

Village of Nyack Housing Authority
15 Highview Court, Nyack, New York 10960
(845) 358-2476

Monthly Board Meeting Agenda
November 15, 2022
Waldron Terrace
6:30 pm

**Board
Members**

- | | | |
|--|-----|---|
| Sonya Rogers
<i>Chairperson</i> | 1. | Call to Order |
| | 2. | Roll Call |
| Dara Joseph
<i>Vice Chairperson</i> | 3. | Approval of minutes |
| | 4. | Public Comment on Agenda Items |
| Drew Burke
<i>Treasurer</i> | 5. | Bills & Communications – (a-f to be approved together)
a) Summary of Accounts and Reserve Commitments
b) Report of NYS Accounts
c) Report of NYS Reserve Fund Expenditures
d) NYS Quarterly report - 9/30/2022
e) Report of HUD Accounts
f) Investment Report - |
| Linda Pappalardo
<i>Secretary</i> | | |
| Nicole Hines
<i>Commissioner</i> | 6. | Executive Director's Report
a) Darren Scott – Upstate East Director of Development
from DHCR to discuss VONHA repositioning. |
| Raquel Rodriguez
<i>Commissioner</i> | 7. | Officers' and Committee Reports |
| | 8. | Old Business
a) Eviction Process |
| Anngela Vasser-
Cooper
<i>Commissioner</i> | 9. | New Business |
| | 10. | Comments and Questions from the public |
| Toni Keys
<i>Executive Director</i> | 11. | Executive Session
a) Eviction notices
b) Hearing decisions |
| | 12. | Adjournment |

Executive Session is used for discussion of legal, personnel, or employee matters

Village of Nyack Housing Authority
Board Meeting Minutes of October 11, 2022
Depew Manor 6:30pm

Board Members Present: Sonya Rogers, Drew Burke, Nicole Hines, Raquel Rodriguez and Anngela Vasser-Cooper.

Absent members: Dara Joseph and Linda Pappalardo

Also Present were: Toni Keys, Executive Director and Keith Braunfotel, Attorney

Call to order:

A quorum of the directors was present. Sonya Rogers called the meeting to order at 6:30pm.

Approval of Minutes:

Drew Burke made a motion to approve the September minutes with a correction to the spelling of Nicole Hines' name under the Executive Director's report and adding Anngela Vasser-Cooper as present, seconded by Anngela Vasser-Cooper. The motion passed unanimously.

On a motion by Nicole Hines and seconded by Raquel Rodriguez, the April Annual and April Board Meeting Minutes were approved. The vote carried with four in favor and Drew Burke against.

Bills and communications:

Drew Burke made a motion to approve the Bills and Communications, seconded by Anngela Vasser-Cooper. The motion carried unanimously.

Executive Director's report:

The ED reviewed the "follow-up" list on her written report. There was a brief discussion about the NHAC in reference to the original agreement between VONHA and NHAC to transfer funds back in the 90's. Attorney Keith Braunfotel will send an email to NHAC's attorney to request a meeting between the Boards to discuss. Nicole Hines would like to see NHAC provide funding to upgrade units at Waldron Terrace. Board requested that ED send a copy of the documents from the original transfer of funds to NHAC.

ED provided Board members with a copy of the FYE 2024 Budget and Salary Comparability Study for review and to discuss at the next Board meeting. She reminded the Board that the budget should be reviewed and approved by the December meeting so that it could be sent to the Village of Nyack for approval.

Louise Parker, interjected to state that the Village reviewed the previous budget and did not like things that were in the budget and wanted to see changes which is what delayed Village approval of the last budget they received.

After a brief discussion the Board agreed to have a workshop meeting at 5:30pm before the November Board meeting to discuss the Salary Comparability Study. They also agreed to table some items on the November meeting agenda so that they could discuss the budget in length at the next meeting.

On a motion by Nicole Hines and seconded by Drew Burke the Board will have a meeting before the November Board meeting at 5:30pm to discuss the ED's recommendations on the Salary Comparability Study. The motion carried unanimously.

Nicole Hines inquired about the position of Secretary of the Village of Nyack Housing Authority. The ED explained that was her official title. Clarification of the Secretary of the Village of Nyack Housing Authority (SVNH) vs. Executive Director. The ED explained that as per the job description the SVNH also serves as Executive Director and Chief Executive Officer (CEO) of the Housing Authority. A brief discussion ensued in reference to the ED's contract term. Nicole Hines requested a copy of the ED's Contract and job description.

The ED inquired if all members had an opportunity to review the 4-bedroom drawings previously emailed. She asked if there were any objections to forward the drawings to NYSHCR for review and approval to go to bid for a contractor. There were no objections and the ED is to send the documents to NYSHCR for approval.

Nicole Hines asked who is responsible for the follow-up items on the ED's report. The ED said the attorney is handling the tax bill issue and the Board members are responsible to complete the NHAC agreement. The ED further explained that the Board was waiting to make a decision on the agreement until they had a resolution regarding the funds donated to NHAC. The ED explained that the money in question is fully accounted for and is in the possession of NHAC. She believes that it was transferred in the 90's. After a brief discussion Nicole Hines mentioned that she would like NHAC to help rehab some of the units. The attorney will reach out to the NHAC attorney to set up a meeting between the NHAC and VONHA Board.

Drew Burke made a motion to accept the Executive Director report, seconded by Raquel Rodriguez. The motion carried unanimously.

Old Business:

Sonya Rogers asked for an update about providing access to the monthly Board meeting via Zoom. She said she recalled that Dara Joseph was going to have her IT technician send us a breakdown. The ED informed the Board that she had not received the breakdown from Dara Joseph as of yet, so she reached out to VONHA's IT company for recommendations and a quote. She had not received it as of yet but would update the Board once received.

Angela Vasser-Cooper inquired about the connection between the Village and the Housing Authority. The ED explained that the Village is a separate entity from the Housing Authority.

New Business:

The ED mentioned the Salary Comparability Study that was previously discussed. The Board also discussed changing the date of the November meeting because the next meeting fell on Election Day. The Board agreed to change the meeting to November 15, 2022.

Louise Parker asked if the Comparability study would be made public. The attorney responded that the study is part of personnel and would be discussed in an executive session and the report would not be public.

Public Comments:

Raquel Gonzalez inquired about a fence in front of her apartment. The ED explained that she had been discussing the fence with the contractor because the kids were playing with the temporary fence that was in place. The ED will contact the contractor to have a new fence installed.

On a motion by Nicole Hines and seconded by Drew Burke the meeting was adjourned at 8:30pm.

Village of Nyack Housing Authority
Summary Report on All Cash Accounts August 2022

NYS Public Housing Accounts

<i>Webster Bank Administrative fund - Checking</i>	\$ 287,501.44
<i>Webster Bank Administrative fund -Money Market (MM)</i>	\$ 46,154.51
<i>Webster Bank Reserve Fund - Checking</i>	\$ 66,395.30
<i>Webster Bank Reserve Fund - MM</i>	\$ 6,759.33
<i>Webster Bank Security - Checking</i>	\$ 2,053.76
<i>Webster Bank Security - MM</i>	\$ 6,252.07

Section 8 Voucher Program Accounts

<i>Webster Bank Section 8 Existing - Checking</i>	\$ 61,874.37
<i>Webster Bank Section 8 - MM</i>	\$ 343,358.50

Village of Nyack Housing Authority Investment Accounts

<i>Reserves</i>	\$ 1,448,515.92
<i>Section 8</i>	\$ 44,003.36

<i>Total all NYS Accounts</i>	\$ 415,116.41
<i>Total all Section 8 Accounts</i>	\$ 405,232.87
<i>Total all cash accounts</i>	\$ 820,349.28
<i>Total investment accounts</i>	<u>\$ 1,492,519.28</u>

Total all accounts \$ 2,312,868.56

NYS Public Housing Tenant Security Accounts held by Webster

<i>Tenant Security accounts Waldron Terrace</i>	\$ 84,343.20
<i>Tenant Security accounts Depew Manor</i>	<u>\$ 37,605.24</u>
	\$ 121,948.44

Village of Nyack Housing Authority
New York State Program
Report on Cash Accounts -September 2022

WEBSTER BANK ADMINISTRATIVE FUND - CHECKING

	<i>Opening Balance</i>	\$ 15,897.97
Rental income		\$ 148,983.53
Reimbursement from DHCR(tr		\$ 350,156.96
Board of Elections		\$ 360.00
Insurance Co. Dividend		\$ 1,228.00
PSH management fee		\$ 5,000.00
	Total receipts/receivables	\$ 505,728.49
Cleared disbursements		\$ (132,552.61)
transfer to Reserve checking		\$ (46,790.00)
Rentpayment charges		\$ (304.78)
Payroll		\$ (54,477.63)
	Total subtractions	\$ (234,125.02)
	Closing Balance	\$ 287,501.44

WEBSTER BANK ADMINISTRATIVE FUND - MM

	<i>Opening Balance</i>	\$ 46,148.47
Interest @ 0.1500%		\$ 5.64
	Closing Balance	\$ 46,154.11

WEBSTER BANK RESERVE FUND - CHECKING

	<i>Opening Balance</i>	\$ 75,245.30
Transfer from Admin Checking		\$ 46,790.00
Cleared disbursements		\$ (55,640.00)
	Closing Balance	\$ 66,395.30

WEBSTER BANK RESERVE FUND - MM

	<i>Opening Balance</i>	\$ 6,758.50
Interest @ 0.1500%		\$ 0.83
	Closing Balance	\$ 6,759.33

WEBSTER BANK SECURITY - CHECKING

no activity

Opening Balance \$ 2,053.76

Closing Balance \$ 2,053.76

WEBSTER BANK SECURITY - MM

closed tenant security account

Interest @ 0.0500%

Opening Balance \$ 5,468.54

\$ 782.78

\$ 0.75

Closing Balance \$ 6,252.07

Balance all NYS accounts \$ 415,116.01

Village of Nyack Housing Authority
Operating Improvements and Replacement Reserve Accounts
Operating Improvement Reserves

August 2022			
Date	Name	Memo	Amount
9/9/2022	First Rate Landscaping & Construction	Rehab apartment	\$ 26,790.00
9/15/2022	Street Paving Inc.	Paving-blacktop	\$ 20,000.00
Total Replacement Reserve Expenditure			<u>\$ 46,790.00</u>

NYACK HOUSING AUTHORITY
 NEW YORK STATE LOW-INCOME HOUSING PROGRAM
 STATEMENT OF ACTUAL REVENUES/EXPENSES VS BUDGET
 FOR THE SIX MONTHS ENDED 9/30/2022

	Actual As A % Of Budget	9/30/2021 Actual	3/31/2022 Annual Budget	Budget Excess (Overrun)
Revenues				
Basic Rent Schedule (Minimum Dwelling Rent Surcharges	190%	\$1,051,125	\$551,820	(\$499,305)
Retroactive Surcharges	0%	0	1,139,598	\$1,139,598
Excess Utility Charges	38%	3,912	10,232	\$6,320
Total Dwelling Rent Schedule	15%	2,426	15,660	\$13,234
Less: Vacancy Loss	62%	1,057,463	1,717,310	\$659,847
Net Dwelling Rent	0%	0	20,400	\$20,400
Non Dwelling Rent	62%	1,057,463	1,696,910	\$639,447
Sales & Services To Tenants	39%	18,198	46,476	\$28,278
Miscellaneous Project Income	187%	18,831	10,050	(\$8,781)
Interest Earned	393%	139,756	35,561	(\$104,195)
Total Revenues	23%	57	250	\$193
	69%	1,234,305	1,789,247	554,942
Expenditures				
Project Office Salaries	49%	115,041	233,518	118,477
Legal, Fiscal & Other Fees	38%	30,675	81,300	50,625
Project Office Expense	51%	40,464	80,000	39,536
Total Management	47%	186,180	394,818	208,638
Janitorial Other	37%	2,425	6,569	4,144
Exterminating	24%	3,135	13,120	9,985
Watchmen-Other	55%	6,258	11,393	5,135
Total Operating Services	38%	11,818	31,082	19,264
Water	45%	21,742	48,000	26,258
Electricity	41%	42,679	103,685	61,006
Fuel Oil-Heating	18%	16,905	94,426	77,521
Total Utilities	33%	81,326	246,111	164,785
Maintenance Salaries	48%	106,641	222,471	115,830
Grounds	92%	44,560	48,335	3,775
Structures	52%	12,976	25,000	12,024
Painting & Decorating	14%	1,506	10,900	9,394
Plumbing & Gas Systems	33%	5,556	17,000	11,444
Electrical Systems	31%	2,147	7,000	4,853
Heating & Ventilating Systems	4%	495	13,000	12,505
Ranges	25%	747	3,000	2,253
Refrigerators	11%	453	4,000	3,547
Other Equipment	6%	343	5,650	5,307
Total Maintenance	49%	175,424	356,356	180,932
Insurance	0%	0	67,000	67,000
Interest on Indebtedness	0%	0	7,127	7,127
Amortization of Indebtedness	0%	0	52,796	52,796
Real Estate Taxes	0%	0	36,000	36,000
Pension and Other Funds	22%	71,886	326,403	254,517
Collection Losses	0%	0	0	0
Community Activities	11%	1,006	9,200	8,194
Total Other Expenses	15%	72,892	498,526	425,634
Total Expenditures Before Provisions	35%	527,640	1,526,891	999,253
Provision for Replacements	18%	1,684	9,136	7,452
Provision for Painting & Decorating	0%	-	(2,000)	(2,000)
Provision for Vacancy & Collection Loss	0%	-	1,641	1,641
Provision for Operating Improvements	59%	183,598	313,502	129,904
Total Provision for Reserves	57%	185,282	322,279	136,997
Modernization Grant Exp		141,903		
Total Expenditures	46%	854,825	1,849,170	1,136,250
Net Income		379,480	(\$59,923)	(\$581,307)

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Village of Nyack Housing Authority
 HUD Program Cash Account
 Report on Cash Accounts for September 2022

WEBSTER BANK SECTION 8 - CHECKING

	<i>Opening Balance</i>	\$ 41,056.26
from HUD S8 HAP	\$	219,624.00
from HUD S8 Admin	\$	18,491.00
recoupment-fraud income	\$	2,776.00
Direct depositis to LL	\$	136,134.29
	<i>Total addiditons</i>	<u>\$ 377,025.29</u>
Direct depositis to LL	\$	(136,134.29)
cleared checks	\$	(220,072.89)
	<i>Total subtractions</i>	<u>\$ (356,207.18)</u>
	<i>Bank balance end of month</i>	<u>\$ 61,874.37</u>

WEBSTER BANK SECTION 8 - MONEY MARKET

	<i>Opening Balance</i>	\$ 343,019.77
interest @ 1.210%		338.73
	<i>Bank balance end of month</i>	<u>\$ 343,358.50</u>

Total all HUD cash accounts \$ 405,232.87

**Village of Nyack Housing Authority
Monthly Investment Report and Plan
as of the end of September 2022**

MONEY MARKET - Available Cash

Item	Maturity Date	% Yield to Maturity	Quantity Purchased	Totals	Estimated Annual Income
NYS Reserve				\$4,050.90	
Section 8				<u>\$3.36</u>	
			<i>Total</i>	\$4,054.26	

NYS Reserve CD(s)

Item	Maturity Date	% Yield to Maturity	Quantity Purchased	Current Market Value	Estimated Annual Income
Bank of England	12/27/2022	0.250%	\$240,000.00	\$240,000.00	\$600.00
Capital One	9/29/2023	4.050%	\$165,000.00	\$165,000.00	\$6,682.00
First Genl Bank	11/7/2022	0.050%	\$100,000.00	\$99,716.50	\$50.00
Industrial&Coml	10/20/2022	0.150%	\$175,000.00	\$174,748.52	\$262.00
East West Bank	10/2/2023	3.850%	\$165,000.00	\$165,000.00	\$6,352.00
American Express	6/22/2023	2.600%	\$200,000.00	\$200,000.00	\$5,200.00
Safra Natl Bank	3/28/2023	1.150%	\$200,000.00	\$200,000.00	\$2,300.00
Cross River Bank	6/23/2023	2.550%	\$200,000.00	\$200,000.00	\$5,100.00
			<i>Totals</i>	\$1,444,465.02	\$26,546.00

Section 8 CD(s)

Item	Maturity Date	% Yield to Maturity	Quantity Purchased	Current Market Value	Estimated Annual Income
Citizens Bank	12/19/2022	1.900%	\$44,000.00	\$44,000.00	\$836.00
			<i>Totals</i>	\$44,000.00	\$836.00

Total Monthly Investments/ Estimated annual income	\$1,516,382.00	\$27,382.00
Total Market Value & Money Market	\$1,492,519.28	
total quantity plus mm	\$1,520,436.26	

CURRENT POLICY AND PLAN

Policies:

1. All investments of 3 years or under maturity length.
2. Commingling of funds is prohibited.
3. US Treasury issues only are approved for public funds; CDs may be purchased if yield is greater than T-notes/T-bills, but board must be informed.
4. All action to be reported monthly to Board.

Recommend action: Move \$200,000 from S8 bank accounts to CD's and \$150,000 for NYS by end of December.

VILLAGE OF NYACK HOUSING AUTHORITY EXECUTIVE DIRECTOR'S REPORT

November 10, 2022

NOVEMBER 2022 REPORT

1. NYS Public Housing Program

Just a reminder that we need the May 10th & 17th minutes. Also, at the October board meeting the board discussed tabling some of the November board meeting agenda to allow sufficient time to discuss the 2024 FYE budget.

There is also a workshop meeting scheduled for November 15th at 5:30 to discuss the Salary Comparability Study. This meeting is to begin and then move into executive session for discussion.

The board will also need to finalize and/or discuss changes to the eviction policy.

I had a meeting in October with representatives from NYSHCR in which we discussed VONHA's current financial position. NYSHCR is working with owners of the last half-dozen state-supervised public housing developments to move them to a more stable and self-sufficient platform. As the modernization program is coming to an end we will no longer be given periodic infusions of funding to help us keep up with maintenance. As we learned in the recent NDC training there are opportunities to use Low Income Housing Tax Credits and subsidies (low interest loans) to completely modernize Waldron Terrace and Depew Manor for the foreseeable future (15 to 30 years). These opportunities include (re)capitalizing operating and replacement reserves so that we can become more self-sufficient in the future. If we move forward in this direction after the process, when more than just routine maintenance is needed, we would re-apply to NYSHCR for funding as it did in the past. The process involves getting permission from NYSHCR to undertake repositioning and applying to them for the resources. Based on this conversation with NYSHCR, Darren Scott, Upstate East Director of Development, will be attending our board meeting to speak in general about a few relevant topics, such as, 1) finding an attorney and a developer consultant or developer partner to help the authority through repositioning, 2) NHA retaining ownership (only an issue if using tax credits), 3) tenant protections including affordability and relocation (if necessary). I have attached information about repositioning/restructuring to my report. Please review the documents so that you can address your questions to Mr. Scott. If the board decides to get more details and/or move forward with this, I would suggest hiring a consultant to help all of us to fully understand the process.

We currently have 2, one-bedroom apartments and a studio vacant at Depew Manor. There is 1 four-bedroom apartment vacant at Waldron Terrace. Please keep in mind that we have contacted or will contact applicants from the Waiting List for these units.

The four-bedroom plans and scope of work have been sent to DHCR as discussed at the previous board meeting. I understand that the board has approved this previously, but I wanted to give an update on the four-bedroom waiting list to assure that all of you

are aware of the status of the four-bedroom waiting list as we move forward with the project. We currently do not have anyone on the four-bedroom waiting list. We have had 13 new four-bedroom applicants between March 2019 and May 2022, which have all been contacted.

2. Section 8 Housing Choice Voucher (HCV) Program

Section 8 has 177 active participants currently on the program. Twenty-four (24) of them are project-based units at Pine Street Homes and nine (9) are enhanced vouchers at Tallman Towers apartments.

The program collected \$675 in recoupments due to unreported income. HUD requires that these funds are collected and splits the total amount received with the housing authority as part of the administrative fees.

As of the end of August, the Section 8 Program has \$-2,560.53 in restricted net assets (RNA) and \$308,456 in unrestricted net assets (UNA). HUD has reported that as of October 1, 2022, there is \$679,470 in HUD held reserves (HHR).

Total HAP for September was \$220,541 (payments to landlords on behalf of voucher holders). We received disbursement in the amount of \$ 219,624 from HUD. As requested by the board, I have emailed a copy of the letter from HUD providing the amount of the HUD held reserves.

3. Nyack Housing Assistance Corp (NHAC)/ Pine Street Homes (PSH)

Please remember the NHAC agreement still needs to be reviewed and discussed for approval. This agreement will allow the housing authority to be paid for the work we do for NHAC.

4. VONHA Grant Funded Projects

Four-bedroom rehab – the HM180 (Notice of Intent to Solicit Bids/Approval of Plans and Specifications) and supporting documents have been sent to NYSDHCR for approval. Upon approval we will go to bid for a contractor.

5. VONHA Funded Projects

Renovations to the four-bedroom units

This is not a NYSDHCR funded project as we were awarded \$860,000 in response of our request for additional funds discussed and approved in previous board meetings.

6. FOLLOW-UP NEEDED

- *Tax bill from the Village, our attorney spoke with the village attorney. The village is going to investigate the matter and get back to our attorney.*
- *Paving of Pine Street: based on my correspondence with the village, they will include Pine Street in the next round of paving, but the date is unknown.*
- *NHAC agreement.*

Applicant Contact for Section 8 October 2022	
Contacted	0
Interviewed	0
leased	1
Pending Lease	5
In process	
Declined	
Voucher Issued	4
Over Income	1
No Response	
Pending Voucher	1
Back On List	

7

Attachment - Section-8 Contact Information

**Applicant Contacted from Waldron Terrace and Depew Manor Waiting List
October 2022**

Waldron Terrace

Date Contacted	Interviewed	Offer Letter	Leased	No Response	Declined	Failed to Comply	Continuing eligibility process	Over Income	Back on list/status
	No Vacancy								
	No Vacancy								
		1							
2						1	2		

Depew Manor

Studio (0) Bedroom									
2	1			1			1		
One (1) Bedroom									
					1		1		

STATE PUBLIC HOUSING REPOSITIONING SUMMARY

Means of State Approval

IF:

- Project will receive federal subsidy, AND
- Bonds will be Paid, AND
- PHA in a city of less than 1 million people

THEN:

Section 58-b Approval

- HCR consent based on finding that “the federal assistance available upon the sale or lease will enable the project to provide decent, safe and sanitary housing within the financial reach of persons and families of low income” (Public Housing Law - PBG § 58-b)

OTHERWISE:

Special Legislation

- State legislature passes law specific to project to allow restructuring
- Legislature has previously required HCR to approve; requirements may be more burdensome

Section 58-b Approval Process

1. Unofficial Step: Discuss with HFA; Draft below letter and present to HFA before HCR submission
2. Letter Application to HCR Office of Legal Affairs
 - a. Describe present property condition and occupancy level
 - b. Describe proposed redevelopment:
 - i. Budget
 - ii. Org Chart
 - iii. Procurement process
 - iv. Post-transaction regulatory framework
 - v. Rights of tenants in occupancy
3. Parallel to above: HFA financing approvals
4. Receive HFA financing approvals
5. HCR issues approval in form of “Commissioner’s Findings and Approvals”, Loan and Subsidy Contract Amendment drafted
6. Office of State Comptroller reviews/approves (assume HCR handles as part of process)
7. NY Attorney General reviews/approves (assume HCR handles as part of process)
8. Closing

2009-A-02: Standards and Procedures for Requests by Housing Authorities for Approval of a Public Housing Restructuring

To: All Housing Authorities, Chairpersons and Executive Directors

From: Robert Damico, Downstate Director
Housing Management Bureau

Date: May 6, 2009

Subject: Standards and Procedures for Requests by Housing Authorities for Approval of a Public Housing Restructuring

Public Housing Restructurings ("PHR") are a common means by which Housing Authorities ("HA") refinance and renovate their projects by accessing and combining a variety of funding sources. Each funding program has its own unique requirements for eligibility, so the challenge for any HA choosing to pursue a PHR is to structure a single project to meet the requirements of multiple programs. The PHR creates a hybrid public/private ownership structure which can qualify for programs targeted for either public or privately owned housing. DHCR is presenting this bulletin in order to clarify the PHR process for any HA which has decided to undertake a PHR. Therefore, this bulletin sets forth the standards and procedures adopted by DHCR for the review, approval, funding, and supervision of these restructurings.

Acting through a developer or in partnership with a not-for-profit housing organization, the HA creates an ownership structure involving a private, for-profit entity-limited partnership ("LP") or limited liability company ("LLC")-which includes the HA and is subject to DHCR's oversight. As a private, for-profit owner, this entity can also benefit from Low Income Housing Tax Credits ("LIHTC") and other financing. At the same time, by virtue of the HA's continued involvement, the private entity can also benefit from public housing funds, such as Public Housing Modernization ("PHM") grants from the Housing Trust Fund Corporation ("HTFC"). This arrangement, which is modeled after the federal HOPE VI program, makes possible a completely renovated development which will continue to provide affordable housing for a period of thirty to forty years.

Legal and Financial Considerations

HA projects were originally financed by the issuance of General Obligation Bonds by the State of New York. To insure regular payment of debt service on the bonds, the State provides a debt service subsidy, by which the State essentially pays off its own debt. Nevertheless, the debt is secured by a Loan and Subsidy Contract ("LSC"), which works in a manner similar to a

Attachment - DHCR

mortgage, although it is not recorded and does not take a security interest in the property itself, only on the income generated thereby.

The LSC, like a mortgage, prohibits any transfer without the consent of the State (even if the bonds have already been retired). Accordingly, in order to transfer a project to a newly-created private entity, DHCR and the Office of the State Comptroller ("OSC") must review the proposed restructuring, give their consent, the LSC must be amended, and either the bonds must be retired or provision made for continuing the debt service payments.

Section 58-b of the Public Housing Law

One way to accomplish a PHR is pursuant to Section 58-b of the Public Housing Law ("PHL"), which authorizes DHCR to consent to the transfer of a project upon finding that such transfer will help the project to continue to provide safe, decent, affordable housing, that the project will be receiving a federal subsidy, and that provision has been made for payment of the bonds. This method is viable where the bonds have already been retired, or where the HA can provide sufficient funds to retire the bonds or allow the HA to set up a "defeasance account" to make the debt service payments as they come due.

Special Legislation

During the past decade, the more common method of implementing a PHR has been pursuant to special legislation. There have been many of these laws, all following a similar pattern, but each applying only to specifically identified projects which are found by the State legislature to be in need of restructuring. Such legislation has required DHCR to make a finding, among other things, that a proposed comprehensive redevelopment plan will provide safe, decent, affordable housing, that the tenants in occupancy will continue to be protected under the PHL, that specific portions of the units will be dedicated to particular income levels, that the developer's fee will be limited to a certain percentage of project cost, and that the project will remain under the HA's control and DHCR's oversight. If DHCR (with the approval of OSC) makes such a finding, then the project may be transferred without any additional provision for paying debt service on the bonds, and the project's debt service subsidy will continue, subject to annual legislative appropriation.

Application for Approval of Restructuring

In order to obtain DHCR's approval of a transfer in furtherance of a PHR, the HA must submit a letter application to DHCR's Office of Legal Affairs ("OLA"). The application must describe the present condition and occupancy level of the project, the proposed redevelopment work and all associated costs, amounts and sources of funding, the new ownership structure, including the identity of the developer or other sponsoring organization and disclosure of its principals, the manner in which the developer or sponsoring organization was selected, and the measures to be taken to protect the tenants in occupancy.

Attachment - DHCR

OLA reviews the application, coordinates with other parts of the agency which have received funding requests relating to the PHR, acts as liaison with OSC in securing its approval, and prepares the necessary legal documents to complete the transaction, including the Commissioner's Findings and Approval ("Findings").

Application for Approval of DHCR Funding

Most PHRs involve substantial rehabilitation work, often funded by a combination of tax-exempt bonds issued by an appropriate public entity, PHM grants (awarded by HTFC to the HA and then loaned by the HA to the new private ownership entity to perform the rehabilitation work) and equity from the sale of Low Income Housing Tax Credits ("LIHTC") administered by HTF/DHCR's Office of Community Development ("CD") or the New York State Housing Finance Agency ("HFA"). LIHTC's can be either 4% or 9% credits or sometimes a combination of both. Project cash flow is often enhanced by Project-Based Section 8 income.

Where multiple funding sources are involved, the HA or developer must submit a request to HTFC/DHCR for PHM funds and an application to DHCR's "Unified Funding" Program for LIHTCs and Project-Based Section 8.

There is no prescribed time to apply for PHM funding. HAs considering a restructuring may request funding at any time by submitting a proposal describing the transaction, anticipated capital funding sources (including requested PHM funds) and a proposed scope of work including estimates of cost. Given the significant demand for PHM resources, DHCR typically plans for its awards to be phased in over several years (usually three) of PHM appropriations. Should a HA have already received PHM proceeds that remain unspent, additional funding may be requested, depending upon the amount, and may be phased in over a shorter timeframe. HTFC can only enter into contracts for funds actually available during the current fiscal year. Awards may be made for subsequent years but are memorialized in a statement of intention, which HTFC has consistently honored.

Application may be made to CD for 9% LIHTCs following DHCR's standard procedures. 4% LIHTCs may be obtained from other public agencies and are "as of right" in conjunction with the issuance of tax-exempt bonds.

Coordination of DHCR's Review

Before the Findings and Approval can be issued, OLA must confirm that all HTFC/DHCR approvals have been obtained. The agency conducts reviews necessary to satisfy the respective requirements of the PHM, LIHTC, and Project-Based Section 8 programs, which may include technical specifications, design requirements, contracts, costs, sources of funding, and other underwriting concerns. Every effort is made to coordinate these reviews and avoid duplication.

Review by OSC and the Attorney General.

Attachment - DHCR

Once OLA has approved the Findings and LSC Amendment, it forwards them to OSC for review. OSC conducts its own review to insure compliance with the applicable statute, financial viability of the redevelopment, fairness of the procurement process, and full disclosure of the principals. When OSC has given its approval and executed the LSC amendment, it is forwarded to the Attorney General for approval as to form.

Legal Documents

A PHR involves the following key legal documents:

1. Findings. The Commissioner's Findings and Approval is keyed to the requirements of the statute under which approval of the transaction is being sought, either PHL Section 58-b or special legislation. They include a statement of the requirements of the statute, a description of the property and its present condition and level of occupancy, the redevelopment work and its cost, sources and amounts of funding, the new ownership structure, the rights of the tenants in occupancy, and the Commissioner's findings and conclusions.
2. LSC Amendment. The amendment to the Loan and Subsidy Contract modifies the original LSC to permit the transfer of the project in furtherance of the PHR and to incorporate the requirements of the statute under which approval is sought.
3. PHM Contracts. The Public Housing Modernization contracts are between the HTFC and the HA and commit specific funds to the project in a given funding year.
4. Agreement to Provide Public Housing Units. This is an agreement between the HA and the LP to continue to provide public housing in accordance with the special legislation, if any, and the Public Housing Law. DHCR is a third party beneficiary of this agreement.
5. Building Loan Agreement. This is an agreement between the HA and the LP which governs the disbursement of PHM funds loaned to the LP to perform the rehabilitation work.
6. Enforcement Mortgage and Note. These documents are between the HTFC and HA, and the LP or LLC, and govern the loan by the HA of the PHM funds to the LP or LLC. Debt service is subject to cash flow availability.

Closing

HTFC/DHCR sends a representative to the closing to facilitate delivery and collection of the relevant documents, and where necessary, to authorize the release of funds. In addition to the legal documents listed above, the agency's counsel will need to collect and/or review certain other documents. A list of typical PHR legal documents involving DHCR is available upon request.

- Robert Damico

cc: R. McCurnin, J. Fryer, D. Cardillo, V. Giammarino, L. Janota, M. Colon, Central Files

Attachment - DHER

11/8/2022								
Complex	Balance	Retro	Net Balance	Rent	Section 8	Tenant Portion	# Months	Totals
Waldron	57032.01	0.00	57032.01	1783.00	0.00	1783.00	32	
							32 Months Total	57032.01
Waldron	14212.54	0.00	14212.54	419.00	0.00	419.00	22	
							22 Months Total	14212.54
Waldron	19907.00	12354.00	7553.00	334.00	0.00	334.00	21	
							21 Months Total	19907.00
Waldron	13825.65	5175.00	8650.65	1021.00	0.00	1021.00	20	
							20 Months Total	13825.65
Waldron	27778.90	10464.00	17314.90	2309.00	0.00	2309.00	12	
							12 Months Total	27778.90
Waldron	18674.24	6212.50	12461.74	940.00	0.00	940.00	10	
Waldron	6236.00	0.00	6236.00	2471.00	1454.00	1017.00	10	
							10 Months Total	24910.24
Waldron	12935.07	0.00	12935.07	2375.00	0.00	2375.00	8	
							8 Months Total	12935.07
Waldron	11332.00	0.00	11332.00	1723.00	0.00	1723.00	7	
Waldron	568.50	0.00	568.50	2471.00	2421.00	50.00	7	
							7 Months Total	11900.50
Waldron	3418.25	0.00	3418.25	2021.00	719.00	1302.00	5	
							5 Months Total	3418.25
Waldron	4162.00	0.00	4162.00	2021.00	209.00	1812.00	4	
Waldron	2607.26	0.00	2607.26	2471.00	1118.00	1353.00	4	
Waldron	1670.00	0.00	1670.00	393.00	0.00	393.00	4	
							4 Months Total	8439.26
Waldron	2328.84	0.00	2328.84	1309.00	0.00	1309.00	3	
Waldron	1383.00	0.00	1383.00	2021.00	1401.00	620.00	3	
Waldron	1165.00	0.00	1165.00	365.00	0.00	365.00	3	
Waldron	1137.00	0.00	1137.00	474.00	0.00	474.00	3	
							3 Months Total	6013.84
Waldron	3706.89	0.00	3706.89	2471.00	528.00	1943.00	2	
Waldron	3318.00	908.00	2410.00	1200.00	0.00	1200.00	2	
Waldron	2117.00	0.00	2117.00	751.00	0.00	751.00	2	
Waldron	1898.50	0.00	1898.50	2471.00	1326.00	1145.00	2	
Waldron	1192.00	0.00	1192.00	2471.00	1677.00	794.00	2	
Waldron	1171.31	0.00	1171.31	795.00	0.00	795.00	2	
Waldron	1083.00	0.00	1083.00	741.00	0.00	741.00	2	
Waldron	808.00	0.00	808.00	788.00	0.00	788.00	2	
Waldron	738.84	0.00	738.84	705.00	0.00	705.00	2	
							2 Months Total	16033.54
Waldron	1778.00	0.00	1778.00	2471.00	793.00	1678.00	1	
Waldron	1636.00	0.00	1636.00	1581.00	0.00	1581.00	1	
Waldron	1547.00	0.00	1547.00	1542.00	0.00	1542.00	1	
Waldron	1426.74	0.00	1426.74	1539.00	0.00	1539.00	1	

11/8/2022								
Complex	Balance	Retro	Net Balance	Rent	Section 8	Tenant Portion	# Months	Totals
Waldron	1216.00	0.00	1216.00	602.00	0.00	602.00	1	
Waldron	1000.50	0.00	1000.50	2065.00	0.00	2065.00	1	
Waldron	735.10	0.00	735.10	982.00	0.00	982.00	1	
Waldron	646.00	0.00	646.00	611.00	0.00	611.00	1	
Waldron	604.00	0.00	604.00	649.00	0.00	649.00	1	
Waldron	554.50	0.00	554.50	562.00	0.00	562.00	1	
Waldron	477.00	0.00	477.00	462.00	0.00	462.00	1	
Waldron	430.00	0.00	430.00	1000.00	0.00	1000.00	1	
Waldron	361.23	0.00	361.23	785.00	0.00	785.00	1	
Waldron	275.00	0.00	275.00	1778.00	1503.00	275.00	1	
Waldron	205.64	0.00	205.64	434.00	0.00	434.00	1	
Waldron	185.52	0.00	185.52	2021.00	1533.00	488.00	1	
Waldron	18.00	0.00	18.00	334.00	0.00	334.00	1	
Waldron	15.00	0.00	15.00	591.00	0.00	591.00	1	
							1 Month Total	13111.23
Waldron	40.07	0.00	40.07	2471.00	2142.00	329.00	0	
Waldron	30.00	0.00	30.00	1244.00	0.00	1244.00	0	
Waldron	10.00	0.00	10.00	426.00	0.00	426.00	0	
Waldron	1.00	0.00	1.00	2471.00	1960.00	511.00	0	
							<1 Month Total	81.07
							Grand Total	229599.10
Total # of tenants		83						
Total > 1 month		27						
% Greater than 1 month		33%						
Column Headin	Explanation							
Balance	Total Balance on the account, Rent plus Miscellaneous charges							
Retro	Balance due of agreements made for unreported income							
Net Balance	Balance less Retro							
Rent	Total current month Rent charge							
Section 8	The portion of Rent that Section 8 pays							
Tenant Portion	The portion of Rent that the Tenant pays							
# Months	The Number of Months that have a greater than zero Rent balance							
# Months	It may or may not be an entire month							
# Months	When # Months is equal to zero, the Tenant owes Miscellaneous charges							

11/8/2022								
Complex	Balance	Retro	Net Balance	Rent	Section 8	Tenant Portion	# Months	Totals
Depew	1941.00	0.00	1941.00	474.00	0.00	474.00	4	
							4 Months Total	1941.00
Depew	1884.00	0.00	1884.00	985.00	0.00	985.00	2	
Depew	590.00	0.00	590.00	295.00	0.00	295.00	2	
Depew	567.00	0.00	567.00	534.00	0.00	534.00	2	
Depew	517.00	0.00	517.00	492.00	0.00	492.00	2	
							2 Months Total	3558.00
Depew	1146.00	0.00	1146.00	1693.00	547.00	1146.00	1	
Depew	297.00	0.00	297.00	267.00	0.00	267.00	1	
Depew	67.25	0.00	67.25	746.00	0.00	746.00	1	
Depew	36.00	0.00	36.00	655.00	0.00	655.00	1	
Depew	30.00	0.00	30.00	285.00	0.00	285.00	1	
							1 Month Total	1576.25
							Grand Total	7075.25
Total # of tenants		45						
Total > 1 month		5						
% Greater than 1 month		11%						
Column Heading	Explanation							
Balance	Total Balance on the account, Rent plus Miscellaneous charges							
Retro	Balance due of agreements made for unreported income							
Net Balance	Balance less Retro							
Rent	Total current month Rent charge							
Section 8	The portion of Rent that Section 8 pays							
Tenant Portion	The portion of Rent that the Tenant pays							
# Months	The Number of Months that have a greater than zero Rent balance							
# Months	It may or may not be an entire month							
# Months	When # Months is equal to zero, the Tenant owes Miscellaneous charges							