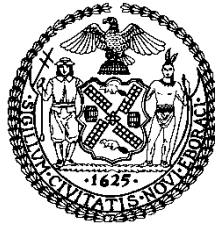


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**SUBCOMMITTEE ON CAPITAL BUDGET**  
**HON. VANESSA GIBSON, CHAIR**

**November 15, 2018**

**Oversight:**

NYCHA's 2017 Physical Needs Assessment

## **I. Introduction**

Today, the Committee on Public Housing, chaired by Council Member Alicka Ampry-Samuel, and the Subcommittee on Capital Budget, chaired by Council Member Vanessa Gibson, will jointly hold an oversight hearing on the New York City Housing Authority's (NYCHA) 2017 Physical Needs Assessment (PNA). In 2016, NYCHA enlisted two engineering firms, STV and AECOM, to conduct its 2017 PNA as required by the U.S. Department of Housing and Urban Development (HUD). According to the results of the 2017 PNA, the total projected cost to bring the buildings, systems and grounds to a state of good repair across the NYCHA portfolio is \$31.8 billion over a five-year period, with an additional \$13.4 billion in needs projected in years 6 through 20.

Today's hearing will focus on the results of the PNA, with the intention of gaining a better understanding of the scope of work identified in each of the categories reported in the PNA, NYCHA's strategy for addressing the capital need identified, and the streams of funding available for NYCHA to fund the necessary capital work. Representatives from NYCHA and other interested parties were invited to testify.

## **II. Background on NYCHA and Public Housing**

Former New York City Mayor Fiorello La Guardia created NYCHA in 1934 in order to replace dilapidated tenements using funds from The New Deal,<sup>1</sup> three years before the Housing Act of 1937 established public housing nationwide.<sup>2</sup> NYCHA originally served two purposes: (1) to provide low-cost housing for middle-class, working families temporarily unemployed because of the Depression and (2) to bolster the lagging economy by creating jobs for the building trades.<sup>3</sup> Later,

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<sup>1</sup> Ferre-Sadurni, Luis "The Rise and Fall of New York Public Housing: An Oral History" New York Times *available at* <https://www.nytimes.com/interactive/2018/06/25/nyregion/new-york-city-public-housing-history.html>.

<sup>2</sup> Housing Act of 1937, *available at* <https://www.gpo.gov/fdsys/pkg/USCODE-2009-title42/pdf/USCODE-2009-title42-chap8.pdf>.

<sup>3</sup> Marcuse, 353-54; J.A. Stoloff, A Brief History of Public Housing, at 3 (2004).

NYCHA's purpose evolved into providing safe, decent housing for families with the lowest incomes.<sup>4</sup>

Today, NYCHA has 325 developments, 2,418 buildings, and 175,636 units that are home to 392,259 authorized residents, making it the largest public housing authority in North America.<sup>5</sup>

### **III. What is a Physical Needs Assessment?**

A PNA is a periodic examination and evaluation of real estate to determine a long-term schedule and cost for replacement of major property components. The PNA provides data to evaluate the viability of the real estate to continue serving its intended purpose into the future. A PNA is a foundational document for a number of real estate management functions, including determining a replacement reserve schedule; developing preventative maintenance plans; performing due diligence at sale, purchase, or financing; marketing and repositioning strategy planning; budgeting; and obtaining or providing grant support.<sup>6</sup> Grantors, lenders, or property purchasers generally require some form of a PNA as support for investment in every other sector of real estate. Since few, if any, real estate enterprises (either private or public) have resources to address every need, a PNA assists a property owner in prioritizing current capital expenditures and identifying synergies in the execution of major repairs and replacements.<sup>7</sup>

For decades Congress pushed public housing authorities (PHAs) to embrace industry-standard real estate management practices such as PNA-informed asset-based accounting and management.<sup>8</sup> In 1989, HUD started requiring larger PHAs to complete a rudimentary PNA as a

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<sup>4</sup> Marcuse, 354; Stoloff, 1; *see also* Judith D. Feins, et al., Revised Methods of Providing Federal Funds for Public Housing Agencies, US Department of Housing and Urban Development, at 9 (1994).

<sup>5</sup> *See* NYCHA Fact Sheet, available at [https://www1.nyc.gov/assets/nycha/downloads/pdf/NYCHA-Fact-Sheet\\_2018\\_Final.pdf](https://www1.nyc.gov/assets/nycha/downloads/pdf/NYCHA-Fact-Sheet_2018_Final.pdf).

<sup>6</sup> *See* Department of Housing And Urban Development, Physical Needs Assessment Report For The House And Senate Committees On Appropriations, 1-2 (2015), available at [https://www.hud.gov/sites/documents/2015PNA\\_CR\\_FINAL.PDF](https://www.hud.gov/sites/documents/2015PNA_CR_FINAL.PDF).

<sup>7</sup> *See id.*

<sup>8</sup> *See* Department of Housing and Urban Development, Physical Needs Assessment Report for the House and Senate Committees on Appropriations, 3-4 (2014), available at <https://www.hud.gov/sites/documents/fy14physneedsassemtrpt.pdf>. Note also that in the 1980s and 1990s HUD periodically commissioned system-wide estimates of capital needs across PHAs, using statistical sampling, to

part of their five-year comprehensive plans requesting capital assistance.<sup>9</sup> These PNA's required the PHA to provide a brief summary of the physical improvements needed to bring each development to HUD standards for modernization, energy conservation life-cycle cost effective performance standards, and lead-based paint testing and abatement standards; the replacement needs of equipment and structural elements during the period covered; a preliminary estimate of cost; any physical disparities between buildings occupied predominantly by one racial or ethnic group and the physical improvements required to correct the disparity; and the number of units the PHA is proposing for substantial rehabilitation and subsequent sale, if any.<sup>10</sup> However, these PNAs were limited in scope to identifying capital needs for which there was sufficient funding under various formula-based capital grant programs.<sup>11</sup>

Successive efforts to make PNA requirements more robust and to expand the classes of PHAs subject thereto have been halting. In 2011, HUD issued a proposed rule that would establish more stringent standards for PNAs, require PHAs to project the current modernization and life-cycle replacement repair needs of its projects over a 20-year period, rather than a 5-year period, and to integrate the performance of the PNA with the performance of an energy audit.<sup>12</sup> However, HUD withdrew the proposed rulemaking in 2017<sup>13</sup> after several years in which Congress barred HUD from "requiring or enforcing" PNA requirements.<sup>14</sup> Nevertheless, HUD still welcomes voluntary PNA submissions and has repeatedly clarified that PHAs may use HUD

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inform allocation rules for distribution of various modernization funds. See, e.g., Dixon Bain et al. (Abt Associates), Study of the Modernization Needs of the Public and Indian Housing Stock (1988); and Meryl Finkel et al. (Abt Associates), Capital Needs of the Public Housing Stock in 1998: Formula Capital Study (2000). HUD has awarded modernization funds based on a formula that accounts for the backlog and accrued needs of a PHA relative to the needs of other PHAs. 24 CFR § 968.103 (1996).

<sup>9</sup> See 24 CFR § 968.315(e)(2) (1989).

<sup>10</sup> See 24 CFR § 968 (1989). See also, Public Housing Capital Fund Program, 78 FR 63748-01, 2013 WL 5740809.

<sup>11</sup> See 2014 HUD Physical Needs Assessment Report for the House and Senate Committees on Appropriations, 3-4.

<sup>12</sup> See 76 FR 43219 (July 20, 2011).

<sup>13</sup> See Withdrawal of Proposed Rules to Reduce Regulatory and Financial Burden, 82 FR 60693 (2017).

<sup>14</sup> See Consolidated and Further Continuing Appropriations Act, 2015; Pub. L. No. 113-235, § 233; Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, § 230; Consolidated Appropriations Act, 2017, Pub. L. No. 115-31 § 228; Consolidated Appropriations Act, 2018. Pub. L. No. 115-141 § 226.

funds to pay for contracts with PNA providers.<sup>15</sup>

#### **IV. The 2006 and 2011 Physical Needs Assessments**

NYCHA conducted a PNA in 2006 which identified a five-year capital need (2006-2009) of \$6.9 billion, with an estimated need to invest \$25 billion over the next fifteen years in order to maintain its current housing stock in a state of good repair.<sup>16</sup> Although NYCHA identified a five-year need of \$6.9 billion, its federal capital subsidies for 2006-2010 totaled \$1.6 billion, or only 23 percent of the identified need.<sup>17</sup> According to NYCHA, it invested approximately \$2 billion between 2006 and 2010, leaving an estimated \$5.5 billion in unmet need through the end of 2010. NYCHA anticipated investing another \$1.5 billion against an estimated \$9 billion need for 2011-2015. NYCHA estimated that, if they did not secure more funding, there would be \$13 billion in deferred capital investments by 2015.<sup>18</sup> NYCHA stated that it would use the PNA to revise its capital plan, and prioritize capital improvements that directly impact residents' quality of life, such as elevator upgrades. NYCHA additionally expressed concern that, if it did not get the funding needed for capital improvements, NYCHA buildings may deteriorate to the point where it would be cost prohibitive to repair and maintain them.<sup>19</sup>

In 2011, NYCHA conducted a PNA that reported a total five-year capital need (2011-2016) of \$16.5 billion. Assuming construction cost escalation of three percent per year, the value of the need as reported by NYCHA in 2015 is equivalent to \$16.9 billion. The following general breakdown of the \$16.9 billion was included in NextGeneration NYCHA development plan in May 2015.<sup>20</sup>

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<sup>15</sup> See "PNA Update", January 5, 2018, *available at* [https://www.hud.gov/sites/dfiles/PIH/images/PNA\\_Update\\_1\\_5\\_2018.pdf](https://www.hud.gov/sites/dfiles/PIH/images/PNA_Update_1_5_2018.pdf).

<sup>16</sup> See Plan NYCHA: A Roadmap for Preservation, December 2011.

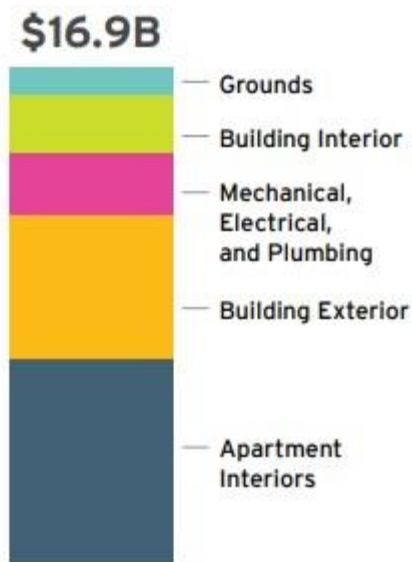
<sup>17</sup> See Citizens Budget Commission, "NYCHA Capital: What You Need to Know", *available at* [https://cbcny.org/sites/default/files/media/files/REPORT\\_NYCHA\\_Capital\\_12062017\\_1.pdf](https://cbcny.org/sites/default/files/media/files/REPORT_NYCHA_Capital_12062017_1.pdf)

<sup>18</sup> See Plan NYCHA, *supra fn. 16*.

<sup>19</sup> See Plan NYCHA, *supra fn. 16*

<sup>20</sup> See New York City Housing Authority, NextGeneration NYCHA, *available at* <https://www1.nyc.gov/assets/nycha/downloads/pdf/nextgen-nycha-web.pdf>.

## 5-Year Unmet Capital Needs



Data Source: Calculations based on NYCHA Physical Needs Assessment, 2011

### V. The 2017 Physical Needs Assessment

In 2016, NYCHA enlisted two engineering firms, STV and AECOM, to conduct its 2017 PNA at a total cost of about \$23 million over a five-year contract period.<sup>21</sup> These results were finalized in March 2018<sup>22</sup> and publically released in July 2018.<sup>23</sup> Over a 10-month period from May 2016 to February 2017, inspectors from both firms surveyed buildings, common areas, facilities and grounds at all 325 NYCHA developments.<sup>24</sup> The assessment included a representative sampling of over 20,000 apartment units, data collection on the physical conditions of NYCHA infrastructure, identified and quantified components in need of repair or replacement,

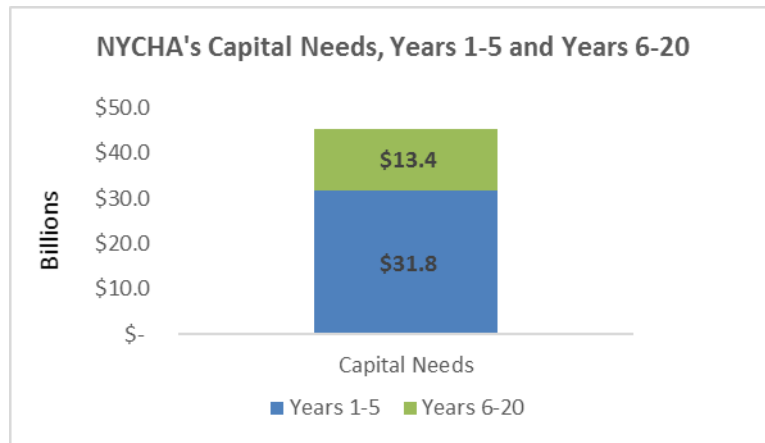
<sup>21</sup> See New York City Housing Authority, Board Meeting minutes, January 27, 2016 available at [https://www1.nyc.gov/assets/nycha/downloads/pdf/board\\_meeting\\_minutes\\_01272016.pdf](https://www1.nyc.gov/assets/nycha/downloads/pdf/board_meeting_minutes_01272016.pdf).

<sup>22</sup> See New York City Housing Authority See Final Report, Physical Needs Assessment 2017, March 25, 2018, available at <https://www1.nyc.gov/assets/nycha/downloads/pdf/PNA%202017.pdf>.

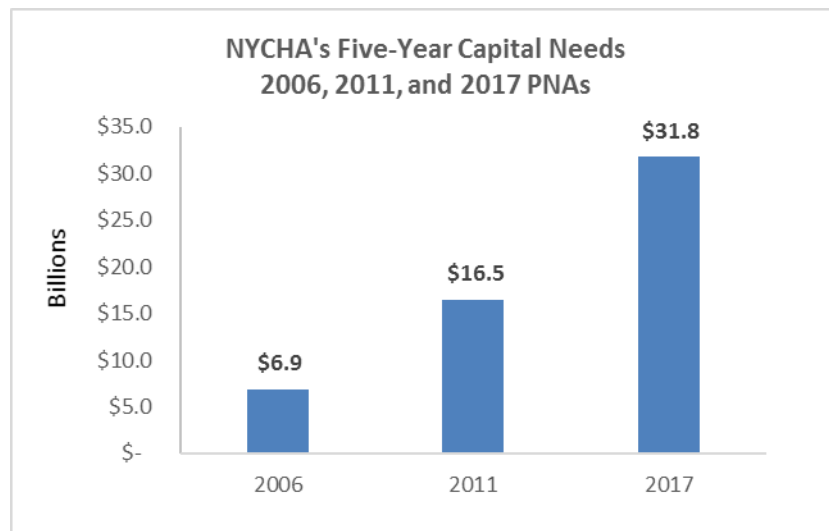
<sup>23</sup> See Greg B. Smith, *NYCHA needs \$31.8B for fixups — much higher than expected*, N.Y. DAILY NEWS, July 2, 2018, available at <http://www.nydailynews.com/new-york/ny-metro-nycha-repairs-20180702-story.html>.

<sup>24</sup> See *id.* at 2.

assigned a timeframe for addressing these components, and identified hazardous conditions.<sup>25</sup> According to the results of the 2017 PNA, the total projected cost to bring the buildings, systems and grounds to a state of good repair across the NYCHA portfolio is \$31.8 billion over a five-year period, with an additional \$13.4 billion in needs projected in years 6 through 20.<sup>26</sup>



The current five-year need has nearly doubled from the \$16.5 billion need identified in the 2011 PNA and has grown nearly fivefold from the \$6.9 billion need identified in the 2006 PNA.<sup>27</sup>



The 2017 projected need reflects NYCHA's aging infrastructure, where approximately 50 percent of its developments are 50 years or older and require increasingly more maintenance and

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<sup>25</sup> See *id.*

<sup>26</sup> See *id.* at 5.

<sup>27</sup> See *id.* at 10.

repairs.<sup>28</sup> Additionally, the increased need reflects issues that were identified in the 2011 PNA that were not met, and thus carried forward into the 2017 PNA, and improvements in the methodology applied in the 2017 PNA, which captured additional condition data on building components than previous year's assessments.<sup>29</sup>

Based on the results of the most recent PNA, the largest need, estimated at \$12.6 billion, or 40 percent of the total infrastructure need, within NYCHA's portfolio is for apartments, which includes kitchens, bathrooms and their associated piping, walls, ceilings, and floors.<sup>30</sup> About half of these needs, approximately \$5.6 billion, are for work needed in bathrooms and kitchens, including repairs to and replacement of bathtubs, toilets, tile surrounds, sinks, refrigerators, stoves, kitchen cabinets, and related work.<sup>31</sup> The second largest category is for needs related to the exterior infrastructure, including roofs, windows, exterior walls, main front doors and brickwork, totaling \$10.7 billion, or 34 percent of the total need.<sup>32</sup> The remaining needs are for mechanical systems, including boilers and heating plants (\$3.1 billion), site work (\$2.6 billion), elevators (\$1.5 billion), and site lighting (\$1.4 billion).<sup>33</sup> Addressing these needs requires far more capital investment than has been made available to NYCHA at the federal, State, and City levels.

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<sup>28</sup> See NYCHA 2018 Fact Sheet, available at [https://www1.nyc.gov/assets/nycha/downloads/pdf/NYCHA-Fact-Sheet\\_2018\\_Final.pdf](https://www1.nyc.gov/assets/nycha/downloads/pdf/NYCHA-Fact-Sheet_2018_Final.pdf).

<sup>29</sup> See New York City Housing Authority See Final Report, Physical Needs Assessment 2017, March 25, 2018, available at <https://www1.nyc.gov/assets/nycha/downloads/pdf/PNA%202017.pdf>, at 10 and 37.

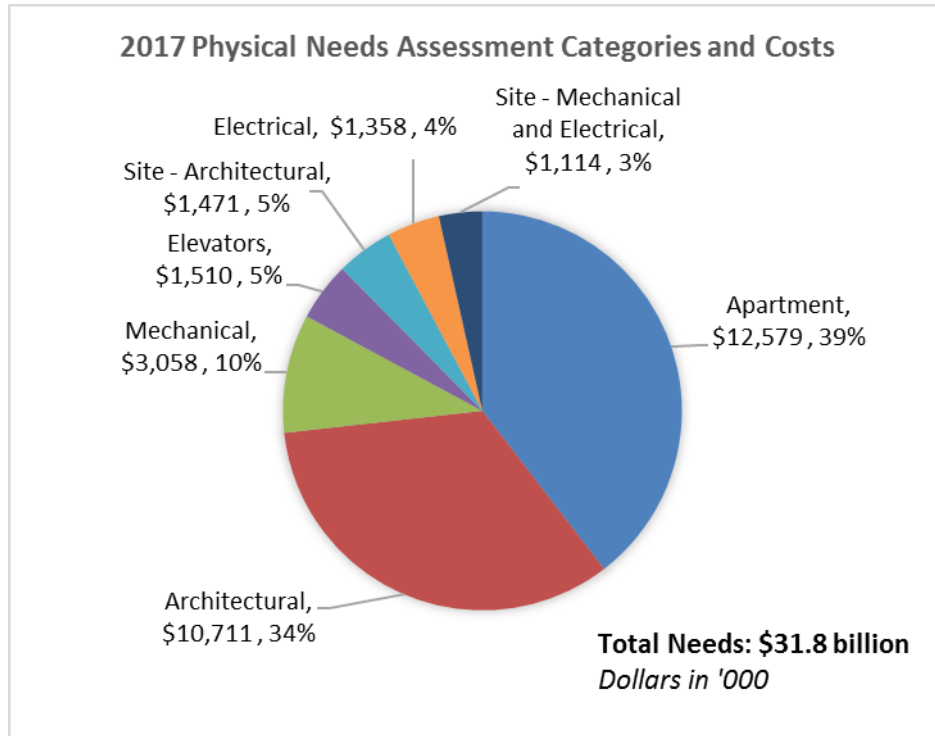
<sup>30</sup> See *id.* at 5.

<sup>31</sup> See *id.*

<sup>32</sup> See *id.* at 8.

<sup>33</sup> See *id.* at 8-9.





## VI. Funding to Address Capital Needs

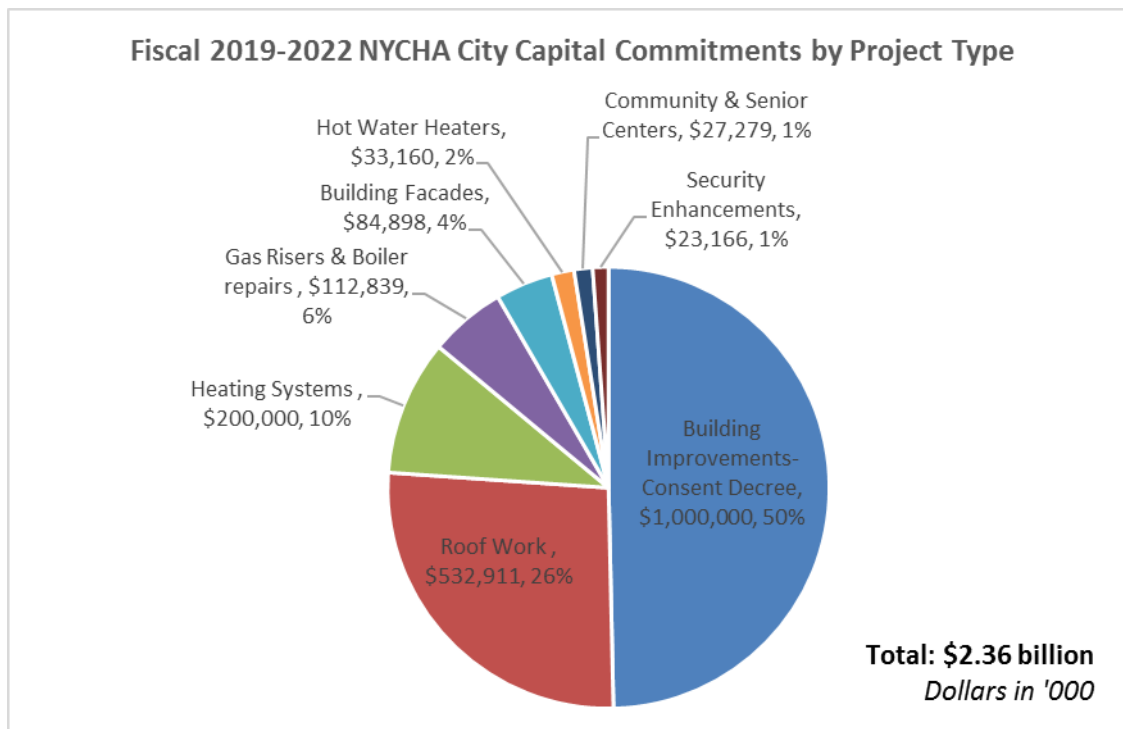
### A. Capital Funds from the City Government

Under the de Blasio administration, City Capital allocations to NYCHA have increased significantly, although they have failed to keep pace with rising capital needs. The City's Fiscal 2019 Adopted Capital Commitment Plan for NYCHA totals \$2.36 billion for Fiscal 2019-2022.<sup>34</sup> This is about ten times the \$246.3 million allocated to NYCHA in the Fiscal 2015 Adopted Capital Commitment Plan, Mayor de Blasio's first full year in office.<sup>35</sup> NYCHA's Fiscal 2019 Adopted Capital Commitment Plan of \$2.36 billion includes funding for building improvements, upgrades to building exteriors, boilers and heating systems, roof work and mold remediation, exterior lighting, and other general capital maintenance. Notably, half of NYCHA's Fiscal 2019-2022 Capital Commitment plan is the result of a \$1 billion allocation to support building improvements

<sup>34</sup> City of New York, Mayor's Office of Management and Budget (OMB) Fiscal 2019 Adopted Capital Commitment Plan, Volume 1, available at <https://www1.nyc.gov/assets/omb/downloads/pdf/ccp-10-18a.pdf>.

<sup>35</sup> City of New York, Mayor's Office of Management and Budget (OMB) Fiscal 2015 Adopted Capital Commitment Plan, Volume 1 available at [https://www1.nyc.gov/assets/omb/downloads/pdf/ccp\\_10\\_14a.pdf](https://www1.nyc.gov/assets/omb/downloads/pdf/ccp_10_14a.pdf).

mandated by a federal consent decree signed by NYCHA and the City in June 2018.



Some of the major capital projects included in the Fiscal 2019 Adopted Plan for Fiscal 2019-2022 include:

- *Roof Replacement Program.* The Adopted Plan includes \$533 million for a roof repair program to address the underlying conditions of mold and other health related hazards in NYCHA developments. The first \$100 million tranche of funding supported roof repair work at 65 buildings across five developments scheduled between May 2015 and March 2018.<sup>36</sup> The developments included: Parkside (14 buildings) in the Bronx; Sheepshead Bay (18 buildings) and Albany I and II (9 buildings) in Brooklyn; and Queensbridge South (13 buildings) and Queensbridge North (13 buildings) in Queens. The total cost with roof repair work at the 65 buildings was approximately \$91.5 million. A second phase of roof work at 78 buildings, costing

<sup>36</sup> See Office of the Mayor of New York City, See <https://www1.nyc.gov/office-of-the-mayor/news/174-18/mayor-de-blasio-completion-roof-replacements-65-nycha-buildings>.

\$100 million, has now entered construction and will be completed by June 2019.<sup>37</sup> In total, the existing scope of roof repair work will encompass 950 buildings and is budgeted at \$1.3 billion over a ten-year period.<sup>38</sup>

- *Heating System and Boiler Improvements.* The Adopted Plan includes \$263.9 million for heating system improvements and boiler replacements at 20 developments. This investment will replace outdated boilers, and modernize heating system controls and hot water-making technology. Beginning in Fiscal 2019, this investment provides: \$90 million for 39 new boilers at 10 developments and \$110 million for the modernization of hot water systems at 12 developments and new heating controls at 15 developments.<sup>39</sup> These renovations will be completed by Fiscal 2022, and will impact approximately 45,000 NYCHA residents.

- *Building Façade Repairs.* The Adopted Plan includes \$84.9 million to support building façade repair work at 259 buildings across 31 NYCHA developments in order to comply with Local Law 11 of 1998. The total existing scope of building façade repair work is estimated to cost \$204 million, including expense and capital funds, through 2020. The funding will be used to repair deteriorated exterior brick walls, roof parapet walls and balcony walls and will prevent water from getting into the buildings, which can cause interior damage and mold.

#### *B. Capital Funds from the Federal Government*

NYCHA's 2018-2022 Capital Plan provides approximately \$5.3 billion in planned commitments for infrastructure improvements, major modernization, systemic upgrades, repair, resiliency, and fortification of developments damaged by Superstorm Sandy.<sup>40</sup> The Plan is based on the current federal capital funding outlook, and relies on the near-term implementation of

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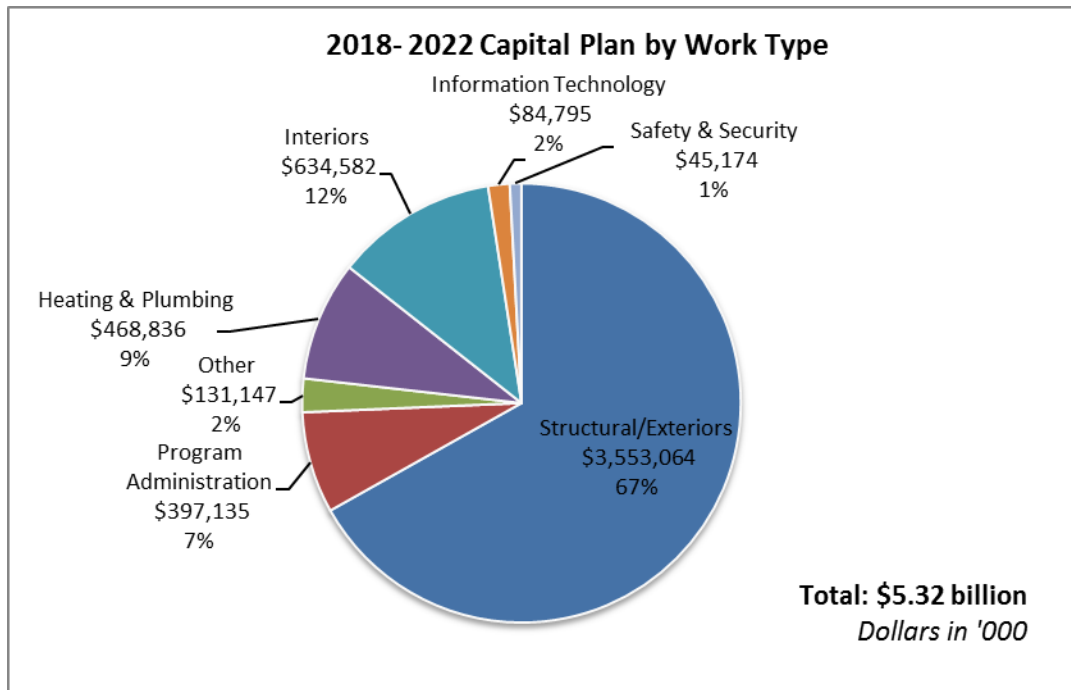
<sup>37</sup> See *id.*

<sup>38</sup> See *id.*

<sup>39</sup> See Office of the Mayor of New York City, See <https://www1.nyc.gov/office-of-the-mayor/news/516-18/de-blasio-administration-heating-improvements-nycha-residents-advance-winter#0>.

<sup>40</sup> See New York City Housing Authority, Capital Plan Calendar Years 2018-2022, Pages 4 and 27, available at: <https://www1.nyc.gov/assets/nycha/downloads/pdf/capital-plan-narrative-2018.pdf>.

NYCHA initiatives.<sup>41</sup> From 2018 to 2022, NYCHA will receive about \$1.14 billion in new Federal Funding for investment in NYCHA’s building portfolio.<sup>42</sup> The largest category of capital work, estimated at \$3.6 billion, or 67 percent of the total Capital Plan, is for structural and exterior work and repairs within the NYCHA portfolio.<sup>43</sup>



*C. Commitments Made by the Governor*

On April 2, 2018, Governor Cuomo issued an Executive Order declaring a State of Emergency for NYCHA developments.<sup>44</sup> The provisions of the Order provide for the deployment of up to \$550 million in emergency state resources, following the appointment of an independent monitor to oversee the spending.<sup>45</sup> The available funding is meant to repair boilers, remediate mold and lead, and address other critical issues in NYCHA. However, to date, these

<sup>41</sup> See *id.* at 4.

<sup>42</sup> See *id.* at 18.

<sup>43</sup> See *id.* at 28.

<sup>44</sup> See The Governor’s Office, Governor Cuomo Announces \$250 Million Investment to Address Health Hazards and Improve Living Conditions at NYCHA, available at: <https://www.governor.ny.gov/news/governor-cuomo-announces-250-million-investment-address-health-hazards-and-improve-living>.

<sup>45</sup> See *id.*

funds have not been released. As part of a consent decree signed by the City in June 2018, federal prosecutors ordered their own monitor to oversee a \$1 billion settlement with NYCHA.<sup>46</sup> Consequently, Governor Cuomo will not release the funds until a federal monitor is appointed.<sup>47</sup> As of November 2018, a federal monitor has not yet been appointed, so no state funds have been released to NYCHA.<sup>48</sup>

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<sup>46</sup> See The United States Attorney's Office, Southern District of New York, Manhattan U.S. Attorney Announces Settlement With NYCHA and NYC To Fundamentally Reform NYCHA Through the Appointment Of a Federal Monitor and the Payment By NYC Of \$1.2 Billion Of Additional Capital Money Over the Next Five Years, available at <https://www.justice.gov/usao-sdny/pr/manhattan-us-attorney-announces-settlement-nycha-and-nyc-fundamentally-reform-nycha>.

<sup>47</sup> NYCHA needs \$32 B over the next five years for repairs: study, *The Real Deal*, July 2, 2018, available at: <https://therealdeal.com/2018/07/02/nycha-needs-32b-over-the-next-five-years-for-repairs-study/>

<sup>48</sup> See Brenzel, Kathryn and Will Parker, Recasting Cuomo, *The Real Deal*, October 1 2018, available at [https://therealdeal.com/issues\\_articles/recasting-cuomo/](https://therealdeal.com/issues_articles/recasting-cuomo/)