



Municipal Building  
New York, N.Y. 10007

November 17, 1978

Memo To: Distribution

From: Richard Telford, OMB  
566-1841, 2138

Subject: HDC 2nd Refinancing program: Transmittal to FCB

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For your information. Comments will be appreciated but changes must be limited as I expect to have a final copy for Phil Toia's signature on Monday.

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The City Of New York  
Office Of The Mayor  
New York, N.Y. 10007

PHILIP L. TOIA  
Deputy Mayor

November 17, 1978

The Financial Control Board  
270 Broadway  
New York, NY 10013

Gentlemen:

This submission refers for review and approval by the Financial Control Board the proposal of the New York City Housing Development Corporation to issue up to \$165 million of Bonds, backed by an equal amount of FHA-insured City Mitchell-Lama mortgages, in order to generate proceeds in the City's Mitchell-Lama refinancing program. Proceeds from refinancing are required to meet the City's 1979 cash flow needs.

The interest rate on the bonds, which will be tax-exempt, will average 7-1/8%, which in all cases will be lower than the interest rate on the underlying FHA-insured mortgages. The term of the bonds will be 40 years, which will be equivalent to the term of the mortgages. The bonds will be purchased by a consortium of savings institutions.

The Control Board has previously approved two methods of generating proceeds from the refinancing program. On January 7, 1977, it approved the outright sale of 6 FHA-insured mortgages. On July 27, 1977, the EFCB approved the sale of \$300,000,000 in HDC Bonds secured by an equal amount of FHA insured mortgages at an interest rate of 6-1/2%. Both of the programs approved by the Board have been accomplished.

The structure of the bonding program was set forth in a letter dated July 18, 1977 by the Deputy Mayor for Finance. Except for provisions relating to interest rates and the timing of fees, the structure of the current proposal to issue bonds is similar to the bond issuance approved by the Board on July 27, 1977. Under this arrangement, the FHA-insured mortgages are not sold; instead they are

held by HDC as security for the bonds. For each FHA-mortgage HDC issues an individual series of Multi-family Housing Limited Obligation Bonds. Each project's monthly mortgage payments to HDC are used to make monthly debt service payments on the related series of bonds. Each series of bonds is secured only by revenues attributable to the underlying FHA-insured mortgage on that bond series and not by any other revenues of HDC. The Multi-family Housing Limited Obligation Bonds are issued without establishing a Capital Reserve Fund and bond holders have no call upon any funds of the City or the State.

This submission summarizes the proposal for issuing additional bonds and discusses its financial advantages to the City. And, to permit the bond sales to begin, this submission requests approval of the Financial Control Board of the following:

1. Issuance of bonds by the Housing Development Corporation in an amount not to exceed \$165 million, pursuant to related agreements.
2. A contract between HDC and a banking institution, to be designated, for trustee services as required by the bond resolution.

Mitchell-Lama Refinancing Status

Reports were made to you on March 30, 1978 and April 11, 1978 on the progress of refinancing activity under the initial \$300 million bond program. On September 29, 1978, HDC fulfilled the purchase commitment of \$300 million by issuing the last bonds under this program. The accomplishments of the refinancing program are indicated in the table below.

	<u># of Project</u>	<u>M-L Mortgage Balance</u>	<u>FHA Mortgage</u>	<u>Net Proceeds</u>
Sold	6	\$ 36.4	\$ 21.1	\$ 17.8
Bonded	58	529.2	299.9	226.2
	<u>64</u>	<u>\$565.6</u>	<u>\$321.0</u>	<u>\$244.0</u>
	==	=====	=====	=====

Of the \$244 million in net proceeds the City has reviewed \$216 million - \$136 million in FY 1978 and \$80 million to date in FY 1979. HDC retains the remainder to meet the expenses of creating additional FHA insured mortgages for future refinancing. See Chart I for a list of the FHA insured mortgages which have been bonded or sold.

Projected Refinancing Activity

As of November 1, 1978, HDC had closed 10 FHA mortgages, amounting 60 \$106 million, which are available for immediate use as security for the issuance fo bonds. Mortgage closings are scheduled for another

7 projects during November amounting to approximately \$36 million. In addition, there are 8 projects which have received FHA insurance commitments totaling \$64 million which may be refinanced by the end of this calendar year. Thus, there is a pool of \$206 million in FHA insured mortgages available for additional refinancing, of which \$106 million is already in hand. See Chart II for the list of mortgages comprising this pool.

The City is requesting the Board's approval at this time of additional bond issuances of only \$165 million. This amount represents the balance of HDC's uncommitted statutory bonding authority of \$800 million. Proposed legislation has been submitted to the State Legislature providing for an increase in authority to issue bonds. If this authority is granted, the Board's approval will be required to continue the refinancing program beyond the requested \$165 million.

### Summary of the Proposal

HDC has obtained purchase commitments of \$101 million from a consortium of 10 savings institutions for the proposed \$165 million bonding program. HDC's placement agent, First Pennco Securities, is continuing its efforts to obtain buyers for the remaining \$64 million. The bonds will be structured in the same way as the previously approved \$300 million bond program, except in regard to interest rates, timing, and purchasers' fees. The bonds will be issued at an average interest rate of 7-1/8% with a .5% fee to the placement agent, and a 1% takedown fee to the purchasers or a 1% discount on the bonds, at the purchasers' option. The fees are paid at closing of the bond sales. The interest rate on the first bond program was 6-1/2% and the purchasers' 1% fee was paid in advance to secure the purchase commitment. The proposed purchase agreement requires the issuance of bonds prior to December 1, 1978 but not before November 21st; the purchase commitment expires December 29, 1978.

The principal change in the second bond program is the interest rate which will average 7-1/8% but may be as low as 7% or as high as 7-1/4%, at HDC's discretion. The 6-1/2% rate is no longer acceptable in today's credit market. Since the first bond closing in August, 1977, the Bond Buyer 20 Bond Index has increased from 5.65% to 6.22%; the Federal Funds Association auction rates for FHA mortgages have increased to 10.5% from an August, 1977 rate of 8.75%. The 7-1/8% on the proposed second bonding program appears advantageous in view of the current realities of the market.

The higher interest rates will have an impact on the amount of interest arbitrage that the City can collect annually. Since the interest rates on the bonds are lower than the rates on the underlying mortgages, debt service payments from the mortgagors to HDC exceed the amounts which HDC must pay in debt service to the bond holders. The earnings attributable to this spread are remitted to the City by HDC after the deduction of 1/4% for HDC's servicing expenses and payments to the trustee. An Internal Revenue Service ruling limits the arbitrage to a maximum of 1.63%.

Under the first bond program at 6-1/2% HDC collects arbitrage on the market rate unsubsidized mortgages equal to .75%, since these mortgages are underwritten at 7-1/4%. This arbitrage will be reduced to .25% in the second bond program as bonds backed by these mortgages will be issued at 7%. For the Federally subsidized Section 236 mortgages, arbitrage earnings will be reduced from the maximum of 1.63% under the first bond program to 1.375% for bonds issued at 7-1/8% and to 1.25% for bonds issued at 7-1/4%. The arbitrage reduction is limited for the Section 236 mortgages because the mortgage interest rate will be increased from 8-1/8%, required by the IRS arbitrage limitation, under the first bond program to 8.5%, the rate at which these mortgages were originally underwritten by HUD, under the second bond program.

### Financial Advantages to the City

The proposed second bond program at an average interest rate of 7-1/8% provides for the issuance of bonds at 7% backed by 7-1/4% market rate mortgages, an equal amount of bonds at 7-1/4% backed by 8-1/2% Section 236 mortgages, and the remainder at 7-1/8% for the remaining Section 236 mortgages. Thus, the agreement provides enough arbitrage to cover servicing costs on the market mortgages and will continue to provide significant arbitrage on the subsidized projects. Of the total of \$206 million in mortgages on hand or potentially available, approximately \$45 million are market rate mortgages.

Moreover, the cash proceeds to the City from this bonding program exceed by 20% on Section 236 mortgages and 32.5% on the market rate mortgages amounts that might be obtained by outright sale of the mortgages in the secondary mortgage market, the only readily available alternative. This is because the 7-1/4% and 8-1/2% mortgages would have to be discounted to yield 10-1/2%, the current market rate on FHA-insured mortgages.

In addition, the proposed bond program provides for the immediate refinancing of the bulk of the FHA mortgages currently held by HDC, and the ability to issue additional bonds as mortgages are closed over the next month. We believe that HDC tax exempt financing is still the most appropriate vehicle for obtaining the maximum proceeds to the City.

### Trustee

On October 27, 1978 HDC requested proposals from various financial institutions for the position of trustee of the Second Resolution Bonds. On November 3, 1978, four proposals were received by HDC for servicing the total available pool of 25 mortgages. Initial acceptance fees range from \$15,000 to \$62,500 and annual administration charges range from \$35,000 to \$65,000. The Corporation is reviewing the capabilities of the institutions submitting proposals and, upon selection of the trustee, will submit a contract for approval pursuant to FCB contract review procedures.

Status of City Approvals

The bond issue was approved by the HDC Board on October 10, 1978. The City Comptroller must approve the private sale of bonds by HDC as required by Article XII of the Private Housing Finance Law. This approval is expected to be forthcoming shortly.

Request for FCB Approval

The City hereby requests FCB approval of the following:

1. The issuance of \$165 million of Multi-family Housing Limited Obligation Bonds pursuant to HDC's Second General Bond Resolution and a Bond Purchase Agreement related to such bonds.
2. A contract between HDC and a banking institution for trustee services as required by the bond resolution.

The City certifies that the performance of the Bond Purchase Agreement, the issuance and sale of bonds, and the performance of the contract for bond holder's trustee will be accordance with the HDC Financial Plan and the City Financial Plan, both as approved by the Financial Control Board on November 9, 1978.

As the agreement with bond purchasers requires the issuance of bonds prior to December 1, 1978, I would appreciate your earliest attention to this matter.

Very truly yours,

Philip L. Toia  
Deputy Major for Finance

Attachments:

1. Memorandum of Understanding among the HDC and the purchasing banks.
2. Bond Purchase Agreement.
3. Second General Bond Resolution.



NEW YORK CITY  
HOUSING DEVELOPMENT CORPORATION

MEMORANDUM

DATE: September 27, 1978

TO: John Bender  
FROM: Harold Kuplesky  
SUBJECT: Proposed 190 Million Bond Issue

In July of 1977, the Emergency Financial Control Board approved our proposal to issue up to \$300 million of bonds to various New York City thrift institutions secured by an equal amount of FHA-insured City Mitchell-Lama mortgages. The Corporation will complete that program on September 29, 1978.

Subsequent to February, 1977, the Corporation sold 6 insured mortgages for \$21 million and from August 11, 1977 to September 18, 1978 sold 217 million in bonds as part of the \$300 million commitment (See Chart I attached). A bond closing is scheduled for September 29, 1978, at which the additional \$83 million in bonds (See Chart II attached) will be sold. To date the Corporation has paid \$136 million to the City. With the upcoming September closing, an additional \$65 million would be transferred to the City. The gross proceeds are reduced by costs of closing the mortgages and delivering the bonds and by sums retained by the Corporation as working capital. However, the Corporation will soon be in a position to issue another \$190 million in bonds backed by the mortgages shown on Chart III attached. We therefore request your approval of our plan as described below.

The new deal would have the same terms and conditions as the \$300 million deal approved last year, with the following changes:

1. There will be additional purchasers and a new sharing arrangement.
2. There will be a new three-month time frame at new interest rates, e. g. October - 7%, November - 7-1/8%, December - 7-1/4%.
3. The purchasers will receive a take down fee of 1% of the principal amount of bonds payable at each bond closing.

September 27, 1978

The higher interest rates reflect two factors. First, the 6-1/2% rate used previously is no longer acceptable in today's tax exempt bond market. In comparison to certain types of tax exempt housing bond deals, even 7% would be considered low. Second, the forecast for the next 3 months is for a continued increase in inflation. In order to develop a marketable deal which recognizes this trend, we have had to graduate the interest rates over the three month period.

We believe our plan to be in the City's best interests as most of the projects would close in October as indicated on Chart III and would therefore be bonded at the 7% interest rate. Additionally, most of the project mortgages are subsidized under Section 236 of the National Housing Act, which have interest rates of 8-1/2%. Given the maximum arbitrage of 1-1/2 points on HDC bonds, we can still generate maximum proceeds to the City. Previously, we had to decrease the interest rate on Section 236 subsidized mortgages when we issued 6-1/2% bonds. We might note that new arbitrage regulations effective September 1, 1978 may further limit the 1-1/2% spread, but this issue has still to be determined.

HDC's placement agent, First Pennco Securities, Inc. has received indications of interest from thrift institutions for most of the \$190 million. Therefore, this proposal can be implemented quickly without the need for lengthy negotiations. This would mean that bonds can be issued and proceeds conveyed to the City in excess of \$100 million during the month of October. In order to accomplish this expeditiously it is requested the Emergency Financial Control Board approve the concept of the \$190 million bond deal as outlined above.

There is another matter involving the refinancing program that will also be submitted to EFCB for approval. This involves an increase in fees to HDC's legal consultant, the firm of Brownstein, Zeidman & Schomer. The original contract stipulated a fee of \$5000 per closing after the 35th FHA insured mortgage closing. HDC has approved an increase to \$8,000 per closing for the 40th through the 60th closing and \$6,500 per closing after the 60th closing. This fee adjustment is in recognition that the Brownstein firm has spent substantial time on matters outside the scope of the original agreement, but extremely necessary to carrying out the refinancing program. We believe that the success with the program, can, to a great extent, be attributed to their efforts.

Attachments  
HK:mb

  
Executive Director



Chart I

Bonds Sold to September 18, 1978

August 11, 1977

Clinton Towers	\$10,288,100
Janel Towers	3,914,200
Heywood Towers	5,396,700
University Riverview	5,797,300
Bay Towers	5,475,500
Boulevard Towers II	6,762,900
Hudsonview Terrace	11,546,500
Court Plaza	5,368,800
Cooper-Gramercy	4,764,400
Montefiore Section II	7,662,400
Beekman Staff Residence	1,226,300
Westview Apartments	<u>1,656,000</u>

\$69,859,100

November 1, 1977

Kingsbridge Apts.	1,997,900
Albert Einstein Staff Housing	8,779,900
Bridgeview III	1,950,900
Fordham Towers	1,296,100
Forest Park Crescent	1,756,900
Columbus Manor	2,500,000
Robert Fulton Terrace	<u>2,357,000</u>

\$20,639,600

December 1, 1977

Seaview Towers	13,264,700
Glenn Gardens	8,196,000
Town House West	1,100,000
Middagh Street Studio Apts.	1,008,800
Tivoli Towers	<u>8,098,200</u>

\$31,667,700

March 31, 1978

Leader House	6,267,800
Kelly Towers	4,526,500
Keith Plaza	6,816,400
Stevenson Commons	<u>25,000,000</u>

\$42,610,700

August 1, 1978

Westwood House	1,498,800
Delos House	1,555,400
Candia House	1,405,000
Essex Terrace	1,749,100
New Amsterdam House	6,459,700
Bethune Towers	<u>1,518,400</u>

\$14,186,400

September 18, 1978

Cadman Towers	9,487,100
Allerville Arms	2,251,100
Prospect Towers	2,193,800
Boulevard Towers I	3,299,300
Bruckner Towers	2,656,500
Carol Gardens	3,330,000
Noble Mansion	2,618,800
West Village	<u>12,034,500</u>

\$37,871,100

Total

\$216,834,600

Mortgages Sold

Phipps Plaza	2,167,900
Hamilton Houses	2,414,600
Tanya Towers	2,298,400
Highbridge House	5,872,900
Park Lane	5,672,000
Stevenson Towers	<u>2,650,000</u>

TOTAL

\$21,075,000

September 29, 1978 Bond ClosingSchedule of Projects

East Midtown	\$17,157,400
Columbus House	3,502,500
Riverbend	8,267,900
Brighton	1,477,000
Goddard	2,381,600
Jefferson	1,619,000
Trinity	2,540,500
St. Martin	2,865,500
Dayton	14,871,800
Kingsbridge Arms	769,700
Polyclinic	1,323,100
Corlear	972,100
Skyview	3,910,900
Columbus Park	1,467,900
West Side Manor	3,147,200
Ruppert House	<u>16,778,000</u>
TOTAL	\$83,052,100

\$190,000,000 Bond Deal  
Schedule of Projects

<u>Market Rate</u>	<u>Status</u>	<u>Mtg. Amt.</u>	
Stryker's Bay	C	2.0	
<del>West Side Manor</del>	<del>9/28</del>	<del>3.1</del>	CHART II
Rosalie Manning	9/29	.9	
Esplanade	10/16	14.0	
Woodstock	10/17	2.0	
Washington Square	10/17	2.0	
Contello III	10/18	1.1	
Cadman North	10/18	1.4	
Scott	10/19	2.3	
RNA	10/19	<u>1.6</u>	
			30.4

Section 236 Subsidized

Lincoln Amsterdam	C	6.0	
Confucius	C	23.4	
Riverside Park	C	26.0	
East River	C	40.0	
Crown Gardens	10/16	4.5	
Clemente	N/S	16.6	
MINS Plaza	N/S	2.3	
Arlington Terrace	N/S	17.2	
Atlantic Terminal 2C	N/S	4.3	
Atlantic Terminal 4A	N/S	5.9	
OUB House	N/S	9.7	
Tower West	N/S	<u>4.0</u>	
			159.9
TOTAL			<u>190.3</u>

Notes:

The date in the status column is the scheduled mortgage closing date. N/S signifies not scheduled, but will occur in October and November. C signifies closed.

# Municipal Credit Report

NEW YORK CITY HOUSING DEVELOPMENT CORPORATION, NEW YORK

September 11, 1978  
CL

Rating: Ba (revised from Con.(Baa 1))

Opinion: Receipt of the most recent annual report of the Corporation and direct contact with the Corporation allows review of the rating of General Housing Bonds. Projects securing the bonds are essentially complete and occupied but the entire group of projects is not able to provide fully for its mortgage requirements. The projects have been adversely affected by rising operating costs, particularly for utilities, and the Corporation has instituted certain payment deferrals and other arrangements. Use of accumulated Corporation general reserve funds is required to meet bond debt service requirements. The rating now assigned to the General Housing Bonds of the Corporation reflects the completed status of its projects and the lack of a self-supporting mortgage portfolio over the long term.

Summary: The New York City Housing Development Corporation was formed in 1971 to provide funds to make mortgage loans to limited-profit housing companies. Lack of substantial borrowing capacity by the City of New York within its housing debt limit (2% of the five year average of assessed valuation) gave impetus to the creation of the Corporation; the Corporation and its projects bear close relationship to the Department of Preservation Housing and Development of the City of New York. Bonds of the Corporation, are deemed general obligations of the Corporation for which its full faith and credit are pledged; they do not constitute a debt of the City of New York or the State of New York.

The Corporation Act provides that outstanding bonds and notes of the Corporation may not aggregate more than \$800 million. The present authorization includes \$500 million for Mitchell-Lama limited project housing companies, \$200 million for housing rehabilitation (not presently contemplated), and \$100 million for other programs. The current bonded indebtedness of the Corporation totals \$283,425,000, for its General Housing program (limited-profit). Also outstanding, but separately secured from the bonds, are \$37,703,000 Series VIII Housing Notes for which short-term and long-term funding at this date is uncertain. Proceeds of the bonds were used to make mortgage loans and the bonds are intended to be repaid by amortization and interest payments on the mortgages. A capital reserve fund is provided for and bears a deficiency make-up arrangement with the City of New York.

Mortgagors: limited profit housing companies

Pledged revenues: those created by or existing under Resolution; pledge and assignment of mortgages

Mortgagee: The Corporation

Sources of revenues: mortgage repayments, fees, Capital Reserve Fund

Projects: residential facilities

Project operators: housing companies

Security Instruments: Corporation Resolution

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The Corporation: The New York City Housing Development Corporation was established pursuant to Article XII of the Private Housing Finance Law as added by Chapter 551 of the Laws of 1971, as amended. The Corporation is a corporate governmental agency of the State of New York and constitutes a public benefit corporation. The Corporation is principally a financing vehicle to provide mortgage loans and encourage private investment for residential construction for families and persons of low income. Creation of the Corporation was prompted by the lack of borrowing power on the part of the City of New York under its 2% housing debt limit.

Among the stated powers of the Corporation relating to housing programs are the following:

- (1) to borrow money and issue bonds, notes and other obligations;
- (2) to acquire, hold and dispose of personal property for its corporate purposes;
- (3) to make mortgage loans, to participate with the City or with one or more organizations set forth in the Act in making mortgage loans and to undertake commitments to make mortgage loans to housing companies on the same terms and in accordance with the Private Housing Finance Law;
- (4) to pledge all or any part of its revenues as security for debt service on bonds; and
- (5) to vary rentals charged by mortgagors so that necessary income is sufficient for payments to the Corporation.

To provide for its purposes, under the Act the Corporation currently may issue bonds and notes in an aggregate at any one time outstanding of \$800 million. As part of this \$800 million, the Corporation may have outstanding, to finance mortgage loans to owners of existing buildings (rehabilitation) bonds and notes in the aggregate of \$200 million; also, as part of the total authorization, there may be in the aggregate \$100 million outstanding for the purpose of making participatory loans with the City of New York or one or more authorized organizations.

The Corporation consists of the Commissioner of Housing Preservation and Development of the City of New York (Chairman), the Finance Commissioner of the City and Director of Management and Budget of the City, all ex-officio, and two members appointed by the Mayor and two by the Governor of the State of New York. The Corporation is under the direction of an appointed Executive Director.

Bonded Debt: The Corporation has outstanding six series of General Housing Bonds under its General Resolution. The most recent offering was a private placement of Series G bonds in early 1978. All bonds issued under the General Resolution are and will be equally secured by the pledges and covenants made in the Resolution, except as otherwise expressly provided or permitted in the General Resolution. As described later, total annual debt service requirements on the six series of bonds is generally level over the life of the issues at roundly \$19 million.

Debt Statement as of October 31, 1977a

<u>Series</u>	<u>Interest Rate</u>	<u>Original Amount</u>	<u>Final Maturity Date</u>	<u>Outstanding 10/31/77 &amp; later</u>
General Housing Bonds, 1972 Series A	3.75% to 6.50%	\$133,000,000	2022	\$131,760,000
General Housing Bonds, 1972 Series B	3.50% to 7.00%	51,640,000	2022	50,680,000
General Housing Bonds 1973 Series A	5.70% to 7.00%	62,800,000	2023	62,335,000
General Housing Bonds, Series D	7.50% (b)	16,255,000	2023	16,215,000
General Housing Bonds, Series E	9.00% (b)	11,255,000	2022	11,235,000
General Housing Bonds Series F	7.375%	10,200,000	2009	10,200,000
General Housing Bonds, Series G	7.375%	1,115,000	2009	1,115,000
Total Bonds		\$286,150,000		\$283,425,000

- a. The Corporation additionally has outstanding \$37,703,000 Series VIII Housing Notes due September 14, 1978 at a rate of 9% which are separately secured from outstanding bonds. Such notes are held by four New York City Pension Funds and have been rolled over since 1976; notes were due in August 1978 and were extended to the above date. As of this date, the short-term funding (potential roll-over) and eventual long-term funding of the notes remains uncertain. The notes are secured by the mortgages and interest subsidy contracts on projects known as Knickerbocker Plaza and North Waterside.

There have also been issued \$178,963,500 Multifamily Housing Limited Obligation Bonds. Such bonds are separately secured by issued mortgages originally made by the City of New York.

- b. Bonds had supplemental interest on the unpaid principal amount thereof (while held by any of the purchasers from the date of the issue, August 15, 1975, through August 15, 1978) at the rate of 2½% per annum on Series D and 1% per annum on Series E, payable semi-annually commencing May 1, 1976.

Bond proceeds have been used to fund the Capital Reserve Fund at its requirement (maximum annual debt service on the Bonds), for interest during the construction periods, and to make mortgage loans to qualified housing companies.

The bonds are general obligations of the Corporation for which its full faith and credit are pledged. Bonds are also to be secured by a pledge of all revenues, funds and accounts established by the Resolutions and by a pledge and assignment of all mortgages securing mortgage loans. Revenues shall mean the fees and charges made or received by the Corporation, and all or any part of the moneys received in payment of mortgage loans. Pledged funds include the Capital Reserve Fund. The bonds are not a debt of the City of New York or the State of New York and neither shall be liable on the bonds.

Debt Security Provisions: The Bonds of the Corporation are issued under the Act and secured by the General Housing Bond Resolution and Series Resolutions of the Corporation. The Resolutions describe the bonds, establish certain funds, set forth allocation of revenues and other provisions.

Allocation of Revenues: All revenues of the Corporation, including mortgage repayments, fees and charges etc. shall be deposited in the Revenue Fund and allocated, on a monthly basis, as follows:

- (1) Operating Fund--amounts budgeted to pay operating expenses, trustees, etc. fees, and reimbursements required to the City;
- (2) Debt Service Fund-Interest Payment Account--amounts to increase amount on deposit so that amount on deposit shall equal next succeeding interest payment when due;
- (3) Debt Service Fund-Principal Payment Account--as above, so that amount on deposit shall equal next principal installment when due;
- (4) Capital Reserve Fund--such amount, if any, required to increase the amount in the Fund to its requirement; (Fund bears deficiency makeup arrangement with the City of New York);
- (5) General Reserve Fund--such amount, if any, as shall increase the amount in the Fund to an amount not in excess of 2% of the principal amount of all bonds outstanding; and,
- (6) Debt Service Fund-Redemption Account--balance, if any, or remaining moneys.

Capital Reserve Fund investment income is required to be transferred to the Revenue Fund so long as the transfer will not reduce the Fund below its requirement. Moneys of the Capital Reserve Fund, other than income or interest earned, and in excess of the requirement shall be transferred; (1) to the General Reserve Fund; (2) to the Revenue Fund for payment to the City of any City or State moneys paid to restore the Capital Reserve Fund; (3) to the Debt Service Fund for credit to the Redemption Account for purchase or redemption of bonds; and, (4) any remaining moneys to the Revenue Fund.

Moneys in the General Reserve Fund are, in general, to be used for transfer to various funds in the event moneys in the Revenue Fund are not available; available moneys after such transfers are to be transferred to the Redemption Account, the Capital Reserve Fund to permit the issuance of bonds, and for corporate purposes other than City repayments. Remaining amounts above 2% of bonds outstanding may be used for repayment to the City or amounts used to restore the Capital Reserve Fund.

Issuance of Additional Bonds: The Corporation may issue additional bonds, if, among other things: (1) there is no deficiency in the amounts required to be paid into the Debt Service Fund and the Capital Reserve Fund; (2) upon issuance of the additional bonds the Capital Reserve Fund (including amounts deposited therein) shall be not less than its requirement; and (3) the Corporation shall have established schedules of mortgagor's payments which shall, with other available moneys, provide for the principal and interest on the additional bonds.

Pledge of Revenues: The Corporation has pledged to the payment of principal, redemption price and interest on the bonds, the revenues and all funds and accounts established by the Resolution, including the investments thereof and the proceeds of such investments.

Other Provisions: Among the other provisions and covenants contained in the Resolutions are the following:

- (1) The Corporation will duly and punctually pay or cause to be paid the principal or redemption price, if any, and interest on the bonds when due;
- (2) mortgages constitute and create a first mortgage lien on the real property of the project with respect to which the mortgage loan secured thereby is made;
- (3) to secure the bonds, the Corporation has pledged and assigned for the benefit of bondholders all mortgages securing mortgage loans for all or any part of which bonds have been issued:



- (4) should mortgagor rental and other income not be sufficient to make necessary payments, the Corporation shall cause the mortgagor to make application to vary such rental rates, and upon failure, the Corporation shall institute appropriate proceedings as may be authorized by law to vary such rental rates;
- (5) there are enumerated events of default, including: failure to pay principal or interest continuing for 30 days; default in the Corporation's compliance with the provisions of the Act relating to the maintenance of the required amount in the Capital Reserve Fund, or failure by the State Comptroller to make required payment and such failure shall continue for a period of 30 days after the date upon which the first moneys become available; and default in the performance of any other covenant or condition in the Resolutions or Bonds, if such default continued for 90 days after notice by the holders of 5% of bonds outstanding.
- (6) there are enumerated remedies in the event of default;
- (7) the Corporation shall keep proper books and records, including the filing of an annual report with the Trustee, the Mayor, Comptroller of the City, Director of Management and Budget of the City; and,
- (8) various covenants regarding enforcement and foreclosure of mortgages.

Capital Reserve Fund: As noted above, the Capital Reserve Fund bears a deficiency make-up management with the City of New York that is somewhat different than that normally associated with this type of obligation. In the event Corporation funds in the Debt Service Fund are not sufficient, the Corporation is to use amounts in the Capital Reserve Fund to meet requirements. Should the Capital Reserve Fund be drawn upon, the Act requires the Chairman of the Corporation to certify to the Mayor and Director of Management and Budget of the City, the amount required to restore the Capital Reserve Fund to its requirement. Such amount must first be appropriated for such purpose (within tax rate limit) or be made available from the proceeds of notes or bonds of the City (within its debt limit). All amounts paid to the Corporation by the City constitute non-interest bearing loans by the City to the Corporation and subject, subordinate and junior to the rights of the Corporation's bondholders and note-holders, shall be repaid to the City.

If the City is unable or fails to pay over to the Corporation the required amount, the Corporation Chairman is required to certify to the State Comptroller the amount unpaid. The amount required is to be paid over to the Corporation from the first moneys available for the next succeeding payments of per capita State aid due to the City from the State or such other aid or assistance payable by the State to the City and not otherwise allocated as shall supersede or supplement per capita aid. Per capita aid to the City is subject to Legislative appropriation. Above payments to the City are subject to a prior pledge under provision of the City University Construction Fund Act providing for payments under certain conditions to the City University Construction Fund for the purpose of paying rentals to the Dormitory of the State of New York,

Housing Program: The Housing Development Corporation's stated purpose of encouraging the investment of private capital and providing safe and sanitary dwelling units within the financial reach of families and persons of low income involves close liason with the Housing and Development Administration of the City of New York. Projects of the Corporation were initiated by the City but with permanent financing provided by HDC so as to relieve the City's housing debt limit.

Under the Act, the Corporation may make mortgage loans, to participate in making mortgage loans with the City of New York or one or more organizations as provided in the Limited Profit Housing Companies Law (Mitchell-Lama Law). Projects are supervised by the Department of Housing Preservation and Development; as noted above however, HDC has rent override power.

The proceeds of the Corporation's six bond offering have been used to provide funds to make mortgage loans to limited profit housing companies to finance six separate projects containing some 5,800 dwelling units; the total mortgage loan commitment for all these projects of roundly \$268,000,000 has now been met. The mortgage loans are for periods not to exceed 50 years and the formation of the limited-profit housing company for each project was approved by the Commissioner of the Department of Housing Preservation and Development (formerly known as Administrator of the Housing and Development Administration of the City of New York) and the State Commissioner of Housing and Community Renewal. The limited-profit housing companies are subject to various supervisory and regulatory powers of the City and the State Commissioner. As indicated below, several corporation financed projects bear Federal Section 236 interest reduction subsidies.

Project Status-September, 1978

<u>Project</u>	<u>Type</u>	<u>Occupancy</u>
Linden Plaza Housing Co., Inc.	Sect. 236	98%
Ocean Park Housing Co., Inc.	Sect. 236	100
Ruppert Towers Housing Co., Inc. <sup>a</sup>	Market rents	99
Washington Plaza Towers, Inc.	Sect- 236	99
Waterside Housing Co., Inc.	Market rents	98
Yorkville Towers Hsg. Co., Inc. <sup>a</sup>	Market rents	99
Carlton Gardens Hsg- Co., Inc.	Market rents	88% with additional 10% under lease

a. Merged project now known as Yorkville Towers Housing Co., Inc..

Additionally, the Corporation has made mortgage loan advances to the two projects which presently secure the outstanding \$37,703,000 Ser. VIII Notes. The projects are designated North Waterside Redevelopment Co. which is Section 236 assisted and the second is designated Knickerbocker Plaza Housing Co., Inc.; it is also Section 236 assisted.

All of the projects securing the General Housing Bonds are not yet fully self-sustaining and are not expected to be so for a few years. Initial rent increases have been required in all the projects and "workout" arrangements were subsequently required for several developments. Through the use of Corporation moneys available in its General Reserve Fund, operating and mortgage debt service subsidies have been provided for at least three of the projects and in certain cases interest payments or debt service payments from the projects have been deferred until 1980 when deferred payments are then to begin and be repaid over a ten year period at stipulated interest rates. Additionally, some of the projects have required increased equity contributions. Corporation officials have described such arrangements as in the best interests of the projects and the debt security. Utility costs in particular have necessitated sharp rental increases and in one project resulted in a rent strike and finally a deferral arrangement.

Corporation Financial Operations: Operating statements of the Housing Development Corporation for its General Housing Program reflect the essentially completed status of the projects and significantly the still substantial General Reserve Fund balances which remain and have already been utilized for various purposes as mentioned earlier. The General Reserve Fund is not to exceed 2% of outstanding bonds and is to be available for any corporate purpose. At October 31, 1977 the General Reserve available for future expenses totaled \$4,897,251, up from \$4,384,666 at the close of the previous year. As indicated, the Corporation has utilized such funds to meet operating deficits and also to meet supplemental coupon requirements on Series D and Series E Bonds.

The ability of the Corporation to meet its bond debt service requirements (without recourse to internal funds) rests on the ability of the mortgagors to meet required mortgage payments from Federal assistance payments and/or from tenant rentals. As has been mentioned, periodic adjustment of tenant rental levels are required and at times have been met with resistance. Additionally, the Corporation is to derive income from certain fees and charges on the mortgagors. In all cases there is the obvious need for the projects to be fully completed and maintained at necessary occupancy levels. While all projects are now essentially complete and occupied, their self-sustaining revenue generating capability is still to be fully demonstrated. Credit judgments for the General Housing Bonds must therefore take account of the portfolio's dependence upon support by the Corporation. Implementation of any future rent increases and the timing for complete self-support remains uncertain.

General Housing Program Balance Sheet (\$ in 000)

	October 31	
Assets:	1977	1976
Mortgage loans	\$299,817	\$291,102
Receivable from mortgagors for:		
Mortgagor billings	1,072	448
Reimbursement of expenses	116	56
Deferred mortgage billings	1,415	700
Cash and investments held for designated purposes		
Project Mortgage Loan Accounts	7,479	17,206
Capital Reserve Fund	20,326	20,036
Debt Service Funds	1,010	1,314
	28,816	38,558
Amount segregated for November 1st debt service	9,527	9,549
Cash and investments held for operations	5,347	5,409
Receivable from Multifamily Housing Program	125	
Office equipment at cost, less allowance for depreciation of \$5,946 (1977) and \$22,030 (1976)	10	16
	\$346,251	\$345,841
Liabilities:		
General Housing Bonds	\$282,425	\$283,505
Housing Notes	37,703	37,703
Accrued interest payable on bonds and notes	9,988	10,019
Deferred revenue-mortgage loans	1,415	700
Accounts payable and accrued expenses	1,031	603
Received in advance from mortgagors	545	573
Fund balances		
Restricted:		
Capital reserves	1,727	1,223
Mortgage loans	5,565	6,177
	7,293	7,400
General Reserve:		
Available for future expenses	4,897	4,384
Represented by mortgage loan	694	
Held for mortgage loan commitment	255	950
	\$ 5,847	5,334
	\$346,251	\$345,841

General Housing Program Sources and Uses of Cash (\$ in 000)

	<u>Year Ended October 31</u>	
	<u>1977</u>	<u>1976</u>
Sources:		
Proceeds from sale of housing notes, including premium	\$ 37,703	\$ 37,703
Proceeds from sale of bonds, incl. accrued int. purchased		10,576
Proceeds from investments:		
Cost to the Corporation	548,154	942,690
Earnings	2,768	2,873
Received from mortgagors:		
Interest	20,462	21,515
Principal	818	817
Fees and charges	675	954
Total sources	<u>610,582</u>	<u>\$1,017,130</u>
Uses:		
Mortgage loans	9,590	6,933
Retirement of housing notes	37,703	37,703
Interest on housing notes	3,393	3,770
Interest on principal payments on bonds	10,113	10,234
Amounts segregated for Nov. 1st debt service	9,527	9,549
Purchase of investments	538,208	945,906
Distri. of earnings on invests. to mortgagors	1,445	2,114
Distri. of ground rent escrow account	57	204
Operating expenses	446	679
Total uses	<u>610,486</u>	<u>1,017,096</u>
Excess of sources	95	34
Cash balances at the beginning of year	183	149
Cash balance at the end of year	\$ 278	\$ 183
Cash balances were:		
Held for designated purposes	\$ 162	\$ 17
Held for operations	116	165
	\$ 278	\$ 183

\*\*\*\*\*



THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

JERROLD NADLER

Assembly 69th District

Reply to

Room 430

Legislative Office Building

Albany, New York 12248

(518) 472-2150

DISTRICT OFFICE

Reply to

720 Columbus Avenue

New York, N.Y. 10025

(212) 850-1500

August 23, 1978

John Bove  
Office of the Governor  
State Capitol  
Albany, New York 12248

Dear John:

As I promised in my conversation with Judy Frangos on Wednesday, August 23, I am sending to you herewith a copy of the Governor's original Mitchell-Lama bill, with suggested language changes to reflect the basic change in orientation from a tenant subsidy to a project subsidy bill, as well as a couple of minor additions. As noted in our conversation, I feel we would be much better off if those parts of the bill which were previously negotiated and agreed upon were not changed at all, except insofar as necessary to conform with the basic change from a tenant subsidy to a project subsidy concept.

I hope you enjoy any vacation you may have a chance to take in this hectic time, and that we can all discuss this entire matter together after Labor Day, so that we are prepared prior to the post-primary session of the Legislature.

Best regards.

Sincerely,

A handwritten signature in cursive script that reads "Jerrold Nadler". The signature is written in black ink and is positioned above the typed name and title.

Jerrold Nadler  
Member of Assembly

JN/am

Enclosures

cc:

Judy Frangos  
Dave Sweet

August 18, 19 78

*From the desk of*

**DAVID J. SWEET**

To Jerry

The attached represents my revision of the Governor's original Bill.

It was only returned to me by Bill Drafting today so that I have not yet had a chance to be sure that all of the changes were properly made.

DJS



# STATE OF NEW YORK

13158

## IN ASSEMBLY

June 22, 1978

Introduced by COMMITTEE ON RULES—(at the request of Lehner, Abramson, Dearie, Fink, Friedman, Koppell, Nadler, Sanders)—(at the request of the Governor)—read once and referred to the Committee on Housing

*and*  
**AN ACT to amend the private housing finance law, the New York state urban development corporation act, the New York state project finance agency act and the real property tax law, in relation to authorizing payments to be made by the New York state housing finance agency to or on behalf of limited-profit housing companies, establishment of a project assistance payment fund and the manner in which rental rates to be charged residents in projects of such companies shall be varied**

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

- 1 Section 1. Legislative findings; purpose. The legislature hereby finds that
- 2 the costs of goods, services and financing for low rent housing developed
- 3 pursuant to the limited-profit housing companies law have increased
- 4 dramatically during recent years. These increased costs have exceeded increases
- 5 in the incomes of those persons and families for whom such housing
- 6 accommodations were intended. As a result, the ability of such companies to
- 7 continue to provide accommodations at rental rates which are sufficient to
- 8 enable them to meet their obligations, which are within the ability of the
- 9 existing residents to afford without creating undue hardships, and which are
- 10 sufficient to assure that excessive vacancies do not occur and that vacancies that
- 11 do occur can be filled, has been severely threatened. A significant number of
- 12 projects are experiencing financial difficulties and are failing or are threatened
- 13 with the inability to meet their financial obligations. These factors jeopardize
- 14 the purposes of the limited-profit housing companies law and undermine the
- 15 ability of the state and its municipalities and public benefit corporations to
- 16 continue to provide for the housing needs of those intended to be served by that
- 17 program.
- 18 The legislature further finds that the financial difficulties experienced by
- 19 these projects has and will continue to adversely affect the financial soundness
- 20 of the public agencies and instrumentalities which have financed the
- 21 development of these projects. The financial problems experienced by the New

EXPLANATION—Matter in italics is new; matter in brackets [ ] is old law to be omitted.

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It is the further purpose of this act to  
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1 York state urban development corporation was caused in part by the inability  
2 to secure sufficient revenues from its projects to meet its obligations. Similarly,  
3 the ability of the New York state housing finance agency to issue obligations  
4 relating to its existing projects has been reduced. If the difficulties being  
5 experienced by these projects continues the financial impact on these and other  
6 financing agencies will be exacerbated and will jeopardize the ability of the state  
7 and its subdivisions and public corporations to obtain credit.  
8 It is the purpose of this act to authorize assistance to be provided to projects  
9 undertaken pursuant to the limited-profit housing companies law to stabilize  
10 the financial condition of these projects. ~~Such assistance will provide aid to~~  
11 ~~those residents who lack the ability to pay the rents necessary to enable the~~  
12 ~~project to meet its obligations without undue hardship, assure that vacancies~~  
13 ~~can be filled, and provide a procedure for the variation of rental rates which will~~  
14 assure that precipitous and destructively high rent increases will not occur. It is  
15 the further purpose of this act to assure that the public purposes of the limited-  
16 profit housing companies law can be achieved, maintained, and furthered by  
17 providing assistance necessary to continue to make ~~such~~ housing  
18 accommodations available to and affordable by those persons and families for  
19 which they were intended, and to safeguard and promote the financial integrity  
20 of the state's housing financing agencies by assuring that the projects financed  
21 by them, have a source of revenue sufficient to enable them to meet their  
22 obligations to such agencies.

23 § 2. The private housing finance law is hereby amended by adding a new  
24 section thirty-six-b to read as follows:

25 ~~§ 36-b. Project assistance payments.~~ 1. As used in this section the following  
26 terms shall have the following meanings:

27 (a) "Agency." The New York state housing finance agency created pursuant to  
28 article three of this chapter.

29 (b) "Basic contribution." The portion of the sustaining rent not allocable to the  
30 payment of the principal of and interest on the indebtedness of a company,  
31 cumulative and unpaid dividends on stock of the company, and cumulative and  
32 unpaid distributions to partners of a partnership in which the company is a partner.

33 (c) "Eligible tenant." A tenant in a project who occupied a dwelling in such  
34 project prior to the first day of January, nineteen hundred eighty-one (i) whose gross  
35 income less an amount equal to the deductions for medical expenses and personal and  
36 dependent exemptions claimed for the purposes of computing the New York state  
37 personal income tax liability of all persons whose income is included in determining  
38 gross income does not exceed seventeen thousand two hundred dollars and, with  
39 respect to tenants initially occupying a dwelling unit in a project after December  
40 twelfth, nineteen hundred seventy-eight, is not less than three times the sustaining  
41 rent for the dwelling, (ii) who would be required to pay more than twenty-five percent  
42 of his gross income to meet the sustaining rent for the dwelling, and (iii) who is not a  
43 recipient of any form of rent supplementation or rent assistance from the federal  
44 government and is not a party to a sublease with the agency pursuant to section forty-  
45 four-a of this chapter.

46 (d) "Gross income." The income from whatever source derived, including but not  
47 limited to social security payments and retirement benefits whether or not includible  
48 in determining gross income for the purpose of computing New York state personal  
49 income tax liability, of the tenant and all members of the family of a tenant who  
50 reside with the tenant and all others residing with the tenant.

51 (e) "Maximum collectible rent." The greatest of (i) twenty-five percent of the  
52 gross income of an eligible tenant, (ii) the basic contribution for a dwelling in a  
53 project, or (iii) in the case of an eligible tenant who has been in continuous  
54 occupancy of a dwelling since December thirty-first, nineteen hundred seventy-eight,  
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1 the rent charged on such date for such dwelling or the dwelling sought to be occupied,  
2 plus the amount of the sustaining rent which is allocable to the payment of board and  
3 such other services as may be provided as an incident to occupancy of non-  
4 housekeeping accommodations, aged care accommodations, or non-housekeeping  
5 accommodations for handicapped persons. The maximum collectible rent shall be the  
6 maximum rent that may be charged an eligible tenant so long as funds are available  
7 to the agency therefor.

8 (f) "Sustaining rent." The maximum rent permitted by law to be charged a tenant  
9 as determined pursuant to paragraph (a) of subdivision one of section thirty-one of  
10 this article.

11 2. Except as otherwise provided in this section and consistent with section fifty-  
12 nine-a of this chapter, the agency, within the amount available therefor, may make  
13 payments to a company or the mortgagee of a company on behalf of eligible tenants to  
14 whom a certificate has been issued pursuant to this section in an amount not to  
15 exceed in any year the difference between the sum of the sustaining rents for  
16 dwellings occupied by eligible tenants for which certificates issued pursuant to this  
17 section are in effect and the sum of the maximum collectible rent which may be  
18 charged such tenants while such certificates are in effect. The maximum amount of  
19 such payments shall be computed annually by the commissioner and may be adjusted  
20 from time to time upon the issuance of additional certificates or the variance or  
21 adjustment of the sustaining rent or maximum collectible rent. Payments shall be  
22 made only (i) on behalf of eligible tenants residing in the project of a company which  
23 prior to January first, nineteen hundred seventy-eight had obtained a mortgage loan  
24 from or entered into a loan contract with the state of New York pursuant to section  
25 twenty-two of this article, a municipality pursuant to section twenty-three of this  
26 article, the agency pursuant to section forty-four of this chapter, the New York city  
27 housing development corporation pursuant to section six hundred fifty-four of this  
28 chapter or the New York state urban development corporation pursuant to section  
29 five of the New York state urban development corporation act, all or part of the  
30 principal of which mortgage loan or the principal of a mortgage loan made pursuant  
31 to section twenty-three-a or forty-four-b of this chapter is outstanding on January  
32 first, nineteen hundred seventy-nine, and (ii) with respect to periods during which  
33 such mortgage loan is outstanding.

34 3. No payments shall be made pursuant to this section on behalf of an eligible  
35 tenant who initially occupies a dwelling in a project of a company on or after  
36 January first, nineteen hundred seventy-nine unless the company has entered into a  
37 contract with the agency providing for such payments to be made. The agency shall  
38 enter into such contract in the event that the commissioner finds in his sole discretion  
39 that the maximum rental obtainable in the open market for the dwellings in the  
40 project is less than the sustaining rent therefor. Such contract shall be subject to the  
41 approval of the commissioner and shall contain such terms and conditions not  
42 inconsistent with this section and the regulations of the commissioner as the agency  
43 shall require, including provisions for termination of payments prior to the  
44 satisfaction of the mortgage of the company and for such payments to be made on  
45 behalf of the company to the mortgagee of the company, provided that the mortgagee is  
46 a party to such contract and agrees to accept such payments and apply them to meet  
47 the obligation of the company under the mortgage and note or bond secured thereby.  
48 Such contract shall also make provision for repayment of the payments made to or on  
49 behalf of a company pursuant to such contract. The rights, remedies and obligations  
50 of the state, a municipality, the agency, the New York city housing development  
51 corporation, the New York state urban development corporation, the New York state  
52 project finance agency or any mortgagee of the company under any mortgage, note or  
53 bond, loan contract or agreement with noteholders and bondholders to commence any  
54 action or proceeding to compel payment of the amount remaining to be paid on any  
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1 note or bond, to foreclose any mortgage or to enforce the obligations of the company  
2 thereunder or under any loan contract, shall not be impaired, diminished or  
3 otherwise affected by any agreement entered into pursuant to this section.

4 4. Application for a determination of eligibility shall be made by persons residing  
5 in or seeking to occupy a dwelling in a project or by a company in the case of a pro-  
6 ject assisted by interest reduction payments made by the federal government pur-  
7 suant to section two hundred thirty-six of the National Housing Act or of a project in  
8 which the commissioner determines that a majority of tenants may be eligible at such  
9 time and in such manner as shall be prescribed by regulations of the commissioner  
10 and shall be accompanied by such information and data as the commissioner may  
11 require in order to determine the eligibility of each such person. There shall be issued  
12 to each eligible tenant, where application was made by the tenant, the agency and the  
13 company a certificate stating that the tenant is an eligible tenant on whose behalf  
14 payments are authorized to be made, the maximum payments authorized to be made  
15 by the agency during the period the certificate is effective, the period during which the  
16 certificate shall be effective which shall not exceed one year, and the date upon which  
17 such period shall commence. During the period a certificate is in effect and payment  
18 is made by the agency the tenant or tenants to which the certificate relates shall not be  
19 required to pay more than the difference between the sustaining rent for the dwelling  
20 and the payments made by the agency on behalf of such tenant.

21 5. The commissioner may promulgate such regulations as he deems necessary or  
22 appropriate to implement the provisions of this section, including but not limited to  
23 regulations requiring a tenant as a condition of eligibility or during the time a  
24 certificate issued pursuant to subdivision four of this section is in effect to apply or  
25 authorize another to apply on his behalf, and accept in lieu of any or all payments to  
26 be made on behalf of such tenant pursuant to this section, the benefits of any federal  
27 program of rent supplementation or assistance. A certificate issued pursuant to  
28 subdivision four of this section may be revoked and payments by the agency on behalf  
29 of such tenant terminated if the commissioner finds that the tenant has failed to  
30 comply with any provision of this article or any regulations promulgated pursuant  
31 hereto. The commissioner shall notify the tenant, the agency and the company of  
32 such revocation.

33 § 5. Subdivision one of section thirty-one of such law, as separately amended  
34 as subdivision one of section three hundred eighteen of the public housing law by  
35 chapters one hundred thirty-two and five hundred forty-four of the laws of  
36 nineteen hundred sixty-one, paragraphs (a) and (b) as amended by chapter  
37 three hundred forty-three of the laws of nineteen hundred seventy-six,  
38 paragraph (c) first set out as amended by chapter seven hundred eighty-nine of  
39 the laws of nineteen hundred seventy and relettered by chapter three hundred  
40 forty-one of the laws of nineteen hundred seventy-six, paragraph (c) second set  
41 out as added by chapter three hundred fifty-seven of the laws of nineteen  
42 hundred seventy-six, is hereby amended to read as follows:

43 1. (a) [A company may, with the approval of the] The commissioner or the  
44 supervising agency with the approval of the commissioner, as the case may be,  
45 [fix] from time to time but not more frequently than once every two years shall  
46 determine the maximum rentals [per room] required to be charged tenants of the  
47 dwellings, the average of the rentals for the dwellings in any project not to  
48 exceed the maximum average rentals determined by the commissioner or the  
49 supervising agency, as the case may be, before any commitments are made by  
50 the company for the construction of the project. The commissioner or the  
51 supervising agency, upon his or its own motion, or upon application by the  
52 company or of a stockholder, lienholder, a creditor, or of holders of at least ten  
53 per centum of the bonds of the company, or by the federal government where  
54 the mortgage loan of the company is insured or held by the federal government,  
55

*Housing Finance*

1 may vary such rental rate from time to time so as] to secure, together with all  
 2 other income of the company, sufficient income for it to meet within reasonable  
 3 limits all necessary payments to be made or projected to be made [during the  
 4 term of a lease] by the said company[, of] *during a period of two years for all*  
 5 expenses including fixed charges, sinking funds, reserves [and] dividends on  
 6 outstanding stock and distributions to partners, as authorized by the  
 7 commissioner or the supervising agency, as the case may be. *Subject to the*  
 8 *provisions of paragraph (e) of this subdivision, the rental rates shall be varied by the*  
 9 *difference between the rental charged at the time such maximum rental rates are*  
 10 *determined and such maximum rental rates. The maximum rentals determined by*  
 11 *the commissioner or supervising agency shall be in effect for a period of two years*  
 12 *unless, within thirty days after notice of a variation of rentals is given, the occupants*  
 13 *of more than fifty percent of the dwellings in the project or the duly constituted*  
 14 *tenants' association, or the company in the case of a mutual company, requests the*  
 15 *commissioner or supervising agency to provide for variations to be made during each*  
 16 *year of such two year period. In no event shall the rental charged for a dwelling upon*  
 17 *initial occupancy be greater than one hundred fifteen percent of the rental that would*  
 18 *have been charged a tenant in occupancy at the time the last variation in rentals*  
 19 *became effective, except that the rental to be charged a tenant in occupancy who moves*  
 20 *from one dwelling to another within the project shall not be more than the rental that*  
 21 *would have been charged any immediately preceding tenant. Letting, subletting or*  
 22 *assignment of leases of apartments at greater rentals than those [approved by*  
 23 *the commissioner or the supervising agency] permitted to be charged pursuant to*  
 24 *this section shall be unlawful. [Where the mortgage loan of a company is insured*  
 25 *or held by the federal government or where a project is owned by the federal*  
 26 *government, rental rates shall be varied without regard to the provisions of any*  
 27 *general, special or local law which would otherwise limit or control such rental*  
 28 *rates or the determination or variation thereof for so long as such mortgage loan*  
 29 *remains outstanding or the project financed by such a mortgage loan is owned*  
 30 *by the federal government.] No variation of a rental rate in a project financed*  
 31 *by a mortgage loan insured or held by the federal government[,] or in a project*  
 32 *owned by the federal government shall be effective unless approved by the*  
 33 *federal government, if such approval is required by any rule, regulation or*  
 34 *agreement with the federal government.*  
 35 (b) Unless any applicable regulation of or regulatory agreement with the  
 36 federal government shall otherwise provide, [(i) the tenants] in a project  
 37 financed by a mortgage loan insured or held by the federal government (i) *the*  
 38 *tenants shall be entitled and may elect to enter [in] into a lease for a term of up*  
 39 *to three years at such rental rates as may be established by the commissioner or*  
 40 *the supervising agency, as the case may be, pursuant to paragraph (a) of*  
 41 *subdivision one of this section[,] and (ii) the rental rates to be charged under*  
 42 *any such lease shall be established after consideration of the term of such lease*  
 43 *and may differ from the rental rates to be charged under any other lease of a*  
 44 *different term [and (iii) the commissioner or the supervising agency, as the case*  
 45 *may be, shall in establishing such rental rates consider the obligations of the*  
 46 *company under any instruments evidencing or securing any residual*  
 47 *indebtedness]. Such leases shall contain a provision authorizing the variation of*  
 48 *the rental rates during the term of such leases [upon an application made] as*  
 49 *may be required by the federal government [pursuant to paragraph (a) of*  
 50 *subdivision one of this section].*  
 51 (c) *Except as otherwise provided in this paragraph, in the case of a municipally-*  
 52 *aided project the supervising agency shall determine the maximum rentals for the*  
 53 *dwellings in a project without regard to the obligations of the company under any*  
 54 *instrument evidencing or securing any residual indebtedness. If the maximum*  
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*Financing Jurisdiction*

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1 rentals as so determined require that the rental charged tenants are to be increased  
 2 over any one year period by not more than three and three-quarters percent or over  
 3 any two year period by not more than five and one-half percent, the supervising  
 4 agency may provide for the payment of such residual indebtedness by increasing the  
 5 rentals charged tenants by an amount not to exceed an additional one percent.  
 6 Payments on account of any residual indebtedness shall be made only for periods for  
 7 which provision has been made pursuant to this paragraph and shall not exceed the  
 8 amounts provided therefor.

9 (d) [(c) A company may, with the approval of the commissioner or the  
 10 supervising agency, as the case may be, fix maximum charges to be paid by each  
 11 occupant for the non-housekeeping accommodations, aged care  
 12 accommodations or non-housekeeping accommodations for handicapped  
 13 persons, which charges may include payment for board and such other services  
 14 as may be provided as an incident to occupancy, the average of such charges for  
 15 all the non-housekeeping accommodations, aged care accommodations or non-  
 16 housekeeping accommodations for handicapped persons in any project not to  
 17 exceed the maximum average charges for all such non-housekeeping  
 18 accommodations, aged care accommodations or non-housekeeping  
 19 accommodations for handicapped persons determined by the commissioner or  
 20 the supervising agency, as the case may be, before any commitments are made  
 21 by the company for the construction of the project. The commissioner or the  
 22 supervising agency upon his or its own motion, or upon application by the  
 23 company or of a stockholder, lien holder, a creditor or of holders of at least ten  
 24 (10%) per centum of the bonds of the company, may vary such charges from  
 25 time to time so as to secure, together with all other income of the company,  
 26 sufficient income for it to meet within reasonable limits all necessary payments  
 27 to be made by said company, of all expenses including fixed charges, sinking  
 28 funds, reserves and dividends on outstanding stock as authorized by the  
 29 commissioner or supervising agency as the case may be. It shall be unlawful to  
 30 make non-housekeeping accommodations, aged care accommodations or non-  
 31 housekeeping accommodations for handicapped persons available at greater  
 32 charges than those approved by the commissioner or the supervising agency.]  
 33 As used in this subdivision the term "dwelling" shall include non-housekeeping  
 34 accommodations, aged care accommodations and non-housekeeping accommodations  
 35 for handicapped persons. The maximum rental which may be charged pursuant to  
 36 paragraph (a) of this subdivision for non-housekeeping accommodations, aged care  
 37 accommodations and non-housekeeping accommodations for handicapped persons  
 38 may include an amount for board and such other services as may be provided as an  
 39 incident to occupancy.

40 (e) Except as otherwise provided in this paragraph, whenever the maximum  
 41 rentals fixed by the commissioner or supervising agency require the rentals charged  
 42 tenants residing in the project to be increased during any two year period by an  
 43 amount greater than ~~three~~ percent of the rentals charged at the time the maximum  
 44 rentals are determined, the commissioner or supervising agency shall, to the extent  
 45 that maximum deferrals are made, limit the increase during such year to eleven  
 46 percent by permitting the company to defer all or part of the payments to be made by  
 47 the company during such years for current and accumulated and unpaid (i)  
 48 dividends on outstanding stock of the company, (ii) distributions to partners, (iii)  
 49 payments into sinking and reserve funds, and (iv) with the consent of the mortgage  
 50 of the company installments of interest on and amortization of the mortgage  
 51 indebtedness of the company. Where the variation has been limited to eleven percent,  
 52 the commissioner or supervising agency if requested by the occupants of more than  
 53 fifty percent of the dwellings in a project or by a duly constituted tenants'  
 54 association, or by the company in the case of a mutual company, shall, in lieu of  
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1 limiting such increase to eleven percent, provide for increases of not greater than  
2 ~~seven and one half~~ percent during each year of such two year period. During any  
3 subsequent two year period in which an increase in rentals of less than ~~eleven~~ percent  
4 is required the commissioner or supervising agency shall make provision for  
5 repayment by the company of any payments deferred pursuant to this paragraph  
6 through an additional charge in an amount not exceeding the difference between the  
7 increase in the rentals required during such years and ~~eleven~~ percent of such rentals,  
8 provided, however, that provision shall be made for annual increase of not greater  
9 than ~~seven and one half~~ percent if a request therefor is made as provided in  
10 paragraph (a) of this subdivision.

11 (f) At least forty-five days prior to the variation pursuant to paragraph (a) of this  
12 subdivision of the maximum rentals to be charged tenants of the dwellings in a project  
13 the commissioner or supervising agency, as the case may be, shall notify the  
14 company, the tenants, the mortgagee, and, in the case of a municipally-aided project,  
15 the commissioner of the proposed variation of rentals. Such notice shall be posted in  
16 at least two conspicuous places within each structure or building in which tenants  
17 reside and shall be delivered directly or by mail to the persons entitled to notice. The  
18 notice shall state (i) the reasons <sup>needed.</sup> (ii) the proposed increase,  
19 (iii) the place at and times during which th  
20 based will be available for inspection, (iv)  
21 those payments permitted to be deferr  
22 subdivision, and (v) the annual increase  
23 pursuant to paragraph (a) or (e) of th

24 (g) In determining the maximum re  
25 subdivision for a project of a company  
26 agency has determined that on Januar  
27 amount available to the company for su  
28 maintained by the company is less than  
29 commissioner or supervising agency shall make p

30 difference into such reserve accounts or funds over a period of up  
31 [(c)] (h) [Disclosure of bases.] The commissioner, administrator or  
32 supervising agency, as the case may be, shall upon request make available for  
33 inspection and copying by the residents in any affected development, all items  
34 [and], data and recommendations utilized as the various bases for the decision  
35 on ~~increase~~ in determining the maximum rental [or carrying charges, upon  
36 notification of the decision to the applicant of the action taken] that may be  
37 charged upon occupancy or in the variations of rentals charged tenants in occupancy.

38 ~~§4. Paragraph (a) of subdivision two of section thirty-one of such law, as~~  
39 amended by chapter eight hundred ninety-five of the laws of nineteen hundred  
40 seventy-four, is hereby amended to read as follows:

41 (a) The dwelling or non-housekeeping accommodations without board in a  
42 company project shall be available for persons or families of low income whose  
43 probable aggregate annual income at the time of admission and during the  
44 period of occupancy does not exceed six times the rental, including the value or  
45 cost to them of heat, light, water and cooking fuel, of the dwellings that may be  
46 furnished to such persons or families, except that in the case of families with  
47 three or more dependents, such ratio shall not exceed seven to one, and whose  
48 gross income as defined in section thirty-six-b of this article at the time of admission  
49 is not less than three times the sustaining rent for the dwelling as defined in such  
50 section thirty-six-b. The "probable aggregate annual income" in the case of  
51 dwelling accommodations means the annual income of the chief wage earner of  
52 the family, plus all other income of other members of the family over the age of  
53 twenty-one years, plus a proportion of income of gainfully employed members  
54 under the age of twenty-one years, the proportion to be determined by the  
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1 company as approved by the commissioner or the supervising agency, as the  
 2 case may be, except that the company, as approved by the commissioner or the  
 3 supervising agency, as the case may be, may exclude a proportion of the income  
 4 of other members of the family over the age of twenty-one years for the purpose  
 5 of determining eligibility for admission or continued occupancy, or for  
 6 establishing the rental of such family, or for all such purposes; in the case of such  
 7 non-housekeeping accommodations it means the annual income of the occupant,  
 8 provided that the commissioner or supervising agency, as the case may be, may  
 9 make rules and regulations relative to the allocation of the income of a family  
 10 among the members thereof for the purpose of determining the income  
 11 attributable to such occupant.

12 *B* § 5. Subdivision four of section thirty-one of such law, as amended by  
 13 chapter seven hundred thirty-four of the laws of nineteen hundred seventy-four,  
 14 is hereby amended to read as follows: *per cent*

15 4. Twenty-five percent of rental surcharges collected pursuant to this section  
 16 prior to January first, nineteen hundred seventy-nine shall be paid by the  
 17 company to the municipality which has granted tax exemption pursuant to  
 18 section thirty-three of this article as a credit against the grant of tax exemption,  
 19 the value of such tax exemption and of such credit to be determined on an  
 20 individual dwelling, non-housekeeping, aged care accommodation or non-  
 21 housekeeping accommodations for handicapped persons unit basis. In the event  
 22 that such tax exemption has not been granted, or in the event that a sum equal  
 23 to the total of all accrued taxes as to individual dwelling, non-housekeeping,  
 24 aged care accommodation or non-housekeeping accommodations for  
 25 handicapped persons units where such tax exemption was granted have been  
 26 paid to the municipality, the excess if any, of surcharges and all surcharges  
 27 imposed after December thirty-first, nineteen hundred seventy-eight shall be applied  
 28 to the expenses of operation and management as approved by the commissioner  
 29 or the supervising agency.

30 *C* § 6. Section forty-four-a of such law is hereby amended by adding a new  
 31 subdivision five to read as follows:

32 5. *On and after January first, nineteen hundred seventy-nine, the agency shall*  
 33 *not enter into lease, agreement or other arrangement with companies organized*  
 34 *pursuant to the provisions of article two of this chapter to lease any dwellings in the*  
 35 *projects of such companies or to renew or otherwise extend the provisions of any such*  
 36 *lease, agreement or other arrangement unless such renewal or extension terminates on*  
 37 *or before the first variation in rentals in the project occurring after January first,*  
 38 *nineteen hundred seventy-nine becomes effective.*

39 § 7. Subdivisions one and two of section thirty-five of such law, as amended  
 40 as section three hundred twenty-two of the public housing law by chapter five  
 41 hundred forty-four of the laws of nineteen hundred sixty-one, is hereby amended  
 42 to read as follows:

43 1. A company aided by a loan made prior to May first, nineteen hundred  
 44 fifty-nine, may voluntarily be dissolved, with the consent of the commissioner or  
 45 of the supervising agency, as the case may be, not less than thirty-five years  
 46 after the occupancy date upon the payment in full of the remaining balance of  
 47 principal and interest due and unpaid upon the mortgage held by the state or a  
 48 municipality pursuant to this article [and], payment to the municipality of a  
 49 sum equal to the total of all accrued taxes for which tax exemption was granted  
 50 and received pursuant to section thirty-three of this article and repayment of the  
 51 sum paid to or on behalf of the company pursuant to a contract entered into pursuant  
 52 to section thirty-six-b of this article.

53 2. A company aided by a loan made after May first, nineteen hundred fifty-  
 54 nine, may voluntarily be dissolved, without the consent of the commissioner or  
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1 of the supervising agency, as the case may be, not less than twenty years after  
2 the occupancy date upon the payment in full of the remaining balance of  
3 principal and interest due and unpaid upon the mortgage or mortgages, of the  
4 sum paid to or on behalf of the company pursuant to a contract entered into pursuant  
5 to section thirty-six-b of this article, and of any and all expenses incurred in  
6 affecting such voluntary dissolution.

7 § 2. Such law is hereby amended by adding a new section fifty-nine-a to read  
8 as follows:

9 § 59-a. Project assistance payment fund. The agency shall create and establish a  
10 special fund, to be known as the project assistance payment fund, and shall pay into  
11 such fund all monies appropriated and made available by the state for the purposes of  
12 such fund and monies from any other source which may be available to the agency for  
13 the purposes of such fund. All monies held in such fund shall be used to make  
14 payments to or on behalf of companies pursuant to section thirty-six-b of this

15 chapter, to the New York state urban development corporation, the New York state  
16 project finance agency, the New York city housing development corporation, and the  
17 state of New York for the payment of the principal of and interest on ~~the~~ *the*  
18 outstanding obligations to the extent funds for such purpose are unavailable as a

19 result of deferrals made pursuant to subdivision one of section thirty-one of this  
20 chapter of the obligations of on  
21 interest on and amortization c

22 agency to the extent funds are  
23 result of any such deferrals; p  
24 to or on behalf of companies which have unavailability of funds in excess of  
25 the sum of (i) one dollar up to ten million for each

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Sec. 4. Section twenty-three-a of such law is hereby amended by adding a new subdivision nine to read as follows:

9. The supervising agency shall use its best efforts to retain, under any regulatory agreement with the federal government, its

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1 § 11. Section thirty-six-a of such law is hereby amended by adding a new  
2 subdivision six-a to read as follows:

3 6-a. *To enter into contracts for and to receive payments pursuant to section thirty-*  
4 *six-b of this article.*

5 § 12. Subdivision twenty-nine of section forty-four of such law is hereby  
6 renumbered thirty and a new subdivision twenty-nine is added to read as  
7 follows:

8 29. *Subject to the approval of the commissioner of housing and community*  
9 *renewal and to any agreements with noteholders or bondholders, to make, contract to*  
10 *make and to receive payments pursuant to section thirty-six-b of this chapter to or on*  
11 *behalf of companies organized pursuant to the limited-profit housing companies law.*

12 § 13. Section six hundred fifty-four of such law is hereby amended by adding  
13 a new subdivision twenty-three-a to read as follows:

14 23-a. *Subject to the approval of the supervising agency and to any agreement with*  
15 *noteholders and bondholders, to contract to receive and to receive payments pursuant*  
16 *to sections thirty-six-b and fifty-nine-a of this chapter.*

17 § 14. Subdivision one of section thirty-three of such law is hereby amended  
18 by adding a new paragraph (e) to read as follows:

19 (e) *Notwithstanding the provisions of paragraph (a) of this subdivision,*  
20 *commencing with the first tax year of a municipality or taxing jurisdiction*  
21 *beginning after December thirty-first, nineteen hundred seventy-eight, the real*  
22 *property in a project which prior to January first, nineteen hundred seventy-nine*  
23 *had been granted an exemption pursuant to paragraph (a) of this subdivision shall*  
24 *be exempt from local and municipal taxes, other than assessments for local*  
25 *improvements, to the extent of all the value of the property included in such project*  
26 *which represents an increase over the assessed valuation of the real property, both*  
27 *land and improvements, acquired for the project at the time of its acquisition by the*  
28 *limited-profit housing company, provided that the amount of such taxes to be paid*  
29 *shall not be less than ten per centum of the annual shelter rent or carrying charges of*  
30 *the project. As used in this paragraph "shelter rent" shall have the same meaning as*  
31 *in paragraph (a) of this subdivision. The tax exemption shall operate and continue*  
32 *so long as the mortgage loans of the company are outstanding, but in no event for a*  
33 *period of more than thirty years, commencing in each instance from the date on*  
34 *which the benefits of the exemption provided pursuant to this paragraph or*  
35 *paragraph (a) of this subdivision first became available and effective, whichever*  
36 *occurred first.*

37 § 15. Paragraph (a) of subdivision nine of section thirty-one of such law, as  
38 amended by chapter two hundred eight of the laws of nineteen hundred seventy-  
39 five, is hereby amended to read as follows:

40 (a) For the purpose of enabling lower income elderly persons to continue in  
41 occupancy without paying rentals in excess of a fair proportion of their income,  
42 any municipality having a population of less than one million is authorized to  
43 make and to contract to make periodic payments to a company in an amount  
44 not exceeding the difference between the rent or carrying charges for the  
45 dwellings occupied by such lower income persons and one-third of their net  
46 probable aggregate annual income, where such rent or carrying charges exceed  
47 such one-third of income; provided that the aggregate amount of periodic  
48 payments to be made in accordance with contracts entered into by the  
49 municipality during any fiscal year thereof pursuant to this subdivision,  
50 subdivision seven of section eighty-five-a, section one hundred twenty-six and  
51 section five hundred seventy-seven-a of this chapter shall not exceed the  
52 aggregate amount of all real property taxes paid or payable during such fiscal  
53 year by all companies organized pursuant to [this article,] article IV, article V,  
54 and article XI of this chapter and the aggregate estimated receipts of all such

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1 companies in such fiscal year from rental surcharges collected or to be collected  
2 pursuant to this chapter

3 § 19. Subdivision twenty of section six hundred fifty-four of such law, as  
4 added by chapter nine hundred ninety of the laws of nineteen hundred seventy-  
5 two, is hereby amended to read as follows:

6 20. Notwithstanding the provisions of this chapter or of any other law,  
7 general, special or local, whenever the corporation shall find that the maximum  
8 rentals charged tenants of the dwellings in any project financed by the  
9 corporation in whole or in part shall not be sufficient, together with all other  
10 income of the mortgagor, to meet within reasonable limits all necessary  
11 payments to be made by the mortgagor of all expenses including fixed charges,  
12 sinking funds, reserves and dividends, to request the [mortgagor to make  
13 application to vary the rental rate for such dwellings so as to secure sufficient  
14 income, and upon failure of the mortgagor to take such action within thirty days  
15 after receipt of written request from the corporation to do so, to request the]  
16 supervising agency to take action [upon such agency's own motion so] to vary  
17 such rental rate, and upon failure of the supervising agency [either upon  
18 application by the mortgagor or upon its own motion so] to vary such rental rate  
19 within sixty days after receipt of written request from the corporation to do so,  
20 to vary such rental rate by action of the corporation;

11 21 § 17. Section five of section one of chapter one hundred seventy-four of the  
22 laws of nineteen hundred sixty-eight, constituting the New York state urban  
23 development corporation act, is hereby amended by adding a new paragraph  
24 twenty-eight to read as follows:

25 (28) Subject to any agreement with noteholders or bondholders to enter into  
26 contracts for and receive payments pursuant to sections thirty-six-b and fifty-nine-a  
27 of the private housing finance law.

12 28 § 18. Subdivision twenty-two of section five of section two of chapter seven  
29 of the laws of nineteen hundred seventy-five, constituting the New York state  
30 project finance agency act, is hereby renumbered twenty-three and a new  
31 subdivision twenty-two is added to read as follows:

32 22. Subject to any agreement with noteholders or bondholders, to enter into  
33 contracts for and receive payments pursuant to sections thirty-six-a and fifty-nine-a  
34 of the private housing finance law.

35 ~~§ 19. Paragraph d of subdivision three of section four hundred sixty-seven-b  
36 of the real property tax law, as added by chapter five hundred fifty-five of the  
37 laws of nineteen hundred seventy-seven, is hereby amended to read as follows:~~

38 d. notwithstanding any other provision of law, when a head of the household  
39 to whom a then current, valid tax abatement certificate has been issued moves  
40 his principal residence from one dwelling unit subject to the provisions of  
41 articles [II,] IV, V or XI of the private housing finance law to a subsequent  
42 dwelling unit subject to either the local emergency housing rent control law or to  
43 the emergency tenant protection act of nineteen hundred seventy-four which is  
44 located within the same municipal corporation, the head of the household may  
45 apply for a tax abatement certificate relating to the subsequent dwelling unit, and  
46 such certificate may provide that the head of the household shall be exempt  
47 from paying that portion of the maximum rent or legal regulated rent for the  
48 subsequent dwelling unit which is the least of the following:

49 (1) the amount by which the rent for the subsequent dwelling unit exceeds  
50 the last rent, as so reduced, which the head of the household was required to  
51 actually pay in the original dwelling unit;

52 (2) the most recent amount so deducted from the maximum rent or legal  
53 regulated rent in the original dwelling unit; or

54 (3) the amount by which the maximum rent or legal regulated rent of the  
55

*action*

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1 subsequent dwelling unit exceeds one-third of the combined income of all  
2 members of the household.

3 § 20. Paragraphs b, e and i of subdivision one of section four hundred sixty-  
4 seven-c of such law, paragraphs b and e as amended by chapter five hundred  
5 fifty-nine of the laws of nineteen hundred seventy-seven, paragraph i as  
6 separately amended by chapters three hundred eighty-five and five hundred  
7 fifty-nine of the laws of nineteen hundred seventy-seven, are hereby amended to  
8 read as follows:

9 b. "Dwelling unit" means that part of a dwelling in which an eligible head of  
10 the household resides and which is subject to the provisions of either Article  
11 [II,] IV, V or XI of the private housing finance law; or that part of a dwelling  
12 subject to a mortgage insured by the federal government pursuant to section  
13 two hundred thirteen of the National Housing Act, as amended, in which an  
14 eligible head of the household resides.

15 e. "Housing company" means any [limited-profit housing company,] limited  
16 dividend housing company, redevelopment company or housing development  
17 fund company incorporated pursuant to the private housing finance law and  
18 operated exclusively for the benefit of persons or families of low income; or any  
19 corporate owner of a dwelling subject to a mortgage insured by the federal  
20 government pursuant to section two hundred thirteen of the National Housing  
21 Act, as amended.

22 i. "Maximum rent" means the maximum rent, excluding gas and electric  
23 utility charges, which has been authorized or approved by the commissioner or  
24 the supervising agency or the legal regulated rent established for the dwelling  
25 unit pursuant to the provisions of either Article [II,] IV, V, or XI of the private  
26 housing finance law, or the rental established for a cooperatively owned dwelling  
27 unit previously regulated pursuant to the provisions of Article [II,] IV, V or XI  
28 of the private housing finance law, or [such] the approved rent for a dwelling  
29 unit in a dwelling subject to a mortgage insured by the federal government  
30 pursuant to section two hundred thirteen of the National Housing Act, as  
31 amended.

32 § 21. Paragraph b of subdivision three of section four hundred sixty-seven-c  
33 of such law, as added by chapter five hundred fifty-five of the laws of nineteen  
34 hundred seventy-seven, is hereby amended to read as follows:

35 b. notwithstanding any other provision of law, when a head of the household  
36 to whom a then current, valid tax abatement certificate has been issued moves  
37 his principal residence from one dwelling unit subject to this section, to the local  
38 emergency housing rent control law or to the emergency tenant protection act of  
39 nineteen seventy-four to a subsequent dwelling unit which is subject to the  
40 provisions of Articles [II,] IV, V or XI of the private housing finance law and  
41 which is located within the same municipal corporation, the head of the  
42 household may apply for a tax abatement certificate relating to the subsequent  
43 dwelling unit, subject to any terms and conditions imposed by reason of any  
44 fund created under subdivision eight of this section, and such certificate may  
45 provide that the head of the household shall be exempt from paying that portion  
46 of the maximum rent or legal regulated rent for the subsequent dwelling unit  
47 which is the least of the following:

48 (1) the amount by which the rent for the subsequent dwelling unit exceeds  
49 the last rent, as so reduced, which the head of the household was required to  
50 actually pay in the original dwelling unit;

51 (2) the most recent amount so deducted from the maximum rent or legal  
52 regulated rent in the original dwelling unit; or

53 (3) the amount by which the maximum rent or legal regulated rent of the  
54

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1 subsequent dwelling unit exceeds one-third of the combined income of all  
2 members of the household.

3 § 22. Subdivision eight of section four hundred sixty-seven-c of such law, as  
4 added by chapter two hundred eight of the laws of nineteen hundred seventy-  
5 five, is hereby amended to read as follows:

6 8. Any such local law or ordinance may provide that in the event that the real  
7 property of a housing company containing one or more dwelling units shall be  
8 totally exempt from local and municipal real property taxes for any fiscal year  
9 as a result of the exemptions from maximum rent credited pursuant to this  
10 section, or otherwise, such municipality may make or contract to make  
11 payments to a housing company in an amount not exceeding the amount  
12 necessary to reimburse the housing company for the total dollar amount of all  
13 exemptions from the payment of the maximum rent accorded pursuant to this  
14 section to eligible heads of the household residing in dwelling units in such real  
15 property.

16 A municipality may create and establish a fund in order to provide for the  
17 payments made in accordance with contracts entered into pursuant to this  
18 subdivision. There may be paid into such fund (1) all of the rental surcharges  
19 collected by the municipality from housing companies organized and existing  
20 pursuant to Articles [II,] IV, V and XI of the private housing finance law and  
21 (2) any moneys appropriated or otherwise made available by the municipality  
22 for the purpose of such fund.

13 23 § 23. Nothing in this act shall impair or limit the effect of any variation of  
24 rental rates pursuant to section thirty-one of the private housing finance law  
25 approved prior to the effective date of this act whether or not all or part of such  
26 variation takes effect subsequent to the effective date of this act. Applications  
27 for variations of rental rates made prior to the effective date of this act and  
28 access to data relating thereto shall be determined without regard to the  
29 provisions of this act and in accordance with the provisions of law existing at the  
30 time such application was made, except that the provisions of Paragraph (e) of  
31 subdivision one of section thirty-one and section fifty-nine-a of the private  
32 housing finance law as added by this act shall apply to any variation made after  
33 December thirty-first, nineteen hundred seventy-eight upon such application.

14 34 § 24. The commissioner or supervising agency shall not vary rentals charged  
35 tenants in a project pursuant to section thirty-one of the private housing finance  
36 law, other than a project financed by the New York city housing development  
37 corporation, during the twelve month period immediately succeeding the date  
38 upon which the last increase in rentals became effective pursuant to an order  
39 issued by the commissioner or supervising agency prior to January first,  
40 nineteen hundred seventy-nine.

41 § 25. Notwithstanding the provisions of sections fifteen, nineteen, twenty,  
42 twenty-one and twenty-two of this act the provisions of sections four hundred  
43 sixty-seven-b and four hundred sixty-seven-c of the real property tax law and  
44 subdivision nine of section thirty-one of the private housing finance law shall  
45 continue to apply with regard to a person who on December thirty-first,  
46 nineteen hundred seventy-eight is receiving benefits under any such section and  
47 who on or after January first, nineteen hundred seventy-nine continues to reside  
48 in or moves to or from a project of a company organized and existing pursuant  
49 to article two of the private housing finance law, provided, however, that the  
50 provisions of section four hundred sixty-seven-c of the real property tax law or  
51 subdivision nine of section thirty-one of the private housing finance law shall  
52 cease to apply and the benefits of such sections shall not be available to persons  
53 residing in the project of a company organized and existing pursuant to article

*Paragraph (e) only*

or during the period during which any order issued by the commissioner or supervising agency relating to the variation of rental rates and approved prior to the effective date of this act is intended by its terms to remain in effect, whichever is later

1 two of the private housing finance law, on and after the date on which the first  
 2 variation in rentals determined subsequent to January first, nineteen hundred  
 3 seventy-nine becomes effective.

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4 § 26. The commissioner of the state division of housing and community  
 5 renewal and the supervising agency as defined in section two of the private  
 6 housing finance law, shall conduct an engineering survey of those projects under  
 7 their respective supervision constructed pursuant to article two of the private  
 8 housing finance law in which they have reason to believe that there are unusual  
 9 or extraordinary structural conditions which might pose a threat to the health,  
 10 safety or well being of the residents, and the type, extent and costs of any capital  
 11 improvements that may be necessary to correct such structural conditions. The  
 12 commissioner and supervising agency shall report their findings to the governor  
 13 and the legislature from time to time and on or before October first, nineteen  
 14 hundred seventy-nine, shall submit to them a final report of their findings and  
 15 recommendations for methods to assist such housing developments to correct  
 16 such structural conditions and for other ways to improve the physical condition  
 17 in such housing developments.

16

18 § 27. If any section, subdivision, paragraph, sentence, clause or provision of  
 19 this act shall be unconstitutional or be ineffective in whole or in part, to the  
 20 extent that it is not unconstitutional or ineffective, it shall be valid and effective  
 21 and no other section, subdivision, paragraph, sentence, clause or provision shall  
 22 on account thereof be deemed invalid or ineffective.

17

23 § 28. This act shall take effect on January first, nineteen hundred seventy-  
 24 nine, except that sections ~~nine and twenty-six~~ of this act shall take effect  
 25 immediately.

*four, seven and fifteen*

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No: SNN  
From: JGB  
2 pages

MITCHELL-LAMA HOUSING  
(Program Bill Number 379)

This bill was submitted at the regular session of the Legislature, but was not acted upon by either house. It provides stability to the residents in housing projects developed pursuant to the Limited-Profit Housing Companies Law, which were financed by the State of New York, the City of New York, the New York State Housing Finance Agency, the New York State Urban Development Corporation or the New York City Housing Development Corporation. The bill establishes a procedure for the variation of rents to be charged residents, which will assure that, to the extent possible, needed increases in rents will occur at reasonable and predictable rates and frequency. It also provides rent assistance to tenants in occupancy who are now required to pay a disproportionately high percentage of their income for housing. Similar assistance would be available for new tenants in a project, where the rentals required to be charged exceeds the ability to pay of the available market.

The deteriorating financial condition of many of the projects developed under the Limited-Profit Housing Companies Law has had or threatens to have adverse consequences for a number of public benefit corporations that have financed their development, as well as for the State of New York and the City of New York. In order to reverse this deterioration it is necessary to assure that projects remain attractive and affordable to the persons and families for whom they were originally intended. Without this assurance the ability of the projects to retain or attract residents and to meet their financial obligations will continue to decline. It is of immediate concern to the State that the financial viability of those state instrumentalities which have invested in these projects be safeguarded. This can only be accomplished by restoring stability to the projects which constitute their primary source of revenue.

7/11/78  
JGB/md

JGB



THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, N.Y. 10007

July 6, 1978

Honorable Hugh L. Carey  
Governor of New York  
Executive Chambers  
Albany, New York 12224

Dear ~~Governor Carey~~: *Hugh*

I am writing to express my deep personal concern over the subsidy program which has been developed by members of your staff for New York's Mitchell-Lama housing projects. In reviewing the latest legislative proposal on this important matter, I came across several features which will have a serious negative impact on the City of New York. In the hopes that you will ask your staff to rethink the specifics of the proposal, I have discussed each of these problems in some detail below:

1. The subsidy proposal now calls for the City to absorb two different types of costs: a) the cost of deferring reserves, dividends, and mortgage payments for those projects whose rent rolls do not meet their sustaining rent; and b) at least one-half of that cost of subsidizing low-income tenants which is engendered by limiting their rent-income ratios to 25 percent. The City is already absorbing the cost of the first item. To pay for the second item, however, and to qualify for matching State aid, the City would be required to appropriate tax levy funds. Moreover, the matching State assistance it would then be eligible to receive is not mandated and, in any case, would be limited to \$10 million.

The "tenant assistance" aspect of the Mitchell-Lama proposal poses a number of serious problems for New York City. First and most important, the City simply does not have the resources necessary to subsidize the housing costs of low-income tenants at this point in time. The fact that reliable estimates of the financial commitment this would entail are not available only works to strengthen my reservations on this matter. I am

Action: *7/11*

*FRANCOS*  
Info. Photo:  
GOVERNOR   
Frey   
Golden   
Gribelz   
Hope   
Kicinski   
Miller   
Morgado   
Murray   
*STACK*

Referred to: \_\_\_\_\_  
OUT: \_\_\_\_\_  
DUE: \_\_\_\_\_

July 6, 1978

also concerned that the proposal would set a precedent by which the City guaranteed low-income tenants that their rent-income ratios would not exceed 25 percent. When a similar rent subsidy program was established for low-income senior citizens in rent controlled housing, the program soon expanded to cover senior citizens in Mitchell-Lamas and rent stabilized housing. The possibility of a similar development must be considered here. Second, even if the City did have the necessary resources to subsidize low-income Mitchell-Lama tenants, the subsidy would be made up of tax levy funds rather than being limited to off budget expenses like the proposal's debt service deferral component. As a result, the City's appropriation would be subject to the public process, which would raise a number of difficult allocation problems each year. Third, since your proposal would take effect on January 1, 1979, the middle of the current fiscal year, it would require New York City to make an appropriation which is not provided for in its current Financial Plan.


2. Although earlier versions of the subsidy bill exempted City-aided Mitchell-Lamas from the public hearing requirements of the Merola Law on rent increases, the current proposal does not. This would make the process of getting the rent increases necessary to reach a project's sustaining rent much more difficult. Both this difficulty and the additional costs the hearings would entail for the City are unnecessary since Mitchell-Lama tenants would be protected from exorbitant rent increases by the 11 percent and 7.5 percent limits and by the subsidy mechanism for low-income tenants.

3. The current proposal contains new items such as an engineering study, an increased level of tax exemption, a limitation on rent increases for refinanced projects, and retention of all surcharges by the housing companies. All of these items mean substantial added costs for the City.

In summary, the current subsidy proposal contains several serious drawbacks for New York City which previous versions did not include. My basic feeling is that the City should only be called on to assume responsibility for funding the Mitchell-Lama debt service deferral in the context of guaranteed rent increases.

Thank you for your attention to these matters.

Sincerely,

  
Edward I. Koch  
MAYOR

cc: Judah Gribetz  
Robert Morgado

STATEMENT OF MAYOR EDWARD I. ROCH COMMENTING  
UPON GOVERNOR CAREY'S MITCHELL-LAMA PROPOSAL

Mitchell-Lama developments throughout the City are experiencing financial difficulties caused by a combination of increasing costs and inability of tenants to afford rent increases which would pay for them. After examining the outlines of the Governor's program to deal with these issues, I feel confident that the direction represented by the proposal is a positive one. My staff has not yet had an opportunity to analyze every detail of the proposal and may raise some questions on specific provisions of the legislation at a later date. For example, I am disappointed that one of the subsidies provided in the program is inapplicable to certain City-assisted developments.

However, I am pleased that the Governor's proposal will eliminate the uncertainty facing many Mitchell-Lama residents in New York City, who no longer would be required to contend with sporadic, unpredictable and often very high rent increases. In those cases where current rents are not sufficient to meet all the legitimate expenses of their development, the residents will instead experience planned and gradual increases in rent. At the same time, the Governor's proposal shows a strong concern for Mitchell-Lama tenants who are in need. Those families below the State median income whose rent-to-income ratios become excessive as a result of rent increases will be subsidized by the State.

My Administration welcomes the Governor's proposal as a step in the right direction. We believe that gradual increases for those Mitchell-Lama tenants who can afford them and State subsidies for those who cannot is the way to deal with a serious financial and policy issue which is confronting both the City and the State of New York.



John Bove

May 24, 1978

Robert J. Morgado/Thomas Frey

Judith M. Frangos

Mitchell-Lama Bill

I spoke at length this morning with David Sweet, Counsel to Ed Lehner, and I agreed to consider the items enumerated below. I have made no commitment thus far and have communicated our concern that prior to the sending up of a bill that incorporates any of these items we would need evidence from Lehner that a substantial portion of Assembly Democrats concerned with this issue were in support of the Governor's proposal.

1. Lehner is concerned that the 7.5 percent rent increase formula is a red flag to most tenants because of its tie to rent control. He suggests using a 9 percent increase over two years for tenants paying more than \$60 a room and an 11 percent increase over two years for tenants paying less than \$60 a room. Another option might be consideration of the rental stabilization formula which is currently 6.5 percent for a one-year lease, 8.5 percent for a two-year lease, and 11.5 percent for a three-year lease.

2. George Friedman is concerned about the Tracey Towers project in his district, almost all of whose tenants earn more than \$17,200 per year. I suggested to David Sweet that rather than raise income eligibility for all tenants to \$20,000 that we plug up an obvious hole in our proposal by holding harmless current tenants earning more than \$17,200 from rent increases which would cause their rent income ratio to exceed 25 percent. In that way, we could protect all current tenants from rent income ratios greater than 25 percent.

3. Jerry Nadler, who represents many West Side Manhattan projects, is concerned that we not provide funds or require rent increases that would make the residual mortgages on refinanced projects owned by the City valuable. Dave suggested that a compromise might be to limit the portion of any rent increase that could be used to pay debt service on residual mortgages to a set percent, like 2 or 3 percent. Dave is concerned about the general lack of clarity on the City's refinanced projects. We have felt in our deliberations that we would be doing a good thing for the City by making their second mortgages valuable.

4. We have excluded any provision for rent increase hearings in the new bill since there is none in Statute currently.

However, Dave pointed out that we should consider requiring rent increase hearings in those cases where the Commissioner was unable to defer sufficient expenses to limit the increase to 7.5 percent. He also suggested that we save this item for negotiations with the Senate.

5. Another item that Dave suggested we save for negotiations with the Senate is a detailed income verification program which he has included in his draft of the bill. We would have no objection to this.

6. There is a concern about the provision in Section 20 of the bill which would make applications for increases filed prior to the effective date of this legislation, subject to the old provisions of law even if the increase was not finally determined prior to the effective date. In practical terms, the Commissioner is currently feeling sufficient pressure to limit increases in progress now, even with no assurance of passage for our proposal.

7. A portion of the Mitchell-Lama constituency is convinced that the immediate move to economic rent for new tenants would make it impossible for most housing companies to attract tenants, thereby requiring the housing company to enter into a contract with the Division to admit tenants eligible for subsidy. Dave suggests that by limiting the increase in rent after the first vacancy to no more than 15 percent, we may succeed in attracting sufficient tenants in the open market to obviate the need for the housing company to enter into a contract with the Division of Housing and slow down what current tenants perceive is the inevitability of masses of lower-income tenants occupying the projects. A 15 percent increase would probably be sufficient to bring most projects to economic rent, and in those cases where it was not, it might provide a transition for the project with respect to marketability.

I have discussed these items with Victor, John, and Bobby. We should meet shortly to come to a final determination of our position on these items.

JMF:ams

STATE OF NEW YORK  
EXECUTIVE CHAMBER  
HUGH L. CAREY, GOVERNOR

David Murray, Press Secretary  
518-474-8418  
212-977-2716

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FOR RELEASE:  
IMMEDIATE, THURSDAY  
MAY 18, 1978

Governor Hugh L. Carey said today he will propose a bill to permit stabilization of rent increases for most Mitchell-Lama Housing tenants at 7½ per cent a year and prevent the massive increases experienced by some tenants in previous years.

"Some residents have faced annual increases as high as 25 per cent in the past," Governor Carey said. "The new procedure will assure a financial stability of the projects and lead to improvements in maintenance and services to tenants."

He emphasized that most of the increases would be limited to those with incomes of more than \$17,200 a year -- the median income for New York State residents. The rents at Mitchell-Lama projects average approximately \$60 a room, compared to \$80 a room in similar private housing in New York City.

At the same time, the Governor said he will ask a \$5 million program to rehabilitate public housing projects around the State. The rehabilitation will enable municipalities to apply for federal funds that would pick up deficits currently made up by municipalities. Some projects have vacancy rates as high as 80 per cent, and modernization will encourage rentals.

Approximately 160,000 families live in the 430 Mitchell-Lama projects, most of them in New York City.

The rate of increases would differ from project to project, depending on the amount needed for the economic operation of the project, including maintenance and mortgage payments. In most cases, the rent increase would be no more than 7½ per cent a year.

Most renters with an annual income of less than \$17,200 a year would be protected from a rent increase because of rent subsidies of their income. The latest Consumer Price Index shows that the average share of housing is 42 per cent of income in the New York-Northeastern New Jersey area.

The Commissioner of the rent setting agency may permit the stabilization by authorizing the deferral of reserve payments, dividends, and debt service, which would be repaid in subsequent years.



*John*

STATE OF NEW YORK  
DIVISION OF HOUSING AND COMMUNITY RENEWAL  
TWO WORLD TRADE CENTER  
NEW YORK, N.Y. 10047

VICTOR MARRERO  
COMMISSIONER

May 10, 1978

To: Governor Hugh L. Carey  
From: Victor Marrero *VM*  
Subject: Mitchell-Lama Law

Since January, we have been working on a proposal for Mitchell-Lama projects which is based on fixing an economic rent for each development and providing subsidies to eligible individual tenants who would be required to pay in excess of twenty-five per cent of their income for rent. In the course of the last several weeks a number of refinements have been made to limit the applicability of the proposal and tailor it to fit the appropriation in the State budget. During this time, I have had a chance to review the problems of the Mitchell-Lama projects and have discussed our legislative approach with numerous housing companies, tenant groups, civic organizations and public officials.

Two universally shared conclusions emerge from my own analysis and the discussions I have had with the interested officials and groups: First, there is a clear urgency for some form of additional public assistance for the Mitchell-Lama projects which cannot wait another year to be addressed. And second, there is almost unanimous dissatisfaction with the tenant subsidy approach we have been considering to date.

The Urgency

The urgency to tackle the problems this year is evident in that:

- There is a rise in the number of projects facing severe financial difficulties which cannot be remedied by rent increases. Our most recent sta-

tistics show that a growing number of State Mitchell-Lamas are carrying mortgage arrears. Some are now beginning to fall into arrears in the payment of taxes. Almost all of the projects have insufficient reserves for replacements and contingencies.

- More and more, as rents and carrying charges increase, tenants move out and the projects face greater difficulties filling the vacancies. Our analysis shows that on the average, program-wide, the vacancy rates today are running higher than they had been. More than 50 projects are carrying a vacancy rate of more than 5%.
- In the past year, foreclosure or similar proceedings were commenced against two projects. Recently we were compelled to remove the Board of Directors of one project for default on the mortgage.
- A pervasive sentiment spread, following the Co-op City rent-strike settlement, that other developments are entitled to some of the same advantages accorded to Co-op City in the agreement to end the strike.
- A number of projects awaiting the outcome of the anticipated Mitchell-Lama program have held back implementing or initiating much needed rent increases, worsening the already weak financial condition of the developments.
- There are a number of projects where rent increases cannot reverse already deteriorating financial conditions.
- If funds are not available to stabilize some of these housing companies, in November there is a likely possibility that the Housing Finance Agency will find it difficult to meet the semi-annual bond payment without an appreciable invasion into its debt service reserves and a subsequent call upon the State to honor its moral obligation.

If we are unable to put in place this year a program that addresses the issues we risk worsening an already severe financial crisis for the Mitchell-Lama program.

Though everyone agrees we are facing critical financial conditions in the Mitchell-Lama program and that expeditious action is essential, there is no agreement on how best to provide relief.

### Tenant Subsidies

The tenant subsidy approach we have been considering is based on the following premises and objectives:

- Rents are stabilized on the basis of a more predictable formula that builds into it allowances to bring the projects to sound financial condition over a period of time.
- Eligibility is based on need. Tenants who could not afford to pay additional increases would be assisted with subsidies that fix their rents at current levels. Tenants whose rent-to-income ratio is less than twenty-five percent would not be subsidized.
- Through these subsidies, funds would be provided to the projects to cover arrears for such items as debt service, real estate taxes and reserves, thereby protecting Housing Finance Agency bonds.

This approach has severe shortcomings which trouble us and which I have not found a way to cure. The more significant limitations include:

- Providing subsidies to a portion of the tenants of a project and placing a greater financial burden on the rest will cause greater numbers of the higher income tenants to move out as rents continue to rise and the weight of carrying the increase falls on a smaller proportion of the residents. For a significant number of projects, to raise rents to the levels contemplated in our economic rent formula would require annual increases for a considerable number of years. In some instances, the amounts required will be the full seven and one half percent each year. As is demonstrated to us when increases even of this magnitude are put into effect, faced with the prospect of an annual increase of 7½% many of the unsubsidized tenants are likely to move. These are the middle income citizens for whom the program was intended, whom we need to retain in our cities, and for whom we have been tailoring other public inducements to maintain. The increases, and their disproportionate effect on remaining middle income tenants, would have two significant implications for the Mitchell-Lama program: First, at higher rents it is likely that only other subsidized tenants will be able to fill vacancies in Mitchell-Lama housing. And second, as rents rise almost annually, more and more of the existing unsubsidized tenants who remain will become eligible for subsidies, so that in the not too distant future the nature of the Mitchell-Lama program would change entirely from one designed

for middle-income residents to one affordable only by individually subsidized tenants. As greater numbers of tenants qualify for the program in future years its cost will rise dramatically. Inevitably, at a calculable point in the future, almost every tenant would require an individual subsidy to remain in Mitchell-Lama housing.

- Subsidizing some tenants at the expense of others within the same development will create bitterness among residents and less feeling of stake in the future of the development.
- An individual tenant subsidy program would create nightmarish administrative problems to implement and will be very expensive to operate. Because the program depends upon applications filed by each tenant, it would take long periods before all requests can be reviewed, verified and approved. The amount of subsidy paid on behalf of the project would not be known until all subsidy applications are processed. To complete the process annually for over 100,000 tenants in almost 260 projects will impose a colossal burden on the Division of Housing.
- The obvious implications and complexity of the proposal make it hard to explain it to and gain support from even the most moderate and informed of the tenants' groups and officials. They view it as a bill to provide automatic annual  $7\frac{1}{2}\%$  rent increases. Solid opposition from the housing constituency will make it even more difficult to pass a bill this year.

### Reconsideration

These troublesome drawbacks of the tenant subsidy approach, and its implications for the future of the Mitchell-Lama program, have led me to reconsider our direction and to conclude that it may be wiser to alter our course before the proposed bill is introduced in favor of one that both addresses these valid concerns and that is easier to administer and can gain a wider base of support. I suggest that we consider a subsidy provided to the project rather than to individual tenants.

Up to now we have resisted a project subsidy approach essentially because a subsidy available to the project would benefit all tenants alike regardless of need.

Having again closely reexamined the facts and the issues, I am persuaded that the basis for this objection is eliminated or substantially mitigated by several considerations.

First, the income profiles of Mitchell-Lama residents, which are controlled by statutory income restrictions, show that there is not a broad economic spectrum among Mitchell-Lama tenants. Figures we have collected, shown in the attached Table I, indicate that in State Mitchell-Lama projects about 74% of the tenants have gross incomes of less than \$17,500, the closest number to the median income cut off we had proposed. Using net income, the figure is about 87%. Only 6% have gross and 2% net incomes exceeding \$25,000. Thus, the overwhelming bulk of all Mitchell-Lama tenants are massed in income brackets below the median and most of the rest are not so far above the median. This makes it difficult to draw a line at which we can comfortably say we can determine need and divide those who should be subsidized from others who should not. Stating the argument another way, because the number of tenants above the median and the amounts by which they exceed it is relatively small, there is not much basis for qualms about subsidizing people who do not need it. As, argued below, to the extent that the higher income tenants can pay more for rent, they can be made to do so through more effective enforcement of rent surcharge collections.

Second, our analysis of the number of tenants who would benefit from an individual subsidy program indicates that the number at present is between 40 to 60% in most projects using a 25% rent to income formula depending on what income figures are used. Considering the large numbers who are presently at or near the borderline under this formula and, given the built-in regular increases upon which the approach is based, the number of tenants who would not benefit now or in the very near future is small. But, under a tenant subsidy program, in a relatively few years, almost every tenant would have to be assisted, producing the same result as if we provided the same funds as project subsidies.

Third, a tenant subsidy program by placing a greater burden of rent increases on a portion of the tenants and causing them to move more rapidly, would change the character of the Mitchell-Lama program, making it more closely resemble public housing. The premises, goals and operation of the Mitchell-Lama law clearly establish that the intended social objective of the program was to produce sound middle income housing through public subsidies in the form of tax abatement, long term, low interest financing, limitation on profits, and in some instances land cost write downs, each benefitting all tenants of the development equally. These benefits are still being shared equally by all Mitchell-Lama residents within the income ranges permitted by the statute. To the extent that greater ability to



pay is a factor, the program attempts to deal with it (by experience unsuccessfully) through surcharges on higher income tenants. The problem that Mitchell-Lama projects now face is that the value of these public subsidies has been more than off-set in recent years by inflation and uncontrollable operating costs which have driven rents to levels far exceeding what can be considered middle-income and far higher than contemplated when the program was enacted. To provide a new form of subsidy to a project as a whole in order to continue the State's commitment to the ends of the Mitchell-Lama program would not be setting any new precedent nor charting any new public policy ground but would be quite consistent with original legislative intent of the Mitchell-Lama program. In no way is it different from what municipalities do every time they grant further tax abatement to a project, or fix Mitchell-Lama mortgage interest at a figure below the market rate. These forms of subsidies benefit all tenants regardless of income differences and are granted in furtherance of the goal of the legislation to attract and maintain middle-income residents in publicly-aided housing.

Fourth, the State is already providing assistance to the Urban Development Corporation for its housing program through project subsidies. In fact, since practically all the tenants of the 113 UDC Section 236 projects we supervise, which comprise about 45% of the residents to whom we must provide subsidies, would qualify for assistance under an individual tenant subsidy program, the net effect is that for almost half of our total program we would be providing subsidies to the entire development through individual applications. It would be more sensible to provide new subsidy funds to these projects as we are now doing in a single transaction on behalf of the housing company rather than through approximately 32,000 individual tenant applications. The same logic would apply to the 72,000 tenants of the other 153 State Mitchell-Lama projects, the large majority of whom would be eligible project by project.

Fifth, the higher income tenant issue would be more properly answered by more effective rent surcharge administration. Considering that under a tenant subsidy program the number of residents not eligible for assistance will not be significant in future years, it would be more efficient to deal with over-income tenants by surcharges rather than by assuming greater administrative costs and risking the purposes of the program.

### Project Subsidy Programs

Two project subsidy ideas have been advanced, most notably by the Mitchell-Lama Coalition. One promotes a lowering of mortgage interest to a fixed number, such as four percent. A more recent proposal suggest creating a loan pool from which low interest loans would be made to Mitchell-Lama projects to offset increases in operating costs, the loans to be repayable at the end of the present mortgage.

The mortgage interest subsidy has major limitations. First, there are many projects with mortgages at or below four percent that nonetheless are facing financial trouble -- all the UDC Section 236 projects for example, and some of the older Mitchell-Lamas as well. Fixing a lower ceiling on mortgage interest would not assist these projects. Second, mortgage interest subsidies would not work beyond a few years. As maintenance and operations costs continue to rise, mortgage interest eventually would have to be reduced to zero and the projects will still need assistance, as is illustrated by the UDC Section 236 projects which, with mortgages at one percent and the State paying the costs of amortization, are generally in more severe financial difficulty than Mitchell-Lamas paying full debt service. And many New York City Mitchell-Lamas also have reached the point at which they are paying no mortgage payments at all and are in financial trouble.

These shortcomings of the mortgage interest subsidy idea are now recognized by informed public officials and by the Mitchell-Lama Coalition itself. They are now promoting the loan pool concept. The idea has some attractions. It provides for project loans rather than grants. And it recognizes that rents have to rise to meet increases in operating costs and arrears and that tenants must share in those increased costs.

But the proposal has certain flaws. First, the funds advanced as loans repayable in the future eventually will mount to substantial sums which some projects might not be able to afford in future years. This constitutes borrowing to pay current expenses and ballooning the obligation for tenants of future generations. Second, it would require appropriating a substantial sum to establish the loan pool.

Another Project Subsidy Solution

Building on principles and precedents already established and accepted, and taking account of the objectives of the Mitchell-Lama program, I recommend that we consider another variant of the project subsidy. It would contain the following elements:

1. The Division of Housing would determine economic rents pursuant to the same procedures outlined in the bill we have already developed.
2. The amount needed to bring the project to economic rent would be shared between the tenants and the State, with subsidies calculated pursuant to a formula to be determined by an objective standard. Possibilities might be: having the tenants pick up the first portion, say, for example, the amount up to the ordinary rise in the cost of living index and the State the remainder required to reach the economic rents, limited to a maximum in any one year.
3. Individual subsidies would be continued for needy elderly tenants, and the capital grant program for families and the elderly would be phased out by attrition.
4. Surcharge provisions would be more strictly enforced by making it a prior condition of the subsidy that the housing company certify collection of surcharges from over-income tenants. If the housing company does not collect the surcharges, further subsidies to it could be withheld.
5. To guarantee that the tenants' portion is being paid, the State subsidy would not be available until the Division of Housing certifies that the new rent is in place and is being collected.
6. Subsidies would be advanced to the Housing Finance Agency and credited to the housing companies' reserve or debt service accounts to protect HFA obligations. The HFA would pay any excess funds over to the housing companies for other costs.

7. Another variant might be to advance the subsidies or portions of them as loans, but repayable over a shorter time span - say ten years.

This proposal has the following advantages:

- It provides an additional source of income to Mitchell-Lama projects for which the obligation would be shared more equitably between tenants and the State.
- Mitchell-Lama rents would be better stabilized and the impact of rent increases would be reduced to levels which are more affordable by tenants and which would not force greater numbers of tenants to move as rapidly.
- To the extent that rents are stabilized at a lower level because the burden is shared by a greater number of tenants, the marketability of the project for middle income tenants would be improved.
- By conditioning the project subsidy on the housing company's collection of rent surcharges, there would be a greater incentive to collect higher rents from over-income tenants.
- The proposal is based on principles already accepted by the Legislature in the original Mitchell-Lama law and the UDC solution. It would be easier to persuade members of the Legislature and the more responsible Mitchell-Lama leaders to accept this approach than the tenant subsidy idea.
- The program better secures the payments to the Housing Finance Agency because it would be easier to administer and to control the timing of payments than one based on annual applications from tens of thousands of individual tenants.

### Costs

Tables II and III show some figures of the costs of a project subsidy program compared to an individual tenant subsidy program. Three possibilities are considered in the project subsidy analysis in Table II, assuming that the tenants would pay the first 7.5%, 5% and 3% of the amount required to bring rent to the economic rent level. In the first year the costs to the State of undertaking to pay the shortfall to reach the the economic rent under these assumptions are \$13.0 million,

\$16.0 million and \$18.7 million respectively, not including a factor for vacancy which, assuming vacancies remain at current levels, would require at a maximum an additional \$11 million in each instance. An additional \$1.5 million would be added for the senior citizen exemption program. The totals under these assumptions would vary from \$25.5 million to \$31.2 million. In the third year the range would be from \$19.2 million to \$36.7 million. These costs can be significantly lower if we assumed a lower vacancy rate than the present. (Co-op City alone, for example, accounts for at least \$1.5 million of the \$11 million vacancy factor we have added to the projected costs of the program for the purposes of this analysis.)

The most comparable costs of a tenant subsidy program, assuming a 25% rent-to-gross income ratio and a cut off at a \$17,200 median income level would be \$34.7 million in the first year, \$37.8 million in the second year, increasing to \$52.3 million in the fifth year.

VM:mv

Copy to: Robert Morgado  
Thomas Frey  
Judah Gribetz ✓  
Robert Vagt

Table I

This table presents the distribution of 1975 tenant gross and net income as reported on the Occupants Affidavit of Income. Net income is gross income less deductions for medical and personal deductions taken on the New York State tax return.

The income data is taken from a sample of the approximately 53,000 non-subsidized households in DHCR projects (excluding Section 236, capital grant and Section 8 tenants).

<u>Income Range</u>	<u>Net Income</u>		<u>Gross Income</u>	
	<u>Percent</u>	<u>Number</u>	<u>Percent</u>	<u>Number</u>
\$ 0 - \$ 5,000	20%	10,600	16%	8,500
5,000 - 7,500	12	6,400	9	4,800
7,500 - 10,000	15	7,900	11	5,800
10,000 - 12,500	16	8,500	14	7,400
12,500 - 15,000	14	7,400	14	7,400
15,000 - 17,500	10	5,300	12	6,400
17,500 - 20,000	6	3,200	8	4,200
20,000 - 25,000	5	2,600	10	5,300
Over 25,000	2	1,100	6	3,200
Total	100%	53,000	100%	53,000

Median Net Income = \$10,500

Median Gross Income = \$12,500

Table II

Estimated Shortfall for Project Subsidy  
(in millions)

		<u>Maximum Percentage Increase</u>		
		<u>7.5%</u>	<u>5%</u>	<u>3%</u>
Year 1	DHCR	\$9.1	\$11.4	\$13.4
	UDC	3.9	4.6	5.3
	Total (Excluding Vacancy Factor)	<u>\$13.0</u>	<u>\$16.0</u>	<u>\$18.7</u>
Year 2	DHCR	\$6.4	\$10.7	\$15.2
	UDC	3.1	4.5	5.8
	Total (Excluding Vacancy Factor)	<u>\$9.5</u>	<u>\$15.2</u>	<u>\$21.0</u>
Year 3	DHCR	\$4.1	\$10.2	\$17.7
	UDC	2.6	4.4	6.5
	Total (Excluding Vacancy Factor)	<u>\$6.7</u>	<u>\$14.6</u>	<u>\$24.2</u>

Note: The above estimates assume full occupancy. To compensate for the loss of revenue due to vacancies in excess of a 3% vacancy allowance, the amount of shortfall must be increased by \$11 million. This estimate of shortfall is allocated as \$3 million for DHCR projects and \$8 million for UDC projects.

Table II

Analysis of Project Subsidy Program

Based on project statistics the shortfall of revenue to the housing companies for the first three years of proposed subsidy programs has been estimated.

The subsidy proposals call for tenants to pay a designated annual maximum percentage rent increase. If the rent so increased is below economic rent, the resulting shortfall to the housing company would be made up by a State subsidy.

Economic rent is defined as the rent needed to meet all current expenses plus 10% of reserve and other arrears (excluding equity arrears) less non-rental income. For purpose of the estimates, operating expenses and real estate taxes are assumed to rise by 5% a year, except that utilities rise by 10% a year.

The estimates do not take into account the loss to the housing companies arising from vacancies. If an apartment is vacant the full rental for that apartment would have to be covered. The estimated vacancy loss is approximately \$8,000,000 for UDC projects and \$3,000,000 for DHCR projects.



Table III

Cost of Subsidies - \$17,200 Median Income  
 Net Income 25% Ratio  
 (millions)

Year	DHCR-non-236				DHCR-236	UDC-236	UDC-non-236	Total
	Co-op City		Others					
	Ten	Proj	Ten	Proj				
1	8.1	4.5	4.4	2.8	1.6	14.0	0.3	35.7
2	9.6	3.7	6.2	1.7	2.2	16.2	0.4	40.0
5	15.3	1.1	14.2	-	4.3	23.2	0.9	59.0
10	22.5	-	24.0	-	7.9	35.3	1.5	91.2
11	21.6	-	24.9	-	8.2	34.6	1.5	90.8
<u>Gross Income - 25% Ratio</u>								
1	6.5	5.8	3.2	3.4	1.6	14.0	0.2	34.7
2	7.6	5.0	4.5	2.0	2.2	16.2	0.3	37.8
5	12.2	1.6	10.3	-	4.3	23.2	0.7	52.3
10	17.8	-	17.2	-	5.3	27.8	1.2	69.3
11	16.9	-	17.9	-	5.5	26.8	1.2	68.3
<u>Net Income - 30% Ratio</u>								
1	6.6	5.9	3.1	3.5	1.2	10.5	0.2	31.0
2	7.7	5.1	4.4	2.2	1.7	12.2	0.3	33.6
5	12.4	1.6	10.1	-	2.8	16.5	0.6	44.0
10	18.2	-	17.2	-	3.4	19.3	1.2	59.3
11	17.3	-	17.7	-	3.6	18.5	1.2	58.3
<u>Gross Income - 30% Ratio</u>								
1	4.6	7.5	2.2	4.0	1.2	10.5	0.1	30.1
2	5.6	6.3	3.1	2.6	1.3	10.9	0.2	30.0
5	9.3	2.1	7.2	-	1.4	12.0	0.5	32.5
10	13.5	-	12.1	-	1.7	14.3	0.8	42.4
11	12.7	-	12.6	-	1.8	13.3	0.8	41.2

V. Marrero

F. Hecht

May 4, 1978

Proposed Mitchell Lama  
Legislation 4/20/78 Draft

Changes, observations and questions:

1. Page 1-d iii After Federal government - should we add "and not already getting Capital Grant"
2. Page 1-d iii Do we assume that pensions, workmens comp. and welfare are not rent assistance or is it necessary to make them a specific exclusion?
3. Individual Utilities - No consideration given  
Add (don't know where) Provision for adding an amount to various rent definitions an amount for individual metered situation.
4. Limit of 7½% - A mandate increasing the 7½% number if more than one year lapsed from prior increase. Although to phase "during one year" may be IS IT? intended to take care of the possibility that increases are not accomplished on the anniversary of the prior increase. This concept is so important, especially as a catch up at first where companies haven't had increases already for a long time coupled with the future date for implementation of the bill (all increase applications and implementation can be expected to come to a halt once the bill is introduced).
5. Page 6- 12th line insert word "other" before income.
6. Page 9(d) If H.C. makes up deferred payment shouldn't there be provision for repayment to project assistance fund for money it advanced on behalf of mortgagor. (in cases where there is no contract?).
7. Page 9-(e) - Please add after shall "require the housing company to".
8. Page 12 -
  - a) Should reference to subdivision 31 be to 36b?
  - b) About 6&7th line from bottom is there repetition here as a typographical error?  
Talks about make up because of deferrals but what about shortages in debt service for vacancy, unusual expenses where there are no reserves.

Also certain projects seem to be locked into present rent structure beyond starting date for legislation (i.e. will we put in increases for one year hasn't lapsed on 2nd stage ordered?). Along this line what about shortages to the date of implementation of the bill.

Does this all assume that as of October 1, 1978 (or January 1, 1979) rents will be increased in every project to an amount which will cover all projected vacancies (by inclusion in occupied tenants rent if that portion of costs/plus make up of arrears in reserves (silent as to debt service, operating escrows, arrears unpaid other bills, i.e. HFA fees; unusual repairs etc.?).

Is it anticipated that move outs because of ineligibility for subsidy or other reasons will be filled immediately? If vacancy provision is to cover this the cycle will it force more tenants out? Does it assume that there will be 100% compliance and no loss of money should the Division have to take legal action to control reluctant projects?

cc: JBG  
ERD  
MH  
FH (4)  
J. Bove  
R. Vagt



THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

CHAIRMAN  
COMMITTEE ON HOUSING

EDWARD H. LEHNER  
MEMBER OF ASSEMBLY  
WASHINGTON HEIGHTS  
INWOOD & MARBLE HILL  
COMMUNITY OFFICE  
4915 BROADWAY (204TH ST.)  
NEW YORK, N. Y. 10034  
(212) 942-1065

April 25, 1978

Governor Hugh L. Carey  
Executive Chamber  
Capitol  
Albany, New York

Re: Mitchell-Lama Program

Dear Governor:

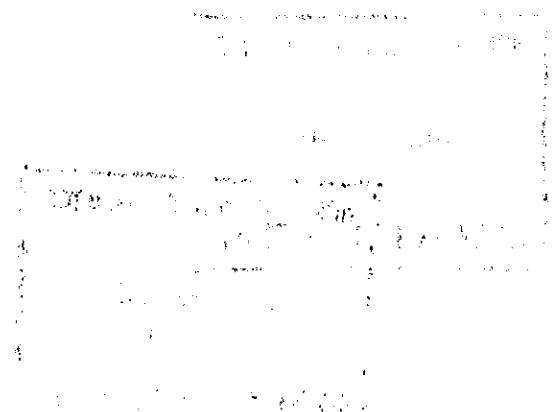
I have heard that your bill making changes in the Mitchell-Lama program will be submitted imminently.

Because of various concerns I have, I consider it important to meet with you in advance of the submission of a bill. I would hope that the meeting could be held this week.

Respectfully yours,

EDWARD H. LEHNER  
Member of Assembly

EHL:slk  
cc: Hon. Judah Gribetz  
Hon. Robert Morgado



March 15, 1978

THE GOVERNOR

Judah Gribetz

Legislative Proposal on Mitchell-Lama Housing

During the past few months the Commissioner of Housing, together with staff of the Executive Chamber, the Division of the Budget, UDC and HFA have been developing a proposal, an outline of which is annexed. The proposal is substantially based upon the recommendations made last year by Dick Ravitch, although a number of significant modifications have been made. The legislation is nearly completed and we anticipate that we will be able to submit it within the next few weeks. (The Speaker's Office has requested that we not submit it before enactment of the Budget.)

The Division of the Budget and the Division of Housing are now in the process of estimating the costs of the program and exploring possible modifications to assure that future costs are controllable.

During the time that the proposal was being developed we have informally kept representatives of both the Senate and Assembly informed of the approach we are taking. Specifically, meetings have been held with staff members of the Majority and Minority leaders in the Senate and with the Senate Finance Committee. In the Assembly, we have met with the staff members of the Speaker and Majority leaders, Ways and Means Committee and more recently, the Chairman of the Housing Committee.

J.G.

JG/JGB/md  
Enclosure

MEMORANDUM

To John Bove

From Fred Hecht



Date February 9, 1978

Subject Mitchell-Lama Legislation

Please refer to page two of the February 1st draft item d.

Clarification is needed as to whether line 1 or line 9 is meant (tax form is attached)?

Could you please change the legislation by adding either line 1 "Total Income" or line 9 "New York Taxable Income".

cc: ERD  
MH  
JMM  
FH

NY State Department of Taxation and Finance

With New York City Personal Income Tax & Nonresident Earnings Tax

Or Fiscal Year Ended 1978

PRINT OR TYPE	First name and initial (if joint or combined return, enter both) Last name		Your social security number		Occupation
	Home address (number and street or rural route)		Apt. No.	Spouse's social security number	
	City, village, post office and state		ZIP code	School district in which you reside—See instructions Name Code	

A) Filing Status (Check only ONE box)

(1)  Single (2)  Qualifying Widow(er) with dependent child (3)  Unmarried Head of Household (4)  Married filing joint Return (5)  Married filing separately on one Return (6)  Married filing separate Returns (on separate Forms)

Taxpayer's NY State county of residence

B) Change of State Residence—If you were a New York State resident for only part of the year, enter the number of months of residence in the box and attach Schedule CR-60.1 (see instructions page 14)

If filing status (5) above is checked, use Column A for husband and Column B for wife. All others use only Column A.		Federal Amount	Column A	Column B
1	Total Income (from page 2, Schedule A, line 15)	1		
2	Additions (explain on page 2 in Schedule C)	2		
3	Line 1 plus line 2	3		
4	Subtractions (explain on page 2 in Schedule C)	4		
5	Total New York Income (line 3 less line 4)	5		
6	NY Deduction <input type="checkbox"/> Standard Deduction —15% of line 5, but not more than \$2000 (Married filing separately, total for both may not exceed \$2000). See instructions page 12 for minimum allowed. <input type="checkbox"/> Itemized Deduction (from page 2, Sch. B, line 11)	6		
7	Line 5 less line 6	7		
8	Exemptions: Column A—Enter number claimed <input type="checkbox"/> × \$650 <input type="checkbox"/> Column B—Enter number claimed <input type="checkbox"/> × \$650 <input type="checkbox"/>	8a 8b		
9	New York taxable income (line 7 less line 8)	9		
10	State Tax on amount on line 9 (use NY State Tax Rate Schedule page 2)	10		
11	State Tax on lump sum distribution (see instructions page 13)	11		
12	Line 10 plus line 11	12		
13	State Credits (from page 2, Schedule D, line 4)	13		
14	Line 12 less line 13	14		
15	State Minimum Income Tax (see instructions page 13)	15		
16	State Unincorporated Business Tax (from Form IT-202)	16		
17	Total New York State Tax (add lines 14, 15 and 16)	17		
18a	Full year residents apply City Tax Rates to line 9 amount (Check box) <input type="checkbox"/>	18a		
18b	Part year residents enter tax and attach Schedule CR-60.1	18b		
18c	City Nonresident Earnings Tax (from Form NYC-203)	18c		
18d	City Minimum Income Tax (see instructions page 15)	18d		
18e	City Tax on lump sum distribution (see instructions page 15)	18e		
19	Add lines 17, 18a, 18b, 18c, 18d and 18e	19		
20	State Tax Withheld	20		
21	State Estimated Tax Paid	21		
22	City Tax Withheld	22		
23	City Estimated Tax Paid (excluding City unincorporated business tax)	23		
24	Total (add lines 20 through 23)	24		
24a	a) Enter line 24 totals in applicable column (see instructions page 14)	24a		
25	If line 19 is larger than line 24a enter Balance Due Make check or money order payable to NY State Income Tax	25		
26	If line 24a is larger than line 19 enter Overpayment	26		
27	Amount of line 26 to be REFUNDED TO YOU	27		
28	Amount of line 26 to be credited on 1978 estimated tax. NY State	28		
29	NY City	29		

For office use only

Your signature \_\_\_\_\_ Date \_\_\_\_\_

Spouse's signature (if filing joint or separately on one return, BOTH must sign) \_\_\_\_\_ Date \_\_\_\_\_

Signature of preparer other than taxpayer \_\_\_\_\_ Address \_\_\_\_\_ Date \_\_\_\_\_

**Schedule A** Income and Adjustments. Complete the Federal Amount Column entering the amounts as they appear on your Federal return. Transfer the Total Federal Amount from line 16 to page 1, line 1, "Column A". Married Persons who file a joint Federal return and are filing separate NY Returns on one form must also complete Columns (A) and (B). Enter the amounts which would have been reportable had you filed separate Federal returns. Transfer line 16 totals to page 1, line 1.

		Federal Amount	A) Husband	B) Wife
1 Wages, salaries, tips, and other employee compensation	1			
2 Interest income	2			
3 Dividends (after exclusion)	3			
4 State and local income tax refunds	4			
5 Alimony received	5			
6 Business income (attach copy of Federal Schedule C Form 1040)	6			
7 Sale or exchange of capital assets (attach copy of Federal Schedule D, Form 1040)	7			
8 50% of capital gain distributions	8			
9 Sale or exchange of property other than capital assets, etc.	9			
10 Fully taxable pensions and annuities	10			
11a Pensions and annuities	Enter the appropriate amounts from Federal Schedule E, Form 1040 on lines 11a, 11b and 11c and attach a copy of Schedule E.	11a		
11b Rents and royalties		11b		
11c Partnerships, estates and trusts and small business corporations		11c		
12 Farm income (attach copy of Federal Schedule F, Form 1040)	12			
13 Other income	13			
14 Total (add lines 1 through 13)	14			
15 Adjustments (including disability income exclusion)	15			
16 Total Income (line 14 less line 15. Enter on page 1, line 1)	16			

If husband and wife are filing separate returns on one Form and the total of (A) and (B) is not equal to the Federal amount, attach explanation.

**Schedule B** Itemized Deductions. Enter on lines

1 through 7 the items below as they appear on your Federal Return and make the applicable modifications on lines 8 and 10. Disregard if standard deduction is claimed.

1 Medical and dental exp.	
2 Taxes	
3 Interest	
4 Contributions	
5 Casualty or theft losses	
6 Miscellaneous	
7 Total Federal itemized deductions (see Inst.)	
8 Less income taxes included in line 2	
9 Line 7 less line 8	
10 Other modifications (see instructions page 9 and explain in Schedule C below)	
11 NY itemized deduction Enter on page 1, line 6	

**Schedule D** New York State Tax Credits (see instructions page 13)

	Column A	Column B
1 Regular Credits		
a NY State child care credit (from instructions page 13)		
b Resident credit (attach Form IT-112R and copy of other state return(s))		
c Accumulation distribution credit (attach computation)		
2 Add lines 1a through 1c		
3 Investment credit (attach Form IT-212)		
4 Total credits (line 2 plus line 3) Enter on page 1, line 13		

**Tax Rate Schedule**

See instructions page 12 for low income exemption

If amount on page 1, line 9 is:		New York State Tax Rate	City of New York Resident Tax Rate
over	but not over	enter on page 1, line 10	enter on page 1, line 18a
\$ 0	\$1,000	2% of amount on line 9	0.9% of amount on line 9
1,000	3,000	\$20 plus 3% of excess over \$1,000	\$ 9 plus 1.4% of excess over \$1,000
3,000	5,000	80 plus 4% " " " 3,000	37 plus 1.8% " " " 3,000
5,000	7,000	160 plus 5% " " " 5,000	73 plus 2.0% " " " 5,000
7,000	9,000	260 plus 6% " " " 7,000	113 plus 2.3% " " " 7,000
9,000	11,000	380 plus 7% " " " 9,000	159 plus 2.5% " " " 9,000
11,000	13,000	520 plus 8% " " " 11,000	209 plus 2.7% " " " 11,000
13,000	15,000	680 plus 9% " " " 13,000	283 plus 2.9% " " " 13,000
15,000	17,000	860 plus 10% " " " 15,000	321 plus 3.1% " " " 15,000
17,000	19,000	1,060 plus 11% " " " 17,000	383 plus 3.3% " " " 17,000
19,000	21,000	1,280 plus 12% " " " 19,000	449 plus 3.5% " " " 19,000
21,000	23,000	1,520 plus 13% " " " 21,000	519 plus 3.8% " " " 21,000
23,000	25,000	1,780 plus 14% " " " 23,000	595 plus 4.0% " " " 23,000
25,000		2,060 plus 15% " " " 25,000	675 plus 4.3% " " " 25,000

**Schedule C** Explanation of page 1, lines 2 and 4 and page 2, Schedule B, line 10. If filing status 5 is checked indicate H (husband's) or W (wife's) for page 1, line 2 and 4 items.

Line No.	Explanation	Amount

If you need more space, attach schedule

Reminder: Mail your Return to—  
**NY State Income Tax**  
**The State Campus**  
**Albany, New York 12227**





CO-OP CITY

a residential community cooperatively owned and operated

ADVISORY COUNCIL

EVERDAY COOPERATION

*John - Copy*

2049 Bartow Avenue, Bronx, NY 1047

October 25, 1977

*John hand  
get  
200*

Hon. Governor Hugh Cerey  
Capitol Building  
Albany, New York

Dear Sir;

We understand that a comprehensive legislative package dealing with Mitchell-Lane Cooperative Housing Developments is being prepared at this time. We anticipate a full and fair program because of your pledges to the electorate during the election campaign of 1974 and again in press conferences in the spring of 1977 and subsequently in the "Memorandum of Understanding to Settle the Co-op City Rent Strike."

On behalf of the Advisory Council of Co-op City (the largest representative body of residents in the Mitchell-Lane housing program) we are inquiring as to the nature of any housing legislation that is being prepared at this time, especially such legislative or administrative steps that will fulfill the commitment stated in the "Memorandum of Understanding to Settle the Co-op City Rent Strike."

We are sure that you appreciate the anxiety of our community as we wait for the implementation of a comprehensive plan that would help to stabilize our lives and our neighborhood by stabilizing our housing costs.

- 1) We recognize your deep personal understanding of the nature of the income profile of the Mitchell-Lane developments as well as the problems in fighting the trend of middle class families fleeing New York City.
- 2) If we are apprised of the main features of this comprehensive plan, we can begin to work with our residents, as well as the entire Mitchell-Lane community throughout New York State, to help you pass this program in the New York State Legislature.

Time is of the essence and we anticipate an early response so that we can begin to do the necessary organizing work.

Please direct your reply to Al Afterman, chairman Advisory Council, 120-25 E Erdman Place, Bronx, New York 10475.

Respectfully yours,

*Al Afterman*  
Al Afterman, chairman

*Bernard Cylich*  
Bernard Cylich, Legislative Action Committee

Action 10/25  
John Graves

CO-OP CITY
GOVERNOR
GOLDBER
GRABER
HOBAN
NICHOLS
MORRIS
OLIG
VLASTO
STBER

Referred to:

DATE:

FILE:

Municipal Assistance Corporation  
For The City of New York

MEMORANDUM

Date : 20 July 1977

To : Ed Kresky

From: Michael C. Smith

Re :

---

Please find enclosed a copy of a letter of transmittal to the EFCB outlining the City's proposal to have the Housing Development Corporation issue bonds secured by certain federally insured Mitchell-Lama mortgages, and the EFCB's request that MAC review and comment on this proposal. Since the Financial Emergency Act requires the Control Board to "consult and coordinate" with MAC before approving any such bond issuance, Gene suggested you may be interested in reviewing these documents.

The Control Board presently expects to take up consideration of this proposal at its next meeting, Wednesday, July 27. Consequently, we would appreciate receiving any comments you may have on it by Monday or Tuesday, particularly on the question of whether the proposed 6 1/2% interest rate for the bonds appears appropriate for a tax-free yield on securities backed by federally insured mortgages.

Enclosures (1)

MCS:ba



THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, N.Y. 10007

JOHN C. BURTON  
DEPUTY MAYOR FOR FINANCE

July 18, 1977

To the Emergency Financial Control Board

Gentlemen:

This submission refers for review and approval by the Emergency Financial Control Board the proposal of the New York City Housing Development Corporation to issue up to \$300 million of bonds, backed by an equal amount of FHA-insured City Mitchell-Lama mortgages, in order to generate proceeds in the City's Mitchell-Lama refinancing program. Proceeds from refinancing are required to meet the City's Fiscal 1978 cash flow needs.

The interest rate on the bonds, which will be tax-exempt, will be 6 1/2%, which in all cases will be lower than the interest rate on the underlying FHA-insured mortgages. The term of the bonds will be 40 years, which will be equivalent to the term of the mortgages. The bonds will be purchased by a consortium of six savings institutions in the City.

The Control Board has previously approved another method of generating proceeds for the refinancing program--the outright sale of the FHA-insured portion of City Mitchell-Lama mortgages. In the proposal before you, the FHA-insured mortgages will not be sold; instead they will be held as security for the bonds.

For each FHA-insured mortgage HDC will issue an individual series of Multifamily Housing Limited Obligation Bonds. Each project's monthly mortgage payments to HDC will be used to make monthly debt service payments on the related series of bonds. Each series of bonds will be secured only by revenues attributable to the underlying FHA-insured mortgage on that bond series and not by any other revenues of HDC. The proposed Multifamily Housing Limited Obligation bonds will be issued without establishing a Capital Reserve Fund and bondholders will have no call upon any funds of the City or the State.

The purpose of this proposal is to increase the overall return to the City from the refinancing program compared with the return that can be realized by the sale of mortgages. This possibility exists because the 6 1/2% interest rate on HDC's bonds will be lower than the 8 1/2% interest rate used on FHA-insured mortgages prepared for sale.

The City will take advantage of this lower bond interest rate in two ways. First, for certain projects, the interest rate on the mortgages can be reduced, resulting, under FHA underwriting standards, in an increase in the amount of

the FHA-insured mortgage and the immediate proceeds to the City. Second, for all mortgages, the amount received by HDC as debt service payments on a mortgage written at one interest rate will exceed the amount of debt service that must be paid to holders of bonds bearing a lower interest rate, and the difference--or "interest arbitrage"--can be remitted to the City as revenue, thus generating over time the equivalent of greater immediate proceeds.

The City estimates that overall, either through higher immediate proceeds or the present value of annual revenues for the next 40 years, use of mortgages to back the proposed bonds has the potential for generating approximately 15% greater return to the City than could be realized by sale of the same mortgages.

Preparations for the proposed bond issue are just about complete, and HDC has in hand approximately \$70 million in FHA-insured mortgages that can be used immediately as security for bonds. This submission summarizes the proposal and discusses its financial advantages to the City. And, to permit the bond sales to begin, this submission requests approval of the Emergency Financial Control Board of the following:

1. Issuance of bonds by the Housing Development Corporation in an amount not to exceed \$300 million, pursuant to related agreements.
2. Amendment of the Assignment Agreement between HDC and the City to provide for the bond issue.
3. Amendment of the HDC Financial Plan to accommodate the bond issue.
4. Contracts between HDC and bond counsel for legal services related to issuance of the bonds, and between HDC and a banking institution, to be designated, for trustee services as required by the bond resolution.

#### Development of the Proposal

Under the refinancing program, the City submits individual City Mitchell-Lama mortgages to the Federal Housing Administration for FHA insurance. Following granting of an insurance commitment by FHA, a mortgage is divided into two parts: an FHA-insured first mortgage which is used to generate cash proceeds for the City, and residual indebtedness, which is held by the City. One way to raise cash from FHA-insured mortgages is to sell them; the amount of gross proceeds that can be realized in this way is approximately equal to the principal amount of the insured mortgage, depending on conditions in the secondary mortgage market at the time of the sale.

When the City started submitting applications for FHA insurance, it recognized that on average, the principal amount of FHA-insured first mortgages would not exceed 60% of the face value of the existing City mortgages; this also constituted the level of gross proceeds that could be expected from sale of mortgages. Hoping that a favorable interest rate on tax-exempt HDC bonds could increase the effective return to the City from these mortgages, the City and HDC began in September 1976 the process of developing a bond issue backed by FHA-insured mortgages. After soliciting proposals from several underwriters and commercial banks, HDC selected a team to develop a public negotiated sale in which a group of mortgages would be used as security for an aggregate amount of bonds. Work on an official statement began and has continued intermittently. A number of problems related to security and marketability still adversely affect the feasibility of a public sale.

In February 1977 First Pennco Securities, Inc., a subsidiary of First Pennsylvania Bank (Annual Report, Exhibit A), approached HDC with a new concept for a tax-exempt bond issue. HDC would issue a single bond backed by a single mortgage to savings institution purchasers to be found by Pennco. Bonds would pay interest at a rate of 6 1/2% and the purchasers would commit to buy a substantial amount of bonds at that interest rate and hold that commitment for as long as a year. The purchasers would receive a commitment fee and First Pennco would receive a fee for its services as broker in the transaction.

The proposal was attractive for several reasons. It would allow HDC to lock in a 6 1/2% interest rate for a substantial time period, thus protecting it from potentially adverse mortgage and bond market fluctuations. It would allow HDC to issue bonds backed by mortgages as the mortgages became available, rather than requiring an accumulation of mortgages as in the case of a public negotiated sale. And a private placement would avoid the uncertainties surrounding the resolution of the City Moratorium Payment Plan which were troubling the public market at the time.

After consultation with the City Comptroller, the HDC board authorized First Pennco to contact potential purchasers in HDC's behalf. The basic aspects of the proposal were in place by mid-April, at which time the Corporation sought an Internal Revenue Service ruling to confirm the tax-exempt nature of the proposed bonds. The proposal before you reflects the requirements of the IRS ruling (Exhibit B) as well as the result of negotiations among the purchasers, First Pennco, HDC and the City.

#### Summary of the Proposal

For each FHA-insured mortgage from which HDC wishes to generate proceeds by issuing bonds, HDC will issue one series of bonds in an amount equal to the face value of the insured mortgage. The purchasers will buy the bond series at par and each series will be allocated among the six purchasers as follows:

Purchaser	Share
Metropolitan Savings Bank	36.667 %
Greater New York Savings Bank	16.6665
West Side Federal Savings and Loan Association	16.6665
Astoria Federal Savings and Loan Association	13.333
Dollar Savings Bank of New York	8.3335
Manhattan Savings Bank	8.3335

The bonds will amortize at the same rate and have the same 40-year term as the mortgages, but interest on the bonds will be paid at the rate of 6 1/2%, which in all cases will be less than the interest rate on the mortgages. Under certain circumstances the term of the bonds may be extended for up to one year.

The purchasers will commit to buy \$200 million in bonds at the 6 1/2% rate and hold that commitment on the first \$100 million through December 31, 1977 and on the second \$100 million through March 31, 1978. If HDC delivers the full \$200 million by October 30, 1977, the purchasers must buy another \$100 million of bonds by December 31, 1977, if HDC so desires, bringing the total potential bond issuance to \$300 million. However, it is not anticipated that HDC will be able to deliver by October 31, 1977 enough bonds to trigger the purchasers' commitment to buy the third \$100 million in bonds.

*in Dec 31 1977  
\$300 million*

The purchasers will receive a 1% commitment fee on the bonds issued, payable upon issuance of the bonds. However, in order for HDC to retain the purchasers' commitment, from time to time HDC must make certain advance payments against the 1% fee. This applies only to the first \$200 million of bonds; no advances against fees are required on the third \$100 millions of bonds. Advance payments of fees are not returnable should the bonds not be delivered.

First Pennco will receive a 1/2% fee for its services as broker; this fee is payable only upon issuance of bonds.

HDC may decide which insured mortgages to use as security for bonds; the purchasers must accept the mortgages and bonds offered by HDC. HDC may deliver any number of bond series at any one time; no minimum blocks are required.

Proceeds from the bonds will be used to pay the costs of their sale, including the fees to the purchasers and to Pennco, and to pay the costs of obtaining FHA insurance on the underlying mortgages, as outlined in Schedule B-7a of the current HDC Financial Plan (Exhibit C) or to reimburse the revolving account established pursuant to the May 2, 1977 resolution of the Control Board for such costs. Remaining bond proceeds will be deposited to the Escrow Account for City proceeds established pursuant to Control Board resolutions.

HDC will assign the insured mortgages to a trustee who will receive the debt service payments from mortgagors and from Federal 236 interest reduction subsidies on the mortgages every month. Forty-five days after the due date of the debt service payments, the trustee will make payments on the related series of bonds. Amounts received as debt service on the mortgages that are not required to pay debt service on the bonds will be remitted to HDC by the trustee on a monthly basis. Since in all cases, the interest rate on the underlying mortgages will exceed the interest rate on the bonds, and the bonds will amortize at the same rate as the mortgages, HDC should receive monthly arbitrage equal to the difference between the two interest rates on the outstanding amount of the mortgage.

Out of the arbitrage generated in this way, each year HDC will pay the actual cost of the trustee's services and will retain, in order to fund its own costs of administering the mortgages, an allowance of 1/8% of the original principal amount of the bonds. Initially, it will also build up a reserve fund, not to exceed \$1.5 million, to be used to pay bond debt service on a temporary basis. Remaining amounts will be remitted as revenue to the City, on a monthly basis. Pursuant to pending State legislation needed to clarify HDC's ability to issue the bonds, amounts received by the City in this way will be credited as debt service collections of the unpaid interest on the residual indebtedness of projects participating in the refinancing program, thus speeding repayment of the second mortgages. The legislation required has been passed by both the Assembly and the Senate, and will shortly be referred for the Governor's signature.

Each series of bonds will be secured only by the related revenues and the underlying FHA-insured mortgages on that series. HDC will be obligated to pass along to bondholders only those amounts that it actually receives from the mortgagor or in its behalf from Federal subsidies or from the proceeds of casualty or FHA insurance.

fee 1/8  
1/2%

## Advantages to the City

### 1. Potential return

The potential return to the City from the proposed bond sale is estimated to exceed the potential return from the sale of mortgages by at least 15%. This potential arises from a combination of greater upfront proceeds and annual revenues during the life of the bond issue. Table 1 demonstrates how this occurs by comparing the potential return to the City from a sale of mortgages that have received \$100 million of FHA insurance commitments with the potential return from use of the same mortgages as security for the proposed bonds.

Mortgages prepared for sale receive FHA insurance commitments based on an interest rate of 8 1/2%; this rate applies both to those mortgages that receive Federal 236 interest reduction subsidies and those that do not. But for the bond issue, it is necessary to distinguish these two groups of projects.

Generally, to determine the amount of its insurance commitment, FHA analyzes a project's income and expenses and calculates how much money the project should be able to pay for debt service--principal and interest combined--on the project's mortgage. Within a given dollar amount available for debt service, the principal amount of debt that the project can support varies with the interest rate the project must pay; reducing the interest rate increases the principal amount of debt the project can support.

For mortgages that do not receive interest reduction subsidies under the 236 program, the City will take advantage of the lower interest rate on the bonds primarily by obtaining from FHA insurance commitments written at the lowest interest rate practicable under FHA regulations: 7 1/4%. This reduction from the 8 1/2% interest rate used on mortgages prepared for sale increases the principal amount of the FHA insurance commitment by about 14%; the higher insured amount can then be used to back bonds. The increase in the insured amount more than offsets the upfront commitment and broker's fees of the bond sale as well as the additional FHA costs associated with the higher amount of FHA insurance, thus generating higher gross proceeds from the bond sale transaction than from a mortgage sale.

Since the 7 1/4% interest rate on the mortgage is still higher than the 6 1/2% bond interest rate, the project also will generate annual arbitrage to HDC equal to the 3/4% difference in the interest rates. The present value of the revenues the City will receive from this future income stream is roughly equivalent to 5% of the face value of the original mortgage.

For projects that receive Federal 236 subsidies, it is not possible to increase the amount of the FHA insurance by reducing the mortgage interest rate. On these mortgages, the housing company is required by Federal law to pay debt service on the mortgage as if the interest rate were 1%; the difference between the 1% rate and the actual rate is paid by the Federal government. Reducing the interest rate reduces the Federal subsidy but has no impact, either up or down, on the amount of debt that can be supported by the housing project's own revenues at the 1% rate required by law.

TABLE 1

COMPARISON OF POTENTIAL RETURN FROM SALE OF MORTGAGES VS. SALE OF BONDS

	Sale of Mortgages Mixed 236 and non-236		Sale of Bonds 236 mortgages non-236 mortgages	
Amount of FHA insurance commitment	100.000 m	100.000 m	100.000 m	100.000 m
Interest rate	8 1/2%	8 1/8%	7 1/4%	14%
Increase in FHA insurance commitment	--	--	--	--
Total FHA-insured amount = amount of mortgage or bond sale	<u>100.000 m</u>	<u>100.000 m</u>	<u>100.000 m</u>	<u>114.000 m</u>
Less costs of sale				
Advertising/printing/legal Fees to purchaser and broker	<u>(.025)</u> <u>-(1)</u>	<u>(.075)</u> <u>(1.500)</u>	<u>(.075)</u> <u>(1.710)</u>	<u>(.075)</u> <u>(1.710)</u>
<u>Gross Proceeds of Transaction</u>	<u>99.975 m</u>	<u>98.425 m</u>	<u>112.215 m</u>	<u>112.215 m</u>
Compared to sale of mortgages:	-	98%	112%	
Less Costs of obtaining FHA insurance				
On original FHA amount @20%(2)	<u>(20.000)m</u>	<u>(20.000)m</u>	<u>(20.000)m</u>	<u>(20.000)m</u>
On incremental FHA amount @10%(3)	<u>-</u>	<u>-</u>	<u>(1.400)</u>	<u>(1.400)</u>
<u>Net Current Proceeds</u>	<u>79.975 m</u>	<u>78.425</u>	<u>90.815</u>	<u>90.815</u>
Compared to sale of mortgages:	-	98%	114%	
Plus Present Value of annual revenues(4)	-	13.800 m	5.400 m	
Less Reserve Fund	-	<u>(.500)(5)</u>	<u>(1.000)(5)</u>	<u>(1.000)(5)</u>
<u>Total Potential Return to City</u>	<u>79.975 m</u>	<u>91.725 m</u>	<u>95.215 m</u>	<u>95.215 m</u>
Compared to sale of mortgages:	-	115%	119%	



Table 1 Notes

This table is intended to compare the potential return to the City of two methods of raising proceeds: selling mortgages and using mortgages to back bonds. It is not intended to suggest the total amount of bonds that will be issued or the extent to which those bonds will be backed by 236 as opposed to non-236 mortgages.

- (1) This analysis assumes the sale of mortgages at par. In terms of current proceeds only, the relative merits of mortgage sales and bond sales for 236 projects would not change unless a mortgage sale encountered a discount of at least 1 1/2 points. This seems unlikely at the moment, but could occur within the remaining life of the refinancing program.
- (2) These costs include the first year Mortgage Insurance Premium, 5% Claim Payment Fund required by FHA, escrow for Minimum Property Standards, consultant fees, final advances to mortgagors, etc. as shown in Schedule B-7A of the HDC Financial Plan (Exhibit C). As long as the FHA-insured amount remains the same, the costs of obtaining FHA insurance are the same regardless of whether the mortgages are sold or used to back bonds.
- (3) Some of the costs indicated in (2) are calculated as a percentage of the FHA-insured amount and therefore must increase with the FHA-insured amount for non-236 projects. Allowance of 10% for additional costs on the incremental FHA amount should be adequate.
- (4) For calculation, See Table 2.
- (5) Based on mortgagor payments only; see "Protection of City Interests" below.

If 8 1/2% 236 mortgages were used to back 6 1/2% bonds, the interest arbitrage to HDC would be a full two points. However, the tax ruling on the proposed bond issue (Exhibit B) limits the spread between the adjusted yield on HDC's bonds and the yield on the underlying mortgages to 1 1/2 points. Since the bonds pay interest at 6 1/2%, the maximum interest rate on the mortgages is 8 1/8%, as follows: 6 1/2% face rate on the bonds, 1 1/2% arbitrage on the face amount of the bonds, plus 1/8% yield on the 1 1/2 points of commitment and broker's fees. Since the maximum interest rate on 236 mortgages used to secure bonds is 8 1/8%, the arbitrage to HDC from these mortgages is 1 5/8%. The reduction in the interest rate to 8 1/8% in order to meet IRS requirements can be accomplished by amendment of the HUD 236 subsidy contracts, either prior to or after the creation of the FHA-insured mortgage.

In terms of maximizing current proceeds only, it is more advantageous to sell 236 mortgages than to use them as security for bonds. This is because the bonds incur 1 1/2 points of upfront fees, which are not assumed to be required in a sale of mortgages.

However, the present value of future revenues to the City from interest arbitrage adds approximately 15% to the present value of a bond sale, making it more advantageous to use 236 mortgages to back bonds than to sell them. This increase in present value occurs because of the spread between the bond and mortgage interest rates on these projects; it takes only slightly more than a year's worth of City revenues from arbitrage to compensate for the 1 1/2 point upfront bond fees. The City expects to receive confirmation from HUD of the possibility of the City benefiting from the arbitrage on the 236 projects.

Thus, for both 236 and non-236 mortgages, the bond proposal increases the potential return to the City by at least 15% compared with a sale of mortgages. In the case of the non-236 mortgages, most of the potential additional return is captured upfront as immediate proceeds, whereas in the 236 mortgages these amounts must be captured over the term of the bonds.

Table 2 estimates for the comparison in Table 1, the arbitrage to HDC, the annual revenues to the City (HDC arbitrage net of administrative costs and fees estimated not to exceed 1/4% of the original principal amount of the bonds), and the present value of those revenues. The mortgages will be paid on a level debt service basis; however, the bonds will not be: they will be amortized at the same pace as the mortgages, and the arbitrage to HDC in any year will be equal to the difference in interest rate between the bonds and the mortgages as applied to the outstanding mortgage/bond debt. Thus, as the outstanding debt declines, so will the amount of arbitrage available to HDC and, likewise, the amount of revenues to the City.

Assuming that HDC's administrative costs require a full 1/4% of the original principal amount of the bonds, in the early years of the bond issue the City would receive as revenues approximately \$1,340,000 annually for every \$100 million of original principal amount of bonds backed by 236 projects and \$500,000 for every \$100 million of original principal amount of bonds backed by non-236 projects.

The actual dollar amount of revenues that the City can expect will depend on the breakdown of mortgages used to back bonds between 236 and non-236 projects. If the full \$300 million of bonds is issued and the projects are split equally among 236 and non-236, the maximum full year's revenues to the City would be approximately \$2.8 million, which would decline as the bond issues mature.

TABLE 2

ESTIMATES OF ARBITRAGE TO HDC, AND REVENUES AND PRESENT VALUE OF REVENUES TO CITY

	Years of Bond Issue				Total
	1-10	11-20	21-30	31-40	
<p><u>236 Projects:</u> \$100 million principal amount of bonds            Arbitrage Rate 8.125% interest rate on Mortgages            less 6.5% rate on Bonds=1.625%</p>					
Average Mortgage Principal Outstanding	\$97.6 m	89.5 m	71.2 m	32.7 m	
Average Annual Arbitrage to HDC	1,590,000	1,450,000	1,158,000	530,000	
HDC Costs: ½% of Original Principal Amount	<u>(250,000)</u>	<u>(250,000)</u>	<u>(250,000)</u>	<u>(250,000)</u>	
Net Revenue to City	<u>1,340,000</u>	<u>1,200,000</u>	<u>908,000</u>	<u>280,000</u>	
Present Value of Future Revenues, Discounted at 8.5%	9,006,000	3,458,000	1,121,000	180,000	\$13,765,000
<p><u>Non-236 Projects:</u> \$114 million principal amount            Arbitrage Rate: 7.25% - 6.50% = .75%</p>					
Average Annual Mortgage Principal Outstanding	\$110.5 m	99.7 m	77.4 m	27.7 m	
Average Annual Arbitrage to HDC	830,000	750,000	581,000	208,000	
HDC Costs: ½% of Original Principal Amount	<u>(285,000)</u>	<u>(285,000)</u>	<u>(285,000)</u>	<u>(285,000)</u>	
Net Revenue to City	<u>545,000</u>	<u>465,000</u>	<u>296,000</u>	<u>--</u>	
Present Value of Future Revenues, discounted at 8.5%	3,663,000	1,340,000	366,000	--	\$ 5,369,000

The availability of the annual revenues cannot be guaranteed. Failure of the housing companies to make full debt service payments to HDC will reduce or eliminate the annual arbitrage. However, in the sale of mortgages, there is no possibility of either an increase in the upfront value of the FHA mortgage or receipt of greater return through annual revenues.

## 2. Protection of City Interests

Should a mortgagor fail to make the full debt service payment required under the FHA mortgage, the FHA mortgage will be in default. The mortgagee must notify FHA accordingly, but then has the option of immediately assigning the mortgage to FHA and claiming his benefits under the FHA insurance, or attempting a work-out plan to cure the default.

For the refinancing program, FHA requires that the City set aside and keep in escrow a Claim Payment or Reimbursement Fund equal to 5% of the insured mortgages. This is one of the costs that must always be subtracted from the gross proceeds of a refinancing transaction, whether in conjunction with sale of mortgages or sale of bonds. If a mortgage is assigned to FHA, the City must use this fund to reimburse FHA for 50% of FHA's loss, until the fund is exhausted. The assignment of an FHA-insured mortgage to FHA also effectively eliminates the City's residual indebtedness on that project, including any Federal 236 subsidies related to it.

In the sale of mortgages, the City has no control over the assignment of defaulted insured mortgages to FHA. Thus it cannot step in to protect the Claim Payment Fund and the residual indebtedness by working out a plan to cure the default.

In the bond proposal, HDC will have a limited amount of freedom to defer assignment of a defaulted mortgage for up to one year while negotiating and implementing a work-out plan acceptable to both the mortgagor and FHA that brings the mortgage current within that time period.

To facilitate such work-outs, HDC and the City have agreed to provide an HDC reserve fund to be built up out of the arbitrage generated by the bonds, which could be used to keep bonds current where mortgagors' payments are not sufficient to do so and where the prospects for salvaging the project are good. The fund will be equal to two months' debt service on the principal amount of mortgages backing bonds, to the extent the debt service is not covered by 236 subsidy payments, but in no event is the fund to exceed \$1.5 million.

Payment on bonds made out of this fund on behalf of a mortgagor would have to be repaid by that mortgagor in the course of the work-out. While the fund will benefit the bondholders, its use will be at the discretion of HDC to protect the City's interests with regard to arbitrage, the Claim Payment Fund, and the City's residual indebtedness.

While it may not be possible to save a mortgage in this way, the sale of mortgages does not provide this opportunity at all.

## 3. Ease of Issuance

Once the Bond Purchase Agreement has been consummated, the issuance of bonds should not be more difficult than selling mortgages on the secondary market. In both processes, the key item is the creation of the FHA-insured mortgage; once it exists, marketing is relatively straightforward. Since the bonds will be

typed rather than printed, there are no extraordinary costs associated with the transaction except for the commitment and broker's fees.

The purchasers' agreement will lock in a 6 1/2% interest rate through March 1978, thus protecting the City from unfavorable mortgage market fluctuations.

### Risks

In order to retain the purchasers' commitment to buy \$200 million of bonds, HDC will be required to make certain advance payments of fees to the purchasers, according to the schedule shown in Table 3. Should HDC fail to deliver the bonds to which those advance fee payments apply, those fee payments will be lost.

HDC now has ready for use to back bonds approximately \$70 million in FHA-insured mortgages.

If during the course of the refinancing program all advance commitment fees are paid but no further mortgages are delivered for bonds, the total fees on the first \$70 million of bonds issued would be \$2.35 million, made up of \$700,000 in commitment fees and \$350,000 in broker fees on the bonds actually delivered and \$1.3 million of commitment fees on the \$130 million of bonds not delivered, effectively raising to 3 1/3 points the upfront costs of issuing \$70 million in bonds.

If the first \$100 million of bonds is delivered but the second \$100 million is not, the total potential loss of fees is \$1 million, which would bring the effective cost of issuing \$100 million of bonds to 2 1/2 points.

However, the advances on commitment fees will not be paid all at once. Before making the payments to keep the purchasers' commitment in effect, the City will have the opportunity to decide whether it is reasonable to do so based on its evaluation at the time of the probability of its delivering mortgages on the related bonds.

At the execution of the bond purchase agreement, which will be simultaneous with the delivery of the first bonds, HDC will pay to the purchasers as commitment fees: 1) 1% on the bonds delivered, 2) 1/6% of the portion of the first \$100 million in bonds not delivered at that time (assuming the agreement is executed in July, 2/6% if it is executed in August), and 3) 1/2% of the second \$100 million in bonds.

In addition to the \$70 million of FHA-insured mortgages held by HDC which can be used to back bonds, HDC holds \$80 million in FHA commitments that are potentially usable for this purpose. Also, the City has pending at FHA another \$57 million of insurance applications and will be submitting additional projects for FHA insurance. Thus, the City has reason to believe that it will have the capacity to deliver the \$200 million in bonds for which advance payments of fees will be made at the time the bond purchase agreement is executed.

### Impact on the Covered Organization

HDC will be establishing an entirely new program completely separate and apart from its activities under its General Bond Resolution. Administrative costs will be covered by revenue generated by the Multifamily Housing Limited Obligation Bonds; bonds will be payable only out of the related mortgages and not

Table 3

## SCHEDULE OF ADVANCE PAYMENTS ON COMMITMENT FEES

<u>Period of Commitment</u>	Payment Based on Bonds not Delivered		
	<u>First \$100 million</u>	<u>Second \$100 million</u>	<u>Third \$100 million</u>
Bond Purchase Agreement	-	1/2%	
July	1/6%	-	
August	1/6%	-	
September	1/6%	-	NONE
October	1/6%	1/6%	
November	1/6%	1/6%	
December	1/6%	1/6%	
January		-	
February		-	
March		-	

NOTE: Payment of fees in a given month extends the purchasers' commitment on that \$100 million of bonds (or the portion still to be issued) for that month only or until the next fee payment is required. However, payment of the last fees on the second \$100 million of bonds extends the purchasers' commitment for the four-month period through March 1978.

from any other funds of the City, the State, or HDC. Default of mortgages in the refinancing program should not affect adversely the rest of HDC's housing program.

HDC will be responsible for monitoring the financial operations of a substantial number of mortgagors--perhaps 50 to 60; this is a large expansion for a small, tightly-knit organization.

HDC's primary responsibility will be to ensure that the FHA insurance on its mortgages remains in effect, since this is the main security for the principal amount of the bonds to be issued. To ensure that mortgagors make all required payments and comply with FHA regulations, HDC will be required to hire additional staff. Administrative costs will be paid for out of the annual arbitrage to HDC generated by the bond deal. Such costs are estimated not to exceed 1/4% of the original principal amount of the bonds annually (\$250,000 on \$100 million) made up of an allowance of 1/8% for HDC's own costs and the actual cost of a trustee. Depending on the amount of bonds issued, HDC may have to hire four or five new staff including one or more bookkeepers, analysts and appraisers.

There is no question that this is a substantial undertaking. However, the City believes that the potential financial advantages to the City of the proposed HDC bond issue outweigh the administrative burden that must be assumed by the covered organization.

#### Items for EFCB Approval

Accordingly, approval of the EFCB is requested and recommended for the following items:

##### 1. Issuance of bonds.

The bond purchase agreement between HDC and the six savings institution purchasers (Exhibit D) secures the institutions' commitment to buy bonds and provides for the payment of fees to the purchasers and Pennco. The General Bond Resolution for Multifamily Housing Limited Obligation Bonds (Exhibit E) defines the responsibilities of the purchasers, HDC and the trustee for bondholders for the entire bond issuance program. Issuance of each series of bonds backed by one insured mortgage will require a Series Resolution (Exhibit F); the form of this resolution will be the same for all series to be issued.

##### 2. City-HDC Assignment Agreement

An amendment to the Assignment Agreement between the City and HDC (Exhibit G) provides for the disposition of the bond proceeds and for the disposition of the annual arbitrage to HDC. It also provides for the assignment of all the City's potentially refinanceable Mitchell-Lama mortgages to HDC, with mortgage servicing to be continued by HDA until the mortgage actually becomes FHA-insured.

##### 3. HDC Financial Plan

Amendment of the HDC Financial Plan is required to reflect authorization to issue bonds and to provide for the use of bond proceeds, the collection of debt service on the FHA-insured mortgages, payment of debt service on the bonds, allowance for HDC's administrative costs, establishment of the reserve fund, and remittance of excess funds to the City.

The proposed amendment (Exhibit H) does not affect the body of the HDC Financial Plan approved by the Control Board on October 1, 1976, as it relates to HDC's General Housing Bonds, since the proposed Limited Obligation Bonds are secured by and to be administered out of revenues generated by the FHA-insured mortgages and not by any other funds available to HDC.

The estimates in the proposed Plan Amendment are consistent with issuance of the maximum amount of bonds--\$300 million--covered by the Bond Purchase Agreement. However, issuance of this amount of bonds is considered unlikely and HDC has wide latitude in the time of issuance of the bonds. Therefore, the precise amounts due from the mortgagors and from HUD and the amounts of debt service to be paid on the bonds on a monthly basis will not be known for some time. No amendment to the City Financial Plan is required or sought at this time.

#### 4. Contracts

A proposed contract (Exhibit I) between HDC and the firm of Hawkins, Delafield & Wood is required to pay for bond counsel services in connection with the bond sales. Fees consist of a base payment of \$35,000, plus \$.50 per \$1000 of bonds for the first \$100 million of bonds issued and \$.25 per \$1000 thereafter, plus actual out-of-pocket expenses. The contract is not expected to exceed \$171,000, payable out of the proceeds of the bond sale.

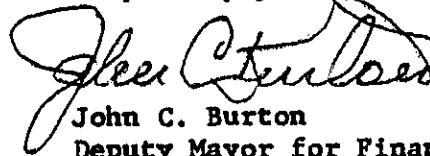
HDC is currently seeking competitive bids (Exhibit J) for award of a contract between it and a financial institution which will act as the trustee for bondholders. The City expects to certify the contract as consistent with the proposed amendment to the HDC Financial Plan. Control Board approval is requested subject to review by the Special Deputy Comptroller and his finding that performance of the contract is not inconsistent with the Financial Emergency Act or the HDC Financial Plan.

#### Status of Necessary City Approvals

The bond issue must be approved by the board of the Housing Development Corporation, and the City Comptroller must approve the private sale of bonds by HDC as required by Article XII of the Private Housing Finance Law. Both approvals are expected to be forthcoming and the City will keep the Control Board informed of their status.

No other City approvals are required.

Very truly yours,



John C. Burton  
Deputy Mayor for Finance





State of New York  
 Emergency Financial Control Board  
 For the City of New York

**Chairman**  
 Hugh L. Carey, Governor

270 Broadway  
 New York, New York 10007  
 (212) 488-4294

**Stephen Berger**  
 Executive Director

**Board Members**  
 Arthur Levitt  
 Comptroller  
 Abraham D. Beame  
 Mayor, City of New York  
 Harrison J. Goldin  
 Comptroller, City of New York  
 David J. Margolis  
 Felix G. Rohatyn

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 MUNICIPAL ASSISTANCE CORPORATION  
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 BJK  \_\_\_\_\_  
 WJL \_\_\_\_\_  
 FGR \_\_\_\_\_  
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 A.M.  
 P.M.  
 MAIL  
 HANF

July 18, 1977

Mr. Eugene Keilin  
 Executive Director  
 Municipal Assistance Corporation  
 2 World Trade Center  
 New York, New York

Dear Gene:

In connection with plans to refinance a substantial amount of Mitchell-Lama mortgages held by the City, the Housing Development Corporation proposes to enter into various agreements under which the refinancing would be effected through issuance of HDC bonds. Although we have not yet received the formal City submission concerning this proposal, conferences have been held with representatives of the City concerning their plans and I am advised that members of your staff have participated in these conferences.

Under Section 7.1 (f) of the Financial Emergency Act, MAC and the EFCB are to consult and coordinate with regard to borrowings by the City or covered organizations and I would appreciate receiving your views on the proposed HDC bond issuance. We are presently scheduling a briefing on this matter for appointed members of the Control Board on Thursday, July 21, 1977 and I would be grateful if you or a member of your staff could arrange to attend that briefing.

Sincerely,

Stephen Berger

STATUS OF REFINANCING  
At July 15, 1977

	Number Of Projects	FHA Amount	Net Proceeds to City
Insured Mortgages awaiting disposition	11	\$ 70 m	56 m
FHA Commitments	17	85	68
Pending at FHA	10	55.3	44
Total for Backing Bonds	38	207.2	\$166 m
Exclusive of Mortgages Sold	6	21.0	17 m
of which, closed	5	18.4	15
pending	1	2.6	2 m
Total Bonds and Mortgages Sales	44	228.2	\$183 m

To the Emergency Financial Control Board

Gentlemen:

This submission refers for review and approval by the Emergency Financial Control Board the proposal of the New York City Housing Development Corporation to issue up to \$300 million of bonds, backed by an equal amount of FHA-insured City Mitchell-Lama mortgages, in order to generate proceeds in the City's Mitchell-Lama refinancing program.

The interest rate on the bonds will <sup>bv</sup> 6½%, which in all cases will be lower than the interest rate on the underlying mortgages. The Corporation acts as the City's agent in this program.

The proposed Multifamily Housing Limited Obligation bonds would be issued without establishing a Capital Reserve Fund and bondholders would have no call upon any funds of the City or the State. The bonds would be purchased by a consortium of six savings institutions in the City.

The Control Board has previously approved another method of generating proceeds for the refinancing program -- the outright sale of the FHA-insured portion of City Mitchell-Lama mortgages. In the proposal before you, the FHA-insured mortgages would not be sold; instead they would be retained by HDC and held as security for the bonds. For each FHA-insured mortgage HDC would issue an individual series of Multifamily Housing Limited Obligation Bonds. Each project's monthly mortgage payments to HDC would be used by HDC to make monthly debt service payments on the related series of bonds. Each series of bonds will be secured only by revenues attributable to the underlying mortgage on that bond series and not by any other revenues of HDC or the City.

The purpose of this proposal is to increase the overall return to the City from the refinancing program, compared to the return that

can be realized by the sale of mortgages. This possibility exists because the 6½% interest rate on HDC's bonds will be lower than the 8½% interest rate used on FHA-insured mortgages prepared for sale.

270  
not  
1/2%

The City can take advantage of this lower interest rate in two ways. First, the interest rate on the mortgages can be reduced, consistent with the rate on the bonds. This increases the amount of debt a given debt service payment can support, thus increasing the amount of the FHA-insured mortgage and the ultimate proceeds to the City. Second, the difference between the amount received by HDC as debt service on a mortgage and the amount that HDC must pay its bond holders can be transmitted to the City as revenue on a monthly basis, thus generating over time the equivalent of greater immediate proceeds.

The City estimates that overall, either through higher immediate proceeds or annual revenues for the next 40 years, use of mortgages to back the proposed bonds has the potential for generating approximately 15% more return to the City than could be realized by sale of the same mortgages.

Preparations for the proposed bond issue are just about complete, and HDC has in hand approximately \$50 million in FHA-insured mortgages that can be used immediately as security for bonds. To permit the bond sales to begin, this submission requests approval of the Emergency Financial Control Board of the following:

1. Issuance of bonds by the Housing Development Corporation in an amount not to exceed \$300 million, and related agreements.
2. Amendment of the HDC Financial Plan to accommodate the bond issue.
3. Contracts between HDC and bond counsel for legal services related to issuance of the bonds, and between HDC and a banking institution, to be designated, for trustee services as required by the bond resolution.

Development of the Proposal

Under the refinancing program, the City submits individual City Mitchell-Lama mortgages to the Federal Housing Administration for FHA insurance. Following granting of an insurance commitment by FHA, a mortgage is divided into two parts: an FHA-insured first mortgage which is used to generate proceeds, and residual indebtedness, which is held by the City.

When the City started submitting applications for FHA insurance in September 1976 it realized that on average, the FHA-insured first mortgages would not exceed 60% of the face value of the existing City mortgage. Hoping that a favorable interest rate on tax-exempt HDC bonds could help increase the effective return to the City from these mortgages, the City and HDC began in October 1976 the process of developing a bond issue backed by FHA-insured mortgages. After soliciting proposals from several underwriters and commercial banks, HDC selected a team to develop a public negotiated sale in which a group of mortgages would be used as security for an aggregate amount of bonds. Work on an official statement began and has continued intermittently.

In February 1977 the First Pennco Corporation (Exhibit A), a subsidiary of First Pennsylvania Bank, approached HDC with a new concept for a tax-exempt bond issue. HDC would issue a single bond backed by a single mortgage to savings institution purchasers to be found by Pennco. Bonds would pay interest at a rate of 6½% and the purchasers would commit to buy a substantial amount of bonds at that interest rate and hold that commitment for as long as a year. The purchasers would receive a commitment fee and First Pennco would receive a fee for its services as broker in the transaction.

The proposal was attractive for several reasons. It would allow HDC to lock in an attractive interest rate for a substantial time period, thus protecting it from disadvantageous mortgage and bond market fluctuations. It would allow HDC to issue bonds backed by mortgages as the mortgages became available, rather than requiring an accumulation of mortgages. ~~And a private placement would avoid the uncertainties~~ And a private placement would avoid the uncertainties surrounding the resolution of the City Moratorium Payment Plan which were troubling the public market at the time.

After consultation with the City Comptroller, the HDC board authorized First Pennco to contact potential purchasers in HDC's behalf. The basic aspects of the proposal were in place by mid-April, at which time the Corporation sought an Internal Revenue Service ruling to confirm the tax-exempt nature of the proposed bonds. The proposal before you reflects the requirements of IRS (Exhibit B) as well as the result of negotiations among the purchasers, First Pennco, HDC and the City.

The Bond Proposal

For each FHA-insured mortgage from which HDC wishes to generate proceeds by issuing bonds, HDC will issue and the purchasers will buy at par a series of bonds equal in face value to the face value of the insured mortgage. Each series of bonds will be allocated among the six purchasers as follows:

Purchaser	Share
Metropolitan Savings Bank	36.667 %
Greater New York Savings Bank	16.6665
West Side Federal Savings and Loan Assoc.	16.6665
Astoria Federal Savings and Loan Assoc.	13.333
Dollar Savings Bank of New York	8.3335
Manhattan Savings Bank	8.3335

The bonds will amortize at the same rate and have the same 40-year term as the mortgages, but interest on the bonds will be paid at a rate of 6 1/2%, which in all cases will be less than the interest rate on the mortgages. Under certain circumstances the term of the bonds may be extended for up to one year.

The purchasers will commit to buy \$200 million in bonds at the 6 1/2% rate and hold that commitment on the first \$100 million through December 31, 1977 and on the second \$100 million through March 31, 1978. If HDC delivers the full \$200 million by October 31, 1977, the purchasers must buy another \$100 million of bonds by December 31, 1977, if HDC so desires, bringing the total potential bond issuance to \$300 million.

The purchasers will receive a 1% commitment fee on the bonds issued, payable upon the closing of the bonds. However, in order for HDC to retain the purchasers' commitment, from time to time HDC must make certain advance payments against the 1% fee. This applies only to the first \$200 million of bonds; no advances against fees are required on the third \$100 million of bonds.

First Pennco will receive a 1/2% fee for its services as broker; this fee is payable only upon issuance of bonds.

HDC may decide which insured mortgages to use as security for bonds; the purchasers must accept the mortgages and bonds offered by HDC.

Proceeds from the bonds will be used to pay the costs of their sale, including the fees to the purchasers and to Pennco, and to pay the costs of obtaining FHA insurance on the underlying mortgages, as outlined in Schedule B-7a of the HDC Financial Plan (Exhibit C) or to reimburse the revolving account established pursuant to May 2, 1977 resolution of the Control Board for such costs. Remaining bond proceeds will be deposited to the Escrow Account for proceeds established pursuant to Control Board resolutions.

Since HDC will be holding the insured mortgages, it will receive debt service payments from mortgagors and from the Federal 236 interest reduction every month subsidies. These payments will be deposited with the trustee for bondholders and 45 days after the due date of the debt service collection, the trustee will make payments on the related series of bonds. Since in all cases, the interest rate on the underlying mortgages will exceed the interest rate on the bonds, and the bonds will amortize at the same rate as the mortgages, HDC should receive monthly arbitrage equal to the difference between the two interest rates on the outstanding amount of the mortgage.

The arbitrage generated in this way will be used by HDC to fund its costs of administering the bond program, not to exceed 1/4% of the original principal amount of the bonds each year, and to build up a contingency fund, not to exceed \$1.5 million. Remaining amounts will be remitted as revenue to the City, on a monthly basis. Pursuant to State legislation amounts received by the City in this way will be credited as debt service collections of the unpaid interest on the residual indebtedness of projects participating in the refinancing program, thus speeding repayment of the second mortgages.

Each series of bonds will be secured only by the revenues attributable to the underlying mortgage on that series. HDC will be obligated to pass along to bondholders only those amounts that it actually receives from the mortgagor or in its behalf from Federal subsidies or from the proceeds of casualty or FHA insurance.



Advantages to the City

1. Potential return.

The potential return to the City from the proposed bond sale is estimated to exceed the potential return from the sale of mortgages by at least 15%. This potential arises from a combination of greater upfront proceeds and annual revenues during the life of the bond issue. Table 1 demonstrates how this occurs by comparing the potential return to the City from a sale of \$100 million of FHA-insured mortgages with the potential return from use of the same mortgages as security for the proposed bonds.

Mortgages prepared for sale are insured by FHA at an interest rate of 8 1/2%; this includes both those mortgages that receive Federal 236 interest reduction subsidies and those that do not. But in the bond issue, it is necessary to distinguish these two groups of projects. For projects that do not receive interest reduction subsidies under the 236 program, the City will take advantage of the lower interest on the bonds primarily by reducing the interest rate on the underlying mortgages from 8 1/2% to the lowest rate practicable under FHA regulations: 7 1/4%. This increases by about 14% the amount of the FHA-insured mortgage, which more than offsets the upfront fees of the bond deal and the higher costs of FHA insurance, thus generating higher gross proceeds from the bond sale transaction. The project also will throw off 3/4% in annual arbitrage to HUD (the difference between the 7 1/4% mortgage rate and the 6 1/2% bond rate) which results in a limited amount of additional annual revenues over the course of the bond issue, roughly equivalent to 5% of the current face value of the original mortgage.

For projects that receive Federal 236 subsidies, it is not advantageous to reduce the mortgage interest rate. This is because on these mortgages, the housing company is required by Federal law to pay debt service on the mortgage as if the interest rate were 1%; the difference between the 1% rate and the actual rate is paid by the Federal government. Reducing the interest rate reduces the Federal subsidy but does not increase the amount of the FHA-insured mortgage because the housing project's own revenues are not capable of supporting a larger mortgage at the 1% rate, as would be required.

Table 1

COMPARISON OF POTENTIAL RETURN FROM SALE OF MORTGAGES VS. SALE OF BONDS

	<u>Sale of Mortgages</u>	<u>Sale of Bonds</u>	
	<u>Mixed 236 and non-236</u>	<u>236 mortgages</u>	<u>non-236 mortgages</u>
Amount of FHA-insured mortgage	100,000 M.	100,000 M.	100,000 M.
Interest rate	8 1/2%	8 1/8%	7 1/4%
Increase in FHA-insured amount	-	-	14%
Total FHA-insured amount	<u>100,000 M.</u>	<u>100,000 M.</u>	<u>114,000 M.</u>
Less costs of sale			
Advertising/printing/legal	.025	.075	.075
Fees to purchasers and broker	- (1)	1,500	1,710
Gross Proceeds of Transaction	<u>99,980 M.</u>	<u>98,430 M.</u>	<u>112,220 M.</u>
Compared to sale of mortgages		98%	112%
Less Costs of obtaining FHA insurance			
On original FHA amount @ 20% (2)	20,000 M.	20,000 M.	20,000 M.
On incremental FHA amount @10% (3)	-	-	1,140
Net Current Proceeds	<u>79,980 M.</u>	<u>78,430 M.</u>	<u>91,080 M.</u>
Compared to sale of mortgages		98%	114%
Plus Present Value of annual revenues(4)	-	13,800 M.	5,400 M.
Less Contingency Fund	-	.250	1,500 M.
Total Potential Return to City	<u>79,980 M.</u>	<u>91,980 M.</u>	<u>95,180 M.</u>
Compared to sale of mortgages		115%	119%

2

Table 1 Notes

- (1) This analysis assumes the sale of mortgages at par. The relative merits of mortgage sales and bond sales for 236 projects would not change unless a mortgage sale encountered a discount of 1 1/2 points. This seems unlikely at the moment, but is certainly conceivable within the remaining life of the refinancing program.
- (2) These costs include the first year Mortgage Insurance Premium, 5% Claim Payment Fund required by FHA, escrow for Minimum Property Standards, consultant fees, final advances to mortgagors on their mortgage loans, etc. as shown in Schedule B-7a of the HDC Financial Plan (Exhibit C). As long as the FHA-insured amount is the same, the costs of obtaining FHA insurance are the same regardless of whether the mortgages are sold or used to back bonds.
- (3) Some of the costs indicated in (2) are calculated as a percentage of the FHA-insured amount and therefore must increase with the increase in the FHA-insured amount for non-236 projects. Allowance of 10% for additional costs on the incremental FHA amount is more than adequate.
- (4) For calculation, see Table 2.

The tax ruling on the proposed bond issue limits the spread between the adjusted yield on HDC's bonds and the yield on the underlying mortgages to 1 1/2 points. Since the bonds pay interest at 6.5%, the maximum interest rate on the mortgages is 8 1/8%, as follows: 6.5% face rate on the bonds, 1.5% arbitrage on the face amount of the bonds, plus 1/8% as yield on the 1 1/2 points of commitment and brokers' fees to be paid to the purchasers and Pennco. Thus the maximum interest rate on a mortgage used to secure bonds is 8 1/8%.

In terms of maximizing current proceeds only, it is more advantageous to sell 236 mortgages than to use them as security for bonds. This is because the bonds incur 1 1/2 points of upfront fees, which are not assumed to be required in a sale of mortgages.

However, when the present value of future revenues to the City is taken into account, it quickly becomes more advantageous to use 236 mortgages to back bonds than to sell them. This is because the spread between the bond and mortgage interest rates on these projects is quite ample: it would take only a little bit more than a year's worth of City revenues from arbitrage to make up for the 1 1/2 point upfront bond fees, thus catching up with the value of the mortgage sale. The remaining 38 years of arbitrage add the equivalent of current value that makes the bond sale preferable to the mortgage sale for these projects.

Table 2 estimates for the comparison in Table 1, the arbitrage to HDC, the annual revenues to the City (HDC arbitrage net of fees not to exceed 1/4% of the original principal amount of the bonds), and the present value of those revenues. Since the bonds and mortgages will amortize at the same rate, the arbitrage to HDC in any year will be equal to the difference between the bond and interest rates as applied to the outstanding mortgage debt. Thus, as the outstanding debt declines, so will the amount of arbitrage available to HDC and, likewise, the amount of revenues to the City.

The actual dollar amount of revenues that the City can expect will depend on the breakdown of mortgages used to back bonds between 236 and non-

Table 2

ESTIMATES OF ARBITRAGE TO HDC AND REVENUES AND PRESSURE VALUE OF REVENUES TO CITY

	Years of Bond Issue					Total
	1-10	11-20	21-30	31-40		
236 Projects: \$180 million original amount						
Arbitrage Rate = Difference in interest rates: 8.125 on mortgages less 6.5 rate on Bonds = 1.625%						
Average mortgage principal outstanding	\$97.6 m	\$9.5 m	71.2 m	32.7 m		
Average Annual Arbitrage to HDC	1,590,000	1,450,000	1,157,600	530,000		
HDC Costs: 14% of Original Principal Amt.	250,000	350,000	250,000	250,000		
Net Revenue to City	1,340,000	1,200,000	907,600	280,000		
Present Value of future revenues, discounted at 8.5%	9,006,416	3,457,137	1,171,098	180,000	\$13,765,141	
236 Projects: \$114 million original amount						
Arbitrage Rate: 7.25 - 6.58 = .75%						
Average Annual Mortgage Principal Outstanding	\$110.5 m	99.7 m	77.4 m	27.7 m		
Average Annual Arbitrage to HDC	839,000	750,000	581,000	208,000		
HDC Costs: 14% of Original Principal Amount	985,000	985,000	985,000	985,000		
Net Revenue to City	545,000	465,000	396,000	-		
Present value of future revenues, discounted at 8.5%	3,683,657	1,339,834	365,629	-	\$5,368,530	

236 projects. If the full \$300 million of bonds is issued and the projects are split equally among 236 and non-236, the maximum full year's revenues to the City would be approximately \$2.8 million, which would decline as the bond issue matures.

The availability of the annual revenues cannot be guaranteed. Failure of the housing companies to make full debt service payments to HDC will reduce or eliminate the annual arbitrage. However, in the sale of mortgages, there is no possibility of either an increase in the upfront value of the FHA mortgage or receipt of greater return through annual revenues.

## 2. Protection of City interests.

Should a mortgagor fail to make the full debt service payment required under the FHA mortgage, the FHA mortgage will be in default. The mortgagee must notify FHA accordingly, but then has the option of immediately assigning the mortgage back to FHA and seeking his insurance claim, or attempting a work-out plan to cure the default.

For the refinancing program, FHA requires that the City set aside and keep in escrow a Claim Payment Fund equal to 5% of the insured mortgages. This is one of the costs that must always be subtracted from the gross proceeds of a refinancing transaction, whether in conjunction with sale of mortgages or sale of bonds. When a mortgage is assigned back to FHA, the City must use this fund to reimburse FHA for 50% of its loss, until the fund is exhausted. The assignment of an FHA-insured mortgage to FHA also effectively eliminates the City's residual indebtedness on that project, including any Federal 236 subsidies related to it. When a mortgage is sold, the City has no control over the assignment of defaulted insured mortgages to FHA. Thus it cannot step in to protect the Claim Payment Fund and the residual indebtedness.

As mortgagee in the bond proposal, HDC will have a limited amount of freedom to hold a defaulted mortgage for up to one year while negotiating and implementing a work-out plan acceptable to both the mortgagor and FHA that brings the mortgage current within that time period.

To facilitate such work-outs, HDC and the City have agreed to provide an HDC contingency fund to be built up out of the arbitrage generated by the bonds, which could be used to keep bonds current where mortgagors' payments were not sufficient to do so and where the prospects for salvaging the project were good. The fund will be equal to two months' debt service on the principal amount of bonds outstanding, to the extent the bond debt service is not covered by 236 subsidy payments, but in no event to exceed \$1.5 million.

Payments on bonds made out of this fund in behalf of a mortgagor would have to be repaid by that mortgagor in the course of the work-out. The use of the fund will be at the discretion of HDC and the City for the City's protection; the bondholders will not have any rights to the fund.

While it may not always be possible to save a mortgage in this way, the sale of mortgages does not provide this opportunity at all.

### 3. Ease of issuance

Once the Bond Purchase Agreement has been consummated, actually issuing bonds should be no more difficult than selling mortgages on the secondary market. In both processes, the key item is the creation of the FHA-insured mortgage; once it exists, marketing is relatively simple. Since the bonds will be typed rather than printed, there are no extraordinary costs associated with the transaction except for the commitment and broker's fees. These are offset, however, either by greater upfront proceeds or their equivalent over time, as discussed above.

The purchasers agreement will lock in a favorable interest rate through March 1978, thus protecting the City from <sup>unfavorable</sup> mortgage market fluctuations.

### Risks

HDC will be required to make certain advance payments of fees to the purchasers. Should HDC be unable to deliver the bonds to which those advance fee payments apply, those fee payments will be lost.

The City now has ready for use to back bonds approximately \$50 million in FHA-insured mortgages, and another \$ million in FHA commitments that are potentially usable for this purpose. In addition, the City believes that it will be submitting sufficient additional projects for FHA insurance to create the capacity to deliver \$200 million in bonds for which advance payments of fees may be made. ~~Since the amount of bonds issued is~~ Since the amount of bonds issued is tied to the gross proceeds of FHA-insured mortgages, which is ~~50%~~ probably 20% higher than the net proceeds to the City of such transactions, it is possible for the City to fall substantially below its cash flow target and still meet its commitment to deliver mortgages for bonds. The maximum amount of advance fees involved is \$2 million; it is unlikely that the City will be unable to produce the greater portion of the \$200 million in mortgages required, so that any losses, if they do occur, will be considerably smaller than that.

It may be possible that the mortgage market may fluctuate in the City's favor or that another way of obtaining proceeds from refinancing becomes more attractive. Analysis of the attractiveness of that approach would have to ~~take~~ take into account the potential loss of advance payments on commitment fees made by HDC in connection with this bond issue.

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cause in  
BPA*

Impact on the Covered Organization

HDC will be establishing a role as mortgagee in an entirely new program completely separate and apart from its activities under its General Bond Resolution. Administrative costs will be covered by revenue generated by the Multifamily Housing Limited Obligation Bonds; bonds will be payable only out of the related mortgages and not from any other funds of the City, the State or HDC. Default of mortgages in the refinancing program should not affect adversely the rest of HDC's housing program.

As mortgage e, HDC will be responsible for supervising the financial operations of a substantial number of mortgagors -- perhaps 50 to 60 --; this is



a large expansion for a small, tightly-knit organization.

As mortgagee, HDC's primary responsibility will be to insure that the FHA insurance on its mortgages remains in effect, since this is the main security for the principal amount of the bonds to be issued. To ensure that mortgagors make all required payments and comply with FHA regulations, HDC will be required to hire additional staff. Administrative costs will be paid for out of the annual arbitrage to HDC generated by the bond deal. Such costs may not exceed 1/4% of the original principal amount of the bonds annually (\$250,000 on \$100 million) made up of 1/8% for HDC's own costs plus other actual costs approved by the City Comptroller. Depending on the amount of bond issued, HDC may have to hire four or five new staff including one or more bookkeepers, analysts and appraisers.

There is no question that this is a substantial undertaking. However, the City believes that the potential financial advantages to the City of the proposed HDC bond issue outweigh the administrative burden that must be assumed by the covered organization. Accordingly, approval of the EFCB is requested and recommended for the following items:

1. Issuance of bonds.

The bond purchase agreement between HDC and the six savings bank purchasers (Exhibit ) secures the institutions' commitment to buy bonds and provides for the General payment of fees. The Bond Resolution for Multifamily Housing Limited Obligation Bonds (Exhibit ) defines the responsibilities of the purchasers, HDC and the trustee for bondholders, for the entire bond issuance program. Issuance of each series of bonds backed by one insured mortgage will require a Series Resolution (Exhibit ); the form of this resolution will be the same for all series to be issued.

An amendment to the Assignment Agreement between the City and HDC provides for the disposition of the bond proceeds and for the disposition of the annual arbitrage to HDC. It also provides for the assignment of all the City's

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potentially refinanceable Mitchell-Lama mortgages to HDC, with mortgage servicing to be continued by HDA until the mortgage actually becomes FHA-insured.

## 2. HDC Financial Plan

Amendment of the HDC Plan is required to reflect a ~~uth~~ authorization to issue bonds and to provide for the use of bond proceeds, the collection of debt service on the FHA-insured mortgages, payment of debt service on the bonds, allowance for HDC's administrative costs, establishment of the contingency fund and remittance of excess funds to the City.

The proposed amendment (Schedules , Exhibit ) generally does not affect the body of the HDC Financial Plan approved by the Control Board on November 2, 1976 as it relates to HDC's General Housing Bonds, since the proposed Limited Obligation Bonds are secured by and to be administered out of revenues generated by the FHA-insured mortgages and not by any other funds available to HDC.

The estimates in the proposed Plan Amendment are consistent with issuance of the maximum amount of bonds -- \$300 million-- covered by the Bond Purchase Agreement. However, issuance of this amount of bonds is considered unlikely and HDC has wide latitude in the timing of the bond issuance. Therefore, the precise amounts due from the mortgagors and from HUD, and the exact amounts to be paid on the bonds on a monthly basis will not be known for some time.

## 3. Contracts

A proposed contract (Exhibit ) between HDC and the firm of Hawkins, Delafield and Wood is required to pay for bond counsel services in connection with the bond sales. Fees are based on a one-time payment of \$ plus \$ per \$ of bonds issued. The contract is not expected to exceed \$ , payable out of the proceeds of the bond sale.

HDC is currently seeking competitive bids (Exhibit ) for award of a contract between it and a financial institution which will act as the trustee for bondholders. Since the contract will be awarded to the lowest bidder upon the approval of the City Comptroller, and the bond issue cannot

go forward without hiring of a trustee, the City requests that the Board provide for expedited review of this contract when <sup>the contract</sup> ~~it~~ is ready.

Status of Necessary City Approvals

The members of the Housing Development Corporation are expected to approve this bond issue on July 12, 1977. Thereafter the City Comptroller is expected to approve the private sale of bonds by HDC as required by Article XII of the Private Housing Finance Law.

No other City approvals are required.

Very truly yours,

John C. Burton  
Deputy Mayor for Finance

SUMMARY OF PROJECTIONS FOR REFINANCING CITY MITCHELL LAMA PROJECTS UNDER SECTION 223 (F)

TOTALS AS OF JULY 7, 1977 PROJECTIONS December 31, 1977

HDA SUBMISSIONS

- Number of Projects	42	97
- Original Mortgage Dollar	\$ 395M	\$1270M
- Mortgage Requested	\$ 230M	\$ 680M
- Percentage of Original	59%	54%

HUD COMMITMENTS

- Number of Projects	31
- Original Mortgage Dollar	\$ 273.8M
- Gross Commitment	\$ 163.8M
- Percentage of Original	59.8%

(SEE BELOW)

MORTGAGE CLOSINGS

- Number of Projects	12	95
- Original Mortgage Dollar	\$ 105.4M	\$1260M
- Gross Commitment	\$ 58.1M	638M
- 223f Costs (18% of Gross Commitments)	\$ 10.5M	\$ 113M
- Net Dollar Yield	\$ 47.6M	\$ 525M
- Percentage of Original	45.2%	47%

STATUS DATE: JULY 7, 1977

COMPARATIVE SUMMARY OF REFINANCING CITY MITCHELL-LAMA PROJECTS UNDER SECTION 223(F)

Project Class	Project Type	PENDING STAGES																Mortgages Closed
		HDA Data Collection		Housing Company Briefing		Housing Company Documents		Immediate Submission to HUD		HUD Commitment		Mortgage Closing						
		Previous	Present	Previous	Present	Previous	Present	Previous	Present	Previous	Present	Previous	Present	Previous	Present	None		
<b>A. COMPLETED CITY MITCHELL-LAMA PROJECTS</b>																		
SECTION 236	Rentals (28 projects)	0	0	0	0	7	4	0	3	5	2	11	7			12		
FAIR MARKET	Rentals (33 projects)	0	0	2	2	15	11	0	1	16	7	3	12			None		
SECTION 236	Co-Ops (7 projects)	0	0	3	3	4	4	0	0	0	0	0	0			None		
FAIR MARKET	Co-Ops (30 projects)	1	0	11	12	16	16	0	0	2	2	0	0			None		
TOTAL	(98 projects)																	
<b>B. CITY MITCHELL-LAMA PROJECTS UNDER CONSTRUCTION</b>																		
SECTION 236	Rentals (5 projects)	4	3	1	2	0	0	0	0	0	0	0	0			None		
SECTION 236	Co-ops (2 projects)	0	0	0	0	2	0	0	2	0	0	0	0			None		
SECTION 8	Rentals (1 project)	0	0	0	0	1	1	0	0	0	0	0	0			None		
FAIR MARKET	Rentals (1 project)	0	0	0	0	1	1	0	0	0	0	0	0			None		
TOTAL	(9 projects)																	
<b>TOTALS AS OF:</b>																		
	May 20/June 10	8	5	35	16	25	47	0	0	24	23	14	14			5		
	June 10/July 7	5	3	17	19	46	37	0	6	23	11	14	19			12		
	Apr. 15/May 2	9	9	35	34	26	25	3	0	20	25	14	13			4		
	May 2/May 20	9	8	34	35	25	25	0	0	25	24	13	14			4		

NOTE: Three projects dropped from program (6-10 to 7-5)

orig. 1/7/77 rev. 4/1/77



# 2231 REFINANCING PROGRESS REPORT

COMPLETED FAIR MARKET RENTALS

STATUS DATE JULY 7, 1977

PROJECT NAME	UNITS	ORIGINAL MORTGAGE	PROCESSING STAGES						REMARKS											
			HOUSING SUPPLY Management Data	FISCAL AFFAIRS Financial Info.	CONSULTANT Review/Briefing	HOUSING CO. Documentation	HDA Final Review	HUD Analysis		MORTGAGE CLOSING										
1. ALBERT EINSTEIN	634	\$ 21,393,100																		
2. ALLERVILLE ARMS	212	3,501,728				2-16						2-16	7-16							Housing Company Checking with IRS
3. ATLANTIC PLAZA TOWERS	716	11,795,889				12-27														Rent Strike
4. BECKSMAD GARDENS	157	2,253,800				PROJECT DROPPED - OUT OF PROGRAM														Project Withdrawn from Processing
5. BEEKMAN STAFF RESIDENCE	90	3,290,324										5-25	7-16							Hospital Project
6. BETHUNE TOWERS	133	2,523,000										5-25								Ground Lease Problem
7. BLVD. TOWERS I	329	5,424,250										4-29								
8. BRIDGEVIEW III	170	5,797,000										7-1								
9. BRUCKNER TOWERS	208	4,000,000				2-23														Housing Company Revising Numbers
10. CANDIA HOUSE	102	2,080,000				5-3														Partnership Interest Sold, Mgm't. Sup.
11. CAROL GARDENS	314	6,075,000				9-21						1-21								Foreclosure
12. CLOVERLEAF TOWERS	238	3,993,700				PROJECT DROPPED - OUT OF PROGRAM														Partnership Interest Sold, Mgm't. Sup.
13. COLUMBUS HOUSE	248	6,185,000										6-14								Commitment to be Revised
14. COOPER GRAMERCY	168	6,754,300										6-16	7-6							Project Withdrawal Recommended
15. COURT PLAZA	246	9,227,100										6-13	7-6							2013 signed
16. DELOS HOUSE	124	2,341,000				6-3														Commitment to be Revised
17. FORDHAM TOWERS	168	2,704,500										4-13								Project Withdrawal Recommended
18. GENERAL SEDGWICK	101	2,522,100				PROJECT DROPPED - OUT OF PROGRAM														Foreclosure
19. HUGH GRANT GARDENS	136	2,455,000				10-13														2013 signed
20. INDEPENDENCE HOUSE	120	1,810,731										12-27								Commitment to be Revised
21. MIDDAGH ST. APTS.	43	1,506,700										12-23								Awaiting Housing Company Signature
22. MONTEFIORE I	155	2,143,971																		Commitment to be Revised
23. MONTEFIORE II	398	14,805,000										12-23								2013 signed
24. NEW AMSTERDAM	228	7,155,000										6-6								236 100% Approved
25. NOBLE MANSION	236	4,500,000										12-20								Hospital in Chap. II
26. POLYCLINIC APTS.	139	2,466,000																		
27. PROSPECT TOWERS	153	3,050,000										PROJECT DROPPED - OUT OF PROGRAM								Project Withdrawal Recommended
28. RIVER PLAZA	153	2,810,000																		Commitment to be Revised
29. ROBERT FULTON	320	4,731,380										12-23								BOE 6% Interest
30. SKYVIEW TOWERS	232	5,062,000										6-3								236 100% Approved
31. TOWER WEST	216	6,488,000										7-1	7-13							236 100% Approved
32. TOWN HOUSE WEST	47	1,670,000										7-1	7-13							Rent Strike
33. TRACY TOWERS	906	40,736,000										6-7								Commitment to be Revised
34. TRINITY HOUSE	199	4,355,000																		
35. WEST SIDE MANOR	245	5,778,000										5-27								
36. WESTVIEW APTS.	137	2,832,000											5-4							
		\$208,610,653																		

▲ = Can Not Target, See Remarks    ■ = Finalized Out    ● = Progress Point Last Reporting Period    ★ Requires Up-dated Rent Roll

\* Pledged as Collateral for Build Out





# 2231 REFINANCING PROGRESS REPORT

COMPLETED 236 CO-OPS  
AND PROJECTS UNDER CONSTRUCTION (CO-OP/RENTAL)

STATUS DATE JULY 7, 1977

PROJECT DESCRIPTION DATA		
PROJECT NAME	UNITS	ORIGINAL MORTGAGE
COMPLETED 236 CO-OPS		
1. ATLANTIC TERMINAL 2C	200	\$ 9,061,200
2. ATLANTIC TERMINAL 4A	304	14,344,400
*3. CROWN GARDENS	238	10,836,500
4. EAST RIVER (1199 PLAZA)	1586	76,580,400
*5. NORTHSIDE GARDENS	41	1,158,000
*6. RUPERT HOUSE	652	26,100,000
*7. TILDEN II	265	6,991,000
		\$ 145,071,500

PROCESSING STAGES							REMARKS
HOUSING SUPV. Management Data	FISCAL AFFAIRS Financial Info.	CONSULTANT Review/Briefing	HOUSING CO. Documentation	HDA Final Review	HUD Analysis	MORTGAGE CLOSING	
			3-24				1.
			3-24				2.
			1-27				3.
		2-23					4.
			3-11				5.
							6.
							7.
							236 Surplus Income Ruling Pending

PROJECTS UNDER CONSTRUCTION (T.C.O. RECEIVED, EXCEPT AS NOTED)		
236 RENTALS		
1. LANDS END I	251	\$ 11,761,000
2. MINS PLAZA	83	3,018,000
3. NORTH SHORE PLAZA	535	21,810,000
4. OUB HOUSES	359	14,514,800
5. ROBERTO CLEMENTE PLAZA	532	25,460,000
		\$ 76,563,800
236 CO-OPS		
6. CONFUCIUS PLAZA	760	36,037,900
7. LINCOLN-AMSTERDAM	186	9,540,700
		\$ 45,578,600
SECTION 8		
8. MANHATTAN PLAZA FAIR MARKET RENTAL	1688	\$ 90,720,700
9. WEST VILLAGE	421	\$ 23,961,700

PROJECTS UNDER CONSTRUCTION (T.C.O. RECEIVED, EXCEPT AS NOTED)							REMARKS
HOUSING SUPV. Management Data	FISCAL AFFAIRS Financial Info.	CONSULTANT Review/Briefing	HOUSING CO. Documentation	HDA Final Review	HUD Analysis	MORTGAGE CLOSING	
							(ALL CONSTRUCTION FULLY RESUMED)
							Under Construction (63% complete)
		3-25					1.
							2.
							3.
							4.
							5.
							6.
							7.
							Partial T.C.O. Received
							Form 2013 Signed
							Partial T.C.O. Received 2013 Signed
							Partial T.C.O. Received
							9

\* = Can Not Target; See Remarks    \* = Finished Out    \* = Progress Point Last Reporting Period  
Pledged as Collateral for Build Out

# 223f REFINANCING PROGRESS REPORT

COMPLETED 236 RENTALS

STATUS DATE JULY 7, 1977

PROJECT NAME	UNITS	ORIGINAL MORTGAGE	FINANCIAL DATA										NET PROCEEDS	REMARKS		
			MORTGAGE REQUESTED	APPLIC. FEE (3%)	MORTGAGE GRANTED	ACTUAL APPL. FEE	FEE REFUND	Δ MPS	CONSULT'S.	REINSUR	OTHER	EXPENSES				
1. BAY TOWERS	374	\$14,420,500	\$ 7,500,000	\$ 22,500	\$5,476,900	\$16,431	\$273,845	\$ 353,785	\$ 27,386	6,069					CLOSED	1.
*2. BEDFORD GARDENS	639	26,296,700	7,600,000	22,800	6,764,600	20,294	338,230	217,680	33,823	2,506					CLOSED	2.
*3. BLVD. TOWERS II	354	14,409,000	10,800,000	32,400	10,298,500	30,896	514,925	420,000	51,493	1,504					CLOSED	3.
4. CLINTON TOWERS	395	17,175,800													CLOSED	4.
5. COLUMBUS MANOR	202	5,695,000													CLOSED	5.
6. D.C.A.	215	6,750,000													CLOSED	6.
7. ESSEX TERRACE	104	2,139,500													CLOSED	7.
8. GLENN GARDENS	266	12,216,000													CLOSED	8.
9. GOODWILL TERRACE	207	4,441,100													CLOSED	9.
10. HAMILTON HOUSE	174	4,952,200													CLOSED	10.
*11. HEYWOOD TOWERS	187	8,177,400	4,900,000	14,700	\$ 2,414,600	\$ 7,244	\$120,730	\$228,300	\$12,073	7,456					CLOSED	11.
12. HIGHBRIDGE HOUSE	399	9,622,300	5,600,000	16,800	5,398,100	16,194	269,905	176,760	26,991	606					CLOSED	12.
*13. HUDSONVIEW TERRACE	395	17,843,800	9,460,000	28,380	5,872,900	17,187	293,645	360,700	29,365	11,193					CLOSED	13.
14. JANEL TOWERS	229	6,644,400	12,491,900	37,476	11,546,500	34,640				2,836					CLOSED	14.
*15. KEITH PLAZA	310	14,800,800	5,000,000	15,000	3,916,200	11,749	195,810	227,025	19,581	3,251					CLOSED	15.
*16. KELLY TOWERS	301	9,966,900	7,473,800	22,421	6,819,800	20,459				1,962					CLOSED	16.
17. KINGSBRIDGE APTS.	90	3,052,600	4,982,200	14,947	4,721,500	14,165				782					CLOSED	17.
18. LEADER HOUSE	279	8,929,200	2,000,000	6,000	2,000,000	6,000	100,000	70,500	10,000	0					CLOSED	18.
19. PARK LANE APTS.	352	7,863,000	7,863,000	23,589	5,672,000	17,016	283,600		28,360	6,573					CLOSED	19.
20. PHIPPS PLAZA EAST	104	5,168,900	2,400,000	7,200	2,167,900	6,504	108,396	143,925	10,840	696					CLOSED	20.
21. RIVERSIDE PARK COMMUNITY	1,190	51,445,000													CLOSED	21.
*22. SEAVIEW TOWERS	461	23,432,100	13,487,000	40,461	35,762,900	107,289				754					CLOSED	22.
23. STEVENSON COMMONS	948	40,679,000	36,014,000	108,043	3,043,700	9,131				1,653					CLOSED	23.
*24. STEVENSON TOWERS	121	3,708,300	3,594,500	10,784	2,298,400	6,895	114,920	96,000	11,492	8,851					CLOSED	24.
25. TANYA TOWERS	137	5,327,500	8,785,000	26,356	8,098,200	24,395				1,961					CLOSED	25.
*26. TIVOLI TOWERS	320	13,184,300	6,048,000	18,144	5,798,800	15,396	289,940	181,500	28,994	2,748					CLOSED	26.
*27. UNIVERSITY RIVERVIEW	226	8,540,700													CLOSED	27.
28. WESTWOOD HOUSE	123	3,245,000													CLOSED	28.
<b>TOTALS</b>		<b>\$350,137,000</b>	<b>\$166,902,000</b>	<b>\$500,509</b>	<b>\$129,821,500</b>	<b>\$387,135</b>	<b>\$2,903,946</b>	<b>(to be reviewed)</b>	<b>\$290,398</b>	<b>\$61,401*</b>						

\* Fee Credit Refund to Date:  
due from H.U.D.

# 223f REFINANCING PROGRAM PROGRESS REPORT

COMPLETED FAIR MARKET RENTALS

STATUS DATE JULY 7, 1977

PROJECT DESCRIPTION DATA				FINANCIAL DATA										
PROJECT NAME	UNITS	ORIGINAL MORTGAGE		MORTGAGE REQUESTED	APPLIC. FEE (3%)	MORTGAGE GRANTED	ACTUAL APPL. FEE	FEE REFUND	MPS	CONSULT'S.	REINSUR	OTHER	NET PROCEEDS	REMARKS
1. ALBERT EINSTEIN	634	\$21,393,100		8,879,400	26,638									
2. ALLERVILLE ARMS	212	3,501,728												
3. ATLANTIC PLAZA TOWERS	716	11,795,868												
4. BECKSMAD GARDENS	157													
5. BEEKMAN STAFF RESIDENCE	90	3,290,324												PROJECT DROPPED
6. BETHUNE TOWERS	133	2,523,000		1,216,000	3,648	1,088,200*	3,265	383*						
7. BLVD. TOWERS I	329	5,424,250		1,553,800	4,661	1,604,500*	4,814	-153*						
8. BRIDGEVIEW III	170	5,797,000		3,438,000	10,314									
9. BRUCKNER TOWERS	208	4,000,000		1,951,600	5,855	1,951,600	5,855	0						
10. CANDIA HOUSE	102	2,060,000												
11. CAROL GARDENS	314	6,075,000		4,592,200	13,776									
12. CLOVERLEAF TOWERS	238	3,993,700												
13. COLUMBUS HOUSE	248	6,185,000		3,589,500	10,796	3,108,000*	9,324*	1,472*						
14. COOPER GRAMERCY	168	6,754,300		4,338,600	13,016	4,766,100	14,298	-1,282						
15. COURT PLAZA	246	9,227,100		4,907,000	14,721	5,370,800	16,112	1,391						
16. DELOS HOUSE	124	2,341,000												
17. FORDHAM TOWERS	168	2,704,500		1,391,500	4,174	1,150,100	3,450	724	148,163					PROJECT DROPPED
18. GENERAL SEDGWICK	101													
19. HUGH GRANT GARDENS	136	2,455,000												
20. INDEPENDENCE HOUSE	120	1,810,731												
21. MIDDAGH ST. APTS.	43	1,508,700		930,600	2,792	895,200	2,686	106						
22. MONTEFIORE I	155	2,143,971												
23. MONTEFIORE II	398	14,805,000		8,879,400	26,638	7,662,400	22,987	3,651						
24. NEW AMSTERDAM	228	7,155,000		2,757,200	8,271									
25. NOBLE MANSION	236	4,500,000												
26. POLYCLINIC APTS.	139	22,465,000		2,193,800	6,581									
27. PROSPECT TOWERS	153	3,050,000												
28. RIVER PLAZA	153													
29. ROBERT FULTON	320	4,731,380		2,702,400	8,107	2,092,300*	6,277*	1,830*	287,133					PROJECT DROPPED
30. SKYVIEW TOWERS	232	5,062,000												
31. TOWER WEST	216	6,488,000												
32. TOWN HOUSE WEST	47	1,670,000												
33. TRACY TOWERS	906	40,736,000		12,164,900	36,494									
34. TRINITY HOUSE	199	4,355,000												
35. WEST SIDE MANOR	245	5,778,000		3,216,700	9,650	2,792,700*	8,378*	1,272*						
36. WESTVIEW APTS.	137	2,832,000		1,681,500	5,044	1,469,500	4,409	635						
<b>TOTALS</b>		<b>\$208,610,653</b>		<b>\$70,384,100</b>	<b>\$211,176</b>	<b>\$33,951,400</b>	<b>\$101,855</b>	<b>\$ 10,029</b>	<b>(to be reviewed)</b>					

\* Commitment will be revised amount subject to change





STATUS OF MITCHELL-LAMA REFINANCING

16 JUNE 1977

<u>Projects</u>	<u>Status</u>	<u>FHA Amount</u> (\$ million)	<u>Estimated Net Proceeds</u>
40	Submitted	210	172
of which 29	FHA Commitments Recvd	156	128
of which 4	Closed and Sold	12.8	11
and 5	Insurance Obtained, Awaiting Disposition	30.8	25
<hr/>			
	Potential Proceeds by Mortgage Sales from Insurance Already Obtained, by June 30, 1977		36
	FHA Commitments available for closing	112	92
<hr/>			
PROJECTION FOR PERIOD TO END OF JUNE			
12	Potentially Closable	85	70
of which 2	Certain: Mortgagor Agrees	9	7
	Possible	37-44	30-35
<hr/>			
<u>Potential by June 30</u>			
	Already insured	44	36
	To be insured	37-44	30-35
	Total	81-88	66-71

## Provisions of Refinancing Legislation

1. Clarifies definition of residual indebtedness so that such items as amounts paid by the City to meet Minimum Property Standards may be included.
2. Provides for disposition of arbitrage on a City or HDC bond issue.
3. Enables City to refinance mortgages without FHA insurance.
4. Provides opportunity for tenants to inspect the FHA application for 10 days prior to filing.
4. Prohibits raising of rents to increase ratio of surplus cash to total income in project and prohibits HDA from applying for rent increases to support the residual indebtedness.
6. Allows State to take over HDA's supervisory responsibilities.
7. Clarifies tax exemption provisions.
8. Redefines limitations on HDC's borrowing power to eliminate restrictions on participating mortgages and on financing of existing multiple dwellings.
9. Clarifies HDC's ability to issue bonds backed by insured mortgages, without a Capital Reserve Fund.
10. Revises Section 154 of the Local finance Law to provide for use of proceeds to pay RANS and TANS as well as BANS and to exclude payment of notes held by MAC and the banks; and to limit use of proceeds to notes presented for payment prior to January 1, 1978, after which proceeds can be used for any lawful municipal purpose.

Housing

AS OF APRIL 12, 1977

Number of Projects		Value of HDA Mortgages	Value of FHA Applications	FHA Applications as a % of HDA Mortgages
35	Submitted	325,102,000	199,337,000*	61.32 %
12	Commitments Received	131,585,000	89,242,100	67.82%
3	Closed (included in commitments rec'd)	15,384,100	6,880,900	44.73%

Note : Adjusted to reflect projects withdrawn at HUD's request.

\* Reduced to reflect actual FHA commitments, where available.

orig. M-L target 410  
 current est. -275  
 135 short  
 push into FY78 → +30  
 165 short

MAC 401  
268  
 133 long      missing (30+2)



SUMMARY OF EFCB APPROVALS REQUESTED

1. Blanket approval for sale of individual mortgages  
including
  - a. Amendment of HDC Financial Plan to accommodate the whole program of sales.
2. Blanket approval for advance closings using up to \$20 million of proceeds, including:
  - a. HDC Plan amendment.
  - b. Amendment to HDC-HDA City assignment agreement.
  - c. Payment of consultants from revolving fund.

DETAILED SCHEDULE OF CLOSINGS  
FISCAL 1977

Time Period	Project	Face Value	Insured Mortgage (\$ 000)	Costs*	Net Proceeds
To April 12	Hamilton	4,962	2,418	406	2,012
	Phipps	5,169	2,173	342	1,831
	Tanya	5,328	2,304	275	2,029
		<u>15,459</u>	<u>6,895</u>	<u>1,023</u>	<u>5,872</u>
April 15-30	Clinton	17,176	10,299	1,991	8,308
May 1-31	Highbridge	9,622	5,873	846	5,027
	Stevenson Towers Bay	3,708	3,044	329	2,715
	Heywood Broun	14,421	5,477	1,485	3,992
	Janel	8,177	5,398	748	4,650
	Stevenson Commons	6,644	3,916	608	3,308
	University Riverview	40,679	30,000	6,080	23,820
	Tivoli	8,541	5,799	938	4,861
		13,184	8,785	1,469	7,316
		<u>104,976</u>	<u>68,292</u>	<u>12,503</u>	<u>55,789</u>
	June 1-30	Boulevard II	14,409	7,459	1,248
Hudsonview Terrace		17,844	12,492	2,089	10,403
Keith		14,801	7,474	1,250	6,224
Kelly		9,967	4,982	833	4,149
Carol Gardens		6,075	4,592	768	3,824
Fordham		2,705	1,392	234	1,158
Noble Mansion		4,500	2,757	461	2,296
Robert Fulton		4,731	2,702	452	2,250
Tracy		40,736	12,165	2,034	10,131
Westview		2,832	1,682	281	1,401
	<u>118,600</u>	<u>57,697</u>	<u>9,650</u>	<u>48,047</u>	
By June 30		256,211	143,183	25,167	118,016

236  
with FHA  
Commit-  
ments

236  
pending  
FHA  
Commit-  
ments

Non-236  
pending  
FHA  
Commit-  
ments

\* Through University Riverview, based on analysis of individual projects; rest estimated at 17% of insured mortgage based on costs for six mortgages.

MITCHELL-LAMA REFINANCING  
ESTIMATES OF RECEIPTS, DISBURSEMENTS AND NET PROCEEDS  
TO RAISE \$410 MILLION FOR CITY FINANCIAL PLAN

	Total	FISCAL 1977	FISCAL 1978
	(\$ Million)		
Original Mortgage Less Amortization	927.00	208.00	719.00
FHA-Insured First Mortgage	553.00	125.00	428.00
Residual Indebtedness*	374.00	83.00	219.00
Gross Proceeds Assuming Sale of FHA			
Mortgages at Par	<u>553.00</u>	<u>125.00</u>	<u>428.00</u>
Disbursement of Proceeds			
a. Non-returnable Costs			
FHA application fee (.3%)	1.66	.38	1.28
1st Year Mortgage Insurance Premium (1%)	5.53	1.25	4.28
Financial Consultants	2.11	.63	1.48
Legal Consultants	.56	.18	.38
Additional Legal, Advert., Title	.45	.10	.35
Replacement Reserves	5.49	1.25	4.24
Escrow for FHA MPS	38.71	8.75	29.96
Final Mortgage Advances	<u>60.84</u>	<u>6.21</u>	<u>54.63</u>
Subtotal	115.35	18.75	96.60
b. Reimbursement Fund (5% of Insured Mortgages)	27.65	6.25	21.40
Total Disbursements	<u>143.00</u>	<u>25.00</u>	<u>118.00</u>
Net Proceeds to City	<u>410.00</u>	<u>100.00</u>	<u>310.00</u>

\* Expected to be higher than projected here, due to incorporation in residual indebtedness of mortgagors' interest arrears.

State legislation permits HDC to use a maximum of \$20 million in proceeds as a revolving fund to permit the creation and closing of FHA mortgages in advance of their actual sale. The revolving fund would be reimbursed from the proceeds of the actual sales so that the level of net proceeds available to the City at the conclusion of the refinancing program would not be affected.

REPORT OF RECEIPTS, DISBURSEMENTS, NET PROCEEDS OF MORTGAGE SALES\*

	Hamilton House	Phipps Plaza East	Tanya Towers	Total
Original Mortgage Less Amortization	4,880,536	5,152,034	5,309,215	15,341,785
FHA-Insured First Mortgage	2,414,600	2,167,900	2,298,400	6,880,900
Residual Indebtedness	<u>2,465,936</u>	<u>2,984,134</u>	<u>3,010,815</u>	<u>8,460,885</u>
Gross Proceeds	<u>2,417,667</u>	<u>2,173,363</u>	<u>2,303,962</u>	<u>6,894,992</u>
Disbursements				
a. Non-returnable Costs				
FHA application fee	7,244	6,604	6,895	20,643
1st year Mortgage Insurance Premium	24,146	21,679	22,984	68,809
Financial Consultant	12,073	10,840	11,492	34,405
Legal Consultant	9,000	9,000	14,172	32,172
Additional Legal, Advert., Title	4,518	4,251	8,753	17,522
Replacement Reserves	-	37,737	-	37,737
Escrow for FHA MPS	228,300	143,925	96,000	468,225
Final Mortgage Advances	-	-	-	-
Subtotal	285,281	233,936	160,296	679,513
b. Reimbursement Fund	120,730	108,395	114,920	344,045
Total Disbursements	406,011	342,331	275,216	1,023,558
Net Proceeds to City	<u>2,011,656</u>	<u>1,831,033</u>	<u>2,028,746</u>	<u>5,871,435</u>

\* Status as of April 12, 1977. Additional small adjustments are anticipated for a number of purposes, including substitution of debentures for 1st year MIP, allocation of general legal and advertising costs and crediting of purchaser's deposits on bids.

F 15: Mitchell-Lama

THE CITY OF NEW YORK      OFFICE OF THE MAYOR      ABRAHAM D. BEAME

Tel: 566-5090

42-77

For Immediate Release:  
Wednesday, February 2, 1977

Mayor Abraham D. Beame announced today that the City has sold six federally-insured Mitchell-Lama mortgages to the Unity Savings Association of Chicago, Illinois which had submitted the winning bid of \$22.5 million.

"This first sale in the City's efforts to refinance its Mitchell-Lama portfolio will improve the cash flow position," the Mayor said.

Housing and Development Administrator Thomas Appleby, who is also Chairman of the New York City Housing Development Corporation, said further sales were planned for the near future.

Unity Savings Association offered the following bids on the six mortgages:

	<u>County</u>	<u>FHA Insured Mortgage</u>	<u>Winning Bid (% of Insured Mortgage)</u>
Hamilton House	N.Y.	\$ 2,414,600	100.1270
Highbridge House	Bronx	5,872,900	99.7520
Stevenson Towers	Bronx	6,793,200	100.1350
Tanya Towers	N.Y.	2,167,900	100.2420
Park Lane	Bronx	3,043,700	99.6720
Phipps Plaza East	N.Y.	2,298,400	100.2520

The purchase price is equal to \$22,572,054.29 for the six FHA mortgages having a face amount of insured value of \$22,590,700. Nine bidders had submitted offers to the New York City Housing Development Corporation before the 10:00 A.M. February 1, 1977 deadline.

(more)

Tel: 566-5090

19-77

For Immediate Release:  
Monday, January 17, 1977

New York City will sell six Federally-insured Mitchell-Lama mortgages totalling \$22.6 million, through sealed bids on February 1, 1977, Mayor Abraham D. Beame announced today.

Describing the action as further evidence of New York's determination to achieve full fiscal integrity, the Mayor said, "This is the first step in a program to sell approximately 100 mortgages in the City's Mitchell-Lama portfolio to raise at least \$350 million included in the City's financial plan for Fiscal Year 1977."

The six mortgages cover Hamilton House, Tanya Towers and Henry Phipps Plaza East in Manhattan and on Park Lane, Highbridge House and Stevenson Towers in the Bronx.

Mayor Beame praised federal and state housing officials and New York City Housing and Development Administrator Thomas Appleby and his staff for their cooperative efforts in expediting the applications under the National Housing Act of 1974 which permits FHA to insure mortgages on existing projects.

The City has assigned its Mitchell-Lama mortgages to the New York City Housing Development Corporation of which Mr. Appleby is Chairman. After a split of the mortgages into insured first mortgages and non-insured second mortgages, the Corporation will sell the insured first mortgages in the secondary mortgage market. The second mortgages will be held by the City.

At present, the principal amount outstanding on the six Mitchell-Lama mortgages is \$36.5 million. Federal Government insurance will cover \$22.6 million and second mortgages will cover the balance. It is estimated the City will obtain net proceeds of \$18.5 million after all Federal requirements and expenses have been met.

(more)

<b>RECEIVED FOR ACTION</b>	FEB 1 1977	MUNICIPAL ASSISTANCE CORPORATION		A.M.	P.M.	MAIL	HAND
	EBA	_____	_____	_____	_____	_____	_____
	LSD	_____	_____	_____	_____	_____	_____
	NFF	_____	_____	_____	_____	_____	_____
	EGG	_____	_____	_____	_____	_____	_____
	EJK	_____	_____	_____	_____	_____	_____
	WJL	_____	_____	_____	_____	_____	_____
	FCR	_____	_____	_____	_____	_____	_____
	SJW	_____	_____	_____	_____	_____	_____

*Mitchell Lama*

REVENUE GENERATED BY REFINANCING CITY MITCHELL-LAMA PROJECTS UNDER SECTION 223(F) STATUS DATE: NOV. 26, 1976

Project Class	Original Mortgage	Acceptance	HUD		Gross Yield	Net Yield
			Commitment (\$)	HUD Commitment (\$)		
<b>A. COMPLETED CITY MITCHELL-LAMA PROJECTS</b>						
SECTION 236 Rentals	\$ 350,137,000	X	90	X	60	= \$189,073,980
Co-Ops	145,071,500	X	80	X	60	= 69,634,320
FAIR MARKET Rentals	223,291,444	X	90	X	40	= 80,384,920
Co-Ops	<u>300,841,294</u>	X	80	X	40	= <u>96,269,214</u>
TOTAL	\$1,019,341,243					\$435,362,434
REDUCED BY --						
FINAL DRAWDOWNS						\$ 35,000,000
223(F) FINANCING COSTS						<u>55,000,000</u>
						\$ 90,000,000
						\$ 345,362,434
<b>B. CITY MITCHELL-LAMA PROJECTS UNDER CONSTRUCTION</b>						
SECTION 236 Rentals	\$ 75,563,800	X	90	X	65	= \$ 44,204,823
Co-Ops	45,578,600	X	80	X	65	= 23,700,872
8 Rentals	<u>90,720,000</u>	X	100	X	65	= <u>58,968,000</u>
TOTAL	\$ 212,862,400					\$126,873,695
REDUCED BY --						
FINAL DRAWDOWNS						\$ 26,500,000
223(F) FINANCING COSTS						<u>13,500,000</u>
						\$ 40,000,000
						\$ 86,873,695
<b>TOTAL</b>						
						<u>\$ 432,236,129</u>

# 223f REFINANCING PROGRESS REPORT

COMPLETED 236 RENTALS

STATUS DATE NOV. 26, 1976

PROJECT NAME	UNITS	ORIGINAL MORTGAGE	PROCESSING STAGES TOWARDS REFINANCING APPROVAL										REMARKS				
			HOUSING SUPV MGMT DATA	AUDIT & FINANCE	CONSU TANT	HOUSING CO.	HUD	HUD	COMMITMENT	MORTGAGE CLOSING							
1. BAY TOWERS	374	\$14,429,666															
2. BEDFORD GARDENS	636	26,621,762															
3. BIRD TOWERS	354	14,439,062															
4. CLAYTON TOWERS	363	12,725,620															
5. COLLEGE AVENUE	202	5,639,035															
6. D.D.A.	216	5,251,302															
7. ESEK TERRACE	164	2,339,623															
8. GLEN GARDENS	262	12,216,966															
9. GOGGIN TERRACE	207	4,241,100															
10. HAW LICH HOUSE	114	4,967,200															
11. HEYWOOD TOWERS	187	3,174,600															
12. H. OBERDORF HOUSE	389	6,827,000															
13. HODGSON TERRACE	385	17,683,000															
14. JAVEL TOWERS	225	6,524,400															
15. KATE RUPP	316	4,300,800															
16. KELLY TOWERS	50	3,948,600															
17. KINGSBRIDGE APTS	50	3,172,500															
18. LEADER HOUSE	276	8,226,100															
19. PARK LANE APTS	102	7,600,000															
20. PARKSIDE PARK COMPLEX	1,133	51,346,000															
21. PARKSIDE PARK COMPLEX	1,133	51,346,000															
22. SEAVILLE TOWERS	461	23,432,100															
23. STEVENSON COMMONS	512	42,616,000															
24. STEVENSON TOWERS	121	3,726,500															
25. TAYLOR TOWERS	197	5,021,500															
26. THE OHLITZ TOWERS	326	13,164,000															
27. UNIVERSITY RIVERVIEW	228	6,430,700															
28. WESTWOOD HOUSE	193	3,246,000															
		\$350,127,600															

Pledged as Collateral for Bond Out

4 - Completed - After the Rental is Complete

1 - Final Bond Out

2 - Progress Payment Last Accounting Period



# 2234 REFINANCING PROGRESS REPORT

COMPLETED FAIR MARKET RENTALS

STATUS DATE: NOV. 26, 1976

PROJECT DESCRIPTION DATA

PROJECT NAME	UNITS	ORIGINAL MORTGAGE
1 ALBERT EINSTEIN	534	\$2,593,106
2 ALBERT EINSTEIN	212	3,111,728
3 ALBERT EINSTEIN PLAZA TOWERS	715	10,567,039
4 ALBERT EINSTEIN PLAZA TOWERS	157	2,403,000
5 ALBERT EINSTEIN STAFF RESIDENCE	96	5,250,000
6 ALBERT EINSTEIN TOWERS	133	2,577,000
7 ALBERT EINSTEIN TOWERS	329	5,427,200
8 ALBERT EINSTEIN II	173	5,353,000
9 ALBERT EINSTEIN TOWERS	266	4,016,000
10 ALBERT EINSTEIN TOWERS	192	2,526,000
11 ALBERT EINSTEIN TOWERS	311	6,316,000
12 ALBERT EINSTEIN TOWERS	208	3,557,200
13 ALBERT EINSTEIN TOWERS	248	6,181,000
14 ALBERT EINSTEIN TOWERS	148	6,314,000
15 ALBERT EINSTEIN TOWERS	246	9,227,100
16 ALBERT EINSTEIN TOWERS	127	2,547,000
17 ALBERT EINSTEIN TOWERS	214	5,150,000
18 ALBERT EINSTEIN TOWERS	158	2,724,500
19 ALBERT EINSTEIN TOWERS	191	2,727,000
20 ALBERT EINSTEIN TOWERS	112	1,507,281
21 ALBERT EINSTEIN TOWERS	133	2,453,000
22 ALBERT EINSTEIN TOWERS	120	1,817,000
23 ALBERT EINSTEIN TOWERS	43	1,156,000
24 ALBERT EINSTEIN TOWERS	145	2,113,571
25 ALBERT EINSTEIN TOWERS	398	12,557,000
26 ALBERT EINSTEIN TOWERS	218	7,155,000
27 ALBERT EINSTEIN TOWERS	239	4,146,000
28 ALBERT EINSTEIN TOWERS	139	2,408,000
29 ALBERT EINSTEIN TOWERS	163	3,549,000
30 ALBERT EINSTEIN TOWERS	163	2,815,000
31 ALBERT EINSTEIN TOWERS	320	4,531,386
32 ALBERT EINSTEIN TOWERS	232	5,117,505
33 ALBERT EINSTEIN TOWERS	216	6,458,100
34 ALBERT EINSTEIN TOWERS	47	5,501,000
35 ALBERT EINSTEIN TOWERS	908	12,557,000
36 ALBERT EINSTEIN TOWERS	159	4,156,000
37 ALBERT EINSTEIN TOWERS	245	5,712,000
38 ALBERT EINSTEIN TOWERS	137	2,817,000

PROCESSING STAGES TOWARDS REFINANCING APPROVAL

HOUSING SUPPLY	ACQUIT & FINANCE	CONSULTANT	HOUSING CO.	HUD	HUD	MORTGAGE CLOSING	REMARKS
10-15	11-1	12-1	10-21	1-15			Project Approved
10-15	11-30	10-12	11-3				
9-2	10-28	11-9	10-19				
		9-28	11-4				
		9-28	11-4				
		9-20	11-12				
		11-9	10-21				
		10-29	9-20				
		9-20	11-4				
		11-9	10-21				
		10-29	9-20				
		9-20	10-28				
		9-28	10-13				
		9-28	11-15				
		11-15	9-22				
		10-20	10-20				
		9-22	11-8				
		11-3	11-3				
		11-3	11-3				
		9-21	11-18				

Legend: A = Cap. No. Target, See Remarks; B = Entered Out; C = Program Point Last Reporting Period

# 223f REFINANCING PROGRESS REPORT

COMPLETED FAIR MARKET CO-OPS

STATUS DATE NOV. 26, 1976

PROJECT DESCRIPTION DATA				PROCESSING STAGES TOWARDS REFINANCING APPROVAL						
PROJECT NAME	UNITS	ORIGINAL WORKSPACE	HOUSING SUPV.	AUDIT & FINANCE	CONSULTANT	HOUSING CO.	HUD SUBMISSION	HUD COMMITMENT	WORKSPACE CLOSING	REMARKS
			MGMT DATA	FINCL PROJ	MTG. INS APPL.	APPL. APPROVAL				
01 BERGSON HOUSE	18	\$ 1,220,000								
02 GOMAN PLAZA NO.	250	5,145,200								
03 GOMAN TOWER	428	20,000,000								
04 COLMAN STREET PARK	101	3,411,600								
05 CENTRELOFT APARTMENTS	120	3,000,000								
06 DEER LANE GARAGES	113	2,294,000								
07 DEER LANE TOWERS	1192	31,580,000								
08 EAST MIDTOWN PLAZA	146	28,910,400								
09 EASTMAN GARAGES	1870	34,411,000								
10 FORT PARK OFFICE BLDG	240	4,080,000								
11 FRANKLIN PLAZA	1832	28,459,000								
12 GORDON RIVERIDGE	190	4,071,000								
13 GOVERNOR CARROLLS	778	14,425,000								
14 GREENWICH TOWERS	189	9,170,000								
15 KINGSBURG TERRACE	106	2,240,000								
16 LEWISTOWN	49	271,000								
17 LACVILLE	142	2,130,000								
18 WASHINGTON TOWERS	1195	25,138,000								
19 RIVEREND	622	13,440,000								
20 SUN HOUSE	207	4,251,000								
21 FOSTER WALKING	106	2,520,000								
22 SAVANNAH	146	2,810,000								
23 SOCIETY TOWERS	361	6,992,000								
24 WASHINGTON PARK NORTH	49	221,000								
25 ST MARTINS	119	5,215,000								
26 FORT GREENWAY	233	4,240,000								
27 LEWIS	125	2,500,000								
28 LEWIS	147	3,711,000								
29 WALLAGE FACTORY TOWERS	421	8,891,000								
30 WALLACE WALKING	1232	20,114,000								
31 MASSIMO TOWERS S.E.	174	4,150,000								
32 WOODSTOCK TERRACE	315	5,420,000								
		\$300,841,294								

4 - Can Not Target See Remarks  F - Filled Out  P - Project Out Last Report ng Status



# 2231 REFINANCING PROGRESS REPORT

COMPLETED 238 RENTALS

STATUS DATE NOV. 26, 1978

PROJECT DESCRIPTION DATA				FINANCIAL DATA									
PROJECT NAME	DAYS	ORIGINAL COST DATA	MCRTGAGE RECONSTRUCTED	APPLIC. FEE (\$)	MORTGAGE OBTAINED	ACTUAL APPLIC. FEE	REPAIRS	MIS.	CONSULTS	LEGAL	OTHER	NET PROCEEDS	REMARKS
1. BAY TOWERS	371	\$1,471,136	\$1,560,000	10,784	2,394,000	7,092K							
2. GEORGE WASHINGTON	608	79,231,141											
3. BAY TOWERS	354	12,724,000	7,026,000	22,890									
4. BAY TOWERS	386	7,738,860	10,840,000	52,460									
5. BAY TOWERS	202	5,666,000											
6. BAY TOWERS	216	6,040,000											
7. BAY TOWERS	102	21,877,000											
8. BAY TOWERS	745	127,810,000											
9. BAY TOWERS	267	24,511,000											
10. BAY TOWERS	72	48,824,000											
11. BAY TOWERS	70	5,170,000	4,600,000	16,700	2,474,800	5,724K							
12. BAY TOWERS	388	5,497,000	6,600,000	10,600									
13. BAY TOWERS	398	7,025,000	6,400,000	28,380	6,872,900	17,187K							
14. BAY TOWERS	228	6,444,000											
15. BAY TOWERS	170	4,880,000	5,000,000	15,000									
16. BAY TOWERS	36	3,887,000											
17. BAY TOWERS	50	3,679,000											
18. BAY TOWERS	375	8,572,000											
19. BAY TOWERS	422	7,893,000	7,863,000	23,160									
20. BAY TOWERS	104	5,109,000	2,408,000	7,200									
21. BAY TOWERS	1180	61,244,000											
22. BAY TOWERS	761	33,497,000											
23. BAY TOWERS	589	40,789,000											
24. BAY TOWERS	721	3,708,000	3,524,500	10,784	2,394,000	7,092K							
25. BAY TOWERS	307	5,474,000	6,315,200	15,746	2,298,500	6,853K							
26. BAY TOWERS	320	5,847,000											
27. BAY TOWERS	278	8,526,000											
28. BAY TOWERS	123	2,742,000											
				\$1,249,500									
				*NOT A PART OF THE FINANCING									

Approved On: 11/26/78 By: [Signature] Date: 11/26/78

1.2  
\$641.4

58  
65% -  
average -

236

Office of the Mayor  
Office of the Comptroller

650

Mitchell-Lama Refinancing  
September 15, 1976

September 15, 1976

QUESTIONS AND ANSWERS CONCERNING REFINANCING  
NEW YORK CITY'S MITCHELL-LAMA PORTFOLIO

The outright sale or refinancing of a substantial portion of New York City's Mitchell-Lama mortgage portfolio has been under consideration since October of 1975. The City is about to embark on an intensive effort to convert this capital asset into much needed cash for the City.

This memorandum describes the process, utilizing a question and answer format.

## Refinancing

Question - 1) What is the proposal for the refinancing of the New York City's Mitchell-Lama Portfolio?

Answer - 1) It is proposed that the City's Mitchell-Lama portfolio be refinanced pursuant to Section 223(f) of the National Housing Act as amended. The City's original plan, i.e. to sell its existing mortgages without in any way altering outstanding terms and conditions, was modified when it became clear that because of the availability of this Federal statute, refinancing, i.e. altering the terms and conditions, of these existing mortgages would prove a more successful vehicle for generating funds from the Mitchell-Lama portfolio.

223(f) was first established by the Housing and Community Development Act of 1974, and provides for Federal Housing Administration (FHA) mortgage insurance for the purchase or refinancing of an existing multi-family housing project. It is a departure from FHA's traditional role of providing mortgage insurance only on housing projects that were either newly constructed or extensively rehabilitated.

223(f) was created to deal with a particular problem, the lack of long term private capital for refinancing of outstanding debt, and was not designed to substitute long-term Federal government mortgage insurance for temporarily financed State and local mortgages. However, the State and City administrations

-2-

have successfully petitioned the Federal Government to expand its original scope. The New York State Housing Finance Agency (HFA) has already refinanced four of its Mitchell-Lama projects that were not permanently financed. Once FHA agrees to refinance an existing mortgage and issues a mortgage commitment, that commitment will be convertible to funds for the City. (See questions 6 and 7 for actual procedure)

Question - 2) How does this proposal fit into the City's three-year Financial Plan?

Answer - 2) New York City's three-year Financial Plan requires a balanced budget by the end of fiscal year 1978 and accepts budget deficits for both fiscal years 1976 and 1977. However, cash sources must be found to provide financing to meet these deficits.

Investment by the pension funds is one source of cash. In addition, the City's overall cash flow plan for this year assumes a \$350 million yield from the refinancing of the Mitchell-Lama portfolio. The Plan assumes that this cash will accrue to the City in the following manner, \$50 million in March of 1977 and \$100 million in each of April, May and June. However, the City is working to achieve the refinancing as soon as possible.



Question - 3) Does the proposal conform to any official sanction or authorization?

Answer - 3) Yes, the State legislature has passed legislation permitting both the State Housing Finance Agency and the City of New York to refinance existing mortgages entered into pursuant to Article II of the Private Housing Finance Law (Mitchell-Lama Law). This State legislation is contained in Chapters 341, 343, 499, 701, 711 and 713 of the laws of 1976. The basic legislative authority permits the City of New York, acting through its supervising agency, The Housing and Development Administration (HDA), to modify the terms of or to satisfy outstanding mortgages for the express purpose of obtaining mortgage insurance from the Federal government in order to refinance all or any part of these outstanding mortgages. Any modification or satisfaction must receive the consent of the housing company. The State legislation also permits the City to accept, in consideration for satisfaction of the outstanding mortgage, a new mortgage insured by the Federal government or the proceeds available to the housing company as a result of the refinancing.

Question - 4) Which City Mitchell-Lama Projects will be refinanced?

Answer - 4) Realizing \$350 million to aid the City's cash flow requires the refinancing of a substantial portion of the

-4-

Mitchell-Lamas which have not been placed in permanent bonded financing. Of the total number, 150, of City Mitchell-Lama projects, 76% or 114 are in temporary financing with mortgages whose face value is just about \$1 billion. Following the model set by the State Housing Financing Agency in its successful refinancing of four developments, the first projects which will be offered for refinancing will be rental developments whose mortgage interest rate has been reduced to one per cent by HUD pursuant to Section 236(b) of the National Housing Act. Thereafter, application will be made to FHA for the rental projects which have no Section 236 subsidy. The refinancing of cooperative developments will also follow, as FHA has indicated that its regulations will be expanded to include such developments. Two major factors must be noted that will affect the total number of housing projects which will receive mortgage insurance. First, to apply for refinancing, the City must obtain the consent of each owner, and second, FHA will make the final determination as to the acceptability of the projects offered for refinancing.

Question - 5) What effect will the refinancing have on the projects and the residents?

Answer - 5) There will be no increased rentals directly attributable to the costs associated with the refinancing; all of these costs will be met by the City (See questions 6 and 8.) Prior

to refinancing, normal rent increase procedures will continue in effect. When a mortgage is refinanced, the effect upon the Project and its residents will not be discernible. The existing housing company will not be dissolved and will continue to own the project. Further, the State legislation specifically precludes any housing company from accepting a new mortgage insured by the Federal government that assumes costs over and above the costs otherwise associated with its current Mitchell-Lama status.

Two advantages to the residents of these developments do become apparent as a result of the refinancing. First, each refinanced housing company will automatically receive the maximum tax exemption available under the Private Housing Finance Law for the life of its outstanding indebtedness. Second, the interest rate on the mortgage will be permanently established for the life of the mortgage. Over the past several years, typical interest rates for housing companies in temporary financing have increased from 6% to 8%. This increased capital cost has been passed along to the tenants in the form of increased rentals or been absorbed by the City. Stabilization of interest rate will remove one variable factor from the fiscal uncertainties surrounding this type of residential real estate.

All projects that are refinanced remain under the supervision of HDA. However, a new rent increase procedure is

instituted for those housing companies that are rental developments. A resident of such a project will be able to enter into a lease for a term as long as three years, at a fixed rental. The amount of the rent will depend on the length of the lease: one, two or three years. Once a lease has been signed the rent may not be varied during its term, except that the lease must give the Federal government the right to vary rental rates during its term. It is anticipated that this power will not be exercised by FHA unless the project is in severe financial difficulty. In fact, FHA's own regulations provide for a host of tenant notice and other tenant protection procedures whenever a rent increase is implemented. The Merola Law, which limits City-financed Mitchell-Lama developments to one increase every two years, is inapplicable to any development that is refinanced. Inasmuch as the housing company remains under the jurisdiction of the Private Housing Finance Law, the senior citizens' rent increase exemption program continues in effect.

Question - 6) How does the Federal government determine the principal amount of mortgage it will insure for a given project?

Answer - 6) Acting through the FHA, the Federal government determines the maximum insurable mortgage on the basis of a complete evaluation of the economic strength of the project. FHA's underwriting standards are expected to result in insurable mortgages that will be significantly smaller than the amount of housing company debt currently due and owing to the City. This difference

*1/10/45*

comes about as a result of FHA's comparison of the project's cash flow to FHA's required interest rate, mortgage term, allowances for vacancy and collection losses and funding of reserves. Many of these requirements differ from those that have governed the existing Mitchell-Lama mortgage. When FHA has determined the maximum insurable mortgage, it will issue a commitment to the City of New York or its agent (See question 7) for that amount. To accelerate insurance processing by the State and City, FHA created a special task force. This task force has been working on applications filed by the State Housing Finance Agency and has already indicated its readiness to accept applications for City financed developments.

Question - 7) How will the City turn these mortgage commitments into funds?

Answer - 7) Once an FHA commitment is issued, the City may convert it into funds in two ways. It may either 1) sell the FHA insured mortgages individually or 2) sell obligations secured by a pool of FHA-insured mortgages. The first option has been pursued by the State HFA. Thus far, HFA has found purchasers from among a consortium of traditional mortgage lenders, has sold all mortgages individually and has marketed its mortgages at about a 4% discount from the insured mortgage amount. Under the second option, the City, probably acting through the Housing Development Corporation (HDC), might pool several mortgages to issue bonds in sufficient

bulk to create interest in the municipal bond market. This option is being considered because the bond market may be receptive to a tax exempt Federally insured housing obligation and this option may be less costly to the City. The primary consideration in choosing between these options is maximizing the net proceeds to the City. The Comptroller will be actively involved in evaluating these alternatives. No mortgage may be sold by the City without the Comptroller's approval of the terms and conditions of such sale. In either option, it is expected that the City's agent for the transaction would be HDC. The reasons are two-fold. First, HDC, unlike the City, is already an approved FHA mortgagee. Second, even in the face of the City's fiscal predicament, HDC has shown itself able to remain solvent and has refinanced all of its short-term indebtedness. The State legislature has already granted HDC the power to refinance any of New York City's outstanding mortgages, to incur any costs associated with the refinancing, to dispose of any of the new mortgages, and to return any proceeds and the second mortgages to the City. If HDC sells bonds it will become the first mortgagee for the new FHA-insured mortgages.

Question - 8) What costs will the City incur?

Answer - 8) The City or its agent will be required to make certain

expenditures or to provide for escrow accounts to meet FHA conditions set forth in the issuance of a mortgage commitment. These expenditures will be made from the proceeds of the refinanced mortgages. Therefore, the mortgages will not yield to the City an amount equal to the maximum insurable FHA mortgage. Seven kinds of costs are foreseen. They are:

1) Application fees - FHA requires a fee of \$3 per thousand dollars of mortgage amount requested. This will be paid at the filing of the application.

2) Co-insurance of the Federal Government - FHA, by regulation, may require co-insurance of its risks by the mortgagee. The maximum exposure of the City will be 50 per cent of a project's mortgage but, in no event, more than 5 per cent of the insured portfolio's total value. Both the City and State have negotiated this co-insurance provision in exchange for several substantial favorable modifications of 223(f) regulations, i.e. In return, FHA agreed to raise the maximum insurable mortgage from 85 to 90% of FHA value, to lengthen the maximum mortgage term from 35 to 40 years, and to permit cash redemption upon foreclosure as opposed to redemption through debentures.

3) Costs of Marketing FHA Mortgage Commitments - In the event the City decides to sell these mortgages individually to private investors there may be a discount of the mortgage amount by the market (See question 7). The alternative, bond sales, may impose certain underwriting costs.

4) Escrow Accounts for Increased Costs - The City may put up an escrow account to guarantee FHA that increased expenses will be met by increased cash flow.

5) Repair Costs - The City may be required to repair certain problem areas in a development.

6) Costs of Meeting Fire Safety Standards Required By FHA Minimum Property Standards - FHA may require and the City would have to install either speinklers or smoke detection systems in some developments.

7) Closing Costs - Standard closing costs and consultant fees.

Question - 9) What happens to the difference between the outstanding City debt and the lower debt insured by FHA?

*Residual Indebtedness*

Answer - 9) The housing company still owes this amount to the City. The legislation terms it "residual indebtedness" and requires that the City take back a debt instrument that evidences it. Residual indebtedness is defined to be the unpaid principal balance due on the original mortgage loan plus all accrued interest less the maximum insurable FHA mortgage. For example:

Unpaid principal balance (outstanding debt)	\$100
Accrued interest (debt service arrears)	<u>10</u>
Total	\$110
Less Maximum Insurable Mortgage (FHA first mortgage)	<u>\$ 80</u>
Residual Indebtedness (City second mortgage)	\$ 30

The statute provides that the term of this second mortgage cannot



-11-

exceed the term of the Federally insured loan plus ten years. However, it does not have to run concurrently with the FHA mortgage. In no event can it expire more than 15 years after the Federally insured loan has been satisfied.

Question - 10) What is the role of the consultants?

Answer - 10) Throughout the time during which the refinancing proposal was being developed, both the City and State have been utilizing the help of consultants. To date, the costs of the consultants have been totally funded by the State. There are two groups of consultants. First, the Urban Real Estate Finance Corporation will provide the following major services:

1. Aid in the preparation of the applications that are to be filed with FHA and negotiate the amount of the commitment FHA will issue.
2. Assist, consult with and develop for the City a marketing plan for the insured mortgages by way of a bond issue or direct sale.

Its fee is on a contingent basis and payable only after a mortgage closing. The agreement between it and HDC will provide for a sliding scale based on the volume of mortgage commitments actually closed: 0.5% (one half of one per cent) of the first \$150 million, 0.4% (four tenths of one per cent) for the second \$150 million and 0.3% (three tenths of one per cent) for anything over \$300 million.

It is a cumulative contract with that of the State and therefore, the City will benefit from the lower portion of the fee schedule. This consultant was chosen after the State and City interviewed several potential firms. Through its efforts for the State, the consultant has established an excellent relationship with the FHA task force and is able to provide the City with the experience necessary to process expeditiously.

The second group of consultants is Brownstein, Zeidman, Schomer and Chase, a Washington-based law firm that has previously been used by the City for other housing purposes and that is currently being used by the State for legal services for its refinancing. Mr. Brownstein is a former FHA Commissioner/Assistant Secretary of HUD. Among the services it will provide are:

1. Supervising and coordinating all legal aspects of the FHA insurance transaction.
2. Working with the City, HUD and mortgagors in order to expedite mortgage loan closings.
3. Replacing original mortgages with refinanced mortgages and creating the residual indebtedness mortgages.
4. Drafting the co-insurance agreement with FHA.

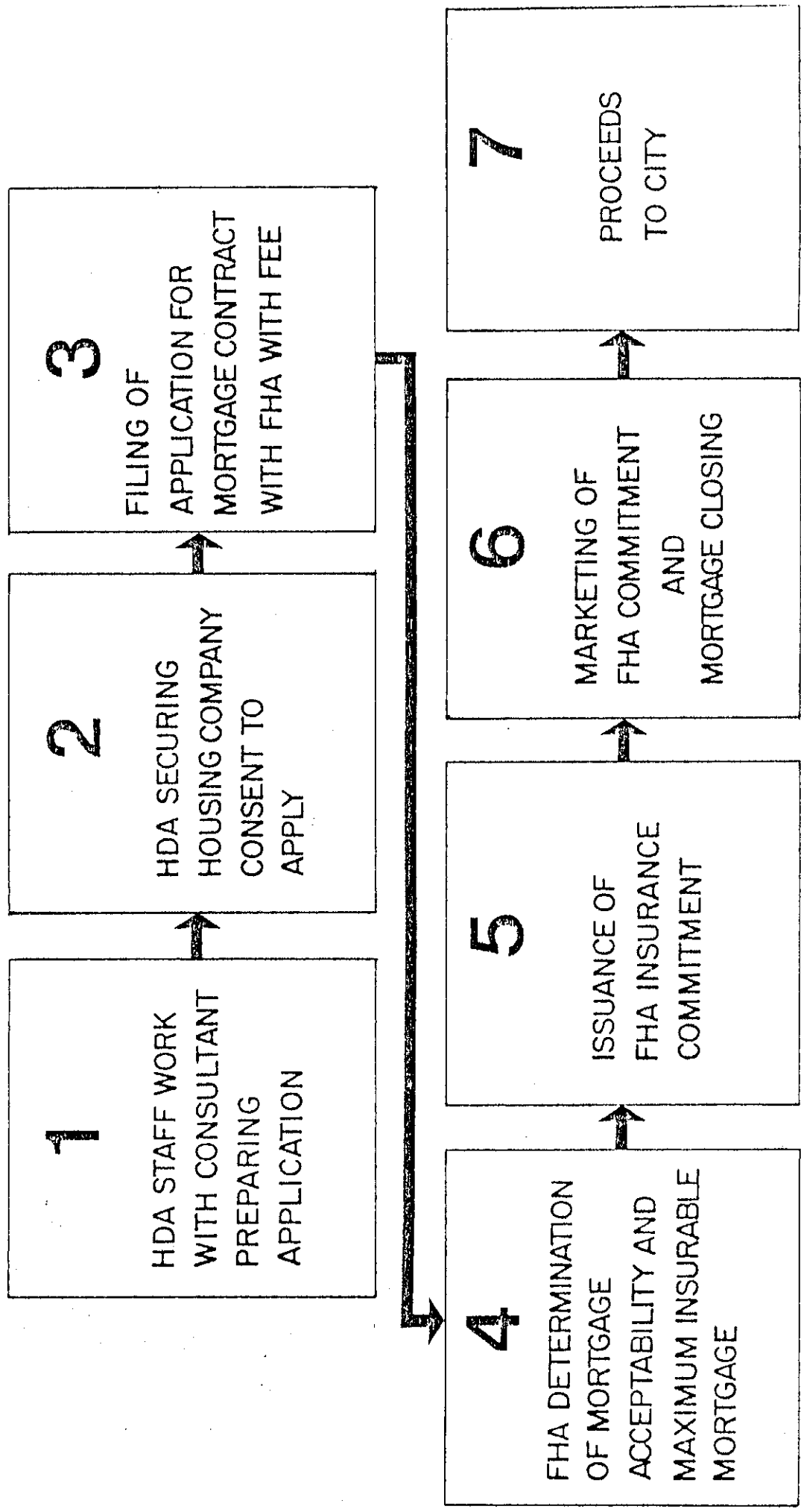
The bulk of the legal fee is earned at a mortgage closing; \$9,000 per loan for the first 15 loans, \$7,000 for the next 20 and \$5,000 per loan for the remainder, plus out of pocket expenses up to a maximum of \$7,500. However, if no closings take place the fee will be up to \$15,000, for out of pocket expenses and hourly charges at regular billing rates.

Question - 11) What steps are to be taken?

Answer - 11) The steps that will be taken in the very near future are:

1. Signing of the co-insurance agreement between FHA and HDC.
2. Letting of the consultant contract between Urban Real Estate Finance Corporation and HDC.
3. Letting of the consultant contract between Brownstein, Zeidman, Schomer and Chase and HDC.
4. Securing the approval of the first set of housing companies to their refinancing.
5. Filing of applications with fee for the first projects to be refinanced (HUD has agreed to accept applications prior to the signing of the co-insurance agreement.)

# MAJOR STEPS IN REFINANCING PROCESS





STATE OF NEW YORK  
DEPARTMENT OF AUDIT AND CONTROL ✓  
270 BROADWAY, NEW YORK CITY

ARTHUR LEVITT  
STATE COMPTROLLER

July 26, 1976

IN REPLYING REFER TO

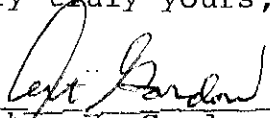
Mr. Herbert Elish  
Executive Director  
Municipal Assistance Corporation  
2 World Trade Center - Room 4540  
New York, New York 10047

Dear Mr. Elish

In accordance with our conversation of last week, enclosed please find the proposed managerial summary on our draft audit report dealing with Debt Service Arrearages Under New York City's Mitchell/Lama Program.

The draft report itself has been furnished to the City with a request for formal comments. Upon receipt of these comments, we will finalize the audit report. In view of the interim status of the audit, I would appreciate if you do not disseminate this data. If you are interested in the draft report itself, which contains the details, this can be made available.

Very truly yours,

  
Arthur N. Gordon, Director  
Metropolitan Area Office

td  
Enc.

PROPOSED  
MANAGERIAL SUMMARY

Background

The Department of Development is the component of the New York City Housing and Development Administration (HDA) responsible for supervising the operations of housing companies established under the City's Limited Profit Housing Program (Mitchell-Lama).

The program was designed to encourage private enterprise to provide housing, at reasonable rents, for middle income families in an effort to retain them in the City. This was to be accomplished by providing real estate tax abatements and mortgage loans of up to 95 percent of the project costs at low interest rates.

The law intended the program to be self-liquidating. The City obtained funds for the mortgage loans from the sale of bonds and Bond Anticipation Notes. Financing is subject to the New York State Local Finance Law, Article 2, Section 150, which imposes a housing debt limitation of 2 percent of the City's average assessed real estate valuation; and Article 2, Section 104 which imposes a 10 percent debt limitation of the City's average full real estate valuation, for the City capital expenditures. To the extent housing debt is supported by mortgage loans to solvent projects the law permits their debt to be excluded from the debt limits.

Our audit report issued in 1974 (NYC-8-74) pointed out the numerous financial problems in the program. The report indicated that HDA did not effectively supervise and control the affairs of the housing companies. We have since recommended that this program be accounted for as a separate enterprise fund under the revised accounting system being promulgated for New York City. This will permit a ready matching of program revenues and expenses and the preparation of financial statements showing program assets and liabilities.

#### Major Observations and Conclusions

By June 30, 1975, 90 of the 125 housing companies then operating were \$35 million in arrears to the City for debt service and fees. The arrears had been increasing since 1968. Seventy-seven of these companies were in arrears for more than one month. The arrearage increased sharply during fiscal year 1976, totalling \$40 million by September 30, 1975 and \$51 million as of May 1976. The September arrears equaled 53 percent of the annual billings.

This steadily worsening situation threatens to collapse the self-sustaining aspects of the Mitchell-Lama program. This in turn will impose the full burden of the bond obligations upon the city, already in deep financial crisis. This has occurred to a significant extent already; during the first eleven months of fiscal 1975-76 the city paid \$92 million in debt service on the bonds and interest on bond anticipation notes (BANS) but received only \$69 million in mortgage payments. In the two

previous fiscal years bond payments plus interest on BANS were \$94 million, mortgage payments only \$73 million. The City's payments did not include redemption of the BANS which were rolled over in the amount of \$925 million during fiscal 1973-74 and \$800 million in 1974-75. In 1975-76 the BANS were included in the three year moratorium on the city's short term notes in the amount of \$616 million exclusive of \$485 million held by New York State and the Municipal Assistance Corporation.

Factors contributing to the debt service arrearages were these:

. Many of the housing companies have permitted serious rent delinquency. About \$4.15 million in rent was overdue in September 1975; by November 1975 rent arrears exceeded \$4.6 million. As of September 30, 1975, a total of 7,409 (14.7 percent) of 50,337 tenants were behind in their rent. Almost 1,000 of this number were four or more months past due.

HDA did not promulgate a policy on rent arrearages. As a result housing companies policies varied; some waited until a tenant was two or more months in arrears before taking any action while one company in our sample did not try to evict anyone in arrears.

Delinquency was not uncommon even among members of Boards of Directors of cooperative housing companies. Thirty-two of 83 directors in 10 co-ops included in our sample were in arrears in their rent.



The consequences of housing company inaction on rent delinquency was sharply illustrated at one cooperative where two tenants were permitted to accumulate combined arrears of \$5,200 above their equities. Both moved out and despite the previous non-payment and other problems in their credit standing, were admitted into another Mitchell-Lama project. Predictably, they were \$1,200 in arrears at their new locations.

. A more aggressive HDA policy was needed concerning housing company investments. Two of the companies in our sample had invested funds which could have been used to reduce debt service arrears. An HDA requirement for submission of a "Cash and Investments" report was frequently ignored; fewer than half of our sample companies had submitted it.

. But the main cause of debt service arrears was the fact that the revenues of delinquent housing companies failed to cover their debt service, operating expenses and reserve fund requirements. Cooperative housing companies were particularly reluctant to request rent increases. (One company petitioned for a rent decrease even though its debt service arrears at the time was \$4 million). Increases ordered by HDA were often insufficient to meet financial requirements. Of eleven companies in our sample that received increases in fiscal 1975, nine still had costs exceeding income after the increases. This policy can only further erode the poor financial conditions of companies.

Another factor in some cases was the infrequency of rent increases in the past although it was evident that revenues were insufficient. The Merola law limits the issuance of rent orders which impose rent increases to once every two years. In some cases we found that HDA waited more than two years to issue the order despite an urgent need for the increase.

To stay within the intent of the self-sustaining objectives of the Mitchell-Lama law it appears that HDA has no choice other than to order rent increases which will provide sufficient revenues to insure proper mortgage payments and reserve fund requirements provided that the apartments can be rented at the increased level to tenants who qualify.

We suggested that HDA's long range planning include scheduled rent increases which will enable the housing companies to reduce their debt service arrears over the shortest possible period. These plans and schedules should be carefully reviewed with the housing companies so that the need for the increases is demonstrated and understood. Thorough review of tenants' income levels is also a necessary adjunct of rent order planning so that tenants' ability to pay rent increases and their eligibility for Federal subsidies where appropriate can be clearly established.

Neither the housing companies nor HDA have sufficiently implemented utility increases for higher costs of gas, electricity and fuel which may be passed along to tenants without Merola

law restrictions. HDA's policy of not concurrently imposing both a rent increase and a utility pass-along, where such action is appropriate, obviates the purpose of the pass-along. Strengthening of procedures could also increase other revenues such as parking fees, air conditioner and dishwasher assessments and laundry concession commissions.

In its efforts to reduce debt service arrears HDA has reached agreements with housing companies whereby some who were making no payments started to and others increased their payments. However, since in most cases payments will still be much lower than the total monthly billings the arrears will continue to mount.

DRAFT REPORT ISSUED:  
July 19, 1976

*Office of the State Comptroller  
Division of Audits and Accounts*