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Senate affordability hearing testimony  
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Privately owned, government-subsidized housing plays a vital role in the city's affordable housing stock. It houses hundreds of thousands of low- and middle-income people, and it helps preserve the city's income diversity and vitality by maintaining a supply of affordable housing that stays in place as neighborhoods change.

But as we all know, this stock is being lost very rapidly. From 120,000 apartments in the major subsidy programs 17 years ago, we are now down to about 90,000. And more than half of the 30,000 units lost were lost in the last four years. While threats to the affordability to big developments like Stuyvesant Town and Starrett City have grabbed headlines, as they should, we have been losing affordable Mitchell-Lama apartments a few dozen or a few hundred at a time, with more lost since 2001 than in Stuy Town, Peter Cooper Village, and Starrett City combined.

A year ago, Victor Bach and I published a policy brief on these losses, and to day I can tell you that the situation hasn't gotten better. In the last year, we've lost another 4,000 apartments – less than in 2005 but more than in any other year, and we still have thousands of units threatened with loss in the immediate future. The great majority of the losses continue to be Mitchell-Lama buildings where the owners are “buying out” in search of greater profits in the unsubsidized market

It is long past time for the state legislature to respond to this crisis with a comprehensive program to keep subsidized apartments, especially Mitchell-Lama, in their programs. To do this effectively will require both a carrot and a stick – incentives such as favorable financing for those landlords who keep their buildings as Mitchell-Lama and enforcement of provisions prevent buyouts or make the more difficult, perhaps the creation of new disincentives for buyouts.

The standard for the effectiveness of these programs should be to keep every Mitchell-Lama apartment as Mitchell-Lama. We need to get away from the idea that if you save 100 units while 900 are lost, that's a good outcome.

That said, we also need to protect the tenants in place when a buyout does occur, by extending rent stabilization to all Mitchell-Lama apartments in the even of a buyout and ensuring that the initial regulated rent is always the last Mitchell-Lama rent when that happens.

And I think we should also work on policies that would help steer subsidized buildings into the hands of nonprofit owners with a mission to provide affordable housing. This would help insulate the buildings from the effect of the housing market in the future. New York City's Tenant Protection Act, Local Law 79, provides one way of doing this through a right to purchase for tenants and their chosen partners. Unfortunately, the law suffered a legal setback this week, but I think we should pay heed to Judge Marilyn Shafer's opinion:

“Whether it be by creating a right of first refusal or by extending rent stabilization, the State Legislature may well have the ability to protect low and middle-income residents of Mitchell-Lama buildings, as it has done in the past. In failing to do so, or to permit the City of the New York to do so, the State Legislature has failed the residents of the City of New York. The recent sales and proposed sales of major assisted rental housing complexes in this City and the likely devastating impact of those sales on low and moderate income residents of New York may and should function as a wake-up call for the need for immediate action by the State.”

I would also like to comment briefly on the New York City Housing Development Corporation’s program to preserve Mitchell-Lama through refinancings. This is a very commendable program, and I hope that it will be the model for a state program. However, I think we have to look on the program’s limitations when it comes to preserving Mitchell-Lama rentals. It has been much more effective in preserving coops than rentals.

The program’s originally announced eligibility requirements made rental buildings with 16,130 apartments eligible, by my count. Of these, buildings with 3,502 units have been preserved – which is a good thing. But since 2004, 7,510 apartments have been bought out and lost from the eligible pool. As I indicated before, I do think that 7,500 units lost should be the headline news, rather than the 3,500 saved.

What this tells us is that the HDC program isn’t enough. It’s much better than nothing, but we need more – either more subsidy offered as an incentive, or a complementary regulatory approach to keeping buildings in, or probably both.