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TESTIMONY OF THE LEGAL AID SOCIETY CONCERNING PRESERVING MITCHELL-LAMA HOUSING

New York State Senate
Standing Committee on Housing,
Construction & Community Development

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Founded in 1876, the Legal Aid Society's Civil Practice is the oldest and largest program in the nation providing direct legal services to the indigent. Our legal assistance is focused on enhancing family stability and security by resolving a full range of legal problems, including immigration, domestic violence, family law, and employment, in addition to housing, public benefits and health law matters. Through our housing and community development work, we also foster the development of community-based organizations, job creation, and neighborhood revitalization. Annually, the Society's Civil Practice provides free direct legal assistance in some 30,000 individual closed cases through a network of 10 neighborhood offices in all five boroughs and 17 specialized units and projects for under-served client groups. When it is the most efficient and cost-effective way to help our clients, we provide legal representation to groups of clients with common legal problems, including those referred by elected officials.

We welcome the opportunity to testify before the Senate Standing Committee on Housing, Construction & Community Development and appreciate the leadership of Ranking Member Liz Krueger.

Two years ago, the New York City Council enacted Local Law 79. This month, Justice Shafer invalidated the law but in doing so, she sent a message to the State Legislature. In the case, Real Estate Board of New York, Inc. v. City Council of the City of New York, Index Number 114439/2005, Justice Shafer found,

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.

The Need to Preserve Affordable Housing is Urgent

As part of Legal Aid's daily practice, we provide legal representation and advocacy on behalf of low-income tenants whose housing is at risk. Many of our clients are tenants live in project-based Section 8 developments or other buildings that receive federal or state subsidies. We also represent homeless families and individuals, who are in need of safe and affordable housing but who daily come up against the extreme scarcity of such housing in New York City. In all five boroughs, we represent people with physical disabilities who cannot find accessible housing that is also affordable. For poor and lower-income working families, it is a constant struggle to find and maintain safe and affordable housing.

Subsidized affordable housing is a crucial part of maintaining even the inadequate numbers of affordable housing units that now exist in New York City, and curbing the rise in the population of New Yorkers who are homeless. Senior citizens and individuals with disabilities comprise 40% of the tenant population living in project-based Section 8 developments. These apartments are in privately-owned buildings where eligible tenants pay 30% of their income in rent and a subsidy from HUD covers the rest of their rent. A similar rent scheme exists for housing under particular federal programs that provide subsidies at buildings reserved for elderly or disabled people and their families. The median household income for a family living in a Mitchell-Lama development is \$26,000 a year. These subsidized developments protect long-time residents and ensure the continued presence of affordable housing even as neighborhoods change and rents increase.

The federal and state subsidized housing programs are in crisis. There are not sufficient means to keep subsidized buildings affordable. All across the City, private owners of subsidized buildings are opting out of project-based subsidy programs or prepaying subsidized mortgages and selling their buildings to for-profit developers.

The State Must Act to Preserve Affordable Housing

It is against the backdrop of so many units potentially deregulating and leaving the affordable housing stock that we are here today, to urge the State Legislature to act to preserve the homes of so many New Yorkers.

The right of first refusal and opportunity to purchase for tenants or others who can keep deregulated housing affordable is an important step, and should become a state law. In New York City, we are fortunate to have a pool of responsible housing development groups who are committed to maintaining buildings as affordable housing for low- and moderate-income residents. Tenants or tenant-endorsed housing developers will have an enhanced opportunity to acquire buildings in which owners choose not to stay in an affordable housing program. Tenants or nonprofit housing developers should be allowed to purchase their buildings at or below market value when owners choose not to continue in an affordability program and sell their residential property.

New York State should declare a moratorium on all Mitchell Lama buyouts. This moratorium should last until such time as New York State has developed its preservation agenda and until such time as DHCR has issued a report that explains how the agency will enforce the State's preservation plan and how it will avoid its past mistakes and missteps, and until such time as the vacancy rate for affordable apartments is over 5%.

Lastly, the State Legislature should extend rent regulations to Mitchell-Lama and Section 8 projects built after 1973. Additionally, the Legislature should safeguard these projects from "unique or peculiar" increases that could raise their rents to market rate. The Senate should pass Senate bill 4250 extending rent regulations to post

1973 Mitchell Lama projects. Further, the Senate should introduce a bill similar to Assembly bill 352 and pass it, protecting pre 1973 Mitchell Lama projects from "unique or peculiar" increases.

Conclusion

Thank you for the opportunity to testify before the Senate Standing Committee on Housing, Construction & Community Development today. We hope that the Senate will do all that is within its power to address the serious threats to affordable, subsidized housing in New York State

Respectfully Submitted:

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