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NYSFAH TESTIMONY ON STRENGTHENING NEW YORK'S HOUSING PRESERVATION PROGRAMS

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Good afternoon Senator Krueger and members of the Senate Standing Committee on Housing, Construction and Community Development. My name is Curt Tucker and I am the Senior Legislative Representative for the New York State Association for Affordable Housing (NYSFAH). Since 1998, NYSFAH has represented the interests of the private sector in affordable housing and worked with government, non-profits and for-profit organizations throughout the affordable housing community. Our nearly 300 members are responsible for most of the affordable housing built with government subsidies in the city and state in recent years.

It is encouraging to see the attention being focused on preservation programs as evidenced by your hearing today. We also are pleased that Governor Spitzer has created a new, \$50 million preservation program to be administered by HFA. Our membership recommends that in developing this program, HFA consider dedicating a substantial portion of the \$50 million for Mitchell Lama preservation. We are also gratified by HFA's recent announcement that it will focus more of its resources on affordable housing.

NYSFAH has been a long time advocate for additional capital funds for the development of new affordable housing and we have called for the creation of a true Housing Trust Fund financed by the SONYMA mortgage insurance fund excess reserves. We also believe that, currently, preservation programs are not adequately funded. We would encourage the State to provide the funding that is necessary to fully utilize the preservation concept. The new \$50 million HFA program represents a significant step forward. However, we believe that additional funds dedicated specifically to preservation programs would be an important and efficient addition to the State's affordable housing activities.

Each preservation project will require a unique combination of actions to be successful. Nevertheless, there are some general principles that the NYSFAH membership supports and which we hope can be useful to you in your deliberations. Our suggestions fall into three broad categories: tax relief, gap financing and long term sustainability.

TAX RELIEF

To provide incentives to preserve affordable housing, we believe that if you can't afford to raise the bridge through additional subsidies and resources, you need to lower the water through reduced operating expenses. Not all preservation transactions can avail themselves of the various state and city tax advantages on the books today. Therefore, state and city laws need to have the incentives necessary to encourage affordable housing preservation. State and City tax laws need

to reflect the fact that to preserve affordable housing you can not tax the property the same as you would tax a market rate or rent stabilized project. We suggest that the laws be amended to reflect the following realities:

Affordable housing costs more to operate than conventional housing.

In calculating the income on which to base the assessed valuation of affordable housing properties, one must take into consideration the additional operational costs imposed by the requirements of the programs and the population served that are not required for market rate housing, including: (1) additional physical and regulatory inspections by the federal and city governments requiring a higher standard of safe, sanitary and decent housing and to make sure the designated population is being served; (2) social service requirements to address the special needs of certain populations; and (3) the additional administrative and paperwork requirements to comply with the regulatory requirements imposed by the federal and city governments.

Debt used to maintain the housing stock should be a deduction of net income on which the assessed valuation is based

Traditionally debt service is not an allowable deduction from net operating income in determining the assessed valuation. Since affordable project owners cannot look to increases in income to fund improvements, they must rely on debt to finance property improvements. Properties in need of preservation typically have high operating expenses and limited income available to service more debt. Owners should be provided incentives to refinance projects to make these needed physical improvements, add services or other upgrades by allowing that portion of debt service attributable to those items to be deductions against income on which assessment is based. This incentive is needed since not all project improvements will qualify for local tax exemption/abatement programs nor typically will those benefits provide a deep enough benefit. In addition, this program could provide additional incentive to owners who need to add debt to buy out their equity partner in exchange for a renewed extended use agreement ensuring that the project will remain affordable for an agreed upon term.

Assessed valuation should reflect the use of project as affordable housing

Two identical projects sitting side by side, one an affordable housing project with a regulated use restriction, the other a typical market rate project having the same net income (after taking into consideration items 1 & 2 above) should have different Assessed Valuations for tax purposes as the value is lower for the affordable housing project. Potential purchasers will recognize the reduced upward potential and limited dividends in the restricted affordable housing project as opposed to the market rate project. Section 581-a of the Real Property Tax Law is a State law that regulates how these properties must be assessed , but education and guidance is needed from the State to ensure that assessors understand the differences between affordable housing and market rate housing.

GAP FINANCING

Preservation transactions often require more funds than can be generated from debt alone or, in tax credit transactions, from debt and equity. As limited state funds are available for preservation, we believe that they should be used sparingly on a per unit basis to preserve as many units as is possible by filling the void between the amounts a project can raise from other sources and the amount necessary to complete the preservation transaction. The funds provided

should be provided as soft debt that carries a nominal interest rate of 1% which accrues for the life of the primary financing and which requires no annual payments.

LONG TERM SUSTAINABILITY

The State must review long-term operating issues to eliminate disincentives from owners who want to maintain projects as affordable housing. As underwriting estimates of income and expenses is an art and not a science, it is at best a projection, at a set period of time, of what project operations will look like in the future. Uncontrollable expenses such as property taxes, insurance rates and utility expenses often exceed any projection. Owners of affordable housing faced with fixed income and increasing expenses are forced to seek alternatives...usually by opting out of the programs they are in. Each of these issues is complicated and there are valid points of view on each side, but we would argue that a truism is that if owners of affordable housing are to maintain the housing stock over the long term, they will require relief from runaway property taxes, insurance and utility costs. We are especially concerned with the impact that the 11.5% increase proposed by the New York Water Board will have on the operating budgets of affordable housing projects.

The state and city have a roll in addressing these factors. Some possible solutions to consider are:

- Limiting property taxes for restricted projects as indicated above;
- Developing a reasonable utility allowance based on a “prudent consumer” standard that does not encourage wasteful usage at the expense of owner income;
- State sponsored reinsurance geared to assume some of the risk at reduced or no cost to the owner to reduce insurance premiums to the project.

We would also like to suggest several specific comments on programs. First, given the importance of preserving existing affordable units, the state must modernize the way that it oversees its existing portfolio of subsidized housing, including Mitchell Lama and Article 2 projects. The responsibility for managing these assets is spread across two agencies-DHCR and ESDC/UDC-and tracking systems still have not been computerized. This function should be updated and centralized in DHCR.

Second, regarding the ESDC/UDC portfolio, troubled properties, particularly upstate, often have large debt and arrearages that should be written off by ESDC. In our opinion, ESDC must be willing to accept reasonable (in some cases as little as \$1.00) purchase prices due to the condition of buildings.

And finally, since virtually all affordable housing projects – both preservation and new construction – depend on substantial private investment, we urge the Legislature to be cautious when it considers imposing new conditions on projects, once they are in operation. Developers and investors need to know that they can count on government as a partner that keeps its end of the deal.

Thank you again for the opportunity to testify here today.