THE CITY OF NEW YORK
OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN

SCOTT M. STRINGER
BOROUGH PRESIDENT

TESTIMONY OF MANHATTAN BOROUGH PRESIDENT SCOTT M. STRINGER

BEFORE THE NEW YORK CITY COUNCIL COMMITTEE ON PUBLIC HOUSING

Hearing on the disposition of New York City Housing Authority property

Wednesday, January 26, 2011

Thank you Chairperson Mendez and members of the New York City Council Committee on Public Housing for holding this important oversight hearing on the disposition of New York City Housing Authority (NYCHA) property.

Protecting and preserving our public housing is a sacred trust.

Public housing provides safe homes for some of New York's neediest residents. There are over 400,000 individuals living on NYCHA properties in our conventional public housing program with an average family income of $23,187. Without such housing, their ability to retain a stable home would be severely jeopardized.

Unfortunately, not all is well in the state of public housing. NYCHA is facing operating deficits due to a combination of chronic under funding of federal operating and capital subsidies and a growth in non-discretionary costs. Significant efforts have been made to reduce this deficit, but it has yet to be eliminated. Indeed, operating deficits are predicted to range from $42 to almost $64 million per year from fiscal years 2011 through 2014.

Amid this fiscal crisis, NYCHA has understandably been looking for creative solutions. In its 2006 Plan to Preserve Public Housing (PPPH), NYCHA laid out the goal of preserving public housing in New York and outlining steps to reduce its deficit. One proposal was to sell unused development rights to developers. While NYCHA stated this action could also meet Citywide goals for creation of affordable housing, there was no detailed long-term comprehensive plan exploring the potential positive or negative impacts.

In August of 2008, the Manhattan Borough President issued a report "Land Rich, Pocket Poor," exploring the issue of unused development rights on NYCHA properties. The results were staggering: We found that NYCHA had 30.5 million square feet of unused development rights in Manhattan--enough to construct 35,000 housing units. While the report did not analyze each property to see if development rights could be utilized, nearly all these development rights (94%)

existed in concentrations of 100,000 square feet or more. This made them likely candidates for on-site use or sale.

There is no question that NYCHA's unused development rights offer a tremendous opportunity to meet important policy goals – such as creating affordable housing. They could also be used to meet the needs of existing public housing residents and nearby communities. For example, new development could provide badly needed local services, such as grocery stores. While there are many possible options, whatever is decided must be part of a plan to meet specific NYCHA budget needs and ensure that public housing remains financially viable in perpetuity.

To ensure that we balance these priorities, and to guarantee the maximum public benefit from these public assets, NYCHA must adopt a long-term plan. No private property owner would dream of altering hundreds of properties in a piecemeal manner for short-term needs without first developing a thoughtful, long-term strategy. This public agency should be no different.

Unfortunately, under existing regulations, no such long term strategy is mandated and no local process exists to evaluate how individual developments fit within existing NYCHA communities or the larger neighborhood. Currently, NYCHA can only dispose of excess property after it conducts a "Section 18" review required by the United State Department of Housing and Urban Development. While this provision mandates a consultation with existing tenants, there is no set public process, no disclosure of potential environmental impacts and no consideration of the larger policy ramifications of the individual dispositions.

Accordingly, the Borough President recommends, as we did in our 2008 report, that if NYCHA is going to consider the disposition of precious publicly owned land, it should only do so after a serious contemplative process that explores the potential ramifications of its actions and the methods it will utilize to achieve its goals. Specifically:

1. NYCHA should do a full, detailed inventory of development rights on all of its properties throughout the City, and make this information public.

2. NYCHA should solicit public input and then partner with Federal, State and City officials to draw up a long-term plan for the use of these rights. This plan should consider NYCHA's financial needs as well as the larger policy goals each development would address.

3. Finally, for each development, NYCHA should outline a planning process for proposed dispositions and infill development. Needless to say, any planning process should give tenants and the surrounding community a chance to comment. It should also propose mitigations for any negative impacts.

Thank you again for the opportunity to testify at this important hearing. I look forward to working with the Committee on Public Housing, and the rest of the City Council to create a rational plan that will allow us to move forward in an informed manner.

TESTIMONY FOR NYCHA's FEDERAL RELATIONS DIRECTOR STEVEN LOVE

NYCHA'S DISPOSITION OF LAND

CITY COUNCIL COMMITTEE ON PUBLIC HOUSING

WEDNESDAY, JANUARY 26, 2010 – 1:00 PM

16TH FLOOR COMMITTEE ROOM, 250 BROADWAY, NEW YORK, NY

Chairwoman Rosie Mendez, distinguished members of the Public Housing Committee, and to all the members of the City Council; Good afternoon. I am Steven Love, Director of Federal Relations, Policy and Compliance for the New York City Housing Authority (NYCHA). Joining me this afternoon are Burton Leon, Deputy Director and Patricia Barrera, Senior Deputy Director both of the Department for Development.

Serving more than 650,000 New Yorkers through its public housing and Section 8 assistance programs, NYCHA's real estate portfolio is an indispensable housing resource for low- and moderate-income New Yorkers. And as we develop the strategies that will help us secure public housing for the future, our planning must live up to our mission, remaining flexible enough to adapt in a changing marketplace. To that end, NYCHA remains committed to fostering the vibrant public housing communities that are so essential to the prosperity of our great city. As you know NYCHA operates 334 developments, which are all federally funded. Today, I would like to take the Council through NYCHA's federal obligations with regard to the disposition of land.

NYCHA's Development Priorities

The Authority has identified a series of development priorities to be considered when evaluating potential sites for disposition. Those priorities have been established within the strict federal regulatory framework and guide NYCHA's team. Our priorities include the creation of multi-family rental housing, senior housing developments, promotion of homeownership and fostering community (i.e. schools) and commercial development. Properties disposed of must meet one or more of these purposes.

Throughout the planning process for land disposition, NYCHA consults with stakeholders connected to the development, including the local Resident Association and the resident body, local Community Boards, elected officials, as well as, advocacy groups where appropriate.

The Need for Development

Built initially in response to a housing and financial crisis in the 1930s, NYCHA developments have not only met the needs of low- and moderate-income New Yorkers for generations, but they have also helped to stimulate the local economy.

NYCHA's mission is to ensure that this valuable resource continues to meet the changing needs of an evolving city. In some cases, a number of our developments must be upgraded and modernized to ensure their preservation. In other instances, opportunities are presented to meet new and emerging needs through disposition for housing development with public and private financing.

Congress – working with the US Department of Housing and Urban Development (HUD) — has, over time, developed statutory standards and implementing rules and regulations for the disposition of public housing property as provided under Section 18 of the U.S. Housing Act of 1937, as amended, 42 USC §1437p and the regulatory format provided in 24 CFR Part 970.

Disposition affords the opportunity to develop new housing or facilities that better serve existing residents or allow for more New Yorkers to take advantage of these benefits.

Section 18

Disposition of public housing property requires review and approval by HUD pursuant to Section 18. Section 18 includes information on fair market value, an environmental assessment, commensurate benefits to the community and consultation conducted with residents, Resident Advisory Board, elected officials, and the local community and NYCHA board authorization to submit the application. HUD regulations require that NYCHA seek approval for the disposition of public housing property only following extensive consultation with the affected Resident Associations, the local representative to the Citywide Council of Presidents, the local community and elected officials.

Where City approval of a discretionary land use action is required, NYCHA adheres to all mandated public review processes as outlined by the Uniform Land Use Review Procedure commonly known as ULURP.

NYCHA's Annual Plan

NYCHA is also required to submit a Public Housing Agency Plan (Annual Plan) to HUD for approval. The Annual Plan is a comprehensive compilation listing policies, program operations, and strategies to be undertaken to meet local housing needs and goals. NYCHA includes all prospective land dispositions within the Annual Plan. NYCHA develops the Annual Plan through extensive consultation with the Resident Advisory Board and residents in NYCHA's public housing and those assisted under the Section 8 program. Issues raised in the

Annual Plan are subject to the submission of written comments, to five town hall meetings with senior NYCHA staff and a city-wide public hearing. All comments, objections and recommendations are considered by the Authority and must be addressed in the final Annual Plan submitted for HUD review and approval.

While the Annual Plan requires a listing of properties intended for disposition, the Section 18 application and approval process for disposition of NYCHA property is an additional requirement that must also be approved by HUD.

Consulting with the Community

NYCHA is required to follow the statutory format of Section 18 in disposing of public housing land. Furthermore, as we have in the past, NYCHA goes above and beyond what the regulations require. Through the Plan to Preserve Public Housing, our planning must better understand customer needs, financial constraints, the environment, and the strategic use of valuable assets, like land. We are open and willing to work with all interested parties as regards land disposition. We look forward to further discussions with the Council and other elected officials on this very important topic.

Thank you and we look forward to your questions.

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W. FRANC PERRY
Chairman

PAIMAAN LODHI
District Manager

Dear Community,

We write on behalf of the Manhattan Community Board 10 Committee on Land Use to address serious issues relating to our meeting on Thursday, December 17, 2010, and in advance of our General Board meeting on January 5, 2011. For your reference, attached please find a copy of the Draft Resolution passed at the meeting.

FIRST, the Committee's vote was limited to the sole issue of whether the extension of West 129th Street would become a City street, maintained by the NYC Department of Transportation, or a private street, maintained by NYCHA. The street will be built regardless of our vote in Committee, or at the General Board meeting.

SECOND, the Committee did not vote, and could not vote, on (1) the disposition of NYCHA property, (2) the building of the HCZ School, (3) the zoning variances, or (4) the extension of West 129th Street. These four issues already have been resolved and were never submitted for the Committee's, or the Board's, consideration. The attached Resolution expresses the Committee's grave concerns regarding the failure to properly engage it, the Board, and the Community in the process addressing these four issues.

We hope this information dispels any misunderstandings concerning the Committee's role or the status of the NYCHA/HCZ project. If you have any questions, please feel free to contact the Board office at (212) 749-3105.

All the best for a wonderful and safe New Year.

Regards,
Stanley N. Gleaton, Chair
Joshua S. Bauchner, Co-Chair
Committee on Land Use
Manhattan Community Board 10

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W. FRANC PERRY
Chairman

PAIMAAN LODHI
District Manager

January 6, 2011

Resolution on
ULURP Application No. C 110068 MMM- West 129th Street City Map Change by the New York City Housing Authority

Whereas, the New York City Housing Authority ("NYCHA") has submitted an application (C 110068 MMM) pursuant to Section 197-c and 199 of the New York City Charter, and Section 5-430, *et seq.* of the New York City Administrative Code, for an amendment to the City Map involving the elimination, discontinuance and closing of a cul-de-sac on West 129th Street west of Adam Clayton Powell Jr. Boulevard; the establishment of West 129th Street westerly to Fredrick Douglass Boulevard; and the modification of grades necessitated thereby;

Whereas, the application also includes the authorization for any acquisition or disposition of real property thereto, in Manhattan Community District 10, in accordance with Map No. 30226, dated November 8, 2010, and signed by the Borough President;

Whereas, NYCHA proposes to dispose of an approximately 30,000 square foot parcel of land within the St. Nicholas Houses property to the City, under the jurisdiction of the New York City Department of Transportation ("DOT"), for the operation of the proposed West 129th Street extension;

Whereas, the City proposes to dispose of an approximately 2,077 square foot parcel of land in the demapped portion of the cul-de-sac located outside the new street alignment, with 487 square feet of the demapped portion transferred to the New York City Department of Education ("DOE"), and the remaining 1,590 square feet disposed to NYCHA as part of the St. Nicholas Houses property;

Whereas, NYCHA proposes to dispose of an approximately 30,000 square foot parcel of land within the St. Nicholas Houses property to the Harlem Children's Zone ("HCZ") for the development of a LEED certified, 132,000 square foot, 1,300 seat charter school for grades K-12, constructed by HCZ in collaboration with Civic Builders, Inc;

Whereas, as studied in the Environmental Assessment Statement, NYCHA also proposes to dispose of an approximately 13,500 square foot parcel of land within the St. Nicholas Houses property to a private developer, through an RFP process, for the development of a 13-story, 175,500 square foot residential building with approximately 200 units of affordable housing with 49 accessory parking spaces below grade;

Whereas, the Environmental Assessment Statement also anticipates a loss of 100 trees (70 mature), 2 playgrounds and approximately 71,423 square feet of active and passive open space as a result of the overall proposed development plan;

Whereas, the St. Nicholas Houses property is zoned R7-2, which is a medium density residential district that permits a maximum of 6.5 FAR for community facility uses and a maximum of 3.44 FAR for residential uses;

Whereas, the proposed HCZ school building would not comply with all of the zoning regulations in the R7-2 District with respect to height and setback, and minimum distance between buildings;

Whereas, NYCHA requested and was granted a zoning override, from the Office of the Deputy Mayor for Education and Community Development, to allow the project to be developed in non-compliance with zoning requirements for height and setback, and minimum distance between buildings;

Whereas, Manhattan Community Board 10 supports the mission of the HCZ to educate children and improve the lives of families in the District and further supports the development of a new school and affordable housing in the community, but is sensitive to how the overall development will impact the quality of life for the approximately 3,389 St. Nicholas House residents;

Whereas, Manhattan Community Board 10 understands that the HCZ gymnasium will be made available to members of the public and will offset the loss of recreational open space as a result of the proposed development plan;

Whereas, Manhattan Community Board 10 understands that the HCZ school will offer first open preference to the children of the St. Nicholas Houses;

Whereas, Manhattan Community Board 10 understands that the DOT has designed sufficient safety measures (*i.e.*, speed bumps and neck downs) to ensure the proposed West 129th Street extension will be safe for residents and school children, and recognizes the importance of reintegrating 129th Street into the City's traffic system permitting it to be operated by the DOT, rather than being a private street operated by the HCZ;

Whereas, Manhattan Community Board 10 understands that its vote has been limited to the proposed action related to this ULURP; specifically, the mapping action of the West 129th Street extension;

Whereas, Manhattan Community Board 10 understands that it has been denied the opportunity to consider and vote on pertinent matters impacting upon this District and our community, including, but not limited to: the disposition of NYCHA property, the development of the HCZ school building, the development of the 13-story affordable housing building, and any zoning variances related thereto; and

Whereas, Manhattan Community Board 10 believes that this ULURP application highlights several problems with the regulations promulgated by the U.S. Department of Housing and

Urban Development ("HUD") pursuant to Section 18 of the Housing Act of 1937 ("Section 18") governing the disposition and development of NYCHA property.

Therefore, be it resolved that Manhattan Community Board 10 requests:

- The Office of the Mayor forbear from issuing zoning overrides which disenfranchise Community Boards responsible for land use issues pursuant to the City Charter and undermine community engagement;

- State and City elected officials pass legislation requiring NYCHA, a State of New York public benefit corporation operating in the City of New York, to seek and obtain Community Board approval for the disposition and development of NYCHA property;

- In the absence of such legislation, NYCHA commit to a more thorough community engagement process, beyond the Section 18 approval process mandated by HUD , including, but not limited to, seeking and obtaining Community Board approval for the disposition and development of NYCHA property;

- NYCHA commit to the construction of LEED certified green buildings whenever it disposes of or develops its property to, *inter alia,* offset the loss of trees and open space; and

- The NYC Department of Housing Preservation and Development, and all State and City agencies and entities, commit to obtaining Community Board approval for the disposition and development of NYCHA property.

Therefore, be it further resolved that Manhattan Community Board 10 votes to **disapprove** ULURP No. C 110068 MMM with a General Board vote of 31 in favor, 1 opposed and 2 abstentions.

Testimony by The Legal Aid Society and the Community Service Society before the Committee on Public Housing on The New York City Housing Authority's Disposition of Land

January 26, 2011

<u>Interest and Expertise of the Legal Aid Society and the Community Service Society</u>

The Legal Aid Society is the oldest and largest provider 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 low income families and individuals. The Society is counsel on numerous class-action cases concerning the rights of public housing residents. The Community Service Society (CSS) is a 160-year-old institution that promotes the economic security of New York City's lower-income households and communities, through policy research and advocacy, direct services, and strategic partnerships. The Society and CSS work closely with the Public Housing Residents of the Lower East Side, Community Voices Heard, FUREE, and others to further the rights of public housing residents.

We appreciate the opportunity to testify before the Committee on Public Housing and we appreciate the leadership of Chair Rosie Mendez on issues involving the rights of public housing residents. We have concerns regarding the Housing Authority's refusal to properly notify NYCHA residents and the larger community of its plans to dispose of public housing land.

<u>STRICTER STANDARDS FOR NYCHA DEMOLITION/DISPOSITION</u>

The NYCHA 2011 Annual Plan envisions the sale, transfer, or leasing of vacant land for housing and other redevelopment purposes. Often residents report that they were not notified in advance, even when NYCHA claims that resident consultation—with the established Resident Council—took place. Opportunities for consultation and review by the community at large are often minimal. For example, NYCHA decided to demolish the remaining buildings at Prospect Plaza without going through the Annual Plan Process or consulting with stake holders. Likewise at St. Nicholas Houses decisions were made to dispose of vacant land without consulting with important stakeholders, including the residents, elected officials, and local and city-wide community organizations. We have these major concerns about the disposition of NYCHA property:

1) Is proper notification being given to the directly affected community and to the broader concerned public? Do they have a voice in the final decision?
2) Will NYCHA retain ownership of the land?
3) Does the NYCHA proposal comply with local and State environmental review processes?
4) Is NYCHA receiving "fair value" for the property being transferred?

We recommend:

Any proposal that involves the demolition of apartments or the disposition of NYCHA property should require:

1) Written notification by NYCHA to <u>all</u> affected residents concerning project plans and the scheduling of "resident consultation".
2) NYCHA compliance with State and locally-mandated environmental review processes. The Authority must also provide assurances that the terms of any disposition, and the revenues it receives, represent "fair value" for the property transfer, sale, or lease.
3) In proposals that involve the demolition of housing units:

a. 45-day notice and a citywide public hearing, prior to including the proposal in its Annual Plan.
b. an analysis of the costs and benefits associated with preservation versus demolition of existing units and redevelopment.
c. a redevelopment plan, in consultation with affected residents, including firm plans for financing the project and replacing (one-for-one) any units to be lost.
d. written assurances to displaced residents of their right to return.

NYCHA's Failure to Give Public Notice of Its Plans

Pursuant to federal regulations all public housing authorities (PHA) must submit to the Department of Housing and Urban Development (HUD) a PHA plan. The purpose of the plan is to provide a framework for local accountability and an easily identifiable source by which public housing residents, participants in the tenant-based assistance program, and members of the public may locate basic PHA policies, rules, and requirements concerning the PHA's operations, programs and services.

There are two types of PHA plans, a Five-Year plan and an Annual Plan. The Five-Year plan must be submitted to HUD once every five fiscal years. The Annual Plan which must be submitted to HUD annually includes the discretionary policies of the various plan components or elements. The Annual Plan must also be consistent with the Five-Year Plan and outline the goals and objectives of the Housing Authority.

The NYCHA proposal to demolish the remaining 267 vacant units at Prospect Plaza was not in its Draft Plan when its June 2009 public hearing was held. It was later rushed through a September 30th Resident Advisory Board (RAB) meeting, without adequate time for review and without notice or a public hearing, and then it was sent to HUD in mid-October. NYCHA later explained at City Council hearings that it did not consider the demolition a "significant amendment."

The question remains: What constitutes a significant amendment? In a high-cost, low-vacancy rental market like New York City, we believe any NYCHA proposal to demolish public housing or dispose of Housing Authority land must be considered a significant amendment to its plan, requiring 45-day notice and a citywide public hearing.

Other amendments with significant consequences have been inserted into NYCHA plans without adequate notice or public airing: In 2007, NYCHA amended its "standard of admission" to bar for five years any persons who lost their claims as remaining family members. In 2009, NYCHA amended its pet policy without adequate notice or time to comply, before evictions were put into motion. Despite a recent extension, many residents have not had enough time to comply and are at risk of eviction.

NYCHA's approach is not acceptable. The Annual Plan is a public document, required under federal law, to make Housing Authorities more accountable to residents and the concerned public. We strongly recommend that <u>any</u> NYCHA proposal that may result in 1) demolition of public housing, 2) disposition of its property, or 3) resident evictions or changes in admissions policy be considered significant, and require 45-day notice and a citywide public hearing. We have met with NYCHA and NYCHA refuses to modify its definition claiming merely that it does not have to do so. We recommend that the Council continue to advocate for NYCHA to provide notice to interested stakeholders, including residents, elected officials, local community based organizations, and citywide organizations.

CONCLUSION:

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

Respectfully Submitted:

Steven Banks, Attorney in Chief
Adriene Holder, Attorney in Charge Civil Practice
Scott Rosenberg, Attorney in Charge,Law Reform Unit-Civil
Judith Goldiner, Supervising Attorney
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New York City Council Hearing on NYCHA's Disposition of Land

NYSAFAH Statement to the NYC Council Public Housing Committee
January 26, 2011

Good afternoon Chairwoman Mendez, members of the Committee. Thank you for the opportunity to testify at today's hearing on NYCHA's disposition of land. My name is Alison Badgett, and I am the Executive Director of the New York State Association for Affordable Housing (NYSAFAH). NYSAFAH is the trade association for New York's affordable housing industry statewide. Our 300 members include for-profit and nonprofit developers, lenders, investors, syndicators, attorneys, architects and others active in the financing, construction, and operation of affordable housing. Together, NYSAFAH's members are responsible for virtually all of the housing built in New York State with federal, state, or local subsidies. NYSAFAH is focused on ensuring that limited public subsidies are used efficiently, advocating for policies and program reforms that leverage state dollars with private and federal government funding.

While New York City continues to lead the nation in developing innovative affordable housing plans and programs, the need for homes New Yorkers can afford continues to grow, with 60% of renters currently unable to afford the Fair Market Rent for a two-bedroom apartment. NYSAFAH therefore supports using NYCHA land where possible for the spectrum of affordable housing and mixed income projects that will meet the needs of New Yorkers and promote vibrant, revitalized communities.

NYSAFAH recognizes that NYCHA needs to balance its need for funding through the sale of property, with the need for providing land suitable for affordable housing development. In the current economic climate, public subsidy available for housing is shrinking. Therefore, where NYCHA is providing land for affordable housing, NYSAFAH encourages NYCHA to do so in a manner that does not require another City agency to subsidize that land purchase. NYCHA might also consider a partial delegation of development functions to other agencies where possible and conducive to efficient development of affordable housing.

anhd inc.

ANHD INC is a 501(c)(4) not-for-profit social welfare organization which advocates on behalf of New York City community-based, non-profit housing organizations and the neighborhoods they serve.

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TESTIMONY OF
DAVE HANZEL, DEPUTY DIRECTOR, BEFORE
THE NEW YORK CITY COUNCIL
PUBLIC HOUSING COMMITTEE

January 26, 2011

Good Afternoon. Thank you, Chairwoman Mendez and committee members, for this opportunity to testify about the disposition of NYCHA land. It has long been ANHD's position that housing built on public land is both deeply and permanently affordable. To achieve these goals, ANHD believes the city should move away from selling its land and rather utilize a land lease structure.

My name is Dave Hanzel and I am the Deputy Director of the Association for Neighborhood and Housing Development (ANHD). ANHD is a membership organization of 100 not-for-profit, neighborhood-based affordable housing organization across New York City. Our members are Community Development Corporations (CDCs), affordable homeownership groups, supportive housing providers and community organizers. ANHD advocates for comprehensive, progressive housing polices and programs to support affordable, flourishing neighborhoods for all New Yorkers, especially our lower income residents.

For over 30 years, CDCs have labored to meet the housing needs of low, moderate and middle income families. The city, especially NYCHA and HPD, have been key partners in helping ensure all New Yorkers have access to safe, affordable housing. Now more than ever, however, New Yorkers are struggling to pay for housing. Diminishing real incomes and federal investment in housing programs, combined with weakened laws governing rent regulated housing, sub-prime lending, and the rise of predatory equity investors have led to fewer available units and greater pressure on low-rent paying residents to vacate their homes in favor of more affluent residents.

In any affordable housing development, land represents both a significant cost as well as a significant value for the developer. Where land is scarce, the land itself as well as zoning actions that increase density equal enhanced leverage for the local jurisdiction. Unlike other jurisdictions, New York City has not always used this leverage to its advantage in securing longer-term affordability or generating cash flow to be reinvested into affordable housing.

Although ANHD is sensitive to the budget constraints the city faces, the proposed sale of public land for a one-time infusion of revenue is both bad policy and a short-sighted decision. As part of its Permanent Affordability campaign, ANHD has pushed the city to institute a land use policy that ground leases publicly-owned land to developers in exchange for requiring that the project be rented only to low- and moderate-income persons and remain permanently affordable.

Utilizing a ground lease structure would not only ensure the city retains control of the land for maintaining affordability purposes, it would also result in a steady inflow of revenue for NYCHA for years to come.

ANHD has found that other cities do just this to ensure control of the land remains with the city. For instance, San Francisco has balanced up-front costs and future preservation needs by purchasing land from developers and then leasing it back in lieu of providing a loan for acquisition. The city began this practice after discovering that many of the projects in their Federal Housing Administration (FHA) and Section 8 programs that were near the end of their affordability restriction periods and at risk of opting out were built on city land initially sold to developers at considerably lower per unit costs. As the value of the land grew, the cost per unit had increased significantly, leading to higher preservation costs. The new Land Lease structure has placed greater control in the hands of the city's Redevelopment Agency and generated a number of positive results for affordable housing, including:

- An initial affordability term of 55 years, with a 45-year additional extension. This additional extension automatically renews if improvements remain affordable;
- The developer owns the improvements but the city controls the land;
- Base and residual rents allow the city to sweep excess cash out of the transaction while still having increasing debt based on a soft loan.

Base land rents are determined based on 10 percent of the land value and the nature of the building. For instance, a base rent for buildings serving homeless people can be as little as $1, whereas rent for a project-based Section 8 building could be between $15,000 and $20,000. Base rent is paid prior to any soft loans. Residual rent is paid annually, based on what the building cash flow can support.

In this scenario, lenders have been willing to finance these types of deals because of the lender protections that San Francisco has built in. For instance, an uncured default on the leasehold would result in market-rate housing in the leasehold and the land lease payment would increase to market value. The city has also been able to negotiate with lenders for no encumbrances on the fee, only on the leasehold.

Because of historical factors and statutory limits, New York City does not yet have a legacy of land lease agreements. Since the days of extensive *in rem* property holdings, the city has had a strategic goal of divesting itself of property ownership. That being said, there is at least one example of the city partnering with NYCHA and the not-for-profit Phipps Houses to develop two adjacent sites in East Harlem. Phipps has leased the two properties from NYCHA with a 99-year covenant for affordability. In addition, NYCHA has committed a significant number of individual Section 8 vouchers to help keep the building affordable and provide guaranteed cash flow for the project. HPD's extension of the project's 420c tax incentive, which provides a 100 percent Real Estate Tax abatement for the life of the regulatory agreement or 60 years (whichever is greater) also supports the financial viability and longer-term of affordability in this particular project. Overall, HPD should revisit its aversion to land leases and look at the model as part of the agency's ongoing policy work on permanent affordability.

Irregardless of who owns the land, it is especially troubling that the city has considered it appropriate to use one of its most valueable, scarce, and irreplaceable resources to subsidize the development of what is essentially *market rate* housing. Public resources should benefit the public good, which in the case of affordable housing development means meeting the needs of those residents who are <u>not</u> served by the market. The building boom of the past few years has seen tens of thousands of residential units added to the city's inventory, yet the overwhelming majority of those units are unaffordable to working class New Yorkers.

Although ANHD did not support the inclusion of units renting to households earning up to 195% of Area Median Income, approximately $153,000, at the Eliot Chelsea site, we were encouraged by the commitment that all units will be permanently affordable. Committee Members must demand permanent affordability on all affordable housing proposed on other NYCHA sites. At a time when public resources are scarce, it is critical to allocate them in such a way that enhances the economic diversity of our neighborhoods and protects the city's low-, moderate- and middle-income residents over the very long term.

Thank you for this opportunity to testify. I would be happy to answer any questions.

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________
☐ in favor ☑ in opposition

Date: ________

(PLEASE PRINT)

Name: K. Samuels, MD

Address: ________

I represent: Friends of Morningside

Address: ________

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________
☐ in favor ☐ in opposition

Date: 1/26/11

(PLEASE PRINT)

Name: W. FRANC PERRY

Address: 205 W. 136th St NYC

I represent: Chairman Community Bd 10

Address: 205 W 125th St.

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________
☐ in favor ☐ in opposition

Date: 1/26/2011

(PLEASE PRINT)

Name: Brian Cook

Address: ________

I represent: Manhattan Borough President Scott M. Stringer

Address: 1 Centre Street

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______

☐ in favor ☐ in opposition

Date: 1/26/11

(PLEASE PRINT)

Name: Parmaan Lodhi, District Manager

Address:

I represent: Manhattan Community Board 10

Address:

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______

☐ in favor ☐ in opposition

Date: 1/26/11

(PLEASE PRINT)

Name: Patricia Barrara

Address:

I represent: NYCHA

Address:

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______

☐ in favor ☐ in opposition

Date: 1-26-11

(PLEASE PRINT)

Name: VICTOR BACH

Address:

I represent: COMMUNITY SERVICE SOCIETY

Address: 105 E 22 ST NYC

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______

☐ in favor ☐ in opposition

Date: 1/26/11

(PLEASE PRINT)

Name: Dave Hanzel

Address: 50 Broad St. Suite 1125 NYC 10004

I represent: Assoc. for Neighborhood and Housing Development

Address: Same

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______

☐ in favor ☐ in opposition

Date: 1/26/2011

(PLEASE PRINT)

Name: Joel Feingold for GOLES Member

Address: 169 Ave. B

I represent: GOLES

Address: 169 Ave. B

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______

☐ in favor ☐ in opposition

Date: 1/26/11

(PLEASE PRINT)

Name: KATHERINE GRAY

Address: DEPUTY DIRECTOR, DEPT FOR DEVELOPMENT

I represent: NYCHA

Address: ______

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______

☐ in favor ☐ in opposition

Date: 1/26/11

(PLEASE PRINT)

Name: ISIS AUSAR

Address: P.O. Box 1366

I represent: Citizen -

Address:

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______

☐ in favor ☐ in opposition

Date: 1/26/11

(PLEASE PRINT)

Name: William Danzy

Address: 250 W. 131 St #2D

I represent: CPSN1414

Address: 250W. 139 st. # 2D

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______

☐ in favor ☐ in opposition

Date: 1-26-11

(PLEASE PRINT)

Name: Joel Kupferman

Address: 351 Broadway

I represent: NewYork ENV Law & Justice PROJ

Address:

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______

☐ in favor ☐ in opposition

Date: 1-26-11

(PLEASE PRINT)

Name: Agnes Rivera

Address:

I represent: CVH

Address: 115 E 106 St.

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______

☐ in favor ☐ in opposition

Date: 1/26/11

(PLEASE PRINT)

Name: Steve Love

Address:

I represent: NYCHA

Address:

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______

☑ in favor ☐ in opposition

Date: 1-26-11

(PLEASE PRINT)

Name: Alison Badget

Address: NYSAFAH

I represent:

Address:

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________

☐ in favor ☑ in opposition

Date: 1/26/11

(PLEASE PRINT)

Name: WILLIAM DANZY

Address: 250 W 131st

I represent: ________

Address: ________

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________

☐ in favor ☑ in opposition

Date: 1-26-11

(PLEASE PRINT)

Name: Malcolm Gibbs

Address: 963 East, Gun Hill road

I represent: ________

Address: ________

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________

☐ in favor ☑ in opposition

Date: 1-26-11

(PLEASE PRINT)

Name: JOHN NORVELL

Address: 2175 5th Ave

I represent: ________

Address: ________

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________

☐ in favor ☑ in opposition

Date: 1-26-11

(PLEASE PRINT)

Name: SANDRA THOMAS

Address: 225 W 129 ST

I represent: CPSNHH

Address:

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________

☐ in favor ☐ in opposition

Date: 1/26/11

(PLEASE PRINT)

Name: Judith Goldiner

Address: 199 Water St

I represent: The Legal Aid Society

Address:

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________

☐ in favor ☐ in opposition

Date: 1/26/11

(PLEASE PRINT)

Name: Burton Leon

Address:

I represent: NYCHA

Address:

Please complete this card and return to the Sergeant-at-Arms