Pathways to Social Housing in New York:

20 policies to shift from private profit to public good

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Community Service Society

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Community Service Society

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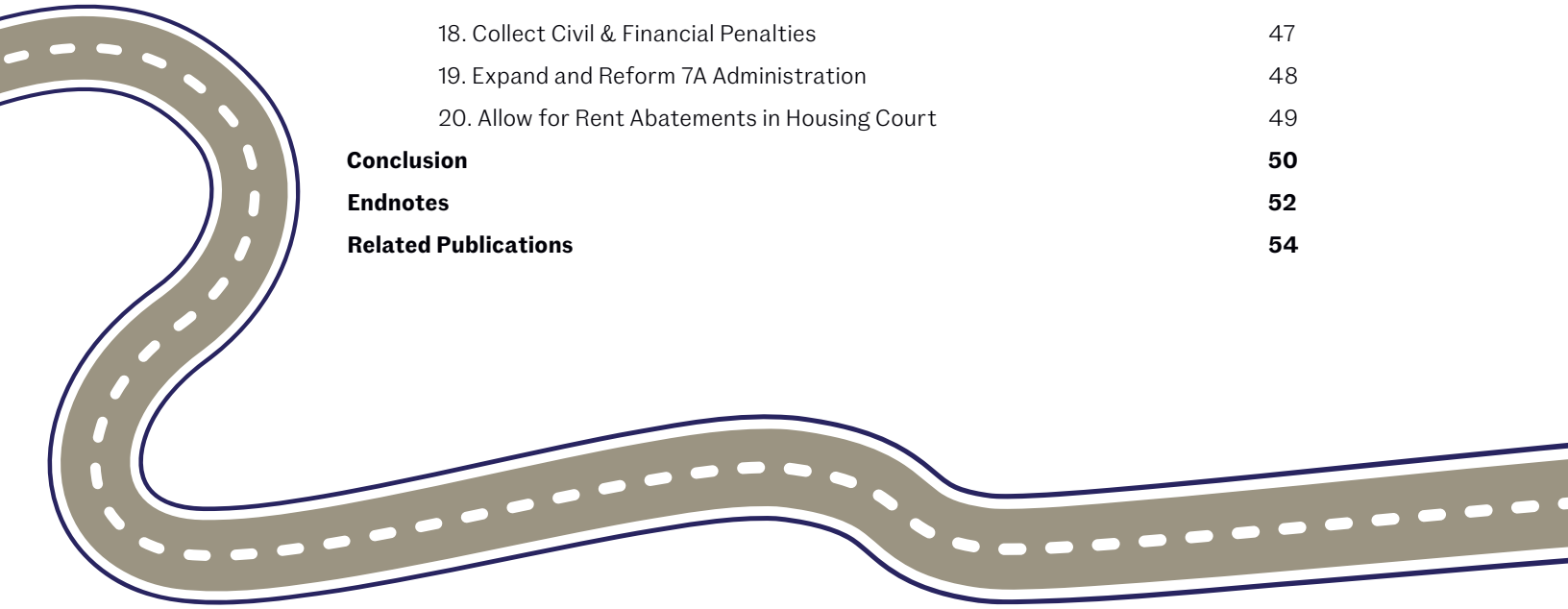


Introduction

Three years into the pandemic, rents in New York City have reached new heights. A quarter of low income tenants owe back rent and the state struggles to fill a massive shortfall in its COVID rent relief fund. One of the root causes for this crisis is that for decades, landlords of New York State's private rental housing stock have placed heavy financial bets on both deferred maintenance and rising rents. As a result, rental housing is vulnerable to shocks like the COVID-19 pandemic. Without a major intervention, our current housing and lending policies create an environment for further waves of gentrification and displacement.

This report outlines an alternative future, sketching out 20 policies that directly address this vulnerability. These policies would work in tandem to shield our housing from the worst aspects of speculative investment and put New York on a path to social housing transformation.

With this report, we add to the growing discussion about challenging real estate power, decommodifying the housing system, and expanding social housing in New York State. We focus on existing private rental conversions, in particular distressed housing where landlords have been the most predatory or neglectful, as opposed to new social housing development, a topic covered by The People's Policy Project[1], People's Action[2], and others. Practically, a social housing conversion strategy is crucial in cities where developable lots are scarce. Further, the connected crises against which the organized housing movement takes aim — unaffordability, displacement, discrimination, evictions, homelessness, and substandard living conditions — are rooted in our existing rental stock. Fighting for social ownership in privately-owned rental housing, then, not only presents another avenue to directly challenge real estate's monopoly over the ownership and control of housing, but also challenges that power where it is felt by most people: in the exorbitant rent they pay each month, in the egregious conditions they must put up with, or in the threat of displacement hanging over their heads.

The link between outsized landlord profits and crises for tenants has never been clearer. According to a report by JP Morgan Chase,[3] while tenant households suffered unprecedented burdens and struggled to make rent during the pandemic, landlords actually made money, primarily through deferred maintenance of their buildings. The fact that landlords profited even in the depths of a generational crisis demonstrates why the housing movement in New York State must present an alternative vision of how housing should be owned and operated. To get there, we need a wide-ranging set of policies: frequent transfers of land and housing to social ownership, expansive financial resources, and robust tenants rights. We also need a long-term commitment to organizing, first to win these policies, then to operate social housing democratically, and finally to grow public and political support for a social housing transformation in New York State and around the country. We hope this report is a step in that direction, kindling the imagination and providing concrete resources for a move toward more equitable and sustainable housing models for New York.

The 20 policies below are divided into four subsections, which can be grouped into two different types of policy interventions. Sections A and B of the report focus on the need to develop and sustain social housing models and tenant organizing during and after conversions. Sections C and D outline policies that make the most abusive landlord practices economically unworkable, forcing bad landlords to either act more responsibly or exit the business and creating a pipeline for social housing conversions. Each policy description includes:

- A brief summary of what it is, and how it would work;
- The responsible jurisdiction (local, state or federal);
- The budget type (capital, operating, or neutral);
- The legal process (legislative, administrative, or judicial);
- Connections to other policies in this report;
- And the potential impact.

Finally, each policy within Pathways to Social Housing aims to be relevant for localities across New York State. Though New York contains a wide range of housing markets — from long-disinvested areas to over-capitalized ones — each policy outlined here is broadly applicable. Further, recent housing movement victories have demonstrated the power of statewide organizing by tenants and people experiencing homelessness across the 'downstate' and 'upstate'.

We encourage readers to move freely between the sections, to draw connections we did not ourselves highlight, and to offer more policies and programs that would be useful in reasserting the public role in land and housing.

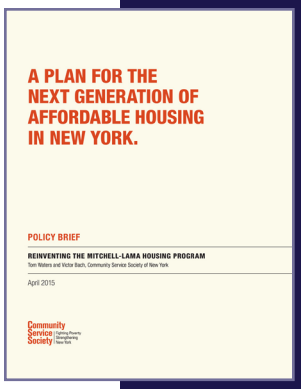
What is Social Housing?

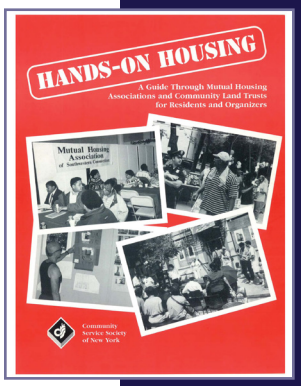
Social housing is "housing in the public domain," to borrow a Metropolitan Council on Housing slogan from the 1970s.[4] It is usually operated through a combination of government, nonprofit and resident ownership, regulation and management. The term has been quite common around the world for over a century. It is becoming a rallying cry in the United States because of the limitations of our existing affordable housing programs and the perils of the dominant corporate real estate model.

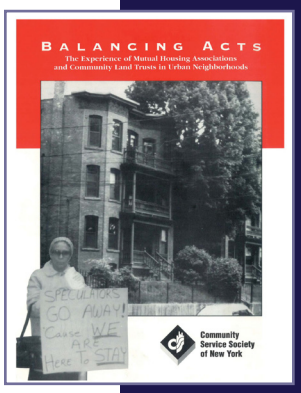
Three key features of social housing are: deep affordability (or promoting social equality); decommodification (or insulating housing from market forces); and democratic management (or enabling residents to exercise control over their housing). When social housing is newly built, it typically requires public land and financing so that tenant, labor or community groups can afford the cost of construction and keep rents low. The government can also facilitate the conversion of for-profit buildings to social housing, transferring them to a group of tenants or a nonprofit, who agree to repair and operate the housing under strict regulatory agreements. New York City and New York State already support a plethora of social housing models, including rentals (public housing, Mutual Housing Associations, Mitchell Lama rentals), limited-equity cooperatives (HDFC coops, Mitchell-Lama coops, Resident Owned Communities) and alternative forms of land tenure (Community Land Trusts). There are concrete differences between for-profit and social housing building operations. A private landlord seeking quick and lucrative profits will generally maximize debt leverage, minimize expenses, and attempt to increase rental income at every opportunity. A social housing operator aims to only take on debt when necessary, reinvest revenues back into the building to ensure good housing quality, and keep rents within the bounds of affordability agreements. Whereas our status quo model of housing has produced deep racial inequality, persistent homelessness and widespread precarity, social housing models aim to achieve exactly the opposite: racial equity, abundant affordability and self-determination.

Despite these distinctions, existing social housing models are far from perfect; there have been significant challenges in keeping this housing permanently affordable and in operating the properties in line with the ideals laid out above. Any serious social housing strategy must acknowledge those failures on their own terms, while

This report builds on previous Community Service Society (CSS) research on the importance and viability of social housing in New York. In 2020, Oksana Mironova and Thomas Waters produced a two-part series, *Social Housing in the U.S.* and *How Social Is That Housing?*, which laid out the definition summarized above and showed how well (and how poorly) various existing New York housing models aligned with those values. In 2015, Waters and Victor Bach produced a landmark study entitled *Reinventing the Mitchell-Lama Housing Program*, which demonstrated what a new version of this widely popular New York social housing program might look like in the 21st century. In 1996, Sarah Hovde and John Krinsky released a pair of comprehensive reports on the experience of Community Land Trusts and Mutual Housing Associations in New York City and nine other US cities, entitled *Hands-On Housing* and *Balancing Acts*. In the late 1980s, CSS launched its Ownership Transfer Program to facilitate social housing conversions in at-risk buildings in New York City, led by Howard Banker and Linda Cohen. In short, CSS has a long history of research, advocacy and practice in social housing conversions, and we hope this *Pathways to Social Housing* report contributes to that important body of work. (For more historical resources on social housing in New York, see conclusion.)





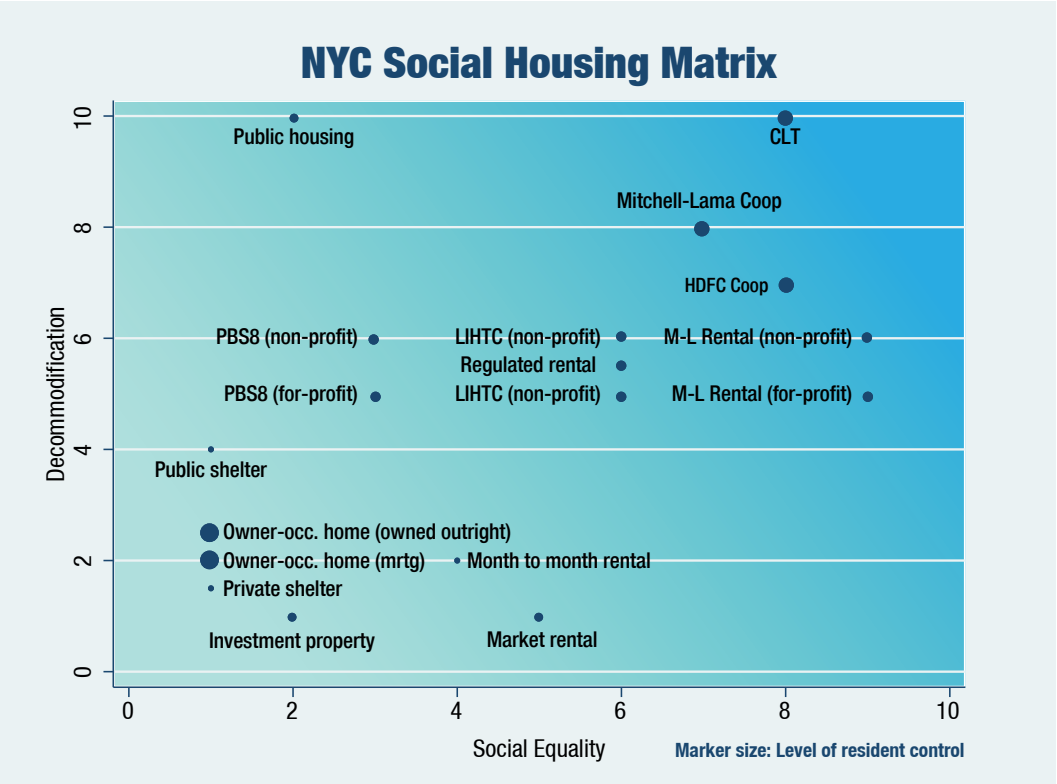


recognizing the effect of the past several decades of fiscal austerity. As in so many other arenas, local, state, and federal austerity set social housing up for failure, leading to both its physical degradation and a hollowing of the expertise and democratic institutions required to successfully create and operate it.

Austerity also winnowed the public's faith in the government as a reliably positive actor in the provision of housing. And while public funding for social housing has been slashed over the preceding decades, public subsidies and support for countless models of for-profit housing have proliferated, from state tax breaks for luxury construction (like 421-a and 485-a) to federal subsidies for single-family home mortgages (like the home mortgage interest deduction, or Freddie Mac and Fannie Mae backed financing). For most of the 20th century, our city, state and federal governments supported suburban homeowners and urban landlords, while claiming poverty when it came to funding public and social housing alternatives.

Meanwhile, the federal government – along with banks, conservative think tanks, and other aligned organizations – periodically presented private homeownership (and sometimes landlording) to low-income people of color living in cities as the primary pathway to economic growth and stability. These positive outcomes, however, were never guaranteed. In fact, programs that promised entry into private homeownership for low-income people – and for African American first-time homeowners in particular – often relied on households taking on unsustainable debts or accessing poor quality homes, subjecting them first to dangerous conditions and then to foreclosure. Historian Keeanga-Yamahtta Taylor calls this process "predatory inclusion" for the ways it weaponized homeownership into yet another tool of racial discrimination.[5]

The challenge for social housing advocates, then, is to buck these historical trends of austerity and predation and offer instead models of housing that not only promise but deliver on the ideals of decommodification, deep affordability, and democracy. This is a tall order, and one that will be achieved through a host of policies, actions and approaches. Thus, we present here a set of pathways rather than a single silver bullet.



Source: Mironova & Waters, *How Social is That Housing?* Community Service Society, 2020.

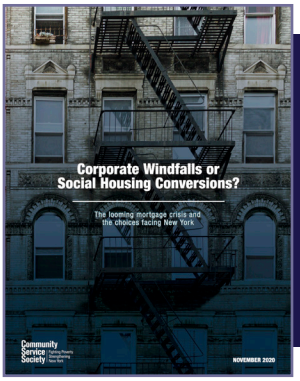
How do tenant protections and code enforcement create Pathways to Social Housing?

In this report, we frame a range of existing housing movement priorities, including the expansion of tenant rights and stronger code enforcement, as pathways to social housing. These policies are not only important demands on their own, but also serve as crucial predicates to the possibility of conversions. For instance, when the government expands protections against unjust rent increases to a new sector of the housing market, tenants directly benefit, while the potential income that drives rising prices and outsized profits is restricted, causing speculative investors to lose interest in that sector. A similar reaction is likely when the government improves housing code standards and enforcement, as tenants' living standards improve while neglectful landlords are forced to reinvest more rental income back into their buildings, thus limiting outsized profits based on minimal maintenance expenses. Furthermore, the organizations developed through organizing campaigns, such as tenant associations and unions, can be transformed into the permanent democratic institutions needed to successfully own and operate social housing.

The fact that our housing system is set up to produce profit for landlords and investors is one of the principal obstacles to the expansion of the social housing sector, because it drives the hyper-valuation of land. In cities with high property values, social housing conversions reliant on market transactions often require prohibitive levels of public funding. Conversely, in areas with low property values, aggressive speculative investment (the driver of gentrification) marginalizes potential social housing entities. Expanding tenant rights and strengthening code enforcement can bring housing operations — and by extension, property values — back in line with what it actually takes to run decent and affordable rental housing. Altering these dynamics creates an opportunity for social housing conversions, and thus acts as a "pathway to social housing."

At the same time, while tenant protections and code enforcement laws pave the way for social housing, social housing models also help to permanently enshrine those rights for all tenants. As housing investment becomes central to our financial system, rising property values and rent extraction become key methods for passive wealth building. Housing policies that limit the speculative potential of a property, like rent regulation or expanded code enforcement, come under threat from organized landlords and investors who skirt rent regulations, whittle down the power of public agencies to enforce housing codes, or withhold investment and even keep units vacant to force policies more favorable to them. A meaningful expansion of the social housing sector would limit the political and economic power of organized landlords and investors to undercut hard-won tenant protections and standards of habitability.

Perhaps most importantly, though, many of the policies in the sections on tenant protections and code enforcement are pathways to social housing because they make tenant organizing more attainable and more transformative. The right to a renewal lease, for instance, ensures that landlords cannot retaliate against tenant leaders involved in building-level organizing. Similarly, expanded eviction protections and powerful legal tools to challenge predatory landlords make possible bold organizing and campaign strategies. Policies which lay the groundwork for organizing are necessary because social housing must be driven by committed groups of tenants seeking to wrest control of housing from landlords who profit too much and provide too little. A social housing conversion program can only exist when tenant organizing is strong and widespread. Indeed, such a program aims to make permanent the gains from housing struggles that prioritize people over profit.



For in depth context on how NYC's housing market became what it is today, please read *Corporate Windfalls or Social Housing Conversions.*

Pathways to Social Housing Categories: An explainer

Each of the twenty sections in Pathways to Social Housing includes a brief summary of what the policy is and how it would work. Additionally, each section includes a number of different categories, meant to clarify what it might take to make the policy a reality, what its impact would be, and how it interacts with other policies. We included these categories both as a way to ground each policy in political reality and as a way to provoke thought about what a comprehensive social housing transformation might look like.

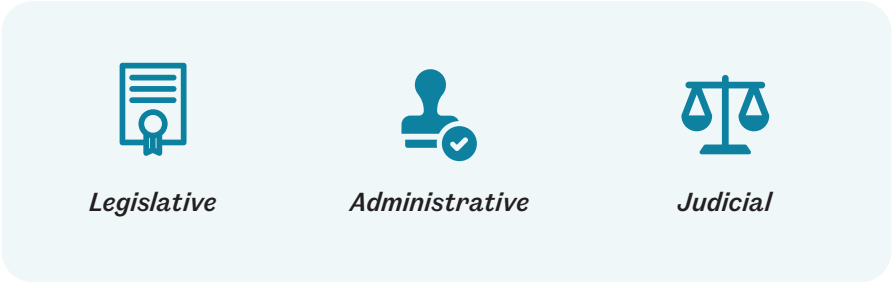
JURISDICTION

In this category, we identify whether the policy would need to be enacted on the local, state, or federal levels (or at multiple levels). Identifying the correct jurisdiction is an important part of building a coalition, identifying campaign targets, and developing the support needed to pass a given policy.

BUDGET

In this category, we identify whether the policy would require financial resources from the government to work, and if so, whether that budget should come from the public's operating or capital budget (or both). By operating budget, we mean funds that are spent on an annual basis, like salaries for agency staff. By capital budget, we mean funds that are spent on a one-time basis, to do things like acquire property or develop infrastructure. Policies can also be budget neutral or even revenue positive, meaning that while they might require a shift in public priorities, there is no specific budgetary requirement for the policy to work.

PROCESS



In this category, we identify whether the policy would need to be enacted through changes in legislation, administrative practice, or through judicial action. While most of the twenty policies in Pathways require legislation, it is important to identify when the major obstacle to enacting a policy is not passing a bill, but rather shifting the way that existing state agencies set their priorities in terms of who they lend to, which entities receive opportunities to own and develop housing, and more. In some places both legislation and administrative action are required, either to pass a law in one part of the state where another already exists or to improve existing policy.

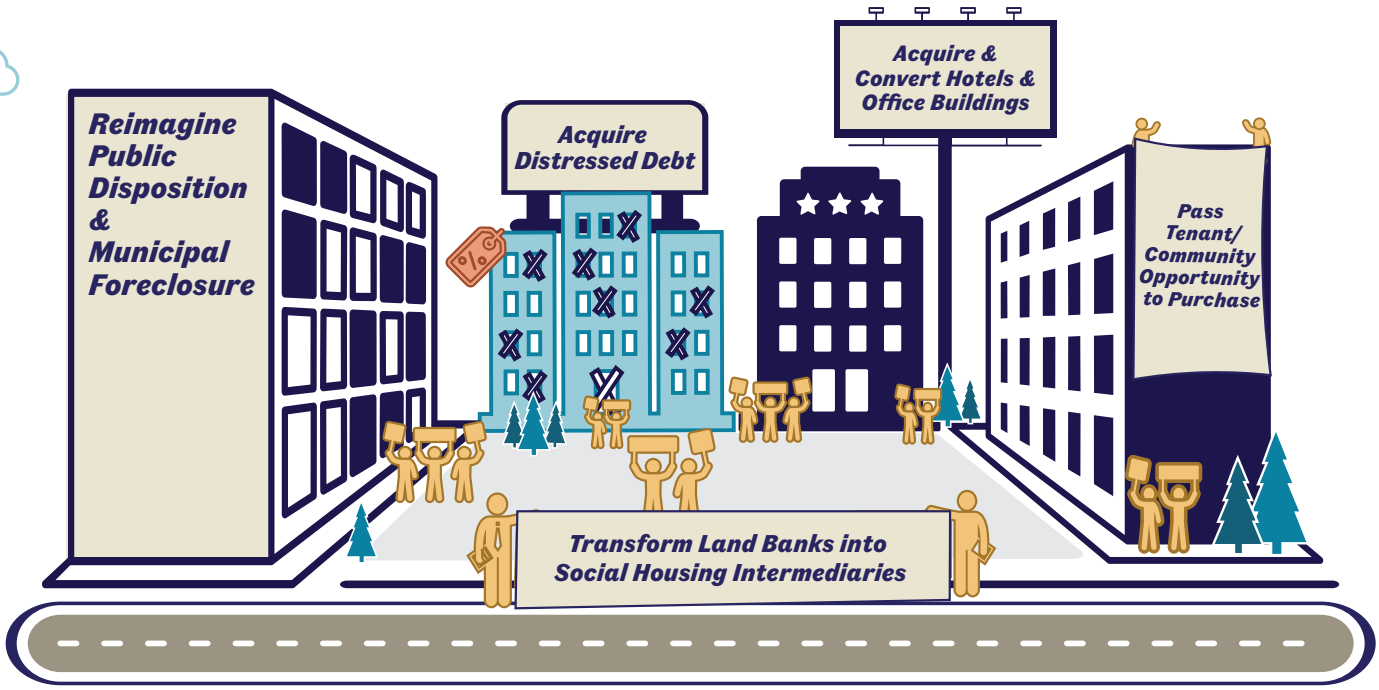
Connections

In this category, we identify three other policies that connect to the policy under discussion. (Of course, all of these policies are connected in one way or another, but for consistency and brevity we have limited it to just three per policy). While each policy can have an impact on its own, they generally have the potential to be much more transformative when considered together with other policies.

Impact

In this category, we aim to provide a graphic or data-point to give a sense of the scale of properties or tenants that the policy might affect. Rather than categorizing some policies as having a larger or smaller impact than others, we show how each of the policies could have important ramifications for large numbers of New Yorkers and their housing.

Part A: Democratic Control of Housing



To put New York on a path toward a social housing transformation, the state and its municipalities' public agencies must use all the tools at their disposal to encourage social housing conversions. This includes actions to facilitate conversions in the private housing stock, particularly in buildings that are physically or financially distressed.

Such actions have clear historical precedents. Much of New York State's existing social housing network was created through various forms of direct state intervention, including municipal foreclosure, eminent domain, and provision of assistance for tenant and community building purchases, after long-term agitation by tenant, labor, and community organizations.

In recent years, however, state and local governments have only rarely intervened to create social housing in resident-occupied buildings. When they have taken such actions, these conversions have tended to target the smallest landlords instead of the biggest players, and have not treated tenants as equal partners. Instead, contemporary state and local preservation programs often give away housing to for-profit developers, with fairly short, time-limited restrictions. Despite their rich history, social housing models are largely sidelined and treated as a novelty.

We must reverse this trend. There are several working models of long-term social housing stewardship to build from. Local governments and the State of New York can maintain public ownership of land, while leasing building rights to social housing stewards. Alternatively, governments can transfer land to community and tenant organizations directly. Land banks or new types of state and municipal development agencies can play an active role in these processes. In all cases, a reorientation toward resident decision-making, including strong tenancy rights, financial resources, and long-term access to organizing resources, is necessary for a successful social housing conversion program.

In Part 1 of this report, we outline tools that transfer land to tenants and communities through long-term leasing of public land, municipal foreclosure, and right of first refusal laws; facilitate the conversion of financially distressed properties, including apartment buildings and hotels, into social housing; and establish intermediaries for facilitating social housing conversions.

1. Reimagine Public Disposition and Municipal Foreclosure

In 2019, the City sold tax liens on 3,514 properties and 322 vacant lots to a private trust.

They could have been used to build new social housing developments or put to other community uses such as gardens or worker-owned cooperatives.

The most direct way for municipalities to convert buildings into social housing is to use public property, particularly the vacant, abandoned, tax-delinquent, or otherwise distressed lots and buildings over which local governments have jurisdiction. Employing this distressed stock towards the creation of social housing, however, requires a major shift away from long-standing practices on two fronts. First, municipalities and public agencies must stop passing publicly-owned property to private actors. Second, they must return to the bold use of tools like municipal foreclosure, and even eminent domain, to acquire and transfer private housing under poor stewardship to social housing entities.

Today, the predominant policy goal in public property disposition is to return them to the tax rolls, providing the economic justification for transferring properties to private actors at extremely discounted prices. An analysis by the Association for Neighborhood Housing and Development, for instance, found that between 2014 and 2018, 75 percent of New York City's vacant public land dispositions went to for-profit entities[6] — sometimes for just $1 per parcel.[7]

In cases of publicly-owned, occupied residential buildings, there is a similarly long pattern of transfers to private actors. In the 1970s and 1980s, following the devastation of landlord abandonment and mass municipal foreclosures, tenants and nonprofit groups used persistent organizing and sweat equity to get the city to transfer buildings into their control, creating a major wave of social housing conversions. The New York City Housing Authority also frequently took ownership of distressed land and housing, temporarily transferring the ownership to private entities for redevelopment, then regaining title after construction and ultimately operating the buildings as public housing. At the same time, however, city agencies transferred thousands of similar properties to for-profit private actors, which was later understood to lead to far inferior outcomes for tenants, as compared to social housing transfers.[8]

During the Guliani mayoralty, New York City took a step backward, moving away from municipal foreclosure and toward a system of selling municipal liens to a trust operated by a private and unaccountable third-party entity. This system squandered any leverage New York City had to convert residential properties into forms of social housing,

1. Reimagine Public Disposition and Municipal Foreclosure

leaving behind tenants in physically distressed and tax delinquent rental housing, while putting undue pressure on low-income homeowners of color. While this particular kind of bulk tax lien sales do not exist outside of New York City, upstate municipalities also commonly sell off publicly-owned housing to private investors, usually through opaque and undemocratic land banks.

In place of the prevailing attitude, we need public agencies to resume using municipal foreclosure to intervene in distressed housing, while also learning from the mistakes of the past. This would both hold predatory and negligent landlords accountable, and allow for more properties to be transferred to responsible owners via a social housing entity. Specifically, we must abolish the tax lien sale in New York City — the epitome of bad policy that prioritizes private investors over homeowners and tenants — and move away from selling tax foreclosed housing to private investors throughout New York State. In place of these approaches, we should establish a new process for public tax collection, in rem foreclosure, and disposition to Community Land Trusts (CLT) and other forms of collective, cooperative, and/or public ownership.

The goals of such a program would be to: 1) re-municipalize public debt collection; 2) prevent displacement, either of owner-occupiers or tenants; and 3) promote long-term affordability through community ownership and social housing.[9] The vehicles to reach these goals would be different for struggling owner-occupiers than for delinquent absentee landlords. For owner-occupied homes where the owner has fallen behind on taxes, municipalities should first pursue a repayment program. If the homeowner is unable to repay their debts, a CLT would work to assume ownership of the land, while preserving the dweller's ownership of the home with equity restrictions at resale. For rental housing, cities should pursue in rem foreclosure, transferring the building to a preservation-minded owner (such as the building's residents, a local nonprofit developer, a CLT, or a land bank), and either maintaining public ownership of the land or transferring it to a CLT.

Importantly, this new approach should include the careful use of eminent domain, when other tools are inadequate. Historically, eminent domain has been used both as a tool for public and cooperative housing construction, and for racist land grabs and harmful infrastructure siting.[10] Today it is mostly used to create large-scale private facilities like sports stadiums, private university expansions, and pharmaceutical facilities. Eminent domain can be reconceived as a means for social housing conversions in buildings where owners have put their tenants' wellbeing at risk in pursuit of profit. In such cases, the owners would be compensated for the value of their property, and the state would take ownership of occupied housing and transfer its operations to a social housing provider.

1. Reimagine Public Disposition and Municipal Foreclosure

Jurisdiction: Local and State
Budget: Capital
Process: Legislative and Administrative

Connections:

» (i) Transform Land Banks into Social Housing Intermediaries, (ii) Support Social Housing Infrastructure, (iii) Acquire and Convert Hotels and Office Buildings

» Reforming land banks to serve in the interest of social housing is integral to any new system of public debt collection, as they are the intermediaries used to transfer housing. Democratically accountable land banks could distribute property to social housing entities at different scales — from CLTs up to Public Housing Authorities — in order to help meet critical housing needs on both the local and statewide levels. Crucially, the State must fund programs for new and existing organizations to develop these capacities further, particularly in parts of New York that have less of a history with social housing conversions and operations. The development of this infrastructure works to create viable alternatives to the status quo.

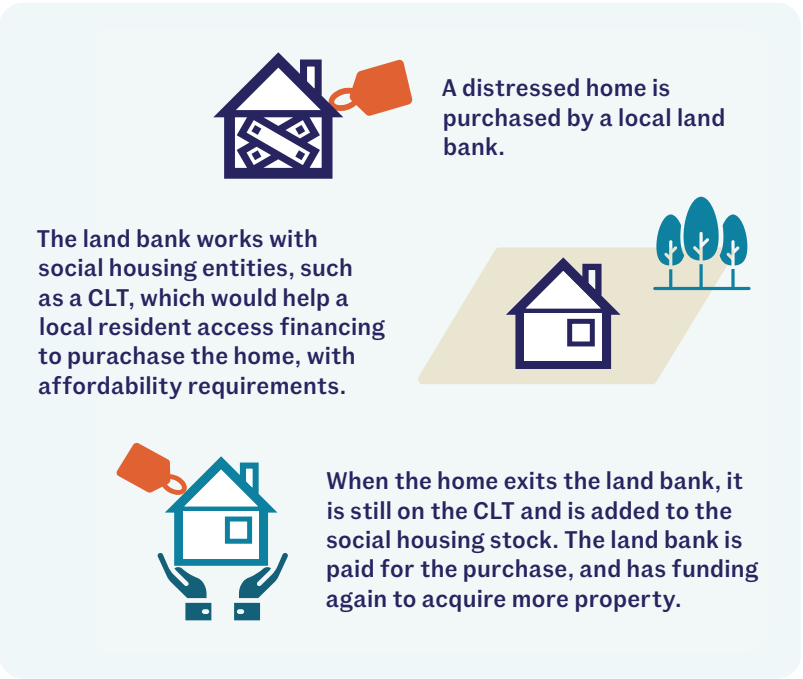
» Similar to converting hotels and offices, a reimagined public disposition system can also help create supportive housing and housing for the formerly homeless. Many buildings that have cycled through the predatory market have vacant units that can be reserved for formerly homeless and extremely low-income households. Homeless set-aside units in publicly financed buildings are one of the best pathways for people coming out of shelter to access permanent housing. Rethinking municipal foreclosure and public disposition would broaden the amount of preservation opportunities and government financed buildings, and therefore of potential set-aside units to house formerly homeless households.

Impact:

» The last New York City tax lien sale was held in 2021. The city sold tax liens on properties to a privately managed trust, as it had almost every year since 1997. These sales subject tenants or small homeowners to further speculation and rounds of flipping, disinvestment, and potentially gentrification, when they could easily be used instead as leverage to promote social ownership of land or buildings. The 2021 lien sale also included vacant lots, which could have been used to build new social housing developments or put to other community uses (such as gardens or worker-owned cooperatives). Every year the city continues this predatory process, it subjects more tenants and homeowners to speculation and displacement while giving up its leverage to promote social housing.

2. Transform Land Banks into Social Housing Intermediaries

New York's existing land banks are structurally restrained from playing a role in the creation of social housing. If so empowered, land banks could provide a steady pipeline for social housing conversions, even in high-cost markets.



Land banks are a tool designed to take over and rehabilitate tax-delinquent, abandoned, and other distressed properties. They were first developed in St. Louis as part of the Civil Rights movement in response to the devastating effects of redlining. Most land banks in New York State are located in relatively low-cost urban and rural markets such as Syracuse, Buffalo, Oswego county, and the Finger Lakes region.[11] In New York City, Neighborhood Restore, a nonprofit that works closely with the City's housing agency and was created to help the City avoid taking direct title of distressed properties and vacant land, essentially plays the role of a land bank.

New York's existing land banks are structurally restrained from playing a role in the creation of social housing: they are dramatically underfunded, not always granted automatic rights to assume title, and founded on a set of principles that do not prioritize the disposition of land or properties to tenants, public housing authorities, or not-for-profit actors.

Across the State of New York, each land bank transfer to a private investor represents a lost opportunity to create social housing. To give one example: in a municipality in the Capital District, a resident was prepared to purchase her home where she had lived as a tenant for over a decade, and which had gone through foreclosure and was temporarily owned by the land bank. The prospective homeowner had an operating subsidy, was in the process of securing financing for the purchase price, and had support from a local community group and land trust. Despite these factors, the land bank was uninterested in waiting just a few months in order to sell to the tenant and instead disposed of the home to a for-profit purchaser.

This system does not have to work this way. Single family homes controlled by land banks ***could*** be placed on a CLT, which would provide new homeowners with support with finding low-cost financing and making necessary repairs. The CLT would act as a long-term steward, providing residents with ongoing support and ensuring affordability in perpetuity. This structure could also work for multifamily buildings, where residents are well-organized and prepared to take collective ownership or choose a responsible nonprofit steward for their building.

2. Transform Land Banks into Social Housing Intermediaries

Jurisdiction: Local and State
Budget: Capital and Operating
Process: Legislative and Administrative

Connections:

- (i) Support Social Housing Infrastructure, (ii) Reimagine Public Disposition and Municipal Foreclosure, (iii) Acquire Distressed Debt
- As a temporary holder of properties, new and reformed land banks could support the direct purchase of land or property from delinquent owners, or in rem foreclosures. If so empowered, land banks could provide a steady pipeline for social housing conversions, even in high-cost markets. As a temporary holder of property, land banks are especially suited to steward distressed properties before final transfer to a social housing entity. To promote social housing development and public accountability and transparency, the state would have to revise and expand their missions and guidelines, and increase their budgets. Additionally, holders of land,public and community entities must be developed so that they can organize for and provide support to social housing.

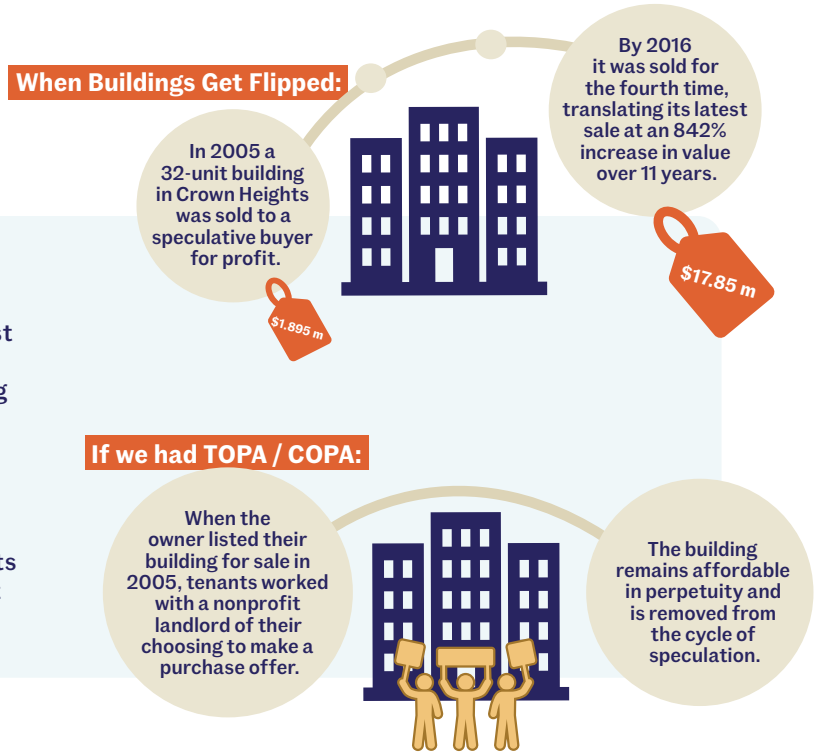
Potential Impact:

- Neighborhood Restore's most commonly known program is Third Party Transfer (TPT), in which they take temporary title to tax-foreclosed property before transferring them to third-party entities. Over the last 25 years, TPT has transferred close to 600 properties, consisting of over 7,500 units, to for-profit and nonprofit developers in ten rounds of takings. Although recently much maligned, and a far from perfect program, historically TPT has turned some of the City's most landlord-neglected housing into affordable housing — sometimes social housing, including many limited-equity co-operatives. The most recent misuses of the program make clear the need for increased enforcement and penalties against the biggest violators, so that in-rem actions target the city's worst landlords instead of small-time landlords and homeowners. Additionally, the City must increase support for HDFC co-ops and low-income homeowners to ensure they have the support needed to make their homes financially and physically healthy and avoid being included in such actions.
- The Albany Land Bank, one of the largest in the state, recently reached over 600 properties transferred in total, 140 of which were transferred in 2020. Many of these properties were sold off to private investors, including well-known bad landlords, for as little as a few thousand dollars.

3. Pass Tenant / Community Opportunity to Purchase

TOPA (Tenant Opportunity to Purchase Act) would give tenants the right to make the first offer and the right of first refusal—, or to assign their rights to a nonprofit organization or public housing authority—, if their landlord decides to sell their building.

COPA (Community Opportunity to Purchase Act) would give nonprofit organizations and community land trusts (and other pre-approved entities) a first shot at buying rental buildings.



One way to stop the predatory cycle of real estate speculation that plagues neighborhoods and buildings is to give tenants, public agencies and nonprofits a chance to intervene in building sales and offer them incentives to create social housing. New York State and City are currently considering legislation that would create a state Tenant Opportunity to Purchase Act (TOPA) program and a municipal Community Opportunity to Purchase Act (COPA) program. As currently written, COPA would give pre-approved nonprofit organizations and community land trusts (as well as for-profit groups) a first shot at buying any rental building in New York City. TOPA would give tenants the right to make the first offer and the right of first refusal, or to assign their rights to a pre-approved nonprofit organization or public housing authority, if their landlord decides to sell their building.

Where such laws exist, they were usually implemented in response to rapidly changing market dynamics. For example, Washington DC's law gave tenants more control over their housing during a period of rampant disinvestment in the 1980s, while Berlin's law extended tenant protections during a period of aggressive and speculative investment in the 2010s. Just a couple of years ago, San Francisco implemented COPA as an anti-gentrification measure. DC's law supported the conversion of 4,400 rental units in 99 buildings in gentrifying neighborhoods into limited equity cooperatives, stabilizing buildings primarily occupied by low-income tenants of color. Berlin uses its right of first refusal [Vorkaufsrecht] law in neighborhoods with high displacement pressure to purchase properties directly, protecting over 9,500 units between 2017 and 2021. Today, Boston, Somerville, Minneapolis, Berkeley, and Oakland are pursuing various versions of right of first refusal laws.

Right of first refusal laws are built on several pillars:

- *Neighborhood Stabilization:* gives tenants the ability to safely stay in their homes instead of being subject to displacement or neglect when a building is sold.
- *Permanent Affordability:* enshrines the legal rights of tenants and mission-driven nonprofits to acquire buildings that are for sale in order to convert them into permanently affordable social housing.

- *Community Wealth:* gives residents the ability to collectively exercise agency over the future ownership model of their housing and the opportunity to own the building in common or empower a community-based actor (like a CLT or trusted nonprofit) to take ownership.

- *Resident Control:* gives tenants more control where they live, regardless of a sale or foreclosure. TOPA laws strengthen the impact of housing court lawsuits, rent strikes, and other tools organized tenants use to enforce their rights. By complicating landlords' ability to "walk away from the table" (i.e., sell the building), TOPA laws enhance tenants' ability to collectively bargain with their landlords around repairs and rent increases.

Introducing this new right in New York State will alter the real estate industry's calculations and disincentivize business strategies based on buying a building, working to quickly raise the income through cutting services or raising rents, then immediately flipping the building for a profit. TOPA could also insert reasonable price setting into the equation: by giving tenants the right to an appraisal, they will have a new organizing tool to challenge some of the most predatory transactions.

Jurisdiction: Local and State
Budget: Capital
Process: Legislative

Connections:

» (i) Fund Preservation Purchases, (ii) Provide Operating Subsidies and Housing Vouchers, (iii) Enforce and Defend the Housing Stability and Tenant Protection Act

» As TOPA / COPA is an open-market transaction, there needs to be both acquisition and rehabilitation funds made available for social housing conversions. Buildings acquired through a right of first refusal, particularly those that house largely low-income households and may require serious investment, would also benefit from the use of operating subsidies or rental vouchers to provide additional revenue to fund permanent social ownership and deep affordability. Finally, TOPA / COPA addresses a gap in tenant protections and organizing. Too often, organizing campaigns and legal battles must essentially start over when housing changes hands; in fact, selling a building is often a last-ditch strategy for landlords reeling from successful organizing. Right of first refusal can prevent that from happening, amplifying the power of existing tenant protections.

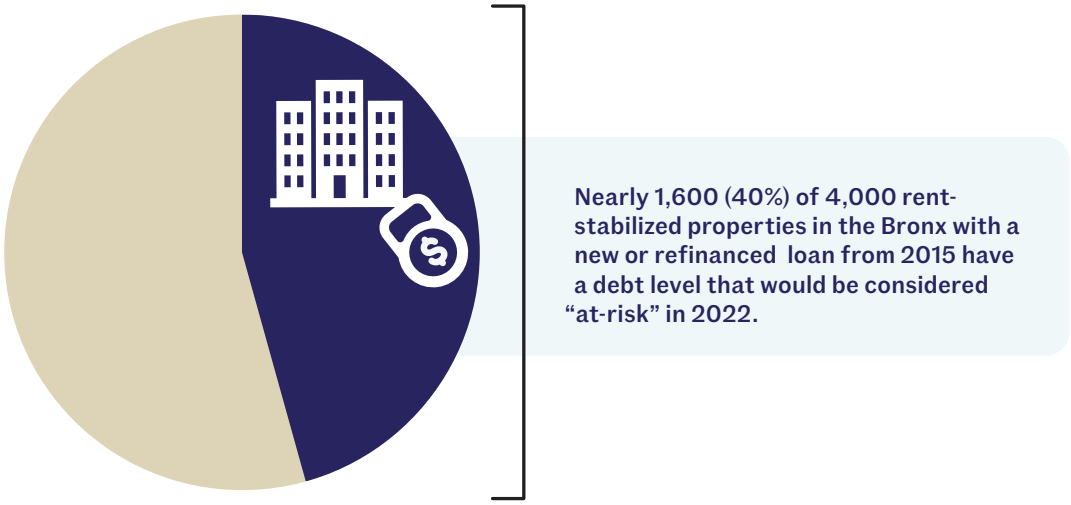
Potential Impact:

» Since 2008, there have been over 20,000 sales of multifamily properties in New York City , consisting of almost 500,000 units. Some buildings have been sold twice or more times over the past decade. With TOPA or COPA, each of those moments would have represented an opportunity for tenants in those buildings to organize to buy their building, to transfer that right to a social housing entity, or at the very least to leverage that power to demand better outcomes.

» Just one example of the speculative sales of a multifamily building illustrates the need for TOPA: a 32-unit building on Crown Street in Brooklyn has been bought and sold four times over the past 15 years. In 2005, the building sold for $1.9 million. By 2016, the year of the most recent sale, the building sold for $17.9 million. This translates into almost an 850% increase in value in 11 years. A 2016 article about the building detailed extensive efforts by the current owner to harass and buy out longer-term, rent-stabilized tenants – most of whom are households of color – across multiple winters where residents lived without heat. The passage of the Housing Stability and Tenant Protection Act of 2019 has hopefully arrested some of this process going forward by removing several of the mechanisms by which landlords could raise rents and remove units from rent regulated buildings, but the deleterious effects of this speculative cycle could have been mitigated if TOPA existed at the time.

4. Acquire Distressed Debt

High debt levels can incentivize predatory landlord behavior, and increases the risk that landlords will have trouble making their mortgage payments.



Landlords often maintain high debt levels on their buildings that translate into large monthly mortgage payments. The pressure to raise net operating incomes in order to make these payments can incentivize predatory landlord behavior, including harassment, serial eviction filings, and building maintenance neglect. High debt levels also increase the risk that a landlord will have trouble making their mortgage payments, either because their business plan has failed or because of changes in the larger rental housing market. For instance, following the 2008 crisis, lenders lost confidence in real estate values and credit markets froze, resulting in widespread financial distress for landlords with high debt levels.

When this happens, there are two potential pathways for the building. In one scenario, the lender forecloses on the loan and attempts to take direct ownership. The foreclosure process is long, arduous, and bewildering, leaving tenants confused over who to contact for repairs or other issues, while the landlord further abdicates responsibility for operations and maintenance because they know the building will be taken away from them. In the other scenario, the lender sells the mortgage to a third-party buyer at a discount. These third-parties are generally private actors interested in converting the debt into an ownership stake in the building, or eventually foreclosing on the property themselves, with an eye toward short-term profit. As investors jockey for position, tenants frequently face increased displacement pressures and building neglect.

To curb the negative impact of bank foreclosures and distressed debt acquisition by speculative investors, state, local or even federal governments should acquire distressed debt directly. With the mortgage note in hand, public agencies can pressure the over-leveraged owner into selling to a responsible social owner, or can foreclose on the building and transfer ownership to a municipal or social housing entity.

Importantly, a public agency must be the one to purchase distressed mortgages and bear the risk of the negotiation and/or foreclosure process, before transferring ownership over to a social housing entity. This is a lesson learned from prior attempts

4. Acquire Distressed Debt

at distressed debt purchases, where not-for-profit housing groups themselves had to wade through long and complex foreclosures before having a chance to preserve buildings in the long term. Direct state purchases of debt could build off of existing programs like New York City's Community Restoration Fund, and could work in tandem with local land banks to ensure continued building operation in the short-term and find a preservation strategy that prioritizes stewardship and permanent affordability in the long-term.

Jurisdiction: Local, State, or Federal
Budget: Capital
Process: Administrative

Connections:

- (i) Fund Preservation Purchases, (ii) Enact a Right to Know (Open Books), (iii) Create Statewide Housing Code Standards
- Funding for municipal, state or federal distressed debt purchases can be a means toward ultimately making preservation purchases. Transparent operating statements for multifamily rentals can help identify distressed housing for acquisition. Further, the availability of operating data can help organizers identify properties with speculative debt service amounts that translate into substandard conditions.

Potential Impact:

- Over the last few years in New York City, sales prices for rent stabilized housing have dropped at a rate not seen since the years following the 2008 crisis. This means that many landlords carry debt levels with pre-2019 valuations. For instance, one author of this report estimated that there are nearly 4,000 likely rent-stabilized properties in the Bronx that have new or refinanced loans from 2015, and, given today's prevailing property values, almost 40% of them have a debt level that would be considered at risk.

5. Acquire and Convert Hotels and Office Buildings

From January-September, 2020, 135 hotels with 39,224 rooms were decommissioned. Manhattan office vacancies reached a 30-year high of 16.3%.

In addition to converting existing for-profit housing into democratically operated public and nonprofit models, it is also possible to convert commercial spaces, such as hotels and office buildings, into social housing.

While there are several ways to imagine commercial-to-residential conversions, New York State's 2021 Housing Our Neighbors with Dignity Act (HONDA) presents a fruitful path forward. Under HONDA, the State of New York can finance the acquisition of distressed hotels and offices and fund their conversion into housing. Existing city, State, and Federal programs will cover the developments' operating expenses.

The resulting conversion is not necessarily social housing, but several features of the law make a social housing outcome more feasible:

- the buildings cannot be majority-owned by a for-profit entity;
- all new apartments in Emergency Tenant Protection Act (ETPA) jurisdictions must be rent stabilized;
- at least half of the apartments must be set aside for people experiencing homelessness and could function as supportive housing;
- the remaining apartments would be for low-income tenants, with incomes averaging 60% of AMI.

This avenue for social housing production is particularly appealing at this moment, when commercial vacancies are high and many owners are facing deep distress. Hotel occupancy in New York City dropped an estimated 88% during the pandemic's peak, and many hotels around the state may not survive the impact. Commercial office vacancy rates skyrocketed during the pandemic, with nearly 20% of Manhattan office towers sitting empty. Meanwhile, homelessness – and particularly single adult homelessness – has reached historic levels, with over 20,000 single adults in the New York City shelter system.

5. Acquire and Convert Hotels and Office Buildings

Jurisdiction: State
Budget: Capital
Process: Legislative and Administrative

Connections:

» (i) Fund Preservation Purchases, (ii) Provide Operating Subsidies and Housing Vouchers, (iii) Enforce and Defend the Housing Stability and Tenant Protection Act

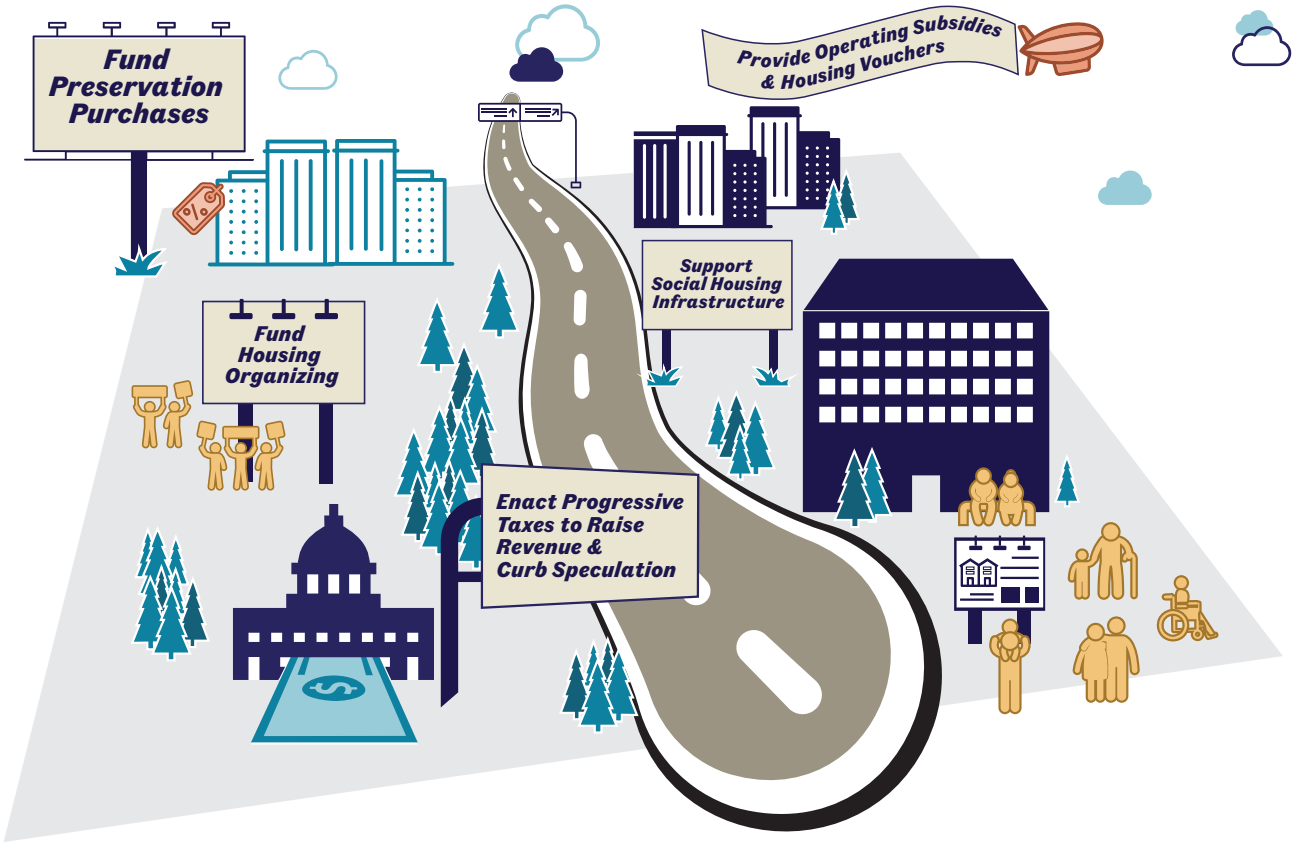
» Preservation purchases could apply not only to residential buildings in private ownership, but also to any building that can be converted into safe, healthy and affordable social housing. Like most nonprofit housing, HONDA conversions will rely on operating subsidies, and would therefore benefit from a federal expansion of Section 8 and the creation of a local corollary like the Housing Access Voucher Program. HONDA housing would be rent-stabilized in areas that have opted into ETPA, and would be covered by any and all other expansions to tenants rights that the state may consider, such as Good Cause eviction protections.

Potential Impact:

» While statewide data on hotel market distress are not readily available, a recent study by the New York City Department of City Planning shows that between January and September, 2020, 135 hotels with 39,224 rooms were decommissioned. During the same time period, Manhattan office vacancies reached a 30-year high of 16.3%. While many of these hotels and office buildings will return to their original use, others will struggle to reopen.

» Meanwhile, the passage of HONDA marked a significant political shift in the way the New York State legislature approaches questions of real estate and housing. The bill imagines an active role for the state in helping to acquire distressed for-profit real estate and convert it to nonprofit use. It includes a historic 50 percent set aside for people experiencing homelessness and it does not subsidize any luxury housing. This can serve as a springboard for more acquisition and conversion programs, and a turning point away from the status quo of subsidizing for-profit, market-rate housing.

Part B: Financial Resources for Housing Justice



We cannot shy away from the fact that producing, operating and preserving social housing costs money: it requires large amounts of labor and materials, and, in many cases, it is sited on land that has become inordinately expensive for the very fact that someone could be making a lot of money by building luxury housing on top of it. There are, of course, ways to reduce these costs. Policies aimed at cooling speculative land markets, many of which are detailed in Parts 3 and 4 of this report, can bring down acquisition prices. Upfront capital investments can drive down operating costs by minimizing debt long-term.

Permanent affordability built into social housing models preserves public subsidy over time. It does not require periodic payouts to owners to encourage them to renew their regulatory agreements, or, worse yet, to accept the eventual loss of affordable housing to for-profit actors. However, committing to a large-scale social housing program means devoting substantial public resources on an ongoing basis, particularly in a state like New York, where the largest city contains some of the most expensive land on earth.

We already spend a tremendous amount on sustaining the inequitable status quo in housing. On the federal level, the single most expensive housing program is the roughly $25 billion mortgage interest tax deduction, which disproportionately benefits the wealthy and does nothing for renters or homeless people. (The 2017 Trump tax overhaul reduced the program from $70 billion, but also made it less useful for lower-income homeowners.) On the state level, our budget shows that we are most committed to the production of mostly luxury housing through the 421-a tax break, a State program which cost New York City $1.7 billion in fiscal year 2021 alone. Similarly, the 485-a tax break costs upstate municipalities millions while requiring nothing in terms of affordable housing. Meanwhile, city, state and federal governments also spend billions of dollars on shelters to temporarily house people who are homeless as a result of our unaffordable housing system. The number of homeless people — and therefore the cost of the shelter system — would be much smaller if public spending on housing was reoriented toward social ownership and permanent affordability.

We are already spending a tremendous amount of money on private, for-profit housing and the homelessness crisis it produces. It's time to shift the priority to funding social housing instead.

6. Fund Preservation Purchases

A preservation purchase is when the state, a nonprofit community organization, or a group of tenants acquire a building from a private owner, generally with low-cost government financing and tax exemptions, and often with political support from elected officials, after ongoing agitation from tenants. The end result is income-targeted housing with regulated rents, stewarded by a mission-oriented owner.

In high-cost markets, preservation purchases are expensive. Landlords are able to find buyers even for highly-distressed buildings with limited rent rolls, typically at a price higher than what they initially paid. This drives up multifamily building costs beyond the reach of tenant unions and nonprofits. Expanded tenant protections outlined in Part 3, including rent stabilization, the Right to Remain, and Right to Counsel have begun to change these market dynamics in the areas where they have been enacted. TOPA legislation would provide tenants with an organizing strategy for challenging the most speculative purchases. However, municipalities must assist preservation purchasers more frequently, targeting privately-owned housing in chronic disrepair. This requires a significant increase of subsidy levels available to preservation purchasers, with clear funding guidelines. Community groups working collaboratively with tenants organizing for new ownership of their buildings should receive particular priority.

Existing City and State preservation purchase programs include the New York City Acquisition Fund, Neighborhood Pillars, and the Shelter Modernization Program. All three provide good frameworks, but would need to be modified and significantly expanded. The Shelter Modernization Program is the most recent example of bold public action in this vein in New York City, in which the City purchased several buildings that were previously a part of the Cluster Site Shelter program. This program, notorious for landlord abuse and horrendous — sometimes deadly — conditions for tenants, was phased out during the de Blasio administration with a promise, long demanded by organizers, that the City would purchase the buildings and convert them into high-quality permanently affordable housing. The City purchased 45 buildings totaling hundreds of units through three clustered acquisitions and has been working with community-based nonprofit organizations to stabilize building conditions, while planning a substantive long-term renovation. While this preservation purchase came under criticism due to its high acquisition cost, it is important to note that the capital commitment spent upfront reduces the long term operating costs of rental payments. In addition, the implicit benefits of increased quality and stability in the housing reduce additional social costs.

Preservation purchases are less common outside of New York City, but have taken place after persistent organizing campaigns. For example, after years of deplorable living conditions, the residents of 447 Thurston Road, with the support of the City Wide Tenant Union of Rochester, compelled the City of Rochester to sue the landlord for repairs. Through this lawsuit, the tenants were able to negotiate a sale of the building to a regional developer. Unfortunately, due to the lack of social housing infrastructure in the city, the tenants ultimately had little control over the building's ownership model. State and Federal funding should be extended to make preservation purchases more possible across

6. Fund Preservation Purchases

the state, and the social housing infrastructure must be developed, so that opportunities like this are not lost in the future.

In order to ensure not just the acquisition of distressed housing but also any necessary rehabilitation, local municipalities and New York State must fully staff up public agencies (such as HCR and HPD) and ensure that government workers have the resources and support they need to close on these projects in a timely manner. NYC Department of Buildings and related entities in other municipalities, as well as private entities such as ConEdison and National Grid, should be required to prioritize social housing developments to avoid unnecessary delays.

Jurisdiction: Local, State and Federal
Budget: Capital
Process: Administrative

Connections:

» (i) Collect Civil and Financial Penalties, (ii) Expand and Reform 7A Administration, (iii) Pass Tenant / Community Opportunity to Purchase

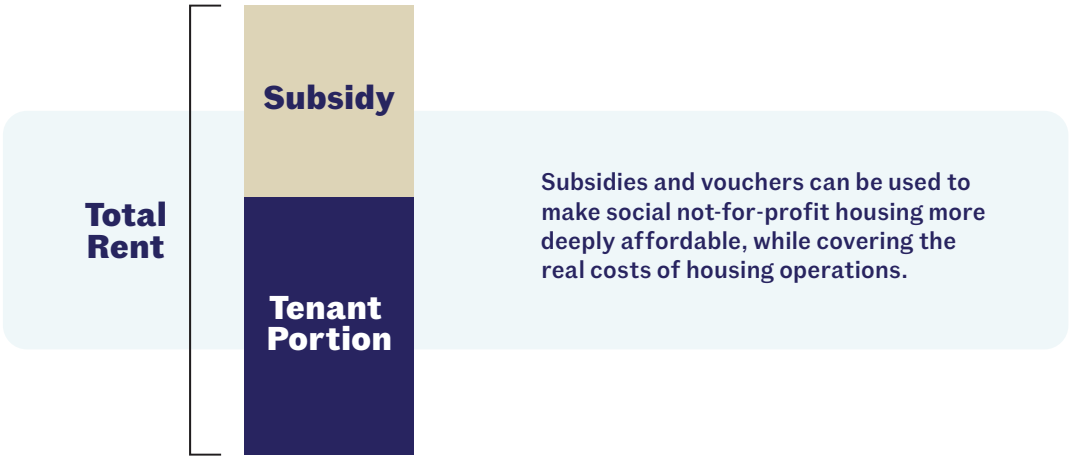
» Increased enforcement programs and civil penalties heighten the leverage the City has in negotiations with owners over the purchase price for buildings they seek to acquire. Additional organizing tools, like 7A administrators and TOPA, would help tenants push their buildings toward preservation purchases.

Potential Impact:

» There are countless examples of the difficulties of creating deeply and permanently affordable housing in high-value markets and the shortcomings of relying on market actors in preservation. One New York City parcel with zoning that would allow for nearly 600 units of housing to be built as of right, is particularly illustrative, even though it is of vacant land and not existing housing. This vacant lot went through City foreclosure in 1981 and was sold in 1983 for $15,000 with no regulatory or deed restrictions. Over the next thirty years, the property changed hands twice each time for a purchase price of less than $1 million. In 2007, it was bought by a for-profit affordable housing developer for $5 million with a loan from NYC's Acquisition Loan Fund for $13.7 million. By September 2020, the group had not broken ground on the site and sold their interest in the property to another for-profit affordable housing group for $18.2 million. The sale represented a profit of over$13 million. This money was earned while the lot sat empty and the owners added no value to the community. As of late 2021, a different for-profit affordable housing group was exploring buying the property: this time the price tag was close to $30 million. The lot remains vacant today.

» Earlier this year, Housing Justice for All conducted a preliminary analysis of the costs of preservation purchases, looking at prevailing prices for multifamily and single-family housing across New York State and applying estimates for financing and rehabilitation costs. That analysis suggests that with $1 billion in state funding each year for the next five years, the state could finance 20,000 homes and apartments annually.

7. Provide Operating Subsidies and Housing Vouchers



Long term social housing stewardship requires ongoing operating subsidies to pay for regular maintenance, labor costs, services for residents, and — in some cases — taxes and debt service. This is particularly true in developments where rents are set low enough to make the housing affordable to extremely low-income households and the collective rental income does not cover the cost of operations.

Operating subsidies can come in many different forms, including project-based vouchers (where the money is attached to a particular building or unit, as in Project-Based Section 8) and tenant-based vouchers (where the money is attached to a particular resident, as in federal Housing Choice Vouchers, New York City's CityFHEPS voucher, or the proposed New York State Housing Access Voucher Program). They can also be effectively combined with capital subsidies, like direct grants or low-interest loans for socially-beneficial building improvements (such as green energy retrofits); tax breaks (including full exemptions and partial abatements); or mortgage write-downs (in which the government pays part of the upfront costs) to minimize future debt obligations.

Operating subsidies are agnostic: they are simply ways the government pays to maintain housing. They can be used to subsidize luxury developers and boost landlord profits (and today they frequently are), but they can also be used to make not-for-profit housing more deeply affordable and sustainable, while covering the real costs of housing operations. Social housing operating subsidies should be:

- Generous enough to cover the real costs of building operations and upkeep, including both physical maintenance and, in the case of supportive housing, social services;
- Structured to ensure housing access for people experiencing homelessnes, and people whose incomes otherwise make housing precarious;
- As easy as possible to use and access, with minimal administrative burdens, exclusions or barriers to entry.

7. Provide Operating Subsidies and Housing Vouchers

Jurisdiction: Local, State, or Federal
Budget: Operating
Process: Legislative and Administrative

Connections:

- (i) Pass Tenant / Community Opportunity to Purchase, (ii) Acquire and Convert Hotel and Office Buildings, (iii) Acquire Distressed Debt
- New or preserved social housing that is deeply affordable will require ongoing operating subsidies. Buildings that are converted through TOPA or COPA, for example, will need support in order to remain affordable while simultaneously bringing their buildings up to a higher standard of maintenance and sustainability. Additionally, operating subsidies that are available only to purchasers who agree to keep the housing affordable allow preservation purchasers to compete with speculative market actors, who may be making assumptions about their ability to raise the rents by deferring maintenance or pursuing evictions. Operating subsidies are also especially important for hotel and office acquisitions, in order to support formerly homeless households who become residents, as well as distressed debt acquisitions, as high debt service requirements must be supported with adequate revenue from the building.

Potential Impact:

- Housing vouchers can be instrumental toward the creation of social housing. The amount of private debt that an affordable housing project can leverage is directly dependent on the affordability levels of residential and commercial rents. The higher the rent the more private debt a project can support, lowering the upfront capital investment required from the state. If operating subsidies are available, typically in the form of Section 8 rental assistance, the housing project is able to leverage this additional private debt while still maintaining affordability at extremely-low levels. The rent is typically set at the fair market rent (FMR) levels determined by HUD annually (for instance, $2,053 for a 2 bedroom in 2021 in Manhattan). The future tenant contributes 30% of their income and the government makes up the difference each year based on annual recertification.
- Rental vouchers are already being used in several forms of social housing in New York City, including limited equity co-ops that were created from rental housing that was previously owned by private actors. Renters in these buildings are able to become cooperators because purchase prices are kept extremely low and operating subsidies are made available in the form of a Section 8 voucher. Structuring a program in this way ensures that tenants of all income levels are able to contribute to the democratic management of their buildings.

8. Support Social Housing Infrastructure

Many entities that are not social housing operators are necessary to grow and sustain a social housing sector. They are needed to do things like: lend money, manage construction, enforce building codes, and organize tenants. Some already exist, but need expanded capacity, while others would have to be created.

To make use of funding for acquisition and operating subsidies, new social housing entities must also be created, funded, and supported. These entities, including new organizations, coalitions, and public agencies, are needed to create the infrastructure that makes social housing possible. These entities organize and intervene in distressed housing, create democratic and accountable ownership structures, and work with governments and land banks to take title to housing.

A growing social housing ecosystem can both expand existing social housing entities (like housing nonprofits) and pursue larger goals, like rebuilding housing capacity and expertise lost over the last 50 years of austerity. Social housing infrastructure includes:

- New or Reformed Public Agencies:
  - » Public Housing Authorities (PHAs) have been underfunded for almost half a century, and, as a result, have seen the physical decline of their portfolios and/or been fully or partially privatized. In municipalities outside of New York City, particularly in rural and suburban areas, PHAs are often the only organizations with expertise in developing and managing affordable housing. Federal, state and local funding must be put toward capital and operating budget gaps in public housing, to rehabilitate existing buildings and rebuild popular trust in public models, so that PHAs can grow by developing new public housing.
  - » Financing and Acquisition entities, which, in the longer-term, will issue bonds, disburse funds, and act as intermediate owners. One such idea is for a federal Social Housing Development Authority. Drawing on this federal model, a New York State Social Housing Development Authority could operate similarly to a statewide land bank, but with the express purpose of supporting and expanding social housing. It would acquire vacant land and, with long-term ground leases, contract for the development of new social housing, including supportive housing for formerly homeless people. Alternatively, a Social Housing Development Authority could intervene in the market to purchase tenant-occupied housing, finance renovations, then transfer the ownership or management of the building to either the tenants or an approved public or nonprofit provider.
  - » Community Development Corporations (CDCs), are currently the primary holders of the technical expertise needed to develop and expand social housing. In New York City, many CDCs created during prior housing crises developed the

8. Support Social Housing Infrastructure

lionshare of New York City's affordable housing. Today, CDCs are often shut out of larger development deals, and need added capacity to take the lead on large projects and new housing models. They can also partner with and advise on the development of new social housing entities.

» Community Development Financial Institutions (CDFIs) can play an intermediary role between private capital and social housing, taking on some of the lending risk, helping social housing entities develop a financing strategy, and, where appropriate, providing individual loans to purchase homes in limited-equity projects. Many of these functions could also be filled by municipal public banks.

» Community Land Trusts (CLTs) can provide long-term stewardship and accommodate various types of social housing structures, including mutual housing associations, limited-equity co-ops, regulated rentals, and more. Further, if properly funded, long-term governance structures of CLTs have the potential to solve for issues that have arisen in prior iterations of social housing in the US, by allowing for more democratic decision-making and by providing more long-term housing management and operations support.

» Local advocacy organizations and coalitions can push for funding and laws on the local and state levels that are crucial for the social housing entities they represent.

Jurisdiction: Local, State, and Federal
Budget: Operating and Capital
Process: Legislative and Administrative

Connections:

» (i) Pass Tenant / Community Opportunity to Purchase, (ii) Transform Land Banks into Social Housing Intermediaries, (iii) Fund Housing Organizing

» For TOPA and COPA to have maximum impact, tenant associations need a social housing infrastructure that is able to assist in acquisition, transfer, and building operations, depending on the chosen housing model. Land banks, as temporary holders of distressed housing, likewise require this infrastructure in order to find permanent social ownership and management for land and housing. Finally, a strong social housing infrastructure can both collaborate with tenant and housing organizing, and also support ongoing organizing in already converted social housing, which is crucial to any transformative social housing program.

Potential Impact:

» According to the New York City Community Land Initiative (NYCCLI), there are now 17 CLTs in New York City, many of which have incorporated over the last few years. In 2021, those groups fought for and won $1.5 million in the New York City budget, to be used for technical support to continue developing the NYCCLI network. For these CLTs to be able to intervene at scale in land and housing markets, they require acquisition funding, coordination with mayoral administrators and agencies, and continued organizing. However, the growth of the CLT movement in New York City is an encouraging sign for the expansion of social housing in the coming years.

9. Fund Housing Organizing

The New York City Public Advocate's Landlord Watchlist List included 463 buildings with nearly 10,000 homes. Between December 2020 and November 2021, there was an average of 55,202 open HPD violations across these buildings. It could cost nearly $12M annually to fund organizers in just the buildings owned by the City's worst landlord. With organizing support, however, tenants could force their landlord to either provide better services or push toward a social housing conversion.

Strong and well-resourced organizing campaigns are crucial to the success of social housing at every level: production, day to day health and operation, and its long term political durability. Preservation purchases are far more likely to happen in organized buildings, where tenants are drawing attention to landlord neglect and garnering political support. In short, nothing happens without organizing.

Cities and the State should increase public resources for tenant organizing, particularly in places with the highest levels of speculation and the worst records of building code and tenants' rights violations. In New York City, one such initiative is Stabilizing NYC, which promotes proactive organizing in buildings with predatory financial strategies. The FY2022 budget allocated $4 million for this program, over $1 million more than the year prior. Similarly, New York City has committed funding to organizing groups to ensure that tenants understand their Right to Counsel.

Organizing is also essential ***after*** a social housing conversion. Running and maintaining high-quality housing takes a lot of work. Residents must come together to: collect rent and manage the books; hire contractors to make repairs; comply with various City and State housing laws and regulatory agreements; handle disputes; and much more. This important work is often overlooked. Frequently, a small minority of residents in a building bear the majority of the burden. External support from community organizations and CLTs can help residents navigate difficult situations, activate participation among new residents, and steward the long-term democratic control of social housing.

The City of New York has provided paid technical assistance to HDFC co-ops, but it has been chronically underfunded and poorly structured. Social housing residents must continue to organize, not just internally but politically, to demand the resources they need to maintain their housing in the long term.

9. Fund Housing Organizing

Jurisdiction: Local
Budget: Operating
Process: Legislative

Connections:

» (i) Pass Tenant / Community Opportunity to Purchase, (ii) Expand and Reform 7A Administration, (iii) Support Social Housing Infrastructure

» The state can legislate TOPA or more frequently enforce appoint 7A administrators, but no buildings will actually go through a conversion unless tenants are organized and prepared to take action. Additionally, the power needed to demand transformative concessions in the first place — from better policy to better funding for the host of social housing entities needed — relies on widespread housing organizing.

Potential Impact:

» The New York City Public Advocate's 2021 Landlord Watchlist included 463 buildings with nearly 10,000 homes. Between December 2020 and November 2021, there were 55,202 open HPD violations across these buildings.

» Community organizing is intensive work. One organizer can spend several hours a week on just one building: meeting with tenants one on one, helping tenants navigate City and State agencies to assert their rights, planning meetings, coordinating tenant association strategy, and much more. By some estimates, it could cost $12 million annually to fund organizers in just the buildings owned by the City's worst landlord – and we need organizers in many more buildings than those.

10. Enact Progressive Taxes to Raise Revenue and Curb Speculation

Tax policy can be a two-pronged tool to both reform the market as it exists and transform housing into social housing models – a way to raise money for social housing development and a way to regulate property owners' behavior.

Tax policy can be a two-pronged tool to both reform the market as it exists and transform housing into social housing models – a way to raise money for social housing development and a way to regulate property owners' behavior. In principle, the former should not entirely rely on the latter to succeed; in other words, we can't always depend on rising tax revenues from the kind of housing we ***don't want*** in order to fund the kinds of housing we ***do want***. General tax revenue, then, should provide the basis for social housing conversions, while punitive taxes on speculative luxury real estate should be used to disincentivize such development models while providing extra fuel to expand social housing programs.

In its Fiscal Year 2022 budget, New York State passed revenue raisers that could – and should – herald in a new era of progressive taxation which demands more of the wealthy while easing burdens on the working class. Advocates rightly want to take this program further, expanding capacity by increasing rates for the state's wealthiest households and corporations, and creating new taxes on capital gains, financial transactions, and high levels of inheritance.

In addition to those general revenue raisers, the State has recently considered several tools that would penalize speculative behaviors on the part of high-end property owners. A "pied-a-terre tax" – named after the French word for an only-occasionally used home – would target the expensive and largely empty homes where the ultra-rich park their wealth. A tax on real estate flipping would impose substantial charges on properties that sell within two years of their initial purpose. Finally, the overall property tax structure must be overhauled in New York City and many other municipalities. Tax assessment practices and formulas have been designed to put a significantly higher tax burden on many working-class homeowners than on the wealthy, with low- and moderate-income homeowners of color often paying three times the rate that wealthy and predominantly white brownstone and coop/condo owners are charged.

Creating these new progressive tax programs should be considered on top of removing regressive tax incentives that currently contribute to our overheated real estate market. The greatest such example is 421a, a gigantic developer tax incentive that was recently rebranded with the Orwellian moniker "Affordable New York." This program denies the city of New York nearly $2 billion a year in potential tax revenue, and thus constitutes the city's single largest public expenditure on housing — more than the city spends on public or subsidized housing, and more than the federal government spends on the city's public housing and Section 8 vouchers. It provides little truly affordable housing, however, and has contributed to the historic land value inflation that exacerbates the city's overall affordability crisis. 421-a was allowed to expire at the end of the 2022

10. Enact Progressive Taxes to Raise Revenue and Curb Speculation

legislative session, but the real estate industry is fighting for it to be reinstated as soon as possible.

Meanwhile, upstate municipalities can avail themselves of the state's 485-a tax break, which was initially designed to incentivize mixed-use redevelopment of commercial and industrial buildings, but has instead become a lucrative tax break for expensive housing, primarily aimed at students. The city of Buffalo — the biggest user of 485-a tax breaks — forwent over $81 million in fiscal year 2021. Local activists argue that while the new development consumes city services, it adds little to the city's tax coffers, thus increasing the burden on smaller property owners, who in turn pass those costs on to their unregulated tenants.

Jurisdiction: State
Budget: Revenue Positive
Process: Legislative

Connections to other policies:

» (i) Fund Preservation Purchases, (ii) Pass Tenant / Community Opportunity to Purchase, (iii) Acquire and Convert Hotel and Office Buildings

» Every non-neutral budgetary item must be funded with public revenue, and will rely on healthy public budgets. This is especially important since cooling speculative markets and converting for-profit housing to social housing also means reducing the share of budgets that are derived from property taxes. In order to fund all that will go into social housing production — building code enforcement, acquisitions, conversions, operating subsidies, organizing support and more — we will need new, reliable and progressive revenue streams.

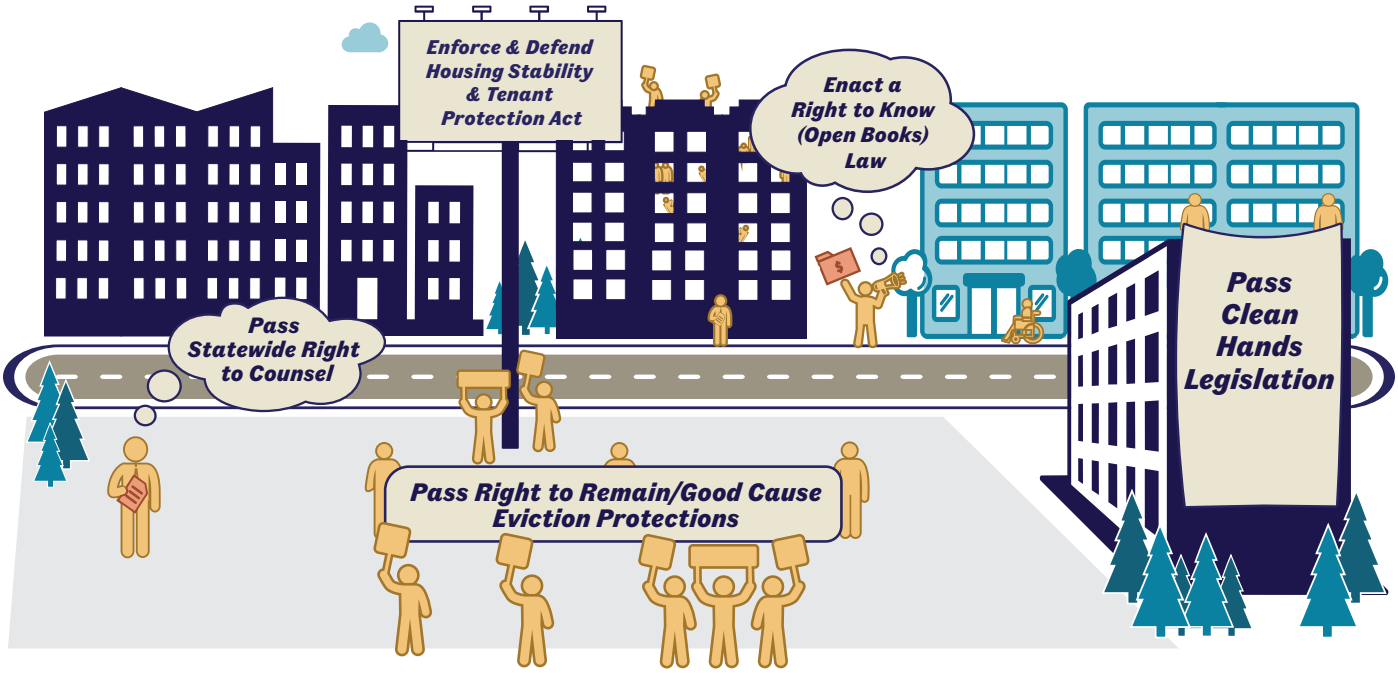
» Similarly, anti-speculative taxes can raise money for urgent social housing programs. But unlike those broad progressive taxes, these specific programs should only aim to supplement baseline budgets to allow for additional projects or programs on top of what was already allocated.

Potential Impact:

» In 2021, the Invest In Our New York coalition (of which CSS was a part) estimated that its package of bills could raise $50 billion for New York State, of which at least $6 billion could be allocated to public and social housing programs.

» The New York City Independent Budget Office conducted a study of multiple means of rebalancing the property tax code, some of which are closer to "progressive revenue raisers" but most are aimed at taxing speculation, flipping, warehousing, high-end development and other socially injurious real estate behaviors. They estimate that these programs could generate over $1.4 billion a year, including $232 million from a pied-a-terre tax and $300 million from a city mansion tax.

Part C: Tenants' Rights and Protections



Expanding tenants' rights and protections across geographies and across housing types is a precondition to a successful social housing program. At base, tenant protections, along with robust code enforcement (see Part 4), bring us closer to a vision of housing as a social good by making privately-owned housing more safe, healthy and affordable. These laws make it safer for tenants to organize and build coalitions. They also create a pathway for social ownership, by making speculative business models less profitable, cooling the market and increasing public leverage for social housing conversions.

The way tenants' rights laws support social housing conversions can be broken down into three categories. First, tenants have to be organized and ready to seize the opportunity to manage their housing. Having strong tenancy rights makes organizing possible:tenants are less afraid to join with their neighbors and speak up when their right to organize is protected and their right to a renewal lease is assured. Despite the protections for tenant organizing that already exist under New York State law, it is not uncommon for tenants to be evicted in response to their attempts to organize. Tenant protections make it safer for tenants to organize in their buildings and in coalitions, building the power needed to both take ownership of properties and create democratic governance structures for their operation.

Second, enacting strong tenants' rights legislation can limit speculators' capacity to buy, milk, and flip buildings. Rental housing is an attractive investment opportunity because landlords can raise rents quickly and exorbitantly. Tenant protections, like the Housing Stability and Tenant Protection Act (HSTPA), change that fundamental calculus, bringing down acquisition prices and making them more accessible for nonprofits, tenant unions, and public agencies.

To work well, tenants' rights laws need to be broad and universal, spanning across geographies and tenancy types. Investors have increasingly sought to speculate on a range of housing types from large apartment buildings and tenements to single-family rentals and manufactured home communities. This has notably exacerbated the rise in property values, and rents, in parts of the state with weak or nonexistent tenant protections, underscoring the need for universal tenant protections.

Finally, strengthening tenants' rights can illuminate the financial operations of rental housing by giving tenants the tools to challenge unwarranted rent increases and understand the true cost of building operations, divorced from landlord and investor profits. Too often, policy conversations are driven by incomplete information about landlords' financial capacity and unsubstantiated claims of landlord hardship. Transparency in building operations would both ground the public debate and, in cases of predatory or negligent management, begin to put organized tenants on equal footing with their landlords.

11. Enforce and Defend the Housing Stability and Tenant Protection Act (HSTPA)

HSTPA acts as a major counterforce to the speculative real estate market, where investors would buy rent stabilized buildings, evict tenants, raise rents, decontrol units, pull equity from the building as profits rose, and eventually sell for far more than the purchasing price. With HSTPA in place, building values may be more closely tied to actual rent levels than speculative dreams of future rents, and predatory investors who had bought buildings with tremendous amounts of debt may be looking for exit strategies, opening up the possibility for social housing acquisitions.

One loophole that was closed as a result of the HSTPA is vacancy decontrol, which allowed landlords to take apartments out of rent stabilization between tenants once the rent reached a certain threshold. This ability, in combination with the vacancy bonus which allowed landlords to increase rents up to 20% between tenants, incentivized landlords to neglect repairs and engage in harassment in order to increase tenant turnover.

How Rents Increased in Rent Stabilized Apartments Before HSTPA

Now, Rents Increase More Slowly, and Apartments Cannot Exit Rent Stabilization

New York State took a crucial step in protecting tenants and, by extension, creating the conditions for social housing expansion, by passing the Housing Stability and Tenant Protection Act of 2019 (HSTPA). This legislation, championed by the Housing Justice for All Coalition, marked a major victory for tenants across the state, including tenants living in counties covered by the state's rent stabilization laws, and those in jurisdictions that are opting-in for the first time. The law closed numerous loopholes that incentivized steep rent increases and tenant displacement, including vacancy decontrol, which allowed landlords to permanently remove units from rent stabilization.

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Now that HSTPA is the law, it must be defended and enforced. There are a series of legal challenges from landlords who hope to strike down either major portions of HSTPA, or the law in its entirety. In order to protect this victory and to preserve the ground on which tenants can

11. Enforce and Defend the Housing Stability and Tenant Protection Act (HSTPA)

organize and social housing conversions can take place, the state must vigorously defend this law in the courts.

At the same time, New York State Homes and Community Renewal (HCR), the agency tasked with enforcing HSTPA, must issue new regulations that clarify how the agency and the state will enforce the law. While HCR sent preliminary regulations to then-Governor Cuomo, he did not sign them, putting the entire process in limbo, leaving tenants without all of the legal protections to which they are entitled. New York State must immediately issue new regulations, clarifying important questions around rent increases and challenges, rent registration, agency transparency, and more.

Jurisdiction: State
Budget: Neutral
Process: Judicial and Administrative

Connections:

- (i) Enact Progressive Taxes to Raise Revenue and Curb Speculation, (ii) Fund Housing Organizing, (iii) Pass Good Cause Eviction Protections.
- To defend the HSTPA, we need additional tools to make speculation less attractive, and expanded resources for tenants who want to fight back against deregulation. Most importantly, we need a unified right to baseline tenant protections across the state, so that tenants across counties, housing types, and rent regulation regimes can fight together to defend and enforce tenant protections.

Potential Impact:

- The passage of the HSTPA had the most immediate impact on the approximately 1,022,400 that are rent-stabilized or rent-controlled in New York City. If the HSTPA were to be weakened, it would mean that households in these units would again be under increased threat of displacement because of rising rents or deregulation. Outside of NYC, the HSTPA created the right for new municipalities and counties to opt in to rent stabilization and contained changes to the Real Property and Proceedings Law which gave tenants more power in non-NYC courts.

12. Pass Good Cause Eviction Protection

Nearly 50% of unregulated tenants across New York State (1.6 million households) would be protected from arbitrary displacement or unconscionable rent hikes under a statewide Good Cause Law.

Nearly half of New York State's tenants do not have the fundamental right to a lease renewal. This includes tenants outside of New York City and a portion of municipalities in Westchester, Rockland, and Nassau counties, as well as tenants in properties less than six units, in newer rental buildings, and in older buildings that have been fully or partially deregulated.

Providing tenants across the state with the universal right to a renewal lease, the monthly rent of which would be capped at a reasonable maximum increase, would go a long way toward expanding the opportunity for social housing conversions. This right — which is generally referred to as Good Cause Eviction Protection, or the Right to Remain — fundamentally shifts the balance of power between tenant and landlord. Without it, landlords can, in essence, evict a tenant at the end of their lease term, simply by denying them a new lease, or by offering one at an unaffordable rent level. This power imbalance makes organizing in any rental housing without good cause eviction protection nearly impossible, because of the looming threat of landlord retribution.

A statewide Good Cause law would work with existing tenant protections to create the conditions for tenants to organize in their buildings, to limit speculation in rental buildings not covered by HSTPA, making it easier for tenant unions, localities, and nonprofits to pursue social housing conversions. Despite significant grassroots support, New York State legislators failed to pass statewide Good Cause Eviction Protection in 2022.

12. Pass Good Cause Eviction Protection

Jurisdiction: Local and State, or Federal
Budget: Neutral
Process: Legislative

Connections:

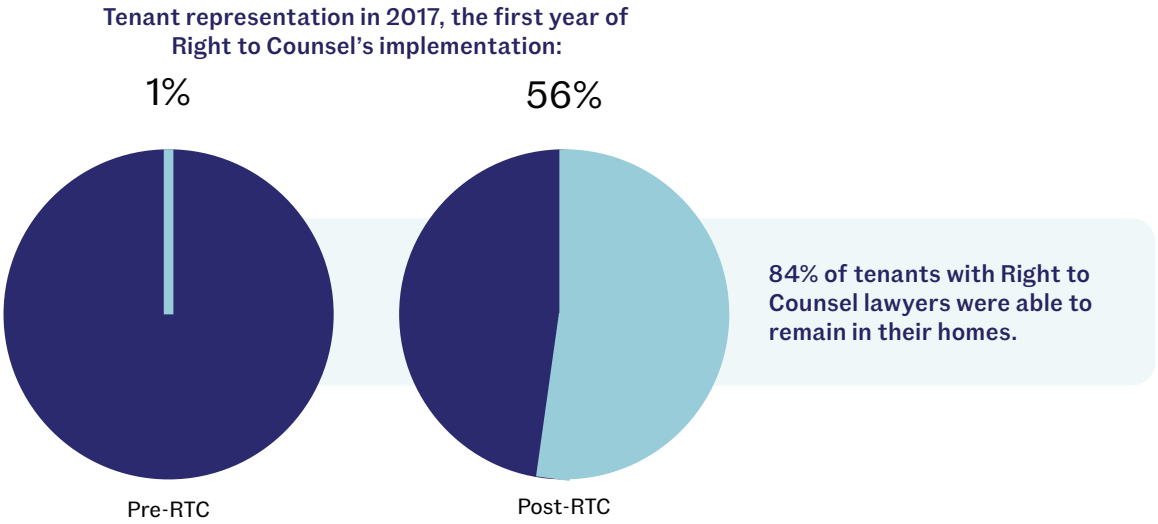
» (i) Right to Counsel, (ii) Expand and Reform 7A Administration, (iii) Rent Abatement in Housing Court.

» Passing Good Cause / Right to Remain requires more legal resources across the state to defend and enforce those rights in court. Additionally, these protections allow tenants to pursue bolder organizing strategies to demand safe, stable, and affordable housing from their landlords that they might not otherwise, for fear of not being offered a renewal lease.

Potential Impact:

» Creating a statewide Good Cause / Right to Remain would protect an estimated 1.6 million households across New York State who are currently vulnerable to arbitrary displacement or unconscionable rent hikes. This constitutes nearly half of tenants statewide (excluding tenants who already have such protections, like those living in rent stabilized or Section 8 housing, or those living in types of housing not included in this bill, such as owner-occupied small properties).

13. Pass Statewide Right to Counsel



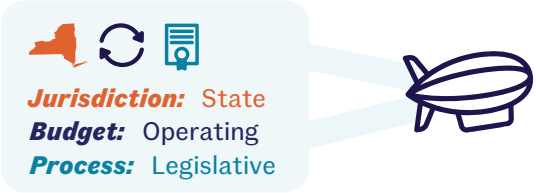
Right to Counsel laws provide tenants facing eviction or taking legal action against their landlord with a lawyer. Some landlords use the threat of eviction as an intimidation tactic against tenants who are organizing, or as a method for systematic displacement of long-term tenants with low rents. The right to a lawyer lowers the rate of spurious eviction filings, and helps tenants fight back against them when they are filed.

Because of the work of the Right to Counsel Coalition, New York City's low-income tenants are eligible for free legal counsel when they are sued for eviction. But there is more work to be done: first, these rights must be expanded across the state, so that all tenants can have these crucial protections. Next, eligibility should be increased to include all tenants regardless of income; and finally, Right to Counsel should be expanded to cover other kinds of housing cases, particularly tenant-initiated cases.

The expansion of Right to Counsel must be paired with adequate financial resources to hire more tenant lawyers across the state. New York City's experience after the pandemic shows that appropriate levels of funding and staffing are paramount for these laws to function. This is especially important for lawsuits where a tenant or tenant association takes legal action against their landlord to demand repairs, fight predatory behavior, or demand the temporary removal of the landlord's control over building management. Tenant-initiated lawsuits are crucial for holding landlords accountable, but are often time-intensive and take deep knowledge of local and state housing laws. The legal capacity to support such efforts are lacking, particularly outside of New York City.

Just like with the HSTPA and Right to Remain, an expanded and adequately funded Right to Counsel law can help support social housing conversions by strengthening tenants' ability to exercise their rights, and elevate tenants' safety over landlords' profits. Despite ample evidence of Right to Counsel's success in New York City since 2017, New York State legislators failed to pass statewide Right to Counsel in 2022.

13. Pass Statewide Right to Counsel



Connections:

- (i) Pass Good Cause Eviction Protections, (ii) Create Statewide Housing Code Standards, (iii) Expand and Reform 7A Administration.
- An expansion of Right to Counsel would both protect tenants from unjust evictions and add capacity for tenant-initiated actions against negligent or predatory landlords.

Potential Impact:

- In 2017, the first year of Right to Counsel's implementation, tenant representation in affected areas went from 1% to 56%, and 84% of tenants with Right to Counsel lawyers were able to remain in their homes. Meanwhile, the number of eviction cases filed dropped 11% in Right to Counsel areas, compared to a 2% decline in comparable but uncovered areas.

14. Enact a Right to Know (Open Books) Law

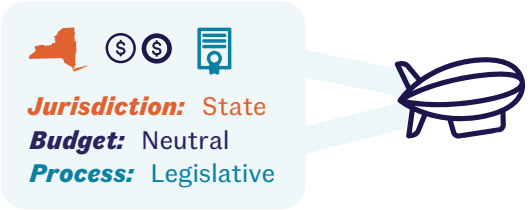
Open Books laws allow tenants to access information about their building's finances, including details on ownership, operating statements, mortgage financing, and the terms of any other investments. This supports social housing conversions by giving tenants who are organizing the ability to think through how much a social housing conversion would cost, how much operating subsidy would be needed, and what an appropriate financing plan would look like.

Another way to both bolster tenant power and lay the groundwork for social housing conversions is by strengthening tenants' ability to access information about their building's finances, including details on ownership, operating statements, mortgage financing, and the terms of any other investments. Currently, tenants can only guess about their building's finances, culling together information about their landlord's income by asking their neighbors about their rents and making assumptions about building expenses. Landlords benefit from this information asymmetry; the less tenants know, the easier it is for landlords to skirt legal obligations to provide repairs, thwart organizing efforts, and hide financial distress, including vulnerability to foreclosure.

An Open Books law would support social housing conversions by giving tenants who are organizing the ability to think through how much a social housing conversion would cost, how much operating subsidy would be needed, and what an appropriate financing plan would look like. Giving tenants access to information about their building's finances is not without precedent. Under New York City's 1947 rent control law and the Mitchell Lama program, landlords have to open their books to justify rent increases.

On a broader level, Open Books legislation could serve as the basis for aggregate data on landlord portfolio sizes, net worth, and profits. Without public access to this data, landlords are able to dictate certain terms of the public discourse around housing. In hearings held by the Rent Guidelines Board to determine rent increases for rent stabilized housing, for instance, landlords and investors often argue that they struggle to make necessary repairs because of limited rental income, without being required to disclose information to substantiate those claims. Beyond helping tenants intervene in their own buildings, Open Books legislation would provide a level of transparency at a macro level, which can help build political capital for policies supporting social housing conversions.

14. Enact a Right to Know (Open Books)



Connections:

- (i) Pass Tenant / Community Opportunity to Purchase, (ii) Provide Operating Subsidies and Housing Vouchers, (iii) Enforce and Defend the Housing Stability and Tenant Protection Act.
- Understanding their building's operating costs can help tenants employ their right of first refusal. A fuller picture of how landlords generate profit could also help defend tenant protections against the real estate narrative that rent regulation inevitably leads to disinvestment.

Potential Impact:

- Open Books legislation could provide clarity on the role of bank mortgages. Mortgages on rent-stabilized buildings are assumed to be a way to provide funds for operating and capital costs. Debt service on those mortgages is therefore considered a necessary expense. However, in many cases it is more accurate to see mortgage money as a way to leverage buildings and, when possible, profit by pulling equity out. Landlords who claim that they cannot meet expenses at current rent levels should be forced to explain where the use of debt proceeds has gone.
- While information on this topic is scarce, available data shows that, in many parts of New York City, between 40% - 50% of the rental income goes to making mortgage payments, equal to or more than the money invested back into the building as expenses. If that money was used to finance other building purchases or grow their own personal net worth, that should affect landlords' ability to command rent increases. Tenants have a right to know these details about the way that their buildings operate and how their landlords profit.

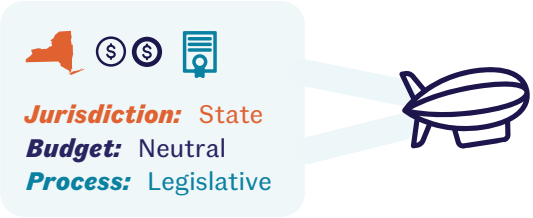
15. Pass Clean Hands Legislation

Clean Hands would protect tenants from eviction filings if there are outstanding code violations in their building. This legislation helps make predatory landlord behavior less tenable (and social housing more so) by prioritizing tenant stability and safety over real estate profit.

Another way to protect tenants and make predatory practices less profitable is by making a landlord's right to file an eviction contingent upon the provision of safe and adequate housing. Across New York State, low-income tenants in particular commonly deal with both substandard housing and high rates of eviction. In other words, in the current reality, landlords can indefinitely shirk their legal responsibility to provide decent housing, but maintain the right to file evictions against households as soon as they fall behind on rent or if they see the promise of gentrification and higher rent levels. This logic, wherein tenants can be evicted after having borne the burden of an illegal reduction of services on the part of their landlord, needs to be challenged.

New York's Right to Counsel coalition proposes to do exactly that, by advocating for what is known as Clean Hands legislation, as part of the Housing Courts Must Change campaign. Ideally, Clean Hands would protect tenants statewide from eviction filings if there are outstanding code violations or contraventions of the Warranty of Habitability (section 235-b of the Real Property Law). If such issues do exist, Clean Hands would make it the responsibility of the landlord to prove that substandard conditions have been cured before proceeding with an eviction filing, requiring a written affidavit that could be challenged by the tenant in court. Like other policies in this section, Clean Hands legislation helps make predatory landlord behavior less tenable, and social housing more so, by prioritizing tenant stability and safety over real estate profit.

15. Pass Clean Hands Legislation



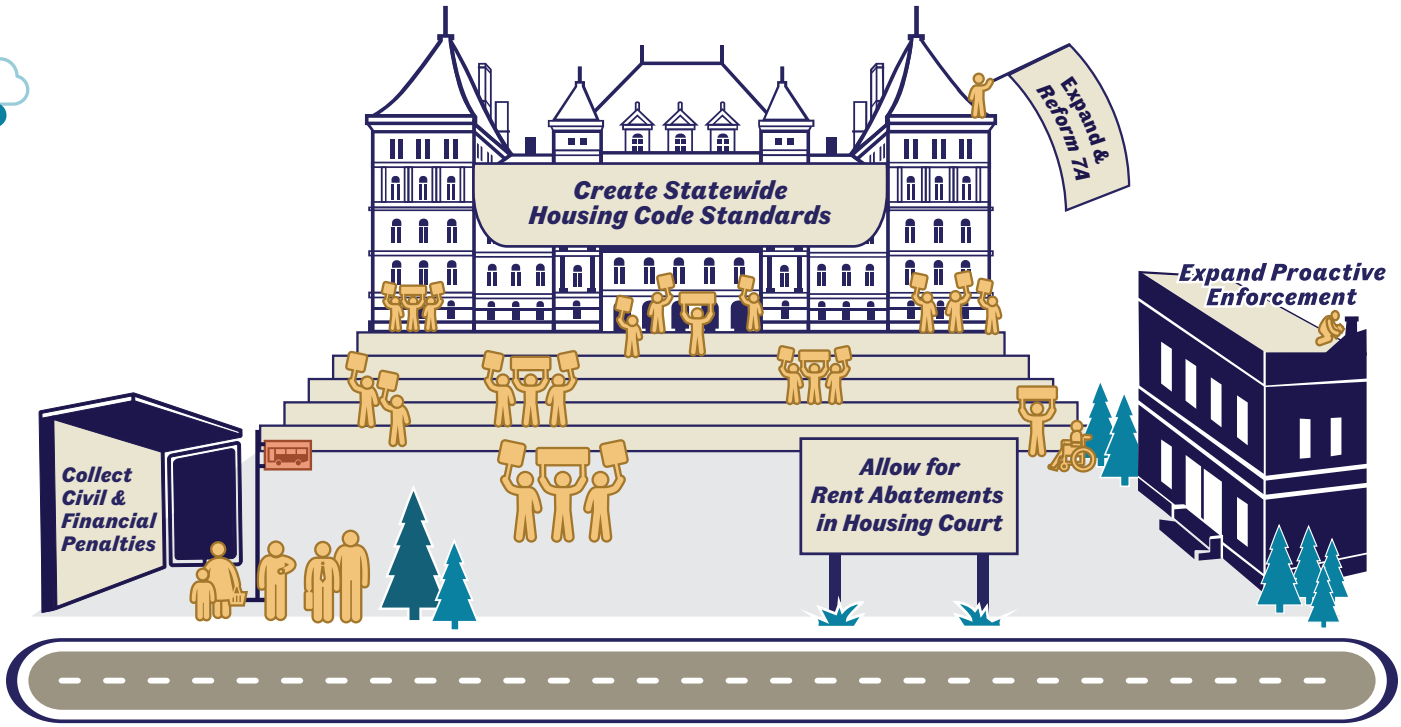
Connections:

- (i) Create Statewide Housing Code Standards, (ii) Allow for Rent Abatements in Housing Court, (iii) Pass Good Cause Eviction Protections.
- Like the ability to sue for a rent abatement because of substandard conditions, Clean Hands would be an important tenant-initiated action to ensure that robust housing code standards are followed in practice. Clean Hands only works if tenants are assured the right to a renewal lease; otherwise, a landlord who operates housing in poor condition could simply wait out a lease and remove a tenant at the end of that period.

Potential Impact:

- In 2019, at least 84% of properties in New York City where there was one or more eviction filing also had at least one open Housing Maintenance Code violation. While it is difficult to know whether those violations were outstanding at the time of court filing, this figure reinforces the idea that eviction filings take place predominantly in properties where landlords do not fulfill their responsibility to provide safe and decent housing.

Part D: Code Enforcement & Tools for Safe Conditions



Like expanded tenant protections, strong code enforcement can lay the groundwork for social housing by making housing less attractive to investors seeking lucrative short-term returns. These investment strategies are often predicated on tenants living in decrepit conditions and have even been found to worsen conditions, as increasing amounts of rent that might otherwise go to maintenance and operations are extracted from the building. Laws that force landlords to reinvest rental income in their portfolios can both address long-neglected physical conditions and reduce speculative real estate activity, opening up the possibility of social housing conversions.

Substandard housing conditions are all too commonplace in New York State, especially for low-income renters, who are predominantly people of color. Despite the statewide standard of Warranty of Habitability, tools for tenants and public agencies to address substandard conditions typically exist in only the most extreme scenarios. In New York City, the more detailed Housing Maintenance Code is systematically under-enforced. Changing this system requires a shift in the way public agencies and court systems regard landlords of substandard housing who are too often given the benefit of the doubt, allowing dangerous conditions to linger.

To address this, first, New York State needs a robust uniform maintenance code, providing a baseline right to safe housing across the state and obviating the need for tenants, landlords, and local officials to determine rights and responsibilities on a case by case basis. Stronger codes help tenants organize against visibly poor conditions — like the presence of vermin, mold, and leaks — and against more hidden concerns — like exposure to lead and mold, unreliable heat and hot water, and more. Additionally, universal standards create a broad constituency of tenants who can continue to organize for the resources needed for proper enforcement.

Next, housing agencies and courts must actively enforce maintenance codes, instituting severe minimum penalties for lack of compliance. Proactive and well-funded enforcement programs compel landlords to spend money on ongoing maintenance and repairs, and address capital needs, such as replacing a boiler or a roof, or updating the electrical wiring. Too often, existing programs address only surface-level concerns, and tenants have little recourse when poor building conditions inevitably resurface, a product of lax or even nonexistent enforcement.

Finally, tenants must be given the tools with which to demand safe housing conditions, including ways to take action and demand proper oversight by experts, if code enforcement regimes fall short.

16. Create Statewide Housing Code Standards

Establishing statewide housing code standards, and increasing funding for enforcement, would make it more expensive for landlords to abdicate their legal responsibility to provide quality housing, and to milk unsafe buildings. Stronger, uniform, standards would allow tenants to seek restitution, up to and including converting long neglected buildings into social housing.

New York State has a patchwork system of overlapping housing codes that can confuse tenants about their rights and landlords about their obligations. The Uniform Fire Prevention and Building Code governs building maintenance outside of New York City, and directs the state to aid local governments with their code enforcement. The New York State Multiple Dwelling Law governs design and construction of buildings, and sets standards for light and air, sanitation, and fire protection. It applies to cities with a population greater than 325,000 (which currently includes only New York City and Long Island's Hempstead and Brookhaven). The Multiple Residence Law, a weaker standard, applies to towns, villages and cities with a population of less than 325,000. In addition to the Multiple Residence Law, New York City as well as some larger municipalities like Albany, Newburgh, Rochester, and Mount Vernon have local rental housing maintenance laws.

Given these overlapping codes, it is often difficult for tenants to determine exactly what their rights are and who they should contact to report unsafe conditions. In bigger cities, it may be a designated code enforcement agency but in smaller towns and villages, it is often the local fire or sheriff's department. Without enforcement capacity or a proper understanding of the rights of tenants to safe conditions, even local officials who want to address egregious conditions are frequently unsure about how to proceed.

New York State should expand the more robust of its housing codes, like the New York City Housing Maintenance Code and the New York State Multiple Dwelling Law, across the state, eliminating the patchwork system. A tenant in Binghamton should have the same legal tools to address unsafe living conditions as a tenant in the Bronx. Insufficient code enforcement, coupled with the lack of a right to a renewal lease,means that nearly half of New York State renters either have to put up with dangerous living conditions or leave their homes, as tenants who complain are often evicted before the landlord is compelled to make repairs. This dynamic allows landlords to abdicate their legal responsibility to provide quality housing, and to milk unsafe buildings.

Statewide housing codes would also help build a broader constituency of tenants who can advocate more effectively for increased funding. Protecting tenants across the State requires a commitment to bigger budgets for under-funded housing code enforcement agencies. Further, new enforcement entities in counties and municipalities where they do not yet exist should be established. In addition, organizing pressure is necessary to change the culture of code enforcement that is forgiving of landlords who allow dangerous living conditions to persist. While recent initiatives like the NY Attorney General's Cities RISE program are a start, the State must do more to significantly increase code enforcement funding to under-resourced jurisdictions, employing both state and federal resources, including Community Development Block Grants (CDBG). The funds can support the development of local code enforcement infrastructure, technology and recordkeeping upgrades, and tenant and landlord education about rights and responsibilities.

16. Create Statewide Housing Code Standards

Jurisdiction: State
Budget: Operating
Process: Legislative

Connections:

» (i) Expand Proactive Enforcement, (ii) Collect Civil and Financial Penalties, (iii) Allow for Rent Abatements in Housing Court.

» Statewide housing code standards require municipalities to proactively monitor housing conditions and establish penalties that deter non-compliance. By providing a clear legal baseline, statewide standards would complement new or reformed tools for tenants to sue in court to demand safe conditions.

Potential Impact:

» In 2019, the New York State Senate's Committee on Investigations and Government Operations released a report on the dire state of code enforcement across the state, with case studies of Albany, Newburgh, Mount Vernon, and the Town of Ramapo. The report concluded that code enforcement is simply not prioritized, which leads to poor compliance that endangers the lives of residents.

» The report recommends the provision of significant financial assistance to local governments that want to expand code enforcement. It also notes that existing money collected by the Department of State for local code enforcement has, since 1991, not been disbursed. These funds amount to between $12 and $20 million each year; while not nearly enough to fund robust enforcement, it is a sign of just how deprioritized funding for code enforcement currently is.

17. Expand Proactive Enforcement

Municipalities across the state should NYC could proactively inspect housing to find code violations, rather than rely on tenant complaints. and actually collect fines from landlords Proactive enforcement must be accompanied by heavier financial penalties, which create points of leverage to convert long-neglected and distressed properties into social housing.

To create a robust code enforcement system, municipalities must proactively assess rental housing, and intervene in issues as they arise. In New York State, municipalities largely only rely on tenant-initiated complaints to identify dangerous living conditions. The City of New York has several proactive enforcement programs — including the Alternative Enforcement Program (AEP), Certificate of No Harassment (CONH), Proactive Preservation Initiative (PPI) and the Emergency Repair Program (ERP) — which either trigger active monitoring of a building's conditions or allow the City to directly make repairs in long-decrepit buildings, at the owner's expense. Outside of New York City, proactive enforcement is rare. One example is Albany's Residential Occupancy Permit (ROP) system, which requires an inspection of all rental units in the city every 24 months. Based on the successful campaign in Albany, tenants in Syracuse won a similar program. There are also Emergency Repair Ordinances that local tenant organizations fought to pass in both Rochester and Albany, which allow code enforcement officers to bid out the work to repair building violations when a landlord refuses to comply.

While these programs are a start, they do not go nearly far enough. Though New York City has more than two million renter households, CONH covers around 1,100 rental properties, while the AEP program targets 250 properties annually. While AEP is an effective enforcement mechanism that should be expanded to additional buildings each year, a significant percentage of buildings remain in the program year after year, indicating that New York City lacks an escalation strategy for landlords refusing to comply with increased enforcement. While the ERP program is used more frequently, it often leads to shoddy and surface-level repairs.

Outside of New York City, Albany and Syracuse's ROP system requires only that bare minimum life and safety standards be met in order for the city to issue a new permit. Further, Rochester and Albany's code enforcement agencies only utilize their Emergency Repair Ordinances in the most extreme circumstances, often issuing extensions on repeated violations, while tenants suffer worsening conditions.

In order to compel landlords to reinvest in their properties, the government should take a proactive enforcement role. Code enforcement agencies across the state must implement clear timelines for the resolution of violations and transparent processes by which proactive enforcement is triggered, rather than leaving the decision-making to individual code inspectors. Further, proactive enforcement must be accompanied by heavier financial penalties, which create points of leverage to convert long-neglected and distressed properties into social housing. And most importantly, agencies proactively enforcing housing codes must work collaboratively with tenants and community groups,

17. Expand Proactive Enforcement

who have intimate knowledge of the history of building neglect and past efforts to force the owner to behave responsibly. When landlords continually refuse to keep their buildings in habitable conditions, these enforcement agencies must rely on tenants to drive escalation strategies, up to and including transfer of ownership or conversion to social housing.

Jurisdiction: Local
Budget: Operating
Process: Administrative

Connections:

- (i) Abolish the Tax Lien Sale and Reimagine the In Rem Process, (ii) Fund Housing Organizing, (iii) Pass Good Cause Eviction Protections.
- For proactive enforcement to be done in collaboration with tenants, more tenant associations must be formed across the state. To achieve this, we need both better funding for organizing and better protections for tenants, so that they can organize without the fear of their lease not being renewed.

Potential Impact:

- Throughout 2019, New York City spent close to $48 million across more than 10,000 properties to correct dangerous issues in rental buildings through proactive enforcement programs. A year later, by the end of 2020, one data source estimated that landlords had paid back less than $8 million of those costs. Similarly, in 2018, the City of Albany's Corporation Counsel won $364,580 in court judgments for code violations, but only collected about $5,000 of those judgments.

18. Collect Civil & Financial Penalties

Appropriately heavy civil and financial penalties can disincentivize landlords from maintaining their properties at substandard levels. For landlords who refuse to pay, public agencies must establish and proactively implement a transparent process to either force collection or initiate municipal foreclosure, and to transfer foreclosed properties to social housing entities.

Appropriately heavy civil and financial penalties can disincentivize landlords from maintaining their properties at substandard levels. Under New York's existing laws and programs, many landlords regard code enforcement programs and city and tenant-initiated lawsuits as little more than the cost of doing business. Increased fines, penalties, and interest rates for landlords who own buildings with significant and persistent violations can change this dynamic, making it unprofitable to maintain unsafe conditions or by triggering municipal foreclosure.

New York City has the most robust code enforcement system in the state. The city agencies tasked with enforcing building codes can levy and collect fines either through administrative proceedings or by suing landlords who fail to follow the Housing Maintenance Code. However, large portions of these fines and penalties sit unpaid for years, or are forgiven in exchange for agreements that the repairs be made over time. The situation in the rest of the State is even worse: penalties for housing violations are trivial, often remain unpaid for years, and have little effect on landlord behavior.

Tenants often find that reporting poor conditions does not lead to meaningful building improvements. Even when repairs are made, they are often done on the surface level, leaving underlying problems to fester. This cycle, where tenants continually file complaints about issues that are never truly resolved, is demoralizing. Tenants are forced to adjust to unsafe living conditions, and lose hope in the potential for collective change. The lack of serious financial consequences undermines the overall code enforcement system.

The City must escalate enforcement against landlords who repeatedly fail to make repairs, and push to recover 100% of levied fines and penalties, including the costs of repairs under proactive enforcement programs. For landlords who refuse to pay, public agencies must establish and proactively implement a transparent process to either force collection or initiate municipal foreclosure, and to transfer foreclosed properties to social housing entities.

18. Collect Civil & Financial Penalties

Jurisdiction: Local or State
Budget: Revenue Positive
Process: Administrative

Connections:

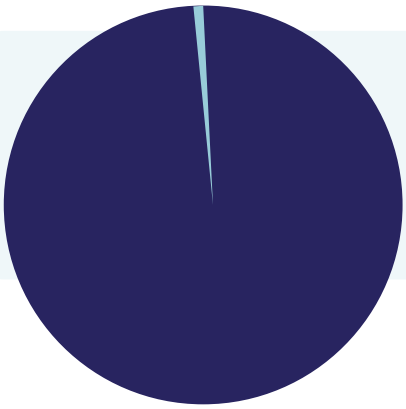
» (i) Reimagine Public Disposition and Municipal Foreclosure, (ii) Transform Land Banks into Social Housing Intermediaries, (iii) Support Social Housing Infrastructure.

» Paired with proactive enforcement, civil and financial penalties give governments leverage to convert neglected properties to social housing. Landlords who neglect their buildings, put the lives of their tenants at risk, and refuse to both make repairs and pay fines should lose their properties through municipal foreclosure. These buildings can be transferred to local land banks, go through a rehabilitation process, and eventually be transferred to social housing entities ready to steward the property for the long term.

Potential Impact:

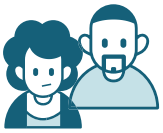
» As of the end of 2020, in each of New York City's five boroughs, between 65% and 85% of open housing code violations in rent stabilized buildings have remained unresolved for a year or more. This translates into over 550,000 housing code violations that NYC tenants dealt with over the course of 2020. The sheer number of outstanding violations illustrates that New York City's maintenance code and the financial penalties associated with it (which are the strongest in the state) is not enough to incentivise all landlords to maintain their buildings.

19. Expand and Reform 7A Administration



There are an estimated nearly 10,000 chronically distressed buildings in NYC that could be eligible for a 7A administrator, representing over 115,000 units. But between 2016 and 2019, only 23 7A cases were filed per year on average.

The 7A program should be be quicker and more tenant-friendly, and should be transformed into a unified right across New York State.



If a landlord allows their building to become physically distressed, Article 7A of New York's Real Property Actions and Proceedings Law provides tenants in New York City, as well as Nassau, Suffolk, Rockland, and Westchester counties, with the right to petition the court to take away operational control of their buildings from their landlord and hand it over to an administrator for management and rehabilitation.

In the 1970s and 1980s, 7A administrators were common in disinvested neighborhoods, facilitating transitions to nonprofits or limited equity coops. Today, 7A cases are far more rare, and serve as a cudgel to temporarily force building repairs, just for the duration of the case. Landlords often let 7A cases drag on for long enough to remedy just enough unsafe conditions to exit the program, immediately letting the property deteriorate again after dismissal or settlement.

Article 7A can once again serve as a crucial tool for tenants fighting for safe and habitable conditions. The program should be used to rehabilitate neglected buildings and transfer them to responsible, long-term stewardship by social housing operators. The 7A administrator appointment process must be reformed to be quicker and more accessible to tenants. Further, Article 7A should be available to all tenants across New York State.

Jurisdiction: State
Budget: Neutral
Process: Legislative and Administrative

Connections:

» (i) Pass Statewide Right to Counsel, (ii) Fund Housing Organizing, (iii) Reimagine Public Disposition and Municipal Foreclosure.

» Because 7A cases are drawn-out and complex, they require access to lawyers and significant organizing resources. 7A administrators can also be thought of as an intermediate step of moving buildings out of the hands of predatory landlords and into social housing entities, either through municipal foreclosure or a preservation purchase.

Potential Impact:

» Between 2016 and 2019, an annual average of 23 7A cases were filed in New York City housing courts. In contrast, we estimate that there are currently close to 10,000 chronically distressed buildings in NYC, representing over 115,000 units. (Chronic distress defined as: more than 2.5 B or C Housing Code violations per unit during at least 6 quarters since 2008).

20. Allow for Rent Abatements in Housing Court

Allowing for an individual right of action to sue for a rent reduction until repairs are made would impact a landlord's bottom line and could transform the way that landlords view repair cases. It also undermines speculative real estate models that rely on deferred maintenance and substandard living conditions, helping make predatory real estate investment less attractive and, opening up the possibility of social housing conversions.

Allowing tenants to seek rent abatements through the courts can help force landlords to adhere to housing codes. For many years, only tenants in New York City have had the right to sue for repairs in substandard housing, through what is known as an Housing Part (HP) action. Successful HPs result in court ordered injunctions to make repairs. Similar to other forms of state mandated repairs, these injunctions often result in shoddy, surface-level work. Further, landlords sometimes simply ignore these court mandates, choosing the potential for additional legal costs over spending money on chronic building issues. Beyond HP actions, rent-stabilized tenants in New York City can also request a rent abatement through HCR, but that process is notoriously slow, sometimes taking up to a few years for an abatement.

This can all change with the passage of the Tenant Dignity and Safe Housing Act (TDSHA), which as of June 2022 had passed both houses of the New York State Senate. TDSHA would provide a range of private rights of action for tenants across the State, including rent reduction, court injunction, and suspension of eviction action until repairs are made. The relief sought by tenants through TDSHA would directly impact landlords' bottom-line, particularly the ability to sue for rent abatements. This mechanism incentivises safer conditions in buildings. It also undermines speculative real estate models that rely on deferred maintenance and substandard living conditions, helping make predatory real estate investment less attractive and, opening up the possibility of social housing conversions.

Jurisdiction: State
Budget: *Neutral*
Process: *Legislative*

Connections:

» (i) Pass Statewide Right to Counsel, (ii) Fund Housing Organizing, (iii) Collect Civil and Financial Penalties.

» Like other policies, rent abatements in housing court would require additional organizing capacity and legal resources, which strengthening and expanding Right to Counsel could help provide. Rent abatements are also similar in theory to more frequent uses of serious financial penalties; both start from the notion that the only way to compel long-negligent or predatory landlords to change behavior is by threatening their net profit.

Potential Impact:

» Between 2016 and 2019, there was an annual average of over 12,000 HP cases filed in New York City housing courts, each representing a tenant or tenant association seeking a court-ordered injunction for repairs in a unit or building. If tenants statewide were given the option to seek rent reductions for substandard conditions, we could provide tens of thousands of households across the state a better pathway to safe and habitable housing.

Conclusion

There is an urgent need for a housing system that puts more stock into housing's value as a home and less in its value as real estate, what scholar Keeanga-Yamahtta Taylor calls the tension between exchange value and use value in housing. As we described in our previous report, the last three decades have seen more and more capital chasing rising property values in rental housing in New York and across the United States, further driving crises of rent burden, evictions, and homelessness. Rising property values are central to our economy. For those with investable capital, profit from land and housing undergirds the majority of the financial activity. For homeowners, it creates wealth faster than ever before. There is an increasing distinction between the asset-owning class — investors and homeowners benefiting from rising property values — and everyone else, for whom buying a home is unattainable and renting is unaffordable.

Our report focuses on *policies* rather than *politics*. Despite that, we are aware that a shift to social housing would constitute a serious challenge to the system of wealth creation through land and housing. Any such intervention therefore requires confronting the power of those who benefit from the current state of affairs. This system traces its roots to the foundations of racial capitalism — from this country's original legal frameworks for common land enclosures and slavery, to 20th century exclusionary lending, zoning, and development practices, which perpetuated segregation and urban disinvestment. We must build an immense amount of political power to achieve our ends.

But in the face of this challenge, it is worth remembering that New York City and State have facilitated social housing conversions in the past, we do them occasionally today, and we can do them on a larger scale in the future. Combined with a new social housing program, conversions can improve the lives of houseless people and rent-burdened tenants, while simultaneously challenging the power of the private real estate industry over housing.

Many of the tools necessary to make these changes are already at our disposal, but require political will, organization, and action. To conclude this report, we offer 3 steps you, the reader, can take to advance this agenda:

1) Join housing organizations and coalitions and get involved in legislative and policy campaigns:

New York is home to a plethora of organizations working at various geographical scales (neighborhood, city, state, national, and international), on various types of housing issues (homelessness, tenants' rights, cooperative and community ownership, etc.), and through various means (building organizing, street protests, legislative campaigns, etc.).

Nearly every housing organization in New York State is working on some combination of campaigns relating to one or more of the policies outlined in this report. Not every elected official, however, thinks that their constituents know or care about these issues. This has to change if we want legislative and policy action on a social housing agenda.

2) Organize with your neighbors:

Spread the word! Now that you've joined an organization and gotten active in a campaign, you can talk with others about why they should do the same. This kind of organizing often starts with small circles – people you're already familiar with, like your family, friends and neighbors – then expands outward, and can include door knocking in your and other neighborhoods, participating in neighborhood assemblies and town halls, and joining in coalitions with others fighting similar fights across the state, country, and world.

3) Learn more about the history of social housing. Below are just few suggestions:

REPORTS

- Community Service Society publications:
  - » Corporate Windfalls or Social Housing Conversions? The looming mortgage crisis and the choices facing New York
  - » Social Housing in the US
  - » How Social Is That Housing?
  - » Reinventing the Mitchell-Lama Housing Program
  - » Hands-On Housing: A Guide Through Mutual Housing Associations and Community Land Trusts for Residents and Organizers
  - » Balancing Acts: The Experience of Mutual Housing Associations and Community Land Trusts in Urban Neighborhoods
- People's Policy Project:
  - » Social Housing in the United States
- New York City Community Land Initiative:
  - » "Commodifying Our Communities:" The Case for Abolishing NYC's Tax Lien Sale and Prioritizing Community Land Trusts in a New Tax Collection and Property Disposition System
- Urban Democracy Lab:
  - » The SHDA – A Proposal
  - » Social Housing 2.0: Viable Non-Market Tools for Today's Housing Crisis
- Data for Progress
  - » A Green New Deal for American Public Housing Communities

BOOKS

- Tom Angotti, *New York For Sale*
- Nicholas Dagen Bloom, *Public Housing That Worked*
- James DeFilippis, *Unmaking Goliath*
- Peter Eisenstadt, *Rochdale Village*
- Johanna Fernández, *The Young Lords*
- Joshua Freeman, *Working Class New York*
- Roberta Gold, *When Tenants Claimed the City*
- Jessica Gordon Nembhard, *Collective Courage*
- Benjamin Holtzman, *The Long Crisis*
- Jacqueline Leavitt and Susan Saegert, *From Abandonment to Hope*
- David Madden and Peter Marcuse, *In Defense of Housing*
- Richard Plutz, *A History of Housing in New York City*
- Gail Radford, *Modern Housing in America*
- Annemarie H. Sammartino, *Freedomland*
- Amy Starecheski, *Ours to Lose*

FILMS

- At Home in Utopia, directed by Michael Goldman and Ellen Brodsky
- Decade of Fire, directed by Gretchen Hildebran and Vivian Vásquez Irizarry
- The Pruitt-Igoe Myth, directed by Chad Freidrichs

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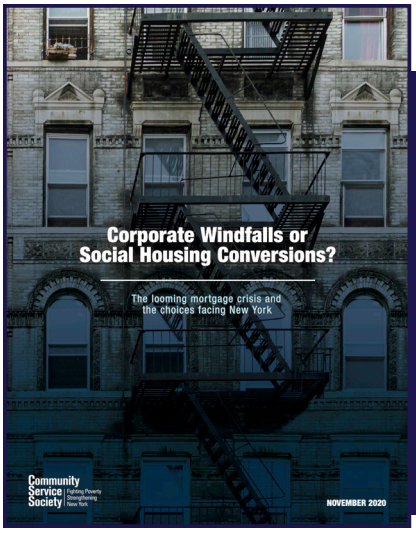

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