

## Testimony by the Legal Aid Society on the NYCHA Annual and Five Year Plan

June 23, 2009

### Interest and Expertise of the Legal Aid Society

The Legal Aid Society is the oldest and largest provider of legal assistance to the poor in the United States. The Society's Civil Practice operates 14 neighborhood offices and City-wide units servicing residents of all five boroughs of New York City, providing comprehensive legal assistance in housing, public assistance, immigration, family law and other civil areas of primary concern to the poor. 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. We work closely with the Community Service Society and Public Housing Residents of the Lower East Side on public housing issues. 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.

### THE \$137 MILLION NYCHA DEFICIT

The NYCHA operating deficit is the combined result of every level of government—Washington, Albany, and City Hall—falling short on its original commitment to support public housing. No level of government is providing adequate operating subsidies needed to maintain NYCHA housing:

**Washington:** Despite the Obama administration's promise of full funding for public housing, the proposed Fiscal Year 2010 budget requests only \$4.6 out of the \$5.5 billion required for operating subsidies. If this budget is adopted, the NYCHA federal shortfall is projected to be over \$100 million.

**Albany:** NYCHA operates 15,000 State-financed units not eligible for federal operating subsidies. Since 1998, the State eliminated its operating subsidies. The state units generate an operating deficit of \$63 million a year.

**New York City:** NYCHA operates 6,000 City-financed units not eligible for federal operating subsidies. Since 2003, the City eliminated its annual operating subsidies. City units generate an operating deficit of \$30 million a year.

**In addition, NYCHA makes special payments to NYC each year:**

- **\$23 million a year for PILOT payments (instead of property taxes).** Nonprofit housers are usually exempted from property taxes.
- **\$73 million a year to NYPD for "special police services."** Resident leaders claim they receive no special services. Every resident and community is entitled to adequate city police protection. NYCHA should not pay for it.

## **THE JOB /TRAINING OPPORTUNITIES FOR RESIDENTS**

In 2007, more than half of NYCHA households (52%) had at least one working member. Because of the deepening recession since mid-2008, residents will be working fewer hours at lower wages; others will find it more difficult to keep or find work.

In 2005, among NYCHA's 231,000 adult residents, ages 18 to 64, half (49%) were participants in the labor force. About 93,000 were working. But—even during those good times—about 20,000 residents were unemployed and actively looking for work. That number is certainly even greater now...probably closer to 30,000.

Residents always stand to benefit from economic opportunities, whether or not the jobs or training are NYCHA-related. But, this year more than ever, NYCHA must play a stronger, more effective role in linking job-seeking residents to opportunities. There are several important reasons:

- **Section 3 of the 1968 Housing Act requires housing authorities** to maximize their efforts to use HUD funds to expand job/training opportunities for low-income residents.
- **NYCHA benefits from increased resident incomes.** Income increases mean higher rents to help offset NYCHA's operating deficit. For every \$100 dollar increase in household monthly income, NYCHA stands to receive \$30 more in rent. At present, resident rents account for 40 percent of NYCHA's operating budget.
- **NYCHA is receiving \$423 million in HUD economic stimulus funds** for capital projects, under the 2009 American Recovery and Reinvestment Act (ARRA). This infusion of funds provides NYCHA an unusual opportunity to expand its resident workforce and increase its rent stream.

One of the goals in NYCHA's proposed 5-Year plan is to "*increase job placements and training opportunities, apprenticeship and educational enrollments.*" (page 115)

But the plan is unclear how it will make that happen this year or next.

The NYCHA FY2010 Plan includes reports on its recent resident employment efforts. (Attachment R, pp. 144-5.) The figures given for years 2006 through 2008 are:

- 307 residents were hired on federally-funded construction and professional services contracts, an average of only 100 per year.
- 81 residents were placed in jobs through grant-funded vocational training, an average of 27 a year.
- 795 residents were placed in non-grant –funded jobs, an average of 265 per year.

The Section 3 Program Summary for year 2008 (Attachment R, page 143), reports that NYCHA contracting (on the order of \$2 to 3 billion) led to 87 new hires, of which 41 were residents. (p. 143)

With over 20,000 NYCHA residents seeking work—this year likely closer to 30,000—the authority’s track record in linking residents with jobs and training is meager, compared to the scale of the need. The NYCHA plan mentions linkage with HRA employment programs, but the information is sketchy. Although NYCHA leaders have talked about the need for more effective Section 3 efforts, the authority must do more to plan and design in detail a program that will link tens of thousands of job-seeking residents with opportunities.

***Recommendations:***

- ***The NYCHA Annual and Five-Year Plan need to commit NYCHA to a detailed design of its employment-related programs within the next 6 months.***
- ***Residents need to know how they can connect with job/training opportunities in ongoing NYCHA maintenance and capital projects.***

**FAST-TRACK RENT ADJUSTMENTS.**

**SLOW-TRACK CHRONIC RENT DELINQUENCY PROCEEDINGS.**

NYCHA residents, and the city as a whole, are facing the worst economic crisis since the Great Depression. We can expect many will lose jobs, work-hours, and income in the coming year. As a result, the risks of their falling behind on rent will increase. While NYCHA will need to adjust rents as incomes change, some residents will be unable to pay rent while waiting for the adjustment—a process that can take weeks—and will fall behind.

Chronic rent delinquency (CRD)—consistently late rent payments—has been the largest single cause of NYCHA termination hearings, which often occur after the rent is fully paid. Currently NYCHA brings CRD termination proceedings against tenants regardless of the reason for late payments. These hearings, often no longer necessary, can cause hardship to residents who must take time off from work or family to defend themselves.

***Recommendations:***

- ***NYCHA should expedite its rent adjustment process, so that waiting-period delays are minimized.***
- ***NYCHA should impose a moratorium on CRD proceedings in the coming year, particularly for residents who have filed for rent adjustments.***

**DEMOLITION/DISPOSITION OF NYCHA PUBLIC HOUSING:**

NYCHA data on its public housing stock indicates that between 2005 and 2009, a total of 3,880 apartments will have been lost, either through demolition or disposition. Examples include Markham Gardens, Prospect Plaza, and A. Phillip Randolph Houses. Given the shortage of affordable low-income housing in New York City, and the size of the NYCHA waiting lists, the city cannot afford to lose any such units. Resident households who are displaced in the redevelopment process must be assured either of alternative NYCHA housing of their choice or the right to return to the original site.

***Recommendations:***

- ***NYCHA must maintain its current public housing inventory and demonstrate one-for-one replacement of all lost apartments.***
- ***NYCHA must assure the “right to return” to the original site for residents displaced through demolition/disposition and redevelopment.***

**DISPOSITION OF NYCHA-OWNED LAND FOR DEVELOPMENT**

We are concerned that NYCHA has undertaken land disposition in a number of developments—for instance, Harborview and Chelsea-Eliot—for the construction and development of residential housing, without sufficient concern for:

- Whether the housing developed is affordable to low-income New Yorkers eligible for public housing (within 80% of Area Median Income),
- Whether residents have been adequately involved in and notified of the disposition and development plans,
- Whether, given NYCHA’s structural deficits, the authority is maximizing potential return given the value of the property. For instance, would leasing the land for development be a better way of obtaining annual operating revenue, rather than a one-time sale? At what price should the land be leased or sold?

***We recommend that NYCHA:***

- ***Set aside the land it owns only for residential development affordable to households who are income-eligible for public housing.***
- ***Clarify its disposition guidelines and procedures so that maximum return on land disposition is assured.***
- ***Clarify its guidelines for resident involvement in these decisions.***

**DOES NYCHA AMEND ITS PLAN WITHOUT DUE PROCESS?**

NYCHA has recently made two major policy changes without going through the annual plan process of filing an amended plan:

- We learned that in 2007, NYCHA amended its “standard of admission” to bar—for five years—remaining family members claimants, who lose their remaining family member grievances and are brought to Housing Court.
- In 2009, NYCHA amended its pet policy to bar certain types of dogs, without any opportunity for resident or public comment on the policy or the criteria being used. As a result, residents were not adequately warned of the policy change and were given very short notice to comply, before evictions were put into motion.

***Recommendation:***

- *We recommend that these policies and their implementation be rescinded until residents and the public have a full chance to comment on them in the annual plan process.*

## **COMMUNITY SERVICE CUTS**

In face of its continuing operating deficit, NYCHA has gone forward with plans to close community centers and reduce community service staff. The impact on NYCHA communities is profound, particularly for senior residents, as the city uses \$18 million allocated by City Council primarily for youth-related programs.

### ***We recommend:***

The NYCHA operating deficit must be addressed by all levels of government. Annual NYCHA payments to the City—\$73 million to NYPD for special police services and \$23 million for PILOT payments—could be better used to restore the critical service programs and reopen community centers that have strengthened NYCHA communities in the past. Otherwise these communities will continue to suffer the consequences of these cutbacks.

## **THE NYCHA ANNUAL HEARING—NOT ENOUGH TIME**

Each year NYCHA allocates two and a half hours to the evening hearing on its draft Annual Plan. The relevant NYCHA community includes 500,000 public housing residents as well as 300,000 residents who hold Section 8 Housing Choice Vouchers, a total population that matches the scale of the nation’s largest cities. There is simply not enough time for everyone who wants to testify. City Council and State legislative committee hearings often last longer and find a way to allow everyone to have their say.

Under NYCHA hearing procedures, elected officials are accorded priority to testify at the start. Their testimony is important because of the public housing and Section 8 constituencies they represent. Individual testimony is limited to three minutes, but NYCHA does little to discourage residents who use their time for complaints that are legitimate, but have nothing to do with the Plan. As a result, each year there are many residents who are denied the opportunity to provide relevant testimony on the Annual Plan simply because time has run out.

### ***We recommend:***

- *NYCHA extend the time allocated to the annual hearing, possibly to two evenings.*
- *NYCHA revise procedures so that resident and official testimony are alternated.*
- *NYCHA discourage residents from testimony not relevant to the Annual Plan.*

Respectfully submitted,

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