

# TAKEROOT JUSTICE

## Testimony to the New York State Assembly on A11149:

### *The New York City Housing Authority's (NYCHA's) Blueprint for Change proposal to help streamline operations and address its capital needs*

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My name is Paula Segal. I am speaking today as Senior Attorney in the Equitable Neighborhoods practice of TakeRoot Justice. TakeRoot works with grassroots groups, neighborhood organizations and community coalitions to help make sure that people of color, immigrants, and other low-income residents who have built our city are not pushed out in the name of “progress.” We work together with our partners and clients to ensure that residents in historically under-resourced areas have stable housing they can afford, places where they can connect and organize, jobs to make a good living, and other opportunities that allow people to thrive.

Thank you so much for inviting our testimony today on the bill before the Assembly to create a new “Preservation Trust” for taking over properties currently owned by the New York City Housing Authority (NYCHA).

We have serious concerns about the road this bill has traveled to come before you today. These sentiments are shared by our clients and partners, who are and work closely with NYCHA residents. The context, i.e. COVID-19, in which this transformation of public housing is being proposed directly inhibits inclusive public participation. Simply put, the specific rights and powers proposed for the new “Trust,” are not acceptable to the coalition of residents and allies rallying against this bill’s passage, and no changes of this nature are acceptable during a pandemic.

#### Lack of Resident Engagement and Required Federal Approval

First, the obvious: the *Blueprint* arrives in the middle of a pandemic. It is being rushed through without adequate engagement with and consent from NYCHA residents, whose homes are at risk, during a time of national emergency. It is unconscionable to push for massive changes to NYCHA while the COVID-19 pandemic prevents full resident participation in the process. The consent of NYCHA residents is absolutely necessary for this sweeping change to public housing in NYC. But not all NYCHA residents are able to attend virtual engagement sessions, and even those that are able to join the session cannot participate fully in the public decision-making process that the engagement sessions are supposed to embody. In addition, with the second wave of increasing COVID rates putting many more NYCHA residents at risk and out of work, pressing financial and health concerns will prevent residents from giving the time and attention necessary to evaluate the Trust proposal. Any process that NYCHA uses for resident feedback and approval during the pandemic will exclude some residents and confuse others and cannot be considered a means for true engagement. These changes will have impacts for decades to come. Cramming the planning process into a few months, especially during a global emergency, is unacceptable.

Second, the *Blueprint* arrives as NYCHA is expanding the pipeline of properties to be transferred to private management through the *Rental Assistance Demonstration* program. NYCHA's Draft FY21 Annual Plan includes twenty campuses that are newly slated for transfer to private management and conversion to Section 8. These are sweeping changes targeted at thousands of residents who are being asked to respond to specific plans for their specific campuses, while NYCHA is also purporting to invite their input on the *Blueprint*. This is a situation that can only lead to confusion.

Further, NYCHA seems intent on dividing its residents: some to become tenants of private management like Wavecrest, and others headed to the Trust. The overlapping timing of the programs makes meaningful engagement with residents impossible, even if the pandemic context allowed it.

Finally, NYCHA has not yet produced a final annual plan, approved by the US Department of Housing and Urban Development (HUD), that includes the Trust and *Blueprint*. Both appear for the first time in NYCHA's Draft FY21 Annual Plan, which has its public hearing scheduled for today. NYCHA has not finished gathering feedback on the concept of the *Blueprint*, has not sent that concept to HUD, and has not had its plans approved. The legislation before the Assembly today, drafted to create the instrument to carry out this plan, is therefore premature. By creating the Trust before NYCHA has implemented any of its proposed protective measures for residents, the legislature would be giving NYCHA carte blanche to enact the *Blueprint* without delivering on its promises to residents.

These are more than sufficient reasons for the Assembly to kill A11149, and any other bill that attempts to push forward NYCHA's plans under cover of a national emergency. In addition, there are several flaws in the bill that make it unacceptable.

### The Powers of the Trust Must be Limited

As drafted, the bill gives the Trust the authority to borrow and loan funds and allows almost unlimited authority for the Trust to use NYCHA properties as collateral for debt. Any plan for the future of NYCHA must restrict such use of public housing properties. Further, the Trust must not be given free rein to financialize the homes of NYCHA residents. Using federal funding as collateral for private loans is similarly gambling with NYCHA resident tenants' homes, however the financing is structured. Allowing private financiers into public housing will put pressure on NYCHA to raise rents, increase evictions, and cut upkeep in order to service its debt.

Section 606 proposes to explicitly remove the dispositions of properties to the Trust by NYCHA from local control; it is crucial that this section be amended to require that all such dispositions be reviewed via the City's Uniform Land Use Review Procedures. The Assembly also pass Senate Bill 26 / [Assembly Bill 4131](#) (currently in the Housing Committee), which would require all dispositions of properties by NYCHA to go through ULURP. As NYCHA regularly announces its disposition plans via press releases that suggest that these plans have already been approved, a strategy that both impedes NYCHA's ability to achieve its goals and leaves residents feeling cut out of key decisions that impact them where they live, requiring ULURP would give residents and their local elected advocates a structure for their participation in NYCHA's disposition decisions, to the Trust and to all other third parties.

### Residents Must Have Real, Enforceable Protections

The language of the bill (Section 607) requires only that resident protections be "consistent with" current public-housing protections. The bill must be amended so that resident protections for those who become

tenants of the Trust are required to be identical to protections assured to public housing residents today. Some discrete requirements for how the Trust is to behave and treat (former NYCHA) resident are included in s.607 but do not have enough specificity, e.g., the Trust is charged with “preserving the affordable character” of the buildings, but what constitutes that “character” is not defined.

Likewise, “ensuring that any resident required to relocate...may return” is called out, but no specific procedural or substantive rights for former tenants seeking to return are outlined. Former site tenants of Urban Renewal Areas took generations to return to areas like today’s Essex Crossing due to similarly vague language that supposedly gave them their rights to return; we should not repeat the mistakes of the past here.

In addition, there is no clear mechanism for tenants of Trust properties to enforce Section 607. The bill would require the provisions to be included “in the ground lease or other appropriate agreement between the NYCHA and the Trust.” This is unlikely to allow residents, who would not be parties to the ground lease and would probably not be parties to whatever other “appropriate agreement” is envisioned here, to enforce their own rights.

### Residents Must Retain Their Right to Participate in Decision-Making

The bill charges the hypothetical Trust with “encourag[ing] resident participation in the operations of the Trust, consistent with” 24 CFR 964 and “providing...the opportunity to establish and operate a council to represent residents” but that is a pale shadow of the participation rights that NYCHA residents have today under federal law whenever NYCHA sets policies. It would likewise water down resident rights to form and join resident councils. Section 604(16) only requires the Trust to accept written comments from residents regarding its policies, without any requirement that it hold a hearing—this will make it inherently difficult for some residents to participate. Any reference to 24 CFR 964 is likewise an illusion: the structure of 24 CFR 964 does not provide guidance on how the Trust should operate as it is not a Public Housing Authority within the ambit of that regulatory scheme.

The bill contains references to participation rights, but no guarantees of the real thing; it appears to have been drafted to somehow invoke resident expectations set by their current rights, and not grant any specific right to participation. This vague language, if adopted, would allow the Trust to completely ignore resident input. A new system for resident input needs to be devised and adopted as New York Law if the Trust is to be authorized to ensure adequate resident participation.

Thank you so much for taking the time to consider our testimony today.

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