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Gale A. Brewer, Borough President

Testimony of Gale A. Brewer, Manhattan Borough President
Examining the State of HDFC Cooperatives
December 8, 2014

Good evening. My name is Gale A. Brewer and I am the Manhattan Borough President. I thank Assemblymember Keith Wright for the opportunity to testify regarding HDFC cooperatives in New York City.

I am supportive of HDFCs as defined under the New York State Private Housing Finance Law (PHFL) Article XI to "develop a housing project for persons of low income." Formed through several of NYC Department of Housing Preservation and Development's (HPD) programs, HDFCs offer one of the few options for New York City's low-income families to become homeowners.

Homeownership has positive impacts on families and the larger community, including improved school performance, better physical and mental health, lower crime rates, and more engaged social, civic, and political participation.[1] The pathway provided to the city's low-income households by HPD and NYS under PHFL should be preserved.

Lack of Resale Price Restrictions on HDFCs

Due to a lack of a sales price cap for many of the city's approximately 1,000 HDFC co-op buildings, some HDFC units are no longer affordable for buyers between 80% to 165% Area Median Income. On June 27, 2014, the New York Times reported HDFC units selling for as high as $875,000 in the Upper West Side and $510,000 in Hell's Kitchen.[2] HDFCs without resale price restrictions—whether or not the transaction prescribes an income cap for the buyer—are taking affordable homeownership opportunities out of the hands of low- to moderate-income families.

In my former City Council District on the Upper West Side, I am seeing more and more HDFC units selling to students or young adults who are "cash poor" but "parental subsidy rich." Students in particular do not stay in their new homes for as long as traditional HDFC families, since many soon relocate to advance their careers. The resulting high turnover of increasingly unaffordable HDFC units creates neighborhood instability and distorts the purpose of the HDFC program.

[1] "Reexamining the Social Benefits of Homeownership after the Housing Crisis," William M. Rohe and Mark Linblad, August 2013; and "Social Benefits of Homeownership and Stable Housing," National Association of Realtors, April 2012.
[2] "Bargains With a 'But', Affordable New York Apartments With a Catch," Michelle Higgins, *New York Times*, June 27, 2014.

My office is part of the Taskforce on City-Owned Properties (TCOP) that consists of government agencies such as the Attorney General's Office, HDFC oversight organizations such as Urban Homesteading Assistance Board (UHAB), academic institutions such as Brooklyn Law School, and affordable housing organizations. TCOP has proposed limiting the resale pricing level of HDFC units as well as setting the income cap of buyers. These restrictions are tied to a proposed tax exemption to encourage HDFCs to adopt the proposed guidelines. As language of the Regulatory Agreement is being refined, I urge the Assembly's Housing Committee to explore ways to make tax incentives available to support these sensible recommendations toward the preservation of affordable HDFC units.

Lack of Enforcement and Corrective Actions Against Violations

In addition to implementing clearly defined income and sales price guidelines, agencies that oversee HDFCs must also strengthen enforcement against violations of PHFL Article XI and other policies. In New York City, the oversight agency is HPD, which can benefit from State funding to strengthen its housing preservation and enforcement units. Several prevalent violations have come to my attention:

- When an HDFC unit becomes available, instead of working with HPD and UHAB for the next available buyer or going to the building's waitlist if it has one, Board members offer the unit to relatives or friends. This tends to happen in HDFCs with Boards dominated by multiple members from the same family.
- Shareholders who want to make a profit would court investors to buy their building. After the purchase, apartments would revert to rental (often market-rate), losing all affordable homeownership units.
- Even though PHFL Article XI, Section 573 specifics owner occupancy, shareholders would sublet their units, sometimes for an extended period of time. Additionally, a shareholder may demand rent at a higher amount than the apartment's monthly maintenance cost, compounding the violation to include profiting from illegal subletting.

Commercial Tenants

Finally, the lack of proper HDFC oversight can also have negative impact on commercial tenants. Commercial units are a great asset to an HDFC, providing added income to support the operation of the building beyond revenues generated from monthly maintenance fees. However, businesses that lease commercial space from HDFCs can sometimes be exploited.

When I was a Councilmember, my office was next to an HDFC co-op with a ground-floor laundromat owned by Mr. Rui Rong He. In 1990, HPD relocated Mr. He's business to 567 Columbus Avenue at 88th Street, the same year when the building converted from TIL into an HDFC co-op. Unfortunately, HPD neither furnished Mr. He with a lease nor ensured that the HDFC offer him one. Mr. He was told he would be on a month-to-month lease (without documentation), and remained so for 23 years. In October 2013, Mr. He received a five-year lease that would increase his monthly rent from $880 to $1,100. He would also be responsible for paying property tax. When Mr. He asked for clarification on how much property tax he would be expected to pay, he received a revised lease offer instead. The new lease required him to pay $2,500 per month plus property tax. Not wanting to close down his business, Mr. He had to accept the new lease until he can relocate to a more affordable storefront.

I understand that it is an HDFC's prerogative to extend leases and determine rents for its commercial tenants. But just as residential tenants have protection against unreasonable rent increases, there should be safeguards set in place to provide commercial tenants with recourse when, as in the case of Mr. He, rents are increased 284% plus the unspecified amount of property tax. With rent regulation renewals taking place in Albany next year, perhaps commercial rent regulation can finally be included in discussions.

Thank you for the opportunity to share some of my concerns and recommendations regarding HDFCs. I look forward to working with you, with HPD, and with HDFC residents to ensure that affordable homeownership remains an achievable reality for low-income New Yorkers.