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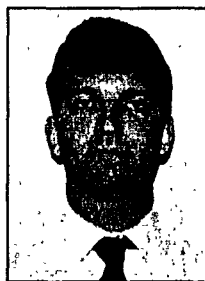
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It is well known that New York City is home to the largest public housing agency in the nation, the New York City Housing Authority (NYCHA). What is less well known is that New York is home to what may become the nation's second largest public housing program as well.¹ The Department of Housing Preservation and Development's (HPD) *in rem* housing program oversees 38,958 occupied and 12,714 vacant units of housing that have been abandoned by their original owners.² Since 1978, the city has managed this dilapidated housing stock and created programs to transfer properties to the for-profit and non-profit sectors for lease to low and moderate income tenants.



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Programs designed to return this housing to for-profit landlords have been particularly controversial because of their reliance on the very sector that abandoned the properties in the first place. One such effort, the Private Ownership and Management Program (POMP), was terminated after numerous complaints citing high eviction rates, rental rates unaffordable to low income tenants, and poor management. Criticism came from many quarters, including tenants and their advocates, the comptroller's office, and the media. POMP was also subject to extensive litigation.

To replace POMP, the city is instituting a new program, the Neighborhood Entrepreneur Program (NEP). The purpose of this article is to analyze the structure of NEP in an attempt to predict whether it can avoid the problems of its predecessor.

Origin of NEP

On September 14, 1994, the Giuliani administration announced a new initiative called "Building Blocks!," the centerpiece of which involves conveying HPD buildings to private for-profit managers.³ During his campaign, Mayor Giuliani made the privatization of city-owned housing a focal point of his housing plan. The mayor later stated that by "saving

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millions through the process of divesting itself of property," the city "can, instead of trying to run property, concentrate on stimulating private ownership."⁴ The mayor hopes that privatization will both reduce municipal spending in the face of a \$3 billion structural budget deficit and stimulate the economy.⁵

In the first stage of its initiative, the city intends to shift about 250 apartment buildings containing approximately 2,500 units to private managers over a nine-month period. Of those 2,500 units, 1,000 units will be conveyed to community-based nonprofits under the Neighborhood Redevelopment Program (NRP), 500 units will be allocated to tenants under the Tenant Interim Lease (TIL) program, and the remaining 1,000 units will be turned over to local entrepreneurs under the new Neighborhood Entrepreneurs Program.⁶

The city has budgeted approximately \$50,000⁷ per unit for renovations prior to sale. Construction financing for this initiative will be provided by community development banks. Presumably, long-term funding will come from a variety of sources that may include section 8 subsidies, special awards to buildings located in empowerment zones, federal low income housing tax credits, and federal HOME funds.⁸ Vacant units that are financed by city capital funds will be rented at market rates to provide a source of internal cross-subsidy.⁹

Up to 3,000 buildings with 28,000 units eventually may be transferred through Building Blocks! programs.¹⁰ The city plans to dispose of 8,949 occupied residential units through NRP, 7,458 through TIL, and 11,588 through NEP. It plans to transfer 3,763 vacant residential units through NEP as well.¹¹ These three programs are all designed "to sell the buildings prior to the start of rehabilitation in order to minimize the period of city ownership and to benefit the tenants with an earlier transfer to private management and a shorter, more efficient construction period."¹² NEP is clearly the favored program of the three.¹³

NEP and POMP Contrasted

NEP is similar to POMP in that it will sell city-owned residential buildings to for-profit firms. But NEP is designed to handle smaller buildings than POMP did. NEP is also funded somewhat differently. Where the HPD had directly supervised POMP, the city has arranged with the New York City Housing Partnership, a nonprofit development organization affiliated with the New York City Chamber of Commerce, to assist in overseeing the Neighborhood Entrepreneurs and providing them with technical support.¹⁴

Whereas POMP concentrated on the disposition of large multifamily buildings, NEP will focus on selling buildings with eight units on average.¹⁵ More than one-third of NEP apartments are in buildings of four or less units, and 70 percent are in buildings with ten units or less. These smaller buildings are more expensive to administer because they do not enjoy the same economies of scale as larger buildings.

The city intends to cluster the sale of vacant and occupied buildings to encourage block-by-block improvements. These clusters will also allow the city to mix potentially profitable buildings with those whose rents are unlikely to cover their costs.¹⁶

NEP plans to contract with a different type of landlord than POMP did. A common complaint about POMP was that most landlords were not city residents and instead lived in upstate New York, Long Island, New Jersey, and Connecticut.¹⁷ Former HPD Commissioner Deborah C. Wright described a potential NEP purchaser as "the guy, who is a local superintendent who may want a couple of buildings and live in the ground floor of one of them."¹⁸

NEP will require that the for-profit owners have ties to the neighborhoods in which they buy.¹⁹ These owners must also have experience in property management and housing renovation. In addition, the city will concentrate its efforts in targeted areas to maximize program benefits.²⁰

NEP flows from Giuliani's conviction that "[g]overnment intervention should stimulate and support the private investment required for healthy real estate markets and communities, not replace it."²¹ Elaborating on this vision, former commissioner Wright stated that HPD does not

want to sell property to speculators and people who don't have a long-term interest in those communities. There are some folks outside the community who are responsible private owners and we want to give them an opportunity to participate. [But] we want to try to support the talented local folks who have the greatest stake in whether or not that community prospers.²²

By linking NEP to local business people, the city hopes to bypass problems associated with absentee landlords and recreate the local real estate network of brokers, owners, and managers that virtually was wiped out in the 1960s and 1970s when buildings and neighborhoods were abandoned en masse. Officials expect that hundreds of local jobs will be created as a byproduct of this plan.²³

Wright has stated that no existing legal tenants will be displaced under the new program.²⁴ Although rents in occupied apartments will increase, they will be restructured according to existing HPD guidelines²⁵ and existing housing subsidies such as rent vouchers and tax credits will cover the difference between operating expenses and what poor tenants can afford.²⁶ Further, HPD intends to use funds from cross-subsidies between vacant and occupied units to protect existing tenants from displacement.²⁷ Finally, HPD states that tenants have a right to return to their original building, a promise backed by a written agreement that is to be signed prior to tenant relocation.²⁸

Summarizing the Giuliani philosophy, former commissioner Wright described HPD's new goals as moving beyond the mere provision of housing:

I think many people are missing the point when they focus on for-profit versus not-for-profit. A person who is a local entrepreneur hires people locally. It's

going to be in that person's interest because that's where he or she lives and does business every day.

One of the biggest criticisms of HPD is that so much of the economic power bypasses local communities. The vendors are from outside of the community. Many times the developers are. Even some of the consultants are. People are really emphasizing local participation because we want to harness some of the power of government expenditure and attract private funds to create jobs and some economic spin-off.²⁹

The Giuliani administration and the Partnership hope to help at least ten locally-based, for-profit companies become successful owner-managers of low income rental housing in NEP's first year. They also hope to force the city, private industry, community leaders, and housing advocates to address issues that have been largely ignored since the city adopted a policy of custodial management for tax-foreclosed residential property in the late 1970s. They are asking, fundamentally, whether responsible privately-owned rental housing is feasible in poor neighborhoods.³⁰ By highlighting the real estate opportunities in areas affected by the proposal—Harlem, the South Bronx, and Central Brooklyn—NEP hopes to bring private sector interest to areas long abandoned by the traditional real estate market. The Giuliani administration has designed NEP to test new strategies for stemming the continued abandonment of property by private owners, thereby reducing costs associated with tax foreclosure.³¹

Building Blocks! is not the sole policy change for Giuliani's HPD. The Giuliani administration is ideologically opposed to government-administered housing programs and is therefore opposed to further vesting of properties that are in arrears on taxes, water and sewer charges, or both. This position is supported primarily by a study conducted by Arthur Andersen Consulting.³²

The Andersen study calculated that the overall life cycle cost of the current (as of July 1994) *in rem* housing stock is \$10.6 billion³³ of which \$4.4 billion is expended to prepare properties for return to private management. The study found that buildings taken through the *in rem* process stay with the city for many years at an average disposition cost of more than \$2.2 million per building.³⁴ It concluded that most of the *in rem* properties returned to private management "will never become positive revenue generators over the useful life of the capital improvements which the city has funded."³⁵

As a result of these findings, the Giuliani administration intends to end or minimize the vesting of buildings for arrearages.³⁶ The administration's *in rem* policy is based on the following objectives: to maximize the city's real estate tax revenue, to maximize preservation of the affordable housing stock while minimizing the city's exposure, and to seek long-term solutions to improve housing viability.³⁷

To further these goals, the city is also investing \$573 million in financial and technical assistance programs for private landlords "to prevent abandonment of privately-owned buildings and forestall their entry into city

ownership."³⁸ These programs include an early warning system to identify buildings in imminent danger of abandonment and a small property owners' advocacy unit that will allow landlords themselves to identify buildings in arrears.³⁹

This policy change comes at the same time Finance Department data reveal that tax foreclosure filings increased by nearly 30 percent in 1993. The redemption rate, which was over 90 percent for years, has plummeted.⁴⁰ While the Giuliani policies are intended to keep the city out of the business of managing housing, they are coming at a time when the low income housing market is particularly fragile.

Structure of NEP

The NEP plan divides responsibility among HPD, community organizations, tenants, Neighborhood or Local Task Forces, community development banks, the Department of Business Services, and the Partnership. HPD is responsible for selecting sites and planning, designating owners/managers, obtaining rehabilitation financing, rent restructuring and rental subsidies, obtaining tax abatements, acting as property disposition ombudsman for small property owners, providing operating support during the net lease period (prior to actual sale to the Entrepreneur), and structuring overall project financing.⁴¹

Community organizations will be responsible for clustering buildings to achieve stabilization, implementing tenant training and support, and monitoring building progress. Tenants are expected to develop tenant associations, participate in neighborhood redevelopment activities, mobilize community resources and programs, and organize building watches and neighborhood security. The Neighborhood Task Forces will assist in site selection and planning, assist in identifying potential owners and managers, provide input on their qualifications, and give ongoing feedback to participants.⁴² Community development banks will underwrite the rehabilitation financing, participate in project financing, service rehabilitation loans, and inspect and monitor construction. The Department of Business Services will conduct outreach to potential contractors, sub-contractors, and suppliers, and make business loans.⁴³

The New York City Housing Partnership is a subsidiary of the New York City Partnership, a citywide nonprofit organization affiliated with the Chamber of Commerce.⁴⁴ In 1988, the Partnership initiated the Neighborhood Builders Program that sought to increase the participation of minority contractors and community-based entrepreneurs in the affordable housing industry.⁴⁵ The Partnership has developed a two-part plan for its role in NEP based on its experience with Neighborhood Builders.⁴⁶ The first component is entitled "Community-Based Planning and Monitoring of Performance." The second is entitled "Technical and Financial Assistance to Neighborhood Business."⁴⁷

The community-based planning component will coordinate Neighborhood Task Force activities. The task forces are to meet with community

boards, community-based nonprofit groups, local boards of Realtors, and business associations. Their most important responsibility, however, will be evaluating the progress of participating Entrepreneurs. Community-based nonprofits will be the anchor for these task forces because of their established credibility with tenants and familiarity with neighborhood problems and resources.

In addition to monitoring building progress, the task forces will work with tenants and area residents on employment initiatives. The Partnership has received funding from the Rockefeller Foundation to create an Employment Pilot Program that will link unemployed tenants with entry-level construction and management jobs in NEP buildings. Social service providers affiliated with Neighborhood Task Forces will assess the employment readiness and training needs of participating tenants.⁴⁸

The "Technical and Financial Assistance to Neighborhood Business" component of the plan will be modeled on the Partnership's Neighborhood Builders Program.⁴⁹ The Partnership will organize mentoring and industry support, access to financing, and other assistance to prospective owner-managers. The Partnership will also form an Industry Advisory Group, composed of bankers and representatives from both the citywide and neighborhood-based real estate industries, that will assist in structuring the financial, technical assistance, and mentoring package.⁵⁰

Neighborhood Entrepreneurs

Generally, Neighborhood Entrepreneurs must meet certain minimum criteria, though HPD and the Partnership have the authority to waive these requirements.⁵¹ Entrepreneurs must be based in one of the communities targeted by NEP;⁵² currently manage at least fifty units, or have managed an average of fifty units over the last three years;⁵³ own or have a substantial ownership interest in no more than 250 units;⁵⁴ and demonstrate a capacity to manage another 100 units in the area.⁵⁵ Those applicants with histories of poor management will be disqualified.⁵⁶ Once these criteria are met, applicants are evaluated based on management experience and capacity, financial ability and capacity, rehabilitation experience, ability to work with government and community organizations, and "other" considerations (such as whether the applicant has long-term ties to the neighborhood).⁵⁷ HPD weighs residential management experience and "other" considerations most heavily. Financing ability and capacity, rehabilitation experience, and ability to work with government and community organizations are given somewhat less weight.⁵⁸

When an Entrepreneur is accepted, the city prepares plans and specifications for rehabilitation. Soon thereafter, HPD turns building management over to the Entrepreneur, who receives a development fee—not to exceed 10 percent of the project cost.⁵⁹ HPD then temporarily transfers the building title to the nonprofit Neighborhood Partnership Housing Development Fund Corporation created by the Partnership.⁶⁰

Neighborhood Entrepreneurs must make up to a three-year commitment to manage properties under the supervision of HPD and the Partner-

ship prior to taking title.⁶¹ During that time, HPD and the Partnership will evaluate the quality and timeliness of the construction work. The Entrepreneur must complete monthly fiscal reports that include rent billings, rent collection, legal actions, occupancy statistics, total income and expenses for each building, and monthly management reports that track tenant complaints and their resolution.⁶²

Entrepreneurs who successfully rehabilitate and manage these buildings will be entitled to purchase them. At the time of purchase and after rent restructuring, rent stabilization laws will again apply.⁶³ HPD and the Partnership expect that the package of rents, subsidies, and debt will be structured to permit Entrepreneurs both adequate cash flow and a reasonable return on their investment.⁶⁴ HPD will retain the right to approve any future sale of the project for fifteen years to deter short-term speculation and maintain the housing as a resource for targeted populations.⁶⁵

Implementation

Neighborhoods chosen for NEP's first-year demonstration project are located in the South Bronx, Central, and East Harlem, and Brooklyn's Bedford Stuyvesant and Crown Heights.⁶⁶ HPD and the Partnership jointly issued a Request for Qualification (RFQ) inviting potential Entrepreneurs to compete for the first 1,000 units.⁶⁷ HPD received ninety completed applications by the November 1994 due date.⁶⁸ Eleven companies were selected for first-round participation⁶⁹ and seventy-nine buildings were scheduled for transfer to NEP in April and May 1995.⁷⁰

NEP's implementation has not been fully consistent with its design. HPD and the Partnership have already waived some elements of the selection criteria. Although the RFQ and other documents indicate that a history of serious building code violations will act as a bar,⁷¹ this has been waived in a number of cases. NEP profiles indicate that in some cases an Entrepreneur "inherited" violations from a previous owner and has plans to correct them.⁷² However, research by the Task Force on City-Owned Housing indicates that many Entrepreneurs own or manage buildings with a substantial history of code violations, which were not acknowledged by HPD and the Partnership in their profile.⁷³

Several of the landlords also owe tens of thousands of dollars in tax arrears on other buildings in their portfolios.⁷⁴ Furthermore, half of the first group of Entrepreneurs have business addresses that are not located within their cluster, indicating that they are not truly "local." Only one Entrepreneur manages fewer than 100 units and at least two manage more than 2,000 units, a far cry from the "superintendent" model that Wright had earlier proposed.⁷⁵

A View from One Neighborhood

Sarah Hovde, a researcher at the Community Service Society, conducted a study of the first stages of NEP in Central Harlem for her master's thesis at Columbia University.⁷⁶ Hovde found that the NEP model tentatively has been accepted by community groups involved in the Neighbor-

hood Task Force and that criticism has been muted when compared to that directed at POMP.

Potential NEP building clusters were identified by HPD and the Partnership in January 1995. The Central Harlem Neighborhood Task Force chose two out of the four site clusters HPD presented to it.⁷⁷ Tenants in identified buildings received letters in late January and early February telling them they could opt out by applying to TIL.⁷⁸ HPD presented its choice of Entrepreneurs to the Neighborhood Task Force as an accomplished fact. Some task force members objected to this, but HPD did not reconsider its decision. HPD claimed that NEP's time frame required speedy action.⁷⁹

The Central Harlem Neighborhood Task Force meetings are not open to the public and members complained to Hovde that HPD tightly controls the agenda. As a result, some members have had their own monthly ad hoc meetings without HPD present. The members interviewed by Hovde describe their relationships with HPD as cooperative, although there has been some uneasiness and conflict. Generally, it appears that local players want to remain within the NEP process to exert some influence.⁸⁰

Evaluations of NEP

NEP is currently in its early stages but various groups already are expressing familiar concerns. The city and its allies have, of course, presented NEP in the best possible light. But commentators have pointed to what they would characterize as design flaws and implementation problems evident even in NEP's early, highly public stages. Members of the Task Force on City-Owned Housing, in particular, have pointed to aspects of NEP that are similar to POMP's design and implementation.

Self-Assessment by the City

NEP is based on the assumption that the city can supervise efficiently the disposition of buildings and that locally based owner-managers are uniquely qualified to make small buildings profitable, employ tenants, rebuild the neighborhood economy, and utilize local contractors and suppliers.⁸¹ Kathryn Wylde, head of the New York City Housing Partnership, stated that the

city has been owner and manager of some of this housing for almost 20 years. Not only has it been a drain on the city but it has kept small owners from building housing markets in their neighborhoods. With our program of technical and financial support for entrepreneurs and the subsidies for tenants, neighborhoods can be revived.⁸²

The Partnership plan acknowledges that rent rolls are inadequate for maintenance, rehabilitation costs are high, and buildings are too small to achieve economies of scale. It further recognizes that many of the tenants are formerly homeless people (many of whom were denied permanent housing developed by private or nonprofit developers under various city programs), and many of the affected neighborhoods have a shortage of local property owners.⁸³

The city and the Partnership hope that NEP will address these problems. The city wishes to increase local capacity to manage, maintain, and finance these small residential and mixed-use properties. It also intends to complement the housing plan with strategies to fight drugs, crime, and other quality of life battles.⁸⁴ The city expects the Neighborhood Task Forces to coordinate these efforts and the Partnership to organize support from industry and business leaders, who will provide the necessary mentoring, technical assistance, and financial backing.⁸⁵

The Partnership plan distinguishes NEP from POMP. It criticized POMP for excluding small, local firms. It also criticized POMP for failing to educate and protect existing tenants, whose cooperation is essential to execute tenant-in-place rehabilitation. Finally, it criticized POMP because its funding levels were insufficient either to rehabilitate adequately units that could command higher rents or to maintain proportionality between after-rehabilitation rents and costs low income tenants can afford. Mayor Giuliani noted that, in the past, the lack of comprehensive planning had interfered with effective neighborhood rejuvenation: "[O]ur tremendous successes have been diluted by an often uncoordinated development approach. As a result, despite extensive investment in homeownership and rental housing, communities remained scarred by scattered City-owned buildings and lots."⁸⁶ It remains to be seen whether NEP actually avoids the problems that bedeviled POMP.

Business-Centered Advocacy Community

The business-centered advocacy community has made little comment about NEP, although the Citizens Housing and Planning Council notes that there exists "skepticism about whether inexperienced entrepreneurs can handle difficult rehabilitation projects with tenants in place."⁸⁷ A principal of one of Harlem's largest real estate companies stated that "[l]ocal entrepreneurs are best able to manage these buildings . . . [b]ut if it's going to work, whoever takes the buildings will have to have an easier time removing some of the tenants. Some don't pay rent; some tear up apartments. You have to get better tenants."⁸⁸ Overall, though, there has been little commentary from these quarters.

Tenant-Centered Advocacy Community

Many members of the tenant-centered advocacy community who criticized POMP also criticized NEP. Yet, some community voices tentatively support NEP and the landlords chosen for the first round.

When NEP was first announced, Harry DeRienzo of the Task Force on City-Owned Housing questioned the long-term affordability of the program:

What happens when the city is out of the picture? Gradually, the housing opportunities for the working poor will be lost. It is not feasible for for-profit owners to operate housing where tenants earn, on average, less than \$7,000 a year. The only way that this program can work is if much of it is eventually rented at market rates.⁸⁹

Professor Susan Saegert, also a task force member, "worried that there is not more tenant participation" in NEP's design.⁹⁰ Sarah Hovde's research supports Saegert's concerns about local participation.⁹¹ Hovde documents how the implementation of NEP is partially at odds with its "community participation" model. HPD is implementing NEP in a "top-down" manner that conflicts with its stated procedures. However, Hovde's findings should not be overstated; all of those groups asked to participate in the Central Harlem Neighborhood Task Force agreed to do so, albeit with some trepidation.⁹²

Michele Cotton, another task force member, made preliminary findings regarding the design and implementation of the Building Blocks! program as a whole.⁹³ She notes that the Giuliani administration has stopped placing homeless families in *in rem* housing. While this may benefit other needy populations, homeless families are left with diminishing housing resources in the city.⁹⁴ Cotton remarks that the effects of this policy change are compounded by the Giuliani administration's decision to keep *in rem* apartments vacant to make NEP more attractive financially. These changes combine to exacerbate the housing shortage emergency in New York City for low income households.

Cotton also finds that key aspects of NEP's design are substantially similar to elements of POMP. NEP landlords are not required to be much more "local" than POMP landlords were (POMP landlords, too, were required to have some experience with the program's type of housing stock and were allowed to buy only buildings near their current properties). Monitoring standards may not be substantially different either, particularly in light of recent severe staffing cuts at HPD.⁹⁵

Some voices in the tenant-centered advocacy community are cautiously positive. In addition to those interviewed by Hovde, *City Limits* interviewed community organizers who indicated that they welcomed NEP and some of the Neighborhood Entrepreneurs.⁹⁶ Perhaps what is most striking about the tenant-centered advocacy community's comments regarding NEP is the lack of both stridency in its tone and prejudgments regarding NEP's success. Besides certain structural arguments about the role of NEP within the greater housing market and other concerns about failures in its design, few commentators have dismissed NEP out of hand. Future debates will center around its implementation.

Analysis and Conclusion

Even at this early stage, it appears that NEP, like POMP, may not meet initial expectations. NEP also must be compared to other *in rem* programs before any final judgments are made. All HPD programs have been seriously flawed; even the widely praised TIL program offers no panacea. New York City has been unable to respond equitably and efficiently to its acute housing crisis for low income households.

There is no question that HPD listened to many of the programmatic

criticisms directed against POMP. NEP is designed to increase local input in its implementation, and its structure includes many forms of monitoring that appear more effective than those found in POMP. NEP also coordinates with other city initiatives by ensuring that blocks and neighborhoods are targeted for revitalization through the clustering of sales. Also, HPD is seriously considering long-term affordability issues by weighing the use of tax, sewage, and water charge abatements.

It is clear that NEP remains quite similar to POMP in overall philosophy and design. The tensions between POMP's design and goals also exist within NEP: profits versus affordability, speed versus efficiency, and involvement versus apathy. These tensions undermined POMP. Preliminary evaluations of NEP reveal some disturbing findings—even in this carefully scrutinized first-round qualifications outlined in the RFQ have been waived and community participation has been only tentative.⁹⁷ Like POMP, NEP may be exposed to legal challenges as a result of these problems.

Local Input

In response to the concern that POMP sold buildings to slumlords with no connection to the neighborhood, HPD has designed NEP to maximize local participation. As noted above, former Commissioner Wright made this approach a central element of her design for NEP. Yet, this too is fraught with potential problems. Wright assumes that NEP can remain local where POMP did not. This assumes that POMP ignored potential local buyers in favor of outsiders. The validity of this assumption is unclear and NEP requirements further confuse the issue. By requiring certain levels of experience and capital, Wright will exclude the local "superintendent" she described as the typical participant in the program, and invite the type of "entrepreneur" POMP attracted.

The NEP design contains points of entry through which the POMP landlord may return. A "local" Entrepreneur is defined as someone who has run a substantial business in one of the areas for a number of years. Many POMP landlords fit this definition. Even more, HPD can waive any eligibility requirement at any time. While some of the first round Neighborhood Entrepreneurs may prove to be good choices, the flexibility of the current guidelines can become a source of concern.

If truly local Entrepreneurs are scarce, HPD may be forced to rely on POMP landlords and their peers. However, NEP, modeled on the Neighborhood Builders Program, is designed to provide greater support to landlords than POMP provided. Therefore, NEP may actually expand the pool of truly local landlords by assisting those who would not have qualified under POMP.

Monitoring

NEP is designed to improve monitoring in a number of ways. The nonprofit Partnership will oversee the monitoring of the entire program.

Local nonprofit groups will contract to monitor for-profit landlords. Where the Partnership and some Neighborhood Task Force members may have a conflict of interest monitoring NEP because they receive monies from HPD, those members without HPD contracts, such as Community Board representatives, can act as independent community monitors.⁹⁸

On paper, NEP's design meets many of the criticisms regarding monitoring that had been leveled against POMP. However, Hovde's research indicates that the Neighborhood Task Forces have not found a voice independent of HPD, and Cotton has noted that staffing cuts at HPD are likely to interfere with proper monitoring of NEP. To be successful, monitoring must be funded and its findings acted upon. Only time will tell whether NEP's monitors are effective and whether their findings are heeded by decision makers.

Cost/Benefit Analysis of NEP

Do for-profit landlords actually provide housing more cheaply than nonprofit groups, tenant cooperatives, and HPD? If not, is NEP the most cost-effective model of housing management for the *in rem* stock? Many assume that a less regulated and subsidized market is the best way to deliver housing services, but this claim has not been substantiated in the context of New York City's unique housing market. As the 1993 Housing and Vacancy Survey indicates, about 60 percent of the apartments that are affordable to low income families in New York City are either publicly owned or subsidized.⁹⁹ Many of the suppliers receive government subsidies for capital improvements and operating expenses through direct grants and various abatements. Roughly one-third of New York's low income households have very low incomes and receive government subsidies.¹⁰⁰

The costs associated with *in rem* housing are substantial. They include the direct costs of rehabilitation and operation subsidies. On disposition, these costs may be offset by expected revenues to the city for taxes, mortgage payments, and water and sewer fees; savings from reduced operating costs; and the receipt of otherwise unavailable monies from federal CDBG funds that are used for rehabilitation. Yet, whether NEP is an efficient use of city and federal monies remains to be seen.

New York City plays a unique role in the life of the United States. As a frequent point of arrival for immigrants,¹⁰¹ and destination both to those who want to "make it here" and those who crave anonymity, the city continues to draw people despite its perceived inhabitability. Because of these unique features, reliance on simplistic economic markets is inapposite for analyses of the New York City housing market.¹⁰² Empirical research should replace ideology in the search for an answer to the following question: Can NEP landlords provide the best services at the best price or will New York City taxpayers provide these landlords with a subsidy that euphemistically is labelled "profit"? Put another way, if NEP landlords are making an 8 percent profit, are they actually that much more efficient than other housing managers?¹⁰³

Coordination with Other Government and Community Efforts

As noted above, Mayor Giuliani criticized earlier HPD disposition programs because they failed to integrate service delivery with other city programs.¹⁰⁴ Many commentators agree with this criticism. Some note that drugs and crime have overwhelmed *in rem* buildings, particularly those that are not fully occupied.¹⁰⁵ Others suggest that various regulatory and legal systems, such as the housing code and landlord/tenant law, overwhelm attempts to transfer city-owned housing to for-profit and non-profit organizations. Potential liability for asbestos and lead paint also have reduced the attractiveness of city-owned housing.¹⁰⁶

NEP attempts to address some of these problems by siting many resources in small areas. By clustering vacant buildings with occupied ones, NEP seeks to accomplish two goals. First, it seeks to create a critical mass of reinvestment in a small geographic area. Second, it seeks to provide valuable financial incentives to potential landlords that may offset potential liability and regulatory costs.¹⁰⁷ Finally, other components of Building Blocks! are applied to complement these efforts by assisting small landlords in the neighborhoods targeted by NEP.

Yet, whether NEP will be successful in integrating services with those delivered by other city agencies and efforts remains unclear. Furthermore, the concentration of limited resources may disproportionately benefit a few at the expense of neighboring communities. Such a policy may ensure the success of a neighborhood program at the expense of a successful citywide effort.

NEP and the New York City Housing Market

In assessing the role of NEP in the New York City housing market, it should be compared to other HPD *in rem* programs as well as to programs through which the city does not assume ownership of *in rem* properties. Efforts must be made to establish the true cost, not just the direct subsidy cost, of these privatization efforts. The true cost includes an increase in homelessness as a result of higher rents. It also includes the benefits of neighborhood revitalization, and the concomitant increase in local industry and jobs.

There is little direct evidence as to whether NEP will increase homelessness in New York City, although some data suggest such a conclusion.¹⁰⁸ If renter households living below the poverty line constitute 26.9 percent of all households and if apartments affordable to these households comprise only 18.9 percent of the total housing stock, there is reason to believe that programs reducing the amount of housing available to low income households will lead to an increase in homelessness. The same logic applies when one considers the vacancy rate for apartments affordable to poor households: about 0.58 percent for apartments renting under \$300 a month and 1 percent for apartments renting between \$300 and \$500 a month.¹⁰⁹ The number of apartments renting at less than \$400 per month fell from 19,400 in 1984 to 15,951 in 1987 to 9,249 in 1991 to 3,914 in 1993.¹¹⁰ Any program

that reduces the stock of affordable housing will have a marked impact on apartment availability for low income tenants.

On the other hand, a program that leads to neighborhood revitalization, as NEP is designed to do, may attract additional capital and have the secondary effect of encouraging more housing construction. This, of course, is what Mayor Giuliani and former Commissioner Wright hope NEP will accomplish. Wright emphatically believes that the local community is better able to capture other externalities in the form of secondary industries and jobs if local people are selected through NEP. Free market advocates tend to support this hypothesis.¹¹¹ Again, there is little direct evidence that this will occur, but it is an intuitive conclusion that could be confirmed empirically. The NEP model is only compelling if its secondary effects are greater than those of other city programs.

Of course, other HPD *in rem* programs such as TIL, Community Management Program (CMP),¹¹² and Central Management¹¹³ also are flawed. TIL has been criticized for its problem with tax and fee arrears, slower outtake rate, and its ability to absorb buildings with varied profiles. CMP and its later reincarnations have had only mixed success and popularity. Central Management also has been roundly criticized and few champion its ability to manage housing, particularly given the city's manifest unwillingness to invest sufficient funding and personnel.¹¹⁴ In terms of rapid disposition, a concern of great importance to the Giuliani administration, NEP holds promise. From the perspective of tenant satisfaction, NEP's predecessor, POMP, performed poorly in some neighborhoods and satisfactorily in others, indicating that the model is sensitive to the choices of contractors, location, and building type. However, only TIL buildings and sold co-ops have consistently outperformed POMP in tenant satisfaction.

The NEP model can also be compared to a policy in which the city does not take possession of tax and fee foreclosed housing. Such a policy may become reality in the near future. The Giuliani administration plans to provide preventive assistance to landlords facing foreclosure for tax and fee arrears, to stop vesting, and to sell securitized tax liens on foreclosed housing. While the city proposes these initiatives as novel solutions to the problem of abandonment, they are quite similar to previous unofficial moratoria on vesting and auction programs. Such programs have failed. The sale of buildings through auctions cannot bridge New York City's gap between the housing needs of its many low income households and the availability of affordable and decent housing. Auctions merely protect the city from the costs associated with vesting and leave low income citizens to deal with the problems inherent in the *in rem* housing stock.

No *in rem* strategy offers a magic solution. Such programs are merely alternative responses to the inexorable abandonment of housing that New York City has faced over the last thirty years. Some may be more efficient than others, but they are fundamentally identical. Each attempts to place abandoned housing in the hands of those who supposedly can manage it more cheaply and/or effectively than the city is willing or able to manage

it. Programs that avoid vesting differ from current *in rem* strategies in that they do not remove the financial costs of rehabilitating the aging housing stock from landlords. Nor do they alleviate the social costs borne by occupants of substandard *in rem* housing and by those who are homeless as a result of continuing abandonment. Someone will have to bear the costs of a deteriorating housing stock—either the cost of improving it or the cost of living with it.

NEP and the Law

NEP seems vulnerable to many of the same legal challenges as POMP. Tenant-centered advocates also are concerned that NEP has not yet promulgated rules that comply with the new charter's more expansive notice and opportunity-to-be-heard provisions.¹¹⁵ The Task Force on City-Owned Property's *In Rem Organizer's Sourcebook* indicates that NEP's rules and regulations may not survive legal challenges.¹¹⁶ NEP's failure to provide an official opportunity for tenants to comment on rent increases, to contest final selection into NEP, and to contest NEP's programmatic rent restructuring may violate the due process standards of *Union of City Tenants v. Koch*.¹¹⁷ The unofficial NEP guidelines contained in its RFQ grant complete discretion to HPD regarding important matters, such as the qualification of Neighborhood Entrepreneurs.¹¹⁸ As with POMP, courts may invalidate NEP guidelines that grant complete discretion to the city.

While NEP apparently addresses the needs of current "legal" tenants by providing rental subsidies, it makes no promises for future tenants.¹¹⁹ The fate of future tenants is a primary concern of the advocacy community.¹²⁰ Potential *in rem* tenants may have standing to bring lawsuits against the city.¹²¹

Sarah Hovde raises legal questions regarding NEP's innovative public-private structure. The significant administrative and policy-making role of the Partnership, a private entity, in NEP, a city program, is unprecedented.¹²² The Partnership's role and its accountability to the public are not clearly defined. Without a proactive stance by the city, provision of such clarity may be left to the courts.

Future of NEP

NEP either will be an innovative program that has addressed community and legal concerns or it will be POMP redux. Viewed from the perspective of one who primarily favors rapid disposition, it may be an effective strategy, if it is not blocked by the courts or by public outcry. Viewed from the perspective of one who favors tenant and community participation, it shares many similarities with POMP.

Some of its innovations include: It is better funded than POMP; it is designed to have and does have more community participation than POMP; it provides explicit protection to tenants who must relocate during rehabilitation; it increases the potential number and types of monitors of participating landlords; and, perhaps tellingly, it has generally avoided negative press so far.

But since it has many characteristics in common with POMP, it may be similarly criticized in the future. Like POMP, NEP does not ensure that its units will be maintained as long-term housing for low and moderate income tenants;¹²³ may encourage evictions of tenants paying low rents; and does not ensure tenants adequate notice and an opportunity to be heard. HPD has already waived some of NEP's own guidelines in the first year.

NEP has some new characteristics that may render it less successful than POMP. It keeps apartments vacant in a city with an overwhelming need for more low income housing. Also, it fails to meet the needs of homeless families. These characteristics may lead to debilitating legal challenges or future unpopularity.

Finally, some of NEP's first Entrepreneurs are from outside the local community for which they have been selected. Some have poor records of maintaining housing, as evidenced by their housing code violations. Moreover, some have substantial property tax arrears. The first round does not engender complete faith in NEP's implementation strategy.

NEP was first presented as a program that would spur the private sector to redevelop abandoned housing in poor communities. While its design appears to have incorporated lessons from POMP, its predecessor, it is unclear whether those changes will be sufficient to achieve NEP's goals. NEP's first year of operation demonstrates that it is superior to POMP in some ways, but it is unclear whether those improvements will help NEP meet the goals that the Giuliani administration has enunciated and the need of New York City residents for decent affordable housing.

1. Anthony DePalma, *New York Plays Reluctant Landlord*, N.Y. TIMES, Dec. 14, 1986, § 8, at 1.

2. ARTHUR ANDERSEN CONSULTING, CITY OF NEW YORK HPD IN REM COST OF OWNERSHIP MODEL, schedule 2 (Aug. 24, 1995); 8,600 of the occupied units are in DAMP programs and the remainder are overseen by the Department of Property Management. *Id.*

3. CITY OF NEW YORK, OFFICE OF THE MAYOR, MAYOR GIULIANI AND HPD COMMISSIONER WRIGHT UNVEIL COMPREHENSIVE INITIATIVE TO RETURN CITY-OWNED BUILDINGS TO RESPONSIBLE PRIVATE OWNERS (Release #410-94, Wed., Sept. 14, 1994) [hereinafter Press Release]; Shawn G. Kennedy, *Mayor Cutting City's Roster of Buildings*, N.Y. TIMES, Sept. 15, 1994, at B1.

4. Shawn G. Kennedy, *Defaults Rise, Posing Peril for Housing*, N.Y. TIMES, May 31, 1994, at B1.

5. *Id.*

6. Alan S. Oser, *The Ax Is Poised on Low-Income Housing Efforts*, N.Y. TIMES, Oct. 22, 1995 § 9, at 7.

7. Note that the rehabilitation funds for the Tenant Interim Lease Program (TIL) may be \$40,000 or less. ARTHUR ANDERSEN CONSULTING, BREAKING THE CYCLE: DEVELOPING AN EFFECTIVE INTERVENTION STRATEGY FOR DEALING WITH NEW YORK CITY'S IN REM HOUSING PROBLEM, COST OF OWNERSHIP MODEL, schedule 4B (Sept. 1995) [hereinafter ARTHUR ANDERSEN MODEL].

8. Section 8 subsidies are not guaranteed to be available to current recipients in 1996. Barbara Stewart, *As Cutbacks Loom, Advocates for the Poor Brace for a Hard Year*, N.Y. TIMES, Jan. 7, 1996, 13NJ, at 6.

9. NEW YORK CITY HOUSING PARTNERSHIP, THE NEW YORK CITY NEIGHBORHOOD ENTREPRENEUR PROGRAM: A NEW PUBLIC-PRIVATE INITIATIVE 5 (Aug. 12, 1994) (proposal) [hereinafter NYCHP]. "Proceeds from the sale of Low Income Housing Tax Credits will be used to establish operating reserves necessary to keep apartments affordable to low income tenants and maintain the needed level of social services and repay a small portion of the HPD debt." HPD, NEIGHBORHOOD ENTREPRENEURS PROGRAM GENERAL OUTLINE 5 (Feb. 6, 1995) [hereinafter NEP OUTLINE]. Tax credits only place income and rent restrictions on landlords for fifteen years. The future availability of tax credits is determined by Congress and that future is not at all certain. See, e.g., Joan Pryde, *Muni's Fate Still Unclear Despite Budget Progress by Congress*, WHITE HOUSE, BOND BUYER, Jan. 8, 1996, at 5; Oser, *supra* note 6.

10. Oser, *supra* note 6.

11. ARTHUR ANDERSEN MODEL, *supra* note 7.

12. CITY OF NEW YORK, CITY BUDGET 45, 1996.

13. Sarah Hovde, *An Early Stage Assessment of the Giuliani Administration's "Building Blocks!" Initiative* 7 (1995) (unpublished M.S. thesis, Columbia University).

14. Kennedy, *Mayor Cutting City's Roster*, *supra* note 3.

15. Andrew White, *City for Sale*, CITY LIMITS, June/July 1994, at 8.

16. Shawn G. Kennedy, *Working to End Landlord Role*, *New York Faces Hurdles*, N.Y. TIMES, Sept. 24, 1994, § 1, at 21.

17. MICHELE COTTON, TASK FORCE ON CITY-OWNED HOUSING, IN REM REPORT 9 (Apr. 13, 1995) (draft).

18. White, *supra* note 15, at 8-9. Preliminary studies of the first group of Entrepreneurs shows that they have more in common with POMP contractors than with "local talented folks." MICHELE COTTON ET AL., TASK FORCE ON CITY-OWNED HOUSING, SUMMARY OF APPLICATION INFORMATION, VIOLATIONS PRINTOUTS, AND OTHER INFORMATION FOR ENTREPRENEURS SELECTED FOR NEP BY APPLICATIONS SUBMITTED IN RESPONSE TO 10/94 HPD RFQ (undated).

19. Note that POMP generally required that its contractors be familiar with the characteristics of the housing stock that they were interested in managing. It is unclear whether NEP standards are any more stringent. See COTTON, *supra* note 17, at 8; MICHELE COTTON, ET AL., TASK FORCE ON CITY-OWNED HOUSING, NO MORE "HOUSING OF LAST RESORT": THE IMPORTANCE OF RESIDENT PARTICIPATION IN IN REM HOUSING 67-70 (Apr. 1996) [hereinafter NO MORE "HOUSING OF LAST RESORT"].

20. NYCHP, *supra* note 9. These clusters, or submarket areas, are comprised of two to eight square blocks. *Id.* at 3.

21. Press Release, *supra* note 3.

22. White, *supra* note 15, at 8.

23. Peter Grant, *Many Non-Profits Fail in City Landlord Role*, CRAIN'S N.Y. BUSINESS, Sept. 19, 1994, at 3. See also COTTON, *supra* note 17, at 9; CITIZENS HOUSING AND PLANNING COUNCIL, THE URBAN PROSPECT: HOUSING, PLANNING AND ECONOMIC DEVELOPMENT IN NEW YORK 2 (Jan./Feb. 1995) [hereinafter URBAN PROSPECT].

24. White, *supra* note 15. Note that HPD has not indicated how it will define a "legal" tenancy.

25. HPD, REQUEST FOR QUALIFICATIONS: NEIGHBORHOOD ENTREPRENEURS PROGRAM 11 (Oct. 21, 1994) [hereinafter RFQ]. In a representative notice sent to tenants of a building that had been preliminarily selected for NEP, the rents were set at \$55 per zoning room (Studio at \$137.50; 1BR at \$192.50; 2BR at \$247.50; etc.). HPD, OFFICE OF HOUSING MANAGEMENT AND SALES, DIVISION OF ALTERNATIVE MANAGEMENT PROGRAMS, NOTICE OF PRELIMINARY SELECTION NEIGHBORHOOD ENTREPRENEUR PROGRAM (Jan. 9, 1995) [hereinafter PRELIMINARY SELECTION].

26. Kennedy, *Mayor Cutting City's Roster*, *supra* note 3; White, *supra* note 15. HPD will calculate reasonable rents as 30 percent of income. NEP OUTLINE, *supra* note 9, at 6. Note though, that single persons, undocumented aliens, and persons whose housing does not meet federal standards cannot receive subsidies. Nor are those who are classified as mere occupants or licensees by the courts. Of course, squatters are also ineligible.

27. RFQ, *supra* note 25; NYCHP, *supra* note 9, at 3. Cross-subsidies are created by renting vacant units at area market rates in order to offset lower rents paid by existing tenants. Vacant apartments may be rented to families earning no more than 165 percent of the current HUD area median income standard adjusted for family size (currently \$68,800 for a family of four). RFQ, at 3. In addition, if the restructured rent (plus utilities) is more than 30 percent of the tenant's income, the tenant may apply for an Interim Payment Agreement with HPD to have the rent reduced until rental subsidies are made available. PRELIMINARY SELECTION, *supra* note 25.

28. NEP OUTLINE, *supra* note 9, at 7.

29. White, *supra* note 15, at 10.

30. NYCHP, *supra* note 9, at 7.

31. *Id.*

32. ARTHUR ANDERSEN CONSULTING, BREAKING THE *IN REM* CYCLE: THE GIULIANI ADMINISTRATION'S PROPOSAL TO RESHAPE NYC'S PROPERTY TAX ENFORCEMENT AND HOUSING PRESERVATION POLICIES (Oct. 1995) [hereinafter PRESERVATION POLICIES].

33. Of the \$10.6 billion, approximately \$1.3 billion is associated with lost revenues. *Id.* at 6.

34. *Id.* at 8-9. *But see* NO MORE "HOUSING OF LAST RESORT," *supra* note 19, at 33 (questioning accuracy of the Arthur Anderson figures based on earlier HPD estimates that were substantially lower than those used by Arthur Anderson).

35. *Id.* at 9.

36. Shawn G. Kennedy, *Tenants in Limbo as New York Stops Foreclosing*, N.Y. TIMES, Sept. 9, 1995, § 1, at 1.

37. PRESERVATION POLICIES, *supra* note 32, at 6.

38. OFFICE OF MANAGEMENT AND BUDGET, MESSAGE OF THE MAYOR, THE CITY OF NEW YORK EXECUTIVE BUDGET, FISCAL YEAR 1996, 181.

39. PRESERVATION POLICIES, *supra* note 32, at 7, 11.

40. Kennedy, *Defaults Rise*, *supra* note 4. ("The number of buildings in which owners have fallen seriously behind in their taxes has risen sharply in the last five years, from 13,737 in 1989 to 18,003 in 1993."); URBAN PROSPECT, *supra* note 23, at 4.

41. HPD, BUILDING BLOCKS! THE GIULIANI ADMINISTRATION'S INITIATIVE TO RETURN CITY-OWNED PROPERTY TO RESPONSIBLE PRIVATE OWNERS (unpaginated and undated) [hereinafter BUILDING BLOCKS!]. The city will provide low interest

rate loans through City Capital Budget funds and it may provide real property tax exemption under section 11-243 (formerly J-51) of the N.Y.C. Administrative Code or under article 16 of New York State General Municipal Law. NEP OUTLINE, *supra* note 9.

42. BUILDING BLOCKS!, *supra* note 41.

43. *Id.*

44. Hovde, *supra* note 13, at 45-47.

45. *Id.*

46. NYCHP, *supra* note 9.

47. *Id.*

48. Hovde, *supra* note 13, at 48. The Partnership has contracted with the South Bronx Overall Economic Development Corporation (SOBRO) and the Strive Employment Group for the provision of a work readiness program and assistance in job placement. Some tenants will be referred to these organizations. *Id.*

49. The Neighborhood Builder Program is considered by its designer, The New York City Housing Partnership, to be a success. NBP was designed to help minority-owned firms compete for housing construction and rehabilitation contracts. See COMMUNITY PARTNERSHIP DEVELOPMENT CORPORATION, MAINSTREAMING MINORITY BUILDERS: NEW YORK CITY'S PUBLIC-PRIVATE PROTOTYPE (Jan. 1993).

50. NYCHP, *supra* note 9, at 4-5.

51. RFQ, *supra* note 25, at 5, 8.

52. "Neighborhood-based" is defined as any one of the following: the Neighborhood Entrepreneur's primary business is located in one of NEP's target neighborhoods; the Neighborhood Entrepreneur has lived in a target neighborhood for at least three years; or, the Neighborhood Entrepreneur's business generated at least 75 percent of its gross revenues from a target neighborhood during each of the last three years. RFQ, *supra* note 25, at 5. Note that POMP landlords were required to have some experience managing housing stock similar to that of POMP buildings.

53. The units owned by each principal will be counted cumulatively to arrive at the total units owned by the applicant. RFQ, *supra* note 25, at 5.

54. The units owned by each principal will be counted cumulatively to arrive at the total units owned by the applicant. *Id.*

55. Relevant experience may include multifamily housing owned and managed by the applicant, managed for private owners, managed under contract with governmental agencies, or pursuant to court appointment. The Neighborhood Entrepreneur must also have experience with rehabilitation or repair of occupied multifamily housing. Finally, Neighborhood Entrepreneurs must meet one of the following criteria in full regarding their financial resources and be within 50 percent of the maximum limit as specified in the other criterion: maximum gross annual business revenue (three-year average) of \$1.5 million; maximum personal and corporate net worth (exclusive of primary personal residence) of \$1.5 million; and ability to commit \$50,000 cash to the project or obtain a \$50,000 line of credit. The Partnership will provide access to financial institutions, if necessary. RFQ, *supra* note 25, at 5. See also NYCHP, *supra* note 9, at 5.

56. Automatic reasons for disqualification include arson conviction (or pending cases); tenant harassment conviction (or pending cases); city mortgage foreclosure proceedings or substantial tax arrears; previous record of

default on work performed under government contract; previous de-designation pursuant to an HPD decision after award of a project or contract; *in rem* foreclosure (applies to applicant as well as applicant's spouse, business entity substantially controlled by applicant, or any successor in interest); HPD's Housing Litigation Bureau cases (pending, active, or negative history); outstanding housing code violations of a serious nature (C violations) in properties owned or managed by the applicant; or conviction for fraud, bribery, or grand larceny. RFQ, *supra* note 25, at 5. Note that HPD and the Partnership can waive these bars at any time. *Id.* at 8.

57. *Id.* at 6. Other considerations include anything that will promote the NEP effort. Therefore, additional weight will be given to applicants who have long-term residential or business ties to the target neighborhood; whose principals and/or work force include residents of target neighborhoods; who demonstrate a history of commitment to hiring local residents and are willing to participate in a pilot employment program for tenants; and whose principals, if the applicant is a joint venture, have a history of working together. *Id.*

58. HPD, QUESTIONS SUBMITTED ABOUT THE NEIGHBORHOOD ENTREPRENEURS PROGRAM REQUEST FOR QUALIFICATIONS 13 (Nov. 21, 1994).

59. Neighborhood Entrepreneurs will have overall development responsibility for the properties. They will be expected to hire a general contractor and work with the contractor to plan, implement, and complete the rehabilitation work in a professional and timely manner. Every effort is made to use the skills and experience of the neighborhood's work force. RFQ, *supra* note 25, at 3; NEP OUTLINE, *supra* note 9, at 4. Note that the typical Entrepreneur who takes 100 units with subsidies of \$50,000 per unit will receive a development fee of \$500,000 that does not include, of course, management fees, rental income, and capital appreciation.

60. NEP OUTLINE, *supra* note 9.

61. NYCHP, *supra* note 9.

62. RFQ, *supra* note 25, at 4; NEP OUTLINE, *supra* note 9, at 7.

63. NEP OUTLINE, *supra* note 9, at 7.

64. NYCHP, *supra* note 9, at 5-6.

65. NEP OUTLINE, *supra* note 9, at 6.

66. RFQ, *supra* note 25, at 2; Hovde, *supra* note 13, at 51.

67. HPD AND NYCHP, REQUEST FOR QUALIFICATIONS, NEIGHBORHOOD ENTREPRENEURS PROGRAM (Oct. 21, 1994).

68. Hovde, *supra* note 13, at 82-83.

69. *Id.* at 45.

70. Kim Nauer, *Soft Sell*, CITY LIMITS, Apr. 1995, at 8.

71. RFQ, *supra* note 25, at 5; NEP OUTLINE, *supra* note 9, at 4. "[B]uilding violation lists were reviewed in the selection of candidates." *Id.*

72. See, e.g., NEW YORK CITY HOUSING PARTNERSHIP, NEIGHBORHOOD ENTREPRENEURS PROGRAM DESCRIPTION OF PROGRAM APPLICANTS DESIGNATED FOR THE FIRST ROUND 4-5 (Feb. 10, 1995) (profiles of Larry Hirschfield and C.E. Property Management, Ltd.).

73. *Id.*; COTTON, ET AL., *supra* note 18.

74. MICHELE COTTON, DRAFT REPORT OF THE TASK FORCE ON CITY-OWNED PROPERTY 29 (Jan. 23, 1996).

75. *Id.* at 28.

76. Hovde, *supra* note 13.

77. It is not surprising that the Neighborhood Task Force was composed

of organizations with both financial ties and similar agendas to HPD. HPD excluded a community organization (Action for Community Empowerment) that has taken adversarial stances to HPD policies, particularly those relating to NEP. *Id.* at 77.

78. *Id.* at 64. A building needs the assent of 60 percent of the units (including vacant units) to opt out. Once an application has been completed, the tenants have ninety days to fulfill all other TIL requirements including forming a tenant association, electing officers, and attending classes in building management. Apparently, this is a difficult process and time frame for tenants.

79. *Id.* at 83. Note that there were no objections to the particular Entrepreneurs chosen, only to the process. *Id.* at 48.

80. *Id.* at 79-80.

81. NYCHP, *supra* note 9, at 3.

82. Kennedy, *Working to End Landlord Rule*, *supra* note 16, § 1.

83. NYCHP, *supra* note 9, at 2-3. The two-thirds rate of former homelessness claimed by the Partnership is inconsistent with data collected and analyzed by the Task Force on City-Owned Housing. These data indicate former homelessness rates for *in rem* tenants of 30 percent in the Bronx and about 15 percent in Brooklyn. No MORE "HOUSING OF LAST RESORT," *supra* note 19, at 44.

84. NYCHP, *supra* note 9, at 3.

85. *Id.*

86. Press Release, *supra* note 3, at 3.

87. URBAN PROSPECT, *supra* note 23, at 4.

88. Kennedy, *Working to End Landlord Role*, *supra* note 16, at 21. This statement by Eugene Webb is not necessarily indicative of landlord sentiment, but it appears to be a very frank assessment of their interests.

89. *Id.* See also Nauer, *supra* note 70, at 8.

90. Kennedy, *Working to End Landlord Role*, *supra* note 16.

91. Of course, tenant participation and community participation are two different concepts, but the failure to include local community groups may very well indicate that tenants are excluded as well.

92. Hovde, *supra* note 13, at 79-80.

93. COTTON, *supra* note 17.

94. *Id.* at 2-3.

95. *Id.* at 8, 14-15.

96. Nauer, *supra* note 70, at 10. The article indicated that some tenants in buildings chosen for NEP were happy with the Neighborhood Entrepreneur selected for their buildings. ACORN's Helene O'Brien, an organizer working with these tenants, found that HPD and the Partnership were responsive to the concerns of tenants with whom she works. Yet, another task force member who is also an employee of the Partnership indicated that at least one of the chosen Neighborhood Entrepreneurs has a "less than stellar reputation." *Id.*

97. *Supra* text accompanying notes 92-99.

98. Note, though, that the entire membership of the Neighborhood Task Force is appointed by HPD. Hovde, *supra* note 13, at 70.

99. ANTHONY J. BLACKBURN, HPD, HOUSING NEW YORK CITY, 1993, 8 (1995).

100. No MORE "HOUSING OF LAST RESORT," *supra* note 19, at 28.

101. GEORGE STERNLIEB, HOUSING AND ECONOMIC REALITY: NEW YORK CITY 25 (1976).

102. See, e.g., PETER SALINS, *SCARCITY BY DESIGN* (1992).

103. While a study of this question is of great importance, the hurdles to the design of a useful study are legion. Generally, different types of buildings with different types of tenants are placed in different HPD programs and given different levels of subsidies that come in differing forms. Controlling for these variables would be difficult.

104. Press Release, *supra* note 3, at 3.

105. See generally, YVETTE SCHIFFMAN, ET AL., *COMMUNITY SERVICE SOCIETY, PRODUCING LOW-INCOME HOUSING IN NEW YORK CITY* (1985); NO MORE "HOUSING OF LAST RESORT," *supra* note 19, at 49; MICHELE COTTON, ED., *HOUSING IN THE BALANCE: SEEKING A COMPREHENSIVE POLICY FOR CITY-OWNED HOUSING* 32 (1993).

106. See URBAN PROSPECT, *supra* note 23; Mathew Purdy, *New York Girding for Surge in Suits over Lead Paint*, N.Y. TIMES, Aug. 14, 1995, at A1.

107. In addition, HPD is considering giving abatements for tax, sewage, and water charges as well. White, *supra* note 15, at 9-10.

108. NO MORE "HOUSING OF LAST RESORT," *supra* note 19, at 28-31.

109. Moon What Lee, HPD, Selected Findings of the 1993 Housing and Vacancy Survey (unpaginated). Note that in 1991 the vacancy rate was 12 percent for apartments renting at \$1,200 or more a month. Brian T. Sullivan, *Analysis of Preliminary Data from the 1991 New York City Housing Vacancy Survey*, in *HOUSING IN THE BALANCE: SEEKING A COMPREHENSIVE POLICY FOR CITY-OWNED HOUSING* 50 (Michele Cotton ed., 1993).

110. These figures, of course, include studios and one bedroom apartments. *Tenants and Poverty*, CITY LIMITS, Apr. 1995, at 11.

111. SALINS, *supra* note 102, 127.

112. CMP transfers in *rem* buildings to nonprofit organizations like the current NRP.

113. HPD directly manages units through Central Management.

114. Note, though, that one community organizing group, Action for Community Empowerment (ACE), fights for improved services from HPD's Central Management instead of fighting for increased disposition to private managers.

115. N.Y.C. Charter §§ 1043, 1045.

116. COTTON, *supra* note 105.

117. 574 N.Y.S.2d 695 (App. Div., 1st Dep't 1991) ("Petitioners have demonstrated an entitlement to due process protection to the extent that they, as low-income tenants, have a protected interest in decent, safe, and adequate low-rent housing. . . .").

118. RFQ, *supra* note 25, at 8.

119. Note that POMP also had subsidies for current tenants.

120. See *supra* note 17.

121. See, e.g., In the Matter of Lee, 574 N.Y.S.2d 695 (App. Div., 1st Dep't 1991) (potential tenants have standing to request injunction against sale of certain POMP properties to known slumlords).

122. Hovde, *supra* note 13, at 7.

123. This is particularly true now that federal tax credit legislation is threatened in Congress. Oser, *supra* note 6, at 7.