



NEW YORK STATE ASSOCIATION FOR AFFORDABLE HOUSING

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HOUSING FOR ALL:

Recommendations from the New York State Association for Affordable Housing

Introduction

Across the state, New Yorkers are facing a serious and growing shortage of affordable housing. From the Tug Hill Plateau to the Bronx, from downtown Buffalo to the Long Island suburbs, housing costs continue to rise while incomes lag behind. To solve this crisis will require a new commitment of leadership from Albany. And while in the long run it will also require a major commitment of public resources to solve, much can be done in the short run that will make a real difference through the better use of existing resources.

This crisis takes different forms in different parts of the state but the results are the same. In NYC, a recent study by the Furman Center found that in 2005, less than 26% of city's housing units were affordable to families making less than \$24,000. The same study found that the difference between housing demand and supply was approximately 100,000 units.ⁱ Downstate, on Long Island and in Westchester and Rockland counties, one in three households cannot afford their housing costs; the same is true along the Hudson River Valley in Putnam and Columbia counties.ⁱⁱ Escalating housing costs combined with high property taxes in these areas prevent adult children from locating in the communities in which they grew up and put increasing strain on long time residents, especially those living on fixed incomes.

Upstate cities, which have had to contend with an exodus of jobs and population, face an equally serious problem. In and around Albany, 44% of all renters cannot afford a two-bedroom apartment at the average rent, while in Rochester the figure is 50%.ⁱⁱⁱ Rural counties are also facing rapidly rising home prices and income stagnation: in Schuyler, Clinton, and Jefferson counties, 48% of renters cannot afford a two-bedroom apartment without paying more than 30% of their income.^{iv}

The lack of affordable housing is an economic development issue as well. According to the National Governors Association, the "availability and affordability of housing is central to the health of a state's economy." Growing companies are reluctant to locate or expand in New York if the employees can't find affordable places to live. A survey of the largest employers in the New York area conducted in 1999 by the New York State Comptroller reported that 86% of respondents cited housing costs as a serious deterrent to doing business in New York. Affordable housing development is also a major source of jobs: nationwide, housing construction accounts for approximately 5% of the total economy and 27% of investment spending.

Our recommendations to the Governor-elect to address this crisis fall into four categories: increase access to capital, encourage higher density housing, remove legislative and regulatory barriers to affordable housing development, and provide better planning and leadership.

Increase Access to Capital

Dedicate SONYMA Mortgage Insurance Fund (MIF) reserves to affordable housing:

Through a surcharge on the state mortgage recording tax, the State of New York Mortgage Agency annually collects substantially more than is required to fund the reserves for its mortgage insurance program. These revenues are the product of the same real estate boom which has made affordable housing more difficult to secure. We urge that these resources, rather than being returned to the state's general fund as required under current law, be dedicated to affordable housing programs. This could generate as much as \$100 million annually for affordable housing.

The fund also offers a creative solution to the growing demand for next generation housing for young adults who wish to live in the (increasingly expensive) communities in which they grew up. In addition to transferring the excess reserves annually, the state can safely reinvest 25% to 50% of the approximately \$1 billion of the Fund's current cash reserves into second mortgages that will be held by the fund. By investing these assets in a pool of new loans, a vast new source of funds—between \$250 and \$500 million, according to our estimates—would be made available to provide vitally needed subsidies for affordable housing at no cost to the state.

In short, there are a number of creative ways that the Fund can be utilized for affordable housing while maintaining its high rating. We recommend that HFA immediately begin working with the investment banking community to achieve this goal.

Expand DHCR capital budget programs: Over the past twelve years, the executive budget appropriations for the state's housing capital programs have remained basically level, with the result that, adjusted for inflation, the funding for these programs has eroded significantly. In fact, without legislative add-ons in 2006 and 2007, the state's capital investment in housing would have actually declined 13% since 1995.

We urge the expansion of the award-winning *Homes for Working Families program (HWF)*, which uses a creative combination of tax exempt bonding, federal tax credits, and low interest loans to finance the rehabilitation and construction of affordable rental housing for seniors and low income families. HWF provides 1% loans, which are then matched with tax-exempt bonds issued by a public authority and allocated from the state's private activity bond volume cap. Each dollar of HWF funding leverages about three additional dollars of federal subsidy.

Further, the *State Low Income Housing Credit (SLIHC)* program should be expanded and made permanent. With a limit of up to 90% of area median income (as opposed to the federal level of 60%), SLIHC helps the low-income elderly and working households who cannot afford market rents. Given both the need and the limited resources available for those in that income range, we urge that the amount of the annual SLIHC allocation be increased to \$10 million and that it be targeted to families with incomes above 60% of AMI.

Over the past thirty years, the *Affordable Housing Corporation (AHC)* and the *Housing Trust Fund (HTF)* have been the cornerstones of our affordable housing efforts across the state. However, inflation has seriously eroded the value of these programs. At a minimum, funding should be increased to offset the effect of inflation. Additional changes to the programs could make them more cost effective while at the same time addressing new housing needs.

For example, changes to the underwriting criteria for HTF can make the subsidies go further and leverage more private investment. AHC, the state's primary homeownership subsidy program, also needs to be expanded and modified so that it can work better in higher cost areas of the state where next generation housing is a special priority. A combination of larger awards and deeper subsidies, secondary financing from the SONYMA MIF, and broader income eligibility requirements will be necessary to address this need.

Encourage mixed-income housing development: By increasing economic diversity, we can make our communities stronger. In suburban communities, this will give public service workers like teachers, police officers, and firefighters the opportunity to live in the communities they serve while also giving the next generation the chance to live in the towns where they grew up. In our cities, this means bringing market rate housing back downtown, perhaps as part of larger, mixed-use developments. In rural Jefferson County, home of the rapidly expanding Fort Drum Air Force Base, it means providing housing for officers as well as enlisted men and women. In short, the need for mixed-income housing development is state-wide.

But restraints on the existing programs make mixed-income housing almost impossible to build, since subsidies cannot be applied to the market rate units. We need to restructure our existing programs to create a gap financing program that will allow developers to build projects that include both market rate and affordable units. This would apply to both new construction and preservation of existing units.

Require insurance companies to invest a portion of their assets in community development and affordable housing: We support legislation that would require insurance companies doing business in New York State to invest in economically distressed communities. In the three decades since banks were required (over their strenuous objections) to invest in the communities that they serve, lenders have funneled trillions of dollars of *profitable* private investment into successful community development and housing projects. Unlike banks, however, insurance companies are not required to invest in the communities that send them their premium dollars. Requiring such investment would be good for the state and, if the experience of the banks is any indication, ultimately it would benefit the insurance companies as well.

Allocate sufficient private activity bond volume cap to affordable housing: Since affordable housing is so important for economic development, the state must be sure each year to set aside in advance a sufficient amount of private activity bond volume cap for affordable housing projects.

Mobilize the resources of the NYS Housing Finance Agency for affordable housing: In recent years HFA has not met its potential to serve as an effective engine for affordable housing development: for example, in 2004 only half of the units financed with bonds by HFA were affordable and less than one quarter of total HFA bond proceeds went for affordable housing. As a public benefit corporation, the vast majority of HFA's resources should be devoted to affordable housing. By dedicating 75% of its bonding authority to affordable housing, the agency could generate \$400 million annually for affordable housing.

In many areas of the state, however, tax-exempt financing alone is not sufficient to fund affordable housing development, so as part of an overall strategy HFA will also need the ability to access additional subsidies, such as the Homes for Working Families program. This also speaks to the need for greater coordination between state housing agencies and funding sources.

Housing preservation and neighborhood revitalization: In upstate New York, the exodus of jobs and people, combined with the high percentage of households that are significantly rent burdened, requires special efforts to preserve the existing affordable housing stock. This stock is often threatened, not so much by gentrification, but by functional obsolescence. Meanwhile, many older neighborhoods in cities large and small suffer from long term disinvestment and neglect due to unchecked suburban sprawl. These neighborhoods, while often providing low cost housing options, are the locus of seriously substandard housing, lead-based paint hazards, and concentrated social ills. To combat these issues, both DHCR and the HFA should broaden their program resources and approaches to affordable housing preservation to retain and extend the life of the existing stock while encouraging in-fill development and adaptive reuse of older obsolete buildings. DHCR must embrace the community renewal component of its mission and focus a piece of its housing development resources on neighborhood reinvestment.

Rural rental assistance program: As part of our preservation efforts, we must make sure that existing affordable housing units are not lost as the government programs that created them expire. Currently over 5,000 units financed with mortgages from the United States Department of Agriculture's Rural Housing Services (formerly the Farmers Home Administration) receive state rental assistance, but the assistance contracts will start to expire in 2008. We need to plan now for extending the program in a way that will protect those families who need it and keep these units affordable.

Encourage Higher Density Housing

Municipalities often ignore the need for affordable housing in their planning and land use policies or, even worse, actively oppose it. In some cases this opposition reflects a legitimate concern over the effects multi-family development will have on a community's resources; in other cases the opposition is based on unfounded stereotypes about affordable housing and the people who live there. We need to develop incentives that will encourage communities to allow subsidized multi-family development and next-generation housing.

We strongly support the Governor-elect's proposal to develop zoning and land use tools that permit builders to build more homes at market rates in exchange for agreeing to build more affordable units. By combining this proposal with the mixed-income program discussed above, we can develop projects that will be more acceptable to communities that traditionally resist affordable housing while at the same time stretching scarce subsidy dollars further. The result will be stronger, more economically diverse communities with housing opportunities for all.

We also support the Governor-elect's proposal to establish a development-mitigation policy for communities that agree to increase housing density. Stereotypes of affordable housing aside, increased density does bring with it new financial burdens for municipalities, and the state could provide assistance in dealing with them. The targeting of funds from the Main Street program, which is especially popular among localities, could be a particularly effective incentive.

Remove Legislative and Regulatory Burdens

The general liability crisis and the Scaffold Law: We are concerned about skyrocketing insurance rates for general liability coverage and the lack of insurance availability for builders of affordable housing. Sections 240 and 241 of the Labor Law, commonly known as the "Scaffold Law," have substantially contributed to this insurance crisis by holding others absolutely liable

when a worker is injured in a “gravity-related” accident, even if the employee has been negligent. We support legislation which would apply normal negligence standards to the circumstances covered by Sections 240 and 241, thus moving away from absolute liability to normal tort procedures. Under this compromise, the worker injured in a gravity-related accident would still have the right to sue his or her employer, but the liability would be apportioned to the actual party at fault, whether it be the employer or employee.

Prevailing wage legislation: We strongly oppose legislation which would require prevailing wages for affordable housing projects. Since affordable housing programs have strict limitations on incomes and costs to the resident, the additional expense resulting from a prevailing wage requirement cannot be passed along to the renter or homeowner. As a result, such legislation could halt the construction of affordable housing, not merely increase its cost. In those cases where a deeper subsidy might be available to fill the funding gap, those subsidies would have to be diverted from other worthy projects. Many of the same workers that the proposed legislation is targeted to help would be harmed by the resulting loss of new affordable units.

Brownfields: Previously contaminated land, once cleaned up, can be an important resource for affordable housing. The state’s brownfield cleanup law is a landmark piece of legislation that was the result of many years of effort. Still, now that the program has been in place for several years, we need to find ways to make it work better. Specifically, we need to streamline the approval process and make sure that the tax credits are distributed in a way that provides real incentives for the maximum number of projects. We also need to be sure that liability issues are clearly resolved so that private lenders are encouraged to invest in these projects.

Improve Planning and Provide Leadership

While we need all of the tools discussed above, we must also increase the accountability of the state’s housing agencies—specifically the Housing Finance Agency—and improve the administration of existing programs. With the creative use of its resources, HFA could become a major engine for affordable housing development (much as has occurred with its downstate counterpart, the NYC Housing Development Corporation). These agencies—including HFA and the housing arm of the Empire State Development Corporation/Urban Development Corporation (ESDC/UDC)—should operate with very specific goals for affordable housing development and preservation.

Given the importance of preserving existing affordable units, the state must modernize the way that it oversees its existing portfolio of subsidized housing, including Mitchell Lama and Article 2 projects. The responsibility for managing these assets is spread across two agencies—DHCR and ESDC/UDC—and tracking systems still have not been computerized. This function should be updated and centralized in DHCR.

New York State is fortunate to have a highly-developed affordable housing sector made up of experienced and skilled professionals including developers, lenders, advocates, government officials, and investors. We urge the Governor-elect to draw on this pool of housing professionals in making appointments to guide and oversee the state’s housing efforts and to work closely with all of these constituencies in developing and evaluating the state’s housing programs.

Further, we urge the Governor-elect to be a strong advocate for federal affordable housing programs. The community development and housing programs that have been so successful in New York State—such as the Low Income Housing Credit and the HOME and HOPE VI programs—are under constant attack in Washington. The Governor can be an especially effective voice in explaining how these programs have benefited communities large and small across the state.

Conclusion

A combination of leadership and the willingness to commit new resources will be necessary to fully address the affordable housing crisis that is growing state-wide. But in the short run, the new administration can demonstrate its commitment with several dramatic steps. By keeping funding levels at FY 2006 levels and making better use of existing resources, the state's housing agencies can produce more units for New Yorkers across a wider range of incomes. Most important, through his appointments, planning and the use of his bully pulpit, the Governor-elect can not only raise the profile of affordable housing but show that we are moving towards a solution.

We hope that the new administration will use NYSFAFH and its members as a resource in the years ahead, and we hope that Governor Spitzer will join us as the keynote speaker at our annual conference on May 10, 2007.

ⁱ Been, Vicki, Caroline K. Bhalla, Ingrid Gould Ellen, Solomon J. Greene, Andrew E. Schinzel, and Ioan Voicu, "State of New York City's Housing & Neighborhood 2005," Furman Center for Real Estate and Urban Policy, NYU School of Law, 2005. "Affordability" requires that housing costs total less than 30% of a family's income.

ⁱⁱ Muchnick, David, "The Crisis of Affordable Housing for Long Island's Working People," New York State AFL-CIO, July 2003.

ⁱⁱⁱ NYS Consolidated Plan, 2006-2010.

^{iv} National Low Income Housing Coalition, "Out of Reach 2005," December 2005.