Community Service Society | Fighting Poverty Strengthening New York

Testimony of
Victor Bach, Senior Housing Policy Analyst,
Community Service Society (CSS)
at
Oversight Hearings,
NYCHA's Use of the Mixed Finance Model to Fund Modernization Plans
New York City Council Committee on Public Housing
April, 29th, 2011

In recent years NYCHA has proposed a growing number of dispositions of public housing property to help raise the capital for modernization and preservation, and to promote new, private residential development and construction of school facilities. Many of these plans may have substantial merits and benefits. Our concern is that the NYCHA planning process for these dispositions is seriously flawed, with major gaps in resident involvement and public transparency. As NYCHA dispositions accelerate we are in danger of standing by, unawares, while larger and larger amounts of NYCHA property are transferred, without adequate opportunity for public scrutiny or the voices of residents to be heard.

The prevailing standard of accountability for public housing authorities was set out in the 1998 federal Housing Act. It requires NYCHA to 1) each year issue a written draft Annual Plan, 2) allow for public review for at least 45 days, and 3) hold a required public hearing on the plan. Any NYCHA demolition/disposition plan is supposed to be included in its draft Annual Plan, which is open to public comment. Yet some NYCHA proposals bypass this process. Examples include the Prospect Plaza demolition in Brooklyn and Washington Houses disposition plan in East Harlem, which the NYCHA Board recently approved on March 2nd, 2011.

What are the problems? First, NYCHA can use its prerogative to designate the demolition/disposition proposal a "minor amendment" rather than a "significant amendment" to the Annual Plan. A minor amendment requires only cursory review by the Resident Advisory Board (RAB) before being slipped into the Annual Plan. No written plan, no 45-day review process, no public hearing.

In the case of Prospect Plaza, the CCOP was presented with the demolition proposal in late October 2009 only two weeks before the final Annual Plan was to be submitted to HUD. And there was no evidence that Prospect Plaza residents, awaiting return to rehabilitated units, were consulted. Under HUD regulations for "Section 18" demolition/disposition proposals, resident consultation is required.

NYCHA did consult residents about the Section 18 disposition proposal for Washington Houses. Again, it was submitted as a "minor amendment" to the 2010 Annual Plan, although it involved the transfer of 29,000 square feet of land and150,000 square feet of transferrable development rights. Total project costs to developers were estimated at $93 million for construction of a new 87-unit residential building, a Harlem RBI Charter School, a new community center, and replacement of lost parking space and a compactor/bulk storage area. NYCHA was to receive $3 million one-time outlay for its property appraised at $4 million and an option to purchase the residential building for one dollar at the end of the 15-year tax-credit compliance period. Yet it was only a "minor amendment" slipped into the NYCHA, which bypassed any public scrutiny beyond the immediate stakeholders.

This Washington Houses disposition appears to be an attractive plan to developers and residents alike. And NYCHA did consult with residents at several meetings:

On October 5th, 2010, Commissioner Margarita Lopez and NYCHA staff met with the Board of the Washington Houses Resident Association. In NYCHA's presentation Commissioner Lopez explained the structure and importance of charter schools and how they can benefit NYCHA children. She said she believed in the project and planned to support it, as she asked for the Resident Association's reaction. The Resident Board had no independent technical advisors present, only the NYCHA Commissioner and staff to answer question.

On October 12th, 2010 Commissioner Lopez and NYCHA staff met with 50 Washington Houses residents from the development's 1,500 apartments. The announcement of the meeting began: "NYCHA Commissioner Margarita Lopez invites you to a meeting…We will discuss great improvements to your quality of life." The residents and NYCHA can be credited that residents received preferences for the new housing units, a 50-percent set-aside in the lottery for the RBI Charter School, and a Section 3 training program for resulting construction jobs. Question about whether NYCHA was getting fair value for the property, whether it should lease or sell the property outright, never came up.

NYCHA then met with the Manhattan South District Council in December 2010 attended by 21 TA Presidents. At the meeting Rose Bergin, District Chair, stated that Washington Houses Resident Association and the residents at large had been informed of the project and intended to support it. The Section 18 application does not indicate any further resident consultation with the Citywide Council of Presidents (CCOP) the jurisdiction-wide Resident Council. Until the NYCHA Board approved the Section 18 proposal, there was no public notice of the plan, and no opportunity for review and comment.

We believe the NYCHA disposition planning process needs to be strengthened and reformed to enable residents to participate effectively and allow greater public scrutiny. Several issues are apparent:

1) NYCHA's casual designation of a disposition proposal as a "minor amendment" to its Annual Plan allows it to transfer significant property assets over time without adequate public awareness or scrutiny, simply by slipping the Section 18 proposal into the Annual Plan.

   We recommend that any Section 18 demolition/disposition proposal be considered a "significant amendment" to the Annual Plan, requiring 45-day review of a written plan and a public hearing.

2) NYCHA procedures and guidelines for "resident consultation" in planning for Section 18 demolition/disposition leave much to be desired. Only directly affected residents and stakeholders are consulted, through meetings of the Resident Association, which can be poor attended and leave little time for resident deliberation. The citywide resident council (CCOP) may have no opportunity to comment; they may not even know about the planned disposition. Residents have no access to independent technical resources to help them assess a complex disposition proposal prepared by developer and NYCHA technical and legal staff. Consultation occurs only between NYCHA and residents. If NYCHA is not a neutral party in the planning, as was the case in Washington Houses, it cannot even-handedly inform or advise the residents. in the consultation.

   We recommend that NYCHA resident consultation include not only directly-affected residents and the District Council, but also the CCOP. Disposition policies and procedures crafted in one District affect the way they will happen in every District.

   We also recommend that a succession of resident consultations take place, so that there is adequate time for residents to deliberate and mobilize a response. Such consultations should be also facilitated by an independent party.

   We also recommend that directly-affected residents be provided with access to independent technical and legal resources to enable them to defend and pursue their interests in a way that gives them more parity with the technical staff of NYCHA and/or the developers.

NYCHA disposition plans can be expected to grow in number and size over the coming years. As they do, we stand to see public housing assets transferred, development by development, one-by-one in discrete Section 18 dispositions, many of which may be designated "minor amendments" and simply slipped into NYCHA's Annual Plan without a murmur to the broader resident constituency affected or to the concerned public. The disposition of valuable public housing resources are a public matter, that call for greater transparency and accountability.

TESTIMONY FOR NYCHA DGM FOR OPERATIONS CARLOS G. LABOY-DIAZ

FEDERALIZATION

CITY COUNCIL COMMITTEE ON PUBLIC HOUSING

FRIDAY, APRIL 29, 2011 – 10:00 AM

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

Chairwoman Rosie Mendez, Members of the Committee, and to all Members of the City Council: I am excited to be with you and to have the opportunity to discuss the New York City Housing Authority's (NYCHA) successful completion of the federalization of the 21 developments built by the State and City of New York; what federalization means for the Authority and for our residents; and NYCHA's current progress to rehabilitate and modernize these homes. I am Carlos G. Laboy-Díaz, NYCHA's Deputy General Manager for Operations. And joining me this morning are senior members of NYCHA's Operations team.

The last time NYCHA appeared before the City Council to discuss federalization, the conversation was one of optimism and hope. Today, I am proud to report that our optimism has been affirmed and our hope has been fulfilled. With the support of Mayor Michael R. Bloomberg, members of the City Council, the State Assembly and Senate, the United States Congress and the Department of Housing and Urban Development (HUD), NYCHA successfully completed one of the most innovative federalization plans in public housing history by qualifying them for ongoing federal capital and operating subsidies, as well as immediate funds for rehabilitation and modernization work. Taken together, NYCHA will receive more than $400 million in public and private funding, the majority of which will go to capital improvements that are now taking place and will continue through 2012. What's more, federalization helped to alleviate a significant drain on the Authority's finances, allowing NYCHA to stop diverting vital resources—nearly $700 million over ten years—from its federal portfolio to support the 21 developments that for more than a decade received no dedicated federal subsidies.

Today, I would like to bring the Council up to date on NYCHA's progress in meeting and, as you will hear, exceeding HUD's benchmarks for advancing this historic undertaking and the work we're doing in these 21 communities to provide for our residents' safety and well-being and to ensure that these homes are preserved for future New Yorkers.

The Pressing Need

I want to briefly recap why completing this federalization plan was so urgent to the Authority and to the communities we serve.

The 21 developments represent 20,139 public housing units that are home to more than 45,000 residents living across four of the City's five boroughs. Although originally constructed with the assistance of the State and City, these homes no longer received (since 1998 for the State developments and 2003 for the City developments) direct operating or capital subsidies, thereby forcing NYCHA to effectively subsidize their operations and maintenance. Coupled with a prolonged decline in HUD operating subsidies during the previous decade, the loss of State and City support had a profound impact on NYCHA's long term structural deficit. As a result, NYCHA was unable to fully maintain all of its public housing throughout the city, less able to address regular maintenance to preserve our aging infrastructure; less able to restore our building façades; less able to modernize individual homes; less able to ensure safe, reliable elevator service; and less able to meet our commitment to customer service and improving the overall quality of our residents' lives.

The Opportunity Created by Federalization

With no solution in sight, and NYCHA's structural deficit growing by millions year after year, the 2008 presidential election proved to be a watershed moment for public housing, as well as the entire nation. Only the second piece of legislation approved by the 111th U.S. Congress and signed into law by President Barack Obama, the *American Recovery and Reinvestment Act of 2009*, more commonly known as the Stimulus bill, included $13.61 billion for public housing developments and programs administered by HUD with nearly 75 percent of the funding allocated to state and local recipients. As you know, NYCHA received $423 million of Stimulus funding. But as importantly, by suspending the restrictions of the 1998 Faircloth Amendment—which barred additional federal funding for new public housing units—Stimulus also provided a one-time opportunity to qualify the 21 now fully federalized developments for ongoing federal operating and capital subsidy.

Adhering to the legislation's guidelines, NYCHA used a mixed-finance model to develop these properties. We also successfully obligated every Stimulus dollar we received before the federal government's March 17, 2010 deadline and exceeded the federal government's 60 percent expenditure milestone by expending 67 percent of the Stimulus grant as of February 28, 2011. What's more, all Stimulus funds projects will be expended by March 2012.

Federalization Overview

After completing an assessment of the properties' capital needs and operating profiles, NYCHA separated the 21 now fully federalized developments into two portfolios to take full advantage the Stimulus funds' leveraging potential, as well as all tax credits generated by the mixed-finance transaction.

NYCHA Public Housing Preservation I, LLC (LLC I) is the tax credit portfolio. It contains 13 developments and represents our partnership with Citi Community Capital. NYCHA Public Housing Preservation II, LLC (LLC II) is the non-tax credit portfolio. It contains eight developments and represents our partnership with the Housing Partnership Development Corporation (HPDC).

Citibank has joined NYCHA in the ownership of these properties as part of their participation in the low income housing tax credit (LIHTC) program. They are investing in the properties in exchange for being able to take a tax credit on their federal income tax return. NYCHA sold 13 developments to NYCHA Housing Preservation I, LLC, a limited liability company comprised of NYCHA I HDFC, a wholly owned subsidiary of NYCHA and Citibank. NYCHA sold eight developments to NYCHA Housing Preservation II, LLC, a limited liability company comprised of NYCHA II HDFC and NY Housing Partnership, a non-profit entity. NYCHA is using the funds Citibank is investing to fund necessary capital improvements. This is how most affordable housing development and revitalization is funded in the United States today. Furthermore, Federalization will benefit the residents in that NYCHA will be able to carry out rehabilitation activities they would otherwise be unable to afford. The residents are seeing the benefits as NYCHA carries out rehabilitation activities at the properties during 2011 and 2012.

NYCHA kept its promise that the tenancy rights of all existing residents would be protected and that the families who live in the 21 developments would not be relocated from their homes, would continue to benefit from public housing rent schedules, protections and programs and that, if anything, their quality of life would improve.

<u>Construction Status Update</u>

- Physical work is actively underway at all 21 developments
    - 13 in LLC-I
    - 8 in LLC-II
- There are 24 projects in progress at the 21 developments, including16 roof replacement & façade repair projects, 5 elevator rehabs, 2 building entrance upgrades, 1 heating system upgrade.
- The first four LIHTC projects scheduled to be completed in 2011 remain on or ahead of schedule (Rutgers- 4/11, Amsterdam Add. 6/11, Castle Hill 9/11, Marble Hill 9/11). The next two LIHTC projects (Manhattanville -1/12 and Chelsea – 4/12), are currently ahead of schedule and will be completed by 12/11.

- The remaining seven LIHTC projects are on schedule to meet their planned 2012 completion dates.
- For LLC2 all projects are on schedule to be completed in 2011
- 7 projects are 99% completed, 4 projects are currently 70%-85% completed, 9 projects are currently 50%-69% completed.

Conclusion

What seemed to be an impossible challenge is today a reality. The 21 State and City built developments are now fully federalized. They are now eligible for ongoing federal operating and capital subsidy. And the resources provided by the Stimulus bill were successfully leveraged to bring needed private investment to these communities.

But, as I've outlined, our work is not done. As our residents can attest, NYCHA is now doing the urgent work to repair and modernize these developments, ensuring their long term sustainability. And while federalization was a unique opportunity, it will serve as a model for future partnerships to not only preserve NYCHA's homes, but to also foster the healthy, vibrant public housing communities our city so richly deserves.

Now, I would like to take the Council through a presentation showing, in greater detail, our current progress on rehabilitating and modernizing the 21 developments.

TESTIMONY FOR NYCHA ADGM FOR DEVELOPMENT ILENE POPKIN

THE FUTURE OF MIXED FINANCE PROJECTS

CITY COUNCIL COMMITTEE ON PUBLIC HOUSING

FRIDAY, APRIL 29, 2011 – 10:00AM

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

Chairwoman Rosie Mendez, Members of the Committee, and to all Members of the City Council: thank you for inviting me to speak with you today about the mixed-finance approach to investing in public housing communities and the New York City Housing Authority's commitment to forming new partnerships that will help ensure the long term sustainability of public and affordable housing. I am Ilene Popkin, NYCHA's Assistant Deputy General Manager for Development. And joining me today are senior members of NYCHA's Development team

Mixed-financing is not the only option for investing in public housing, but in the current economic climate it is one of the most promising and effective means of leveraging limited public housing capital funds to preserve this critical housing resource and to foster healthy neighborhood development for all New Yorkers.

<u>Mixed-Financing</u>

As my colleague Carlos Laboy previously mentioned, the term "mixed –finance development" refers to a specific types of financial transaction that allow public housing authorities to leverage HUD capital funding with private funding such as low income housing tax credits. In these types of mixed finance transactions, HUD funds can be used to develop and preserve public housing while also supporting the development of a variety of housing types, including homeownership, low, moderate and middle income housing

In short, HUD mixed-financing brings additional resources to public housing communities, resources that can be used to bridge the gap between government appropriations and our actual development needs. Where government funding is reduced, NYCHA can use private capital to develop quality housing.

Mixed-financing also stimulates neighborhood revitalization and economic development. Public housing funds are often leveraged to create new public facilities in addition to housing, including community centers, health clinics and recreation centers.

Finally, mixed-financing provides opportunities for partnering with for profit and not-for-profit organizations—that have been successfully working with our residents and in our communities for years—to improve service delivery, foster economic growth and support housing development.

<u>Preserving Public Housing</u>

In the future, NYCHA plans to use mixed-financing to both preserve public housing, as well as, on a limited basis, develop new affordable housing units. As you know, the considerations for the development of public and affordable housing are different.

First, Congress limits the amount of public housing that can exist in the United States. The 1998 Faircloth Amendment restricts federal operating and capital funding for additional public housing units therefore effectively capping the number of public housing units in the country. While NYCHA and other housing authorities may replace lost public housing, we cannot create new units.

As my colleague Carlos Laboy discussed, the *American Recovery and Reinvestment Act of 2009* (ARRA) temporarily suspended the Faircloth Amendment, allowing NYCHA to complete the federalization of the 21 State and City developments. While federalization under ARRA may serve as a model for leveraging HUD public housing capital funds with private investment to preserve existing public housing it is a more challenging financing structure for creating new public housing units.

Even if NYCHA planned to replace its buildings and apartments within the limits of the Faircloth amendment, developing new public housing is extremely expensive. NYCHA has limited public housing capital funds. As such, NYCHA's priority for the use of these capital funds is on the preservation and maintenance of our current housing stock rather than the development of new public housing units.

Creating Affordable Housing

However, we are also firmly committed to creating new affordable housing. As you know, NYCHA is an important partner in supporting the Mayor's New Housing Marketplace Plan (NHMP), which sets a goal of creating or preserving 165,000 homes by

2014. Since the housing plans implementation in 2004, NYCHA has worked with the New York City Department of Housing Preservation and Development (HPD) and the New York City Housing Development Corporation (HDC) to develop more than 4,000 affordable housing units on NYCHA property. This affordable housing, developed with a variety of financing sources including tax exempt bonds, low income housing tax credits, New York State affordable housing funding and federal 202 funds represents a different type of mixed financing. While these financing resources do not rely on the traditional HUD financed "mixed housing model", these programs provide important tools and critical resources that allow NYCHA to capitalize opportunities to create new affordable housing while at the same time focusing our limited HUD capital funds on preservation.

Fostering Communities

Ultimately, NYCHA is committed to fostering strong *communities*, not just housing. "Strong communities" means having better public schools, recreational facilities, economic development, as well as creating opportunities for residents.

We believe that the key to creating opportunity for NYCHA residents is through forming inclusive partnerships that take into account all aspects of healthy community development—partnerships that will make critical investments to support housing infrastructure, education, workforce development and transportation, as well as to facilitate and attract future private investment into the surrounding neighborhoods.

Conclusion

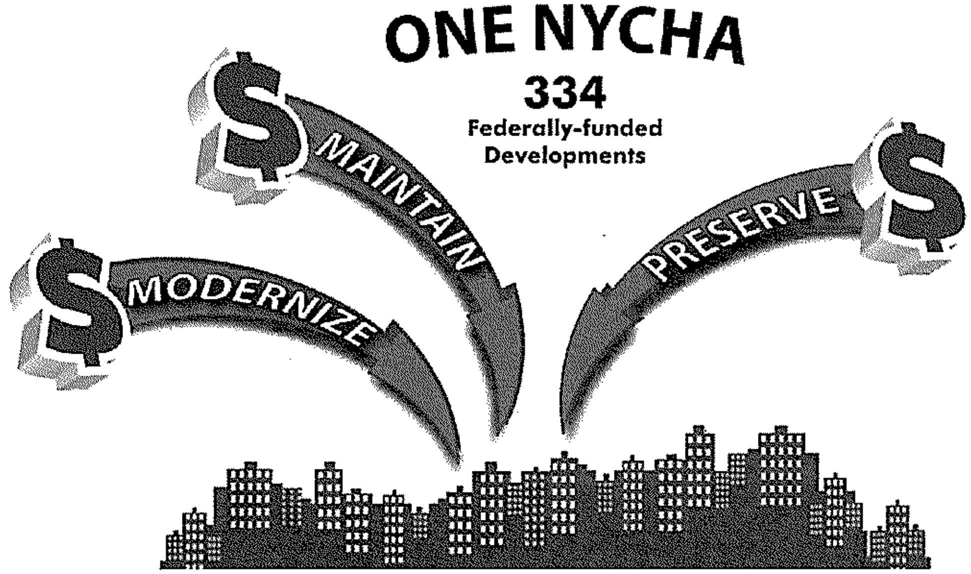
We welcome the City Council's insight and expertise in this effort. As NYCHA moves forward, we hope to work with members of the City Council to create the solutions that will ensure that NYCHA continues to create the strong communities that every New Yorker deserves.

Thank you and I look forward to your questions.

New York City Housing Authority

NEW YORK CITY HOUSING AUTHORITY

Federalization
Update- April 27, 2011



Agenda

- Introduction to the Mixed-Finance Modernization Plan
- Construction Status
- Apartment Inspection Status
- LIHTC Certification

Introduction to the Mixed-Finance Modernization Plan

- In March 2010, the New York City Housing Authority was successful in getting the U.S. Department of Housing and Urban Development's (HUD) approval to complete the Federalization of 21 former City and State NYCHA developments, with more than 20,000 housing units. In order to qualify for ongoing federal subsidies through a Mixed-Finance Modernization Plan, the developments were sold to an entity created and controlled by NYCHA. The sale also will enable HUD to include the 21 developments in a federal subsidy program that will deliver $65-$75 million every year for ongoing maintenance.
- As a result of the transaction, NYCHA:
  - Will receive more than $400 million in public and private funding, the majority of which will go to capital improvements that began immediately and will continue through 2012.
  - Has begun apartment inspections and interior repairs on many of the 21 developments.
  - Has started Capital improvement work at all of the 21 developments. Including brick work, façade and roof repairs, elevator replacement, front and rear entrance renovations and heating upgrades.

Construction Status Update

- Physical work is actively underway at all 21 developments
  - 13 in LLC-I
  - 8 in LLC-II
- There are 24 projects in progress at the 21 developments, including16 roof replacement & façade repair projects, 5 elevator rehabs, 2 building entrance upgrades, 1 heating system upgrade.
- The first four LIHTC projects scheduled to be completed in 2011 remain on or ahead of schedule (Rutgers- 4/11, Amsterdam Add. 6/11, Castle Hill 9/11, Marble Hill 9/11). The next two LIHTC projects (Manhattanville - 1/12 and Chelsea – 4/12), are currently ahead of schedule and will be completed by 12/11.
- The remaining seven LIHTC projects are on schedule to meet their planned 2012 completion dates.
- 7 projects are 99% completed, 4 projects are currently 70%-85% completed, 9 projects are currently 50%-69% completed.

LLC-I Construction Status

LLC-I Projects	Construction Permits Obtained	Physical Work Started	Scheduled Completion Date	% Complete As of 4/9/11
Rutgers	X	X	April 11	99%
Amsterdam	X	X	June 11	99%
Castle Hill	X	X	Sept 11	99%
Marble Hill	X	X	Sept 11	99%
Drew Hamilton (Brick)	X	X	Nov 11	64%
Manhattanville	X	X	Jan 12	88%
St. Mary's	X	X	Feb 12	50%
Chelsea	X	X	April 12	50%
Stapleton	X	X	April 12	58%
Bayview	X	X	May 12	56%
Samuel	X	X	May 12	78%
Bushwick	X	X	June 12	66%
Marlboro	X	X	Aug 12	41%
Drew Hamilton (Elevator)	X	X	Dec 12	24%

LLC-II Construction Status

LLC-II Projects	Construction Permits Obtained	Physical Work Started	Scheduled Completion Date	% Complete as of 4/9/11
344E28 (Brick)	X	X	Jan 11	99%
Murphy (Exterior)	X	X	Mar 11	99%
Baychester	X	X	June 11	99%
Linden	X	X	June 11	84%
344E28 (Elevator)	X	X	Sept 11	41%
Wise	X	X	Sept 11	68%
Boulevard	X	X	Oct 11	62%
Independence	X	X	Oct 11	84%
Williams	X	X	Oct 11	72%
Murphy (Elevator)	X	X	Dec 11	50%

Apartment Inspections

- Apartment inspections & repairs have commenced at all 13 LLC Developments

Location	Completion Date	# of Units	# Inspected (as of 3/30/11)	% of Inspections completed	Work Orders Generated from inspections	Work Orders Completed	% Work Orders Complete
Amsterdam Add.	Jun-2011	175	173	99%	1,058	915	86%
Castle Hill	Sep-2011	2,025	1,582	78%	10,954	8,137	74%
Chelsea	Dec-2011	425	399	94%	2,975	1,915	64%
Manhattanville	Dec-2011	1,272	1,124	88%	7,714	3,671	48%
Marble Hill	Sep-2011	1,682	1,501	89%	7,644	5,028	66%
Rutgers	Apr-2011	721	718	100%	6,060	5,808	96%
Total -2011		**6,300**	**5,497**	87%	**36,405**	**25,474**	70%
Location	**Completion Date**	**# of Units**	**# Inspected (as of 3/30/11)**	**% of Inspections completed**	**Work Orders Generated from inspections**	**Work Orders Completed**	
Bayview	May-2012	1610	802	50%	7,020	4,182	60%
Bushwick	Jun-2012	1220	876	72%	8,255	3,953	48%
Drew Hamilton	Dec-2012	1217	983	81%	9,740	4,978	51%
Marlboro	Aug-2012	1765	916	52%	7,291	4,561	63%
Samuels	May-2012	664	628	95%	3,307	2,046	62%
St Marys	Feb-2012	1007	478	47%	5,446	3,148	58%
Stapleton	Apr-2012	693	569	82%	2,983	2,108	71%
Total -2012		**8176**	**5252**	**64%**	**44,042**	**24,976**	57%
Grand Totals		**14476**	**10749**	74%	**80,447**	**50,450**	63%

Low Income Housing Tax Credit Certification

– **LIHTC Certification**

- On January 31, 2011 NYCHA certified 3219 units at Rutgers, Amsterdam Add., Castle Hill & Marble Hill as tax credit eligible – exceeding the minimum requirement of 3064 by 155.

- Since February 1, 2011 NYCHA certified an additional 1461 units for a total of 4907.

Location	**# Certified 1/31/11**	**# Certified 2/28/11**	**# Certified 3/31/11**	**Total Certified**
Rutgers	572	0	0	572
Amsterdam Add.	145	0	0	145
Castle Hill	1430	9	155	1594
Marble Hill	1072	134	61	1267
Manhattanville	0	1010	2	1012
Chelsea	0	308	9	317
Totals	**3219**	**1461**	**227**	4907