



PRESERVING NEW YORK CITY'S PUBLIC HOUSING: FUTURE CHOICES

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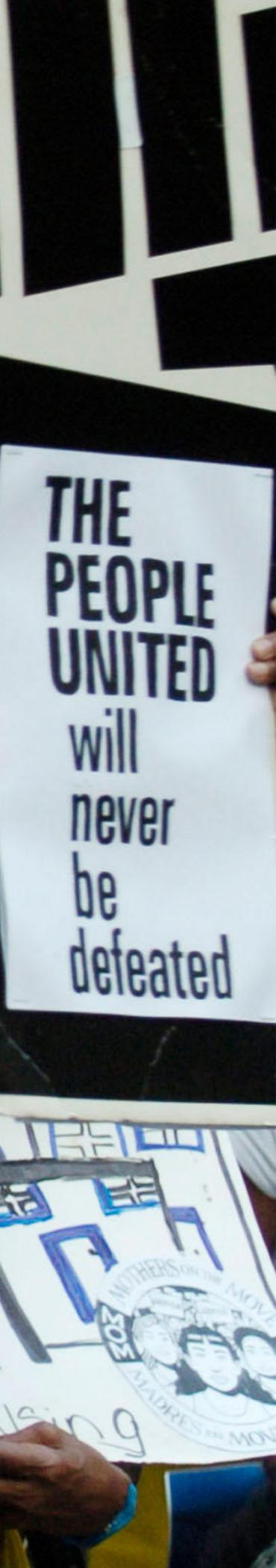
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Overview

For decades the New York City Housing Authority (NYCHA) and its residents have been facing a difficult present and an uncertain future. Starvation federal funding and cumulative disinvestment at every level of government¹ have left the city's public housing in a state of worsening physical disrepair and financial stress.

Once considered a prime example of "public housing that worked,"² the New York City program—the largest in the nation—has been plagued by accelerating deterioration. Its mounting capital backlog—now estimated at over \$40 billion—is shorthand for daily resident struggles with leaking roofs, bursting plumbing, heat and hot water outages, elevator failures, toxic mold, and other outrages.

NYCHA is not alone. The national capital backlog for public housing is estimated at over \$80 billion. But, unlike many other large-city housing authorities—such as Chicago, Atlanta, and Newark—New York has not resorted to demolition and redevelopment. It has consistently sought to preserve its existing housing as a primary low-income, affordable housing resource, which originally encompassed more than 178,000 apartments housing over a half-million residents, or about one of every 12 rentals in the city.

To address its problems, the authority has issued a succession of crisis-driven plans since 2008, none of which met the daunting capital need. The most recent plan—NYCHA 2.0 in 2018—relies primarily on the Rental Assistance Demonstration (RAD) program of the U.S. Department of Housing and Urban Development (HUD) to restore 62,000 units, over a third of its housing, by leasing developments to private partners to finance renovations and take over management. The strategy is expected to generate about \$12 billion in capital investment over a decade. In early 2019, after a federal lawsuit exposed false certifications regarding toxic lead-paint risks and irregularities in

property management, a HUD-NYC agreement called for the appointment of a federal monitor to oversee the authority's repair efforts and guide its reorganization through a transformation plan to create a more functional bureaucracy.

The onset of Covid-19 in spring 2020 further compounded NYCHA's problems. Residents were hard hit by the pandemic.³ Protective measures were taken, the strongest in senior developments. But normal, face-to-face NYCHA resident engagement concerning preservation plans became more difficult. The subsequent shift to virtual engagement was hampered by limited resident access to the internet.⁴ The pandemic also increased contractor delays in carrying out needed repairs and planned RAD conversions.

To say that NYCHA has been in flux in recent years is an understatement. Since 2018, it has been led by four successive chairs. The pre-eminent question is whether and how NYCHA can, against all odds, find the means to assure the future of its housing and its residents. Nevertheless, in the past year or two, there have been several good reasons for cautious optimism about the near future.

The Federal Build Back Better Bill

Since early 2021, hopes were high that President Biden's Build Back Better bill would commit \$65 billion to public housing over the next decade. Half was to be allocated to NYCHA, enough to fill its capital gap. Failing majority support in the Senate, the bill had to be dismembered. After months-long negotiations, the housing commitment is no longer alive. Without a significant, new federal initiative, NYCHA and other housing authorities must look to other options to preserve the nation's public housing.

NYCHA Transformation

With the guidance of the federal monitor, NYCHA is now moving forward on a Transformation Plan that involves reorganization of its huge bureaucracy, with an emphasis on decentralizing administrative and property management functions. If that succeeds, even without further capital funding, the authority may become more effective and efficient in delivering services to residents.

The NYC Public Housing Preservation Trust

The range of preservation strategies available to NYCHA is about to expand beyond Plan 2.0, which relied heavily on the HUD RAD program. In summer 2020 NYCHA released a “Blueprint” proposing that the state create a public-benefit corporation—the Preservation Trust—to take over distressed NYCHA developments and see to their restoration. Using an existing HUD program—Section 18 Disposition—the Trust could tap into a rich stream of federal Section 8 Tenant Protection Vouchers. If the Trust succeeds, the model has the potential to address the full capital backlog, even without major, new federal initiatives. In June 2022 the governor signed the Trust into law. Its implementation remains to be carried out.

Resident Choice in Preservation Decisions

Embedded in the Trust legislation is a major expansion of the resident role in the preservation process, in deciding on the future of their developments. For the first time, residents will have options: They can decide, through a voting process still to be defined, whether and how they want their development to be treated. They have three options:

- Renovation through RAD conversion;
- Renovation through Trust conversion;
- Neither of the above: Remain HUD Section 9 public housing.

Previously, residents had no choice, no veto rights over a NYCHA-planned RAD conversion. This is an unprecedented, welcome move to strengthen the resident role in the preservation decision process.

As NYCHA moves in these directions, it is effectively embarking on a new plan, one with the potential to address its daunting infrastructural deficits even in the absence of major, new federal commitments—a plan with a wider range of preservation strategies and a strengthened, more decisive role for residents in the process.

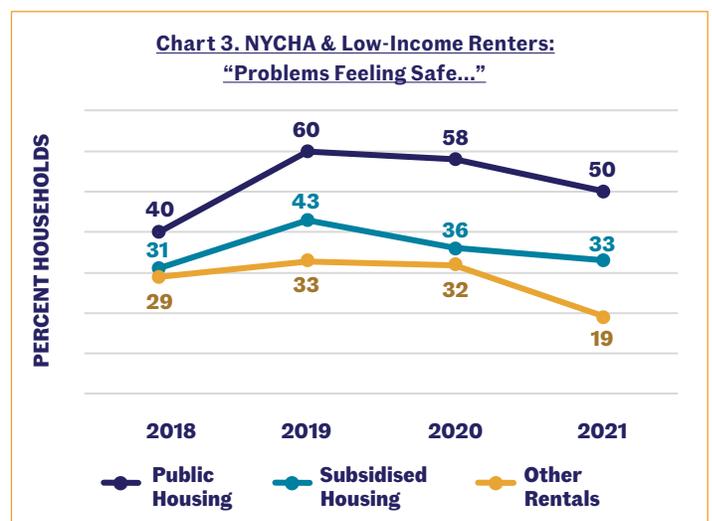
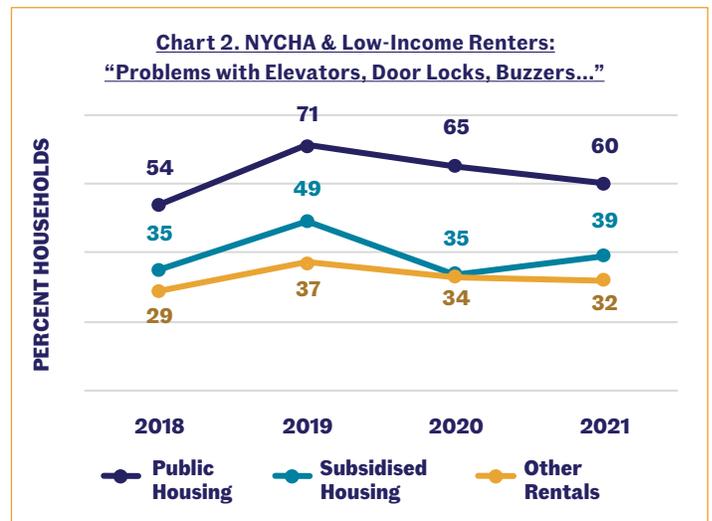
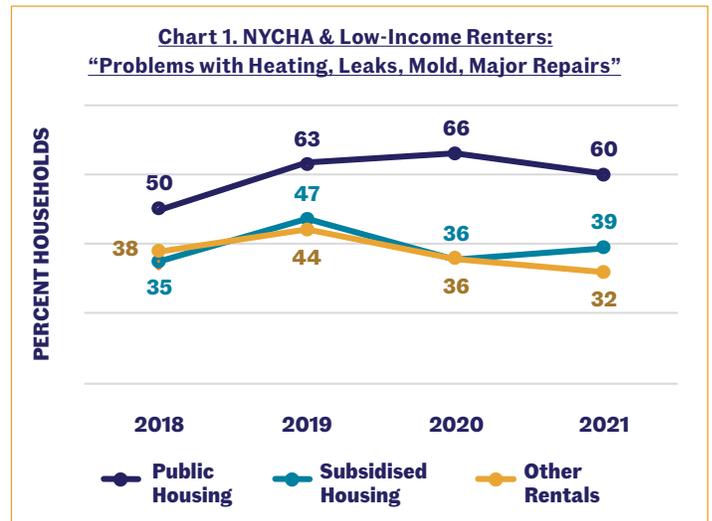
Recent Trends: Resident Living Conditions

NYCHA living conditions are not likely to improve substantially in the immediate future. Under the best funding and conditions, it will take close to a decade to address all the authority’s current infrastructural deficits. Nevertheless, it is useful to assess whether conditions are improving or continuing to deteriorate over the short term.

The triennial NYC Housing and Vacancy Survey (HVS) provides the most reliable barometer of living conditions among tenants, through respondent reports of key apartment deficiencies. But HVS data have not been available since 2017.⁵ In the meantime, the CSS annual Unheard Third survey makes it possible to track some general trends. (See Charts 1 to 3)

Not surprisingly, NYCHA residents consistently register more condition problems than low-income renters elsewhere. But since 2019 it appears their problems have been plateauing rather than increasing, with some leveling off by 2021. The trend suggests short-term progress. Among possible reasons are NYCHA’s recent attempts to streamline the work-order process, although presently there are about 630,000 orders outstanding. In addition, the oversight of the federal monitor may have contributed to lessening problems in the key “pillar areas,” such as elevators, heating and hot water, toxic mold, and rodent infestation.

Incoming data from the August 2022 Unheard Third survey indicate that condition problems (Charts 1 and 2) remain at close to 2021 levels. Safety concerns are an exception to this pattern. There was a significant increase in the proportion of residents citing safety problems, 63 percent against 50 percent the previous year. This may be a citywide trend, as well as one that is more concentrated at NYCHA developments.



The Three Options

When a public housing development comes up for consideration, there are now three options available to NYCHA and its residents:

- Renovation through conversion under the RAD Program;
- Renovation through conversion under the Preservation Trust;
- No conversion—remain HUD Section 9 public housing.

Where Residents Are Now

In August 2022, the CSS Unheard Third Survey asked grassroots NYCHA residents which of the three options they currently preferred.⁶ The results were as follows:

Not enough information to answer	39%
Renovations through the RAD/PACT program	29%
Renovations through the Trust	18%
Keep my development in the Section 9 program	13%

The largest portion of residents (39%)—about two out of five—felt they lacked the information they needed to register a preference. It is likely many more need to be informed about their options. Before any development faces the preservation decision process, it is necessary that residents be informed and provided with even-handed, reliable, resident-friendly information about the three choices. This report is, in part, a response to that need.

Among those residents who did register a preference, nearly half (48%) preferred RAD/PACT conversion and nearly a third (30%) preferred conversion under the Trust. The difference between the two may reflect that the RAD/PACT program, active

since 2013, is more familiar to residents than the Preservation Trust, which is just becoming operational. In addition, it is possible some respondents who registered that they lived in public housing resided in developments that were already RAD/PACT converted or in the conversion process.

Interestingly, a smaller portion (21%) of grassroots residents registering a preference chose to remain Section 9, rather than undergo conversion and renovation. Most (78%) opted for renovation—either through RAD/PACT or the Trust—even if their developments no longer remain Section 9. Not surprisingly, needed improvements in living conditions are a driving priority for residents, possibly more than the differences between Sections 8 and 9.

These preferences are tentative, they will likely change as more information is available to residents about the choices. With that objective, this report offers a broad, summary description of each of the three options and a starting, rough comparison with respect to their key features. What are the relative advantages and disadvantages from a resident perspective? The report also forwards recommendations for near-future changes to improve the process and outcomes. What needs to be done to assure that the resident choice process is fair and effective?

In doing so, it attempts to assess key aspects of each option for a “resident audience.” It does not purport to represent residents. Residents can and should voice their own views about their choices. Every opportunity should be given to them to do so. The intent here is a comparative, preliminary assessment of the potential advantages and disadvantages that come with each option so that the inherent trade-offs among them are clarified. The framework used reflects our view of the major features that distinguish each option and form a starting basis for comparison.

A Note on Conversion

The term “conversion” refers to a change in the way a development is federally subsidized, a shift from the HUD Section 9 public housing program to the Section 8 program. The Section 8 funding is “project-based,” that is, rent subsidies are attached to each apartment to keep it affordable for low-income residents. Other changes come with conversion, including a new owner and, for RAD, a new property manager. Section 9 funds public housing authorities, but Section 8 is targeted to “alternative owners”—private for-profit and non-profit entities—for which project-based subsidies are incentives for providing federally-assisted housing. NYCHA RAD conversions—also known as PACT (Permanently Affordable Commitment Together)—and the Trust conversions both call for developments to be transferred from the Section 9 to the Section 8 program.

The differences between the Section 8 and 9 programs are not nominal. Ideologically, they represent different visions of government’s role in housing. Public housing is seen as an expression of government’s direct responsibility for meeting housing needs. In contrast, Section 8 relies on alternative owners—largely the

private sector—to provide housing. The two programs are separately and differently funded, with public housing receiving less support. They are also differently regulated by HUD, particularly with respect to resident rights and protections.

Why is public housing underfunded compared to other HUD housing programs? Why do federal programs to improve distressed public housing require conversion to Section 8? Public housing is Congress’ least favored housing program for both historical and ideological reasons. Moreover, Section 8 has a stronger lobby that includes developers, lenders, and other real estate interests.

Since the 1990s, Washington has addressed increasing distress in the public housing stock by enacting a series of new federal programs, including HOPE VI (1992), Section 18 Disposition and Demolition (1998), and RAD (2011). All of them involve conversion from Section 9 to Section 8. The corresponding losses to the national public housing inventory should not be construed as unintentional. That is also reflected in Congressional appropriations to public housing. Even in relatively good years, they continue to be at starvation levels.



The three options are described in chronological order. Their potential advantages and disadvantages –from a resident perspective—are indicated as follows:

+ Potential advantage

– Potential disadvantage

? “Gray area”: assessment unclear or depends on the resident.

Option 1: Remain HUD Section 9 Public Housing

Enacted in 1937 as a New Deal public works strategy to boost a depressed national economy, Section 9 is the law that underlies all federal public housing developments. The program called for states to enable localities to create housing authorities that would, in turn, be federally funded to construct, own, and manage public housing.

Under the original arrangement, Washington did not pay directly for public housing. Local government bonds were issued to finance construction. The bonds were sold to private investors with the resulting debt backed by a federal commitment of “annual capital contributions” to repay bond holders. The authority’s month-to-month operating costs were to be covered by rents charged to residents.⁷

By the late 1960s this arrangement no longer worked: with a poorer resident population and declining rent receipts, housing authorities were unable to cover rising operating costs. Resident conditions and services declined, while operating deficits increased. In response, a new system of federal public housing subsidies was established: HUD provided operating subsidies to cover the growing gap, and capital subsidies provided funding to replace deteriorating infrastructure. Subsidy levels were determined by annual Congressional appropriations and the federal budgeting process.

The 1969 Brooke Amendment prevented authorities from charging unaffordable rents to increase revenues, by setting a maximum rent of 25 percent (now 30 percent) of household income. It was a guarantee of affordability for all residents living in federally assisted housing.

Later, other resident rights were added to the federal model, notably in the HUD 964 regulations for tenant participation. They included the right to organize resident associations, the right to engage with the authority on pending policy decisions, the funding of resident associations, and the right to form resident management corporations to oversee property management.

By the 1990s, Washington increasingly favored private subsidized housing and housing vouchers. Section 9 funding levels were insufficient to stave off serious deterioration and rising vacancies in many localities. The HUD HOPE VI program promoted demolition of distressed developments and redevelopment of the sites, many located in prime market areas, resulting in major displacements of residents who were given tenant-based Section 8 Housing Choice vouchers. NYCHA did not make use of HOPE VI except in special cases.⁸

In 1998, a major federal bill to reform public housing included Section 18 Disposition and Demolition. Under Section 18 disposition, an “obsolete” development could be restored by transferring it from the housing authority to an “alternative owner.” The new owner would receive project-based Section 8 Tenant Protection Vouchers (TPVs) to renovate and retain it as affordable, low-income housing. TPVs provide far richer rent streams than public housing subsidies, at HUD Section 8 Fair Market Rent levels, which increase every year with market rents.

Unlike some other large-city housing authorities, NYCHA has not used federal programs to demolish public housing and redevelop the sites. Nor has NYCHA experienced the high vacancies occurring elsewhere; its turnover rates are relatively low. The authority has consistently sought to retain its existing structures under Section 9, even as they undergo continuing deterioration.

In the early 2000s, HUD revised its operating subsidy allocations, using a formula, based on the size and age of the local inventory, as well as other factors. But the formula excluded funding of community and service programs, for which NYCHA was noted. The reduced NYCHA share of the national appropriation contributed to further disinvestment and forced it to shrink resident services.

Paradoxically, while the troubled history of public housing has resulted in accelerating deterioration of conditions, it has also produced an unparalleled set of resident rights and protections—particularly the HUD 964 regulations—rights that residents justifiably want to retain. Whether and how they are retained is a major concern in assessing the options.

Potential Advantages and Disadvantages

Under Section 9

Preservation: Financing Needed Capital Improvements

⊖ Unmet Capital Needs, Further Deterioration

Section 9 depends on annual federal appropriations to maintain and improve public housing. Inadequate, uncertain year-to-year funding levels mean that poor conditions will likely persist or worsen. The recent failure of the Build Back Better bill suggests Washington is unlikely to dramatically increase capital commitments.

⊖ Scope of Improvements

Current federal capital subsidies—sometimes supplemented with state or local funds—allow for periodic “modernization.” But in most cases, they will not be enough to carry out all the major repairs needed.

? Reliability of Funding

No federal housing program is entirely safe from termination. Given its 85-year history, public housing is not about to be abandoned. But there are few signs that its chronic, inadequate funding will end in the near future.

? Risks of Default

Any housing authority runs the risk of defaulting on its obligations, which may call for federal monitoring or receivership. Outside contractors hired by NYCHA may also default on the work to be done. In addition, there are always risks that an authority may have to vacate developments where conditions endanger residents.

Affordability

⊕ Affordable Rent Levels

Resident rents are set at 30 percent of adjusted household income. At annual recertification, NYCHA determines allowable deductions under Section 9 and adjusts household income accordingly.

? Possible Rent Increases

Pending implementation of the 2016 federal Housing Opportunity Through Modernization Act (HOTMA) could result in increased rents for higher income households.

Resident Rights and Protections

⊕ Good Cause for Eviction

A household cannot be evicted without “good cause” under HUD regulations and the NYCHA lease. Lease renewals are automatic unless there are valid grounds for termination, such as rent arrears.

+ The Right to Organize

HUD 964 regulations⁹ establish the right to organize resident associations and the funds available to support them. They require the housing authority to recognize duly-elected resident associations and consult them on pending policy decisions that will affect them. The regulations also spell out the conditions under which residents can form Resident Management Corporations to oversee property management.

+ Succession Rights

Under the NYCHA Management Manual, when the “tenant of record” dies or vacates a unit, remaining household members can file for succession—continuing rights of tenancy—provided they are already authorized on the NYCHA lease, have lived there for a year, can pass the criminal background check, and are current in rent payments.

? Right-Sizing: The Right to Stay

NYCHA efforts to move residents—many of them elderly—from “under-occupied” apartments to appropriately-sized units in their developments continue to be controversial, despite the need to find units for overcrowded households. How strongly NYCHA will enforce right-sizing in the future is an open question.

+ Transfer Rights

Residents can request a transfer to another apartment in any NYCHA development, provided they can justify the need. Opportunities depend on the availability of alternative apartments.

- Mobility Rights/Portable Vouchers

Under federal law, public housing residents cannot apply for Section 8 Housing Choice Vouchers that can be used in the open rental market.

- Contractor Selection

Residents have no role in selecting outside contractors. NYCHA must comply with cumbersome procurement regulations calling for competitive bidding at each stage of the project, with the award going to the lowest-cost, qualified bidder. That may be a reason for the poor quality of work on some contracts.

+ Section 3 Training and Job Opportunities

Since 1968, federal law requires that HUD funds be used to the maximum possible extent to provide training and job opportunities for residents.

+ Federal Monitoring

The federal monitor oversees conditions in all NYCHA-operated developments and tracks compliance with respect to several “pillar areas,” such as elevator repairs, heat and hot water, toxic mold, lead paint risks, and rodent infestation.

Security and Identity

+ Continuity

Many residents proudly identify themselves as public housing residents. Despite poor conditions and uncertainty about the future, they feel secure in their status under the Section 9 program. Any change that might threaten their status, alter their rights, or expose them to market forces is to be avoided. They view public housing as more secure than other alternatives, despite Washington’s tendency to favor the Section 8 programs.

? Risks of Displacement

Despite deteriorating conditions that have led to the threat of federal receivership and the recent appointment of a federal monitor, many residents feel their place in NYCHA housing is secure. Often overlooked is the possibility that their development may deteriorate to the point that it may have to be vacated for the safety of residents.

Option 2: Renovation and Conversion Under the RAD/PACT Program

The HUD Rental Assistance Demonstration Program (RAD) was enacted in 2011 during the Obama administration “to preserve and improve public housing.” The program makes it possible to raise the capital needed to restore a development, beyond the limited federal subsidies available. The major provisions for public housing were:

- **Selecting Developments:** Housing authorities would voluntarily nominate developments for the RAD program and compete for participation. (The original limit of 60,000 units nationwide has since been raised to 455,000.)
- **Financing Major Improvements:** RAD is “revenue-neutral” in that it provides no additional federal funding. Instead, current operating and capital subsidies for a development are packaged into a long-term rent assistance contract for up to a 20-year period. Coupled with resident rents, this long-term funding guarantee enables an “alternative owner” to attract outside financing—such as private borrowing, tax-exempt bonds, or Low Income Housing Tax Credits—that is prohibited to housing authorities. If tax credits are used, the owner must be a for-profit entity. In any case, the housing authority must “preserve its interest” in the property.
- **Affordability:** Rents are capped at 30 percent of household income—continuing the guarantee of affordability for residents. When the rent assistance contract expires, HUD is required to offer a contract renewal, and the owner is required to accept. This assures the development will remain affordable, low-income housing for the foreseeable future.
- **Rehabilitation Standards:** The scope of work to be carried out must meet the projected 20-year capital need for the development. The initial “scope of work” is determined by a qualified independent contractor chosen jointly by HUD and the authority. The resulting Physical Condition Assessment (PCA) must consider “immediate threats to health and safety” as well as “major maintenance and replacement items needed to maintain the project’s integrity over the next 20 years.” Completion of the work is expected within two years following RAD conversion.
- **Resident Rights and Protections:** Two resident consultations are required prior to the authority’s application to HUD. Current, authorized household members are guaranteed the right to stay without further rescreening, and the right to return to the same unit if temporary relocation is necessary. Lease provisions with the new ownership entity continue “good cause for eviction” protections. Residents are guaranteed the “right to organize.” Funding for resident associations continues as in public housing. The owner must recognize legitimate resident organizations—those with elected leadership and written by-laws that include procedures for fair elections. All capital construction work is subject to the HUD Section 3 requirement to maximize resident training and job opportunities. An unusual option is available to RAD residents: After a year in a converted development, residents may request a portable tenant-based voucher—a “choice mobility voucher”—that can be used in the open rental market. These requests will be given priority, but receiving one will depend on voucher availability.
- **Owner Default:** In the event of owner default or foreclosure, HUD must give priority to transferring the property to a capable public or non-profit entity, if not, then to a capable private entity.

The NYCHA Version: RAD/PACT

Like many HUD housing programs, RAD is a “tool” to be put to use at the local level. How well it works depends on how well it is used locally. The PACT Program (Permanent Affordability Commitment Together) is NYCHA’s version of the RAD program.¹⁰ The first RAD/PACT conversion was proposed in 2013 by the Bloomberg administration at Ocean Bay Apartments (Bayside), a 1,400-unit development in Far Rockaway. The official conversion occurred in late 2016. NYCHA’s RAD/PACT program includes the following general provisions:

- **Ownership Arrangements**

In what NYCHA terms a “public-private partnership,” the development is transferred under a long-term NYCHA lease to a new ownership entity. The entity is part of a “development team,”¹¹ which is selected through a competitive bidding process in response to a NYCHA Request for Expressions of Interest (RFEI).

The new owner is a private corporation established for the purpose of owning, managing, rehabilitating the development, and providing resident services, under a regulatory agreement with the authority.¹² NYCHA does not sell outright, it leases the property (for 99 years) while retaining ownership of the land and buildings. At the end of the lease, the development reverts to NYCHA.

After conversion, NYCHA maintains a presence as a limited partner in the ownership entity and as holder of the ground lease. It also continues to play key roles as Section 8 administrator: It conducts the annual income recertification process, determines household rents, and administers the rent

assistance vouchers. It also controls the waiting list and admission process. When a unit becomes vacant, NYCHA offers it to the next income-eligible household on its Section 8 waiting list.

- **Expanded Resident Rights and Protections**

In early 2016, prior to the Ocean Bay conversion, the RAD Roundtable on Resident Rights and Protections was formed with NYCHA’s cooperation, to prepare a set of “guideline principles” that clarified and expanded resident rights and protections beyond those already in federal law and regulations. The Roundtable included resident leaders, affordable housing organizations, housing advocates, community organizers, as well as key NYCHA staff. The guideline principles have been incorporated into all RAD/PACT regulatory agreements with the new owner. They are also included in a Resident Guide to the NYCHA RAD Program, released by the Roundtable.¹³

- **Financing Capital Improvements**

RAD/PACT owners can finance capital improvements with a mix of funding sources not available to NYCHA: conventional private loans, tax-exempt bonds, and, when available, federal Low Income Housing Tax Credits (LIHTC), Historic Tax Credits, and city or state capital investments.¹⁴ The developer and NYCHA share the standard developer fee—up to 15 percent of improvement costs—which adds to the authority’s capital fund. The resulting debt is backed by the 20-year RAD rent assistance contract and projected resident rents.¹⁵

Potential Advantages and Disadvantages

Under RAD/PACT Conversion

Resident leaders can and will, of course, voice their own views for or against RAD/PACT conversion. This section will lay out some of the potential positives and negatives for residents, as well as competing views.

Preservation: Financing Needed Capital Improvements

+ **Timing/Expediency**

At present, RAD is one of the few currently active federal programs geared to restoring decent conditions in public housing. Major new federal capital commitments are unlikely. The newly created Preservation Trust will take time to become operational. For instance, timing was an important factor in the community-generated plan of the Chelsea NYCHA Working Group, which chose RAD/PACT as its preservation strategy. Renovations can happen relatively quickly, usually within a two- to three-year period.

+ **Scope of Improvements**

Federal RAD regulations set clear standards for the scope of work to be carried out. They require that the scope addresses the development's 20-year capital need, as determined by the HUD-NYCHA Physical Condition Assessment. Residents can also influence the scope of work in their negotiations with NYCHA and the new owner.

? **Meeting Needed Capital Improvements?**

Although improvements must meet the 20-year capital need, some resident leaders claim RAD/PACT renovations are “cosmetic,” that some major improvements are overlooked. For instance, in an aging building, ideally the entire plumbing system may need to be replaced, requiring costly “gut rehab” and temporary relocation of residents. But the RAD scope of work may only address immediate plumbing problems and other urgent needs.

+ **Reliability of Funding**

RAD commitments for rent subsidies extend over a 20-year period. At the end of each such period, HUD is required to offer a contract renewal for the next 20 years and the owner is required to accept. This is virtually a guarantee of ongoing funding and retention of the development as a low-income affordable housing resource.

? **Risks of Default**

Capital for renovations can come from several sources: an owner's equity investment, conventional loans, and, if made available, tax-exempt bonds, government tax credits and, when appropriate, Section 8 Vouchers. Default could occur if the new owner fails to carry out the contracted scope of work or comply with the NYCHA agreement. This should have no effect on the RAD rent assistance stream. Under federal law, the development would be transferred to an alternative (non-housing authority) owner, preferably a non-profit entity. The NYCHA ground lease guarantees that any succeeding owner must maintain it as federally assisted, low-income housing. Resident rights and protections under RAD/PACT would be sustained. Additional capital may be needed to recover from the default, for instance, if a contractor's work needs to be redone. How that gap would be filled is unclear.

Affordability

+ **Affordable Rent Levels**

Rents are capped at 30 percent of adjusted household income. Annual NYCHA recertification will take into account allowable deductions under project-based Section 8 to make adjustments to income. Concerned residents should check with NYCHA about how their individual rents may be affected.

- **Possible Rent Increases**

If a household has been paying less than 30 percent, conversion may increase rent, depending on allowable deductions under project-based Section 8. Recent NYCHA requests for a HUD

exemption to limit out-of-pocket rents for higher income households to the Section 8 “contract rent” have not yet been resolved.

Resident Rights and Protections

+ Good Cause for Eviction

Residents continue to have “good cause for eviction” rights. Owners cannot evict them arbitrarily at the end of the lease.

+ The Right to Organize

RAD-converted developments are no longer governed by HUD 964 Tenant Participation regulations. But the law and regulations guarantee residents the right to organize. Owners must recognize a duly elected resident association. The association will receive the same funding as it did under Section 9. But these rights are not as extensive as the 964 regulations. For instance, there is no provision for the formation of Resident Management Corporations. The RAD regulations were also augmented by a set of “guiding principles” adopted by NYCHA as part of any RAD/PACT agreement.

+ The Right to Stay

All authorized household members at conversion are guaranteed the “right to stay” without any further rescreening. An application to add unauthorized members to the lease should be filed with NYCHA prior to conversion. NYCHA has also instituted a pilot program to create a pathway for eligible, unauthorized occupants to be authorized after conversion.

+ The Right to Return to the Same Apartment

Households that must be temporarily relocated to carry out repairs are guaranteed the “right to return” to the same apartment. Wherever possible, temporary relocation will be to vacant apartments within the development. Relocation costs are reimbursed. Residents in under-occupied apartments are guaranteed the right to return to them.

? Right-Sizing

Residents will have the right to return to their apartments, even if they are under-occupied. “Right-sizing” rules will be enforced only as appropriate apartments become available in the converted development.

? Succession Rights

Succession rights shift to those in the regulations governing project-based Section 8. Household members with “permanent permission” can succeed to the subsidy. A head of household can add an eligible adult family member to the household temporarily, who would receive permanent permission after a year. It is important to try to add an eligible unauthorized member to the NYCHA lease prior to conversion. Residents with specific concerns or questions should seek answers from NYCHA.

- Transfer Rights

Residents in converted developments can apply for a transfer, but the transfers are limited to apartments in the same development.

+ The Right to Mobility Vouchers

Residents who have lived in a RAD-converted development for a year can request a Section 8 Choice Mobility Voucher that can be used in the open rental market. These requests are to be given priority over requests from other residents for portable, tenant-based vouchers. However, obtaining a mobility voucher will depend on voucher availability.

+ The Right to Participate in Selection of Developers and Contractors

Once NYCHA compiles a list of competing developers/contractors interested in taking on the conversion project, residents will play a role in selecting the winning bidder. (The right was first established by the Chelsea NYCHA Working Group and written into the state law creating the Trust.)

+ Section 3 Training and Job Opportunities

PACT/RAD guidelines extend Section 3 opportunities to include the permanent jobs that come with private management, as well as opportunities in time-limited capital projects.

- Federal Monitoring Oversight

Since developments converted under RAD/PACT are no longer managed by NYCHA, they do not fall within the purview of the federal monitor. As a result, the monitor will not oversee conditions and improvements in the development.

+ Code Enforcement

Section 8 apartments must be inspected periodically to assure compliance with federal housing quality standards. In addition, converted developments will have the benefit of local code enforcement: Residents can register complaints with the 311 Citizen Action Center and expect possible follow-up inspections by HPD. Apartment violations will be listed in the public databases maintained by HPD and DOB. There will be more transparency and accountability for adverse conditions than there was under NYCHA.

Security and Identity

? Change Rather than Continuity

RAD/PACT conversion represents a change that can be confusing and disorienting for residents. It can raise already-held suspicions about NYCHA plans, living conditions, and potential displacement. The prospect of a private landlord taking over the development heightens resident fears about their security and can intensify these concerns.

- Objections to Privatization

Some residents would prefer to tolerate worsening conditions rather than see public housing fall into private hands under the RAD/PACT program. Their attachment is to the ideal of government-provided

public housing. Although NYCHA refers to these conversions as “public-private partnerships,” they are often viewed as a form of privatization. The notion of privatization raises the specter of the greedy, negligent landlord. As some residents put it: “They want us out,” depicting an image of unscrupulous landlords eager to hike rents and evict poorer tenants in favor of higher-income ones.

? Resident Identity:

Once RAD conversion takes place, the development is no longer Section 9 public housing. Whether it will be able to continue to participate in the District Council and be represented by the Citywide Council of Presidents (CCOP) is an open question now under discussion between NYCHA and CCOP.

+ Risk of Gentrification or Displacement

Many residents fear that private ownership will inevitably lead to gentrification and displacement pressures. Under RAD and PACT provisions, that is not likely. Required contract renewals every 20 years mean that the development will remain an affordable, low-income housing resource. Vacancies are filled by NYCHA from the Section 8 waiting list of income-eligible households. An owner cannot bring in higher income households or arbitrarily increase rents.

? Eviction Risks

Media reports suggest that eviction rates increase after RAD/PACT conversion. At present, there are too few cases and insufficient data to support the assertion. Where evictions have increased, they appear to be largely due to the continued presence of unauthorized residents after conversion. NYCHA has instituted a pilot program to create a pathway, where possible, for those residents to be authorized after conversion. It has also adopted procedures for RAD/PACT owners to follow to help avoid eviction. As further data becomes available, it will be possible to determine whether conversion increases eviction risks.¹⁶

Option 3: Renovation and Conversion Through the Preservation Trust

In summer 2020, during the last months of the Trump administration, NYCHA released “A Blueprint for Change” calling for the state to create a public-benefit corporation—the NYC Public Housing Preservation Trust—to take over distressed developments and see to their restoration. The proposal proved to be controversial among some resident leaders who viewed it as a threat to current resident rights (under Section 9) and another form of privatization.¹⁷ After a series of briefings and negotiations with resident leaders, NYCHA amended the proposed legislation and the Trust was signed into law in June 2022. Its major features:

- NYCHA would transfer the development to the Trust (as “alternative owner”) under a long-term, 99-year lease.
- The Trust would carry out needed repairs, making use of the existing HUD Section 18 Disposition Program.
- As the “alternative owner” under Section 18, the Trust could tap a richer stream of federal rent assistance—through Section 8 Tenant Protection Vouchers (TPVs)—to help finance renovations.
- TPVs would provide \$1,900 monthly for a typical NYCHA unit, compared to \$1,250 under Section 9 and RAD/PACT. Since TPVs are based on HUD Fair Market Rent levels (FMRs), they increase annually with market rents.
- Capital improvements would be largely funded by bonds issued by the Trust, with the debt backed by the guaranteed stream of TPVs.
- The state law detailed the resident rights and protections to be provided under the Trust. The intent was to retain all rights and protections already provided under Section 9.
- State law limited the Trust to 25,000 units over the next five years. If extended, the Trust model could, depending on the availability of TPVs, potentially address the full \$40+ billion NYCHA capital backlog.
- NYCHA would continue to be responsible for property management at all Trust-converted developments.
- The law enables the Trust to modernize NYCHA contracting procedures, using, for example, “design-build” and Construction Management approaches, which could result in a higher quality of work, and greater efficiency at lower cost.¹⁸
- The Trust would have its own governing board that would include key NYCHA leadership, local and state officials, as well as resident leaders. NYCHA would have a major presence on the board.
- Perhaps most importantly, the amended law included an unprecedented resident “opt-in” provision that empowered residents to decide on the future of their development: whether to remain Section 9, or convert and renovate under either the Trust or the RAD/PACT program. In the past, residents had no veto power over NYCHA plans. The Trust law charged NYCHA with proposing rules for a systematic resident voting process at each development under consideration.

Potential Advantages and Disadvantages **Under the Preservation Trust**

Preservation: Financing Needed Capital Improvements

+ **Increased Funding for Needed Capital Improvements**

Increased funding for capital repairs comes from TPVs provided under the Section 18 Disposition Program, a richer, steady stream of rent assistance that is based on HUD Fair Market Rents (FMRs) that are annually adjusted with respect to rental market trends. The guaranteed rent stream would serve as backing for bond debt undertaken by the Trust, enabling it to raise the needed capital. The enriched funding makes it possible to reach the most distressed developments.

? **Timing/Expediency**

It will take time for the Trust to become fully operational. (In comparison, RAD/PACT is already active, handling a pipeline of developments.) At present, NYCHA envisions engaging residents at several developments in early 2023 to initiate the voting process.

? **Scope of Improvements**

The objective of the Trust is to “stabilize” NYCHA developments, to restore decent conditions. But the Trust law did not specify the scope of work to be carried out or set a standard for rehabilitation (such as the 20-year capital need standard in RAD). Residents will need to have an understanding of the capital improvements to be carried out by the Trust before they can make an informed choice among the options.

? **Reliability of Funding**

TPVs have been used to preserve federally assisted housing since the 1980s, with no threat to their continuance. But they are a separate line item in the federal budget and are subject to annual changes. In recent years, HUD had an unused surplus of TPVs. And it has lent its support

to the creation of the Trust. But, in the future, an increased appropriation for TPVs may be necessary to meet NYCHA’s capital needs. In that case, advocacy will be needed to press Washington for increased TPV appropriations.

? **Risks of Default**

This has been a major source of resident opposition to the Trust. Opponents view bonded debt—private investment in publicly-issued bonds—as a form of privatization, one that carries risks of default and foreclosure. In fact, locally issued bonds have financed Section 9 public housing construction since 1937. Bonding is a method commonly used by government to finance major public infrastructural projects over time—such as school construction and subway extensions—without exhausting capital reserves.¹⁹

Moreover, the Trust law prohibits using developments as collateral for financing arrangements. That means there is no threat of foreclosure on Trust properties. The law also requires that Trust-converted developments remain restricted for the use of low-income households and that resident protections remain in effect, even in the event of a default.

In the event of a default, TPVs will continue to back up the Trust’s bonded debt. If a contractor defaults in carrying out improvements, additional capital may be needed to make up for losses. In the Trust legislation, local and state government are not obligated to fill the resulting capital gap.

Affordability

+ **Affordable Rent Levels**

Rents are capped at 30 percent of adjusted household income. Annual NYCHA recertification will take into account allowable deductions under project-based Section 8 to make adjustments to income. Concerned residents should check with NYCHA how their individual rents may be affected.

⊖ Possible Rent Increases

If a household has been paying NYCHA less than 30 percent of its income, the conversion may increase rent to 30 percent, depending on allowable project-based Section 8 deductions.

Resident Rights and Protections

+ Maintaining Existing Rights Under Section 9 and HUD 964 Regulations

The Preservation Trust law details the rights and protections residents will enjoy after conversion. By and large, they mirror those already provided under Section 9, HUD 964 regulations, and RAD/PACT, such as good cause, the right to organize, the right to stay, and so on.

+ The Right to Stay

All authorized household members at conversion are guaranteed the “right to stay” without any further rescreening. An application to add unauthorized members to the lease should be filed with NYCHA prior to conversion. NYCHA has also instituted a pilot program to create a pathway for eligible, unauthorized occupants to be authorized after conversion.

+ The Right to Return to the Same Apartment

Households that must be temporarily relocated to carry out repairs are guaranteed the “right to return” to the same apartment. Wherever possible, temporary relocation will be to vacant apartments within the development. Relocation costs are reimbursed. Residents in under-occupied apartments are guaranteed the right to return to them.

? Right-Sizing

Residents will have the right to return to their apartments, even if they are under-occupied. “Right-sizing” rules will be enforced only as appropriate apartments become available in the converted development.

? Succession Rights

The Trust law specifies that succession to the lease is governed by Section 9 policies and succession to the subsidy is governed by Section 8. But the precise details of how this will affect succession rights is still under consideration by NYCHA. Under both Sections 8 and 9, household members with permanent permission will have succession rights if they are otherwise eligible.

? Transfer Rights

This is still under consideration by NYCHA. Presumably, transfer rights will extend, at the least, to all developments the Trust has leased, and possibly to all Section 9 NYCHA developments. Transfer requests will be less restricted than those under RAD/PACT, which extend only to the same development. More information is needed.

+ Resident Right to Participate in Developer/ Contractor Selection

As in RAD/PACT, residents will have a key role in selecting firms to carry out capital improvements.

? Right to Mobility/Portable Vouchers

Since residents in Trust-converted developments receive project-based Section 8 assistance, they have the right to request a “portable” tenant-based Section 8 voucher for use in the open rental market. But, unlike residents in a RAD/PACT conversion, such requests will not receive priority consideration. In any case, obtaining one depends on voucher availability.

⊖ Code Enforcement

Since NYCHA will manage Trust-converted developments, repair requests will continue to be made through the NYCHA Call Center, which also serves Section 9 residents. Access to 311 and HPD code enforcement will be limited, as it is currently.

+ Federal Monitoring

Since developments converted under the Trust will continue to be managed by NYCHA, the federal monitor will oversee the improvement of conditions.

Security and Identity

? Change Rather than Continuity

Conversion represents a major change and disorientation for residents, one that can raise already-held suspicions and fears about NYCHA plans, poor living conditions, and potential displacement. On the other hand, NYCHA will have a major presence in the board that governs the Trust and in property management of all converted developments.

+ Objections to Privatization—A Public Option

Some resident leaders view the Trust as a form of privatization because it involves private investment in bond financing. But that is the way public housing construction has always been financed and the way governments often finance major infrastructural projects.

In effect, the Trust represents a “public option.” It is an accountable public entity governed by a publicly-appointed board (NYCHA, city and state officials, as well as residents), which is publicly funded using Section 18 TPVs. In addition, NYCHA’s public workforce continues to be responsible for property management.

Although converted developments are no longer Section 9 public housing, the Trust is bound by the state law that created it and by federal regulations governing Section 18 Disposition. Developments converted under the Trust retain their public character.

? Resident Identity

Resident identity with public housing may be lessened when a Trust-converted development leaves the Section 9 harbor. But, the Trust is an alternative public model in which government takes full responsibility, with minimal reliance on the private sector. Presumably, Trust-converted developments will continue to be part of the larger NYCHA family and participate in the overall network of NYCHA resident associations, District Councils, and the Citywide Council of Presidents. This question is under consideration by NYCHA and CCOP and remains to be resolved.

+ Risk of Gentrification or Displacement

The Section 18 Disposition Program assures that the development will remain an affordable, low-income housing resource for the foreseeable future. Any vacancies will be filled by NYCHA with eligible low-income households on its waiting list. Contract rents will be set by annually adjusted HUD Fair Market Rents, depending on the size of the unit. All residents will continue to pay out-of-pocket rents that are affordable, at no greater than 30 percent of household income.

The Trust model allows a development to be restored to decent condition, without resorting to private ownership and management. Any potential threat of private, profit-oriented interests in the property is not present.

+ Eviction Risks

Under the Trust, eviction policies and procedures can be expected to remain the same as they are for NYCHA Section 9 public housing developments.

Side-by-Side Comparison of the Three Options

To make it easier to assess the options, this section presents a side-by-side comparison of the three choices, with respect to key differences and concerns.

	Section 9	RAD/PACT	Preservation Trust
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OWNERSHIP/MANAGEMENT

Ownership or Leasing Role	NYCHA	Private Corporation (99-year NYCHA Lease)	Preservation Trust (99-year NYCHA Lease)
Property Manager	NYCHA	Private Firm	NYCHA

AFFORDABILITY

Long-Term Affordability	+ Ongoing low-income housing resource		
Household Rent	+ 30 percent of income (after S9 deductions)	? 30 percent of income (after S8 deductions)*	
Rent Increase?	+ No change	- Possible increases (30% cap)	

CAPITAL REPAIRS

Timing/Expediency	? No change	+ In operation—2 to 3 years for repairs	? Starting operation in 2023
Scope of Improvements	- Depends on available capital subsidies	+ Must meet the 20-year capital need	? Rehab standards to be determined
Reliability of Funding	? Annual federal appropriations	+ Renewal every 20 years	+ Ongoing TPVs
Risks of Default	? No change	? Owner/contractor defaults	? Contractor defaults

RESIDENT RIGHTS AND PROTECTIONS

Good Cause Eviction	+ Yes		
Right to Organize & Funding of Resident Associations	+ Yes		
Resident Role in Developer/Contractor Selection	- None	+ Yes	
Transfer Rights	+ To all S9 developments	- Only to same development	? (To be determined)
Succession Rights	+ No change	? Yes *	
Right to Stay Without Rescreening	(not applicable)	+ Yes	

**Suggest residents check for differences between Sections 8 and 9*

	Section 9	RAD/PACT	Preservation Trust
Right to Return to Same Apartment	(not applicable)	+ Yes	
Right-Sizing	- Yes (if unit available)		
Right to Mobility/Portable Vouchers	- None	+ Yes (priority)	? Yes (no priority)
Section 3 Job and Training Opportunities	+ Yes	+ Yes (including permanent jobs)	+ Yes
Federal Monitor Oversight?	+ Yes	- No	+ Yes
Resident Management Opportunities (RMCs)	+ Yes	? (under NYCHA consideration)	+ Yes
Resident Access to 311 and HPD Code Enforcement	- None	+ Yes	- None

SECURITY/IDENTITY ISSUES

Continuity	+ Remain S9	? S8 conversion, private owner, manager	? S8 conversion, PT owner, NYCHA manager
Privatization	+ Remain S9	- Private owner, manager	+ PT owner, NYCHA manager
Gentrification/Displacement Risks	+ No change		
Eviction Risks	+ No change	? Possible increase	+ No change

**Suggest residents check for differences between Sections 8 and 9*



Exercising Choice: Issues and Recommendations

Now that residents can exercise choice in deciding on the future of their developments, they need to be fully informed about their options and maximally engaged in the election process. Resident associations will play a central role in helping make that happen. NYCHA can be expected to engage residents at each selected development, describe and compare the three options, and respond to questions and concerns. Residents should also have access to independent, reliable information and support from resource organizations that regularly provide technical and organizing assistance to NYCHA communities.

The Preservation Trust option remains a work in progress at this stage. Several steps need to be taken before it becomes fully operational, such as formal incorporation, rules and procedures for the voting process, determining the scope of work to be carried out, and clarification of succession and transfer rights. As for the other options, residents already have some understanding of what it means to remain Section 9 public housing. The RAD/PACT pipeline has been active since 2013 and is by now more fully, if not completely defined. Some residents may already be aware of conversions that have taken place or have heard about the program.

This section outlines a set of starting recommendations for making the choice process as fair and effective as possible. They reflect emerging issues and current questions that need to be considered. Revisions will need to be made as the options are fleshed out. In their engagements with NYCHA, residents should raise questions about their concerns and individual situations. In that sense, the recommendations offered below are preliminary and time sensitive.

How Should Developments be Selected?

Not all developments will be able to participate in the choice process in the coming years. RAD/PACT aims to convert 62,000 units by 2028. The Trust is limited to 25,000 units in five years by 2027. Developments already in the RAD/PACT pipeline will not be able to choose other options. But among the other developments, the question remains: which developments should be engaged in the choice process and in what order?

Two selection criteria suggest themselves. The first is based on capital need—those with the greatest need would come first. The second is based on resident initiative: Those developments that volunteer an

interest in the choice process would be given priority, in which case NYCHA would be working with a cooperative resident base. For developments with a clear interest in remaining Section 9, there may be less reason for NYCHA to engage them, unless the capital need is compelling.

Early on, NYCHA should let resident leaders know how developments will be selected. Resident leaders at each development should be given an opportunity to register their interest in participating in the choice process.

How Should the Choice Process be Structured?

Once a development is tapped by NYCHA for consideration, how should the choice process work? To set up the initial NYCHA resident engagement, describing the three options and the voting process, plans will be coordinated with the standing resident association. Where there is no association, NYCHA proposes that the Board of the District Council act as a resident steering committee.

During the initial NYCHA engagement, residents may have concerns about the information provided or unanswered questions. As a result, they should also have access to knowledgeable, independent resource organizations with experience in working with their communities. These organizations can provide reliable, neutral information, offer individual advice on specific issues, and assist in reaching out to and organizing residents to generate maximum participation in the voting process.

Residents will be given notice of the election date, information on how to cast their votes, and the like. The state law specifies at least a 30-day notice prior

to the vote. NYCHA has proposed that a qualified third party be selected to conduct the balloting, count the votes, and announce the results.

Comprehensive, Reliable Information: All Three Options

Once a development is selected for consideration, residents need to be informed about all three options. At present, a significant portion (39%) of grassroots residents don't feel they know enough to register a preference. Residents will need reliable, resident-friendly, multilingual information, both from NYCHA and from outside resource organizations about all three choices, how each of them works, and what the implications are for the community. The information needs to be even-handed, without bias toward certain choices. There are complex issues and trade-offs to be considered when the options are compared, both for the community as a whole and for individual residents. Individual questions and concerns will arise that need to be answered, by NYCHA and/or independent resource organizations.

The Voting Process

The voting process remains to be determined. State law specifies that all authorized residents at least 18 years old are eligible to vote. The rules governing the voting process remain to be decided. On October 14, 2022 NYCHA released the proposed rules for public comment by November 23. The rules become final on December 13th. Two major questions need to be resolved:

What constitutes a "quorum" for the resident vote to be considered valid? Under the state law, NYCHA

must set the minimum percent of “tenants of record” who must vote for the result to be considered valid.²⁰ (Tenants of record are the household members responsible for signing the NYCHA lease.) The concern is that a “significant” portion of voters cast their ballots. Turnout at resident association meetings tends to be low. Resident turnout for presidential and state/local elections are also lower in NYCHA than other communities. How large a turnout should be required to represent a collective resident choice? NYCHA has proposed a quorum of 10 percent.

Once the voting is completed, what constitutes a choice? Should the option receiving the most votes represent the resident preference? Or should a majority vote—over 50 percent—be required in favor of a single option? NYCHA has proposed that a plurality, the highest scoring option, should constitute a decision. In the case of a tie, there will be a run-off vote between the two top choices.

It is possible the balloting will produce no clear resident choice because too few votes were cast. Another vote, at a later time, after an extended engagement period, may be called for, depending on what NYCHA and resident leaders think is appropriate.

Uniform or Comparable Rehab Standards?

The state law does not specify the scope of work to be carried out at Trust-converted developments. Nor does it spell out a procedure for determining what renovations are required for the “stabilization” of conditions. Residents should know what they can expect by way of major improvements before they cast a vote. Under federal RAD law, all conversions must meet the 20-year capital need. There is a process

by which HUD and NYCHA obtain an independent Physical Condition Assessment (PCA) that lays out the initial scope of work.

The Trust must, at the least, set clear standards for the work to be done so that residents know in advance of the vote. Even better, since TPVs provide a richer rent stream than RAD, the Trust should consider adopting the RAD standards and procedures for determining the scope of work, or some comparable approach.

Consistent Resident Rights and Protections

Federal regulations governing Section 9 public housing, RAD, and Section 18 Disposition differ with respect to resident rights. Prime examples are succession rights, rent calculations, transfer rights, and access to portable, tenant-based vouchers. Ideally, residents should not have to sacrifice rights or protections because their development has gone through conversion. To its credit, the Trust legislation goes to great lengths to reflect existing rights and protections under Section 9. But there are still differences and unresolved questions.

NYCHA should attempt to develop a consistent package of rights and protections that cut across all three options. In the meantime, the materials it uses at resident engagements should make clear whether and how they differ. In addition, the guiding principles developed by the RAD Roundtable on Resident Rights and Protections need to be reviewed and updated in light of recent experience with RAD/PACT conversions.

Ongoing Resident Engagement in the Conversion Process

If conversion is the option residents choose, that is only the beginning of resident involvement in the process. Residents will have the right to register their preference for competing developers and contractors. Once selected, residents will have opportunities to negotiate with them concerning the scope of work to be carried out and what priorities should be given to a range of capital needs. Residents should also play a central role in the oversight and assessment of how capital projects are being carried out and how well NYCHA or private management are performing.

Maintaining the Structure of NYCHA Resident Organization

As conversions take place, there is a risk that resident associations will be divided into separate camps—those that remain Section 9, those converted under RAD/PACT, and those converted under the Trust. The Citywide Council of Presidents (CCOP) is the central entity that represents the full resident constituency. It consists of ten TA Presidents elected by their peers in each of ten geographic districts.

NYCHA should honor the principle of central representation, so that all developments—whether or not they have converted—continue to share concerns and common causes. While resident associations in Section 9 and Trust-converted developments continue to participate in the structure of resident organization, those in RAD/PACT-converted developments should be included as well, as a way to retain their identity as public housing and strengthen overall resident organization.

Strengthened Oversight of Conversions

As conversions proceed under RAD/PACT or the Trust, it is important that oversight mechanisms be in place to gather resident feedback and forward recommendations. Although the city and the state have oversight powers, usually exercised through hearings, ideally, there should be “watchdog” entities that concentrate attention on the issues emerging from ongoing conversions and deliberate on needed changes and recommendations for implementation. Resident leaders should be an integral part of the review and oversight process. In some respects, NYCHA follow-up now takes place, such as the recently issued guidelines for PACT partners to standardize eviction-related procedures to promote resident retention and stability.²¹

Free-standing oversight entities should be formalized, with some independence from NYCHA or the Trust. If they are, they should include representation from NYCHA, from resident leadership, and from the advocacy community.

The process for restoring NYCHA’s distressed public housing is only beginning. No doubt it will need course corrections as the process moves forward and gains experience.

Endnotes

- 1 *Strengthening New York City's Public Housing: Directions for Change*, Victor Bach & Tom Waters (Community Service Society, 2014).
- 2 *Public Housing That Worked*, Nicholas Dagen Bloom (Century, 2009).
- 3 See "NYCHA and the Pandemic: Impacts on Public Housing Residents," page 3, figure 1. (Community Service Society, May 2021).
- 4 *Disconnected: The Digital Divide and Disrupted Schooling in New York City*, Patrick Joseph (Community Service Society, September 2022).
- 5 The U.S. Census Bureau had to delay the 2020 HVS because of the national census and the pandemic. The 2021 data on apartment condition deficiencies have not yet been released.
- 6 The 2022 Unheard Third Survey included a randomly selected citywide sample of 293 respondents who reported they lived in public housing, upon which these findings are based.
- 7 New York City and State separately financed over 85,000 NYCHA units between 1940 and 1955, but they have now all been federalized under Section 9.
- 8 At Prospect Plaza in Brownsville, Brooklyn, where needed rehabilitation was more costly than replacement; at the Auverne development in Far Rockaway, where a special provision exempted NYCHA from required demolition; and at Markham Gardens, Staten Island, where several frame-constructed buildings needed to be replaced.
- 9 24 CFR Part 964-Tenant Participation and Tenant Opportunities in Public Housing.
- 10 PACT also calls for the conversion of 8 "unfunded" developments that were originally state- or city-financed, therefore not eligible for federal subsidies or for conversion under RAD. Those conversions make use of NYCHA's existing pool of Section 8 Housing Choice Vouchers, which are project-based.
- 11 The development team usually includes the designated developer, the management firm, as well as community service providers.
- 12 The ownership entity can be a limited liability corporation or a limited partnership.
- 13 *Resident Handbook: A Guide to NYCHA RAD Conversion*, March 2018. Available in English and Spanish at www.cssny.org.
- 14 In some cases, particularly former city- and state-financed developments (unfunded, non-federal units), project-based Section 8 Housing Vouchers have been used to fill the capital gap.
- 15 Ongoing conversions of former state- and city-financed developments—the "Unfunded Units"—do not qualify for RAD because they were not federally financed under Section 9.
- 16 *Stability in NYC Public Housing Conversions*, Enterprise Community Partners, November, 2022.
- 17 Resident organizations that mobilized against the Trust included Residents to Preserve Public Housing, Save Section 9, and Fight for NYCHA. See: "The NYCHA Blueprint: Bad Timing for a Good Idea?," Victor Bach (NY Daily News, January 13, 2021).
- 18 The "design-build" model enables the Trust to select a single contractor to carry out repairs from the initial design through the construction stages, while federal procurement would require competitive bidding at each stage. The Construction Management model would enable the Trust to select a single contractor to coordinate and oversee all subcontracts for capital projects. Both models assure greater coordination, efficiency, and quality at potentially lesser costs.
- 19 In that sense, bonding is similar to mortgage financing to purchase a home. It enables the homeowner to avoid huge initial capital outlays, that would deflect from other critical household needs, and pay off the debt gradually.
- 20 "Tenants of record" are the household members who sign the NYCHA lease. They are not to be confused with "eligible voters." A household is likely to have more eligible voters than tenants of record.
- 21 Housing Stability & Retention Guidelines for PACT Partners, NYCHA, October 16, 2020, updated June 3, 2022.



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