

TESTIMONY
On
“Strengthening New York’s Housing Preservation Programs”
PUBLIC FORUM
Convened By
State Senator Liz Krueger
April 27, 2007
250 Broadway, NYC Council Hearing Room 14th Floor

Good Afternoon. My name is Lee Chong and I am a co- chair of the Mitchell-Lama Residents Coalition and an advocate for affordable housing. I am also on the board of Tenants PAC.

In New York City, we see the occasional press coverage of a new ‘affordable’ housing development completed as part of the Mayor’s Ten – Year New Housing Marketplace Plan to create and preserve 165,000 units of affordable housing. This is great! This is grand! However is it enough? Most often it is not. We very rarely hear about the **PRESERVATION** of an affordable housing development although recently we are hearing a lot about the attempts to preserve Starrett City – a 5,881 unit Mitchell-Lama in Brooklyn as affordable housing. And the latest news is that the potential purchaser, Clipper Equities (who has been turned down twice, once by HUD and once by DHCR) has signed a tentative agreement with Abyssinian Baptist Church under which the two will jointly run Starrett City. And as printed in Crain’s they ‘ensure that the complex will remain in the Mitchell-Lama program.’ What insurances? What guarantees will these residents have that the current or new owners will remain in the Mitchell-Lama Program? Owners will argue they have a contract – an agreement – to remain in the program for 20 years and than pre-pay the mortgage and leave. The last Mitchell-Lama was built in 1978 and the majority of them were built between 1965 and 1976. Even when there are covenants there are no insurances that they will protect the tenants. This hasn’t happened for residents living at Cooper Gramercy, Middagh Street, Bruckner Towers or Eastwood. Mitchell-Lama developments which had a Board of Estimate Land Disposition Agreement, an Educational Construction Fund Agreement or an underlying land agreement with the State were still allowed to leave the program. And the owner of Tivoli Towers, in Brooklyn is challenging the Land Disposition Agreement in court.

As of now in New York City a total of **46,538 units have left the Mitchell-Lama Program** and **currently 8315 units are pending dissolution**. If things continue the way they have for the past eight years, there will be no large scale affordable housing left! And will the Mayor’s Housing Plan ever catch up with the ever increasing loss of affordable housing through Mitchell-Lama and project-based Section 8 dissolutions and rent destabilization of affordable units? The Mayor has said in his New Housing Marketplace initiative that “[a]ffordable housing is fundamental to our long-term economic prosperity.” I agree with that assessment and I believe also that it is cheaper to preserve affordable housing than to build new affordable housing.

So how do we preserve affordable housing?

I believe one of the stumbling blocks for all residents of Mitchell-Lama developments is the sporadic response they receive from their supervisory agency, be it city, state or federal. Each agency blames the other or directs the tenant and local official to the other agency. No one agency wants to take responsibility for maintaining these developments as habitable and affordable. It's the "Not My Problem" syndrome.

There are many ways but I will discuss three ways, I believe, that will change this institutional thinking and behavior.

One, is to have both houses of the State legislature pass the "May to Shall" Bill to amend the Private Housing Finance Law, Article II, Section 32 that defines the roles and responsibilities of the supervisory agencies of limited-profit housing companies. Because of the current language, the courts have ruled that this section gives the supervisory agency **discretionary not mandatory** duties of supervision. The language needs to be change to make it **mandatory** that the supervisory agency **shall** "remove any and all of the existing directors of the company "and **shall** "investigate..." and **shall**"intervene" and **shall** "take such steps in such action or proceeding as may be necessary to protect the public interest." This section gives the supervisory agency the greatest latitude to "opt out" of supervising the landlord, the management company, and the Board of Directors of Mitchell-Lama cooperatives. Currently, the State Assembly has a Bill – Number 6898 whose chief sponsor is State Assembly Member Jonathan Bing, the chair of the Assembly's Mitchell-Lama Sub-Committee. There will soon be a companion Bill in the State Senate. The Bill needs to pass both houses and be signed by the Governor. With this legislation supervisory agencies cannot allow owners to continue to abuse the system.

Two, have both the city and state housing agencies amend their Rules and Regulations so that sanctions are placed on owners and boards of directors that violate the rules and regulations. Currently, not only are there no sanctions there is no oversight of the remedy. If tenants have been paying their rents to insure they have decent, habitable and affordable housing and still give the owner enough income to want to remain in the Mitchell-Lama program for the more than 20 years that they have, why is it not feasible that owners are not held to the same standard and provide the tenants with decent and habitable housing? Why is it that owners can abuse the rules and regulations with impunity, yet tenants if they are late with their rent by one month, eviction proceedings are started? Landlords have said, they have a contract and a contract cannot be broken. Or so they say. Well, if the contract stipulates that apartments are to be maintained, and public areas are to be maintained, and that waiting lists are to be maintained, then it should follow that if the landlords do not adhere to their end of the contract then sanctions should be placed upon them by NOT allowing them to leave the Program. And the length of the sanction would depend on the severity of the abuse.

And finally give financial incentives to owners to remain in the Mitchell-Lama Program. Currently, HDC offers both a repair loan and a refinancing loan program for Mitchell-Lama developments. The caveat is that if they take the loans they are obligated to remain

in the Mitchell-Lama Program for 15 years. The downside to this program is that the majority of takers are Mitchell-Lama cooperatives whose shareholders believe in sustainable affordable housing. Very few rentals, I believe, actually none, have participated. Having said that, the New York State Housing Finance Agency should initiate a similar program for all other developments not eligible under HDC's regulations.

I believe these actions (legislative and administrative) and HFA's initiation of a comparable financing program might curtail buyouts from the Mitchell-Lama program and at the same time create a far safer and healthier environment for Mitchell-Lama residents and possibly preserve affordable housing for future generations.

Thank you.