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THE LEGAL AID SOCIETY

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Testimony by The Legal Aid Society, before the Committee on Public Housing The New York City Housing Authority's Mixed-Finance Modernization Plan for the City and State Developments March 1, 2010

INTEREST AND EXPERTISE OF THE LEGAL AID SOCIETY

The Legal Aid Society is the oldest and largest provider of legal assistance to low income families and individuals in the United States. The Society's Civil Practice operates offices in each of New York City's five boroughs and city-wide units serving all of New York City, providing comprehensive legal assistance in housing, public assistance, and other civil areas of primary concern to low income families and individuals. The Society is counsel on numerous class-action cases concerning the rights of public housing residents and is counsel to the New York City Public Housing Resident Alliance. The New York City Public Housing Resident Alliance seeks to inform and network with residents, so that they can have a strong and effective voice and secure greater accountability in local, state and federal policy decisions that affect public housing in New York City. We appreciate the opportunity to testify before the esteemed committee on Public Housing.

BACKGROUND

The New York City Housing Authority ("NYCHA") faces a continued structural deficit because of the lack of funding to support the 21 public housing developments which were built by the City and State governments. Since these developments were not built with federal dollars, they are not supported by the federal government. The City of New York created six City developments throughout the five boroughs consisting of more than 6,000 units. These 6,000 units which NYCHA operates without any fiscal resources from the City generate an operating deficit of close to $30 million a year.

The chronic under funding of NYCHA is a formidable hurdle to the goal of ensuring that these units of safe affordable housing are available for the next generation of New Yorkers.

MIXED FINANCE MODERNIZATION

The mixed financed modernization plan will allow NYCHA to form a limited liability partnership that will use a mixture of tax credits and federal stimulus funds to acquire the 21 City and State developments. The acquisition of the City and State developments with stimulus dollars then allows NYCHA to federalize all or most of these developments in order to draw down federal operating and capital dollars. These subsidies will ensure an annual funding stream for these units. The stimulus legislation provides a unique opportunity for Housing Authorities to add to their portfolio if stimulus dollars are used to purchase the buildings.

The Legal Aid Society supports NYCHA's mixed finance modernization plan as the infusion of federal dollars which emanates from this plan will provide some of the funding NYCHA sorely needs. Equally important, the enabling legislation that permits NYCHA to move forward with this ambitious plan guarantees that developments built by the City and State of New York will remain public housing, the tenants in these buildings retain all rights that they currently possess as public housing residents, and NYCHA will federalize the developments to ensure an operating and capital funding stream.

The Legal Aid Society would not support the enabling legislation or the underlying modernization plan if it did not guarantee that these developments would remain public housing and if tenants' rights were not protected. Because the developments will remain public housing, because tenants' rights are protected, and because this is a critical opportunity to leverage federal dollars into these developments, The Legal Aid Society supports NYCHA in this endeavor.

CONCLUSION

While the Legal Aid Society supports NYCHA's goal of attaining federal funding for the City and State units, as advocates for low income New Yorkers we will be vigilant in our efforts to ensure that NYCHA lives up to its obligations under the modernization plan to continue to provide housing for those of low income.

Thank you again for the opportunity to testify before the Committee on Public Housing.

Respectfully Submitted:

Steven Banks, Attorney in Chief
Adriene Holder, Attorney in Charge Civil Practice
Scott Rosenberg, Supervising Attorney Law Reform Unit-Civil
Judith Goldiner, Supervising Attorney
Afua Atta-Mensah, Staff Attorney
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Community Service Society | Fighting Poverty Strengthening New York

February 3, 2010

MEMORANDUM IN SUPPORT OF

S6430 (Squadron) and A9487 (Lopez):

Federalization of NYCHA State and City Developments

The Community Service Society (CSS) strongly supports S 6430 and A 9487 for several reasons: The legislation guarantees that New York City Housing Authority (NYCHA) developments built by the City and State of New York will remain public housing. The tenants in these buildings will retain all rights that they currently possess as public housing residents. The resulting federalization of the City and State developments will provide the federal operating and capital subsidies necessary to the preservation of these housing resources.

NYCHA faces a continuing structural deficit, primarily because of the lack of operating funds to support its public housing developments, which were built by the City and State. Since these developments were not originally financed with federal dollars, they receive no operating support from the federal government. The resulting NYCHA deficit threatens the long term viability of all its public housing because the federal subsidy dollars are being stretched to support State and City developments.

This act will authorize NYCHA to sell or lease all or part of the buildings commonly known as Marlboro Houses, Chelsea Houses, Castle Hill Houses, 344 East 28th Street, Amsterdam Addition, Bushwick Houses, Stephen Wise Towers, Arthur H. Murphy Houses, Baychester Houses, Jonathan Williams Plaza, Drew-Hamilton Houses, Independence Towers, Rutgers Houses, Stapleton Houses and Manhattanville Houses, located in New York City, to a private-public partnership, in order to federalize these developments under the provisions of the American Recovery and Reinvestment Act (ARRA) of 2009. By using federal economic stimulus dollars to purchase these properties, NYCHA will be able to federalize all or most of these developments and draw down much needed federal operating and capital dollars. These subsidies will ensure an annual funding stream for these units. ARRA allows Housing Authorities to add to their portfolio if stimulus dollars are used to purchase the buildings, but the authorization is time limited.

Because the developments will remain public housing, because tenants' rights are protected, and because this is a critical opportunity to leverage federal dollars into these developments, CSS strongly supports this legislation. CSS would not support this bill if it did not guarantee that these developments would remain public housing and if tenants' rights were not protected.

For more information, please contact Victor Bach, Senior Housing Policy Analyst, Community Service Society (CSS), (212) 614-5492, vbach@cssny.org.

Community Service Society | Fighting Poverty Strengthening New York

Testimony of
David R. Jones, President & CEO
Community Service Society (CSS)
At
Public Hearings on
The Revised Draft FY 2010 Agency Annual Plan
New York City Housing Authority (NYCHA)
December 17th, 2009

The Community Service Society (CSS) is pleased to lend its support to the proposed amendment to the NYCHA Annual Plan for FY 2010. The American Recovery and Reinvestment Act (ARRA) provides NYCHA a unique, one-time opportunity to bring its 21 state and city-financed developments into solvency and sustainability, by making them eligible for federal operating and capital subsidies.

The "federalization" initiative will redress the long-standing operating shortfall of $100 million annually in these 21,000 units, as the city and state governments turned their backs on the public housing they developed and failed to continue operating subsidies, even during the good fiscal times. NYCHA, along with resident leaders and public housing advocates, including CSS, have spent years struggling to make the city and state accountable—to no avail. The resulting stream of federal operating subsidies—estimated at $100 million annually—will go a long way to address the current NYCHA operating deficit of $135 million. We applaud NYCHA's initiative in moving forward on this ARRA option in the interests of both fiscal soundness and the preservation of public housing.

That said, the proposal is nevertheless a complicated proposition, requiring the rapid disposition of these NYCHA properties to a new public-private, limited partnership/limited liability entity. Some of us have reason to be suspicious, of changing the public nature of this part of our public housing stock, of incorporating private capital and profit incentives in our public housing investments, and the like. However, NYCHA has provided oral assurances that:

1) It will retain a controlling interest in the properties,
2) Residents will have all the rights and benefits that public housing residents enjoy in the already federalized developments,

3) At the expiration of the public-private arrangement—presumably in 20 years—the properties will revert to full ownership by NYCHA as federal public housing, without qualification.

We respect the assurances recently provided by current NYCHA officials, but the reality is that city administrations change over time as do NYCHA governing boards appointed by whoever is Mayor. As a result, we must demand that these assurances be provided in writing as part of the partnership agreement, so that they are binding to future administrations and NYCHA boards.

We also want to take this opportunity to urge HUD to release the 6,400 unused Section 8 vouchers that were committed to the Section 8 Voluntary Conversion Program in 2008 in an attempt to sustain the city and state developments. CSS and other advocates originally objected to the program because it would lessen the number of vouchers available to tens of thousands of waiting list families who preferred not to live in these developments. The unused vouchers should be restored by HUD to the NYCHA Section 8 voucher pool, where they can be used to address current shortfalls in the Section 8 program and provide waiting list families the housing opportunities in the open rental market for which the vouchers were intended.

Thank you.

NEW YORK CITY
HOUSING
AUTHORITY

New York City Housing Authority

Proposed Federalization of State & City Developed Public Housing

March 1, 2010

Overview of NYCHA's State & City Public Housing Developments

- 21 developments with 20,139 units in 4 boroughs.
- Constructed with State and City assistance from 1949 to 1978.
- Always owned, managed and maintained by NYCHA.
- Resident income levels comparable to NYCHA's federal public housing.
- The State provided subsidy for the State developments until 1998.
- The City provided subsidy through 2003.
- No funds are provided to NYCHA from any source for the continued operation of the public housing units in the State and City developments.
  - State continues to service approximately $30 million of debt until 2024.
  - City debt service was retired on January 1, 2010.

1995 ACC Amendment

- Allowed the 21 State and City developments to "share" ACC subsidies provided to the 315 Federal developments.
- Required the State and City developments to comply with all Federal public housing requirements.
- However, the State and City units were excluded from the count determining NYCHA's annual federal subsidy.
- No additional operating or capital subsidies have been provided for the public housing units.

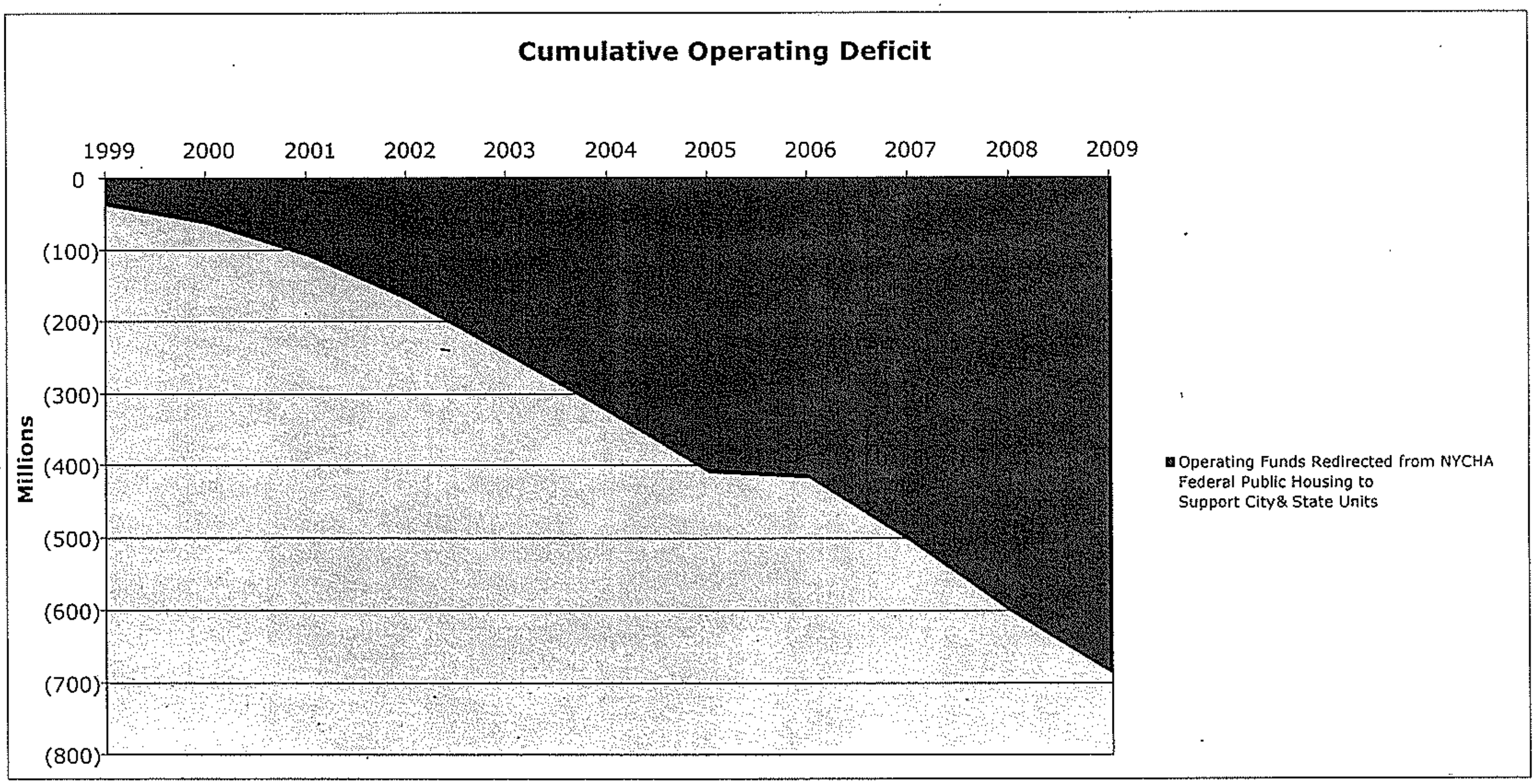
State & City Developments Divert Substantial Funding from Federal Units

- NYCHA's annual deficit for the 21 State and City developments is approximately $90 million in operating and $20 million in capital.
- These deficits impose a significant and adverse impact on the 178,000 families residing in *all* NYCHA's public housing city-wide, as federal subsidy dedicated for the federal units is diverted to the State and City developments which receive no funding.
- Units for which NYCHA receives no dedicated subsidy:

20,139	Total State / City units
-2,236	Section 8 voucher conversions via HUD approved VCA
17,903	Units with no federal operating or capital subsidies

Substantial Cumulative Deficit

- The loss of State and City funding, coupled with declines in HUD operating subsidy, has profoundly impacted NYCHA's long-term structural deficit.



The Recovery Act Provides a Unique, One-Time Opportunity to "Federalize" the State & City Units

- One-time opportunity to qualify the 21 State and City developments for federal operating and capital subsidy under the Recovery Act.
  - Recovery Act suspended the restrictions of the Faircloth Amendment.
  - All funding - whether ARRA or private debt or equity - to be used for the development of the State and City units must be obligated <u>before</u> March 17, 2010.
  - Must use mixed-finance model to develop these properties.
- To qualify for federal low income housing tax credits, an aggregate $6,000 per unit must be spent and residents must earn less than 60% of AMI.
- HUD has preliminarily advised that subsidy payment for 11,743 units of public housing will be available beginning October 1, 2010.
  - $65 Million in annual operating and capital subsidy.

Transaction Overview

- Based on an assessment of capital needs and operating profiles, NYCHA has separated the 21 State and City developments into two portfolios to optimize leveraging of Recovery Act funds and tax credits.
  - NYCHA Public Housing Preservation I, LLC ("LLC I"), tax credit entity.
  - NYCHA Public Housing Preservation II, LLC ("LLC II"), non-tax credit entity.
- Buildings will be sold to respective LLCs with a NYCHA long-term, non-subordinated ground lease.
- While final transaction structure remains subject to change pending receipt of building appraisals and construction bids, an estimated $239 million new money will be invested to rehabilitate the 21 State and City developments.
- An estimated $212 million of tax credit equity will be received from Citi.
- NYCHA retains a purchase option to reacquire the developments.

Transaction Overview (Continued)

	LLC-I (Tax Credit Portfolio)	LLC-II (Non-Tax Credit Portfolio)
Developments	• 13	• 8
Rehabilitation spend	• $193 million	• $46 million
ARRA spend	• $79 million	• $29 million
Total units	• 14,465	• 5,674
Public housing units	• 12,885	• 5,018
Receive HUD subsidy	• *11,743 initially*	• *None initially*
Section 8 units	• 1,580	• 656
LIHTC Units	• 12,039	• Not applicable
Management	• NYCHA via HDFC	• NYCHA via HDFC
Partners	• NYCHA via HDFC • Citi via Citi Community Capital	• NYCHA via HDFC • Housing Partnership Development Corp.(501c3)

Partnership with HDC

- HDC's strong financing capabilities and cooperative partnership with NYCHA are enabling this transformational transaction.
  - Allocating ~$450 million volume cap over the next three years.
  - Providing $64 million short-term collateral bonds for ARRA funds.
  - Providing $52 million long-term Section 8 net operating income bonds.
  - Providing $372 million bridge financing with Citi.
- HDC will support monitoring of tax credit compliance.

Approvals Pending

- Governor Patterson
- State Division of Housing and Community Renewal
- HUD

Benefits to NYCHA, Residents & NYC

- Preserves all 21 developments as NYC public housing for the long-term.
  - Immediately qualifies 11,743 units for dedicated annual allocation of HUD operating and capital funding, thereby substantially reducing diversion of funding from NYCHA's existing federal units.
  - Positions remaining 5018 units to receive federal subsidies in the near future.
- Protects and preserves the tenancy rights of all existing residents, and no tenants will be displaced during rehabilitation.
- Maintains NYCHA's long-term regulation and control of these developments.
- Invests $108 million of Recovery Act funds and leverages approximately $700 million of debt and equity for modernization and the building acquisition costs.
- Improves the developments' physical condition to ensure compliance with HUD requirements.

DANIEL SQUADRON
SENATOR 25TH DISTRICT

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Testimony by New York State Senator Daniel Squadron

Before the NYC Council Subcommittee on Public Housing: Oversight Hearing on NYCHA's Mixed-Finance Modernization Plan for the City and State Developments

March 1, 2010

Good afternoon, Chair Mendez and members of the committee. Thank you for the opportunity to speak about the plan to federalize 21 State- and City-built New York City Housing Authority developments. My name is Daniel Squadron and I represent the 25th Senate District in the New York State Senate. Among the New Yorkers I represent are 30,000 residents of 24 New York City Housing Authority Developments, on the Lower East Side of Manhattan and in Williamsburg, Brooklyn.

This past Wednesday, the State Senate passed my bill that allows the investment of $400 million in capital funding now and an additional $75 million in federal aid annually. Assembly Housing Chair Vito Lopez sponsored the bill in the Assembly, which passed it a week ago today, and I expect it to become law in the coming days. The bill specifically lays out protection for public housing and public housing tenants, ensuring that as NYCHA enters a mixed-finance transaction to acquire new funds for these developments, the buildings are all guaranteed to remain public housing and tenants are guaranteed to retain the same protections as all other NYCHA tenants.

This massive investment will assist in fixing NYCHA's operating deficit, and dramatically improve public housing for more than 400,000 tenants of public housing. Every single NYCHA resident will benefit from filling the funding gap left by the State and City, with the money going towards fixing elevators, avoiding heat outages, and addressing the basic maintenance problems that public housing tenants contend with every day.

But acquiring those funds is not the final step--as the money is invested in the buildings, we have to use this opportunity to hold NYCHA to a higher standard, and we have to guarantee that the funds are used as intended. That is why the oversight that this committee is conducting, under the leadership of Chair Rosie Mendez, is so critical. I thank Council Member Mendez for holding this hearing, and I look forward to working with her as a partner to strengthen public housing, protect NYCHA tenants, and ensure that the work we are doing truly improves the lives of more than 400,000 NYCHA residents.

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Testimony of United Neighborhood Houses Before the New York City Council Committee on Public Housing Regarding the New York City Housing Authority Plan to Federalize 21 City and State Constructed Public Housing Developments

Honorable Rosie Mendez, Chair, Committee on Public Housing

March 1st, 2010

Good Afternoon. Thank you for the opportunity to testify. My name is Gregory Brender and I am here on behalf on United Neighborhood Houses, New York City's federation of settlement houses and community centers. Over half of UNH member agencies operate in NYCHA developments and serve public housing communities. Two UNH member agencies, Lincoln Square Neighborhood Center and Goddard Riverside Community Center, provide services in NYCHA developments, Amsterdam Houses and Stephen Wise Towers respectively, which would be federalized under this NYCHA plan.

UNH supports NYCHA's efforts to increase revenue in order to sustain and support services for public housing communities. As human service providers working in NYCHA communities, UNH members are well aware of the impact that NYCHA's $150 million structural deficit has on the communities that they serve. Due to a lack of operating subsidies NYCHA has eliminated funding to its non-profit community partners and been forced to significantly reduce the services that it provides to its own residents. NYCHA has in recent years reduced headcount and eliminated entire departments in order to decrease its deficit. The most dramatic impact that NYCHA's deficit has had on public housing communities has been a decrease in maintenance which has led to inadequate facilities and dangerous elevators in many buildings.

NYCHA's Funding Shortfall

NYCHA operates with a structural deficit of approximately $150 million. The deficit arises because of several factors including the increasing costs of maintaining an aging infrastructure and the elimination of City and State operating subsidies. But the most significant cause of NYCHA's deficit is the cost of operating 20,143 more apartments than federal operating subsidies support. NYCHA estimates the cost of operating these units at approximately $88 million.

The 21 developments which NYCHA hopes to federalize were constructed using New York City and New York State funds between 1949 and 1978.[1] The residents who live in these developments have similar incomes and meet the same qualifications as residents of all other NYCHA developments. They are entitled to the same protections as other public housing residents and are charged rents based upon the same formula that is used to determine rents for all other NYCHA tenants. Yet, since their developments were not constructed by the Federal Government, the federal funding formula does not count their apartments when determining NYCHA's level of operating subsidies.

Moreover, New York City and New York State no longer provide operating subsidies for their respective developments. New York City does not provide operating subsidies for the City constructed developments and actually charges NYCHA for police and sanitation services on NYCHA properties. New York State discontinued operating subsidies for State constructed NYCHA developments in 1998. In FY 2009-2010, New York State provided $3 million to support NYCHA but this funding has been zeroed out in the Governor's proposed FY 2010-2011 Executive Budget.

NYCHA has attempted to secure other funding for the units in its City and State constructed developments. In 2008, NYCHA began a voluntary conversion program in order to receive Section 8 housing vouchers for some of the tenants in the City and State constructed developments.[2] While fiscally necessary, this policy was regrettable as it reduced the total amount of affordable housing available to New Yorkers and took funding away from a program that had been a key subsidy for private landlords serving low-income tenants.

In order to provide for the residents of the 20,143 apartments in the City and State constructed developments, NYCHA is forced to spread Federal operating subsidies extremely thin. Federal legislation enacted in 1995 brought non-federal developments in New York City and other municipalities into the federal system allowing housing authorities to utilize part of their federal operating support for non-federal developments and ensuring that residents of non-federal developments enjoyed the same rights and protections as other public housing tenants. However, the funding formula has never been amended in order to count the units in State and City constructed developments in federal allocations to NYCHA.

NYCHA's services are increasingly in need at the same time that NYCHA faces significant fiscal challenges. The best and perhaps only solution for NYCHA's largest fiscal challenge is federalization of NYCHA's City and State constructed developments.

NYCHA's Opportunity

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[1] These 21 developments are Marlboro Houses, Chelsea Houses,- Castle Hill Houses, 344 East 28th Street, Amsterdam Addition, Bushwick Houses, Stephen WiseTowers, Arthur H. Murphy Houses, Baychester Houses, Jonathan Williams Plaza, Drew-Hamilton Houses, Independence Towers, Rutgers Houses, Stapleton Houses and Manhattanville Houses

[2] Section 8 supports low-income tenants living in public or private housing by offering a voucher to tenants which pays the difference between an apartment's Fair Market Rent and 30% of a household's income. In New York City, Section 8 vouchers are administered by the NYCHA and the City Department of Housing Preservation and Development.

The American Recovery and Reinvestment Act (ARRA) presents a unique opportunity to gain federal support for the City and State constructed developments. ARRA temporarily suspends until March 17, 2010 the Faircloth Amendment which prohibits public housing authorities from increasing the number of units that receive federal operating and capital subsidies.

Under NYCHA's plan, the City and State constructed developments would qualify as new public housing units under ARRA. Units in the City and State developments would be renovated and brought up to federal standards through a combination of ARRA funds, public funds and private funds. NYCHA would transfer ownership of the City and State developments to a mixed-finance partnership consisting of a non-profit entity, a financial institution and NYCHA itself. NYCHA would maintain control of the units and the grounds of each development and residents would continue to have the same rights and protections that they currently have. Over $200 million would be invested in order to improve each apartment in the City and State developments.

Public housing will continue to be crucial towards maintaining the strength and vitality of New York City's neighborhoods. NYCHA needs support from all levels of government in order to provide housing and serviced to public housing residents. The NYCHA federalization plan is a unique opportunity to provide ongoing needed support for the services which NYCHA provides. We are glad that the New York State Senate and New York State Assembly have passed legislation that will authorize NYCHA to undergo land transactions necessary in this process. We hope that this legislation will be signed into law quickly and that the City and the City Council will also support NYCHA's federalization proposal.

We look forward to working with the City Council to support NYCHA and public housing communities. Thank you again for the opportunity to testify.

United Neighborhood Houses (UNH) is the membership organization of New York City settlement houses and community centers. Rooted in the history and values of the settlement house movement, UNH promotes and strengthens the neighborhood-based, multi-service approach to improving the lives of New Yorkers in need and the communities in which they live. UNH's membership comprises one of the largest human service systems in New York City, with 38 agencies working at more than 400 sites to provide high quality services and activities to half million New Yorkers each year. UNH supports its members through policy development, advocacy and capacity-building activities.

<u>UNH Members</u>: Arab American Family Support Center - BronxWorks - CAMBA - Center for Family Life in Sunset Park - Chinese American Planning Council - Claremont Neighborhood Centers - Cypress Hills Local Development Corporation - East Side House Settlement - Educational Alliance - Goddard Riverside Community Center - Grand Street Settlement - Greenwich House - Hamilton-Madison House - Hartley House - Henry Street Settlement - Hudson Guild - Jacob A. Riis Neighborhood Settlement House - Kingsbridge Heights Community Center - Lenox Hill Neighborhood House - Lincoln Square Neighborhood Center - Mosholu Montefiore Community - New Settlement Apartments - Northern Manhattan Improvement Corporation - Project Hospitality - Queens Community House - Riverdale Neighborhood House - SCAN New York - School Settlement Association - Shorefront YM-WHA of Brighton-Manhattan Beach, Inc - Southeast Bronx Neighborhood Centers - St. Matthew's and St. Timothy's Neighborhood Center - St. Nicholas Alliance - Stanley M. Isaacs Neighborhood Center - Sunnyside Community Services - Third Street Music School Settlement - Union Settlement Association-United Community Centers - University Settlement Society

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