Currently, Mitchell-Lama developments occupied after December 31, 1973 do not become rent stabilized after leaving the program. Additionally, in some of the Mitchell-Lama developments occupied prior to January 1, 1974 that are placed into rent stabilization on exit from the program, building owners are able to apply for "unique or

peculiar circumstance” rent increases in order to increase post-Mitchell-Lama rents to market value.

Assembly bill A. 795 would place all buildings with expiring use subsidies—Mitchell-Lama and Project-based Section 8 buildings—into rent stabilization upon exit from their programs, regardless of year of occupancy. According to a report by the New York City Comptroller, the majority of rental developments that have left the Mitchell-Lama program were occupied after 1974 and are therefore eligible for free market rent increases. We may not be able to stop owners from leaving the program—but we must protect the residents of the buildings that leave the program. When a Mitchell-Lama development leaves the program, residents should be placed under rent-stabilization based on the last Mitchell-Lama rent. Ensuring we keep current Mitchell-Lama residents in their units is essential for keeping many neighborhoods intact and keeping the middle class in New York.

Likewise, Assembly bill A.352 prohibits Mitchell-Lama building owners from applying for “unique or peculiar” rent increases as a result of exiting from the Mitchell-Lama program. The KSLM-Columbus Apartments Inc. ruling, which allows owners to cite “unique or peculiar circumstance” rent increases upon buyout as a means for avoiding placing units in rent stabilization, has already and will continue to have a disastrous effect on other Mitchell-Lama developments. Most recently, Mr. Lawrence Gluck, the owner of a large portfolio of Mitchell-Lama developments, filed an Article 78 proceeding compelling the Division of Housing and Community Renewal (DHCR) to grant his applications for “unique or peculiar circumstance” rent increases for 11 developments totaling 2,165 units. Leaving Mitchell-Lama is procedurally determined by both statute and regulation—it is neither unique nor peculiar. Nor is it the only means for rent increases in units placed into rent stabilization after the building has left the Mitchell-Lama program. And perhaps most compellingly, interpreting the “unique or peculiar circumstance” to include every building that has left the Mitchell-Lama program twists the Emergency Tenant Protection Act and defies its purpose. All Mitchell-Lama developments should be protected from harmful rent increases upon buyout.

Finally, Assembly bill A.797 would provide Mitchell-Lama residents with information on buy-out not later than 12 months prior to the proposed dissolution. In addition to providing residents with more time to organize against and prepare for a buy-out, A. 797 also requires that the owner and supervisory agency provide residents with crucial information. It is vital that Mitchell-Lama residents are informed of their rights, of information that might help protect them from rent increases and preserve the development as affordable housing, and of the full consequences of their development leaving the Mitchell-Lama program.

While Assembly bills A.795, A.797, and A.352 have all passed in the State Assembly, the State Senate has not yet acted on these pieces of legislation; they must do so before the end of the legislative session or we risk losing thousands more units of affordable housing. I strongly urge the State Senate to move forward to protect Mitchell-Lama residents throughout the State. At the same time, I encourage the NYC Council to pass Resolution 711 calling attention to the vital need to preserve Mitchell-Lama housing. Thank you.

TESTIMONY OF SUSAN SUSMAN BEFORE NYC COUNCIL HEARING ON MAY 2,
2007 ON STATE LEGISLATION TO PROTECT TENANTS IN BUILDINGS LEAVING
MITCHELL-LAMA

I'm here as member of the PIE campaign – urging protection for tenants, incentives for landlords to stay in Mitchell-Lama, and enforcement of the law. We support a moratorium on buyouts until policy and law to preserve existing affordable housing ^{or} ~~is~~ in place, and a state law doing what this Council did last year: giving tenants a right of first refusal to buy their buildings if the landlord decides to buy out of the Mitchell-Lama program.

Today I want to talk about two bills: A795 and A352 — each of which protects only half of the existing Mitchell-Lamas in New York City. Unless they are merged or both passed, tens of thousands of apartments will be left with no protection.

A795 would protect the vulnerable Mitchell-Lama rentals built after 1973, such as Starrett City. Let's be clear about what it does and does not do.

1. It would put all post-1973 buildings leaving Mitchell-Lama into rent stabilization on leaving the program, with protection from “unique or peculiar circumstances” increases – increases that could otherwise raise those rent stabilized rents to market rate.
2. Further, it affects Section 8 enhanced vouchers. That is the section of federal law that provides “enhanced” or “sticky” vouchers to tenants whose income is up to 95% of the Area Median Income, or about \$62,000 for a family of four.

A 795 would raise to market rate the rents of those tenants who fail to properly file their certifications and annual recertifications for Section 8 vouchers. This is because under those vouchers, tenants pay the higher of their last rent or 30% of their income, and the government pays landlords the rest. Landlords do not want tenants opting for what could be the lower rent stabilized rent – which would reduce landlord income from the government. But this punishes tenants who, through no fault of their own, have imperfect forms. It is particularly a problem for low income tenants who will lose their apartments because of clerical errors. DHCR Commissioner Van

Amerongen testified at a hearing held by State Senate Liz Krueger last Friday that in a review of problems in one building, Eastwood, on Roosevelt Island, many mistakes were made by the housing company that miscategorized the forms, and other errors were made by DHCR itself.

3. As an incentive to keep owners in the program, the bill would remove the 6% cap on the return on investment for building owners – a cap that has not resulted in landlord deprivation since most owners pay their own management companies and similar enterprises, which get a full profit before the owner calculates his own 6%. This amount was calculated above and beyond the landlord's expenses.
4. Under this bill, those buildings – other than those with federally-subsidized mortgages under § 236 of the national housing act – would now get annual rent increases *while they are still in Mitchell-Lama*. Those increases would be those determined annually by the Rent Guidelines Board. Of course, the RGB's increases include compensation for taxes that owners must pay – taxes from which Mitchell-Lama owners are exempt.

So A795 protects the **21,000** *post-1973* rental apartments from going directly to market rate, . This is a critical protection for residents, but A795 fails to protect thousands of pre 1974 Mitchell-Lamas and former Mitchell-Lamas which may be at risk of substantial rent increases unless the legislature or the administration take swift action.

There remain almost **19,000** *pre-1974* Mitchell-Lama rental apartments. While they go into rent stabilization, owners have asserted that they are entitled to an increase in the starting rent stabilized rent just because a building is leaving Mitchell-Lama. This loophole is called “unique or peculiar circumstances” and was put into the state's 1974 Emergency Tenant Protection Act to adjust rents for the odd apartment whose newly rent stabilized rent could not be determined, such as the super's apartment or the unit that an owner had rented for a nominal fee to his daughter before she went off and got married.

As you may know, owner Larry Gluck has filed an Article 78 proceeding against the state's Division of Housing & Community Renewal, urging the court to grant market-rate “unique

or peculiar” increases for the initial rent stabilized rents in the 11 pre-1974 buildings Gluck has bought and taken out of Mitchell-Lama.* Gluck argues that this is required by the Appellate Division decision in KSLM-Columbus Apartments (the Westgate case). In that case, the Appellate Division cited letters written by DHCR commissioners as evidence of the policy in effect at that time.

The case is now returnable in a few weeks, before which I understand that DHCR will be setting its “unique or peculiar” policy. We know that Commissioner VanAmerongen is committed to preservation and we are hopeful that DCHR’s new policy will put an end to the practice of Unique and Peculiar rent increases after exiting the Mitchell-Lama program. This is particularly true since landlords have existing means of ensuring a reasonable profit.

Sadly, we also recognize that whatever DHCR policy is set, there is little doubt that Gluck and probably other owners will go to court if they do not get these “unique or peculiar” increases – which they did not even have in mind when they bought the pre-1974 buildings.

Thus the need for protection against these increases for ALL, and particularly the -1974’s buildings is now coming to a head and requires legislative intervention. If there is no legislation quickly, many of the **2,165** families living in these **11** pre-1974 buildings may well lose their homes and the city will lose that much stock of affordable housing. (Of those, at least 4 of the buildings did not provide enhanced vouchers when their buildings left Mitchell-Lama. Enhanced vouchers only keep the apartments affordable until their recipient moves out, leaving the apartment subject to market rate upon improvement.) While a DHCR administrative fix would be very helpful, it will probably not be the end: in the absence of legislation, the court will have the last word.

While I was hoping that there would be a single bill to put **all** buildings leaving Mitchell-Lama into rent stabilization with protection from “unique or peculiar” increases, it appears that A352 (Jonathan Bing's bill) is the only serious bill now pending that could protect the pre-1974s from “unique or peculiar” decisions that would raise our rent stabilized rents to market rate. I therefore urge this Council to vote for resolutions in support of state bills to

protect all current and former Mitchell-Lama rentals: Assembly Bill A352 and its counterpart in the State Senate, as well as a bill to protect the post-1973 apartments. While I support A795, I am concerned that keeping these bills separate is dividing the Mitchell-Lama community needlessly.

And while talking about what tenants need to stay in their homes, I urge as part of the PIE campaign that there be a moratorium on buyouts until a bill is passed, and that the NY State legislature adhere to the call by Judge Marilyn Shafer and pass a state right of first refusal for tenants and non profit housing developers to purchase their homes.

Thank you.

Sue Susman, president
Central Park Gardens Tenants' Association (one of the 11 buildings)
50 West 97th St., Apt. 15-T
New York, NY 10025
www.save-ml.org

*The buildings subject to Gluck's applications for "unique or peculiar" increases are:

Boulevard Towers I (Annabel Palma, Council Member)
Bruckner Towers (Annabel Palma, Council Member)
Central Park Gardens (Melissa Mark Viverito, Council Member)
Columbus Manor (Gale Brewer, Council Member)
Dancia House, 1889 Sedgwick (Helen D. Foster, Council Member)
Highbridge House (Helen D. Foster, Council Member)
Janel Towers (James Vacca, Council Member)
Prospect Towers (Bill DeBlasio, Council Member)
Town House West Apartments (Gale Brewer, Council Member)
Undercliff House (Helen D. Foster, Council Member)
Westwood (Gale Brewer, Council Member)

Testimony of Knickerbocker Plaza Tenants' Association

"Resolution 711:

Calling upon the State Legislature to pass, and the governor to sign Assembly bills A.795 and A.352"

New York City Council, Committee on State & Federal Legislation

May 2, 2007

Good day and thank you for the opportunity to testify before the Committee on State & Federal Housing. I am Rita Popper, President of the Knickerbocker Plaza Tenants' Association, a post-73 Mitchell-Lama development located on Second Avenue between 91st and 92nd Streets, in Manhattan.

Our original Mitchell-Lama building changed its designation to a 236 development after the owner secured a HUD mortgage in 1988. Knickerbocker Plaza is home to over 1500 tenants who occupy 578 apartments. Our development opened in April 1975 on the site of the old Knickerbocker Brewery and was originally designated as 60% occupancy for Senior Citizens. At the time we were built, there were no high-rise apartment buildings above 87th Street. The neighborhood consisted of tenements and lots and lots of bars. With the opening of Knickerbocker Plaza, and the influx of 1500 tenants, new businesses opened. New "luxury" buildings were developed. The city and state's tax revenues increased and the Building Development Index soared. You could say we were pioneers. You certainly can say, "We turned dirt into gold."

For the past three years, Mayor Bloomberg has asked the state legislature for a bill to help preserve affordable housing by putting post '73 Mitchell-Lama developments into rent-stabilization as is afforded to pre '74 buildings. Every year for the past three-years, the New York State Assembly proposes and passes a bill that provides rent stabilization for all Mitchell-Lama developments regardless of their occupancy date. And every year the Assembly bill never gets to the floor for a vote in the Republican held Senate. As defined in Webster's dictionary..."preserve" is to keep safe. According to the definition, we only keep pre '73 tenants safe while pre '73 developments automatically go into rent stabilization when the owner leaves the Mitchell-Lama program, affording them some

semblance of protection, the post '73 developments, like mine, are not afforded this opportunity merely based on the year of occupancy.

Every borough in New York City has tenants in post 1973 Mitchell-Lama rental developments. Recently, we were made aware of the consequences of a sale and pending removal from the Mitchell-Lama program for the residents of the 5,881 units comprising Starrett City in Brooklyn. Well there is the equivalent of FOUR Starrett Cities who are post 73 Mitchell-Lama tenants involving an addition 21,434 rental units that are also in the same precarious situation as Starrett City.. Without the passage of A795 approximately over 100,000 people are at risk of losing their homes, some already are on the precipice of being bought out. They are as follows: **Bronx**: Clinton Towers, Jonas Bronck Apts. Keith Plaza, Kelly Towers, Michelangelo, Mins Plaza O.U.B, River Park Towers, Stevenson Commons and Tracy Towers. **Staten Island**: Arlington Terrace and Castleton Park. **Brooklyn**: Bedford Gardens, Bedford Stuyvesant Restore, Brooklyn Hospital, DCA Central, Fulton Park Plaza, Harbor View, Marcus Garvey Village, Marien-Heim Towers, Northbay Estates, Ocean Towers, Roberto Clemente Plaza, Rutland Road, Sea Rise 1&2, Smith-Woodward, Starrett City, Stuypark and Tivoli Towers. **Manhattan**: Canaan House, Cathedral Parkway, Lakeview, Island House, James Lenox House, Knickerbocker Plaza, Manhattan Plaza St. Philip's House, Upaca 7, Westview and Westview Apartments. **Queens**: Seaview Towers, Court Plaza and Ocean Village.

All we are asking is for the city and state to treat all people who live in Mitchell-Lama developments...EQUALLY! A795 attempts to do that, but it doesn't exactly accomplish equality. A795 puts post-1973 into rent stabilization without "unique or peculiar," known as "U or P," increases when they leave the Mitchell-Lama program, so that the last rent paid under Mitchell-Lama is the first rent paid under rent stabilization. This saves the post-73's from going to immediate market rate and halts the creation of a new class of homeless people. This is a good thing. But...it again creates a divide between those who are already rent stabilized as they are currently NOT protected against "U or P" increases.

You know the facts about A795. Many of which were adopted as part of the tenant and advocate P.I.E. CAMPAIGN. **P** for PROTECTION/PRESERVATION, **I** for INCENTIVES. (Owners who stay in the Mitchell-Lama (non-236) program will receive annual rent increases as determined by the Rent Guidelines Board for rent stabilized developments. **E** for ENFORCEMENT. The enforcement issue is that the governing agencies rules and regulations use the term “may” instead of “shall” as far as what Mitchell-Lama owners are required to do. This issue is also being addressed in a separate bill.

The Real Estate Board will come before you and let you know that a contract is a contract. And you can't change the terms in mid-stream. That's true. But contracts can be amended. We are not changing the terms for the owner. We are just protecting the tenants, who were obviously overlooked from the get-go. My building was originally built and tax incentives enjoyed by the owner/developer because he agreed that 60% of Knickerbocker Plaza would be for Senior Citizens. In 1988, HUD Commissioner, Jack Kemp bowed to the owners demands and lifted the original age limit designation. It was decided that a building was either 100% for Senior Citizens or else Senior Citizens would be accepted as everyone else, through the lottery system. Although that changed the original intention of the contract, the owners still enjoyed the tax incentives as if they were providing for Senior Citizens. Contract amendments cannot only be one-sided as suggested by the Real Estate Board.

I am asking that common sense prevail and that we put people ahead of a political party. Please encourage Mayor Bloomberg to fight and fight hard for the enactment of A795. Thank you.

TENANTS & NEIGHBORS

THE STATEWIDE CENTER OF POWER FOR TENANTS

Testimony of Amy Chan, NYS Tenants & Neighbors
May 2nd, 2007 City Council Hearing on Res. 711
Committee on State and Federal Legislation

Introduction

Good morning. My name is Amy Chan and I am the Mitchell-Lama Organizer for NYS Tenants & Neighbors, a 30 year old organization that works to organize tenants and fight for the preservation of affordable housing.

I would first like to thank Chairperson Baez and this Committee for the opportunity to testify on behalf of Tenants & Neighbors, and express strong agreement with the Council's call on the State to pass legislation to preserve Mitchell-Lama housing.

The State has already permitted the loss of over 65,000 units of Mitchell-Lama housing, and currently another 11 developments in the City totaling 3300 units are in the process of being bought-out of the program.

In addition, the pending sale at Starrett City is a prime example of the imminent threat that all remaining Mitchell-Lamas face of being converted to market-rate housing.

Large developers like Clipper are trying to buy subsidized developments for prices so exorbitant that it would be impossible to keep them affordable. With new debt placed on the property and the loss of tax abatements, rents would undoubtedly increase beyond affordability.

Without adequate intervention from the State, affordable housing will continue to disappear and tenants will be permanently displaced from New York.

Rent Stabilization without "U&P"

Assembly Bills A795 and A352, introduced by Assembly Members Lopez and Bing and Senator Padavan, are crucial to providing protections for Mitchell-Lama tenants.

Currently, Mitchell-Lamas that exit the program only become rent stabilized if the building was initially occupied before 1974. Post 1973 developments like Starrett City, which house nearly 14,000 tenants, would go directly to market-rate under the current law.

Not only are New York's rent regulation protections discriminatory, those tenants lucky enough to be protected by rent stabilization still must grapple with a loophole in the



Emergency Tenant Protection Act called “unique or peculiar” circumstances. Owners are intentionally misreading the ETPA to define leaving Mitchell-Lama as a “unique or peculiar” circumstance. They then file for rent increases two to four times the last Mitchell-Lama rent, which should be the initial rent stabilized rent.

The passage of A795 will ensure that all post 1973 developments that leave the Mitchell-Lama program be protected by rent stabilization without “U&P” increases. Similarly, the passage of A352 will ensure that pre 1974 buildings enter rent stabilization without “U&P” increases as well.

It is critical that these 2 bills be passed together as they complement each other. We want to ensure that ALL Mitchell-Lamas buildings, regardless of date of occupancy, will be protected. Additionally, it is also critical that A352 include pre 1974 buildings that have already bought out of the program but still have “U&P” increases pending at DHCR.

Of course, DHCR also has the authority to set a policy with regards to “unique or peculiar” but has not and instead, allowed owners to bully tenants into private settlements. The elimination of “unique or peculiar” can be achieved both through law as well as administrative reform.

State Right of First Refusal

It is also important for the Council to keep in mind that the passage of A795 and A352 serve to protect tenants after buildings buy out of the Mitchell-Lama program, but do not actually preserve Mitchell-Lama housing as Mitchell-Lama.

Therefore, even more importantly, the Council needs to urge the State to pass a Right of First Refusal law.

There is no doubt that the real estate industry has identified the removal of affordable housing as a lucrative business. Individual landlords, like Laurence Gluck of Stellar Management, have started to systematically target subsidized and regulated housing for conversion to market-rate or enhanced voucher based housing.

For this reason, tenants and their not-for-profit preservation partners should be given the opportunity to purchase their buildings and keep them as affordable housing in the Mitchell-Lama or Section-8 programs when the current owner files a notice of intent to convert the properties to market-rate housing.

In light of the recent decision by New York Supreme Court Justice Marilyn Shafer to strike down Local Law 79, New York City’s Right of First Refusal law, it is imperative that the State take action. As a matter of fact, Judge Schafer herself admonishes the State for failing to do so earlier.

“Whether it be by creating a right of first refusal or by extending rent stabilization, the State Legislature may well have the ability to protect low and middle-income residents of

Mitchell-lama buildings, as it has done in the past. In failing to do so, or to permit the City of the New York to do so, the State Legislature has failed the residents of the City of New York. The recent sales and proposed sales of major assisted rental housing complexes in this City and the likely devastating impact of those sales on low and moderate-income residents of New York may and should function as a wake-up call for the need for immediate action by the State.”

Indeed, New York has fallen behind in national preservation efforts of governmentally assisted housing. Rhode Island, Illinois, Texas and Maine all have some type of a right of first refusal law to preserve expiring use housing. Long a beacon of pro-tenant fair housing and rent regulation laws, New York State is now failing its low and moderate income tenants.

Incentives: HFA Refinancing

In addition to empowering tenants with a State Right of First Refusal law when owners choose to opt-out, it is also important to provide owners with incentives to remain in these affordable housing programs so that they do not choose to opt out in the first place.

Currently, owners of Project-based Section-8 housing can renew their contracts with HUD under the Mark-up-to-Market program. This federal program which matches rental subsidies with market rents has been an effective preservation tool for project-based Section-8 housing.

For Mitchell-Lamas without project-based Section-8, there is no obvious means to increase the property’s revenues and compete with market rents. New York City has a refinancing program to provide greater profits to Mitchell-Lama owners. However, this program has only been successful in keeping Mitchell-Lama cooperatives, not Mitchell-Lama rentals, in the program.

Therefore, the State Housing Finance Agency should create a refinancing program for all Mitchell-Lamas modeled on the NYC Housing Development Corporation’s repair and refinance program. However, in order to be effective, HFA would need to build upon and strengthen HDC’s program by providing deeper subsidies and combining those subsidies with other incentives. In exchange, owners should be required to remain in Mitchell-Lama for longer periods of time.

Moratorium

Finally, the State should immediately implement a moratorium on all Mitchell-Lama buy-outs until the State develops a preservation program that incorporates the legislative and administrative reforms that I previously outlined.

Specifically with regards to Mitchell-Lamas, DHCR should thoroughly review and reform its procedures for the buy-out process. In many instances, Boulevard Towers and Janel Towers to name some examples, buildings were allowed to buy out of the program

despite the existence of restrictive covenants that prohibited owners from doing so. DHCR should issue a report that includes an assessment of its current procedures and an action plan that includes collaboration and communication with other agencies like HPD and HUD so that buy-outs are not approved until the buildings are thoroughly researched.

Conclusion

In conclusion, I strongly support Resolution 711 and the Council's call on the State to preserve Mitchell-Lama housing.

It is urgent that the State adopt a comprehensive preservation program that includes a Right of First Refusal, stronger incentives for owners to stay in Mitchell-Lama, as well as the protections of rent stabilization without "unique or peculiar."

I want to reiterate Justice Shafer's call on the State to either take immediate action or empower the City to do so itself.

We have already lost tens of thousands of units of Mitchell-Lama and Section-8 housing, not to mention over 300,000 units of regulated apartments due to vacancy decontrol.

If Governor Spitzer and the State are not up to the task of preservation, then it is time to relinquish the responsibility to the City by repealing the Urstadt Law and restoring Home Rule.

Again, thank you Chairperson Baez for the opportunity to testify before this committee. I am available to answer any questions that you may have.

New York Is Our Home

Affordable Rent Campaign

Tenants, Labor and the Working Families Party Dedicated
to Keeping New York Affordable

212-608-5122

Committee on State & Federal Legislation Hearing on Resolution 711

Testimony of Chloe Tribich of Housing Here and Now May 2, 2007

There is no doubt that NYC is in the midst of an affordable housing crisis. In just three years, from 2002 to 2005, average rents rose by 9%, tenant incomes fell by 6% and the city's subsidized affordable housing stock shrank by 11%. The median percent of income that New Yorkers spend on rent is now over 30%. In some neighborhoods this figure is over 40%.

According to the NYC Housing and Information System, which draws from the City's HVS data, the category of housing stock that includes Mitchell-Lama housing shrunk citywide from 346,513 units in 2002 to 126,678 in 2005. The mayor's plan to build and preserve affordable 165,000 units is admirable, but it does not do enough to save the at-risk affordable housing that we currently have.

Since its inception several decades ago, Mitchell-Lama housing has provided a crucial stock of affordable housing for working and low income New Yorkers. The potential loss of affordability of Mitchell-Lamas and other expiring use affordable housing is all the more threatening in the climate of skyrocketing rents and declining tenant incomes suggested by the data outlined above.

Housing Here and Now is coordinating a citywide campaign called New York is Our Home. This is an effort of labor, tenant groups and the Working Families Party. Preservation of Mitchell-Lama and expiring use housing is one of our campaign's top priorities. Whether participating groups have Mitchell-Lama developments in their areas of operation or not, all have recognized that the fate of the remaining Mitchell-Lamas will increase the competition for the remaining affordable apartments citywide with all the attendant negative secondary effects.

Extending rent regulation to Mitchell-Lamas constructed after 1973 and closing the unique and peculiar loophole that has allowed landlords to exempt their pre-1973 properties from regulation is a crucial part of our preservation platform. Providing a right of first refusal for tenants, declaring a moratorium on buy outs until a true preservation plan is enacted, and enforcing existing provisions against landlords who have violated the terms of their agreements are other crucial steps that our leaders in government must take to ensure continued affordability in these developments.

On behalf of Housing Here and Now and the New York Is Our Home campaign, I strongly encourage the New York City Council to pass this resolution in support of State Assembly bills A. 352 and A. 795 and their Senate equivalents.

Chloe Tribich, Lead Organizer, Housing Here and Now
(718)246-7900 x250,

Steering Committee: ACORN, Bronx Tenant Action Coalition, Coalition for the Homeless, Community Voices Heard, Good Old Lower East Side, Make the Road By Walking, NYS Tenants & Neighbors Coalition, Northwest Bronx Community and Clergy Coalition, NYC AIDS Housing Network, Stuyvesant Town/Peter Cooper Village Tenant Association, Tenants PAC, Working Families Party

Campaign Director: Housing Here and Now Legal Counsel: Legal Aid Society

Endorsers: 504 Democratic Club, Abyssinian Development Corp, AFM Local 802, American Association of Jews from the Former USSR (NY Chapter), ANHD, Asian Americans for Equality, Association of Legal Aid Attorneys (UAW 2325), Association of Tenants of Lincoln Towers, Audubon Partnership for Economic Development, Beulah HDPC Inc., Beyond Shelter Coalition, Bushwick Housing Independence Project, Center for the Independence of the Disabled NY, Central Park Gardens Tenant Association, Centro Hispano "Cuzcaltán," Chelsea Tenant Action Committee, Churches United, Citywide Task Force on Housing Court, CODA, Community Service Society, CWA District 1, CWA Local 1180, Cypress Hills LDC, DC 37, Disabled in Action of Metropolitan New York, Dunbar Tenants Association, Eviction Intervention Services, Fifth Avenue Committee, Flatbush Development Corp., Goddard Riverside Community Center, Greater New York Labor Religion Coalition, Harlem Congregations for Community Improvement, Hope Community, Housing Conservation Coordinators, Human Development Services of Westchester, Interfaith Assembly on Housing and Homelessness, Interfaith Council for Action, Inc., Janel Towers Tenant Association, Jews for Racial and Economic Justice, Joint Public Affairs Committee for Older Adults (JPAC), Knickerbocker Plaza Tenant Association, Lafayette Avenue Presbyterian, London Terrace Tenant Association, Los Sures, Met Council on Housing, Metropolitan Community Church of New York, Mitchell-Lama Residents Coalition, Mothers on the Move, Mount Vernon United Tenants, New Settlement Apartments/ CASA, New York State Preservation Coalition, Partnership for the Homeless, Picture the Homeless, Pratt Area Community Council, PUSH Buffalo, Queens Community House, Queens Congregations United for Action, Queens League of United Tenants, Riverside Church, St. Bartholomew's Church, St. Nicholas NPC/UNG, UHAB, UAW Region 9A New York Area CAP Council, United Neighborhood Houses of New York, UPROSE, Village Independent Democrats, West Side Neighborhood Alliance, West Side SRO Law Project, WHEDCO, Woodside on the Move

CHURCHES UNITED CORP.

"...to discover new possibilities for housing especially for those most in need..."

May 2, 2007

Esteemed Councilmembers:

My name is Matt Sollett and I am here today on behalf of Churches United Corp. Churches United is an organization of over twenty congregations responsive to the housing crisis in north Brooklyn. We represent thousands of parishioners and community members throughout north Brooklyn.

According to the NYC Comptroller, there are over 4500 units of Mitchell Lama housing in Community Board 1, the district in which most of our congregations are located. We believe that under current regulations, tenants in these units are in danger of losing their homes.

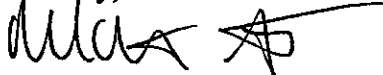
As more and more developments opt out of the Mitchell Lama program, more and more low and middle income tenants are in danger of losing their homes in the face of rising rents. It is a fact that many of these families who currently pay affordable rents under Mitchell Lama will not be able to afford rent increases demanded by owners who try to raise rents to market rate.

Residents of neighborhoods with high real estate appeal, such as Williamsburg, have to contend with not only with their own increasing rents, but also with rents increasing in buildings around them. Therefore, if they are forced out of their home because of rent increases, there is little chance that they will be able to find an affordable apartment anywhere else in their neighborhood.

I have spoken to countless tenants, many of whom have lived in north Brooklyn for decades, who have been forced from their longtime neighborhood due to climbing rents. It is critical that that we act now to protect Mitchell Lama tenants and other rent-regulated tenants from being pushed out of their homes. We must act now so that apartments in expiring Mitchell Lama developments constructed after 1973 are brought under rent regulation and to close the "unique and peculiar" loophole used to avoid rent regulation in pre-1973 developments.

We support this resolution and any other legislation that protects low and middle income tenants. We hope that every member of the City Council will vote yes on this resolution to protect Starrett City residents as well as residents in every other Mitchell Lama building in New York City.

Sincerely,



Matt Sollett

JPAC *for OLDER ADULTS*

Joint Public Affairs Committee / 132 West 31st Street 10th Floor / NY, NY 10001 / 212-273-5262
Sponsored by Jewish Association for Services for the Aged (JASA)

My name is Adele Bender, Queens Borough Coordinator for JPAC, Joint Public Affairs Committee for Older Adults

I am most concerned about the loss of affordable housing. Your resolution in support of 795 that would extend rent regulation to all Mitchell Lamas would greatly help to slow down this loss. The occupants of the Mitchell Lama apartments are working families and many elderly people who have lived there for many years and raised their families there. Not only does Mitchell Lama represent community but a goodly portion of rents that average working people and elderly can still manage to pay. Affordable rents in Mitchell Lama reflect the need to somehow try to even out the demand and supply of affordable housing.

Therefore I am of the hope that you will understand how urgent it is that Mitchell Lama go into rent stabilization and to eliminate the unique and peculiar circumstances ^{that} could make those apartments unaffordable for the residence of those building and could mean the break of communities. Communities are the backbone of this city and of a civilized and decent society. Where would the people living in Mitchell Lama go if they can no longer afford to pay the rents? Therefore ~~I~~ cannot stress how important your support of a resolution of 795 be approved.

Thank you;



Theodore A. Levine
President

Steven Banks
Attorney-in-Chief

Civil Practice
Adriene L. Holder
Attorney-in-Charge

**TESTIMONY OF THE LEGAL AID SOCIETY
CONCERNING RESOLUTION 711**

New York City Council
Committee on State and Federal Legislation

May 2, 2007

Founded in 1876, the Legal Aid Society's Civil Practice is the oldest and largest program in the nation providing direct legal services to the indigent. Our legal assistance is focused on enhancing family stability and security by resolving a full range of legal problems, including immigration, domestic violence, family law, and employment, in addition to housing, public benefits and health law matters. Through our housing and community development work, we also foster the development of community-based organizations, job creation, and neighborhood revitalization. Annually, the Society's Civil Practice provides free direct legal assistance in some 30,000 individual closed cases through a network of 10 neighborhood offices in all five boroughs and 17 specialized units and projects for under-served client groups. When it is the most efficient and cost-effective way to help our clients, we provide legal representation to groups of clients with common legal problems, including those referred by elected officials.

We welcome the opportunity to testify before the City Council Committee on State and Federal Legislation.

Two years ago, the New York City Council enacted Local Law 79. This month, Justice Shafer invalidated the law but in doing so, she sent a message to the State Legislature. In the case, Real Estate Board of New York, Inc. v. City Council of the City of New York, Index Number 114439/2005, Justice Shafer found,

Whether it be by creating a right of first refusal or by extending rent stabilization, the State Legislature may well have the ability to protect low and middle-income residents of Mitchell-Lama buildings, as it has done in the past. In failing to do so, or to permit the City of the New York to do so, the State Legislature has failed the residents of the City of New York. The recent sales and proposed sales of major assisted rental housing complexes in this City and the likely devastating impact of those sales on low and moderate income residents of New York may and should function as a wake-up call for the need for immediate action by the State.

The Need to Preserve Affordable Housing is Urgent

As part of Legal Aid's daily practice, we provide legal representation and advocacy on behalf of low-income tenants whose housing is at risk. Many of our clients are tenants live in project-based Section 8 developments or other buildings that receive federal or state subsidies. We also represent homeless families and individuals, who are in need of safe and affordable housing but who daily come up against the extreme scarcity of such housing in New York City. In all five boroughs, we represent people with physical disabilities who cannot find accessible housing that is also affordable. For poor and lower-income working families, it is a constant struggle to find and maintain safe and affordable housing.

Subsidized affordable housing is a crucial part of maintaining even the inadequate numbers of affordable housing units that now exist in New York City, and curbing the rise in the population of New Yorkers who are homeless. Senior citizens and individuals with disabilities comprise 40% of the tenant population living in project-based Section 8 developments. These apartments are in privately-owned buildings where eligible tenants pay 30% of their income in rent and a subsidy from HUD covers the rest of their rent. A similar rent scheme exists for housing under particular federal programs that provide subsidies at buildings reserved for elderly or disabled people and their families. The median household income for a family living in a Mitchell-Lama development is \$26,000 a year. These subsidized developments protect long-time residents and ensure the continued presence of affordable housing even as neighborhoods change and rents increase.

The federal and state subsidized housing programs are in crisis. There are not sufficient means to keep subsidized buildings affordable. All across the City, private owners of subsidized buildings are opting out of project-based subsidy programs or prepaying subsidized mortgages and selling their buildings to for-profit developers.

The State Must Act to Preserve Affordable Housing

It is against the backdrop of so many units potentially deregulating and leaving the affordable housing stock that we are here today, to urge the City Council to pass resolution 711 calling on the State Legislature to act to extend rent regulations to projects buying out of the Mitchell-Lama program. While, extension of rent regulations to these apartments would be a welcome first step, the State Legislature must act to preserve the homes of so many New Yorkers.

The right of first refusal and opportunity to purchase for tenants or others who can keep deregulated housing affordable is an important step, and should become a state law. In New York City, we are fortunate to have a pool of responsible housing development groups who are committed to maintaining buildings as affordable housing for low- and moderate-income residents. Tenants or tenant-endorsed housing developers will have an enhanced opportunity to acquire buildings in which owners choose not to stay in an affordable housing program. Tenants or nonprofit housing developers should be allowed to purchase their buildings at or below market value when owners choose not to continue in an affordability program and sell their residential property.

New York State should declare a moratorium on all Mitchell-Lama buyouts. This moratorium should last until such time as New York State has developed its preservation agenda and until such time as DHCR has issued a report that explains how the agency will enforce the State's preservation plan and how it will avoid its past mistakes and missteps, and until such time as the vacancy rate for affordable apartments is over 5%.

Lastly, the State Legislature should extend rent regulations to Mitchell-Lama and Section 8 projects built after 1973. Additionally, the Legislature should safeguard these projects from "unique or peculiar" increases that could raise their rents to market rate. The Legislature should pass Assembly bill 795 and 352.

The United States Department of Housing and Urban Development Must Reject the Proposed Sale of Starrett City

On March 1, 2007, Secretary Jackson of the United States Department of Housing and Urban Development rejected the proposed sale of Starrett City. This rejection was conditional and Secretary Jackson requested additional information about the proposal. One month later, the New York State Division of Housing and Community Renewal firmly rejected the sale. HUD should make its own rejection final because the purchase price of almost 1.4 billion dollars rules out maintaining the complex as affordable for the families of Starrett City.

Conclusion

Thank you for the opportunity to testify before the Council's Committee on State and Federal Legislation today. We hope that the Council will do all that is within its power to address the serious threats to affordable, subsidized housing in New York State

Respectfully Submitted:

Ellen Davidson
The Legal Aid Society
Law Reform Unit
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212-577 3339

Testimony of:
Jumaane D. Williams, Acting Vice-President
Southern Christian Leadership Conference- Brooklyn Chapter

New York City Council
City Hall
Tuesday, May 2, 2007, 11:00am

Good morning Council Member Barron, all council members and those in attendance, thank you for this opportunity.

My name is Jumaane D. Williams, I am the acting vice-president of the Brooklyn Chapter of the Southern Christian Leadership Conference.

In my former role as the Executive Director of the NYS Tenants & Neighbors (T&N), I frequently spoke about the perfect storm brewing regarding affordable housing in New York City. Starrett City is another lightning bolt example in that storm, and unfortunately, if nothing is done it won't be the last.

In addition, having been born and raised in that special Starrett community, my concern is also personal.

When I left T&N several months ago, the Mitchell-Lama program was being decimated, with close to 40% of the units gone forever. I'm positive that number has risen since then.

It is governments' job, duty and moral obligation to step in when market forces begin to crush segments of the population, as it is doing in affordable housing. Mitchell-Lama and programs like it were created, because of that very belief. The conditions that created Mitchell-Lama still exist, if not worsened. Nearly 30% of New York City renters are paying over 50% of the income in rent, overcrowding is now the norm for many households and homelessness continues to be a severe problem.

Starrett City is home to 14,000 tenants in 5,581 apartments. Of this, 100% of the units are in the Mitchell-Lama program and approximately 86% receive additional federal subsidy. This is a sizable amount of units, with tenants who would otherwise not be able to find a comparable place to live. We cannot continue to ignore thousand of residents in our city. We cannot continue to thrust on a broken housing system tens of thousands of people looking for the same virtually non-existent affordable apartments. We lost with Stuy-Town, but we can win here. Simply put, if something isn't done 14,000 tenants will potentially be homeless. It is morally reprehensible and we all should be ashamed. And the answer is not vouchers, let's not fool ourselves. I have personally dealt with dozens of tenants who thought the answer was vouchers as they were told, only to discover they weren't worth much of anything if no one accepts them. Adding another 6,000 to the market surely won't help.

We need to stop sending the message that money supersedes a human being's right to shelter. Or perhaps it does. If that is the case, let's stop lying to people. Let's stop inviting people to New York City as a place to achieve their dreams and let's tell all the poor, working class and people of color to move out now.

During Robert Moses' urban renewal these groups were sent to undesirable pockets of the city. Thanks to the gentrification of the city today, during this round of urban renewal, they'll just have to leave.

Starrett is a wonderful example of what New York City purports to be, a smorgasbord of socio-economic people. We must not let this beacon be taken away.

SCLC implores the city council to do all it can to maintain the affordability of Starrett City and save the Mitchell-Lama program in general.

The council can:

- 1) Pass Resolution 711 calling on the Governor and state legislature to sign Assembly bills A.795, A.797 and A.352, as well as, ask the state to allow all Mitchell-Lama's facing buyout to be placed under Rent Stabilization protections
- 2) Demand that any potential buyer of Starrett City be required to maintain the affordability for low and moderate income tenants
- 3) Continue to demand the repeal of the Urstadt Law, so that New York City can have home rule over rents and evictions.

It is time to get serious about this problem. New York City is increasingly facing the real possibility of being a city only for the rich. Any vibrant community needs a socio-economic mix. It seems that the melting pot is simply melting away its greatness.

My parents were immigrants from the small island of Grenada. They called Starrett home. I think I turned out ok. It would be a sad statement if the opportunities afforded those of us who were part of this wonderful community, were simply ripped away because of greed.

Thank you

Testimony of Pat Boone, president NY ACORN

I am Pat Boone, president of NY ACORN and resident of East NY, Brooklyn.

Millions of New Yorkers cannot afford a decent place to live.

The most recent City data shows that 26% of NYC renters pay at least half of their income for rent.

Thousands of affordable units in Mitchell-Lama are being lost every year. The median income in Mitchell Lama developments in New York City is \$22,500 with almost 28.9% of residents living Below the Poverty Line. Now, with the proposed sale of Starrett City we stand to lose almost 6000 apartments in one fell swoop. Not only is Starrett the largest subsidized housing complex in the entire country but it is a wonderful economically and racially diverse community that is safe, secure and well-maintained. When tenants meet in Starrett City, agendas are printed in English, Spanish, Russian and even Mandarin when translation is available.

With the present crisis as a starting point, losing hundreds of thousands of affordable apartments over the next 10 years would be devastating. But this is precisely what will happen unless strong new policies are put in place quickly. As rents continue to skyrocket, affordable housing protections are eroding.

Many of you know that on Feb. 8th of this year, the owners of Starrett City agreed to sell the complex to Clipper Equity for \$1.3 billion dollars. Both HUD and the Commissioner of NY State DHCR have denied the bid because they do not believe that affordability can be maintained at that price.

Now you, as City Council, have the opportunity to do your part in insuring that further protections are put in place to protect Mitchell Lama tenants through out New York and to help preserve the affordability. We are asking that you pass Resolution 711 calling on the governor and State Legislature to sign bills 795, 797 and 352-

laws that will allow Mitchell-Lama's to be placed under Rent Stabilization protections if the owners decide to opt out.

These bills will help to slow the loss of units by;

1) Extending rent regulations to all developments. Today, Mitchell-Lama and Section 8 projects built before 1974 are permanently covered by rent regulation when their contracts expire, but still face enormous rent increases through a loophole in the law that allows a landlord to argue that "unique or peculiar circumstances" exempt them from the rent laws. Tenants in developments built after 1973 are NOT COVERED by rent regulations if they opt out of these programs. Rent regulations must be extended to ALL Mitchell Lama and Section 8 buildings when their contracts expire, regardless of when they were built ... along the lines of legislation proposed by Mayor Bloomberg, and all must be safeguarded from "unique or peculiar" increases that could raise their rents to market rate.

2) Ending the practice of granting landlords across-the-board "unique or peculiar" permissions to raise rents to landlords in Mitchell-Lama buildings leaving the program;

Tens of thousands of affordable Mitchell-Lama apartments have already been lost. There are more than 40,000 Mitchell-Lama rental apartments and some 47,000 homes in Section 8 properties that need to be protected. We are asking you to act quickly to make sure that New York State passes these laws.

Our lives and the lives of our children and grandchildren are at stake. Thank you.