

NDS

H A R L E M

TESTIMONY OF THE NEIGHBORHOOD DEFENDER SERVICE

before the

**NEW YORK CITY COUNCIL
PUBLIC HOUSING COMMITTEE**

IN RELATION TO

T2019-3891

by

Anna Luft

Staff Attorney, Civil Defense Practice

Talia Kamran

Legal Advocate, Civil Defense Practice

March 11, 2019

Testimony of Anna Luft and Talia Kamran

Introduction

I am Anna Luft, Staff Attorney in the Civil Defense Practice at the Neighborhood Defender Service of Harlem (NDS). NDS is a community-based public defender office that provides high-quality legal services to residents of Northern Manhattan. NDS's Civil Defense Practice represents community members in NYCHA and Housing Court proceedings, as well as other civil collateral consequences of contacts with the criminal justice system.

The need for leadership & accountability at the client level

The best overseers of NYCHA are the men and women living in its towers. They are acutely aware of what they need and when. However, when they are denied the services they seek from the Housing Authority, they are often left without recourse. In our years representing tenants in NYCHA housing, one of the most apparent systemic flaws is the inability of lower level NYCHA management to understand and enforce its own rules. It is clear to both legal service providers and tenants that housing assistants and managers have become a stopping point on the way to a legal proceeding or- worse yet- a dead end when service is needed. The degree of mismanagement at the lower levels of NYCHA have had a severe impact on both current NYCHA tenants as well as low income New Yorkers who find NYCHA to be equally as inaccessible as any other housing option available to them. It is our hope that a portion of the funds being directed toward NYCHA can be used to better train staff to address these common issues.

A Case Study

In various forms, our clients living in NYCHA often face eviction simply because NYCHA staff have neglected to properly process requests. Our office recently represented a 60-year-old woman seeking succession to her sister's apartment. During the four years that she lived with and cared for her sister, she and her sister submitted multiple requests to have her added to the lease, as required by NYCHA procedure. Nevertheless, each time she was denied because of her criminal record. Had the housing assistant processing the request taken a closer look at her criminal record, she would have seen that the last charge on our client's record occurred in 1997 and was only left open until 2013 because she had failed to complete a single day of community service. This is an example of a case that should have been approved- however, management's lack of knowledge and understanding of criminal records, despite being an integral part of their job, confounded the process. What should have been quickly resolved ended up taking 5 years, 4 attorneys, and 6 members of NYCHA management. Think what could have been accomplished with those resources had the original HA been properly trained.

NYCHA Management's rote processing of paperwork submitted by tenants occurs in other contexts as well. A review of another client's tenant's file revealed a written permission request that had been marked received but was never processed. He and his two young children were denied succession to the apartment they had lived in for four years because of this. Another client has been seeking succession to her grandmother's apartment for over a year, and during

the pendency of her case, her HA has refused to recalculate her rent, saying that it cannot be done until the case is over, the exact opposite of what NYCHA policies and regulations require, forcing her to pay well beyond what she can reasonably afford. The manager very clearly had no understanding of NYCHA's own policy, and this is not the first time we have seen such blatant lack of knowledge. This problem is pervasive. Another client, a mother of two young children, took two days off from work for a lead inspection of her apartment, only to have the inspectors never show. When she called the hotline to request a new day, her ticket was marked completed without an inspector coming again. Such mismanagement leads to a systemic drain on resources that could otherwise be appropriated to tenants. This new agreement between NYCHA and HUD is an opportunity for NYCHA to begin to responsibly use its resources without denying its tenants their rights and the services they deserve.

Community Impact

NYCHA policies and regulations have created an agency scheme in which the onus is constantly on the tenants, and is never shifted to the Housing Authority. While tenants are expected to perfectly comply with NYCHA requirements, there is never a guarantee that even perfect compliance will produce any specific result. NYCHA Management may afford as much or as little attention as it wants when processing any specific request, and often times may just not act at all. This indifference on the part of NYCHA management can be devastating to our clients who bear the brunt of NYCHA's inaction and are denied the housing they seek, lose the housing they have, or are forced to endure dangerous conditions because a staff member won't give their request a second look.

Housing assistants and managers currently lack the training and tools to address housing issues that NYCHA has already delineated as under their authority. We hope that some of the new funding being directed toward NYCHA be used for training programs to both cut costs and the amount of time bureaucratic procedures steal from both tenants and NYCHA management.

Conclusion

NDS applauds the Public Housing Committee for taking the steps necessary to reform NYCHA. While greater government oversight is needed, the 400,000 individuals living in NYCHA must be able to provide oversight as well. We ask that the Council accomplish this by strengthening the accountability that NYCHA owes its tenants through providing trainings and tools to the housing managers and assistants who interact with tenants on a daily basis in order to ensure that they understand their own policies and properly analyze and process requests. We also ask that the Council install procedural safeguards so that tenants requesting services are not penalized for NYCHA management's lack of follow up. These measures will ensure a more efficient Housing Authority accountable to its statutory mandate of providing safe, sanitary housing to low-income families.



**Testimony of
Victor Bach, Community Service Society (CSS)
At
Oversight Hearing
Examining NYCHA’s New Agreement with HUD
New York City Council Committee on Public Housing
March 11th, 2019**

The Community Service Society (CSS) is a nonprofit organization, now over 170 years old, that seeks to improve conditions and opportunities for low-income New Yorkers. Since the 1990s, we have conducted policy research/advocacy related to our city’s public housing and provided technical assistance to resident and community leadership. We are pleased to testify today about our hopes for and our concerns about the new federal monitoring agreement reached by HUD, the city, and NYCHA.

The Monitor as an Opportunity

From the start, when the original consent decree was presented to federal Judge William Pauley last year, we viewed the appointment of a federal monitor as an opportunity in several ways. The monitor would be responsible for bringing NYCHA into compliance, seeing that once again it provided decent, basic living conditions for its residents. The monitor would also have wide-ranging powers to influence changes in the way NYCHA is organized and institute major reforms needed in its faulty property management operations. Perhaps most importantly, the monitor would be a “point of accountability” for the authority, a point at which NYCHA would be required to account to residents, to elected officials, and to the broader, concerned housing community about the progress it is making, or the lack thereof, in meeting its objectives and restoring its earlier reputation as a model large-city housing authority where “public housing works.”

The Monitoring Team Needs a Public Housing Pro

We have high expectations of Bart Schwartz, of Guidelines Solutions, whom HUD has just appointed as federal monitor for NYCHA. He enjoys a strong reputation for guiding complex organizational and institutional situations where outside intervention was needed. But

those challenges were largely in the private sector. Nor have they dealt with housing. As he assembles his monitoring team, we would urge him to include a seasoned housing professional, ideally with strong management experience in the public housing sector, someone who is known to be committed to the mission of public housing, whose presence would inspire local trust and confidence in the monitoring process among resident leaders and public housing advocates. We hope the City Council will agree.

Need for Additional HUD Funding

The NYCHA ten-year Plan 2.0, if it succeeds, will generate about \$24 billion to meet a capital backlog estimated at \$32 billion, but there is still an \$8 billion gap. Many of us were disappointed that the HUD-NYCHA agreement did not carry with it an additional HUD commitment of capital funding. Without further federal investment—either through special HUD funding or a national infrastructure initiative—the monitoring effort may fail. The agreement already sets tight deadlines for dealing with toxic lead-paint risks, heating failures, and the like. Since HUD has declared NYCHA in “substantial default”, it has the prerogative of sliding NYCHA into a full takeover through receivership if the monitoring process fails, which would also risk the funds the city and the state have committed over the next ten years. Our hope is that Mr. Schwartz will prove to be an effective ally in making the case in Washington that increased funding is required. Monitoring alone will not solve NYCHA’s problems.

Need for a Stakeholder Oversight Entity and Accountability Mechanisms

The agreement requires the monitor to establish a Community Advisory Committee. The Committee should include prominent resident leaders and activists as well as community leaders with a stake in public housing.

The monitor must also release quarterly reports to the public on NYCHA’s progress in meeting objectives. In addition, we would urge the monitor to consider periodic hearings or other channels to allow for public testimony and feedback, particularly from grass-roots public housing residents who may still be grappling with substandard living conditions. The December hearing held by Judge William Pauley is a good example of how effective the process can be.

In short, CSS looks forward to working with Bart Schwartz to see that the monitoring process and the changes it brings about will succeed in fulfilling NYCHA’s mission to provide decent, affordable housing to its residents. Thank you.

THE LEGAL AID SOCIETY

Testimony by The Legal Aid Society

Before the New York City Council Committee on Public Housing

Oversight - Examining NYCHA's New Agreement with HUD

March 11, 2019

Introduction

The Legal Aid Society (“the Society”) is the nation’s oldest and largest not-for-profit legal services organization advocating for low-income individuals and families across a variety of civil, criminal and juvenile rights matters, while also fighting for legal reform. The Society has performed this role in City, State and federal courts since 1876. With a staff of more than 2,000 lawyers, social workers, investigators, paralegals and support and administrative staff; and through a network of borough, neighborhood, and courthouse offices in 26 locations in New York City, the Society provides comprehensive legal services in all five boroughs of New York City for clients who cannot afford to pay for private counsel. The Legal Aid Society's unique value is an ability to go beyond any one case to create more equitable outcomes for individuals and broader, more powerful systemic change for society as a whole. In addition to the annual caseload of 300,000 individual cases and legal matters, the Society’s law reform representation for clients benefits more than 1.7 million low-income families and individuals in New York City, and the landmark rulings in many of these cases have a State-wide and national impact.

The Society is counsel on numerous class-action cases concerning the rights of public housing residents and is a member of the New York City Alliance to Preserve Public Housing, a working collaboration of New York City Housing Authority (“NYCHA”) resident leaders, advocates, and concerned elected officials. Additionally, staff in the Society’s housing law units represent individual NYCHA residents throughout the five boroughs in proceedings in New York City Housing Court and in termination of tenancy administrative proceedings at NYCHA.

We appreciate the opportunity to testify before the City Council's Public Housing Committee on these important issues and thank the Public Housing Committee Chair, Council Member Alicka Ampry-Samuel for her leadership and commitment to public housing residents.

Overview of the Agreement Between HUD, the U.S. Attorney, NYCHA and the City

On January 31, 2019, the U.S. Department of Housing and Urban Development ("HUD"), the U.S. Attorney for the Southern District of New York ("the U.S. Attorney"), NYCHA, and the City entered into a new agreement ("the Agreement") settling litigation that the U.S. Attorney commenced against NYCHA last year alleging failures to comply with lead-based paint safety regulations; the failure to provide decent, safe and sanitary housing; and repeatedly misleading HUD through false statements and deceptive practices. The Agreement went into effect immediately and does not require court approval, thereby removing it from the purview of the Federal Judge who rejected the prior proposed settlement in the case.

The focal point of the Agreement is the appointment of a federal Monitor whose role is to supervise and oversee fundamental reforms to NYCHA's operations and NYCHA's compliance with the terms of the Agreement. The Agreement provides strict, enforceable standards that NYCHA must meet by particular deadlines involving living conditions, including lead based paint hazards, mold growth, pest infestations, lack of heat and elevator service. Under the Agreement, NYCHA is obligated to establish three new critical functions — a Compliance Department, an Environmental Health and Safety Department and a Quality Assurance Unit. The Agreement also requires the appointment of a new Chair and Chief Executive Officer for NYCHA.

Additionally, as part of the Agreement, the City committed to \$2.2 billion in capital funding and \$972 million in expense funding through 2027.

Significantly, the Agreement does not include a commitment from the Federal government to any additional funding for NYCHA.

Comments on the Agreement

We come before the Council today hopeful that the Agreement will be an important step toward returning NYCHA to its mission of providing safe, decent, and affordable housing to low-income New Yorkers across the five boroughs. After many months of uncertainty, we are relieved that HUD did not move for a receivership — a move that we do not believe would lead to the best outcomes for the 600,000 New Yorkers who call NYCHA “home.”

The Monitor

As the largest public housing authority in the U.S., managing and operating NYCHA is no small task. Fixing the problems that NYCHA admits exist is crucial if NYCHA public housing is to be preserved — and choosing the right individual or team of individuals to oversee necessary changes is critical. A little over a week ago, HUD formerly appointed Bart Schwartz of Guidepost Solutions as NYCHA’s federal Monitor under the terms of the Agreement. We are hopeful that the team assembled by Mr. Schwartz will be able to hold NYCHA accountable and drive the change necessary for NYCHA to meet its goals and comply with the terms of the Agreement, thereby bringing about real reform within NYCHA.

The Agreement gives the Monitor broad authority to hire additional staff and outside consultants, with limited transparency or constraints on this spending. Under the Agreement, the City is obligated to pay all salaries and costs of the Monitor, as well as the fees of the third-party management consultant engaged to develop the Organizational Plan under the Agreement.

The last time it hired a management consultant to review its central office support functions, NYCHA ended up paying Boston Consulting Group \$10 million in 2011 to produce a report. We appreciate the Agreement’s requirement that the Monitor must submit an annual, public budget for approval. However, we remain concerned that the Agreement does not contain any caps on the expenses of the Monitor and Monitorship or the fees of the required third-party management consultant and that costs can quickly escalate if uncapped.

We recommend:

- (1) The team assembled by the Monitor should have members with experience in running a large public housing authority, with knowledge of the management, operations and construction of public housing to ensure the improvement of the residents’ standard of living.

(2) HUD and the City should establish caps on the expenses of the Monitor.

Federal and State Funding

The Agreement includes many important reforms that have the potential to improve the quality of life for the more than half-million people residing in NYCHA housing. However, critical to implementing the reforms is access to additional funding.

While the City has committed to additional capital funding for NYCHA under the Agreement, there is no such commitment from the Federal or State government. The majority of NYCHA buildings are more than 50 years old and in dire need of repairs. In its most recently published Physical Needs Assessment, NYCHA estimates its five-year capital backlog needs at close to \$32 billion.

Over the past few decades, there has been a pattern of Federal disinvestment in public housing and Federal capital funding has not kept pace with capital needs. Indeed, NYCHA has been shortchanged \$3 billion in federal operating and capital funding since 2001. This disinvestment doesn't stop with the Federal government. In 1998, New York State eliminated operating funding for the State built NYCHA developments. While some were "federalized" in 2010, many of the State developments still "share" in the federal funds provided for NYCHA's public housing — costing NYCHA more than \$23 million a year. The State has allocated a total of \$550 million to NYCHA in previous budgets, however, the majority of those funds have never been distributed to NYCHA to date.

We remain concerned that this failure to provide additional funding will make it nearly impossible for NYCHA to comply with the reforms it is obligated to undertake in the Agreement and that NYCHA's failure to meet the strict performance goals in the Agreement may lead to a future HUD receivership and that the City's funding obligations will at that time terminate under the terms of the Agreement.

We recommend:

(3) The Monitor needs to strongly advocate for more funding from the Federal government.

- (4) The Monitor needs to work with State leaders to secure the release of funds totaling \$550 million from the previous two New York State budgets and additional capital funding in this year's budget.
- (5) The Monitor should ensure that State funding is released directly to NYCHA and is not dependent on review by other State agencies.

NYCHA 2.0

In December, 2018, NYCHA announced the release of NYCHA 2.0, a new strategic plan to address NYCHA's capital needs backlog. A key feature of the plan, is the proposed conversion of 62,000 units of NYCHA's portfolio to the Section 8 program under public-private partnerships through the Rental Assistance Demonstration program and/or Section 18 of the U.S. Housing Act. NYCHA estimates that after fully implementing the steps laid out in the plan, its capital needs backlog will be reduced to \$8 billion from today's estimate of \$32 billion thereby ensuring the preservation of public housing.

The success of NYCHA's commitments under the Agreement are deeply tied to the successful roll-out of NYCHA 2.0 initiatives. To date, the City has not provided NYCHA with access to its low income housing tax credit ("LIHTC") allocation for its preservation projects, a critical source of funding that would help NYCHA complete its conversion transactions under RAD. As a result, NYCHA has started converting units to the Section 8 program using Section 18 of the U.S. Housing Act — conversion under this provision of the Act triggers the issuance of Tenant Protection Vouchers ("TPVs") that provide a richer funding stream that is attractive to development teams bidding on the preservation deals. NYCHA's ongoing access to TPVs is not unlimited as it is based on HUD's annual Congressional budget appropriations.

We recommend:

- (1) The Monitor should advocate at the City for NYCHA to have access to its LIHTC allocation in order to help ensure the successful conversion of units to the Section 8 program.
- (2) The Monitor should urge HUD to make available a sufficient number of TPVs for the implementation of its conversion plan under NYCHA 2.0.

Conclusion

Thank you again for the opportunity to testify. I am happy to answer any questions from the Committee.

Respectfully Submitted:

Janet Sabel, Attorney-in-Chief & Chief Executive Officer
Adriene Holder, Attorney in Charge, Civil Practice
Judith Goldiner, Attorney in Charge, Law Reform Unit
Lucy Newman, Of Counsel
The Legal Aid Society
199 Water Street
New York, New York 10038
(212) 577-3466

TO THE CHAIRMAN AND ALL MEMBERS OF THE COMMITTEE:

GREETINGS:

MY NAME IS JOHN DEREK NORVELL OF THE AFRICAN-AMERICAN PINKSTER COMMITTEE OF NY. MY MEMBERS ARE RESIDENTS OF PUBLIC HOUSING WE ARE ACTIVISTS AS WELL AS HISTORIANS. MY STATEMENT WILL BE ~~BRIEF~~ ^{BRIEF}.

WE ARE ASKING FOR AN INTRO TO PROTECT US AGAINST A CLAUSE IN RAD THAT STATES THAT IF THERE IS A DEFAULT IN ANY PUBLIC HOUSING AGENCY IN THE COUNTRY THE PROPERTIES WILL GO TO PRIVATE DEVELOPERS WHO HAVE TAX CREDITS BECAUSE OF INVESTMENTS. THEY WILL TAKE THE BUILDINGS AND OTHER EDIFICES, RAISE THEM IF THEY WISH, AND BUILD NEW HOUSING. MAYORAL PRIVILEGE DOES NOT DISCLOSE WHO THESE INDIVIDUALS ARE AND WE FEAR MASSIVE CONSTRUCTIVE EVICTIONS WILL BE THE RESULTS. ~~THE~~ ^{THE} MUNICIPALITIES WILL RETAIN THE ~~LAND~~ ^{LAND} BUT THERE WILL BE TOTAL PRIVATIZATION OF HOUSING ALL TO THE DETRIMENT OF PUBLIC HOUSING RESIDENTS.

THEREFORE WE ASK THAT CITY COUNCIL MEMBERS HELP US TO DRAFT AN INTRO OF PROTECTIONS FOR PUBLIC HOUSING RESIDENTS, A BILL OF PUBLIC HOUSING RESIDENT RIGHTS, TO BE SIGNED BY THE MAYOR OR AN OVERRIDE OF HIS VETO IF THAT BECOMES NECESSARY.

MY CONTACT INFORMATION IS THE FOLLOWING: DR. JOHN DEREK NORVELL TEL. 545-559-2218 AND E-MAIL IS yared1954@hotmail.com. MY ADDRESS IS 2175 FIFTH AVENUE APT. 2B ABRAHAM LINCOLN HOUSES NY, NY 10037.

THANK YOU

JOHN DEREK YARED ANDERMIKAIL NORVELL



AFRICAN AMERICAN PINKSTER COMMITTEE OF NY

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Name: Lucy Newman - THE LEGAL AID SOCIETY

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I represent: THE LEGAL AID SOCIETY

Address: _____

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Name: Kathryn Garcia, Interim Chair + CEO

Address: _____

I represent: NYCHA

Address: _____

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Name: David Pristin, EVP for External Affairs

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I represent: NYCHA

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Name: VICTOR BACH

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I represent: COMMUNITY SERVICE SOCIETY

Address: 633 Third Ave, 10th fl NYC 10017

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Date: 3/11/19

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Name: Anna Luft

Address: _____

I represent: Neighborhood Defender Service of Harlem

Address: 317 Lenox Ave, 10th Fl, NY, NY 10027

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Name: Mrs. B - BROWN

Address: 205 E. 92nd St

I represent: CCOP-RAB-CBS

Address: _____

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Name: LaKeesha Taylor

Address: 403 East 92nd St #25c

I represent: my self

Address: _____

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 in favor in opposition

Date: 3/11/2019

(PLEASE PRINT)

Name: John Derek Norvell

Address: 2175 FIFTH AVENUE Apt 2B

I represent: African American Pinkster Commof NY

Address: Abraham Lincoln Houses
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Please complete this card and return to the Sergeant-at-Arms