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Gale A. Brewer, Borough President

Testimony of Gale A. Brewer, Manhattan Borough President On the Sale of Stake of NYCHA-Owned Properties February 10, 2015

Good morning. My name is Gale A. Brewer and I am the Manhattan Borough President. I thank Councilmember Ritchie Torres and members of the Committee on Public Housing for the opportunity to testify today about NYCHA's new initiative to sell a 50 percent ownership stake in some of its properties to private developers, who would then co-own and manage them.

To begin, I want to provide a timeline for NYCHA's communications with my office and other key stakeholders during the period they were rolling out their public-private ownership model.

Timeline

On November 13, 2014, NYCHA informed my office of its plans to enter into public-private partnership with private developers BFC Partners and L+M Development Partners for six of its properties, including four located in Manhattan:[1]

1. Campos Plaza I (631, 635, 637 E 13th Street; 205, 207, 211 Avenue C; Block 395, Lots 9 and 22)
2. East 4th Street Rehab (277, 279 East 4th Street; Block 387, Lots 47 and 48)
3. East 120th Street Rehab (438, 444 East 120th Street; Block 1807, Lot 30)
4. Milbank-Frawley (4-20 East 117th Street, 1772-1780 Madison Avenue; Block 1622, Lot 17)

These properties are under a different HUD designation from other NYCHA properties and cannot receive federal funds for capital improvements. NYCHA is ostensibly pursuing this new ownership and management model in order to share the cost of capital improvements with its private sector partners.

After my office learned of NYCHA's plan, we discovered that of the four Manhattan properties, NYCHA intended to hold information meetings only with residents of Campos Plaza I and Milibank-Frawley to inform them of the change in ownership and management. NYCHA told my office that it had not yet reached out to tenants living in the other two properties because East 4th Street Rehab and East 120th Street Rehab did not have Tenants' Associations. This was in November 2014, a month away from the closing.

On December 18, 2014, State Senator Brad Hoylman, Assemblymember Brian Kavanagh, Councilmember Rosie Mendez and I met with NYCHA, Triborough Preservation LLC with representatives from BFC Partners, L+M Development Partners, and C&C Apartment

[1] Addresses as defined under "Premises" in the Triborough Preservation Developer LLC Operating Agreement, p. 5.

Management LLC, as well as tenant leaders from Campos Plaza I to discuss the pending closing of Campos Plaza I that was scheduled for December 22, 2014. While the tenants in attendance already knew about the scheduled transaction, it was only at that meeting that NYCHA informed the elected officials that it is unlikely to renew HUD waivers for Campos Plaza I and the other properties in order to keep them in the Public Housing Agency's portfolio. As a result, upon expiration of the new ownership agreement, the six properties will become project-based Section 8 developments that no longer retain public housing statuses, and they will be administered by a private entity that includes NYCHA as a 50% owner. New tenants will no longer be admitted from NYCHA's waiting list, raising the question of who will occupy these units in the future. Why, when NYCHA is facing a shortage of units for the foreseeable future, would it agree to a plan that will reduce the number of those units? And who will occupy these units?

On February 3, 2015, NYCHA finally provided contractual and closing documents from the December closing of Campos Plaza I. These documents yielded additional information about the public-private ownership model:

- The properties under this partnership consist of 874 dwelling units that will be rehabilitated under the ownership of Triborough Preservation LLC and managed by C&C Apartment Management LLC.
- Rehabilitation of these buildings will be financed with tax-exempt bonds and Low Income Housing Tax Credit, with NYC HDC having agreed to take on a portion of the acquisition, rehabilitation, and permanent financing costs with a first mortgage loan in the aggregate principal amount of $235,000,000.
- Units will remain affordable to families with annual household income of 60% Area Median Income or below, with all units subject to Rent Stabilization after the end of the occupancy restriction period of at least 30 years.
- A chart of the organizational structure of the public-private partnership provided by NYCHA is attached to my written testimony.

Transparency and Stakeholders Outreach

As NYCHA's housing stock ages, it is vital for the agency to be innovative about funding necessary repairs and capital upgrades. It must ensure that NYCHA residents are not forced to live in substandard conditions. While I understand that this was a goal of the transaction, I am concerned with NYCHA's lack of communication and transparency throughout the process.

The decision to enter into long-term agreements that fundamentally alter the ownership and management structure of the publicly owned housing should only be undertaken through a transparent public process. In this regard, NYCHA should have fully communicated to all stakeholders its plan to develop a public-private model to finance the capital needs of six of its properties, and should have done so well in advance. By the time my office learned of the new initiative in November 2014, two private development partners had been chosen.

A lack of transparency always raises questions. First, why did NYCHA enter into partnership with L+M Development Partners and BFC Partners? Was there an open process that allowed other development companies to bid competitively for this opportunity? Members of the committee may be aware that these entities have a checkered reputation, including documented cases of tenant harassment. In addition, Hector Figueroa of 32 BJ SEIU and Gary LaBarbera of the Building and Construction Trades Council of Greater New York have expressed concerns about the labor records of these entities. Given these concerns, it is fair to ask: How were these developers recruited and vetted?

When my office enquired about these concerns, NYCHA responded that the developers have demonstrated the capacity to acquire, rehabilitate, and manage large-scale residential projects. The question, of course, is whether in the course of transferring responsibility to these entities for capital improvements and management, NYCHA will be able to protect the well-being of its residents or ensure that labor practices are compliance with State and City regulations. That these questions were not publicly aired prior to its contractual agreements is dismaying, and NYCHA's lack of transparency during its planning of the public-private partnership sets a bad precedent and should not be repeated.

Second, while NYCHA held information sessions with all four Manhattan properties affected by the new ownership model, the long-term implication of the partnership was not sufficiently relayed to residents. Staff from my office attended meetings at two of the four Manhattan sites. NYCHA did reach out to E 4th Street Rehab and E 120th Street Rehab, but they did not notify all elected officials of the meetings despite my staff asking for the information. These developments need even more support because they do not have strong Residents' Associations. It is very difficult to avoid concluding that NYCHA sought to carry out its plans non-transparently.

That being said, I do want to acknowledge the successful tenant meetings that NYCHA and its private partners conducted for residents of Campos Plaza I and Milibank-Frawley in November 2014. The meetings were well attended, had Spanish and Chinese translators available, and the concerns from more vulnerable populations who would need additional NYCHA family services and support were not sidestepped**.** However, the meetings focused heavily on the "good" things such as kitchen upgrades that individual units will receive and the continuation of Section 8 status for existing voucher holders and did not address possible, longer-term affordability and stability implications of making these properties part-private, which I will address next.

Third, there are unanswered questions regarding the soundness of the public-private partnership: What happens if one or more of the partnership members pulls out of the joint-venture? What happens if the private partners decline to extend the partnership at the end of the agreed upon term? Upon the expiration of federal contract under HUD's HAP program, will there be safeguards to ensure that the units under the six properties will not lose affordability status and become market rate housing? What will happen at the end of 30 years?

NYCHA officials stated at the December 2014 meeting with elected officials that the agency is entitled to buy back the developers' 50% and re-assume 100% ownership. But such a re-purchase would require substantial funds that, given its difficult financial situation, the Authority may not have—particularly if the market valuation of these properties has significantly increased, as might expect it would under private ownership.

Furthermore, the terms of the partnership agreement permanently altered the legal status of the properties to Project-Based Section 8 housing that are no longer recognized as public housing. Even with the buy-back provision, NYCHA may well be challenged by the burden of re-assuming management of these properties. This should have been addressed *before* Triborough Preservation LLC took ownership of the properties in December 2014. NYCHA's unwillingness to consult with all stakeholders in advance, to consider the long-term implications of its selling and re-acquiring these properties, and an exit strategy, was an important lapse in accountability. Most importantly, the lack of a guarantee from NYCHA that the six properties will definitely remain partially or entirely owned by a Public Housing Agency raises deep concerns.

Finally, there are broader concerns that this public-private model will trigger a wave of partial or full privatizations of public housing beyond these six projects. NYCHA has assured my office that this is not expected to happen due to the fact that these developments are uniquely classified as public housing under current HUD waivers. Nonetheless, I strongly urge NYCHA to make transparency a priority going forward, and allow full, public consideration of new financing models for all NYCHA developments.

In summary, I want to emphasize that I fully understand NYCHA's need to secure funds to conduct rehab and repairs so that its residents can reside in safe, quality housing. But this goal, which we all share, should not be pursued without a commitment to full, open communication and transparency in the future, and as we continue to monitor NYCHA's current agreement with Triborough Preservation LLC.

Thank you for the opportunity to testify at today's hearing.