



**NEW YORK STATE SENATE  
NEW YORK STATE ASSEMBLY**

**Testimony before New York City Department of Housing Preservation and  
Development Regarding Proposed Amendments to Rules  
Governing City-Aided Limited-Profit Housing Companies**

**New York State Senator Brad Hoylman  
and  
New York State Assemblymember Brian Kavanagh**

**November 6, 2013**

We, State Senator Brad Hoylman and State Assemblymember Brian Kavanagh, represent New York State's 27<sup>th</sup> Senate District and 74<sup>th</sup> Assembly District, respectively. Our districts encompass the Mitchell-Lama cooperatives East Midtown Plaza, Village East Towers, and Village View and the Mitchell-Lama rentals Phipps Plaza East and Tanya Towers, all of which are supervised by the New York City Department of Housing Preservation and Development (HPD). The 27<sup>th</sup> Senate District also includes the HPD-supervised Mitchell-Lama rental Manhattan Plaza. Thank you for this opportunity to submit testimony on HPD's proposed amendments to rules governing Mitchell-Lama housing.

First, we note that we were disturbed by reports from constituents who live in Mitchell-Lama developments that HPD did not directly notify them about these proposed rules changes and some had difficulty in accessing the information about the changes in languages other than English. We urge HPD to do more aggressive outreach to existing Mitchell-Lama residents when proposing rules changes and make such information readily available in languages spoken by residents the changes would affect.

We appreciate that the worthy intention of promulgating these rules changes is to preserve this scarce affordable housing stock for moderate- and middle-income New Yorkers and ensure fairness for present and potential future residents. However, we believe that the proposed amendments affecting succession rights and establishing procedures for the reconstitution of Mitchell-Lama coops as Housing Development

Fund Companies (HFDCs) will undermine those goals and harm Mitchell-Lama tenants and cooperators who have long abided by the rules and embraced the spirit of the program.

The proposed changes relating to family composition and succession are too broad. While they could preempt some abuses of the current system, in the process they would penalize many longtime residents who are close family members of existing tenants or cooperators. While we should dispel any notion that a Mitchell-Lama apartment is an inheritance, the definition of family members should not exclude aunts, uncles, nieces, nephews, or domestic partners. For many tenants and cooperators of record, these relatives are central to their families and are emotionally and financially vital to their households. With respect to domestic partners, we have been informed that HPD proposes the changes (the elimination of provisions that originated with the *Braschi* case) in part because the State Legislature has enacted marriage equality. While we are proud that our respective legislative bodies have taken this historic and long-overdue step forward, we believe that the legislation does not warrant the elimination of succession rights that existing residents have been able to rely on for many years; the proposed rules change is at best premature.

We also oppose the requirement that any proposed successor other than a surviving spouse be automatically transferred within the development to a smaller apartment if succession would otherwise lead to under-occupancy. While there may be value in adopting rules and other approaches to encourage a good match between apartment size and household composition, we don't believe that the proposed rules get this right. Forcing longtime, elderly, or disabled residents to pack up, dispose of personal effects, and move from their longtime homes to smaller apartments in the wake of the death or institutionalization of a loved one would be cruel and inappropriate. The current Mitchell-Lama rules give HPD "the option of requiring any proposed successor to move to a smaller apartment in the development." The agency should preserve this discretion rather than making downsizing an imperative.

We recognize the need for HPD to place a limit on the amount of time a proposed successor has to apply for permission to remain after the tenant/cooperator of record has died or relocated to a long-term care facility. However, the proposed 90-day window is certainly too short a time for a family member coping not only with loss, but also the burdens of administrative work and household maintenance typical in such instances. We believe one year would be a more humane and realistic time frame.

Regarding the proposed procedures for the reconstitution of Mitchell-Lama coops as HDFCs, we urge HPD to instead rescind the regulation allowing for such reconstitution. HDFCs have higher minimum income standards, purchase prices and maintenance charges than Mitchell-Lama coops. They also require much less supervision from HPD. Facilitating such conversions allows Mitchell-Lama shareholders to get a substantial

return on the equity in their apartment when they leave, even though they have already received generous government subsidies throughout their occupancy. Meanwhile, because of increased maintenance costs, the apartments may become unaffordable to many former Mitchell-Lama cooperators who want to continue to live in them, and because of the higher income requirements and purchase prices, the HDFC apartments may be out of reach for families who now qualify for Mitchell-Lama housing.

Should HPD not rescind the rule allowing Mitchell-Lama coops to convert to HDFCs, full disclosure should be required via an Offering Plan approved by the Attorney General, rather than simply a proxy statement in support of the plan reviewed by the Attorney General. We do appreciate the proposal's clear requirement of a two-thirds majority vote based on dwelling units, not shares, and the prohibition on proxy voting. The latter should be extended to any Mitchell-Lama coop dissolution vote or board election.

We also wish to express our objection to the amendment regarding priority for veterans in Mitchell-Lama admission. As the Legal Aid Society has noted, the proposed changes would weaken existing protections for veterans and particularly disadvantage the most vulnerable of our veterans.

Thank you for HPD's continued commitment to preserving affordable housing and for your consideration of our comments.