

May 6, 2020

Gregory Russ
Chair and Chief Executive Officer
New York City Housing Authority
250 Broadway, 12th Floor
New York, NY 10007

RE: NYCHA temporary permission and permanent exclusion policies during COVID-19

Dear Chairperson:

The Enterprise Community Partner's Justice-Involved Housing Committee and the Permanent Exclusion Working Group write to raise our concerns and offer recommendations about NYCHA's policies during the COVID-19 pandemic.

Background

The City has begun releasing people from Rikers and city jails who are at high risk of contracting COVID-19, and the Governor has ordered the release of hundreds of people held in statewide local jails on parole violations. Advocates are also calling on the New York State Department of Corrections and Community Supervision (DOCCS) to release people from state prisons. We appreciate that the City and State have taken steps to stem the spread of the coronavirus in jails and prisons and keep our communities safe, though work here is not done and each should release many more people. However, we are concerned about the dire emergency housing needs of justice-involved people due to early release. New York City is already in the midst of a housing crisis,¹ and more than half of the people who come home from prison each year are released into homelessness.²

Many of the people being released may be former NYCHA residents and/or still have family living in NYCHA developments. Furthermore, the need for safe, affordable housing at this moment is even broader than simply for those currently being released from incarceration; there may also be justice-impacted people who need to get out of unsafe conditions in the shelter system or other unsafe housing during this crisis, but are prohibited from joining their families in NYCHA. We recognize that NYCHA's Family Reentry Program has enabled dozens of individuals to successfully return home, but given the current crisis, there are specific policies that must be adjusted to address the emergency needs of justice-involved individuals.

NYCHA residents should not have to risk eviction to shelter their loved ones in a safe home during this unprecedented crisis. NYCHA has long been the largest source of affordable and stable housing for New Yorkers, and it must step up in this time of emergency. Residents dealing with the fallout of the pandemic need support from family to cope. This need is especially pronounced for parents who are caring for children full-time and for seniors.

¹ See *Our Homelessness Crisis: A Case for Change* from NYC Council:
<http://council.nyc.gov/data/wp-content/uploads/sites/73/2020/01/FINAL-PAPER.pdf>.

² See *Fate of a Generation: How the City and State Can Tackle Homelessness by Bringing Housing Investment to Scale*. Coalition for the Homeless: <https://www.coalitionforthehomeless.org/state-of-the-homeless-2018/>.

There is a precedent for housing authorities changing standards for temporary and permanent relocations. In the wake of multiple hurricanes in the United States in 2017, the Massachusetts Department of Housing and Community Development allowed local housing authorities to relax standards for verification and occupancy.³ Similar action is needed now in New York, with changes that reflect local need.

Recommended Policy Changes

Recommendation 1: Waive requirements for temporary guest permission for at least six months and commit to not bringing termination proceedings for unauthorized occupants for the next year. NYCHA development housing managers typically have 60 days to respond to a tenant's request for temporary permission to house a family member or other guest. This process is untenable in our current state of emergency. No resident should be penalized, or fear being penalized, for allowing a guest to stay with them during this crisis. Neither should residents or NYCHA employees put their health at risk to submit applications.

The current temporary permission policy also excludes many people because it requires a background check on the guest and requires that the resident is current on rent payments, not the subject of an eviction or termination proceeding, and not in violation of any NYCHA rule or regulation. These restrictions limit access to people who are most in need of housing and residents in need of support. People coming out of city jails or state prisons will likely be ineligible to join their families in NYCHA, as NYCHA currently prohibits admission for applicants who have been convicted of nearly any offense within the past 3 to 6 years. Many residents are also struggling financially because of the economic crisis caused by the pandemic and may be late on rent payments.

NYCHA has legal authority to waive its temporary guest requirements. Federal law and HUD regulations do not require screening of temporary guests, neither do they mandate eligibility restrictions. NYCHA did not require criminal background screening of temporary guests until 2017.⁴ Further, HUD has waived normal approval processes for changes to Admission and Continued Occupancy Plans, allowing PHAs to adopt and implement changes to the ACOP on an expedited basis, without formal board approval until July 31, 2020.⁵

By waiving the requirement that residents seek temporary permission for guests, NYCHA can ensure that those in need of housing and residents in need of family support can be together without fear of eviction.

Recommendation 2: Temporarily suspend inspections related to permanent exclusion. Conducting inspections during the current COVID-19 health crisis creates a heightened risk of infection for residents. Many tenants may be at higher risk for severe illness caused by COVID-19, including seniors and those with underlying medical conditions; we know that chronic illness is higher in communities of color.⁶

³ See Public Housing Notice 2017-23, Massachusetts Department of Housing and Community Development: <https://www.mass.gov/files/documents/2017/10/10/2017-23.pdf>

⁴ NYCHA Management Manual, Chapter I, Sec XI, E (11/28/17).

⁵ "COVID-19 Statutory and Regulatory Waivers for the Public Housing, Housing Choice Voucher, Indian Housing Block Grant and Indian Community Development Block Grant programs, Suspension of Public Housing Assessment System and Section Eight Management Assessment Program," Notice PIH 2020-05, U.S. Department of Housing and Urban Development, April 10, 2020.

⁶ See the CDC's Racial and Ethnic Approaches to Community Health: <https://www.cdc.gov/nccdphp/dnpao/state-local-programs/reach/>

Recommendation 3: Review all past permanent exclusions and automatically lift all exclusions that were imposed more than five years ago. Old permanent exclusions should not be a bar to people accessing housing or visiting family during this unprecedented pandemic. Many residents are under threat of eviction if a previously-excluded family member visits. Yet, this is a time when people need the support of their family. People may need assistance with grocery delivery or with child care, but a permanently excluded household member would not be able to provide this assistance. Many seniors in NYCHA do not have digital fluency to order essential items online--they must rely on family members who can safely be outside to make deliveries of necessary goods. The ability of families to provide support to each other without legal repercussions is paramount in this crisis.

Recommendation 4: Inform all NYCHA residents of the policy changes. Ensure all housing development managers and community partners are aware of waiver of the requirement for temporary guest permission, the temporary suspension of inspections, and the lifting of old permanent exclusions. Include notices in the NYCHA Journal, MyNYCHA App, on Twitter/other social media platforms, flyering, mailing, robocalls, bulletin boards, and any other communication methods currently available. NYCHA should also notify the City Department of Correction (DOC) and State Department of Corrections and Community Supervision (DOCCS) that temporary housing options with family in public housing may be available. This is especially important so tenants don't fear eviction when welcoming their family members home during these already uncertain times.

Conclusion

NYCHA can open access to temporary guests and family visits by enacting these emergency policy changes without compromising the health and safety of current residents. Indeed, the disruptive nature of COVID-19 has resulted in an increased need for support, particularly for vulnerable residents. All temporary guests would be required to follow current State public health guidance, just as current residents are required to do so. Through the NYCHA Family Reentry Program, NYCHA has already seen the benefit of reuniting families and allowing justice-involved people a safe place to live. According to a Vera Institute of Justice evaluation, of the 85 initial participants in the program, only one was convicted of a new criminal charge. The evaluation also revealed that participants reuniting with their families both received support and supported others as they took on familial roles, especially as caregivers for elderly parents.⁷

Now more than ever, NYCHA should be promoting access to safe and stable housing for justice-involved people, which benefits entire families. For this reason, we ask that you immediately implement the recommendations set forth above, and take other steps as necessary to allow families to reside together and find strength in one another in these difficult times.

Sincerely,

The Bard Prison Initiative
The Bronx Defenders
Brooklyn Defender Services
Center for Community Alternatives

⁷ See *Coming Home: An Evaluation of the New York City Housing Authority's Family Reentry Pilot Program*. Vera Institute of Justice: <https://www.vera.org/publications/coming-home-nycha-family-reentry-pilot-program-evaluation>.

Corporation for Supportive Housing (CSH)
Enterprise Community Partners, Inc.
Exodus Transitional Community
The Fortune Society
Institute for Justice and Opportunity at John Jay College of Criminal Justice (*formerly the Prisoner Reentry Institute*)
Legal Action Center
The Legal Aid Society
Neighborhood Defender Service of Harlem
New York Legal Assistance Group (NYLAG)
RiseBoro Community Partnership
The Osborne Association
Prison Families Anonymous
Trinity Church Wall Street
Urban Justice Center - Safety Net Project
Vera Institute of Justice
Youth Represent

cc: Corey Johnson
New York City Council Speaker

Alicka Ampry-Samuel
New York City Council Chair of the Committee on Public Housing

Steven Levin
New York City Council Chair of the Committee on General Welfare

Keith Powers
New York City Council Chair of the Criminal Justice Committee