BROKEN PROMISE:

New York City's
Tenant Interim Lease Program
And Those Left Behind

A Special Report by Siegel Teitelbaum & Evans, LLP

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Introduction

This special report was prepared by the law firm of Siegel Teitelbaum & Evans, LLP to assist the advocacy work of PA'LANTE Harlem, Inc. We share PA'LANTE's goals to, 1. bring needed public attention to New York City's unfulfilled commitment to provide thousands of low-income residents in the city's Tenant Interim Lease program with cooperative ownership of their apartments and building; 2. persuade elected officials and community leaders to join us in insisting that the city fulfill that commitment.

We wish to express our gratitude to the residents of Tenant Interim Lease buildings and their Tenant Associations who have given generously of their time and related their experiences, including Rafael Padron, Luisa Rodriguez, John Delfish, and Carmen Pena, and TIL Tenants Coalition members Lorraine Baez, Shanell Carter, Yvette Rivens, Radiah Small, and Edward Torres. Their contributions provide the report with its central narrative as well as the inspiration of their struggles and hopes.

We also thank the leadership and staff of PA'LANTE, especially its Director Elsia Vasquez, the housing experts with whom we consulted, and particularly the public officials and academics whose detailed research and publications provide strong historical support for our findings and recommendations.

Introduction

This report reviews the promise and consequences of housing policies created by the city of New York in response to the financial and housing crisis of the Nineteen Seventies. It focuses on programs created to address that crisis and how they continue to affect the lives of poor and low-income residents, defined here as those individuals and families whose economic fortunes have never improved enough to permit an escape from poverty or dependence on public subsidies. Today, as the city rides the upswing of a generations-long boom and bust cycle, its low-income residents find it increasingly difficult to secure decent and affordable housing or to hold on to a fragile economic stability. Many of these residents are veterans of the era of property abandonment, financial crisis, and emptying neighborhoods that engulfed them a generation ago. Amid an economic and population boom and the city's new-found appeal for the wealthy and middle class, many long-neglected neighborhoods occupied by these same low-and-very-low income New Yorkers are being revitalized and gentrified. More than 345,000 affordable rent stabilized apartments were lost to deregulation between 2000-2007,[1] displacing thousands of low-and-middle income residents particularly in the Bronx, Brooklyn, and Manhattan. These forces along with recent changes in city housing policy have combined to threaten a class of low-income New Yorkers discussed in this report with the loss of their homes, but also their decades-long hopes for a better life.

We focus on a number of tenant associations participating in the city's Tenant Interim Lease Program (TIL), begun in 1978[2] in direct response to the city's housing crisis. The substance of the report is divided into several sections: 1. a sketch of the TIL program's history, including its founding and stated goals, management, and current status; 2 a summary of problems with the city's Department of Housing Preservation and Development (HPD) management of the TIL program, including accounts of the hardships HPD has created for the TIL Tenant Associations and how its policies threaten the promise of co-op ownership for which the tenants have worked and waited decades; 3. analysis of a new HPD initiative, the Affordable Neighborhood Cooperative Program (ANCP), designed to replace TIL[3] and what it does and does not offer the remaining TIL tenants; 4. recommendations on how to address the long-term housing needs of the TIL tenants and ensure that the promises made to them are kept.

A Brief History of TIL

Assessing the rationale for the TIL program and its relative successes and failures requires a look back to the financial and demographic crisis that spurred its creation. Not only had New York City been forced nearly into bankruptcy in 1975; there was a sense that New York had become exhibit one in the much-reported impending death of American inner cities.[4] The remark "Ladies and gentlemen, the Bronx is burning," often (but wrongly) attributed to sports announcer Howard Cosell as smoke from a nearby fire drifted across Yankee Stadium,[5] the now-historic photographs in Look magazine of South Bronx neighborhoods-in-ruin, and the looting and arson that engulfed the commercial streets of several low-income neighborhoods during the blackout of 1977[6] contributed to an image of New York as a city hollowing itself out, and of our urban centers as anarchical places of exhausted dreams, failed leadership, disinvestment, white flight, menace, and tabloid violence.

We recognize now that the underlying causes of the city's decline were long-term, and primarily demographic and economic- which is to say, historical and cyclical. In New York they contributed to a “perfect storm” of financial and demographic circumstances that brought the city nearly to its knees. At root, the economy of the old industrial cities that had powered and supplied the world through the early and mid-Twentieth century was in a state of decay. In New York the blue-collar jobs that had sustained the mostly white working and middle classes were being lost to broad changes in manufacturing, transportation, infrastructure and industrial development in other regions of the country and abroad, and to changing labor practices. On New York’s waterfront the era of the great liners had gone, the coastal shipping industry was being replaced by long-haul trucking on the new Interstate Highway system, and the docks and warehouses built for bulk cargo- along with their jobs- were being made obsolete by containerization at new facilities concentrated on the New Jersey side of the harbor.[7] These trends, which only accelerated in succeeding decades across all manufacturing sectors, were what today would be called a “paradigm shift” to mechanization, globalization, and the loss of jobs to regional and foreign competition. In every borough small factories and machine shops, the needle trades, and thousands of ancillary businesses that served them had begun to close their doors. Adding to these effects was the aging-out of a mostly white lower-middle class generation that had struggled through the Depression, prospered during the war, raised their families, and been the backbone of the city’s unionized working class economy. As the firmament of that communal and work-a-day world began to fade, its children, come of age in a post-war time of national optimism, beheld the aging and opportunity-starved city, its increasingly non-white population, and rising crime and disorder, and turned toward a future in the burgeoning suburbs with their promise of cheaper living, and new and better housing and schools. By 1982 only 10.6% of city jobs were in manufacturing,[8] and many of these had been taken by new immigrants.

The vast scale of this sociological transformation is reflected in the city's demographics in the years before TIL began. Even in the Forties, as wages from war work increased economic mobility, about a half-million non-Hispanic whites had moved out.[9] More than a million residents packed up during the Fifties, and by the advent of TIL in 1978 more than 800,000 mostly white middle and working class residents had fled within twenty years.[10] With them they took what numbers cannot convey: stable lifestyles, ethnic and community pride, steady jobs, anchoring religious and cultural institutions, and their tax revenue. Whole neighborhoods- Brownsville, East New York, Sunset Park, Washington Heights, and the South-central Bronx- whose various cultural identities had fostered the city's tough working class self-image and belief in itself- were emptied out in just a few years, upending two generations of social and economic stability.

The principal causes of housing abandonment, particularly of multiple-dwelling buildings in poor communities, included: 1. rising costs and declining revenues as poor and lower-income tenants replaced middle and working class ones caused landlords to neglect maintenance, capital investment, and the payment of taxes and fees that income from their buildings could no longer support; 2. a sharp recession in the mid-Seventies that increased borrowing and operating costs for both residential landlords and business owners; 3. the city's long-term structural deficits and the unsustainable borrowing and indebtedness that led to its near-bankruptcy in 1975 forced a reduction in city services and code enforcement, hastening the deterioration of the housing stock; 4. a "perfect storm" of high inflation, a national credit crunch, record spikes in heating oil prices, and low rent rolls pushed many apartment buildings that had been economically marginal for a generation into unsustainability.[11] The consequences were not limited to low-income buildings.

Willard L. Doyle, an attorney negotiating a new labor agreement for the Realty Advisory Board, an owner's association of middle and upper-middle class apartment houses, had spoken about these issues for much of the city as early as 1970: "Our problem is that the income pocket is sewed up and the outgo pocket has a hole in it."[12]

In 1976, with the city's finances in uncharted waters and waves of multi-family housing abandonment accelerating across former white working class neighborhoods, the City Council passed Local Law 45 (LL45) creating a new "*in rem*" standard that allowed the city to declare property abandoned and to foreclose on it after one year in property tax arrears.[13]

At the start of the *in rem* seizures in 1976 city officials as well as housing advocates envisioned them as an opportunity to implement a mix of long and short term strategies for housing preservation, investment, and long-term fiscal stability. TIL and other housing restoration programs represented a commitment by the city to, 1. limit further harm; 2. help spur a recovery by salvaging functional and sustainable properties, reclaiming abandoned ones, and stabilizing neighborhoods; 3. stabilize conditions of habitability for tenants whose buildings lacked basic services, safety measures, and essential maintenance; 4. rapidly return *in rem* property to the city's tax base, and deter further abandonment and neglect through neighborhood re-investment programs.

After the passage of LL 45, *in rem* seizures increased at an unprecedented rate and scale. A study published by the Furman Center notes that, "by 1979 (only three years into the *in rem* program) the city owned more than 60,000 housing units in vacant buildings, many too dilapidated to inhabit or sell- and another 40,000 units in occupied buildings."[14] Of these, the occupancy rate was less than 40%, with many buildings in "a horrendous condition."[15]

A new agency, the Department of Housing Preservation and Development, had emerged out of the fiscal and housing crisis in 1977 to consolidate the management and creation of housing. As one of its earliest initiatives to stem widespread property abandonment and displacement of residents, TIL seemed to hold great promise when it was born of desperate times but also opportunity and idealism.[16] But another basis for the city's early optimism about *in rem* seizures proved unfounded: investors showed almost no interest in the thousands of abandoned or vacant properties that the city had acquired, nor in the marginal neighborhoods where most *in rem* buildings were located. Other than speculators seeking property for short-term investment schemes that quickly failed, few buyers were willing to purchase buildings with the low rent rolls and high costs that had contributed to their original decline and abandonment.[17] Facing a dearth of private investors and the doubtfulness of a quick turn-around on property tax losses, the city re-envisioned a larger role for the very low-income residents who occupied many of its *in rem* buildings, embracing them as key assets in its plans for a housing and neighborhood revival. If government could successfully leverage these low-performing properties back into solvency it could join the long-term economic self-interest of the residents to that of the city, enable low-income residents to become homeowners and anchors of stable communities, and improve the city's straightened finances. The perilous state of the city at the brink of insolvency and awash in abandoned housing is reflected in that moment in 1978 when the TIL program took form: the nation's "Empire City" and its foremost symbol of urbanity and cultural supremacy was turning to its poorest residents in an untested venture to create very low-income co-op housing ownership.

This was not the first time that the city had found itself the landlord of the poor by default, but never before had it been beset by financial problems as daunting as those faced by the poor it sought to assist. Since the middle of the Nineteenth century reformers had made New York- often by necessity- a national laboratory for addressing issues of basic sanitation, public health, clean water, public education, animal anti-cruelty protection, and food and workplace safety. The city had the nation's first comprehensive zoning law, one of many to follow; created the first municipal public housing projects that set the city on course to be a leader in housing reform and a benevolent landlord of last resort; and, in the face of horrifying conditions created in the 19^{th} century by unregulated private sector housing, New York passed the first laws reforming the design of tenements to make them fireproof and more healthful. Many of the pre-1930s apartment houses absorbed into the TIL program, despite decades of neglect, retain the benefits of good design and solid construction made possible by zoning and building code reforms in earlier eras.

Those efforts reflect an evolving historical understanding by New York's civic and political elite that the city had both a practical and moral obligation to protect and assist the city's residents, particularly the working class as well as the poor and indigent, and to make safe and healthful living conditions a fundamental right. The philosophy of a proactive, protective, government, as it slowly took form through social reform movements, local and national politics, and in laws and codes across more than a hundred years of effort, had created a reasonable expectation- a kind of social contract- that New York city government should work in the interest of its citizens, acknowledge a responsibility to address wrongs, prevent harm, and pursue progressive social reforms.

City officials and housing advocates embraced TIL as a continuation of that tradition, envisioning low-income co-ops as a way to: 1. keep vulnerable residents from being displaced; 2. repair landlord-neglected and abandoned buildings, and renovate them using city subsidies, private contractors, and tenant "sweat equity"; 3. help stabilize neighborhoods threatened by property neglect and abandonment; 4. gradually return delinquent and abandoned apartment buildings to the tax rolls, and; 5. accomplish these goals with financial and management support through HPD. In short, the city envisioned TIL as a low-cost way to create permanently affordable, tax-producing, cooperatively owned and managed multi-family housing from abandoned and foreclosed buildings, and to do so at a scale never before achieved.[18]

TIL was only one of more than a hundred housing programs initiated by the city over the past thirty years to address the needs of poor and low-income residents as well as the middle class.[19] It was at root a co-operative management agreement between the city and the tenants of *in rem* buildings. TIL rested on the premise that with HPD and its surrogates in the non-profit housing community providing managerial and material support, as well as training in self-management and finance, TIL tenants would acquire the tools to determine their own future, rehabilitate their apartments and common areas, and learn to operate and maintain their building sustainably as a low-income co-op under an interim lease- initially expected to be about a year in duration. The city anticipated that once a building was physically rehabilitated, and the residents had demonstrated they could competently meet their obligations as co-operative owners and managers of its finances- regularizing the collection of "rent" payments from residents, and building and maintaining a reserve fund, among other requirements- they would have the opportunity to purchase their apartments for $250.[20] Over succeeding decades the program was extended, its contractual terms amended, and management practices revised numerous times in response to the challenges of creating and maintaining viable low-income co-ops that were permanently self-sustaining.[21]

The extremely low income levels that characterize tenants in the TIL program and other city subsidized low-income housing are made clear by data in the city's annual Housing Vacancy Survey (HVS).[22] Taking as a benchmark 1993, fifteen years into TIL and a point at which the city had seen a decade of sustained revival, HVS data shows that one-fifth of *all* households citywide were paying more than half of their income in rent, including one-quarter of rent controlled tenants, almost one-third of those who were rent stabilized, and more than one-third of *in rem* tenants. Many of the *in rem* tenants were still in buildings considered dilapidated, and a quarter of such dwellings had five or more maintenance violations. Central Harlem, the location of the buildings we will focus on, is cited in the HVS of 1993 as among the low-income neighborhoods where poor housing conditions and punishing rents were most concentrated.

In a further reflection of the economic status of residents occupying *in rem* property, as well as the challenges facing TIL tenant associations seeking to become co-op owners, 1993 data from the New York City Rent Guidelines Board shows that 44% of stabilized *in rem* buildings under HPD oversight in Central Harlem were already in tax arrears.[23] Related city data from 1995 offer another look at the economic distress of low-income residents: that year, contract rents for *in rem* housing city-wide *averaged* only $229 mo.- suggesting that a significant percentage of *in rem* tenants reportedly paying half or more of their income in rent were subsisting on monthly incomes between $500-$1,000. During this period monthly rent collections on apartments managed by HPD averaged only $167, and the agency's yearly operating deficit per unit under management was about five thousand dollars.[24]

The marginal status of many TIL properties can also be gleaned from income data during the Koch and Dinkins eras. As the city's economy revived and its expenditures nearly doubled, median income among *in rem* tenants *declined* and the proportion on public assistance rose from 30% in '81 to 65% in '92.[25] This startling shift reflects emergent income and class disparities between an expanding white collar and corporate sector and the chronically low-income and poor who comprised a large proportion of the city's population. One factor skewing the reported decline among *in rem* tenants was the decision of the Koch administration to respond to the city's homeless crisis of the Nineteen Eighties and early Nineties by housing 13,000 homeless families in *in rem* buildings.[26] Although Mayor Koch's move cooled a middle class political outcry over the homeless (much like that being heard today), the fact that most homeless families are chronically under-and-unemployed meant that Koch's action saddled HPD with a legacy of very low rental income from hundreds of buildings it would subsequently struggle to sell or make self-sufficient. The present day resistance of HPD to placing homeless families in its vacant TIL units may reflect that past experience, as well as the agency's current policy of warehousing empty units in TIL buildings as a potential profit center, as discussed below.

In the early years of HPD's authority over TIL, beginning in 1978, projections about the cost and disposition of *in rem* property reflected how the city's program was a voyage into uncharted waters. Initially HPD anticipated renovation costs for *in rem* buildings assigned to TIL at $1,000 per unit, an estimate based on its experience with stable buildings in good repair.[27]

Revised estimates quickly reached $4,000; by the beginning of the Dinkins administration in 1990 they had grown to $35,000 per unit just as a moratorium was being imposed on *in rem* foreclosures; by 1997 HPD's per unit expenditures reached $58,000.[28]

TIL program guidelines were developed in partnership with the Urban Homesteading Assistance Board (UHAB), a non-profit housing manager.[29] The guidelines offered a simple template and rationale for success in TIL, reflected in the excerpts cited below: 60% of a building's tenants had to agree to participate, raise and collect rents to meet expenses, build a reserve fund, organize a board and meeting schedule, and participate in UHAB training to meet management, finance, reporting, and other requirements of the program.[30] If judged to have been in substantial compliance after 11 months, HPD promised tenants the opportunity to own the property by purchasing their units, as noted above, for $250. Through the administration of HPD's Division of Alternative Management Programs (DAMP)[31] tenants would assume ownership as a Housing Fund Development Corporation (HDFC), a type of limited equity housing cooperative specifically for persons of low-income, and formed pursuant to Article XI of the New York State Private Housing Finance Law.[32]

Unsurprisingly for a program of unprecedented scale, problems were widespread from the beginning. HPD faced ongoing difficulties creating a stable and efficient management program for the thousands of properties and tens of thousands of tenants for whom the city had taken responsibility through *in rem* while also seeking to establish reliable benchmarks to evaluate whether TIL tenant associations would be able to manage their buildings short-and-long-term.[33] Other challenges included philosophical disagreements between HPD and various non-profit housing advocates and developers about whether private development interests should be allowed to take control of *in rem* properties. These advocacy groups, typically communitarian in outlook, wanted a public housing approach that excluded or severely limited privatization. By and large, that emphasis proved politically compelling and under the POMP program scores of thousands of both vacant and occupied apartments were renovated and buildings brought up to code by private developers who had the option of purchasing vacant apartments for $2,500 but were required to return them to the marketplace under rent stabilization "upon out-take."[34]

By the third term of the Koch administration (1985-89) HPD found itself increasingly burdened by soaring rehabilitation costs which were not only absorbing hundreds of millions of dollars in federal development funds but starving other programs for which the funds were originally intended.[35] In response, the city shifted its emphasis away from renovation of inhabited buildings, with their high cost and delay, to its large backlog of vacant *in rem* properties still under city ownership. HPD's Vacant Building Program (VBP) focused on tapping private construction management firms to do "gut" rehab and assume ownership of the property. This effort, with costs shared by private investors and the city, made dilapidated empty properties more attractive to private investment. By reducing costs through economies of scale and eliminating delays created when tenants were in place, by the end of the Dinkins administration in 1993 the VBP had restored 40,000 more units of stabilized housing to habitability at a lower cost per unit than in comparable tenant-occupied rehabilitation projects.[36]

In several respects- the turn to private development solutions, the emptying of tenants to facilitate the sale of a vacant building for full rehab, and the use of Third Party Transfer to convey the renovated building to private ownership- the VBP contains the bones of HPD's current effort- the Affordable Neighborhood Cooperative Program (ANCP), rolled out in 2012 and discussed below.

The buildings and tenant associations that remain in TIL- many of which are slated for transfer to ANCP- have faced core challenges common to the program since its inception. Accounts of HPD and UHAB policies and actions over the past two decades, in the form of representations made by the TIL tenant associations and provided to PA'LANTE, are cited below. They include many issues and concerns that reportedly have not been addressed by either HPD or UHAB, resulting in serious hardship for the TILs and long delays in their efforts to become HDFC co-ops.

1. The apartment houses that the city seized *in rem* and were later conveyed to the TIL program and other city rehabilitation and housing programs had been abandoned in large part because the rising cost of wages, repairs, maintenance operations, fuel, insurance, and taxes could no longer be supported by the building's rental income;

2. Once buildings were accepted into the TIL program these costs were not reduced or adequately subsidized by HPD; meanwhile, rent charges to TIL tenants or monthly maintenance payments by TIL/HDFC co-op owners remained unsustainably low due to the limited income of the residents and were often unequal to the costs of building ownership.[37] In the early years of the program there was a wave of evictions of residents from TIL buildings and HDFC co-ops for payment arrears, with some actions initiated by HPD and others by HDFC boards and TIL tenant associations.[38] In recent decades the city has sought to avoid eviction through the use of subsidies, "one shot" emergency repayment programs, and negotiation.[39] However, reflecting a

history of divided objectives in city housing policy, the Department of Finance has maintained its early focus on recouping losses to the property tax base caused by the crisis of housing abandonment. It has raised property taxes repeatedly- often to unsustainable levels- on stabilized properties; at least one study indicates that tax assessments on affordable housing were increased the most in low-income neighborhoods.[40]

3. Many *in rem* buildings chosen for TIL/HDFC as well as other HPD programs were in very poor condition due to age or long-term neglect. They required costly repairs and replacement of mechanical systems to make them sound and habitable- expenses which in most cases the residents could not afford and that in the early years of the program the city was unprepared to meet. Particularly in those years HPD significantly underestimated the scope and cost of required work by as much as thirty times.[41]

In speaking about HPD's approach to its in rem properties in 1981- just three years after the start of TIL- Sandy Bayer, the head of a private housing task force, summed up the situation: "In many cases the city is putting the tenants in leaky boats and telling them to try to cross the ocean. There are no options for the buildings without government help."[42] Thirty five years later our discussions with TIL tenants reveal a comparable degree of detachment by HPD and even a kind of "que será, será" attitude toward the tenant's struggles, hopes, and future.

As the *in rem* inventory expanded, mayors came and went, costs rose, and housing development priorities changed, repeated bouts of budget cutbacks limited the agency's ability to do essential repairs, make substantial improvements, or carry out required supervision of a vast archipelago of properties scattered throughout the city. It appears that HPD continues to inadequately monitor the maintenance, repairs, and renovation work it supervises and pays contractors to perform in TIL buildings, and- much more consequentially- the agency appears to leave unaddressed violations of basic standards for habitability, often for years.[43] HPD is responsible for the enforcement of the city's Housing Maintenance Code (HMC),[44] which requires landlords (including the city) to maintain their buildings in compliance with basic standards for livability. These include the provision of heat, hot water, and the basic soundness of walls, ceilings and building envelope, as well as the control of pests. HPD also operates an Alternative Enforcement Program[45] that targets private landlords whose buildings fail to meet the standards of the HMC; despite these protections, code violations in TIL buildings continue to go unaddressed for years.

Cumulatively these effects have caused many surviving TILs to fall into a kind of limbo, with progress toward ownership languishing for decades. There appear to have been many broken promises, and in the reports made to PA'LANTE by the tenant associations and cited below, the guidance and leadership from HPD that was promised to the tenant associations under TIL has faded away without explanation; HPD's coordination about essential building, finance, and compliance issues has grown haphazard or non-existent; and promises of impending improvements, relocations, and purchase time-lines have proved unreliable and essentially fictitious.

At the midpoint of the TIL program's life in 1998, the year that 161 West 108th Street came into the program, then-City Comptroller Alan Hevesi issued an audit that cited a range of HPD management shortcomings: "Simply stated, a large number of these buildings have not succeeded in any way, shape, or form. Many of the buildings have…deteriorated (since HPD inherited them) and are probably in the same or worse condition than before they were renovated." Surveying 19 TILs, the audit found six in poor condition with leaky roofs, cracked stairways…and faulty boilers.[46] The following year, a 1999 audit of HPD operations by then-State Comptroller H. Carl McCall found that HPD did not have a formal (written) plan to track the management and disposition of the buildings it controlled, and "lacked identified priorities to guide the disposal of buildings." The audit concluded that HPD "did not have an effective system to track the movement and status of all the buildings that are in the city's inventory." Among related findings the audit uncovered long delays in the return of (*in rem*) buildings to private ownership; a survey of 252 buildings in HPD's portfolio found that buildings remained in TIL an average of sixteen years.[47] This was up from eleven months at the beginning of the program.

These findings, particularly HPD's "lack of an effective system to track the status" of buildings in its inventory, are reflected in the representations made by the TIL Tenant Association members we interviewed, including those who reside at 161 West 108th Street.

> *In 2008 UHAB, which was under contract to HPD to provide management assistance to 161 W. 108th (hereafter,"#161"), instructed the Association (hereafter,"TA") to apply for State unemployment and liability insurance. The completed applications with money orders for payment were submitted in a timely fashion but the money orders were returned without explanation. The UHAB liaison assigned to #161 reportedly informed the TA that they would look into the matter. Months of repeated inquiries by the TA followed with no reply, and there was no mention of the insurance, the application, or the returned money orders by UHAB or HPD. Seven years later, in 2015, UHAB and HPD informed the TA that the State of New York had levied a $300,000 fine against the TA for*

its failure to have the required insurance- for which the TA had submitted its application and payment in 2008. The TA was then informed by UHAB and HPD that after negotiations with the State the fine had been reduced to $60,000 plus interest, although the TA was never aware of or privy to these said negotiations. The TA was told that unless it paid the renegotiated fine and interest the State would seize the building. Faced with this ultimatum the TA agreed to a $10,000 down payment and terms of $1,080 per month, but informed HPD that in their view the situation had arisen due to the agency's poor oversight; and that this extra expenditure from the TA's reserve fund would create serious financial hardship and make it more difficult for the TA to properly operate the building. In response, HPD assumed no responsibility and declared that if the money ran out the TA would lose its right to future ownership. Now, approximately one year into the monthly repayment schedule, the monthly checks issued by the TA in payment of the fine and interest are being returned unnegotiated without comment, and the TA's numerous requests to HPD for an explanation are once again met with silence.

A related story emerges from the account provided by the TA at 503-505 West 140th Street. Edward Torres, the head of the TA, was contacted in December of 2015 by the head of the compliance division for the TIL program: #503-505 had fallen out of compliance for not submitting financial reports for five months. According to the TA, the cause of the lapse was that the HPD had changed the template of the financial reports in May, 2015 but had failed to provide the new template to the #503-505 TA; its financial reports on the old template were being counted as not-submitted. This snafu, and the delay in reporting, could have been avoided if HPD had made the smallest effort through its assigned coordinator to ensure that the TA had received the new template.

4. Management shortcomings appear to show that a basic training seminar of ten hours by an HPD non-profit housing contractor such as UHAB would be inadequate to prepare tenants for long-term self-management and ownership. The TILs proved to require close supervision and technical assistance in order for their residents- used to living on extremely minimal incomes, often without English as a primary language, or lacking experience in home ownership- to meet the obligations required of professional property managers.

Even when HPD and UHAB had acquired decades of hands-on experience with TIL and the creation of HDFC co-ops, HPD coordinators and its non-profit contractors reportedly failed in many cases to adequately supervise or train the TAs, or fulfill their duties as property managers as required by HPD's management role with the Associations. Among the most important pledges made by HPD to the TIL Tenant Associations through its relationship with UHAB, the agency alleged that it would "assign a coordinator to help your tenant association meet TIL program requirements. Your HPD coordinator is the first person you should turn to with problems or questions. Your HPD coordinator will work with your tenant association to set up repair plans, supervise monthly financial reports, and support you if emergencies arise."[48] Although in practice two coordinators- one to track financial matters and another for fieldwork- were officially assigned to each TIL, the experience of the TAs highlighted in this report has been that HPD's 'first person to turn to' frequently proved unavailable or unreliable.

As noted above, many *in rem* properties accepted into TIL in its early stages failed to meet various self-management criteria, including the collection of rent or maintenance charges, or the payment of bills, and fell into financial distress. Where TIL buildings were able to stay current with costs and assessments but never generated significant reserves or benefitted from promised renovations, the TAs allege that they found themselves languishing for decades without promised liaison with HPD, without competent oversight by HPD coordinators, without necessary repairs to the building envelope or promised capital improvements, and that these failures impaired their efforts to become an HDFC co-op.[49]

> *107 West 105th Street began to participate in the TIL program in 1999. In the recounting of the tenants, their first HPD contact was "always calling tenants to invite them to join the program. This was when they (HPD) wanted the program to work and to reinvigorate deteriorating neighborhoods."*
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> *Once admitted to the TIL program, the TA recounts that the first coordinator assigned to them by HPD was habitually inactive and unhelpful. The next coordinator the TA found "very helpful," but she was gone after a year- a pattern of rapid turnover common to the accounts provided by the TAs cited in the report. Their third coordinator was also helpful and prevented HPD from placing relocation tenants in the building's warehoused apartments- a move that the TA believes enabled #107 "to remain on the updated list of buildings on track for renovation"- that is, with vacant, warehoused apartments that would be attractive to developers under programs like ANCP.*
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> *In 2006, after repeated requests to HPD that it address the deteriorating condition of the building- including a leaking roof and rat infestations in the cellar- and after a series of inspections but no corrective action, the TA commissioned an independent survey by members of the Pratt Institute.*[50] *They reportedly found #107 in "poor condition" with numerous building code violations and "unhealthy living*

conditions" for children and the elderly despite seven years of HPD oversight. When the TA presented these findings to UHAB their response was that "the city cannot sue itself"- referring perhaps to the city's ownership of the property but leaving unaddressed its responsibility under the Building and Housing Maintenance Codes (HMC) to meet the same basic standards of habitability required of private landlords.[51] *The TIL buildings cited in this report have many HMC violations, including mold problems caused by leaking roofs, sporadically-functioning boilers, broken windows, and rat and bedbug infestations- one TIL, at 161 West 140th Street, suffers from all of these conditions.*

In October, 2008, ten years after #107 West 105th Street was admitted to TIL, and with all of the tenants having completed the UHAB courses on building management, HPD invited the TA to meet with its architects to collaborate on the re-design and renovation of the building. The TA reports that at this meeting many assurances were given: HPD had another building in which the tenants would be relocated until the work was completed; all the apartments which shared an existing line would retain their original configuration in the new design; and there would be a meeting later in the month "to discuss the logistics of packing, moving, and the storage of possessions." Shortly afterward HPD cancelled the logistics meeting without explanation and never rescheduled it. For the next four years their HPD coordinator counseled patience, insisting that the building would be renovated as promised. Eight years have passed and the TA reports that HPD has never again mentioned the scheduled renovation to prepare the building to become an HDFC co-op, nor explained the sudden disappearance of the promised financing or the abrupt cancellation of the work. Recently, after eight years of silence, HPD has informed the tenants that instead of completing the final step to become *the promised HDFC co-op, their building is being conveyed to a developer under ANCP, a decision over which they are allowed no say.*

5. As decades passed, buildings in TIL awaiting approval to become HDFC co-ops- and some functioning HDFC/TIL co-ops as well- experienced the aging-out of their original residents. As tenants passed away or moved on, HPD refused to allow these buildings to rent or market the apartments that became vacant, an action that directly contravened its own guidelines that directed the TILs to take responsibility for renting vacant units.[52] The HPD program guidelines granting rental responsibility to the TILs speak to the agency's understanding that the buildings could not pay for themselves or build adequate reserves unless the rent rolls were full. The TAs report that it has been both mystifying and deeply frustrating that HPD, ostensibly responsible for assisting the TILs to succeed, took away their primary means of self-support.

It appears from the representations of the TAs that HPD's warehousing of vacant units has been among the agency's most destructive practices. The TA accounts strongly suggest that HPD can hardly have failed to recognize the harm and hardship that its warehousing policy would cause: the TAs report that the policy starves the TILs of essential funds, shrinks rent or maintenance rolls to unmanageable levels, causes reserve funds to be depleted, and puts the tenants under increasing stress as they try make do with less income.

According to the account provided to PA'LANTE by the TA of 161 West 108th Street, they had been a TIL for 8 years and were managing a fully occupied building with $124,000 in its reserve fund- critical funds saved toward the day when #161 would become a HDFC co-op. As described above, it was the next year, 2008, that HPD left the

TA at the altar. The TA alleges that since that time the agency has worked to deplete the TA of its resources, has basically abandoned it without support for the past four years, and warehoused one-third of the building's apartments- refusing the TA the opportunity to rent them. According to the TA, HPD's actions have caused their reserve fund to shrink to less than $75,000.

The TA of 615 West 150th Street entered the TIL program in 1996. Their experience, as recounted to PA'LANTE, offers many examples of HPD's apparently destructive management practices. Like 161 West 108th Street, the TA of #615 was told by HPD in 2007 that their building had been selected for renovation and that HPD had the money in its budget. In 2008 relocation of the tenants from their homes began. After having their possessions placed in storage, fifteen families were re-housed- twelve in vacant units in HDFC co-ops, and the other three in TIL buildings. Eight years later the renovations have never been completed, and according to the TA HPD claims it no longer has the money. Although the promised renovation will never occur, HPD has prohibited the tenants relocated eight years ago from returning to their homes. Their possessions reportedly remain in a storage facility which they claim they have never been allowed to visit and whose location they are not allowed to know.

According to the TA the tenants who were not moved from 615 before HPD abandoned its planned renovation continue to live in a mostly de-populated building where HPD is now warehousing not only the apartments that it forced the tenants to vacate in 2008, but more than half of the building's 62 units. The TA further alleges that HPD has refused to allow the TA to rent out any of the vacant apartments in the building- even on a short-term basis- thereby imposing an extreme financial hardship on the TA.

Although HPD is warehousing half of the building's units, the TA reports that the agency continues to demand that it meet stringent guidelines for maintaining reserve balances and rent collections, and demonstrating financial self-sufficiency.

According to the TA at #615 they were told by HPD in 2012 that their building had been selected to enter the ANCP program. Reportedly nothing happened for another four years, and only in September, 2016 did the residents receive a letter informing them that #615 had been "selected for participation in ANCP," a decision that the TIL residents, still awaiting their HDFC co-op, report that they were never consulted about.

6. HPD's guidelines published by UHAB for the TIL program state that "Your Tenant Interim Lease itself is a legal document between your association and the city…It outlines your duties, including renting vacant apartments…."[53] Yet HPD has not only prevented the TAs from renting vacant residential units. It has also reportedly refused to allow the TAs to rent out vacant commercial property on their premises. This position, as reported by the TAs and PA'LANTE, has further starved the Associations of income crucial to their viability. According to them, the agency has reportedly gone so far as to block the acceptance of generous lease terms from a national chain store. Although commercial frontage is perhaps the most valuable asset a TIL could have, the TAs allege that HPD not only refused to provide an explanation for its actions blocking all rentals; they report that the agency has habitually found fault with these same TILs for failing to meet maintenance obligations or maintain adequate reserves while denying them every opportunity to increase the building's income. The agency apparently became aware that total rent rolls across the TIL program were falling, largely due to its own warehousing of vacant units. In response HPD imposed, reportedly without consulting the TAs, a rent increase of 81%

on all TIL residential units where the lease holder had died. HPD took this action apparently in full knowledge that it would cause rents to rise to as much as $700 monthly or more- an unaffordable amount that would inevitably cause the eviction of the surviving family members for rent arrears. After the TAs objected strenuously, HPD- again reportedly without written explanation- reduced the increase to $100 per unit.[54]

> *161 West 108th Street is a small TIL that also reports it has suffered financial hardship as a result of HPD's warehousing policy. According to the TA it has sought repeatedly to find a mechanism that would allow it to obtain operating revenue from its two vacant warehoused apartments. It petitioned HPD for permission to offer short-term leases with no rights of purchase, but reports that HPD has never responded. #161 also has valuable commercial space that has been vacant for about four years because, according to the TA, HPD will only allow it to be rented on a month-to-month lease- a condition that few if any businesses will accept. The apparent harm that HPD's policy has caused to the finances of the TA is illustrated by the effort of a Dunkin' Donuts® franchisee to rent the TIL building storefront with a five year lease. Under the terms of the lease proposed by Dunkin' Donuts® in its letter of intent, the leasee would pay for all renovations, provide the TA a $50,000 signing bonus, agree to a rent of $5,000 per month, and a 10% increase every five years. According to the TA, HPD refused to consider this offer, despite its potential to significantly aid the TA and the building reserve fund, out of which the TA has paid at least $140,000 of its own money to maintain the property and cover administrative costs over the years.*

7. HPD's policy of preventing the TILS from exercising their stated obligation to control the rental of vacant units has reportedly created financial hardship for the TAs. But the agency's determination to warehouse as many empty units as possible has also reportedly caused the infliction of additional hardship and suffering on TIL families and the Associations when a tenant of record died. While the agency appears to have moved with glacial slowness in making good on its promise of granting the TILs status as an HDFC co-op, it allegedly pushed hard for years on the TAs to evict the families of deceased leaseholders from their units, insisting that they had neither a right to remain nor any right of succession. According to the TAs, the agency ordered them to refuse rent payments from families of deceased tenants, resulting in their eviction- and creating another warehoused unit and further harming the capacity of the Associations to meet their expenses.[55]

The struggle over succession rights and protection for the spouse, children, or elderly parents of the deceased arose because HPD required that when residents of an *in rem* building entered the TIL program they had to surrender their rights to rent stabilization and its attendant protections. HPD placed the TIL tenants on month-to-month leases as part of its promise to sell them their apartments for $250 and grant them status as an HDFC co-op- a process that in the early years, when the city was eager to transfer ownership to willing and able Tenant Associations, often took as little as eleven months.

Like so much else about the consequences of HPD's waning support for and disinterest in the TILs as a solution to formerly abandoned *in rem* housing, the issue of succession for widowed spouses and their children became acute when the agency began to withhold HDFC co-op status from the TILs for decades. Over those years hundreds of bereaved families suffered eviction, while- according to the TAs- HPD required that their former unit be left vacant, often for more than a decade. Not until 2014, when many residents came to testify at a public meeting about the harshness of the agency's eviction policy targeting widows and children, did Ann Marie Hendrickson of HPD mention to the Director of PA'LANTE that they would be granted succession rights "within three months-" the first that PA'LANTE or any TIL resident had read or heard of this.[56] Yet when succession rights were subsequently granted to bereaved families, PA'LANTE reports that HPD gave families only 30 days to obtain all the required paperwork and apply for their rights- a deadline that appears to be short and arbitrary, and that ignores the cultural nature of grievance and burial for families of Puerto Rican and Dominican descent who typically return with the deceased to their island of origin for burial and associated rituals.

8. As described by the TAs, HPD's own building coordinators were often "missing in action," inadequately trained or experienced, or failed to follow up on critical matters. But when problems inevitably arose due to oversight failures, the TAs allege that HPD would assert that the law prevented it from intervening. In practice, this policy appears to have been one of little more than deliberate indifference about the agency's responsibility for the long-term financial viability, management, and ultimate success of the buildings acquired under *in rem*, the significant public monies expended, and the lives of the residents whose well-being depended on its able management of the agency's programs. As described in the TA accounts and the audits cited above, it was HPD's own failure to plan effectively, execute or live up to its stated policies, perform due diligence, ensure that training was adequate, or maintain the TIL buildings in a habitable condition that threatened the viability of the TIL associations. In addition, the agency

appears to have been unforthcoming about acknowledging its responsibility to address problems it helped create or the harm its actions- or inaction- reportedly caused.

9. Without adequate support many TILs and HDFC/TIL co-ops- particularly in the Nineteen Seventies and Eighties- fell into internal governance disputes, habits of mis-management and malfeasance, and suffered from wrongdoing by board officers. At the most prosaic level, some buildings admitted into the TIL program had tenants with a record of chronic rent arrears and, after transitioning successfully to co-ops, continued to be challenged by non-payment of maintenance charges. For buildings enrolled in TIL and awaiting approval as co-ops, HPD appears to have failed to fulfill its promised coordination with the tenants and their association about these and other pitfalls of prospective ownership, and- judging from the accounts provided to PA'LANTE by the TAs- often did not work closely with TIL tenant associations until serious compliance problems had arisen or spiraled out of control.[57]

10. Overall, the city has used its *in rem* authority to re-foreclose- mostly for non-payment of taxes or services- on numerous TILs and HDFC co-ops whose buildings it had acquired *in rem* decades earlier. As recently as 2013 HPD estimated that approximately 30% of the buildings under its management "have some degree of financial distress."[58] Among the potential consequences: TIL tenants lose the opportunity to purchase the apartments they struggled so long to own, and to control the fortunes of the building they- no less than the city- in many cases saved from total loss. Should that hope be foreclosed, and they find themselves reduced to the status of renters at the mercy of a marketplace where rents have recently risen 75% in a decade,[59] many will almost inevitably be displaced from the neighborhoods they helped stabilize.

At minimum, the reported lack of follow-through that runs through the individual building accounts represents a legacy of lost opportunity for the residents of the remaining buildings in the TIL program. It also reflects a broader failure to act with the same determination and urgency that drove the creation of the TIL program and other low-income housing initiatives beginning forty years ago. In respect of all that has been achieved in the form of permanent low-income co-op housing, and of what remains to be done, HPD should impose no statute of limitations on the obligation it assumed to salvage abandoned housing at a time when New York needed its low-income residents as much as they needed the city; indeed, the city staked much of its hope for housing and financial recovery on the cooperation and support of those residents. It would be wrong for HPD to act now as if that crisis was so long ago we can forget about those who have worked cooperatively for decades to maintain and improve their buildings and earn the right to own them. Now that better times finally arrived the city must not renege on its promise of permanently affordable, low-income cooperative home ownership for these remaining TIL residents.

ANCP

In 2012, with about 190 TIL buildings still waiting to become HDFC co-ops, the agency stopped accepting property into the TIL program. To address the disposition of the buildings that remained in TIL, HPD has created the Affordable Neighborhood Cooperative Program (ANCP) to "provide low-interest loans for the rehabilitation of buildings under the TIL Program for the creation of affordable cooperatives for low-and-moderate income households."[60]

Key elements of ANCP are not new, having first appeared in HPD's Private Ownership and Management Program (POMP) of the early 1990s. According to Braconi,[61] "the (POMP) program was favored by HPD because it allowed (the city) to achieve high out-take volumes (of *in rem* buildings) working with experienced for-profit contractors and managers."

The State Private Housing Finance Law (PHFL), cited above,[62] prohibits real property having an HDFC incorporation, created under PHFL Article XI for the purpose of "developing a housing project for persons of low-income," from being "transferred to a non-HDFC entity that does not have the sole corporate purpose required by the PHFL." Thus, it appears that in order to transfer the remaining TIL buildings to ANCP for private development, HPD will utilize a finding from the office of the New York State Attorney General that addresses whether HDFC cooperatives could "convert the real property that they own into market-rate or condominium housing by…transferring the property to a different type of entity"- for example, a Third Party Transfer (TPT) entity like that which HPD employed under POMP.[63] To convey the TILs to ANCP, HPD has created such an entity, Restoring Communities HDFC. It "will own the property during construction, and transfer operating authority to the developer/sponsor." As an HDFC, Restoring Communities is apparently subject to PHFL Article XI that governs corporations created for the sole purpose of "developing a housing project for persons of low-income;" but in practice Restoring Communities is only a pass-through, created by HPD to deliver the former TIL property, "created for the sole purpose of providing low-income housing," to a private developer who will obtain financing, rehabilitate the former TIL building under the terms of ANCP,[64] and transform it into low-to-moderate income co-ops. Here we encounter a fundamental difference between the design and intent of TIL and that of ANCP. Instead of becoming the free-and-clear HDFC co-op owners of their own rehabilitated building, the TIL/ANCP tenants will share ownership with moderate-income cooperators to whom the former TIL building has been marketed; and due to HPD's warehousing of so many vacant units the former TIL residents are likely to be a minority in the home they were once told would be their own. In addition, instead of owning a TIL/HDFC building free-and-clear, they will be saddled with a lien, incurred by the developer without their knowledge or consent, for the unpaid cost of the rehabilitation- a proportional share of which will be added to their co-op maintenance charges, presumably for the duration of the ANCP 30 year tax abatement.

The terms of ANCP shed light on HPD's decision to begin warehousing the TIL units a decade ago, and why it withdrew support from TAs ready to become HDFC co-ops, as reported above. HPD's rationale was only made public in 2015 when then-HPD Deputy Commissioner for the Office of Asset and Property Management Ann-Marie Hendrickson explained to the Director of PA'LANTE and a member of the press: "The reason we don't want to rent out vacancies while they are in TIL is because those vacancies are going to be needed on the back end (of ANCP) to be sold at higher prices to subsidize and pay the bank debt."[65]

The ANCP term sheet[66] also helps clarify why the agency may have been less than forthcoming about its intentions. Outwardly ANCP appears to maintain the commitment to low-income affordable co-op ownership as envisioned nearly forty years ago when the TIL program began. The criteria for TILs converting to ANCP co-ops reflect standard HPD measures for assessing the readiness of TILs to become HDFC co-ops: "years since TIL intake, successful management of the building, maintaining an active tenant association, and the number of residents attending ongoing trainings." As described above in the TA reports to PA'LANTE, the capacity of the TAs to meet some of these criteria was impaired by HPD's apparent neglect and mismanagement, including the draining of TIL TA resources and the weakening of the

Associations due to the warehousing of vacant units. But there are other, more substantial challenges for TIL residents who agree to participate in ANCP.[67]

1. the ANCP "buy-in" for TIL tenants will increase from the long-promised $250 for their unit to $2500- an amount of ready cash that many tenants will be unable to afford.

2. typical TIL rents of $200-400 can "be restructured as maintenance charges up to 60% of Area Median Income (AMI) to cover debt service for the cost of construction, maintenance, and operations." For a family of four, 60% of AMI is $54, 360; for one person, it is $38,100; or about $4,500 and $3,200 per month respectively.[68] According to HPD, this difference between monthly maintenance and the former TIL tenant's ability to pay will be subsidized by a pool of Section 8 funds from the Federal Department of Housing and Urban Development (HUD) that the agency claims will be set aside for this purpose, if available.[69]

Reliance on a Section 8 subsidy, if available, to maintain the affordability of ANCP co-ops for low-income TIL tenants appears to ignore a steady erosion of HUD funding over many years, as well as HPD's own recent experience with the volatility of federal Section 8 subsidies. In 2009, the growth of the agency's subsidy programs was substantially limited when Section 8 rental vouchers were closed for New York City residents; and in 2013, federal budget cuts required sharp reductions in Section 8 subsidies for senior affordable housing. The 2013 cutbacks forced HPD into a program of emotionally and psychologically wrenching relocations of many elderly and disabled seniors to smaller quarters less costly to subsidize.[70] The unreliability of federal subsidy programs is unlikely to abate, and changes in national policy are afoot that would reduce or end various federal subsidies for persons of low-income. Under these circumstances it appears risky to create a low-income co-op housing program like ANCP dependent on federal subsidies for 60-80% of the monthly maintenance charges that the TIL tenants will owe over the next thirty years. Because they lack the financial resources to pay the maintenance without the subsidy, reliance on it exposes them to a high risk of foreclosure should it be substantially reduced or ended. Moreover, this approach contradicts the lessons HPD ought to have learned during the past 40 years about substituting hopeful intentions and empty promises for sustainable housing goals- the most important of which is permanent affordability for persons of low-income.

3. The provisions of the ANCP term sheet raise longer-term concerns about affordability. The co-ops created under ANCP are not intended to be permanently affordable. To assist with financing, a developer of an ANCP co-op will receive a 30 year tax abatement similar in nature to those that were used to help finance affordable rental units under the Mitchell-Lama program a generation ago.[71] The expiration of that abatement, which began on a site-specific basis in the 1990s, has resulted in the conversion of many affordable Mitchell-Lama rental units into co-ops, and a gradual loss of affordability in the rental units that remain due to rent increases. The ANCP term sheet imposes "a minimum 30-year regulatory agreement" on the developer under which "current and future vacant apartments must be sold to households whose incomes do not exceed 120% of AMI."[72] However, in a possible insight to the rationale for HPD's large-scale warehousing policy, the term sheet specifies that *currently* vacant units can be sold by the developer to buyers with incomes greater than 120% of AMI, so long as non-city financing is used. This exception raises a question of whether this provision is intended to circumvent the PHFL Article XI requirement that those long-warehoused vacant TIL units, once they are

conveyed through Restoring Communities HDFC to the developer, must still be reserved for persons of low-income.

4. A related concern is that former TIL tenants whose level of rental affordability is now $200-400 per month will be co-operating with owners paying as much as a hundred thousand dollars for their apartments (according to the term sheet, the ANCP income ceiling for a family of four is $100,680). It is not hard to foresee that the resulting disparities in income and expectations of ownership may lead to difficulties in co-op integration and governance, perhaps even fostering the emergence of a "poor door" culture of haves and have-nots seen in recent developments that combined market rate and subsidized residents.

5. The term sheet also requires "third party management" of the property, a service for which co-op owners will pay still-unspecified fees and be assessed minimum annual maintenance increases of 2%; however, whether these and related assessments can be paid for with Section 8 subsidies has been left unaddressed. Another serious concern for TIL tenants who choose to own ANCP co-ops is the cost of special assessments levied to address common costs; for example, repairing damage to common areas, meeting legal expenses or increases in insurance, and city requirements to erect scaffolding for exterior inspection and repairs-[73] none of which are likely to be covered by Section 8 subsidies, even if available. Unless fully subsidized by another source, former TIL tenants are almost certain to find their co-op homes unsustainably expensive.

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With ANCP as the planned end point of the TIL program's promise of permanent affordable home ownership for low-income New Yorkers, it is painful to look back at the idealism expressed by HPD at TIL's beginning when it described its role: "We're not just creating housing. We're creating neighborhoods,"[74] and, in describing HPD's audacity, what the New York Times called "an extraordinary gamble"[75] to save the city's abandoned residential buildings through reliance on the courage and skill- and sometimes the nothing-to-lose attitude- of low-income residents struggling to survive in abandoned housing and devastated neighborhoods.

Within that history is a vast narrative of hope, patience, striving, trust, and- most importantly- belief in the integrity of the city's promise. HPD was inspired in the dark days of the Nineteen Seventies to honor its obligation to not only house its lowest-income citizens safely and decently but to make that housing their own. A look at the TIL program description still to be found on HPD's website[76] reflects the distance the agency has travelled from the creation of its guidelines in 1986 to its embrace of ANCP: "TIL is intended to give you a chance to manage and eventually own your own home…Most important, TIL enables tenants to create decent and affordable housing."[77]

Conclusion

Despite HPD's long-term intention to nurture the ANCP initiative, it remains difficult to understand why the agency so severely impaired the sustainable management of the buildings and homes to which it and the HDFC/TIL program have been officially committed for nearly 40 years. But the surpassing irony of the TIL saga may be that the current administration, in its eagerness to wed the city's property boom to the need for middle class affordable housing, is setting in motion, through the unsustainable provisions of ANCP for low-income residents, the kind of family displacement that TIL was designed to prevent- and, simultaneously, discarding a successful vision of truly low-income cooperative housing that a very different New York was once grateful to embrace.

The TIL/HDFC program not only provided decent, affordable home ownership to low-income New Yorkers at a dark time in the city's history. It survived changing political and financial priorities as it anchored and helped renew threatened and devastated communities, and it permanently strengthened the health and diversity of the city's housing stock. TIL proved that when adequately supported by a committed government and non-profit sector, even neglected and abandoned housing, and poorly-served, low-income residents, can be the basis of community and individual renewal through belief in a better future, practical goals, hard work, sacrifice, and immense patience.

The programs from which the TIL tenants have benefitted also derive from New York City's long tradition of recognizing a right to decent, safe, affordable housing; its historical commitment to providing for the welfare of its neediest citizens; its embrace of a role as a compassionate and effective guardian of the commonweal; and its gradual but expansive defense of the rights of the poor and indigent against those who would exploit them. In other words, the TIL/HDFC program has been at heart about continuing a tradition of wise investment in the city's working and low-income people; which is to say, the creation and protection of communities that have historically anchored New York, and have enabled the city to prosper and grow while preserving its character as a place of economic opportunity and cultural diversity.

TIL also falls within the city's long and ground-breaking tradition of creating affordable and low-income cooperative housing. Co-ops have been a mainstay of the effort to house the city's workers decently for more than a century. Both the public and private sector recognized that the provision of good, affordable housing was as foundational as the dignity of work; just as in the reforms of the workplace, decent housing at an affordable price bespoke the requirement of safe, up-to-date surroundings that affirmed the worth of individuals and families.

HPD renewed that relationship through its TIL program. The agency shared with its tenants a belief in the efficacy of a temporary subsidy for a long-term benefit: the creation of stable, independent property ownership that would serve low-income residents and the city's interests alike. Yet now, under ANCP, HPD proposes something quite different: the TIL tenant associations will see the city's decades-long promise of cooperative ownership of their own building, with its sense of self-identification and financial control, withdrawn. What ANCP represents, then, is not simply the substitution of one housing program for another. It pre-empts the pursuit by the TIL tenants of the autonomy and dignity that come with normal rights of ownership and association; rights that they have, by any reasonable measure, long-since earned.

Finally, in proposing ANCP the city seems to have forgotten the goal of shared economic self-interest created by the housing crisis of the Seventies and Eighties. As noted above, the TIL program cannot be viewed in isolation. It was born of that crisis, but now, in a very different era, its remaining residents find themselves at the mercy of rising costs and an unreliable subsidy. The risks ahead, and the growing crisis of dispossession and homelessness we see around us, suggest that TIL and programs like it are needed now more than ever. Regrettably, under the terms of its ANCP initiative to replace TIL, the city appears committed to low-income co-ops whose short-and-long-term affordability is fraught with foreseeable risk. The TIL tenants whose decades of commitment, investment, struggle, and cooperative low-income housing management as recounted in this report deserve better; in fact, they deserve what they were promised and what they earned: permanent affordable ownership of truly low-income co-op housing, located in the homes they have preserved and called their own. It is time for the city to fulfill that promise, and live up to the spirit and intent of the TIL program when created nearly forty years ago.

Recommendations

The recommendations below are premised on our conclusion that, 1. The TIL Tenant Associations referenced in this report have had their interests harmed by HPD's reported failure to provide proper training and oversight, as well as essential material and technical support; 2. HPD's policies, management failures, and deliberate indifference have acted against the agency's own stated intentions and the interests of the TIL tenants, impeding them from becoming HDFC co-ops; 3. The 40-year promise to provide cooperative low-income home ownership that HPD created with its TIL program has been broken; in its place is another promise of ownership under ANCP that we believe will fail to provide permanently affordable low-income co-ops to the TIL tenants. To remedy these defects, we recommend that:

1. The history and status of each remaining TIL Tenant Association and their building should undergo a one year review by an independent Commission to determine whether in each case the best permanent outcome would be as an HDFC or alternatively an ANCP co-op.

2. During the review there should be a moratorium on transfers of TIL buildings into Restore Communities HDFC or other third-party transfer programs or into ANCP; and transfers of buildings now in ANCP to for-profit developers.

3. The efforts of the Commission and HPD should be directed toward the goal, wherever possible, of enabling TIL Tenant Associations to become HDFC co-ops under the original terms of conversion through which the city renovates the TIL building and transfers it to the Association as a low-income HDFC co-op as was always intended, with the tenants offered the right to purchase their apartment for $2,500.

4. During the period of the review HPD must fully meet its oversight and support obligations to the TIL Tenant Associations, and administratively and financially commit the agency to their success. Among other steps, HPD must:

   A. Be required to assign each TIL building two new, fully trained, highly qualified, bi-lingual, full-time coordinators to provide all necessary legal, financial, and managerial advice and support to enable the Tenant Association to become an HDFC co-op; or, in cases where the Commission determines that buildings should enter ANCP, provide all necessary support to ensure that residents are fully prepared to function successfully long-term under ANCP;

   B. Immediately meet its responsibility to carry out a full, detailed assessment of the extent and estimated cost of all required repairs and maintenance on each TIL building as called for under its own program guidelines; at minimum, each building must be brought into compliance with the provisions of the city's Building and Housing Maintenance Codes;

   C. Provide three years of regularly scheduled consultation, oversight, and assistance for former TIL residents once they are housed in either HDFC or ANCP co-ops.

5. TIL buildings that are to house an HDFC co-op must undergo a full renovation of their structure and mechanical systems as originally called for under the HPD's guidelines for HDFC co-op conversions, including that the cost must be paid by the city and not transferred to the converted TIL/HDFC co-op as an indebtedness;

6. During renovation TIL residents must be temporarily re-housed in comparable circumstances at their current rent; must receive monthly progress reports from their building coordinator; and must continue to receive intensive training adequate to prepare them to manage their new cooperative and fiduciary obligations;

7. Existing TIL Tenant Associations that become ANCP co-ops should be subject to the provisions on income, assets, tax exemption, sales price caps, and other provisions under the new HDFC Regulatory Agreement currently being finalized by the city; therefore, HPD must ensure that current TIL residents slated to become co-op owners are fully informed of the provisions that will govern their ownership rights under said Agreement before they vote to participate;

8. With regard to ANCP, TIL residents whose buildings enter ANCP must be fully protected from unaffordable charges that would expose them to the risk of foreclosure, eviction, and homelessness. We recommend that:

A. The approval process for TIL tenants to agree to participation in the ANCP program must be modified. At present, the terms of ANCP deny TIL tenants a right to vote on whether to participate, and if so on what terms until their TIL building has been transferred through Restoring Communities HDFC to a developer and renovated. Only then they are offered an ANCP co-op unit in their former TIL building whose location and design will have been determined for them by HPD and the developer.

   This procedure places the TIL tenants at a serious disadvantage. Under current rules, when their building is conveyed to "Restoring Communities HDFC" and then to the project developer, they forfeit all control over the duration, extent, cost, loan indebtedness, and terms of return created by HPD's agreement with the developer- even though that agreement will determine the terms under which they will own their co-op, and HPD appears to offer them no right to negotiate their own interests in said agreement.

   The TIL tenants should retain the right they exercised when they voted to give up rent stabilization in exchange for a new right to purchase their own TIL/HDFC co-op for $250, and to cooperatively own their building. It is a violation of the trust the tenants placed in HPD when joining TIL on these terms to now find that their only right to a co-op is to accept, after the fact, the financial burden imposed on it through the costs and loans created by HPD and the developer; and, as is likely to be the case, to be forced to give up their promised right to co-op ownership when financial risks associated with that burden prove too great.

   The TIL tenants should have the right to vote *before the fact* on whether they want their building to enter ANCP, and on whether to accept the financial and other obligations they will incur with ANCP co-op ownership- the same right, in effect, that had when they voted to join the TIL program, and would have had when choosing to become an HDFC co-op.

B. If a TIL Tenant Association votes to enter ANCP, HPD must be required to work closely and effectively with the tenants who will become co-op owners to determine if, in all likelihood, they have sufficient financial resources to pay the required 2% annual increases in maintenance, any special assessments, or other charges that can reasonably be expected to occur; in making this determination, HPD should rely on an independent analysis of a tenant's financial resources;

C. If said analysis determines that an individual's finances will, in all likelihood, prevent them from meeting the financial obligations of ANCP co-op ownership, such residents must be exempted from annual increases in maintenance charges, special assessments, and/or other charges levied on owners of said ANCP co-op;

D. All former TIL residents older than 55, or who are legally disabled or vision impaired, who are confined to a wheel chair or similar device, or unable to work, shall have their share of monthly maintenance charges fixed at their current TIL rent;

E. The difference between the total cost of monthly and other assessed charges and the amount a former TIL tenant can afford is to be covered by a Federal Section 8 subsidy, if available, according to HPD; therefore, if that subsidy is not available, should end, or prove insufficient to meet monthly maintenance charges, HPD or the developer must assume responsibility for paying said difference; similarly, before a TIL tenant agrees to become an ANCP co-op owner, HPD must determine and reveal whether that potential owner is eligible for the proposed or any other Section 8 subsidy.

Endnotes

1. See, "City's Rent Controlled Apartments are Vanishing." Community Service Society News, March 31, 2011. For the full report, see CSS, The Urban Agenda, both at http://www.cssny.org

2. The Tenant Interim Lease Program (TIL), initiated by the New York City Department of Housing Preservation and Development (HPD) in 1978, offered low-income renters living in city-owned buildings acquired *in rem* the prospect of co-op ownership of their apartment for $250; requirements included: 60% of the tenants must agree to participate, and must comply with a number of benchmark requirements, including training designed to ensure their competence in property management. For details about program specifications and stated goals, see, http://www1.nyc.gov/site/hpd/developers/development-programs/til.page, and see: http://www.uhab.org/sites/default/files/doc_library/Inside_TIL_A_Guide.pdf

3. For ANCP, see the HPD website at: http://www1.nyc.gov/site/hpd/developers/development-programs/affordable-neighborhood-cooperative-program.page Also see, the ANCP Term Sheet setting out the rules and parameters of the program: https://www1.nyc.gov/assets/hpd/downloads/pdf/developers/term-sheets/PDF_ANCP_Term_Sheet.pdf

4. Jacobs, Jane. The Death and Life of Great American Cities. New York: Vintage Books, 1961.

5. Mahler, Jonathan. Ladies and Gentlemen, the Bronx is Burning. New York: Macmillan, 1977.

6. For a wide-ranging look back at the blackout, including accounts from all three major daily papers, interviews, and documentaries, see the New York Times commemorative pages published on the thirty year anniversary of the event: http://cityroom.blogs.nytimes.com/2007/07/09/remembering-the-77-blackout/?_r=0

Also see, Corbett, Glenn P. "Arson, 1960s-1980s," p 65. In, The Encyclopedia of New York, 2nd ed., Kenneth T. Jackson, ed. New Haven: Yale University Press, 2010.

And see, Smith, Dennis. Report From Engine Company 82. New York: Warner Books, 1972.

7. Mollenkopf, John Hull. A Phoenix in the Ashes: The rise and fall of the Koch coalition in New York City politics. Princeton: Princeton University Press, 1992. 44-57. From the Fifties through the Eighties manufacturing (was) reduced "from almost a third of city employment to less than one-tenth in four decades." Mollenkopf, p. 57, citing Drennan, Matthew. "The Local Economy" in Charles Brecher and Raymond D. Horton, eds., Setting Municipal Priorities 1990. New York: New York University Press, 1989, 27-49.

8. *op cit*, pp 44-57

9. Rosenwaite, Ira. Popular History of New York City, p 135. Syracuse: Syracuse University Press, 1972.

10. United States Department of Commerce. Bureau of Economic Analysis. Regional Economic Information Systems, 1980. Cited in, Chall, Daniel E. "Neighborhood Changes in New York City in the 1970s: are the gentry returning?" *Federal Reserve Bank of New York Quarterly Review*, Winter 1983-84, 38-39.

11. Allred, Christopher J. "Breaking the Cycle of Abandonment: using a tax enforcement tool to return distressed properties to sound private ownership." Pioneer Institute, Better Government (essay) Competition Winner, 2000. http://pioneerinstitute.org/

12. Alan S. Oser. "Pressure to Ease Rent Curbs Likely in Strike Threat." NYT, March 1, 1970.

13. New York City, N.Y., Local Law No. 45 (1976) (codified as amended at New York City Administrative Code § 11-412 (2016)).

"*In rem*" is not an abbreviation but a legal principle meaning "against the thing." In this context it describes a process of foreclosure on property whose owner has failed to pay property-related debts owed to a municipality. Authorized by the New York City Public Law 45, approved by the City Council in 1976, and then withstanding a court challenge, it was later adopted by other municipalities. In practice, the city allowed owners of property declared *in rem* a grace period of several months to make good on their debt before the city moved for final judgment.

14. Cited in, Housing Policy in New York City: A Brief History. The Furman Center for Real Estate and Urban Policy, working papers 06-01.

15. Braconi, Frank P. "In Re *In Rem*: Innovation and Expediency in New York's Housing Policy, p. 98," in Michael H. Schill, ed., *Housing and Community Development in New York City: Facing the Future*. Albany: State University of New York Press, 1999.

16. "We're creating more than just apartments- we're recreating neighborhoods. We're revitalizing parts of the city that over the past two decades have been decimated by disinvestment, abandonment, and arson." HPD's philosophy of *in rem* housing restoration programs, as expressed in 1989. Quoted in, Schwartz, Amy Ellen, Ingrid Gould Ellen, Ioan Voicu, and Michael H. Schill. The External Effects of Place-based Subsidized Housing. *Regional Science and Urban Economics* 690 (2006).

17. Michael Goodwin. "City Struggling in Attempts to Sell Tax-Delinquent Apartment Buildings." NYT, April 8, 1981.

18. Schwartz, Alex. New York City and Subsidized Housing: Impacts and lessons of the city's $5 billion capital budget housing plan. *Housing Policy Debate* 10 (4) 1999. "The city's capital expenditures for housing, meanwhile, amounted to more than three times the housing expenditures of the next 32 largest cities combined during the late 1980s and 1990s." Cited in, Housing Policy in New York City: A Brief History. The Furman Center for Real Estate and Urban Policy, working papers 06-01, p. 1.

19. Braconi, supra note 15, at 79,82-87, 105. Program examples include: Community Management, 7-A, Management in Partnership Programs- Neighborhood Builders Program, Entrepreneurs Program, Preservation Program, Redevelopment Program, Reinvestment Corporation, Housing Services, and Ownership Works, among many others.

20. Braconi, supra note 15, at 104

21. Braconi, supra note 15, at 105-106

22. New York City Housing Vacancy Survey. "The New York City Housing and Vacancy Survey (NYCHVS), sponsored by the New York City Department of Housing Preservation and Development, is conducted every 3 years to comply with New York state and New York City's rent regulation laws. The Census Bureau has conducted the survey for the City since 1965." https://www.census.gov/housing/nychvs/

23. Braconi, supra note 15, at 116, Note 9, citing statistics provided by the city's Rent Guidelines Board

24. *op cit*, at 102

25. *op cit*, at 102

26. *op cit*, at102, noting that this number represented "40% of all homeless families relocated to permanent housing between 1987-1995."

27. Schill, Michael H., Ingrid Gould Allen, Amy Ellen Schwartz, and Ioan Voicu. "Revitalizing inner-city neighborhoods: New York City's Ten-Year Plan. *Housing Policy Debate* 13 (3) (531) 2002.

28. Braconi, supra note 15, at 103; and see, Schill, et al, supra note 27, at 539 "expenditures reached $58,000"

29. For UHAB, see http://www.uhab.org/about ; for UHAB guidelines for the TIL program, see http://www.uhab.org/sites/default/files/doc_library/Inside_TIL_A_Guide.pdf

30. See Jonathan Steinberg. "How city tenant groups take steps toward ownership." NYT September 9, 1979. "UHAB has contracted with HPD to provide training for all groups entering the Interim Lease (program). Ten hours of intensive classroom training is provided. Field coordinators also visit the building and meet with tenant groups."

Also see, Brooke, James. "Tenants Learn to Act Like Landlords. NYT, September 28, 1984. "UHAB provided a textbook, *A Guide for Tenants who Manage Their Own Buildings*."

31. DAMP was established to assist with the management and sale of city property to private owners who typically obtain exemptions of property taxes for up to 40 years. See: http://www1.nyc.gov/site/finance/benefits/benefits-division-of-alternative-management-damp.page

32. TIL/HDFC co-ops, known as "Article 11" co-ops, were created pursuant to Article XI of Chapter 44B of the Private Housing Finance Law. *See* N.Y. Priv. Hous. Fin. Law §§ 570-582 (as amended) (McKinney), especially §573(3)(a), requiring "that the company has been organized exclusively to develop a housing project for persons of low income."

33. Steinberg, supra note 30, at 1. Quoting Philip St. George, assistant commissioner of DAMP (in 1979), "We're trying everything we can to find people who can manage and maintain these (*in rem*) properties….It's only in the past year that the scale of the *in rem* problem has been known." Steinberg reports that "400 buildings and 10,000 apartment units" were already enrolled in DAMP, "but the city has only recently begun to develop a procedure to provide needed repairs, (at a cost of) up to 1 million dollars in the 1980-81 fiscal year." Note: by 1999, 116 buildings or 12% of the total in alternative management had been re-foreclosed by HPD.

34. Braconi, supra note 15, at 106-107

35. *op cit*, at 100-101
And see, an overview of Federal Housing funding and policy by Schwartz, Alex F. and Avis C. Vidal. "Between a Rock and a Hard Place: The Impact of Federal and State Policy Changes on Housing in New York City," in Michael C. Shill, ed., *Housing and Community Development in New York City: Facing the Future*. Albany: State University of New York Press, 1999.

36. Braconi supra note 15, at 108-109

37. *op cit*, 104-105

38. *op cit*, at 99. From 1978-1983, for example, during TIL's early years, HPD "served some 25,000 three-day eviction notices and repossessed over 5,000 apartments."; and see, Steinberg, supra note 28, at 4 reporting on a building at 40 Tiemann Place in Morningside Heights in 1979: "in the eight months since it entered the Interim Lease Program, 13 tenants have been evicted including a vice president and treasurer of the tenant association."

39. For information on the city's "One Shot Deal" program, see: http://www1.nyc.gov/nyc-resources/service/1205/one-shot-deal-short-term-emergency-assistance

40. Braconi, supra note 15, at 105, 111, 114-15

41. *op cit*, at 103

42. Quoted in, Michael Goodwin. "City Struggling in Attempts to Sell Tax-Delinquent Apartment Buildings." NYT, April 8, 1981.

43. See, "Inequitable Enforcement: The Crisis of Housing Code Enforcement in New York City, 2003." Association for Neighborhood and Housing Development and the Public Advocate for the City of New York Betsy Gotbaum. http://www.anhd.org/resources/resources.html

44. For the General Provisions of the New York City Housing Maintenance Code, see: https://www.nyc.gov/assets/buildings/pdf/HousingMaintenanceCode.pdf

45. For the Alternative Enforcement Program, see: http://www1.nyc.gov/site/hpd/owners/AEP.page

46. For a description of the 1998 audit by city comptroller Hevesi, see http://citylimits.org/1998/09/14/hevesi-audit-slams-city-tenant-ownership-program/

47. "New York State Controller's audit of the Department of Housing Preservation and Development concerning the rehabilitation and disposal of City-owned dwellings." State of New York. Office of the State Controller, Division of Management Audit and State Financial Services, report 99-N-5.

And see, "New York City Department of Housing Preservation and Development: Rehabilitation and Disposal of City-Owned Buildings." Report 99-N-5, 1999 pp. 7-20. State of New York. Office of the State Comptroller. Division of Management Audit and State Financial Services. http://osc.state.ny.us/audits/allaudits/093000/99n5.pdf

48. http://wwwuhab.org/sites/default/files/doc_library/Inside_TIL_A_Guide.pdf pp 1-2

49. See, Emma Whitford. "Why are hundreds of NYC apartments vacant?" Gothamist, March 9, 2016. Whitford cites HPD in reporting that there were currently "1,525 units in TIL, with 897 vacant."

And see, Abigail Savitch-Lew. "City's Housing Plan Moves Away From Bolstering Home Ownership." City Limits, April 8, 2016. http://www.citylimits.org

Also see, https://www.dnainfo.com/new-york/20150901/hamilton-heights/tenants-citys-rent-to-own-til-program-frustrated-by-delays

50. Quoted from the account provided to PA'LANTE by the #107 West 105th Street Tenant Association. For the Pratt Institute, which has operated a number of community assistance projects, see https://www.pratt.edu/the-institute/

51. The Housing Maintenance Code, supra note 44

52. For UHAB's published guidelines for HPD TIL Tenant Associations specifying their responsibility to rent vacant units in their building, see: http://www.uhab.org/sites/default/files/doc_library/Inside_TIL_A_Guide.pdf p 3, "The TIL Lease."

53. *op cit*, p 3, "The TIL Lease."

54. Pers. Communication from the Director of PA'LANTE, October 29, 2016.

55. *op cit*, pers. comm. from the Director, October 29, 2016.

56. *op cit*, pers. comm. from the Director, October 10, 2016, reporting a conversation that occurred on May 8, 2014.

57. "At the end of the day the city has not been adequately funding TIL buildings for decades," said Mark Levine, NYC Council Member whose district includes portions of Central Harlem. He added that 'many of the buildings are falling into disrepair, and tenants can wait years before they can become co-ops.' See, https://www.dnainfo.com/new -york/20150901/hamilton-heights/tenants-citys-rent-to-own-til-program-frustrated-by-delays.com

58. See, Christian Zhang, Andrea Shang, and Naomi Cohen. "Locals Weigh Future of Low-Income Homeowner Program." Columbia Daily Spectator, November 21, 2013. http://columbiaspectator.com/news/2013/11/21/locals-weigh-future-low-income-homeowner-program

59. See, The Growing Gap: New York's Housing Affordability Challenge. Office of the New York City Comptroller. Bureau of Fiscal and Budget Studies, 2014. http://comptroller.nyc.gov/wp-content/uploads/documents/Growing_Gap.pdf

60. For the terms of the Affordable Neighborhood Cooperative Program, see: https://www1.nyc.gov/assets/hpd/downloads/pdf/developers/term-sheets/PDF_ANCP_Term_Sheet.pdf

And see, the Department of Housing Preservation and Development FY 2017 Borough of Manhattan Budget Consultation Agenda. http://www.Cbsix.org/wp-content/uploads/2013/02/FY-17-HPD-MANHATTAN-NOTES.pdf

61. Braconi, supra note 15, at 106-108

62. The New York State Private Housing Finance Law, supra note 32

63. Braconi, supra note 15, at 106-107. Other ANCP program aspects also seen in POMP include the use of pre-qualified developers, the limiting of profit margins, and a $2,500 per unit purchase price.

64. See, State of New York, Department of Law, Real Estate Finance Bureau Memorandum of July 16, 2015. "Guidance on housing Development Fund Corporations Seeking to Transfer or Sell Property for, or Otherwise Convert Property to Market Rate Use," pp 2-3. Available at: https://www.ag.ny.gov/sites/default/files/pdfs/bureaus/real_estate_finance/Effective-memos/7.16.2015_Guidance_on_HDFC_Seeking_to_Transfer_or_Sell_Property.pdf

65. See, Gustavo Solis. "Tenants in City's Rent-to-Own TIL program Frustrated by Delays." DNAinfo, September 1, 2015. https://www.dnainfo.com/new-york/20150901/hamilton-heights/tenants-citys-rent-to-own-til-program-frustrated-by-delays

66. New York City Department of Housing Preservation and Development, Office of Development, Division of Property Disposition and Finance. "Affordable Neighborhood Cooperative Program (ANCP) Term Sheet," ver. 11/13/2014. Available at: https://www1.nyc.gov/assets/hpd/downloads/pdf/developers/term-sheets/PDF_ANCP_Term_Sheet.pdf

67. *op cit*, page 2. Note particularly the headings "Cooperative Conversion Plan" item 1; "Rent/Maintenance Setting"; and "Regulatory Requirements" items 3 and 4.

68. ANCP Term Sheet, supra note 60, at "Rent/Maintenance Settings," item 2

69. Pers. Comm. from the Director of PA'LANTE, October 20, 2016

70. See, Testimony of Manhattan Borough President Gale A. Brewer to the New York City Council Joint Hearing with the Committee on Housing and Buildings and the Committee on Public Housing, April 9, 2014. Accessible at:

http://www.Manhattanbp.nyc.gov/downloads/pdf/2014-04-09%20Council%20Testimony%20on%20HPD%20and%20NYCHA%20Downsizing.pdf

71. The Mitchell-Lama housing program, created under 41 N.Y. Priv. Hous. Fin. Law §11 to address the inadequacy of safe, sanitary housing for families of low and moderate income, was named for its sponsors State Senator MacNeil Mitchell and State Assemblyman Alfred Lama, and signed into law in 1955.

72. ANCP Term Sheet, supra note 60, at "Regulatory Requirements" for ANCP projects, and also item 1.

73. *See, e.g.*, N.Y. Lab. Law § 240 (McKinney) (requiring "hoists, stays, ladders, slings, hangers, blocks, pulleys, braces, irons, ropes, and other devices . . . to give proper protection" to construction workers).

74. Schwartz, Amy Ellen, Ingrid Gould Ellen, Ioan Voicu, and Michael H. Schill. "The External Effects of Place-based Subsidized Housing." *Regional Science and Urban Economics* 690, 2006; cited in, Peter Barker-Huelster, Sam Filler, and Abigail Nurse, "Failures in Subsidized Housing," published as part of a New York University seminar in Land Use, Housing, and Community Development in New York City, November, 2011.

75. Roger Wilkins. "Experiment to Curb Blight: Let Tenants Run Buildings." NYT, April 20, 1979.

76. http://www1.nyc.gov/site/hpd/developers/development-programs/til.page

77. supra note 52, at 1 "What is TIL?"
http://www.uhab.org/sites/default/files/doc_library/Inside_TIL_A_Guide.pdf