

**Testimony by The Legal Aid Society, Legal Services for New York City, and
The City Wide Task Force on Housing before the Sub Committee on Public
Housing on The New York City Housing Authority's Administrative Hearing
Process and Judicial Proceedings on February 26, 2008**

Interest and Expertise of the Legal Aid Society and Legal Services for New York City

The Legal Aid Society is the oldest and largest providers of legal assistance to the poor in the United States. The Society's Civil Practice operates 14 neighborhood offices and city-wide units serving residents of all five boroughs of New York City, providing comprehensive legal assistance in housing, public assistance, and other civil areas of primary concern to the poor. The Society is counsel on numerous class-action cases concerning the rights of public housing residents and is counsel to the New York City Public Housing Resident Alliance. We work closely with the Community Service Society and Public Housing Residents of the Lower East Side on public housing issues. The New York City Public Housing Resident Alliance seeks to inform and network with residents, so that they can have a strong and effective voice and secure greater accountability in local, state and federal policy decisions that affect public housing in New York City.

Legal Services for New York City (LSNY) is the largest provider of free civil legal services in the country. The nineteen neighborhood offices of LSNY throughout the City represent thousands of low-income tenants annually in disputes involving tenants' rights to remain in their homes. Manhattan Legal Services is the LSNY neighborhood office serving low-income tenants in the borough of Manhattan.

For over 20 years, The City-Wide Task Force on Housing has been the first place New Yorkers turn to for help when facing a housing court problem. We provide personalized, expert help to people who cannot obtain legal representation when they are in housing court. We are the

only agency that solely focuses on housing court. Not only do we provide direct services in the courts we also have a hotline for people to call with questions, and address the various problems in the court that negatively affect the many people who go there without attorneys.

We appreciate the opportunity to testify before the Subcommittee on Public Housing. We have major concerns regarding the Housing Authority's Administrative Hearing Process and Judicial proceedings and some recommendations on how the rights of public housing tenants can be strengthened.

THE PROBLEMS:

Arbitrary Probation Periods/Refusal To Negotiate Stipulations: The majority of tenants in NYCHA's administrative proceedings are not represented by counsel, yet these tenants must negotiate with and at times litigate against NYCHA attorneys. Tenants often have limited income and are terrified of losing an affordable home so they enter into one-sided unduly harsh stipulations that many times have probationary periods that are abusive in nature. Tenants enter into long-term probationary stipulations and waive rights that they would not otherwise lose if they had proceeded with a hearing. Moreover tenants are usually placed on general probation even though the alleged offense is in one specific area. For example if a tenant harbors a pet without permission they are placed on general probation whereby if the tenant falls behind in paying rent during the probationary period they risk losing their home even though the original offense was for harboring an animal. NYCHA attorneys often refuse to negotiate the terms of a stipulation and will only use boilerplate language in the stipulation even if they are not relevant to the proceeding at hand.

Frivolous Nonpayment Proceedings: The Legal Aid Society has seen numerous cases where NYCHA tenants are sued in housing court for small amounts of money, many times only one month's rent. We have also seen many non-payment proceedings which are predicated on alleged rental arrears of paltry amounts such as \$20.00. In some boroughs when tenants do enter into agreements to pay the alleged arrears NYCHA attorneys insist on noting in the stipulation that they reserve their right to attorneys fees even though NYCHA does not have a right to attorneys fees. When tenants are adamant that they do not owe any rent and demand to know what these arrears are from they often learn that they are being sued for "miscellaneous" charges that are not even rent. These frivolous proceedings unduly harm tenants as every time they are brought to court in a housing proceeding, their name appears in a database that is commonly used by landlords to screen potential tenants. People whose names appear in this database are often blacklisted and have an extremely difficult time finding new housing. Moreover tenants are made to lose a day's pay sitting in housing court on frivolous cases and some who

Illegal Lockouts: Extremely troubling are a wave of incidents that the Legal Aid Society has seen where NYCHA is illegally evicting occupants. Without first going to court, NYCHA has summarily evicted housing occupants after the head of household has informed NYCHA that s/he is leaving an apartment. NYCHA employs officers to go to apartments to tell occupants that they must vacate an apartment, even though NYCHA does not have a court order to evict the occupants. NYCHA has also placed notices on the front doors of these applicants that resemble an actual marshal's notice further confusing the tenant making them believe that they are going to be evicted. What is especially alarming about this practice is that the New York County Civil Court in *Alvarado v. NYCHA* has already held that this procedure is improper. A copy of this decision is annexed hereto.

Unhabitable Apartments: Many tenants complain that they are often forced to withhold rent so that NYCHA management will pay attention to complaints made about hazardous conditions.

Failure to Negotiate/Resolve Issues at the Development Level: In testimony given before this very committee on January 23, 2008, NYCHA touted its outreach with tenants at the development level. Although NYCHA espouses a dedication to resolving disputes at the development level, what Legal Aid/Legal Services providers have seen is a pattern of NYCHA's refusal to do anything, other than send matters directly to 250 Broadway for commencement of a termination proceeding. Tenants are often told by staff at the development level that they do not have the authority to resolve matters, and that a proceeding must be commenced at 250 Broadway. For example tenants who are late with rent payments or are making partial rent payments may make these limited payments because of a change in household income. At times they are unable to get NYCHA employees to recalculate the tenants portion to reflect this change in income. Rather tenants are told by employees at the development level that they do not have discretion to settle matters and that the "file" has already being sent to 250 Broadway. Further instead of NYCHA employees attempting to mediate/diffuse minor issues at the development level, such as neighbor disputes where there is no allegation of violence, minor infractions are summarily transferred to 250 Broadway for termination proceedings where the tenants enter into long-term probationary stipulations so that they do not lose their homes.

Failure to accommodate: The failure of the Housing Authority to communicate with its own employees in different departments often causes tenants extreme hardship when trying to navigate the arduous administrative hearing process. Suggestions made by the Social Services Unit of NYCHA in order to resolve a matter are ignored by NYCHA staff at the development

level. Accordingly the matter is not resolved and termination proceeding is commenced at 250 Broadway.

Use of Abusive Notices: NYCHA staff use fabricated court notices to threaten and intimidate tenants. We have seen numerous occasions where NYCHA staff has made a fake marshal's notice indicating that a marshal will evict a tenant on short notice unless the rent was paid. These are especially egregious because the tenant has not yet been sued in court for the alleged arrears. A copy of NYCHA's fabricated marshal notice is annexed hereto.

Illustrative Examples:

Maulana R. Maulana lives in the Wagner Houses in Manhattan. She has lived in the apartment with her three children for more than a decade. Her elderly mother, Georgia Rae suffers from alzheimers. Georgia Rae lived in the Roosevelt houses in Brooklyn for more than thirty (30) years. While alone in her home in the Roosevelt houses, Georgia Rae fell down and broke her hip. After speaking with doctors it became clear that Georgia Rae could no longer live alone, and Maulana decided to have her mother move in with her. Maulana tendered her mothers' keys to the management at the Roosevelt houses, and filled out a request to have Georgia Rae added to Maulana's household composition. The housing assistant at the Wagner houses refused the request noting that a copy of the birth certificate and social security for Georgia Rae were not included in the application. Maulana explained to the housing assistant that her mother at 96 years old did not know where her birth records were, and Georgia Rae was not born in a hospital but in her childhood home by mid-wife in South Carolina. Maulana further informed the housing assistant that it would be extremely difficult to get copies of her mother's

birth records. Maulana requested that the housing assistant get copies of birth records and social security card from Georgia Rae's Roosevelt Houses file. The housing assistant refused this request, and sent Maulana's tenant file to 250 Broadway for a termination hearing alleging that Maulana was harboring an unauthorized occupant. The housing assistant did this even though Maulana informed housing that her elderly mother was moving into her home and included her mother's social security income in her recertification and was paying a higher rent because of this extra income in her home. It was not until The Legal Aid Society was retained that NYCHA agreed to simply request Georgia Rae's original tenant file for the missing documents. However, NYCHA attorneys still want Maulana to enter into a stipulation agreeing to be on probation for three years.

Lucille H. and Prudence S. Lucille and Prudence are two senior citizens who live in the LaGuardia Houses. The two are dear friends who have lived on the same floor for 23 and 27 years respectively. In 2007 Prudence became seriously ill and her friend Lucille moved into Prudence's apartment and cared for her full time for six months. During this six month period Lucille timely paid the rent in her own apartment and made sure that Prudence's rent and other bills were paid. When Prudence went to a nursing home, Lucille dutifully stayed in Prudence's apartment preparing it for her return. NYCHA, noting that Lucille was not staying in her apartment, refused to accept Lucille's rent, and then commenced a non-payment proceeding in housing court for the very rent they had initially refused. NYCHA then brought a termination proceeding against both seniors at 250 Broadway for breach of rules. The Legal Aid Society was retained for Lucille and counsel was able to request that both women receive a guardian. NYCHA social services also became involved in the proceeding, and all parties agreed that Lucille should go back to her apartment as it was unlikely that her friend would return from the

nursing home. As Lucille is confined to a wheelchair, counsel informed both NYCHA's counsel and NYCHA social services that Lucille would need assistance moving back to her home. NYCHA social services informed Lucille and her counsel that they do not provide those services, and that it was the tenant's responsibility to move on her own. Moreover the housing authority is insisting that Lucille enter into a stipulation agreeing to general probation for five (5) years.

Ms. X. Ms. X and her minor daughter has lived in the Soundview Houses in the Bronx for two years. She was transferred to this complex from a previous apartment because of hazardous conditions in her previous home. For the damages to Ms. X's home she was able to secure a judgment of \$4,273 against the housing authority. In August of 2007 NYCHA commenced a nonpayment proceeding in Bronx Housing Court for less than \$500.00. Ms. X had just left her job and was applying for public assistance. This change in income affected her ability to pay her full rent of \$243.00 each month. When Ms. X requested that her portion be recalculated to reflect her lost income she was told by her housing assistant that they could not change anything about her account as a proceeding had already been commenced against her. When Ms. X bought a copy of her judgment and presented it to the NYCHA attorneys she was told that it did not matter that she had a judgment, that she had to pay all the monies owed, and that her rent would not be changed until the court proceeding was resolved.

Shryle P. Ms. P is confined to a wheel chair and lives in the James Weldon Johnson Houses in Manhattan with her children. Ms. P had several serious conditions in her home and was transferred to a different apartment. In her new apartment she was unable to enter into her bedroom or the bedroom of her minor daughter because the doorway was not wide enough to accommodate her wheelchair. After several requests that she be transferred to another apartment

fell on deaf ears, Ms. P sought counsel. When counsel contacted the Johnson Houses to request either a reasonable accommodation so that Ms. P could wheel into her bedroom and that of her children the NYCHA employee remarked that if Ms. P was not so fat and did not need such a wide wheelchair that she could fit through the door, and that they could not keep moving her to different apartment just because she has not lost weight.

CITY WIDE TASK FORCE ON HOUSING

Good morning Council Members and thank you for the opportunity to speak to you today about termination of tenancy hearings at the New York City Housing Authority. My name is Louise Seeley and I am the executive director of the City-Wide Task Force on Housing Court.

When residents of housing authority buildings go to housing court, they often do not have attorneys. The housing authority litigation department generally sues residents for one of two reasons at housing court: for non-payment of rent (non-payment cases) and to get legal possession of an apartment (holdover cases). In non-payment proceedings, residents can and do raise legal defenses and then negotiate settlements to the mutual satisfaction of both parties. In holdover cases, however, residents have little recourse in housing court. That's because the decision to terminate the resident's tenancy has already been made – at an administrative hearing at the housing authority's headquarters at 250 Broadway. If the outcome of that hearing is to terminate a resident's tenancy, and the housing authority's board signs off on that decision (a formality), the housing authority simply files a case in housing court to get a legal judgment of possession and to obtain a warrant of eviction. Housing court judges do not hold new trials to decide any issues on these housing authority cases. They simply enter a judgment and issue a warrant. Residents can return to the judges to request more time to move, but eventually they will almost certainly have to leave.

City-Wide sees – numbers on NYCHA calls. WE know this stuff.

The hearing process is adversarial in nature. The resident, is often unaware of the law, what resources are available to help him/her, and how to best present her case. Whereas, the housing authority are represented by attorneys, who have the benefit of a law degree, advocacy skills honed by experience and a sophisticated understanding of how the system works. This imbalance is very problematic, fundamentally unfair and unjust. While residents can sometimes obtain an attorney for The Legal Aid Society or Legal Services to represent them, there are not enough attorneys available and many people go un-represented. There simply are not enough resources available to residents when they are facing the loss of their homes.

The distress people experience when faced with just the thought that they may lose their home deserves special mention. The loss of a home is correlated with many other serious social problems and affects a individual or a family profoundly. It's important to mention this because the stress people experience when they go to administrative hearings undoubtedly affects their ability to advocate for themselves. Tenants generally have three strikes against them before they even get up to bat: they do not have an attorney, they do not understand or know what the law says and they are scared and stressed out at the loss of their home. It is no wonder that many NYCHA tenants enter into settlements at 250 Broadway that are grossly unfair or biased against them.

As I said earlier, for over 20 years City-Wide has helped the un-represented at housing court. If there is one thing we are convinced of from our 20 years of experience it is this: Giving people accurate, practical and easy-to-understand information from an unbiased and independent perspective and referring them to other organizations that can help them are critically important

services. This kind of help makes a difference and effectively prevents evictions. People simply should not go it alone when faced with the loss of their homes; if they cannot find help, they should at least have access to practical information in plain language. They should know what they are getting into if they sign an agreement to settle an administrative hearing, what their options are and what the law says. The risks are simply too great and the costs to our city, in many different ways, are enormous.

In 2005, City Council passed a resolution calling on NYCHA to allow City-Wide to set up a table at 250 Broadway. Unfortunately, despite the glaring problems with the termination of tenancy process, housing authority has not acted on this resolution. We would be very happy to introduce our services to the housing authority in order to address the problems I've spoken of.

The Solution

In addition to the suggestions detailed in our written testimony on January 23, 2008, we also request that the Housing Authority adopt as policy the following recommendations for their proceedings in Civil Court:

(a) NYCHA attorneys should meet with housing assistants prior to commencing a nonpayment proceeding to ensure that the alleged arrears sought are in fact rental arrears and not legal fees from past proceedings or other miscellaneous fees which should not be part of a possessory action.

(b) Tenants who are behind in rent and have a monetary judgment against the Housing Authority for damage to their property, etc. should have the option of having any alleged rental arrears deducted from the monetary judgment instead of being taken to court.

(c) If NYCHA employees/attorneys have knowledge of or suspect that a tenant may not be mentally competent, they should immediately advise the presiding judge and request that the tenant be appointed a guardian.

(d) In their termination decisions, NYCHA should advise the tenants of the deadline for filing a 78 and the information for the offices for pro se litigants (individuals who are proceeding without counsel).

(e) NYCHA must bring holdover proceedings in housing court against occupants that they allege are not legal tenants, and not illegally lock out these occupants without obtaining a warrant of eviction from a Civil Court Judge.

Conclusion

Thank you again for the opportunity to testify before the Subcommittee on Public Housing.

Respectfully Submitted:

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(Publication page references are not available for this document.)

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New York Law Journal

Volume 236

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Friday, July 14, 2006

Decision of Interest

NEW YORK COUNTY CIVIL COURT

Court Rules Agency Must Follow Own Rules Before Evicting Tenant With Possible
Succession Rights

Judge Schneider

ALVARADO v. NEW YORK CITY HOUSING AUTHORITY, 73744/06---

For Plaintiff: Law Office of Steven De Castro

For Defendant: James Bayley

This is a summary proceeding brought pursuant to RPAPL Section 713(11) seeking an order restoring petitioner to possession of premises from which he was allegedly improperly removed. The proceeding was tried before me on June 9 and June 12, 2006. Both sides were represented by counsel. Petitioner testified on his own behalf at the trial. Respondent presented the testimony of three of its employees. Both sides submitted post-trial memoranda.

The premises at issue is an apartment in a public housing project operated the respondent New York City Housing Authority ('NYCHA'). Certain facts are not disputed. The last tenant of record for the subject apartment was Sonia Garcia. Ms. Garcia died after a long and severe illness on April 10, 2006. Petitioner Julius **Alvarado** is her son. Mr. **Alvarado** was added by **NYCHA** to Ms. Garcia's official household composition at his birth in 1982 and remained a part of the official household until February 8, 2006, barely two months before his mother's death. On May 26, 2006, Mr. **Alvarado** was forcibly removed from the apartment by officers of the New York City Police Department acting at **NYCHA's** request.

Beyond these undisputed facts, I make the following limited findings of fact based upon the credible testimony at the trial and on the documentary evidence presented. On April 19, 2006, petitioner Julius **Alvarado** and his grandmother, Udalina Roman, both visited the **NYCHA** management office to notify **NYCHA** that Sonia Garcia had died. At this visit, Mr. **Alvarado** notified the project manager, Clara Pabon, that he wanted to succeed to his mother's tenancy and asked what steps he had to take to do that. Ms. Pabon told him only that he had to bring in his moth-

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er's death certificate to verify her death.

Ms. Pabon took a different approach with Ms. Roman. She asked that Ms. Roman, who is the tenant of record of another apartment within the same public housing project managed by Ms. Pabon, to sign a document surrendering her daughter's apartment effective May 30, 2006. Ms. Roman complied. Ms. Pabon did not tell Mr. Alvarado about her interaction with Ms. Roman, nor did she tell Mr. Roman about her interaction with Mr. Alvarado. Nothing in the record indicates on what basis Ms. Pabon concluded that it was Ms. Roman and not Mr. Alvarado who had authority to decide whether to surrender the deceased tenant's apartment.

Mr. Alvarado returned to the management office a week later, on April 26, 2006, with his mother's death certificate. Again he asked what steps he should take to assert his claim to succession. This time Ms. Pabon told him that he could not keep the apartment and that if he stayed in the apartment he would be evicted. She did not mention the document his grandmother had signed.

On May 1, 2006, after consulting with a neighborhood housing advocacy organization, Mr. **Alvarado** returned to the management office with a letter asking that he be provided with the form for requesting a grievance to assert his rights as a remaining family member. The **NYCHA** receptionist placed a 'received' stamp on Mr. **Alvarado's** copy of the letter, but it does not appear that the letter was ever placed in the relevant **NYCHA** file.

On May 25, 2006, Ms. Roman returned her daughter's keys to the apartment to the management office. The next day, on May 26, 2006, Ms. Pabon requested that the local police precinct send two detectives to accompany her to the subject apartment while a maintenance employee changed the locks on the door. The police detectives knocked on the apartment door. Respondent Alvarado answered. His brother was also in the apartment. The police officers demanded that the two leave or be arrested. They also asked Mr. Alvarado for his keys. He turned them over to the police, and the two brothers departed.

In making these findings of fact I have rejected as incredible most of the testimony of Clara Pabon, **NYCHA's** project manager. I find it incredible, for example, that Ms. Pabon would seek the assistance of two police detectives to change the locks on an apartment for which she had a written surrender, for which the keys had been returned to her, and which she believed to be empty. I find, rather, that Ms. Pabon knew full well that petitioner **Alvarado** was living in the apartment and asserted a right to remain there. I note further that **NYCHA's** interview notes reveal that Ms. Pabon sought a written surrender of the apartment from Ms. Roman only after Mr. **Alvarado's** first visit to the management office, despite the fact that Ms. Roman had been in the management office earlier the same day. This makes sense only if Mr. **Alvarado** told Ms. Pabon at the time of his visit that he planned to try to keep his mother's apartment, and I do not credit Ms. Pabon's claim to the contrary.

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In making these factual findings, I do not reach many of the issues raised by the parties at trial. Most notably, I make no finding with respect to the hotly contested issue of whether or not the document allegedly signed and sworn to by Sonia Garcia requesting that Mr. Alvarado be removed from her family composition was actually signed or authorized by Ms. Garcia. I also make no finding with respect to whether or not the facts alleged in that document with respect to Mr. Alvarado's actual residence prior to his mother's death are true. I do find, however, based upon Mr. Alvarado's uncontested testimony, that he lived in the subject apartment at least from his mother's death on April 10, 2006 until his forcible removal by the police on May 26, 2006.

Respondent **NYCHA** asserts that it had an absolute right to remove Mr. **Alvarado** from the subject apartment without first bringing him to court in a summary proceeding. **NYCHA** argues first that Mr. **Alvarado** had no right to succeed to his mother's tenancy and no right to avail himself of the administrative procedure through which **NYCHA** occupants assert their claims to succession, the remaining family member grievance.

Curiously, however, the NYCHA Management Manual, quoted extensively in respondent's memoranda, does not support NYCHA's argument. Although the Management Manual provides that a person who moves in with a NYCHA tenant may not succeed to the tenancy unless he or she is officially approved by NYCHA to join the household, it also provides that when a family member is born into the family during the tenancy, he or she need only 'remain in continuous occupancy' until after the death of the tenant of record to be entitled to succeed to the tenancy. (Management Manual Chapter VII, Section IV(E)(1)(a)). Petitioner asserts that he did continuously occupy the apartment from his birth, and NYCHA relies not on evidence that he actually did not do so but rather on the fact that he was removed from its own records of the household composition by means of the disputed document discussed above.

Further, the Management Manual clearly states that 'any person who claims to be a remaining family member...but is denied a lease in public housing on the grounds that (s)he is not a remaining family member shall be entitled to a grievance hearing to review the denial if (s)he makes a showing to the District management to substantiate such claim.' (Management Manual Chapter VII, Section IV(E)(1)(b)(3))

It would seem, then, that petitioner had, at a minimum, the right to attempt to substantiate his claim to the District management of NYCHA. Even if he did not, however, the Management Manual clearly states that when an occupant does not have a right to a remaining family member grievance, 'the Project Manager shall prepare a written statement stating his/her finding(s) and commence or resume holdover license proceedings against them in the Housing Part of the Civil Court.' (Management Manual, Chapter VII, Section IV(E)(1)(b)(4)).

Here, NYCHA asserts that it was not bound by this provision of the Management

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Manual but rather was permitted to use self-help, relying on *Paulino v. Wright*, 210 AD 2d 171 (1st Dept. 1994). That case is inapposite, however. There, a group of 'homeless individuals' whom the Appellate Division found 'beyond dispute were illegal trespassers' took over a vacant building owned by the City of New York, illegally and dangerously connected utility lines, and asserted a right to remain. Here, by contrast, it is conceded that petitioner lived in the subject apartment for most if not all of his life as a legal part of his mother's household. Further, it is clear that under NYCHA's own procedures, he had a right at least to assert a right to succession if not, perhaps to succeed.

This case is closer to the facts in *Banks v. 508 Columbus Properties*, 8 Misc. 3d 135 (AT 1st Dept. 2005). In that case the court affirmed the reinstatement to possession of the spouse of a deceased rent stabilized tenant of record although the landlord who had locked him out asserted facts that would have deprived him of succession rights. The court specifically held that one need not be a record tenant to have a right to be brought to court before being evicted. Also relevant is *Dixon v. Grunberg*, 4 Misc. 3d 139 (AT 1st Dept. 2004). There the court held that even though the tenant of record had surrendered the apartment, the landlord had no right to use self help to remove her former husband, whom the landlord knew to be asserting a right to remain in the apartment. In both *Dixon* and *Banks*, the Appellate Term affirmed the restoration to possession of an occupant in a 713(10) proceeding without making any ruling on the occupant's ultimate right to succeed to the disputed tenancy.

Julius **Alvarado** similarly has at least a colorable claim to remain in possession of the subject apartment. He may or may not succeed with that claim, but it is clear, both under **NYCHA's** own Management Manual and under the relevant case law interpreting 713(11) that he has a right to have his claims heard in the appropriate forum before being removed from the subject apartment. Accordingly, it is hereby

ORDERED that petitioner be restored to the subject premises forthwith and that he be provided with keys to all locks necessary to enable him to freely enter and leave the premises.

The clerk is further directed to enter judgment of possession in favor of petitioner, with the warrant to issue and execute forthwith.

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END OF DOCUMENT

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SWINTON

12-7-01

THE MARSHAL IS COMING

HAVE YOU HAD A VISIT FROM THE CITY MARSHAL? IF NOT, HE WILL BE VISITING YOU SHORTLY.

YOU CURRENTLY OWE: \$ 1807.90

IN RENT AND CHARGES. IN ADDITION, IF YOU RECEIVE DOSS PAYMENTS, YOUR CASE MAY BE CLOSED.

IT IS YOUR RESPONSIBILITY TO CONTACT THE MANAGEMENT OFFICE IMMEDIATELY.

718 588 6009 x 210.

PAY TOTAL BALANCE TO AVOID AN EVICTION
AN APARTMENT IS A TERRIBLE THING TO **LOSE.** *Now!!*

MAKE THE HOME YOU HAVE THE PRIMARY FOCUS, NOT SECONDARY!

*Please Pay at
PAY O MATIC*

6-10C
FINAL NOTICE

\$ 4,459. —

FOR YOU AND YOUR FAMILY

**THE MARSHALL WILL BE AT YOUR DOOR
SOON!!!**

RENT IS PAST DUE!!!

SEE MS. JAMES IN THE OFFICE ASAP!!!

DON'T LET THIS HAPPEN TO YOU!!!



Public Testimony to the New York City Council
Public Housing Subcommittee Hearing
February 26, 2008
Natasha Missick, Program Coordinator
University Settlement Society of New York
184 Eldridge Street, NYC 10002
(212) 505-1995

I am here today to speak as a Program Coordinator for Project Home at University Settlement. Our program has historically provided eviction prevention services, and we also currently offer a Domestic Violence program called Rise To Action. So I have come prepared to discuss how NYCHA deals with two distinct, interwoven and vulnerable segments of our society. Namely, low-income tenants, domestic violence victims and tenants with mental health issues. In a nutshell, NYCHA policies discriminate against these populations by failing to recognize barriers to compliance with the regulations, and by aggressive enforcement of the codes above and beyond those required by NYCHA's own regulations.

As a domestic violence worker, I have seen that NYCHA's policies are discriminatory towards victims of intimate partner abuse, elder abuse, and the mentally ill. NYCHA policies assume that the tenant of record is in control of the finances, and upkeep of the apartment and property. Often with the clients I assist, this isn't the case.

Victims of both intimate partner abuse, and elder abuse are often being financially exploited, and cannot force the other inhabitants of the apartment (who may include abusive spouses, adult children, or other relatives) to comply with the recertification requirements, or any of the other numerous requirements for living in public housing.

While the documentation requirements have expanded, victims still currently need orders of protection, police reports, and/or hospital reports in order to request safety transfers to separate from their abusers. Otherwise, the victim has to take the abuser to court to have them removed from the lease, pay for the legal costs, and then return home with them until it's all resolved. Can you imagine how difficult this would be to carry out? Proof of income should be more inclusive and include testimony of personal witnesses or trusted not-for-profits.

As a result of this conflict, tenants who are suffering abuse, wind up at housing court for Non-Payment cases, because the households have budgeting issues or simply because they owe rent due to family emergencies or loss of employment.

Once at housing court, all tenants, whether victims of domestic violence, mentally ill or not, are greeted by the same cold, system. Tenants enter a large court room, where they wait to discuss their cases with often uninformed rude Housing Assistants (H.As), as they

sit on the benches. There is no room set aside for meetings, so intimate details of the clients' lives are discussed in public, sometimes near their neighbors.

The H.As often cover buildings which aren't their own, and are unable to fix the vast majority of case problems at court. Thus tenants are often told to adjourn for a future date, so they can meet at the Management Office. This is often burdensome, since low-income workers usually have less flexibility in their schedules, making it difficult to get multiple days off from work. It is also easily avoidable by simply scheduling such meetings first – before commencement of court proceedings.

Furthermore, the court date is usually a long one. The H.As circulate amongst groups of clients, slowly, and are often seen chatting with each other for prolonged periods of time. Some of the H.As and a couple of the attorneys are vengeful. So advocates or tenants who approach them to inquire about their cases are often placed last on the list.

When the H.As do approach, they shuffle through the file, and ask when clients can pay, or when they'll move out if this is the end result of a NYCHA Termination Hearing. Clients respond, and the H.As act as middle-people, leaving to speak to one of three attorneys. It is often doubtful as to how many of the relevant details ever reach the NYCHA Attorney. Yet this begins round two of the waiting game, as tenants are rarely allowed to simply negotiate on their own behalf.

When the H.As eventually return from the back office they present formulaic stipulations written by NYCHA attorneys, who never speak to the tenants, however, invariably ask for the stiffest penalties and never recognize a tenant's mitigating circumstances. (Therefore, what was the point of using the HA as messenger?) Once the stipulation is written the case can get put up for discussion in front of the Court Attorney. This is the first time that tenants new to the process would consult with a neutral party, however, at this point the deals have basically been struck, and quality negotiations from here on depend on variables such as the personality of the Court Attorney, the number of people waiting, and how close it is to lunch time or closing.

The above circumstances force tenants to sign agreements they might not otherwise sign. Tenants who are in distress (because of abusive home situations, mental illness, or simply because of childcare issues) are unable to withstand the pressures of waiting at court all day long. As a result, they often sign stipulations so they can leave.

At times, the discussion simply centers on whether or not the tenant understands what they signed. There are always stern recommendations to comply with what has been signed. There may or may not be suggestions as to items that could be added to protect the tenants' rights, or make the agreement easier for the tenant to comply with. There may or may not be questions about repairs.

We should also consider the quality of the cases heard at 111 Centre Street. We have had cases brought for \$50! We frequently have clients that end up at Housing Court due to

erroneously closed welfare cases or for less than one month's rent. This is an area where working with the Social Services Department at NYCHA, and outside agencies would be cost effective, and would help to accommodate the kinds of vulnerable tenants previously discussed. We often have clients at court for overcharges because there has been a change in income that was never re-calculated. This is because when residents submit documents at the Management Office, the staff routinely refuses to provide date stamps proving that the documents have been received. Later it's the tenant's word against NYCHA's when the documents turn up missing. I was just at an appointment with a client at Lillian Wald Houses, where I witnessed such a refusal. It was only reversed when I spoke to the Assistant Manager, who made the copy himself!

We should also consider that if a tenant is deemed to have hidden income NYCHA will go back as far as they have proof of the additional income when assessing arrears. The same does not hold true when clients have been unable to prove reporting loss of income. In that case, the agency can only re-calculate retroactively to the date the proof was submitted! As a result, residents turn in paperwork, and wait for notice of the change, are often rebuffed if they call to follow up, and are then told that there is no record of the documents having been submitted. Then they are forced to pay for these time periods because of the policy around reporting income.

I suggest that in the future NYCHA works more closely with its own Social Service Department, and with community based agencies to prevent dragging vulnerable tenants into court. NYCHA should hold off on bringing public assistance recipients to court, as these cases are usually restored as the result of Fair Hearings. Since public assistance recipients win over 85% of Fair Hearings, it's reasonable to await the outcomes before moving towards eviction. In addition, in cases where there has been a loss of income, NYCHA should wait until their own re-calculations are complete (or three months) before commencing court proceedings. It is only logical that if a tenant has a loss of income, but NYCHA takes three months to reduce the rent, the tenant will not be able to pay the higher rent amount. More often than not, once the new rent amount is determined, a credit is given and the tenant is not in arrears. Why spend valuable resources in Housing Court to simply await an administrative decision?

Furthermore, the policies around victims of abuse should allow for expanded types of documentation, which would help people to separate from abusers and prevent them from risking eviction because of other family member's actions. Lastly, the NYCHA staff should always provide proof of receipt when documents are submitted and NYCHA employees should treat the tenants with respect.

TRESPASS POLICY

PURPOSE

The purpose of this Policy is to promote the safety, security and well-being of all NYCHA residents, employees and other persons who have a legitimate purpose on NYCHA Property. Drug dealing unquestionably has a profoundly negative impact on public safety and the quality of life in NYCHA housing. No one should have to live in an environment infested with criminal drug activity. This Policy seeks to combat such drug dealing and drug-related crime, and thereby protect residents in the City's public housing, by denying access to persons arrested for felony drug sales.

Federal law provides for every public housing authority to maintain its housing developments in a safe condition. In addition, it requires every tenant thereof to assure that his or her guests do not engage in any drug-related criminal activity that threatens the health, safety or right to peaceful enjoyment of other tenants of the development. This Policy seeks to implement and accommodate these federal policies.

At the same time, this Policy recognizes that NYCHA residents have an interest in legitimate visitation. Accordingly, this Policy provides a mechanism by which a NYCHA resident can challenge the denial of access of a desired visitor and/or seek an exemption that would permit appropriate necessary visitation. Additionally, this Policy provides an opportunity for excluded persons to again be granted access to NYCHA Property if they do not continue to pose a threat to the public housing community.

Public housing should be a place where families can live and children can be raised without the physical and psychological threat that accompanies criminal drug activity. The goal of this Policy is to eliminate this threat by ensuring that drug dealers are not allowed access to public housing.

DEFINITIONS

- A. "Common Areas" means all areas on NYCHA Property to which all tenants are authorized to have access in connection with their tenancies (other than their own apartments), including laundry rooms, playgrounds, lawns, sidewalks, walkways, driveways and parking lots.
- B. "Trespass Notice" means an order to leave and not return to NYCHA Property that is issued in accordance with Section III and contains, in addition to any other information deemed appropriate by the Trespass Coordinator, the following:
 - 1. A notification that the Felony Drug Arrestee is excluded from NYCHA Property and will be subject to arrest for trespass if he or she returns to NYCHA Property; and

Drug Arrestee to visit such tenant's apartment consistent with this Policy.

- I. "Related Crime" means any felony or misdemeanor offense arising out of the same circumstances as the Felony Drug Offense.
- J. "Trespass Coordinator" means the person designated as such by the New York City Housing Authority or any person(s) designated by the Trespass Coordinator to act on his or her behalf.
- K. "Business Days" refer to all days excluding Saturdays, Sundays, and New York City Holidays.

EXCLUSION OF A FELONY DRUG ARRESTEE

- A. Following the arrest of a person over the age of sixteen (16) for a Felony Drug Offense on or after the effective date of this Policy, an authorized person will personally issue a Trespass Notice to such arrested person. Arresting officers (including, without limitation, New York City police and peace officers), NYCHA employees, and any other person authorized by NYCHA, are authorized to issue Trespass Notices on behalf of NYCHA.
- B. After the issuance of a Trespass Notice to a person pursuant to Section III.A., such person shall be immediately excluded from NYCHA Property as a Felony Drug Arrestee in accordance with this Policy. The Felony Drug Arrestee shall thereafter be subject to arrest for trespass for entering upon NYCHA Property in any manner.
- C. A Felony Drug Arrestee who is not a resident of NYCHA Property shall be excluded from all NYCHA Property until such time as he or she is again permitted access to such Property in accordance with Section III.E.
- D. A Felony Drug Arrestee who claims a NYCHA address as his or her residence may be entitled to a Residence Exception pursuant to Section IV.
- E. A Felony Drug Arrestee shall be excluded from NYCHA Property as provided in Section III.C. or III.D., as applicable, until:
 - 1. NYCHA determines that the Felony Drug Arrestee should not be subject to exclusion pursuant to Section V.;
 - 2. NYCHA grants an exemption from exclusion pursuant to Section VI; or
 - 3. NYCHA determines that the Felony Drug Arrestee should no longer be subject to exclusion pursuant to Section VII.

RESIDENCE EXCEPTION

- A. A Felony Drug Arrestee who is not subject to the terms of any previous Trespass Notice and who, at the time of receiving a Trespass Notice, claims a NYCHA address as his or her residence shall be entitled without further process to a Residence Exception, which allows

with any supporting documentary information.

- B. The Trespass Coordinator will review the information submitted pursuant to Section V.A. together with any documentary evidence provided in opposition to the Exclusion Challenge to determine whether there is information sufficient to support a reasonable belief that the Felony Drug Arrestee committed a Felony Drug Offense on or immediately adjacent to NYCHA Property.
- C. The Trespass Coordinator will issue a final written decision on the challenge, which will be mailed to the address(es) provided on the Exclusion Challenge Application, within ten (10) business days after the Trespass Coordinator receives a completed application.
- D. If the Trespass Coordinator determines that the exclusion is not warranted, the Felony Drug Arrestee will no longer be excluded from NYCHA Property as of the date set forth in the written decision.
- E. If the Trespass Coordinator determines that the exclusion is warranted, the Felony Drug Arrestee shall continue to be excluded from NYCHA Property in accordance with Section III.C. or III.D, as applicable, and shall continue to be subject to arrest for trespass for entering upon NYCHA Property in any manner inconsistent with such Section.
- F. A Felony Drug Arrestee, or Interested Tenant acting jointly with a Felony Drug Arrestee, may again challenge exclusion pursuant to this section only if there are materially changed circumstances that provide new grounds for a challenge.

EXEMPTION FOR SPECIAL ACCESS

- A. An Exemption for Special Access may be requested by completing, signing and submitting to the Trespass Coordinator (in person or by mail) an Exemption Application together with any supporting documentary information. Absent special circumstances, such as a judicial visitation order, an application for an Exemption for Special Access must be made jointly by a Felony Drug Arrestee and an Interested Tenant. The Interested Tenant's signature must be notarized and the Interested Tenant must list any other excluded individuals who have been granted Exemptions for Special Access to that Tenant or any member of the Tenant's household.
- B. The Trespass Coordinator will review the information submitted pursuant to Section VI.A. together with any documentary evidence provided in opposition to the exemption request to determine whether the exemption is warranted.
- C. An Exemption for Special Access will be granted upon proof of the following circumstances:
 - 1. The Felony Drug Arrestee is a caregiver for the Interested Tenant (or other individual residing with the Interested Tenant) who is infirm or disabled, and no reasonable alternative means of providing such care exist;
 - 2. The Felony Drug Arrestee is a caregiver for his or her minor child or grandchild, who resides on NYCHA Property with the Interested Tenant, and no reasonable alternative

that there will be a continuing need for the exemption; or

2. Deny the request, after which the applicant(s) may make a written application pursuant to Sections VI.A. through VI.F.
- H. In addition to being subject to all other terms and conditions set forth in the decision of the Trespass Coordinator or Impartial Hearing Officer (in the case of an appeal pursuant to Section VIII.), an Exemption for Special Access granted pursuant to this Section VI. shall continue in force for the length of time provided in the decision of the Trespass Coordinator or Impartial Hearing Officer, as the case may be, but in no case longer than one year. Prior to the expiration of the Exemption for Special Access, the Felony Drug Arrestee and the Interested Tenant may seek renewal of the exemption pursuant to the procedures set forth in this Section.
- I. A Felony Drug Arrestee and Interested Tenant may again request an Exemption for Special Access after the denial thereof only if there are materially changed circumstances that provide new grounds for an exemption.

EXCLUSION TERMINATION

- A. A Felony Drug Arrestee, or Interested Tenant acting jointly with a Felony Drug Arrestee, may at any time request termination of exclusion by completing, signing and submitting to the Trespass Coordinator (in person or by mail) an Exclusion Termination Application together with any supporting documentary information.
- B. The Trespass Coordinator will review the information submitted pursuant to Section VII.A. together with any documentary evidence provided in opposition to the request to determine whether the termination is warranted.
- C. Termination of exclusion will be granted upon proof of any of the following three (3) circumstances:
 1. The Felony Drug Offense and all Related Crimes (if any) have been dismissed and the Felony Drug Arrestee is no longer subject to prosecution for such offense(s). This also applies in circumstances in which the Felony Drug Offense and all Related Crimes are resolved in a conviction for one or more violations as defined by Penal Law § 10.00(3).
 2. The Felony Drug Arrestee has met each of the three (3) following requirements:
 - a. Has served his or her sentence for the Felony Drug Offense and all Related Crimes (including the completion of probation and/or parole and the satisfaction of any other conditions imposed by the sentence);
 - b. Has had no further convictions for any offense specified in Penal Law Articles 220 and 221 (currently and as shall be amended) for the following number of years following the completion of his/her sentence:
 - (1) For class A, B and C felony convictions, six years

- A. Upon written request, a Felony Drug Arrestee or Interested Tenant may appeal the denial of his or her request for Exemption for Special Access or Exclusion Termination. A hearing may be requested by completing, signing and submitting to the Trespass Coordinator an Appeal Application, which shall include a copy of the decision being appealed and a description of the facts and circumstances supporting the appeal.
- B. Grounds for the appeal shall be limited to whether the request for Exemption for Special Access or Exclusion Termination should be permitted pursuant to the standards set forth in Sections VI.C. or VII.C, as applicable.
- C. The Appeal Application must be received by the Trespass Coordinator within twenty (20) business days after the date that the original decision was mailed.
- D. The Trespass Coordinator will schedule an informal hearing, which will be held within fifteen (15) business days of the date the Trespass Coordinator receives the Appeal Application.
- E. The informal hearing will be held before a hearing officer who is a NYCHA employee. The Felony Drug Arrestee or Interested Tenant may bring legal counsel and/or witnesses to the hearing. Testimony and documentary evidence may be presented by the appellant and the Trespass Coordinator. The hearing officer will determine whether the appellant is entitled to the relief requested in accordance with the standards set forth in this Policy.
- F. The hearing officer will issue a written decision, which will be mailed to the address(es) provided on the application, within ten (10) business days of the hearing.
- G. If neither the Felony Drug Arrestee nor the Interested Tenant appear for the hearing:
 - 1. The hearing officer will issue a decision based upon the information available to the hearing officer, including the decision of the Trespass Coordinator and the Appeal Application; and
 - 2. In the event of an adverse decision by the hearing officer, the Felony Drug Arrestee and Interested Tenant may obtain a new hearing only upon written request, within twenty (20) days of the mailing of the hearing officer's written decision, explaining the reason for the default and attaching supporting evidence of both the reason the hearing was missed and the reason the exclusion should be lifted or modified. Absent extraordinary circumstances, a hearing may be rescheduled after a default only once.

REVOCATION, MODIFICATION, OR RESCISSION OF TRESPASS COORDINATOR'S DECISION

- A. Notwithstanding any inconsistent provision in this Policy:
 - 1. A Residence Exception or an Exemption for Special Access may be revoked or modified at any time if the Trespass Coordinator determines that any of the circumstances warranting the exemption have materially changed; and

Residence Exception, a request for an Exemption for Special Access or a request for Exclusion Termination (including any appeals from denials thereof), such challenge or request may be made by anyone authorized in writing to act on behalf of such person(s). Such authorization must be notarized.

- E. The failure of the Trespass Coordinator or an impartial hearing officer to timely issue a written decision or comply with any other procedural requirement set forth in this Policy shall not constitute grounds for the granting of a Residence Exception, an Exclusion Challenge, Exemption for Special Access or Exclusion Termination, or for challenging a revocation, modification or rescission pursuant to Section IX.



NEW YORK CITY HOUSING AUTHORITY
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DOUGLAS APPLE
GENERAL MANAGER

April 18, 2007

Dear NYCHA Resident:

In January 2005, we informed you about a new Trespass Notice Program to combat drug dealing and drug related crime and make NYCHA developments safer. The Trespass Notice Program denies access to development grounds to persons arrested for felony drug sales on NYCHA property. This is to announce that starting May 1, 2007, NYCHA and the New York City Police Department (NYPD) will expand the Trespass Notice Program to the borough of the Bronx. We believe the Trespass Notice Program will protect the safety and security of all NYCHA residents, employees and other persons who have legitimate purpose on NYCHA property.

Under the Trespass Notice Program, if the person arrested for selling drugs on NYCHA property is a NYCHA resident, he or she will be allowed to return to his or her apartment and the common areas of that development until an eviction proceeding is completed. The Trespass Notice Program provides an opportunity to challenge the exclusion and includes an administrative mechanism for granting limited access to NYCHA property if the excluded person can justify the need for such access and does not pose a threat to residents.

Federal law provides for every public housing authority to maintain their housing developments in safe condition. It also requires each resident of public housing to ensure that his or her guests do not engage in any criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents.

Through the combined efforts of NYCHA, NYPD and residents, crime has dropped in NYCHA developments by 11.5 % since 2002. While there has been much success in reducing crime, more must be done to ensure that NYCHA developments are a place where families can live and children can be raised without the threat that accompanies drug activity.

We request your cooperation as the Trespass Notice Program is expanded to the Bronx and look forward to your continued support in making NYCHA developments a safer place to live. Visit NYCHA's website at www.nyc.gov/nycha to view a copy of the Trespass Policy to learn more about Mayor Michael R. Bloomberg's Operation Safe Housing initiative to fight crime in public housing.

Sincerely,

Douglas Apple

TESTIMONY BY NYCHA BOARD MEMBER MARGARITA LÓPEZ
HEARING - PART 2 ON NYCHA'S ADMINISTRATIVE HEARING PROCESS
SUBCOMMITTEE ON PUBLIC HOUSING
Tuesday, February 26, 2008 10:00 A.M.
CITY COUNCIL HEARING ROOM, 250 BROADWAY, 14TH FLOOR

Good morning Chairperson Mendez and members of the Committee. I am Margarita López, Board Member of the New York City Housing Authority (NYCHA). Joining me is NYCHA General Counsel Ricardo Morales. On January 23rd, 2008, we came before this subcommittee to testify about the Housing Authority's administrative hearing process. We return today at the request of the subcommittee to respond to additional questions.

Overview

As you know, public housing is a Federal program that provides housing for low and moderate income families. The New York City Housing Authority serves over 174,600 families and 408,000 residents.

The Housing Authority is currently facing a \$195 million deficit. NYCHA has lost a total of \$611 million in Federal aid since 2001. In 2008, the Federal subsidy that NYCHA receives will again be pro-rated, meaning that NYCHA will only receive an estimated 83 cents on the dollar, creating a deficit of approximately \$160 million. Every penny NYCHA does not receive, whether from government subsidy, or from rent, negatively impacts the day-to-day operations of the Housing Authority.

NYCHA has a responsibility and a duty to protect the families who reside in our developments, their guests, residents of the surrounding community, and our employees. It is in this context that the Housing Authority brings tenancy actions in instances of non-desirability for drug activity, weapons cases, chronic breach of resident rules and regulations, and other situations which present a danger to our tenants, employees, or property.

NYCHA also has a fiduciary responsibility to our government funders and ultimately to the public to ensure that the subsidies we receive to support the operations of public housing are properly administered. An important part of that fiscal equation is the responsibility that residents have to pay their rent. NYCHA brings tenancy actions for non-payment of rent, chronic rent delinquency, illegal subletting, misrepresentation, and non-verifiable income.

Let me say upfront that the NYCHA attorneys who handle these cases are governed by the Code of Professional Responsibility and are Officers of the Court. As such, they have an obligation to deal fairly with residents or their representatives, and have a duty of candor to the Administrative Hearing Officers. Our attorneys comply with these ethical obligations.

Administrative Hearing Process Overview

Having said that, as we previously testified, NYCHA follows an established administrative hearing process created pursuant to consent decrees in three Federal cases known as "Escalera" and "Tyson-Randolph." These cases resulted in policies, procedures and protections to ensure that tenants are given an opportunity to resolve an issue, if possible, before a tenancy action is brought, and if not resolved, to ensure that tenants are afforded full due process when NYCHA does bring a tenancy action.

The Housing Authority fully supports "Escalera" and "Tyson-Randolph," but it is important to note that we receive only an insignificant amount of funding to meet the obligations of this administrative hearing process, and must therefore divert funds from other sources to accomplish the goal they set out.

Termination of Tenancy Procedures

The protections and safety nets afforded to public housing residents are extensive and include: meetings with management staff, the right to be represented by counsel or another representative, social service referrals and evaluations, the appointment of a Guardian ad Litem (GAL) where indicated, and ample opportunity to remedy lease breaches and thus remain eligible for continued occupancy in public housing.

Significant components of NYCHA's Administrative Hearing process, for example GAL and social service referrals and evaluations, are unfunded mandates. Although these services are unfunded, they are nonetheless important and are provided to ensure that tenants receive full due process of law and are afforded every opportunity to preserve their homes.

In addition, the Administrative Hearing Office contacts NYCHA's Language Services Unit when tenants request an interpreter or need documents translated. The Language Services Unit manages NYCHA's Language Bank which comprises over 200 trained employee volunteers who collectively speak over 46 languages. Although, most requests are made for Spanish, Chinese and Russian interpreters or translations, the Language Services Unit will accommodate any language.

Types of Cases

In 2007, NYCHA processed approximately 12,000 administrative tenancy cases. The breakdown of the types of cases is as follows:

- 78% of these cases involved Chronic Rent Delinquency, NVI (failure to verify income), or breaches of NYCHA rules and regulations.
- 18% of these cases involved non-desirability cases stemming from criminal activity or other conduct which would endanger the health, safety, or welfare of other residents, their guests or NYCHA employees.
- 0.8% involved misrepresentation or concealed income.
- 4% involved Leased Housing/Section 8 and other administrative matters.

Of all of the cases brought by NYCHA in 2007, 47% were resolved by stipulation of probation with no other conditions. In 8.3% other cases, the tenancy was preserved subject to the exclusion of an individual involved in criminal or non-desirable conduct. Approximately 12% of the cases were withdrawn or discontinued by the Law Department. In .20% of the cases Hearing Officers found tenants to be eligible to remain in public housing after a hearing. Only 1.8% of all cases were terminated by a Hearing Officer after a hearing, although NYCHA still has to proceed in Housing Court to complete the process.

For approximately 27% of the cases, tenants defaulted by not appearing at a scheduled hearing to contest the charges. These tenants can make an application to the Hearing Office to reopen their default.

Hearing Dispositions

Once an administrative hearing case is concluded, the hearing officer issues a written decision. NYCHA's Board then reviews the Hearing Officer's findings and recommended disposition, and issues the final agency determination.

The NYCHA Board meets weekly and reviews all stipulations, defaults and hearing decisions in accordance with the guidelines set forth in NYCHA's Termination of Tenancy Procedures. In their review of a Hearing Officer's decision, the Board can only consider the record of the hearing, and such review is limited to whether the decision is contrary to the law, regulations, contracts, or procedures. Of the 12,000 administrative cases brought in 2007, on only nine occasions did the Board determine that a disposition different from that recommended by a Hearing Officer was appropriate.

Appellate courts repeatedly uphold NYCHA's administrative hearing determinations as consistent with Federal law and NYCHA's termination policies and procedures.

Housing Court Cases

In 2007, NYCHA attorneys filed approximately 62,000 Housing Court petitions. Of these cases, 1.2% resulted in eviction. Of these evictions, 71% were for non-payment of rent, and 23% were licensee/squatter actions. Only 5.6% of the evictions resulted from administrative cases.

Before a Tenancy Action is Brought

I have been asked to describe the role of the development manager in administrative proceedings. As was explained during the January hearing, well before a tenancy action is brought, numerous attempts are made to address the issues that can lead to a tenancy action. Housing Assistants review with prospective residents the rules and regulations provided in their lease, their responsibilities as a tenant, as well as NYCHA's obligations under the direction of development managers.

Each month, Housing Assistants are provided with lists of all residents who are delinquent in rent and make every attempt to remind residents that their rent is past due, including knocking on doors, making phone contact and sending reminder notices.

In some cases, rather than initiate administrative or legal proceedings, the development manager will put the resident on "office probation" and monitor their performance. They may also refer residents to NYCHA's Social Services Department, lending institutions or their Public Assistance case worker for assistance. It is only after all efforts are exhausted, that the development manager will initiate administrative or legal proceedings.

The manager initiates a case by reviewing the allegations of lease breaches or other prohibited behavior along with the tenant folder and rent record.

Once a decision is made to pursue a tenancy action, development management again meets with the resident to discuss the problem which may lead to a Termination of Tenancy proceeding, and tries to resolve the matter. If the problem is not resolved during that meeting, management sends the resident's file to the Tenancy Administrator in NYCHA's Applications and Tenancy Administration Department for review.

The importance of rent as a source of revenue for the Housing Authority can not be over-emphasized. The rent collected for any particular development is a key indicator of the overall operational efficiency of that development.

Development managers are held accountable for collecting rent, and are evaluated on rent collection on a monthly basis. Written procedures require managers to pursue all rent delinquencies and to initiate legal action when required.

NYCHA has an obligation to ensure that its tax dollars are being used appropriately, and each time a resident fails to pay rent, NYCHA must draw on its resources to pursue rent collection. Rent and tax dollars combined are needed to provide for sustainable public housing in New York City.

In addition, the federal government evaluates NYCHA on its ability to collect rent as part of the Public Housing Assessment System (PHAS). Poor rent collection means the housing authority could be classified as a low-performer. Such a classification could lower NYCHA's subsidy.

Pursuing a Tenancy Action

If the Tenancy Administrator agrees that a Termination of Tenancy may be warranted, NYCHA's Law Department then prepares and sends to the resident a Notice of Charges detailing the grounds for the termination proceeding, informs the resident that the hearing may result in eviction, and sets a hearing date.

The Administrative hearings are conducted by impartial Hearing Officers who preside over the proceedings. The Office of Impartial Hearings reports directly to the NYCHA Secretary.

Pursuant to the Termination of Tenancy Procedures, the Hearing Officers are impartial disinterested attorneys licensed to practice in the State of New York. Their duty is to ensure that there is no doubt that a tenant is afforded every due process right provided by the "Escalera" Federal court decree. The Hearing Officers are paid by NYCHA and would be disciplined in accordance with Section 75 of the Civil Service Law. There is no relationship between the Hearing Office and the Law Department other than the designated function of the Hearing Office in providing the impartial venue in which the NYCHA proceedings are brought. The Termination of Tenancy Procedures are adhered to conscientiously in order to ensure impartiality and the attorneys and representatives who appear for NYCHA observe and comply with all mandated procedures.

The final question that has been asked by the subcommittee involves whether NYCHA offers stipulation terms that differ from the possible dispositions identified pursuant to "Escalera." In some cases, the parties may agree by stipulation, as an alternative to a hearing, that the tenant will pay back monies owed, transfer to an appropriate size apartment, change locks, allow apartment inspections, or agree to probation for periods exceeding one year. These conditions are sometimes necessary to preserve a tenancy while ensuring that NYCHA is able to fulfill its responsibility to provide for the safety and security of our tenants and employees.

Conclusion

NYCHA's Administrative Hearing process affords residents a due process hearing, an opportunity to be heard before an impartial Hearing Officer and multiple review levels.

In every situation, before a case is referred for a hearing or recommended for eviction, the Housing Authority strives to work with residents to secure needed services, to resolve most situations without having to evict tenants, and to assist our residents to meet their lease obligations so they can remain in good standing.

Let me conclude here and answer any questions you may have. Thank you.