Time for a Gut Rehab:
How the Next Governor Can Rebuild
New York State's Affordable Housing Legacy

A Report by

Pratt Center for Community Development

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GLOSSARY

Building Blocks: Institutions and Terms in New York Housing		
80-20		Apartments built through tax-exempt bonds, funded at the state level by HFA and in New York City by HDC. By federal law, at least 20 percent of the units in these developments must be affordable.
AHC	Affordable Housing Corporation	This division of HFA supports low- and moderate-income homeownership.
AMI	Area Median Income	Calculated by HUD, based on large geographic areas incorporating cities and their suburbs or nearby rural areas.
CQC	Commission on the Quality of Care for the Mentally Disabled	An independent government agency charged with oversight of the multiple agencies responsible for the mentally ill.
DOH	New York State Department of Health	Oversees adult care facilities.
DHCR	New York State Division of Housing and Community Renewal	New York State's executive-branch housing agency, in charge of capital investments and rent regulation.
FMR	Fair Market Rent	Determined by HUD, this is the price of the average 2-bedroom apartment in a region.
HDC	New York City Housing Development Corporation	This quasi-governmental authority issues bonds to build affordable and market-rate housing.
HFA	New York State Housing Finance Agency	The state's agency issuing bonds for housing development.
HHAP	Homeless Housing and Assistance Program	Gives grants to nonprofits and government agencies for the development of housing for homeless New Yorkers.
HUD	U.S. Department of Housing and Urban Development	The federal agency in charge of housing and community development; provides rental vouchers, public housing subsidies, repair funds and other affordable housing support.
MBBA	Municipal Bond Bank Agency	This division of HFA provides loans to cities in anticipation of future revenue.
MCI	Major Capital Improvement	A renovation to an apartment qualifying its landlord to charge a permanent rent increase.
NPP/RPP	Neighborhood Preservation Program/Rural Preservation Program	Provides grants to community-based organizations statewide for tenant and homeowner counseling and other housing-related services.
NY/NY	New York/New York Agreement to House Homeless Mentally Ill Individuals	A 1990 New York City-State commitment to building supportive housing for people with mental illness. NY/NY has since been renewed twice.
OMH	New York State Office of Mental Health	Agency in charge of development of supportive housing (apartments with services on site for residents with special needs) and supported housing (rented apartments with services available).
SONYMA	State of New York Mortgage Agency	Insures mortgages for first-time low-and moderate-income homebuyers and those buying in targeted neighborhoods.

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A DIMINISHED LEGACY

Eighty years ago, New York State was a national pioneer in creating affordable housing—an effort led by its governor. In 1926, Governor Al Smith signed the Housing Act, which sparked a wave of low-cost development. New York was one of just two states to help produce housing before the New Deal. Republican and Democratic governors—Harriman, Carey, Rockefeller, Cuomo—continued and expanded this legacy.

As he leaves the helm of New York State after 12 years in office, Governor George Pataki leaves a different legacy: a consistent failure to ensure that New Yorkers have access to decent and reasonably priced housing. Despite sharply growing need, Governor Pataki and his administration have:

- **Cut investments in affordable housing and failed to provide new funding.**
- **Undermined the security of millions of tenants and facilitated the loss of tens of thousands of units of affordable housing.**
- **Invested more than half of scarce tax-free bond financing in luxury housing.**
- **Given major campaign contributors favorable treatment and excessive funding.**
- **Taken actions that have increased the number of homeless New Yorkers.**
- **Neglected adult home residents with mental illness, and failed to provide housing alternatives.**
- **Failed to devise a statewide strategy responding to varying housing and development needs across New York.**

New York faces a housing affordability crisis. Rising rents and stagnant wages have squeezed tenants, making New York one of the least affordable states in the nation. Cities such as Buffalo, Rochester, and Binghamton are facing increasing rates of foreclosure and abandonment, blighting communities and imposing costs on already struggling city governments.

Many states and localities nationwide have responded to housing crises with leadership and innovation. They have increased public investment, created dedicated housing trust funds, linked smart growth to mixed-income housing, established public-private development partnerships, preserved subsidized housing, and launched initiatives to end homelessness.

Instead of focusing on public needs, the Pataki administration has focused on the needs of developers and campaign contributors. Campaign contributors from the real estate and healthcare industries have driven the state's oversight of rental and special-needs housing. Major campaign contributors to the governor and other Republican elected officials received virtually all of New York State's Liberty Bonds for lower Manhattan housing development, and large donors are overrepresented among developers receiving housing financing.

NEW YORK'S GROWING NEED

Since Governor Pataki entered office in 1995, the housing needs of New York families and communities have grown dramatically:

- **New York's housing costs have risen rapidly, at a rate that has outpaced the nation's. Meanwhile, renters' income has declined.**

In 1998, the federal government's "fair market rent" for a two-bedroom apartment in New York State was $818 a month. By 2006, it had risen to $1,026 a month. At the same time, the median income of tenants, adjusted for inflation, fell from $43,941 in 1998 to $34,931 in 2005, estimates the National Low Income Housing Coalition—a 21 percent drop.

The National Low Income Housing Coalition ranks New York the fifth least affordable state: A household must earn $19.73 an hour to afford a two-bedroom apartment—$25.31 an hour in Westchester, with Long Island ($24.62 an hour) and New York City ($21.79 an hour) not far behind.

- **Nearly one in three New York households spends more than 30 percent of income on housing.**

Approximately 2 million out of New York State's 7 million households, and more than half of those in New York City, pay more than 30 percent of their incomes toward housing. In cities from Albany to Rochester, approximately half of all renters cannot afford an average two-bedroom apartment.

- **Abandonment has spread through upstate cities.**

From 1990 to 2000, the vacancy rate for upstate cities grew from 8 to 11.5 percent. The nine upstate cities with populations over 50,000 saw their vacancy rate grow to 13 percent. Bank foreclosure rates are rising, accelerated by mortgage and appraisal fraud, speculative property flipping, and high-cost, high-risk borrowing.

- **Homelessness has climbed dramatically.**

The number of homeless people in New York City's shelters has increased by 50 percent since 1995. The state government's estimates of the number of homeless people statewide more than doubled between 2001 and 2005.

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RESPONSE TO GROWING NEED? SPEND LESS TO HELP

- **Governor Pataki has persistently sought to cut capital spending on housing.**

During Governor Pataki's three terms in office, state spending inched up from $95 million in 1996 to $104 million in 2005. However, it would have needed to be $119 million just to have the same buying power as in 1995—with no increase to match the growing need. Without the increased appropriations from the Senate and Assembly, state capital investment in housing would have declined by 13 percent during Pataki's tenure.

- **New York is one of just 17 states without a dedicated housing trust fund.**

Thirty-three states have housing trust funds with dedicated funding sources. While New York has a program called the Low Income Housing Trust Fund, it is not a true "trust fund"—it has no dedicated funding stream. Potential revenue streams—such as the $522 million in real estate transfer taxes collected this year, or the more than $225 million in excess reserves the State of New York Mortgage Agency transferred in 2004—have been growing in recent years. But they have gone instead into the state's general budget, resulting in no gain for affordable housing.

- **New York City spends more than six times what New York State spends per person on affordable housing.**

New York State spends $6.45 per state resident per year on affordable housing and related services. New York City spends more than $40.

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THE HOUSING FINANCE AGENCY: LUXURY HOUSING AND EXCESSIVE SPENDING

The New York State Housing Finance Agency (HFA), whose board is appointed by the governor, has lagged behind housing finance agencies around the country. It has failed to live up to its mission to finance affordable housing development, and it has squandered public resources on excessive fees and subsidies.

- **More than half of HFA's bond resources over the past five years have gone to finance luxury housing, primarily in Manhattan.**

From 2000 through 2005, only 5,959 out of 12,715 total units (47 percent) were affordable. For projects proposed in New York City in 2005, just 822 out of 3,127, or 26 percent, were affordable. This includes development financed with Liberty Bonds, authorized by Congress after 9/11 to finance housing construction in Lower Manhattan. HFA made just 5 percent of these units affordable, and even these went to households earning up to $94,200 a year.

- **Under Pataki, the agency was a site of corrupt activity, with a VP inducing developers to make political contributions. Yet the agency has acknowledged no effort to probe or prevent such corruption.**

Agency vice-president Hector del Toro was convicted in 2004 for steering developers receiving HFA financing to make political contributions to Republican State Senator Guy Velella.

- **Valuable bonds and tax credits are largely awarded to developers who are significant campaign contributors to Governor Pataki and his allies.**

HFA awarded more than $620 million in Liberty Bonds to a handful of developers who had made substantial contributions to the governor. These bonds are estimated to be worth more than $113 million in subsidy to the developers, who wish to create luxury units. In total, Liberty Bond developers contributed $1.6 million to Governor Pataki and Republican allies. Developer Leonard Litwin, who received nearly 30 percent of the state-allocated Liberty Bonds—worth nearly $60 million in subsidy—contributed more than $770,000 to New York Republicans.

- **HFA has given subsidies to a major Pataki donor far in excess of what other developers receive.**

HFA has awarded the Atlantic Development Group (ADG) developer fees far in excess of other developers and an outsize share of its tax-exempt bonds and low-income housing tax credits.

ADG principal Peter Fine and his wife were each among the top 10 contributors to Governor Pataki in 2004; added together, they would be number one, at $65,341. Fine's ADG partner, Marc Altheim, donated an additional $10,000 to Pataki that year.

DESTABILIZING TENANTS

Governor Pataki has done more to eliminate rent regulation and other tenant protections than any other New York governor.

- **Governor Pataki has had heavy financial support from the state lobby for landlords.**

The governor and other Republicans have collected well over $1 million from landlord political action committees. The governor appointed as his first housing commissioner a Harlem landlord whose buildings had become so decrepit that some had been removed from his control.

- **Rollbacks in rent laws have rapidly shrunk the state's stock of regulated housing.**

If New York now had the same share of rent regulated units as it had in 1996, the city would now have nearly 112,000 more rent-regulated apartments than now exist. With landlords' lawyers advising him from the next room, in 1997 Governor Pataki won unprecedented concessions from the state legislature that allow landlords to remove apartments permanently from rent regulation.

- **The Pataki administration substantially altered rent laws without approval from the legislature.**

In 2000, the Division of Housing and Community Renewal made 150 pages of amendments to the state's Rent Stabilization Code. Many new provisions made it more difficult for tenants to successfully file complaints, and all but one favored landlords.

- **With minimal state oversight, landlords break the rent laws with impunity.**

The State Division of Housing and Community Renewal has erected bureaucratic hurdles making it extremely difficult for tenants to contest rent overcharges and landlord harassment. Enforcement staff was cut by one-third. The state now grants landlord requests for rent increases resulting from major capital improvements, such as new boilers, windows and elevators, without substantial review.

One of the largest private landlords in New York, with nearly 20,000 units in Brooklyn, the Bronx, and Queens, Pinnacle Group LLC has filed an extremely large number of eviction proceedings and applications for major capital improvements that enable them to raise rents. Tenants claim that improvements were never done or were exaggerated. While DHCR did cite Pinnacle for falsifying an application in one instance where tenants complained, subsequent applications have been approved without additional scrutiny, leading to dramatic increases in rent.

- **The Pataki administration has ended state support of public housing and done too little to keep Mitchell-Lama buildings affordable.**

In 1998, the Pataki administration eliminated the state's annual operating subsidy for state-assisted public housing. The state Division of Housing and Community Renewal also sold more than a dozen public housing developments around the state to private firms. As a result, units that were once permanently affordable may now go to market rate in the next generation. The New York City Housing Authority faces a substantial budget shortfall, due in part to an annual deficit of tens of millions of dollars on public housing units built by the state but for which the governor eliminated the operating subsidy.

The administration has also done too little to save Mitchell-Lama housing, especially rental developments that are an extraordinary affordable housing resource for moderate-income families. In contrast to Mayor Bloomberg, who introduced legislation making clearer rules to keep the rental units rent-stabilized even if they leave the program, DHCR has refused to issue clear guidelines that would prevent owners from charging large rent increases.

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BATTLING EFFORTS TO HOUSE THE HOMELESS

At a time of rapidly rising homelessness, the Pataki administration has limited state support for housing for the homeless.

- **State housing production for the mentally ill has shrunk substantially.**

During the last five years of the administration of Governor Mario Cuomo, the state office of Mental Health (OMH) created approximately 7,500 units of housing, or an average of 1,500 a year. Under Governor Pataki, the development rate has dropped to half of that—just 776 units each year.

- **Governor Pataki refused to extend a landmark supportive housing initiative.**

In 1997, the Giuliani administration sought to renew the New York/New York Agreement to House Homeless Mentally Ill Individuals (NY/NY), a groundbreaking partnership to create supportive housing. The Pataki administration refused. Only when public outcry over the murder of a woman by an untreated mentally ill man made it politically impossible to refuse did the governor agree to extend New York/New York.

- **The state has not provided full funding for its supportive housing commitments.**

Under the latest NY/NY Agreement, the governor committed to build 3,125 new units of supportive housing. However, the state appropriated capital funding for just 1,125 units.

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ADULT HOMES: WILLFUL NEGLECT, SCANDAL, AND LITTLE OF THE PROMISED HOUSING

New York's Adult Care Facilities, commonly referred to as adult homes, have a long history of fraud, neglect and abuse, becoming a dumping ground for people with mental illness.

- **The Pataki administration decimated adult home inspection teams.**

The New York City office alone shrank from 25 inspectors to 5.

- **Industry figures became top regulators.**

The administration transferred regulatory authority over adult homes to the Department of Health, a move requested by the adult home operators' lobbying group, and appointed its executive director and the spouse of its lobbyist to top oversight positions.

- **Following tragedy, only 100 new homes.**

In 2002, *The New York Times* published a shocking investigation on adult homes. Adult home operators forced scores of residents to undergo medically unnecessary surgeries for the operators' financial gain. Almost 1,000 residents had died in adult homes since Pataki had taken office, one-third of them under the age of 60.

Governor Pataki appointed an Adult Homes Workgroup, which proposed moving 6,000 adult home residents into new and rented housing with mental health services.

To date, fewer than 100 adult home residents have relocated to more appropriate housing. In his 2006 budget veto, the governor tried to eliminate funding for another 55 units.

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RESTORING THE LEGACY

Across the United States—in red states and blue; in urban, suburban, and rural areas; and in every region in the country—governors have recognized that good housing policy is vital for successful states. New York's next governor can learn from the range of strategies his counterparts have implemented:

Innovative Approaches to Financing

- **Affordable housing trust funds**: Florida's housing trust fund, the nation's largest, has created 150,000 units of affordable housing in 13 years.
- **Housing finance agencies as leaders**: In Indiana and Iowa, the state housing finance agencies provide leadership on affordable housing development, convening partners, staffing planning and policy development, and using reserves to finance affordable housing.

Planning for Smart and Fair Growth

- **Fair share approaches**: Massachusetts, Connecticut, Oregon, and other states either require or encourage all municipalities to provide reasonably priced housing.
- **Including affordable housing in "smart growth"**: California, Massachusetts, and New Jersey have sought to integrate mixed-income housing into transit-oriented growth zones that help to prevent sprawl.
- **Inclusionary zoning**: California and other states have either encouraged or required municipalities to adopt "inclusionary zoning," offering developers opportunities to build larger buildings in exchange for including a percentage of affordable housing.
- **Brownfields and land recycling**: In Pennsylvania, a Land Recycling Program helps restore contaminated land. Nearly 1,500 sites have been cleaned up and developed, and many provide mixed-income housing.

Addressing the Full Range of Housing Needs

- **Emphasizing preservation**: Missouri and Minnesota target resources to urban neighborhoods at risk of abandonment and foreclosure.
- **Supporting homeownership**: Maryland's "Live Near Your Work" program provides state grants, matched by municipalities and employers, to buyers who purchase and remain in homes in designated neighborhoods.
- **Working to end homelessness**: Minnesota and Illinois are working to end homelessness by providing public funds to counties and nonprofit organizations finding creative ways to keep families housed.

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BUILDING A NEW ROAD HOME: WHAT THE NEXT GOVERNOR CAN DO

Increase investments in proven programs that create and preserve affordable housing, and join the 33 states that have a dedicated housing trust fund. The next governor should make a focused, multi-year, multi–billion-dollar commitment to develop affordable and preserve affordable housing, with specific production and preservation targets.

Preserve the affordable housing units of millions of New Yorkers by strengthening and fairly administering the rent laws, by restoring "home rule" over the rent laws to municipalities, by providing state operating resources for state-developed public housing, and by working to maintain the affordability of existing subsidized housing that is at-risk, especially state-sponsored Mitchell-Lama developments.

Create a "fair share/smart growth" plan for affordable housing that meets the different needs of all of New York's regions. The next governor should integrate affordable and mixed-income housing into broader transportation, land use, and economic development plans for the state. Such a plan should:

- **Enable upstate communities to revitalize abandoned neighborhoods** by better using affordable housing programs in combination with other initiatives.
- **Bring "fair share" housing and smart growth to the state's suburbs.** The next governor should support initiatives that require or encourage all municipalities to create affordable housing set-asides or inclusionary zoning policies.
- **Make the state a true partner with New York City** in its affordable housing efforts.

Develop and implement a concrete plan to end homelessness, to provide housing opportunities for a range of people with special needs, and a real solution to the crisis of adult homes.

Reform the state's housing agencies and authorities to maximize affordable housing production, remove the taint of favoring contributors, and increase the agencies' professional staff capacity.

New Yorkers cannot afford another four years of failed leadership on housing. Too many more will be doubled-up, paying far more than any household can afford, or homeless. Too many communities will face more abandonment and despair. Too many more dollars will be wasted on subsidies for campaign contributors, rather than going to meet the full range of housing needs of New Yorkers.

Instead, the next governor must restore the legacy of leadership on affordable housing that belongs to New York State, with a commitment to adequate resources, to strong leadership, to better planning, and to genuine accountability.

INTRODUCTION: A DIMINISHED LEGACY

Eighty years ago, New York State was a national pioneer in creating affordable housing—in an effort led by its governor.

In 1926, Governor Al Smith pushed the legislature to approve the Housing Act, which sparked a wave of low-cost development in New York City, including the Amalgamated Coops in the Bronx, Knickerbocker Village in Manhattan, and Sunnyside Gardens in Queens.[1] The law created the state's first housing agency, which facilitated low-interest borrowing for housing development and, later, the production of public housing.[2] The effort made New York just one of two states to help produce sanitary and affordable housing in the years before the New Deal.[3]

Governor Pataki (with Commissioner Judith Calogero) pledged in 2005 to help the Fort Drum area solve its housing shortage. New York's housing needs have grown rapidly, but affordable housing investment has remained limited.

Photo Credit: David Sommerstein, North Country Public Radio

Since then, many New York State executives have been national leaders in promoting affordable housing. In 1955, Governor Averell Harriman signed the law that came to be known as Mitchell-Lama for its legislative sponsors, and which subsidized the development of more than 130,000 rental and co-op apartments for middle-income occupants. Governor Nelson Rockefeller established the Urban Development Corporation, which created dozens of new mixed-income residential communities across the state (including Roosevelt Island). Governor Mario Cuomo was instrumental in the New York/New York Agreement to House Homeless Mentally Ill Individuals.

As he leaves the helm of New York State after 12 years in office, Governor George Pataki leaves a different legacy: a consistent failure to insure that New Yorkers have access to decent and reasonably priced housing. Despite sharply growing need statewide, Governor Pataki and his administration have:

- **Cut investments in affordable housing and failed to provide new funding, even as chronic need swelled into a crisis.**
- **Undermined the security of millions of tenants, and facilitated the loss of tens of thousands of units of affordable housing.**
- **Invested more than half of scarce tax-free bond financing in luxury housing.**
- **Given major campaign contributors favorable treatment and excessive funding.**
- **Taken actions that have exacerbated homelessness.**
- **Dangerously neglected adult home residents with mental illness, and failed to provide decent housing alternatives.**
- **Failed to devise innovative responses to housing and development issues—from overcrowding to sprawl to exclusionary zoning to abandonment—across the state.**

An Election-Year Issue

As New York's voters choose their new governor, housing will be one of the issues driving them to the polls. Six out of ten New Yorkers polled in 2003 said they were "very concerned" about housing affordability, a higher percentage than in any other state.[4]

New Yorkers upstate and down have seen the state's affordable housing problem grow into a full-blown crisis. New York's ability to compete economically has been hobbled by the shortage of affordable housing in areas where there are jobs, and by housing abandonment and decay in areas of the state with limited economic opportunity.

After an extraordinary nine-year climb in housing costs, with prices rising far faster than the national average, New York now faces a housing affordability crisis that affects everyone from children in New York City to recent college graduates in Long Island to retail workers in the Southern Tier. Over the past decade, the median purchase price of an existing single-family home in New York increased by 131 percent, compared with 88 percent nationwide. While New York City and its suburbs were the worst hit, many upstate counties also saw their home sale prices more than double.

Meanwhile, a combination of rising rents and stagnant wages have squeezed renters, making New York the fifth least affordable state in the nation.[5] One effect has been a precipitous rise in homelessness, which has grown 50 percent in New York City since Governor Pataki took office.[6] The housing crisis now also threatens working families' ability to remain housed and meet basic expenses, and it depresses the economic prospects of the middle-class workers who keep the state running.

In Western and Central New York, cities such as Buffalo, Rochester, and Binghamton are facing a different problem—rising rates of foreclosure and abandonment, blighting communities and imposing high costs on already struggling city governments. These regions are experiencing "sprawl without growth" as families move from cities to suburbs, even as their overall regional economies decline.[7]

Business leaders regularly cite the lack of decent, affordable housing as an important impediment to New York's ability to compete economically. In a 1999 survey of major businesses in New York City, 86 percent of respondents said that the high cost of housing makes it difficult for firms to relocate to New York City, and nearly 79 percent said it hobbles the growth of new firms.[8] The Long Island Association, the chamber of commerce for Nassau and Suffolk counties, is so concerned that it is investing $1 million in an advertising campaign to persuade residents to accept mandates for affordable homes in new developments.[9]

New Census data reveal that New York has a higher ratio of U.S. residents moving out than any other state. Nearly one-third of Long Islanders say they are "very likely" to leave Long Island within the next five years because of the high cost of housing[10], and young adults move out of Long Island at five times the national rate.[11] In the 1990s, approximately 235,000 young adults moved out of the downstate area because of the shortage of affordable units, and approximately 330,000 young adults remain in their parents' homes because of the high cost of housing in their home neighborhoods.[12]

The county executives for Nassau, Suffolk, Westchester, and Rockland counties have all identified the lack of affordable housing as one of their most serious problems.

Housing: A State Responsibility

The governor—and the state agencies and public authorities he controls—have an enormous effect on housing market conditions throughout the state. Thanks to the work of past state executives, Governor Pataki inherited an impressive array of housing agencies. The State of New York Mortgage Agency (SONYMA) is the largest of its kind in the nation, insuring more than $4.4 billion in mortgages during Pataki's three terms in office.[13] Its sister agencies and subsidiaries, the Housing Finance Agency (HFA), the Affordable Housing Corporation, and the Mortgage Insurance Fund, as well as the Division of Housing and Community Renewal (DHCR) and state agencies that develop special-needs housing, together invest more than a billion dollars each year to make housing more affordable in New York State. All were created before Pataki became governor.

Rent regulation is also controlled by the state. Although the legislature writes the laws, DHCR wields enormous administrative power to shape regulations and practices. Pataki appointees have used this power to limit the rights of rent-regulated tenants throughout the state and shrink the number of apartments eligible for protection.

The social and economic effects of housing programs often go far beyond the homes they create or preserve. Investments in housing have revived and stabilized neighborhoods and help support the state's economy.

Many states and localities facing housing issues similar to New York's have responded with leadership and innovation. They have increased public investment, created dedicated housing trust funds, promoted mixed-income housing through zoning and transit-oriented development, established public-private development partnerships, preserved subsidized housing, and launched initiatives to end homelessness.

Abandoned homes on Buffalo's Rhode Island Street. A state authority has sold them to a private collection agency.

Courtesy of: PUSH Buffalo

New York City is one such place. Under Mayor Michael R. Bloomberg, New York City has provided extraordinary leadership on affordable housing, with an ambitious plan to use public investment and innovative reforms to develop and preserve over 165,000 units of housing. Mayor Bloomberg has continued Al Smith and Nelson Rockefeller's legacy of leadership on affordable housing.

In the 1990s, about 235,000 young adults moved out of downstate New York because of the shortage of affordable housing.

Governor Pataki has not. He has neither taken action at the state level, nor contributed to local initiatives. In fact, much of the housing created under Mayor Bloomberg's plan has gone to replace affordable units lost as a result of Governor Pataki's policies.

Instead of taking leadership to solve the housing crisis, the Pataki administration has instead reduced the public's expectations of what the state can do to make housing affordable. And instead of focusing on public needs, it has focused on those of developers and landlords, shaping policy and using public resources to reward political allies and campaign contributors.

Reducing Expectations

Rather than invest in housing, the Pataki administration has sought to sweep the issue under the rug. In anticipation of his rumored run for president, the governor's website promotes "The Pataki Record" in 15 different areas, from "Environment" and "Healthcare" to "Fiscal Integrity" and "High Tech." Housing is not one of the 15 areas, and nowhere is a single housing initiative mentioned.

The New York State Executive Budget no longer even has a chapter devoted to housing, which it did in prior administrations. Instead, it now buries housing-related spending and initiatives under economic development and other categories. This has helped deflect attention away from Pataki's attempts to cut affordable housing programs.

State agencies and public benefit corporations that oversee state housing policy post only minimal information on their websites—far less than their counterparts in New York City or in other states. Annual reports provide limited data, making it all but impossible to determine the total spending of each agency each year, or the number and type of units that have been produced.

Very rarely has the governor addressed housing issues in public. When he has, he has often overstated the scope of the state's commitments—for example, claiming sole credit for affordable housing projects almost wholly financed with federal funds, or by announcing a major new initiative to build housing for homeless people that uses existing public funding to produce more than half the units.

Rewarding Campaign Contributors

In numerous instances, the Pataki administration's housing policy appears to have been driven not by the needs of the public, but by those of prominent contributors to the campaigns of the governor and state Republicans. Approximately $1 billion a year in bond financing for housing is managed by public benefit corporations, quasi-governmental authorities, subject to much less public scrutiny and regulatory oversight than state government agencies.

One such authority, the New York State Housing Finance Agency (HFA), has made exceedingly generous awards to developers who are campaign contributors to Governor Pataki and his allies. Although financing affordable housing is central to HFA's mission, more than half of the units it has produced are market-rate, and most of those were luxury apartments in Manhattan.

New York City's Knickerbocker Village, a middle-income housing development, was made possible by New York State's groundbreaking 1926 affordable housing program.

Photo Credit: Joanna Cuevas

Deference to campaign contributors is also a dominant theme in the state's work overseeing rental and special needs housing. State agencies are responsible for regulating rents, protecting tenants and licensing housing for people with special needs. In all of these areas, the governor has appointed leading figures from the real estate industry to influential positions in state government. Some were appointed to oversee the regulation of the very industries that used to employ them. This is in contrast to the New York City Rent Guidelines Board, or Mayor Bloomberg's Neighborhood Investment Advisory Panel, which include balanced representation from owners, renters, and public interests.

From 1998 to 2004, real estate interests contributed $5.3 million to Governor Pataki. The industry contributed another $11.9 million to Republican candidates for the state legislature and other state offices during the same period, as well as political action committees affiliated with the party. (Real estate interests donated less than half that total amount to all Democrats running for state office during the same years: $7.4 million.)[14]

With the governor's support, Republicans in the legislature have rolled back rent protections to levels not seen since before World War II. Operators of adult and nursing homes have been able to influence appointments to positions regulating their industries, at great cost to the vulnerable residents the state is supposed to protect.

NEW YORK'S GROWING NEED

When Governor Pataki entered office in 1995, housing affordability was a problem in New York State. Eleven years later, it has mounted into a crisis:

- **New York's housing costs have risen rapidly, at a rate that has greatly outpaced the nation's. Yet among renters, income has gone down.**
- **Nearly one in three New York households spends more than 30 percent of income on housing.**
- **Homelessness has climbed dramatically during the last decade.**
- **New York is a state with starkly diverse problems in different regions, ranging from overcrowding to abandonment, yet the state has no comprehensive housing policy.**

Most of the nation has seen a sustained increase in housing costs over the past decade. New York has not only seen its housing costs rise much higher than the national average; most New Yorkers' incomes have remained stagnant during this period, making it increasingly more difficult for many residents to afford housing.

Home sales prices have escalated precipitously. New York City and Nassau County saw median sale prices of existing homes more than triple from 1995 to 2005. The sale prices of condominiums and cooperative apartments in New York State have risen even faster than single-family homes, more than doubling in the last four years.[15]

Purchase prices rose significantly even in upstate rural counties where economies are stagnant and populations declining—and where rental housing is scarce. In western New York, Cattaraugus and Wyoming counties' sales prices rose 174 percent and 157 percent respectively. Housing prices in Schuyler County, in the Finger Lakes region, rose 159 percent. Clinton County in the northeast corner of the state saw a 152 percent increase, as did Jefferson County, home of rapidly expanding Fort Drum Air Force Base.[16]

Rental prices have risen dramatically as well. In 1998, the federal government's Fair Market Rent (FMR) for a two-bedroom apartment in New York State was $818 a month. By 2006, New York's FMR had risen to $1,026 a month. And the FMR does not take into account a substantial decline in the incomes of renters across the state. The inflation-adjusted median income of tenants in New York State (in 2005 dollars) fell from $43,941 in 1998 to $34,931 in 2005—a 21 percent drop in income, even as the median rent was rising.[17]

In 2005, the National Low Income Housing Coalition's annual survey of housing affordability ranked New York the fifth least affordable state in the nation. A household in New York State must earn $19.73 an hour to afford a two-bedroom apartment at fair market rent.[18]

Westchester County, with a housing wage of $25.31 an hour, ranks the tenth most expensive jurisdiction in the U.S., closely trailing Massachusetts' Nantucket Island and eight counties in California. Long Island ($24.62 an hour) and New York City ($21.79 an hour) were not far behind.

Comparing these housing costs with federal income data, the Coalition estimates that 57 percent of renters in New York cannot afford the average available two-bedroom apartment. Looked at another way, a family earning the state's minimum wage of $6.75 an hour must work 132 hours a week to afford a two-bedroom apartment in New York State.

In rural areas of the state, nearly half of renters cannot afford a two-bedroom apartment.

Approximately 2 million of New York State's 7 million households—both renters and homeowners—pay more than 30 percent of their incomes toward housing costs. Among them are more than half the renters in New York City.[19] Nearly 29 percent of New York City tenants pay more than half their income for rent, including more than 286,000 families who earn less than $18,000 per year and receive no housing subsidy.[20]

However, the problem is by no means limited to the five boroughs. In Long Island, 327,000 (more than one in three) households cannot afford their housing costs, as well as 197,000 households (one-third of the total) in Westchester, Rockland, Columbia, and Putnam counties.[21]

Even in rural areas of New York, affordability is a major problem. These areas have relatively low housing costs, but incomes are also so low that 48 percent of renters cannot afford a two-bedroom apartment without spending more than 30 percent of their income.[22]

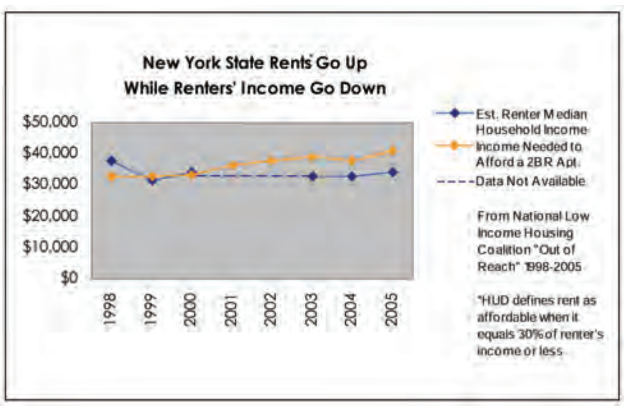
Upstate urban areas suffer similar cost pressures. In and around Albany, 44 percent of all renters cannot afford a two-bedroom apartment at the average rent.[23] In Rochester, half of renters can't afford a two-bedroom. Rents in Buffalo and the surrounding area have risen 27 percent in the last five years, with rents for efficiency apartments rising at almost twice that rate.[24]

Downstate: Shortages and Overcrowding

In downstate New York, the high cost of housing is exacerbated by a shortage of available homes. In New York City, the rental vacancy rate is now approximately 3.09 percent. It is considerably lower—below 2 percent—for units affordable to people with low incomes.[25] Any level of vacancies below 5 percent is legally a housing "emergency" that obligates New York State to keep rent regulations in effect.

Long Island has experienced a sharp decrease in vacancies over the past few years. The latest rental vacancy rate for Nassau County is 2.1 percent. In Suffolk, housing vacancies stand at less than 2 percent.[26] The counties just north of New York City have low rental vacancy rates as well, with Rockland at 2.8 percent, Putnam at 3.2 percent and Westchester at 3 percent in 2003.[27]

Overcrowding and illegal conversions in New York City are a growing problem. The 2000 Census found that New York City topped eight million residents for the first time, adding 685,714 people since 1990. The U.S. Census Bureau estimates that the city's population has continued to grow since then, adding almost 100,000 more residents by 2004.[28] And the New York Metropolitan Transportation Council estimates that the metropolitan region as a whole will grow by nearly 4 million people over the next 25 years.[29]



Despite an impressive number of construction starts in the past several years, housing development in the city has not kept pace with its population growth. From 1994 to 2003, New York City issued new certificates of occupancy to just 103,179 units.[30] As a result, overcrowding has increased, particularly in rental housing. In 1996, 10.3 percent of all renting households were crowded—that is, they had more than one person per room. In 2002, it was 11.1 percent.[31] This figure is almost certainly an undercount, since undocumented immigrants are more likely to live in crowded conditions than the general population. It is estimated that there are at least 100,000 illegal units citywide, where families live in basements, garages, attics, or subdivided units.

Upstate: Vacancies, Abandonment and Foreclosures

At the same time, some cities north and west of Albany struggle with widespread housing abandonment. Upstate cities have faced the paradox of "sprawl without growth": Over the past 15 years, urbanized land upstate increased by 30 percent, but the population grew by only 2.6 percent. More and more people moved from cities to towns; in the 1990s, upstate cities lost more than 40,000 residents. As a result of this population decline, upstate cities are confronting widespread abandonment and decreases in property values. Binghamton, Rochester, and Syracuse saw decreases in asset values of 18 to 33 percent.[32]

From 1990 to 2000, the vacancy rate for upstate cities grew from 8 to 11.5 percent.[33] For the nine upstate cities with populations over 50,000, the vacancy rate grew to 13 percent. The homeownership rate in upstate cities fell from 46.8 percent to 45.9 percent.[34]

New York State policy under the Pataki Administration has exacerbated these trends. The New York State Empire Zones program, as Cornell Urban Planning professor Rolf Pendall has noted, "provides tax subsidies for many developments in rural and suburban locations, often encouraging jobs simply to move from one Upstate location to another. Partly as a consequence of these investments in infrastructure, housing growth outpaced household growth in every major Upstate region in the 1990s.... [V]acant housing and office space proliferated in cities and inner suburbs in every Upstate region."[35]

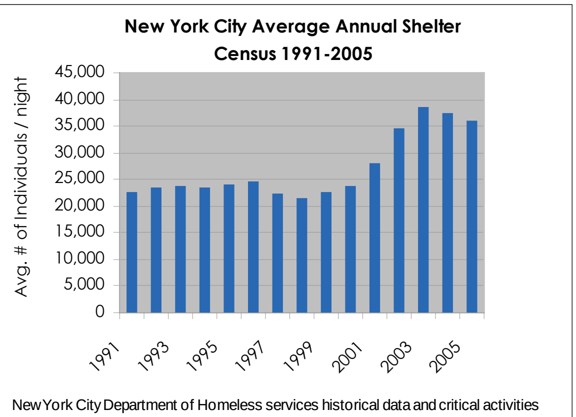
Facing a large volume of unpaid tax and utility bills from property owners, the governments of Buffalo, Plattsburgh, Binghamton and Syracuse turned to the state Municipal Bond Bank Agency (MBBA), a division of the Housing Finance Agency. In 2003, MBBA created a trust, advanced the cities the funds they sought to collect, and now sells the liens on property in those cities to a private collection agency, which in turn seeks to sell the real estate to new owners. But in many cases, the amount owed exceeds the value of the property, and only a tiny fraction of properties have been transferred to new owners.

Bank foreclosure rates are also rising, accelerated by mortgage and appraisal fraud, speculative property flipping, and high-cost, high-risk borrowing. Funds for counseling distressed homeowners are in critically short supply.

An essential tool in solving New York City's once-serious abandonment problem was the creation in the 1990s of its third-party transfer program, which allowed the city to convey distressed apartment buildings directly from a negligent private owner to a responsible one, without first taking legal possession of the property. Third-party transfer was made possible by special action from the legislature and governor. New York State has not extended this model—or any other innovative approach—to cities elsewhere in the state.

Homelessness

While New York State does not itself count the number of homeless people statewide, in 2005 the state informed the U.S. Department of Housing and Urban Development that it was aware of 66,746 homeless men, women and children in New York State (based on reports from just 36 out of its 62 counties).[36] This figure more than doubled the state's 2001 estimate of nearly 29,000 homeless people.[37]



New York City Department of Homeless services historical data and critical activities report 2005 combined average daily census of single adult and family shelter systems

Homelessness occurs in every city and suburb in the state. Even in localities without extreme housing shortages, a dearth of jobs, services, and apartments for single adults and large families contributes to homelessness among vulnerable populations:

- The city of Buffalo and Erie County are home to approximately 1,400 homeless men and women and 700 children on any given night. Approximately 15 percent have been homeless for a year or longer.[38]
- In Rochester/Monroe County, about 8,500 homeless families and single adults are housed each year in approximately 750 emergency shelter and transitional program beds.[39]
- According to the Nassau-Suffolk Coalition for the Homeless, more than 40,000 people on Long Island, half of them children, are either homeless or live doubled up with family or friends. About 25 percent of Long Island homeless are unsheltered and living on the streets.[40]
- New York City's average daily shelter census hovered around 24,000 when Governor Pataki entered office in 1995. Soon thereafter, the census started inching up. By 2003, the average number of homeless people sheltered in the city had reached a record 38,310 men, women and children a night. While these numbers have receded somewhat over the past three years, the fiscal year 2005 New York City shelter census of 35,898 represents a 50 percent increase in homelessness during the Pataki administration.[41]

The state estimates an unmet need for supportive housing of 14,266 units for homeless and housing-needy single adults and 10,877 units for homeless and housing-needy families.[42] However, this is considerably less than the known statewide homeless population, or the New York City shelter census alone.

Other sources estimate a much higher statewide need for supportive housing for a range of people with special needs. In April 2006, a coalition of New York mental health service providers estimated a need of 40,000 supportive housing units for homeless and housing-needy people with mental illness alone.[43] According to the State Department of Health's 2006 Comprehensive Plan, housing is the number-one unmet need for people living with HIV/AIDS in almost all regions of the state. The department estimated a need for an additional 15,000 housing units for people with HIV/AIDS by 2010 in New York City, and also found increased need in Nassau, Suffolk, Rochester/Finger Lakes, the Western region (especially Buffalo), Albany, and the Lower and Mid-Hudson regions.[44]

RESPONSE TO GROWING NEED? SPEND LESS TO HELP

Governor Pataki inherited a strong array of affordable housing programs, as a result of the leadership of his predecessors. Yet despite growing need in all corners of the state, from his first year to his last, he sought to cut proven programs.

In his first budget, in 1995, Governor Pataki attempted to cut the state's capital investment in affordable housing by 20 percent from the previous year. In the face of the legislature's strong resistance, he settled for a symbolic 4 percent cut to an annual appropriation of $91 million. Over the course of the governor's next nine budgets, state capital investment for building and preserving affordable housing did not even keep up with inflation. State spending slowly inched up to $104 million by fiscal year 2005. It would have needed to be $119 million just to have the same buying power as in 1995—with no increase to match the growing need.[45]

New York is one of only eight states that do not have a housing trust fund continuously replenished by a dedicated revenue source.

As the shortage of affordable housing mounted into a crisis in much of the state, the state Assembly and Senate came to a consensus that the state needed to increase capital spending. In their 2004 budgets, the Senate and Assembly significantly increased state capital spending on housing, by $57 million.[46] The governor vetoed the additions, and the final budget included a much smaller rise. In subsequent years, the legislature continued to seek increases. In his executive budget proposals last year and for fiscal year 2007, the governor held capital investment in housing at $104 million. In both years, the Senate and Assembly increased these appropriations by $25 million, to $129 million annually.[47] Without the legislature's additions, the state's capital investment in housing would have declined by 13 percent in real dollars during Pataki's three terms.[48]

The Pataki administration's flat funding for housing came as the state budget overall has swelled to unprecedented proportions. From $34 billion under Governor Cuomo in fiscal year 1995,[49] the state budget has increased over 11 years to $112.8 billion in the new fiscal year—an increase of approximately 167 percent when adjusted for inflation.[50] Though increased Medicaid costs account for a good share of the hike, capital spending on investments other than housing—these included transportation, higher education, economic development, and prisons—rose significantly, too, from about $4.5 billion a year in fiscal year 2001 to 2005, to about $7 billion a year today.[51] Less than 2 percent of the state's capital spending goes toward housing.[52]

Most capital funding for housing in the state budget is appropriated to the New York State Division of Housing and Community Renewal (DHCR), which manages grant, loan, tax credit, and rental subsidy programs. DHCR disburses funds directly to developers and through two public benefit corporations. DHCR also oversees New York State's allocation of federal HOME funds, the federal and state Low Income Housing Tax Credit, and other loan and grant programs. Other housing funds go to the New York State Office of Temporary and Disability Assistance, which operates the State's Homeless Housing and Assistance Program (HHAP), investing capital funds to build transitional and permanent supportive housing for the homeless. In addition, the New York State Office of Mental Health (OMH) funds the development of housing for people with serious and persistent mental illness.

Affordable Housing Trust Fund: 33 other states have one

Slightly more than one-quarter of New York's capital housing funds are spent through the New York State Low Income Housing Trust Fund. It is not a true "trust fund"—it has no dedicated funding stream. Instead, the legislature and governor appropriate a varying amount of state general funds to the program each year, ranging from $25 million to $39 million annually over the past decade.

Governor Pataki has long resisted linking the Housing Trust Fund program to a continuously replenishing funding stream, even while many other states have shown that trust funds are viable ways to finance affordable housing development and rehabilitation.

By 2002, 33 states had housing trust funds with dedicated funding sources. Eighteen of these states had municipalities or counties that also operated trust funds; 350 in all operate nationwide. New York is one of only eight states that do not have a statewide or local housing trust fund continuously replenished by a dedicated revenue source.[53]

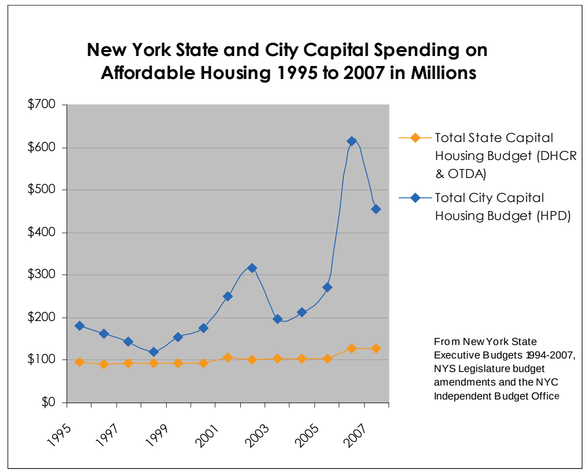
In Orlando, Florida, 40 percent of the apartments in the new City View development are affordable, thanks to support from state's Affordable Housing Trust Fund.

Courtesy of: Florida Housing Coalition

Florida's housing trust fund, the nation's largest, has created 150,000 units of affordable housing in 13 years. With about $300 million generated annually through the state's real estate transfer tax, it now produces about 15,000 units of housing. To ensure strong revenue for the housing trust fund as well as ongoing support for environmental programs already paid for from the transfer tax, the legislature increased the tax when it founded the trust fund in 1992.[54]

The Florida fund supports a comprehensive, strategic statewide investment in affordable housing of many different types, with flexibility to meet the needs of different localities and regions. Thirty percent of the revenue goes to the statewide Housing Finance Agency, which uses the funds to subsidize apartment development for very-low-income tenants. The other 70 percent goes to cities with sizeable low-income populations and to counties. The funds come with strict income-targeting requirements: 30 percent of units must go to occupants earning less than half an area's median income, and another 30 percent are reserved for households earning up to 80 percent AMI. The program places a strong emphasis on homeownership, which accounts for 65 percent of units created.[55]

This model of dedicating a revenue stream to affordable housing is proving a durable one. Other states and localities have dedicated various sources of revenues for housing trust funds, including hotel occupancy taxes and fees developers pay in lieu of including affordable housing in their developments. Massachusetts, Ohio, Washington and other states all dedicate document recording fees to housing trust funds.



With a vibrant real estate market and high sale prices in many areas of the state, New York has the capacity to support a housing trust fund through its real estate transfer tax and mortgage recording tax. Real estate transfer tax revenues have tripled since fiscal year 1998, and are projected to reach $930 million in fiscal year 2006, $800 million in 2007, and more than $750 million for each of the two years after that.[56]

New York State law dedicates some real estate transfer tax revenues to fund the state's Environmental Protection Fund and to debt service on the Clean Water/Clean Air Bond Act. The governor's fiscal year 2007 budget projects that the real estate transfer tax will provide $147 million to the Environmental Protection Fund and $104 million to the Clean Water/Clean Air debt service fund. The remainder, $532 million, is transferred to the state's general fund to balance the expense budget. Dedicating just half of this amount to a housing trust fund would triple the state's capital spending on housing, while leaving available almost $300 million for balancing the budget.

In New York, counties send a portion of the revenues they collect through mortgage recording fees to the Mortgage Insurance Fund of the State of

New York Mortgage Agency (SONYMA). This agency issues tax-exempt mortgage interest bonds to insure below-market mortgages and other homeowner subsidies to help low-, moderate- and middle-income families buy their first homes, or homes in economically distressed target areas.[57] Since 1995, SONYMA has helped about 45,000 families purchase homes.

A large portion of the proceeds from the mortgage recording tax supports the SONYMA insurance fund, which protects the agency and private lenders in case borrowers default. But each year, the state collects a substantial surplus, beyond what the agency is required to hold to back its debts. In 2004, SONYMA received $126 million from the mortgage recording tax.[58]

Instead of reinvesting surplus insurance funds into housing, New York State has raided them, putting the money into the general budget. In 2004, SONYMA contributed $225 million in excess reserves to the state budget.[59] (That year, HFA had another $27.6 million in excess insurance funds.)[60] With a change in the Public Authorities Law, SONYMA could reinvest these surpluses into financing for affordable housing, such as low-interest loans and grants.

Neighborhood and Rural Preservation: A Perennial Target

Since 1977, the Neighborhood and Rural Preservation Programs (NPP & RPP) have provided funding to nonprofit affordable housing organizations assisting low- and moderate-income tenants and homeowners. The programs fund legal services, housing advice, advocacy for repairs, and help negotiating with landlords. The two programs have historically provided $65,000 each to approximately 230 community-based organizations statewide, at a cost to the state of $15 million per year.

With these modest but flexible funds, organizations are able to develop or rehabilitate housing, assist first-time home-buyers or at-risk tenants, and strengthen their communities. The Neighborhood Preservation Coalition estimates that every NPP and RPP dollar helps recipient groups leverage $30 in additional private and public support, and that the funding has helped to create more than 50,000 units of affordable housing.[61]

Yet Governor Pataki has made the NPP and RPP budgets perennial targets for cuts. In 1996, he proposed cutting the NPP and RPP funding streams in half. The legislature refused to go along, and the funding was restored in full. Governor Pataki responded the next year by proposing a 75 percent cut to the programs, also defeated by lawmakers.

In 1998 and most years after that, the governor proposed cuts and the legislature restored the money.[62] During this time, other modest funding streams vital to the tenants and homeowners these groups serve—including the Urban Homeownership Assistance Program, the Lead-Based Abatement Program, and funds for technical assistance—were greatly reduced or eliminated.

In 2004, the governor was finally successful in reducing the programs' budgets. NPP and RPP funds were cut by half.[63] The legislature restored some of the funds in a mid-year budget adjustment.[64]

The governor's 2007 executive budget once again proposed to fund NPP and RPP at $7.8 million, half of their customary levels. The legislature restored these cuts and then overrode the Governor's subsequent veto.

New York City Sets the Pace

New York City's spending on housing provides an informative contrast to the state's practices. New York City dedicates a much larger share (about two-thirds) of its federal community development funds for affordable housing than the state does (about one half). More important, the city makes a much larger commitment of its own capital funds. Over the past several years, New York City's investment of its own funds in affordable housing has hovered around $300 million annually, and it is expected to grow significantly in the next few years to well over $400 million.[65] New York State will spend considerably less of its own funds on housing development—$124 million in fiscal year 2006—to cover the much larger population of the entire state.[66] Put another way, New York City spends over $40 per person of its own money on affordable housing each year. New York State spends just $6.45 per person.[67]

Mortgage Recording Tax Revenues Received By SONYMA	
FY 2001	$83,245,000
FY 2002	$78,907,000
FY 2003	$105,372,000
FY 2004	$126,175,000

From SFY2004 and SFY2002 SONYMA Annual Reports pp. 38-39 (2003-4) and pp. 32-33 (2001-2).

THE HOUSING FINANCE AGENCY: LUXURY HOUSING AND EXCESSIVE SPENDING

Under the Housing Act of 1968, states are allowed to issue tax-exempt bonds to help finance affordable homeownership and rental housing. Every state except Kansas has since created its own Housing Finance Agency, and many cities, including New York City, have done so as well. The New York City Housing Development Corporation (HDC) is now the nation's leading issuer of bonds for affordable multifamily housing, issuing $1.4 billion in bonds in its 2005 fiscal year. HDC's innovative financing programs leverage funding from other government agencies and private sources to create affordable low-, moderate-, and middle-income housing that would not otherwise be built. It has also used its corporate reserves to establish creative low-interest loan programs to make the housing it builds even more affordable.

"Innovative" is not a term that describes the New York State Housing Finance Agency. The agency, whose board is appointed directly by the governor, has lagged far behind the city—and behind many other states—in efforts to leverage resources to maximize the number of affordable housing units it can help construct.

- **More than half of HFA's bond resources over the past five years have gone to finance luxury housing, primarily in Manhattan, rather than much-needed affordable housing around the state.**
- **HFA was involved in an extortion scandal that led to the conviction of a vice-president of the corporation for colluding with a Republican state senator.**
- **Bonds and tax credits are largely allocated to developers who are significant campaign contributors to Governor Pataki and his allies.**
- **HFA has given one developer, Atlantic Development Group, preferential treatment that appears to have allowed the company to earn tens of millions of dollars in excess fees.**

Subsidizing Luxury Housing

During Pataki's terms in office, the Housing Finance Agency has financed 20,000 units of housing. However, fewer than half of the units that HFA has financed over the last five years are designated for low- or moderate-income tenants. From 2000 through 2005, only 5,959 out of 12,715 total units, or 47 percent, were affordable.[68] And the trend appears to be getting worse. For projects proposed in New York City in 2005, just 822 out of 3,127 (26 percent) were affordable.[69] Virtually all of HFA's market-rate housing is built in Manhattan and Westchester counties.

Corruption and Coddling

Instead of providing affordable housing around the state, Pataki's HFA has largely served to reward political allies. The culture of preferential treatment at HFA has extended into criminal activity under Pataki's watch. In 2004, Hector Del Toro, a vice-president at HFA, was convicted of extorting developers receiving financing from HFA (and its subsidiary the Affordable Housing Corporation) to make campaign contributions to Republican State Senator Guy Velella and to and use Velella's law firm for HFA-related projects. The agency conducted no publicly announced investigation or restructuring to ensure that such practices did not continue.

More typically, the agency has settled into a pattern of favoritism to certain developers who have strong ties with the agency, donate large political contributions to Governor Pataki, and manipulate the system to their financial advantage.

Liberty Bonds

Liberty Bonds are a primary example. After 9/11, Congress authorized New York State to issue a total of $8 billion in tax-exempt bonds to finance private development to rebuild Lower Manhattan and revive the New York City economy. The state Housing Finance Agency and city Housing Development Corporation were each authorized to issue up to $800 million in Liberty Bonds to finance private housing construction in Lower Manhattan.

Congress exempted Liberty Bonds from the usual federal requirement that projects built using tax-exempt housing bonds must make at least 20 percent of its units affordable to low-income households, earning less than half the area median income. (Developers call these "80/20" projects.) HFA decided to require that just 5 percent of the units be priced below market rate. Of the 2,272 units built with the state's share of Liberty Bond financing, rental apartments built with this funding, just 119 would rent for below market rate, and only in the most minimal sense: rents were set to be affordable to households earning up to $94,200 a year.[70]

Continued on page 28

Liberty Plaza - 287 units

Contributions to Governor Pataki
$133,000

Total State Campaign Contributions
$772,350

Liberty Bonds Received
$230 million

Estimated Value of Bonds to Developer
$58,642,398

Between 1999 and early 2004, Glenwood Management principal Leonard Litwin and his wife donated nearly three-quarters of a million dollars to state campaigns, almost all to Republican and Conservative candidates and political action committees.[2] Litwin received almost 30 percent of the Liberty Bonds administered by the state.[3]

Historic Front Street - 95 units

Contributions to Governor Pataki
$70,000

Total State Campaign Contributions
$456,000

Liberty Bonds Received
$46.3 million

Estimated Value of Bonds to Developer
$8,484,822

Yarrow LLC is a partnership between three large developers, FJ Sciame Construction, Zuberry Associates, and the Durst Corporation. Governor Pataki drew extensive criticism (even from his own political appointee, the chairman of the LMDC) for awarding $650 million of commercial Liberty Bonds to another Durst project, the new Bank of America Tower on 42nd Street.[4]

Tribeca Green - 274 units

Contributions to Governor Pataki
$54,000

Total State Campaign Contributions
$214,000

Liberty Bonds Received
$110 million

Estimated Value of Bonds to Developer
$20,158,324

Related's $214,000 was donated exclusively to Republican Party candidates and PACs in the years just before and after the project was approved. The $54,000 to Governor Pataki came in the 14 months before and two months after the award. Two weeks after receiving the Liberty Bonds, Related Companies CEO Stephen Ross and his wife also donated $29,600 to the governor's running mate, Lieutenant Governor Mary Donohue.

LIBERTY BONDS FOR CAMPAIGN CONTRIBUTORS

In New York, campaign contributors can make almost limitless donations to candidates for state office. Real estate developers who obtained Liberty Bonds for development in Lower Manhattan after 9/11 took full advantage of the opportunity to donate to Governor Pataki.

New York State law permits corporations to donate up to $5,000 per year to a political campaign. Any legal subsidiaries of a corporation can also make such donations, and developers typically control multiple subsidiary entities. Contributions can also be made by the developers themselves, their partners, family members or by principals and executives in the developers' companies. Developers may make donations to political action committees and lobbying firms, which will then pass these funds on to candidates.

Here are some of the major recipients of Liberty Bonds and their contributions to Governor Pataki. Together, they received $621.3 million in Liberty Bonds. At present value and current market conditions, those bonds are worth $113.9 million in subsidies to the developers.[1]

Source: Common Cause/NY

The Solaire - 293 units

Photos: Joan Byron

Contributions to Governor Pataki
$10,500

Total State Campaign Contributions
$15,500

Liberty Bonds Received
$235 million

Estimated Value of Bonds to Developer
$43,065,511

The contributions took place in the years before and shortly after Vincent Albanese's projects received two Liberty Bonds awards.

[1] Tax-exempt bonds make it possible for developers to borrow funds at a significantly lower cost than they otherwise could—up to 2 percent less, depending on market conditions. Figures here are estimated present value, based on market conditions on May 17, 2006: LIBOR 5.08 and 30-year Treasury at 5.27 (assuming discount rate of 7.27 percent).
[2] Common Cause New York State, "Liberty Bonds Free Up Funds for Campaign Contributors," *Connect the Dots Downtown*, 2005; Common Cause campaign database.
[3] Dunlap, David W., "Liberty Bonds' Yield: A New Downtown," *The New York Times,* May 30, 2004.
[4] Powell, Michael, and Garcia, Michelle, "Ground Zero Funds Often Drifted Uptown; Money Also Went to Luxury Apartments," *The Washington Post*, May 22, 2004.

Two reports by Common Cause have shown that HFA awarded Liberty Bonds primarily to large campaign contributors to the governor and other New York State elected officials. By January 2005, almost all of the residential Liberty Bonds had been awarded to just 11 politically connected developers.[71] Between them, these developers had donated almost $1.6 million to state electoral campaigns, including the governor's.[72]

In return for this largesse, agencies the governor controlled used Liberty Bonds to reduce the developers' borrowing costs. The state's $800 million in Liberty Bonds for housing is worth an estimated $146.6 million in subsidy to developers, based on present value and market conditions (see pp. 24-25).

HFA awarded the first $340 million of its funds in a meeting called on just 24 hours' public notice. The three recipients—Glenwood Management Corporation (owned by Leonard Litwin), the Related Companies (Stephen Ross, principal), and the Albanese Development Corporation (in partnership with Northwestern Mutual Life)—are all major campaign contributors to Pataki. Each received approximately $100 million in bonds for luxury housing projects in Tribeca and Battery Park City.

In a second round of allocations, Litwin received Liberty Bonds for another luxury housing project in lower Manhattan, a package that will save the developer an estimated $25 million. All told, Litwin received about $238 million in Liberty Bonds from the state—nearly 30 percent of the entire state pot of Liberty Bonds for residential construction.

One of Albanese's projects, the Solaire, was already fully financed and under construction when the 9/11 attacks occurred. Albanese stated that he needed the Liberty Bonds because of adverse economic conditions caused by the attacks. But three floors were already built and the project had resumed construction a month before the Liberty Bonds were awarded.[73]

Governor Pataki did his best to give the public the impression that the new luxury housing would be accessible to the majority of New Yorkers. "We're sure we're going to be able to bring down the rents to affordable housing," he said, after laying the cornerstone of the Solaire.[74]

Today, a two-bedroom apartment in the Solaire rents for $6,895 a month.[75] A studio in another Albanese project, the Verdesian, rents for $2,350 a month.[76]

Name Your Own Developer Fee?

The lack of consistency or transparency in HFA's process extends to the awarding of developers' fees. HFA has awarded fees to developers that vary wildly, with limited regard, it appears, for the actual costs to the developer or the number of affordable units created.

On the 80/20 and Liberty Bond projects HFA financed between February 2004 and January 2006, developer fees averaged 3.5 percent. Since these were multimillion–dollar projects, even this relatively small amount generated significant dollars for the developers. Even then, developers made most of their money in the sale or rental of the hundreds of market-rate units that each project contained.

Some projects, however, were allowed to earn far more. Developer Shaya Boymelgreen was allowed to charge HFA a developer's fee of 9.1 percent, or more than $10 million, for a 352-unit tower rising at 88 Leonard Street, on Broadway between City Hall and Tribeca. Because the project was financed with Liberty Bonds, 95 percent of the 352 rental units are market rate: two-bedrooms start at $4,250 per month, and the penthouse goes for $12,500. Five percent are reserved as "middle-income," for families making as much as $105,000 a year.

HFA has said that it awards higher developer fees on projects where more of the units are affordable, to offset the limited cash flow produced by the projects. It is therefore unclear why Boymelgreen, producing the fewest and least-affordable units permissible under any HFA program, was granted the highest developer fees of any of the 80/20 and Liberty Bond deals.

HFA has reserved its highest awards of all—15 percent of eligible costs, or roughly 13 percent of total project costs—to deals that consist entirely of low-income housing. But even here, its actions are questionable. From 2004 to 2006, HFA awarded seven of its eight "all affordable" deals to a single developer: Manhattan-based Atlantic Development Group (ADG). In that time, ADG received $33.4 million in developer fees on tax-exempt bond deals, compared to $45.4 million for all other developers combined.[77]

One Highly Favored Developer: $900,000 per Unit?

Atlantic Development Group, owned by Peter Fine and Marc Altheim, has rapidly become the largest recipient of HFA's largesse.

Fine and Altheim are substantial campaign contributors to Governor Pataki. For the 2004 election cycle, during which Pataki was not a candidate, Peter Fine and his wife, Elizabeth, were each among the top 10 contributors to Governor Pataki. Added together, they would be number one, at $65,341. (Altheim gave another $10,000 to Pataki that year.)

Atlantic Development received favorable treatment from HFA in several ways. First, ADG has benefited from HFA's scarce and valuable pool of federal Low Income Housing Tax Credits. The Internal Revenue Service grants state agencies the authority to allocate these credits to developers, who sell them to investors. Essentially, developers are able to convert the credits into grants for their low-income projects—funds that usually do not have to be repaid. The federal government gives New York State about $36 million of these "9 percent" credits to subsidize affordable housing development each year.[78] From there, developers generate more than $360 million in proceeds from investors. In 2006, this support financed nearly 2,000 units of housing.

The vast majority of New York State's 9 percent credits are awarded through an annual public process, using a competitive scoring system, by the New York State Division of Housing and Community Renewal. DHCR posts the selection criteria on its website, holds bidders' conferences around the state, makes public announcements of its awards, and provides an opportunity for those who did not receive credits to learn where they did not score competitively.

Yet while the tax credits are scarce and in extremely high demand—there are far more losers than winners—each year DHCR gives some of its credits to HFA to award on its own. Unlike its sister agency, HFA opts for a process shrouded in secrecy. No application process or guidelines are posted (or even referred to) on its website. HFA makes no public announcement of awards. This closed-door process favors select developers.

According to sources familiar with the HFA process, the primary recipient of this scarce resource, through a process hidden from public scrutiny, has been the Atlantic Development Group. ADG has received awards of 9 percent tax-credits for at least three projects from HFA during the Pataki administration, for 1314 Merriam Avenue, 1975 Birchall Avenue, and 2089 Creston Avenue, all in the Bronx. It was not possible to identify any other 9 percent tax-credit deals financed by HFA, and HFA declined to make information available.

Atlantic Development also appears to have benefited immensely from irregularities and inconsistencies in HFA's methods for calculating the costs and fees for the developers' affordable housing projects. On two recent Atlantic Development Group deals—at 385 Third Avenue and 250 East 60th Street, in Manhattan—HFA approved $41 million in tax-exempt bonds for 90 low-income units, enabling ADG to bring in an additional $13 million through low-income housing tax credits.[79]

While the cost of land and construction in Manhattan is high, these two projects strain credulity. The average cost per unit is a staggering $866,894 (more than $900,000 for 385 Third Avenue), far beyond comparable affordable housing developments in Manhattan. ADG appears to be charging the State about 30 percent more—$15 million—than it ought to be entitled to under HFA guidelines and current affordable housing development costs in Manhattan.

The projected construction price for 385 Third Avenue ($382,500 per unit) is 37 percent above what the HFA reports to be its average cost for Manhattan development ($278,468 per unit). Moreover, the HFA average includes deals that are primarily market-rate units with far more expensive finishes and tax requirements.[80] The inflated construction cost also inflates developer fees, since these fees are based on a percentage of construction and other eligible costs. And neither the developers nor the HFA provided requested information to clarify a $7.5 million discrepancy between the acquisition price for 250 East 60th Street—between what is listed in the HFA prospectus, and what is recorded in the city's database for real estate transactions.

When these irregularities were raised at the public hearing on the project and by State Senator Liz Krueger, HFA resorted to obfuscation. The agency repeatedly changed the reported size of the building, to give the impression that the price per square foot had decreased, although the construction contract had not. HFA produced a spreadsheet purportedly justifying the high construction costs. But the account made inappropriate comparisons between construction costs for affordable and luxury housing, and it inflated construction costs on one project by $100 per square foot. Even with these changes, the stated construction price for the two Atlantic Development Group deals in question is still well above average.

Finally, the HFA did not appear to scrutinize the relationship between ADG and a nonprofit organization, Senior Living Options, that was the legal owner of these and other development sites. By putting the land on many of its projects in the hands of a nonprofit organization, ADG would be able to receive favorable tax treatment that would not otherwise be available to a for-profit developer, including exemptions from sales tax during construction, title transfer and mortgage recording taxes, and income taxes on proceeds from tax and zoning certificates.

ADG principal Peter Fine has acknowledged that he and partner Marc Altheim created Senior Living Options, and that two of its three current directors have either family or business ties to ADG. Fine and Altheim agreed to remove Senior Living Options from an additional monitoring role that they had originally proposed, an arrangement that would have had to be approved by the city's Department of Housing Preservation and Development. However, Senior Living Options is still the owner of these and dozens of other ADG properties developed with HFA financing. Although this has been called to the agency's attention, HFA has provided no evidence in public reports on its due diligence of these projects that it has investigated or addressed the possible conflict.

A Model in Its Backyard: New York City Housing Development Corporation

HFA's failures are all the more glaring because the agency operates alongside one of the nation's leaders in affordable housing finance: the New York City Housing Development Corporation. Almost all developers, analysts and advocates contacted for this report said that it was easier to work with HDC than HFA, and that HDC is more innovative and flexible than its state counterpart.

HDC has been able to pioneer new models for affordable housing finance, including a mixed-income program that includes 20 percent low-income, 30 percent middle-income, and 50 percent market-rate units; an innovative middle-income housing program; and a new cooperative homeownership product. HDC has helped maintain the affordability of at-risk subsidized housing development through creative refinancing. And HDC has combined its financing with existing programs of its sister agency, the New York City Department of Housing Preservation and Development, to extend affordability much deeper than it can on its own.

HDC's flexibility also derives from its practice of issuing bonds for development projects through a large "open indenture" rather than separate bond issues for each project. Bond issues are expensive: each requires the services of an insurer, a bond counsel, and a rating agency, and all these costs must be borne by a project's financing. HDC's open indenture has its own rating and insurance support, and it allows the agency to finance relatively small affordable housing developments that would not otherwise be able to carry the cost of bond financing.

HDC has also reinvested $500 million in corporate reserves into building and preserving 17,000 additional units of affordable housing. One housing finance expert marveled at how HDC appears to "look at every dollar they have to figure out how they can put it back into housing."

By contrast, HFA has freed up just $6.4 million for new investments by refinancing old projects and using excess reserves. With leadership from New York's governor, there is no reason why HFA could not emulate HDC and reinvest its assets in more affordable housing production.

DESTABILIZING TENANTS

Governor Pataki has done more to eliminate rent regulation and other tenant protections than any other New York State governor before him. A confidential 1994 Pataki transition memo was explicit: "The administration's goal must be to dismantle a system that does not work by adopting decontrol of all rent-regulated apartments upon vacancy."[81] The Pataki administration has pursued this aim zealosly over the past 11 years, to the detriment of hundreds of thousands of New York tenants.

The rollbacks in state rent regulations have sharply reduced the number of regulated units, especially in New York City. In 1996, 55.4 percent of all units in the city were either rent controlled or rent stabilized. In 2005, just 52 percent were regulated.[82] From 2002 to 2005, 29,000 rent-stabilized units were built in the city. During the same three year period, the city lost more than 44,000 rent-regulated units to conversion and deregulation.[83] The actual loss of affordable units has been even greater: The city's stock of rent-stabilized apartments includes more than 48,000 new, mostly luxury units receiving tax abatements from the city. These units are not permanently rent-regulated.[84] In short, the new rent-stabilized units produced by Mayor Bloomberg's housing creation plan are not keeping pace with the loss of rent-regulated units caused by Governor Pataki's deregulation efforts.

If New York now had the same share of permanently regulated units it had in 1996, the city would now have nearly 112,000 more rent-regulated apartments than now exist.[85]

The city also lost at least 20,000 subsidized housing units, under Section 8, Mitchell Lama and other programs, during the same period.[86] Taken all together, this is a massive loss of affordable apartments—equivalent to almost half the total number of units of public housing in all of New York City.

The Rent Regulation System

Rent regulation is by far the largest affordable housing program in New York State, covering more than 3 million New York City renters.[87] The program has overwhelming public support. More than 80 percent of New York City residents believe that rents should continue to be regulated.[88]

Rent regulation is undeniably effective at preserving housing affordability: In New York City buildings with more than six units, unregulated rents are 70 percent higher than regulated rents. Rent regulation is also efficient, targeting the people who need it most. Approximately 80 percent of rent-regulated households have incomes below $50,000 per year; almost one-third have incomes below 125 percent of the federal poverty level.[89] Equally important, the rent regulation system provides tenants important protections from negligent or unscrupulous landlords.

The governor exerts considerable control over the rent regulation system. Though rent regulations apply to only six localities in New York State—New York City, Buffalo, Rochester, Syracuse, Yonkers and Nassau County—these regulations are state law. They are administered by a gubernatorial agency, the New York State Division of Housing and Community Renewal.

Outsize Influence of Property Owners

Governor Pataki won office in 1994 with heavy financial support from the state lobby for landlords. In the four years beginning in 1993, three landlord political action committees gave nearly $900,000 to candidates, almost all of them Republicans.[90]

Before his inauguration, Governor Pataki appointed landlord-developer Charles J. Urstadt to chair the housing panel on his transition team. As Governor Nelson Rockefeller's housing commissioner, Urstadt infamously took away New York City's ability to control its own rent regulation and eviction laws through the 1971 state law that bears his name. He then enforced a disastrous process of vacancy decontrol, which caused such a rapid escalation in New York City rents that it necessitated the Rent Stabilization Law of 1974. Urstadt was also a member of the Reagan administration's housing advisory council, which recommended that administration's 90 percent budget cut to affordable housing investment.[91]

Between 1999 and 2003, Pataki collected another $446,000 from landlords. During this period, landlords and their associates were among the most generous contributors in the state, giving more than $2.7 million to Albany politicians. More than 98 percent of these donations went to Republican or Conservative Party candidates.[92]

Instant Results

The landlord lobby's generosity paid off, as the governor appointed leading figures from the real estate industry to influential positions overseeing housing. For DHCR commissioner, the governor appointed Joe Holland, a Harlem landlord who had allowed his buildings to become so decrepit that some had been removed from his control. Holland spoke openly of his pro-landlord agenda. "This is really a new era," he told one trade newspaper, "To the extent that the system was tilted in the past in favor of tenants, that's just going to stop."[93]

In the ensuing years, the Pataki administration greatly reduced tenant protections and enhanced landlords' control of state housing policy. But Holland was unable to do much more than plant the seeds of this effort. Less than two years into his term, Holland had become well known for regularly missing DHCR speaking engagements and meetings, and for sleeping through those he did attend. With the Pataki administration planning a major assault on rent regulation in the coming year, the controversial DHCR commissioner had become a liability.[94] When the *Daily News* reported that Holland owed hundreds of thousands of dollars in unpaid property taxes, he was forced to resign.[95]

Rent Regulation Decontrol

In 1997, rent regulations came up for renewal. With his administration working behind the scenes to dismantle the system, the governor attempted to appear moderate. He distanced himself somewhat from the aggressive Republican leader of the Senate, Joe Bruno, who promised to "end rent regulation as we know it."[96] But the combative tone of the Republicans alarmed the public, and Governor Pataki's approval ratings dropped 10 points in three months.[97]

When a last-minute extension of rent regulations was finally negotiated behind closed doors with legislative leaders, the governor went to bat for the landlords. With landlords' lawyers advising him from the next room, Governor Pataki won unprecedented concessions that made it possible for property owners to remove significant numbers of apartments from the rent regulation system.

The new law allowed landlords to withdraw vacant apartments from rent regulation when the regulated rent rises above $2,000 a month (or if the tenant's household income is $175,000 or more). Upon vacancy, the landlord may raise the regulated rent by up to 20 percent.[98]

The governor, landlords and their allies regularly described these provisions as "luxury decontrol." But a hot housing market quickly helped propel regulated apartments of middle-class tenants (as well as low- to moderate-income households living together under one roof) toward the $2,000-a-month level at which vacant apartments can be deregulated. As landlords gained new incentives to evict longtime tenants, reports of building owners harassing tenants rose precipitously. In the three years following the legislation, eviction cases filed by landlords increased 50 percent. One lawyer at the time described the upsurge as "epidemic."[99]

Bureaucratic Hurdles for Tenants

Under Pataki, DHCR erected dozens of bureaucratic hurdles to make it more difficult for tenants to contest rent overcharges and landlord harassment. Tenants must now file considerable paperwork for an overcharge complaint, not once but twice. If the tenant does not resubmit all forms again within 21 days, a case is closed.[100] The position of director of the DHCR Enforcement Unit, handling overcharges and other complaints, was made part-time.[101] The number of DHCR Enforcement Unit lawyers available to prosecute landlords for harassment and other complaints was reduced from 15 when Pataki entered office to five in 1999.[102] The Enforcement Unit, where tenants may file complaints, was moved from downtown Manhattan—within easy reach of the 60 percent of rent-regulated tenants who live in Manhattan and Brooklyn—to eastern Queens, a half mile from the last subway stop.[103]

DHCR has also substantially relaxed its interpretations of what constitutes a "major capital improvement" (MCI) for which landlords can charge a permanent rent increase. According to one tenant lawyer, "Major capital improvement increases were once allowed only for improvements that were depreciable according to the Internal Revenue Service. But that rule has been abandoned and now anything goes.… [Landlords] get paperwork from contractors claiming $30,000 to $40,000 in renovations. The agency accepts it without any substantive review."[104] More recently, DHCR reclassified the conversion from building-wide utility meters to meters on individual apartments as a major capital improvement, enabling landlords to have tenants billed directly for services and then charge them for the new meters.

Implementing these and other administrative barriers allowed Pataki's DHCR to eliminate 40,000 complaints—half of its backlog—in just one year between 1996 and 1997, not by issuing rulings but simply by closing cases on technicalities. The imposition of tenant obstacles also drastically reduced the number of new complaints filed each year, from 1,300 in 1993 to approximately 500 annually during the first couple years of Pataki's term.[105] Those harassment complaints against landlords that finally received a hearing were twice as likely to be rejected under the new governor.[106] Today, tenant advocates and lawyers say that the complaints process is completely nonfunctional, to such an extent that they no longer pursue cases.[107]

Code "Adjustments"

Intent on avoiding the sustained public criticism of 1997's rent wars, the Pataki administration undertook a surreptitious assault on tenant protections in 2000. In April, a *New York State Register* notice announced that DHCR would make some minor "adjustments" to the Rent Stabilization Code to "reconcile" it with the 1997 reform.

What had been described as adjustments were in fact 150 pages of amendments, all but one of them favoring landlords. Many of the proposed amendments rewrote existing law or overruled active litigation. Described by tenant groups as "a landlord's dream,"[108] the amendments imposed hundreds of new restrictions on tenants' rights, including:

- The amount of time tenants have to file complaints or contest rulings was shortened; landlords' response times were increased.
- When landlords claim rent increases as a result of major capital improvements, tenants challenging the increases must hire engineers and other experts to submit a request for DHCR inspections—an impossible hurdle for most tenants.
- The new code created a new "landlord harassment" violation with which tenants could be charged.
- Rulings deregulating apartments or otherwise favoring landlords were made automatic, while rulings in favor of tenants required additional paperwork and regulatory procedures.

With landlords doing all they could—legally and illegally—to deregulate apartments as quickly as possible, the new rules effectively shifted the burden of proof in disputes from landlord to tenant. Tenant lawyers all too accurately described the changes as "a formula for rewarding fraud."[109]

Another Renewal, Fewer Protections for Tenants

Three years later, rent regulations once again came up for renewal. Senate Majority Leader Joe Bruno and Governor Pataki both claimed to favor renewing rent regulations "as is." The Senate refused to act on the legislation until the last night of the legislative session, and held a vote on the bill at 1 a.m. without reading it. The bill the governor instead signed included provisions strengthening the Urstadt Law. Governor Pataki's changes ensured that the New York City Council and mayor would have no power to strengthen tenant protections in rent regulations.[110] It also made conditions more precarious for the approximately 100,000 households who pay "preferential rents," lower than the official stabilized rents for their apartments.[111]

When apartments are taken out of the rent stabilization system, more than just the rent is deregulated. Longtime tenants are no longer entitled to lease renewals, at any price. Tenants can be easily evicted when landlords decide to raise rents or convert rental buildings into condominiums. Developers have filed condominium conversion plans for 60 buildings with over 7,000 apartments in Manhattan alone.[112] And even tenants whose apartments remain rent stabilized may soon be forced out under the Pataki administration's recent liberal interpretation of what constitutes the "demolition" of an apartment building, which includes modest physical changes in buildings that remain standing.[113]

A Pinnacle of Evictions

The Pataki administration's changes to the rent laws have opened the door for unscrupulous and aggressive activity by landlords. One example is the Pinnacle Group LLC. Over the past few years, Pinnacle has purchased nearly 20,000 units, in neighborhoods including Crown Heights, Harlem, Washington Heights, and the northwest Bronx, as well as some parts of Queens.[114]

Pinnacle's business plan seems to be to target buildings where the company could charge much more than current residents are paying, to get rid of current residents, and to rapidly increase the rents dramatically.

It has already brought a staggering 5,000 Housing Court eviction actions against tenants.[115] While some tenants are behind in their rent, in other cases Pinnacle appears to have brought the cases indiscriminately. One tenant was evicted by city marshals despite being just $100 behind in rent.[116]

Pinnacle has taken advantage of the ways the Pataki administration has weakened the rent laws by filing an extremely large number of applications for major capital improvements. In numerous cases, tenants claim that the MCI work was never performed, or that what was actually done was far less than claimed. The Neighborhood Initiatives Development Corporation, a Bronx advocacy group working with tenants in some of Pinnacle's buildings, has documented that many of the MCI bills are grossly inflated. In one case, the state Division of Housing and Community Renewal found that Pinnacle had willfully misrepresented the work it had done; the state awarded tenants a rent credit and modest monetary damages.[117]

In Harlem, tenants living in buildings owned by the Pinnacle Group have formed an organization to fight unjustified evictions and rent hikes. They have little help from the state Division of Housing and Community Renewal.

Photo Credit: Stacy Kranitz

However, as a result of the changes discussed above, it is far more difficult than it was in the past for tenants to make their case. There are far fewer DHCR enforcement staff, so cases are backlogged. There is no proactive enforcement, looking at whether Pinnacle is making misrepresentations in other cases. As a result, many tenants have already been evicted or faced dramatic increases in rent. With Pinnacle owning 20,000 units, making it one of the largest private landlords in New York City, many more are at risk.

The Public Housing Pullout

Most public housing in New York State was built with the support of the federal government and continues to receive subsidies from Washington. But the state also constructed housing projects using its own funds. In 1998, Governor Pataki eliminated $2.7 million in operating funds for the nearly 7,000 units of "state-assisted" public housing. The loss of this critical subsidy caused financial hardship and layoffs at many local public housing authorities, and eventually many had no choice but to turn these housing units over to one of four large private developers.[118]

DHCR ultimately transferred 16 projects in Buffalo, Syracuse, Mount Vernon, Poughkeepsie, Newburgh, and other cities to private ownership.[119] The state awarded two companies—Buffalo-based Norstar, USA, and the Sheldrake Organization of Garden City—possession of 14 of the projects.[120]

The developers received federal Low Income Housing Tax Credits and state Housing Trust Fund subsidies to rehabilitate the apartments. New York State's stock of these tax credits is limited; every tax credit dollar that supported the privatization of public housing was a dollar that did not go into the production of new units. The tax credits also remain in effect for just 15 years; thereafter, the new owners would need new subsidies to keep the units affordable, and some could move to market-rate rents.

The loss of state operating funds has also contributed to the structural deficit now faced by the New York City Housing Authority (NYCHA). NYCHA reports that there is a $57 million annual operating deficit on public housing units in its portfolio that were built by New York State but that no longer receive state subsidy. Earlier this year, NYCHA proposed a plan to balance the budget, committing $100 million from New York City, imposing rent increases on one in four NYCHA tenants, and redirecting Section 8 certificates, which could otherwise have been used to expand affordable housing stock. Even amid this structural crisis, New York State is contributing nothing to preserve the critical resource of public housing.

Missing the Chance to Save Mitchell-Lama

The Mitchell-Lama Housing Program was launched by New York State in 1955 to create affordable housing for moderate and middle-income New Yorkers. Over the next 20 years, more than 105,000 rental and cooperative apartments were built around the state. In exchange for low-interest loans and property tax breaks, the program set limits on tenant (or cooperator) incomes and owner profits.[121]

Owners are able to withdraw from the Mitchell-Lama program after 20 years. They are then no longer subject to DHCR regulation, and apartments need not be kept affordable for moderate income families.

In New York City, Mitchell-Lama buildings built before January 1, 1974, are supposed to become subject to rent stabilization even if they withdraw from the program, providing some protections to tenants. However, a court decision allows landlords to charge potentially large increases if they can show "unique and peculiar circumstances." Four landlords have already applied for such increases, ranging from 400 to 800 percent, which would be far beyond many tenants' ability to pay.

The New York State Division of Housing and Community Renewal has the power to clarify "unique and peculiar circumstances," and to make clear that buildings will need to remain rent stabilized. However, to date DHCR has instead negotiated on a building-by-building basis, rather than taking broader action to keep the buildings affordable. By contrast, Mayor Bloomberg introduced legislation in Albany to try to do just this.[122]

BATTLING EFFORTS TO HOUSE THE HOMELESS

When George Pataki became governor, he inherited what was then New York State's largest-ever—and still its most successful—effort to house homeless people.

The New York/New York Agreement to House Homeless Mentally Ill Individuals has been a tremendous success. By providing housing and support services for more than 12,000 homeless individuals in New York City, it contributed to a decline in the population of people with mental illness in the municipal shelter system in the mid-1990s.

Average Number of Mental Health Housing Units Created Each Year By Gubernatorial Administration 1979 to 2006		
Years	**Administration**	**Avg Units/Year**
1979-82	Carey 2	500
1983-86	Cuomo 1	1125
1987-90	Cuomo 2	1204
1991-94	Cuomo 3	1906
1995-98	Pataki 1	1063
1999-2002	Pataki 2	698
2003-06	Pataki 3	499

But the program almost came to an end under the Pataki administration. Though New York City urgently wanted to renew it, the governor declined. Only after it became politically impossible to ignore the need for housing and support services for homeless individuals with special needs did the governor commit to renewing the initiative, and then on a greatly reduced scale. More recently, the governor has entered into a third agreement with the city to create and subsidize 9,000 housing units for chronically homeless individuals and families over the next 10 years—still 1,000 fewer units than the city proposed a decade ago.

Office of Mental Health Construction Declines

Beginning in the late 1960s, New York State emptied its psychiatric hospitals of tens of thousands of inpatients, leaving them to find housing and seek out care on their own in the community. But by the early 1980s, as New York City and State's homeless population grew rapidly, it became clear that there was an urgent need to create appropriate housing and support services for individuals with mental illness.

During the last five years of the administration of Governor Mario Cuomo, the state Office of Mental Health (OMH) created approximately 7,500 units, or an average of 1,500 a year.[123]

Under Governor Pataki, the development rate has dropped to half of that—just 776 units per year since Pataki took office. And the average number in recent years has been much lower. During Pataki's first term, OMH created approximately 4,250 housing units for people with mental illness. At least 2,000 of those units had been authorized by Governor Cuomo and were in various stages of development when Governor Pataki entered office. Because Pataki resisted authorizing additional units for many years, OMH housing development has lagged since then. Roughly the same amount of OMH housing has been created in his second two terms as was built in his first.[124]

Fighting New York/New York

Under Governor Mario Cuomo, the 1990 New York/New York Agreement to House Homeless Mentally Ill Individuals (NY/NY) committed the state and city to create more than 3,300 new housing units by July 1992 through a combination of capital development and rental subsidies. The city and state would split the costs of construction, with the state Office of Mental Health providing ongoing subsidies thereafter for mental health and supportive services to residents. The original timetable proved overly optimistic: the state's final units of NY/NY capital housing were not completed until October 1998.

As the final NY/NY residences reached completion, the Giuliani administration had become convinced that NY/NY housing production was critical to its ongoing efforts to reduce the number of individuals with mental illness living in the shelters and on the streets. The city Department of Homeless Services conducted an internal assessment of the size of the city's need for supportive housing. In 1997, Mayor Giuliani approached Governor Pataki to extend the initiative, proposing a second, similarly constructed agreement that would create 10,000 more units of housing for homeless people with mental illness.[125]

Under Governor Pataki, the development of affordable housing with support services for individuals with mental illness has dropped by half.

Governor Pataki refused. He instead offered to participate in an initiative of just 1,350 units, with the city paying for the services in more than half of the housing. The disappointed mayor offered a significant compromise of 1,750 units in the spring of 1998, but the governor would not budge.

More than a year after Giuliani first approached Pataki, Andrew Goldstein, a psychotic individual who was repeatedly released and refused treatment by the state psychiatric system, pushed Kendra Webdale in front of a subway train. With little choice but to act, the governor agreed to the second NY/NY agreement in 1999, which committed to build just 1,000 new units and subsidize 500 existing units over five years.[126]

New York/New York III: Less Than Meets the Eye

The day before the 2005 New York City mayoral election, Governor Pataki and Mayor Bloomberg announced the signing of a third New York/New York Agreement. The new 10-year agreement focuses on individuals and families who have been homeless for extended periods of time. It promises 9,000 units of supportive housing for chronically homeless individuals and families with a wide range of needs.[127] As in the previous agreements, the city and state will evenly split development costs, though this time the city will pay for services in about one in five of the units. Of the total, 7,850 units will house single adults. For the first time, NY/NY will also house families, in 1,150 of the units.[128]

NY/NY III is the biggest such commitment the state and city have ever made, surpassing the scope of the first two NY/NY agreements combined. However, the state's commitment is more limited than it appears.

As in NY/NY II, almost one-third of the 9,000 units to be "created" under NY/NY III will not be newly constructed or rehabilitated, but will be rent and service vouchers that can be used to secure existing apartments in New York City's shrinking pool of affordable privately owned studios and small family apartments.

The state Office of Mental Health has appropriated $211 million in capital funds to build 1,125 units of supportive housing.[129] While this is the largest appropriation ever made by the state for homeless housing, it is based on current construction cost estimates of $187,000 per unit. The majority of these units are scheduled to be developed in the last five years of the 10-year agreement, when construction costs will likely be higher, requiring additional appropriations.

The capital construction of the remaining 2,000 apartments will be funded through the Homeless Housing Assistance Program (HHAP) and the Housing Trust Fund. However, the governor has not made any additional appropriations to these funding streams. Indeed, the commitment is likely to tap out the limited resources of HHAP and the trust fund, rendering them unable to fund housing development for homeless and low-income New Yorkers across the state who are not mentally ill.

When first proposed by the city 10 years ago, an initiative of this size might have been enough to end chronic homelessness. But in the ensuing years, the need has grown, while housing development has lagged and rents have skyrocketed. As a result of the governor's persistent reluctance to address the issue, the third NY/NY agreement will most likely fail to bring us any closer to ending homelessness than we were 10 years ago.

ADULT HOMES: WILLFUL NEGLECT, SCANDAL, AND NONE OF THE PROMISED HOUSING

New York's Adult Care Facilities, commonly referred to as adult homes, have a long history of fraud, neglect and abuse. Originally designed to provide supportive services and some personal care to elderly people who could no longer live on their own but did not need full-time nursing care, the private, for-profit adult homes gradually became a dumping ground for people with mental illness.

Adult homes' combination of profit motive, low reimbursement rates, lax regulation, unscrupulous operators, and increasingly disabled residents has produced periodic scandals in every administration since the system's creation in the 1970s. The cronyism and intentional indifference of the Pataki administration, however, allowed these problems to fester and contributed to the deaths of hundreds of residents.

When George Pataki entered office in 1995, the legislature and Governor Cuomo had just passed new regulatory reforms for adult homes.[130] Instead of building on these improvements, the governor quietly but consistently thwarted efforts at adult home reform, while at the same time receiving substantial contributions from the $600-million-a-year adult home industry. After receiving hundreds of thousands of dollars in campaign contributions from adult home operators, the governor appointed industry lobbyists to his transition team and, later, to positions overseeing adult homes.[131]

> In his recent budget veto, the governor eliminated $55 million to move mentally ill residents out of hazardous adult homes.

The Pataki administration decimated the state's adult home inspection teams; the state reduced the New York City office alone from 25 inspectors to five.[132] As a result, complaints went unprobed and investigations often dragged on, for as long as six years.[133] Governor Pataki also reduced the New York City staff of the state's quasi-independent regulatory body, the Commission on Quality of Care for the Mentally Disabled (CQC), from 15 to three. The then-chairman of the CQC, Clarence Sundram, said that unlike the Cuomo administration, Governor Pataki's office never met or corresponded with the commission.[134]

In 1996, the state Department of Social Services attempted to rescind the license of one notorious adult home, Brooklyn Manor, when the agency found unacceptable living conditions at the home along with evidence that the operator had stolen at least $56,000 from residents. An administrative law judge ruled in the state's favor. Soon after, however, the case was dropped, and the threat of $70,000 in fines lifted. The state renewed the facility's license with no explanation.[135]

Shortly thereafter, the Pataki administration transferred regulatory authority over adult homes to the Department of Health (DOH), a move requested by the adult home operators' lobbying group.[136] Testifying before the State Assembly, the president of the Public Employees Federation, which represented DOH staff, bluntly described how the agency operated under Pataki:

> "[W]hen we first came into the Department of Health we were told to be client friendly. Well, the clients that we used to deal with in DSS were mentally ill or welfare clients. Well, now the clients they were referring to were the owners, not the clients of services, and we were told under no uncertain terms, don't look too hard and don't find too much."[137]

Pataki proceeded to appoint his director of scheduling, Martha McHugh, to be a DOH assistant commissioner. McHugh's husband is Patrick McHugh, an Albany lobbyist whose biggest client was the Empire State Association of Adult Homes and Assisted Living Facilities. And in 2000, the association's longtime executive director, Susan Peerless, was made a special assistant to the commissioner for long-term care and adult-home matters.[138]

The terrible consequences of the Pataki administration's indifference finally attracted public attention when *The New York Times* published a four-part investigative report on adult homes. The series by Clifford Levy described horrific abuse of residents, as adult home operators perpetrated shocking Medicaid frauds that included forcing scores of residents with psychiatric disabilities to undergo medically unnecessary eye, prostate and other surgeries for the operators' financial gain. The *Times'* report revealed that almost 1,000 residents had died in adult homes under Governor Pataki (one-third of them under the age of 60). DOH had investigated only three of these deaths. Levy found that adult home residents regularly died of neglect, including 17 people felled by heat stroke in July 1999 alone.[139]

Brooklyn Manor is one of New York's "adult homes" housing people with mental illness. While numerous investigations have found such homes to be inappropriate for many residents, the state has not followed through on proposals to build alternatives.

Photo Credit: Joanna Cuevas

Better Housing Promised, but Never Delivered

Governor Pataki responded to the outcry generated by the articles by appointing an Adult Facilities Workgroup comprised of adult home operators, hospital administrators, advocates and others to study the problem and suggest solutions. In a November 2002 report, the workgroup offered detailed recommendations.

The workgroup proposed moving 6,000 adult home residents with mental illness into service-enriched housing units developed to better meet their needs.[140] About 2,200 of those units would be newly constructed supportive housing; the rest would be scatter-site apartments, for which the state would provide rent subsidies. The workgroup set a timetable for relocating residents. By March 2006, the workgroup indicated, nearly 3,300 would live in new housing.

In his January 2003 executive budget for the 2004 fiscal year, the governor funded some modest assessment and service initiatives in the adult homes. But he appropriated no funding to provide housing alternatives specifically for adult home residents. Instead, he made adult home residents with mental illness one of several eligible populations for new OMH housing. To date, fewer than 500 adult home residents have relocated to this new housing. Almost 400 of these are adult home residents who live in three upstate facilities that were converted into OMH licensed housing, meaning that fewer than 100 adult home residents have actually moved to more appropriate housing integrated into the community.

In his 2006 budget veto, the governor eliminated $810,000 in funding for 55 rent and service vouchers proposed by the legislature. The legislature overrode his veto, creating the first new housing for adult home residents, more than four years after the scandalous conditions of the adult homes were exposed.

In the meantime, 20 adult homes have closed since the release of the workgroup's report, mostly for financial reasons. Since no new housing has been created, three-quarters of the 900 adult home residents who were displaced were relocated to other adult homes, psychiatric hospitals, or nursing facilities as inappropriate as the residences they left.[141] Fewer than 6 percent have been able to move into OMH housing.

HAS GOVERNOR PATAKI DONE ANYTHING RIGHT?

While the Pataki administration has done much to dismantle New York's legacy as a national leader in housing production and preservation, it has also made some contributions, and these deserve recognition by the next governor.

To start with, the state has managed the state's spending of federal housing and community development dollars, as well as its own. In the nine years from 1995 to the end of fiscal year 2004, New York State made the following investments from state and federal sources:

- **The Division of Housing and Community Renewal spent $433,544,689 building, renovating or subsidizing the rents of 22,005 affordable housing units for low-income households in eight programs.**[142]
- **The Affordable Housing Corporation invested $191,859,986 to help low- to moderate- income homeowners construct, acquire, rehabilitate and improve 18,271 homes.**[143]
- **The Homeless Housing Assistance Program spent approximately $300 million to develop approximately 3,600 units of permanent supportive housing.**[144]
- **DHCR manages the federally funded HOME development program, which spent $314,290,198 to build 17,802 housing units for low-income households.**[145]
- **DHCR and HFA allocated $221,424,723 in federal low-income housing tax credits.**[146]

Over the past 11 years, these investments have helped build, rehabilitate or make affordable over 150,000 units of housing for moderate and middle-income homeowners, as well as low-income renters, people experiencing or at risk for homelessness, and individuals with special needs.

According to the New York State Division of Housing and Community Renewal, the $95.5 million in state money spent on housing development in 2003 leveraged an additional $325.8 million in private resources invested in the projects. The economic activity generated by this construction is equivalent to almost $1 billion.[147]

The Pataki administration has undertaken several new initiatives to help produce housing in New York State:

State Low Income Housing Tax Credit

The federal Low Income Housing Tax Credit, administered in New York through DHCR, has produced 23,475 units of housing during Pataki's three terms. But housing produced through the federal credit is available only to tenants earning less than 60 percent of the area median income. Recognizing a need for subsidized housing for moderate-income renters, the Pataki administration created a state housing tax credit for those earning up to 90 percent of their area's median income. The program remains small, producing just over $1 million in credits in 2005.

Homes for Working Families

Created by the state Housing Trust Fund in 1997, the Homes for Working Families Initiative uses a combination of tax-exempt bonds, "as of right" tax credits and very-low-interest loans to create 100 percent-affordable projects. Homes for Working Families provided $7.4 million in loans to four projects in 2005.

Tax Reform for Affordable Housing Production

Communities opposed to the development of affordable housing often argue that the developments deny towns and cities badly needed property tax revenues. To make it easier for localities to accept new projects, the governor signed legislation that ties tax assessments for subsidized housing to the actual net operating income of the projects, and not just the income generated by residents' rent.

HouseNY

In 2002, the state created this new program, providing zero-interest loans to help localities and community-based organizations identify and prepare potential housing development sites.

49 West Broad Street, Haverstraw

Affordable housing planned for 49 Broad Street

A Rockland County organization is using a grant from the New York Main Street program to turn its own headquarters into an affordable housing development.

Courtesy of: HOGAR, Inc.

New York Main Street Program

In 2004, the state established a grant program to help localities revitalize downtowns and other business districts. Funds can be used for building and façade renovations for housing units above commercial space. However, the benefit comes at a price. New York Main Street obtains its budget from excess federal funds New York State receives to administer federal rent subsidy vouchers. Critics say cutbacks in voucher supervision have led to deteriorating conditions for tenants.

Two Innovative Mitchell Lama Co-op Conversions

The State's Division of Housing and Community Renewal helped to convert two rental Mitchell-Lama developments in the Bronx that had been neglected by their owners into affordable housing cooperatives. Tenants were able to take control and an ownership stake in their buildings, and a resale restriction formula was put in place to keep the buildings affordable for the long term.

New York State CARES

In 1998, the governor unveiled New York State CARES (Creating Alternatives in Residential Environments and Services), a $245 million, five-year initiative to expand residential alternatives for people with developmental disabilities, funded with $46 million a year in state and Medicaid dollars. NYS-CARES has created 5,100 new beds in community-based housing. However, the state is producing housing for the developmentally disabled much more slowly than before. During the Carey and Cuomo administrations, New York State funded the development of approximately 2,000 community-based housing units per year for people with developmental disabilities, or more than twice the rate of the Pataki administration.

Across the United States, governors are learning from New York's past governors—leaders like Democrat Al Smith and Republican Nelson Rockefeller—rather than its current one. In red states and blue; in urban, suburban, and rural areas; and in every region in the country, governors have recognized that good housing policy is vital for successful states.

The National Governors Association puts it this way:

> Housing is an elemental need of every citizen of every age, household size, and income level. The contributions of the housing sector and the affordability of housing affect state fiscal conditions, economic growth, community development and vitality, and the lives of individuals. Housing has substantial impacts on economic competitiveness, shapes the development of metropolitan areas, and affects the cost of infrastructure.
>
> Housing initiatives offer opportunities for gubernatorial leadership across many agencies of government, and for public, civic, and private sector collaboration.... [G]overnors from across the United States have taken the lead in implementing a range of available housing-related strategies to improve communities.[148]

While every state is different, New York's next governor can learn from the range of strategies that his counterparts have implemented around the country:

Innovative Approaches to Financing

- **Affordable housing trust funds**: More than 33 states now have housing trust funds with dedicated revenues. Florida's housing trust fund, the nation's largest, has created 150,000 units of affordable housing in 13 years. With about $300 million generated annually through the state's real estate transfer tax, it now produces about 15,000 units of housing each year. The Florida fund supports a comprehensive, strategic statewide investment in affordable housing of many different types, with flexibility to meet the needs of different localities and regions.[149]

- **Housing finance agencies as leaders**: In Indiana and Iowa, the state housing finance agencies do more than provide bonds and credit enhancements—they also provide leadership on affordable housing development. Their efforts include convening key partners (including lenders, investors, developers, and community organizations), providing staff for planning and policy development, and committing reserves to subsidize affordable housing. The New York City Housing Development Corporation provides another example of meaningful leadership by a housing finance agency.

Planning for Smart and Fair Growth

- **Fair share approaches**: Too often, some municipalities—often wealthy suburbs—make use of "exclusionary" or "snob" zoning. They only allow single-family homes on large lots, making it impossible for developers to create rental or mixed-income housing. Some governors have taken leadership to counter these practices and ensure that every city and county does its fair share to meet the housing needs of their states' citizens. Massachusetts Governor Mitt Romney, a Republican, has worked to strengthen the state's 35-year-old "40B" law, which requires every municipality to create opportunities for affordable housing development and remove regulatory barriers. The law is credited with creating 35,000 units statewide in mixed-income development, usually in suburban communities. States from Connecticut to Oregon have adopted similar fair-share approaches, in which every municipality is either required or encouraged, often with a range of financial supports from the state, to take action to insure the provision of reasonably priced housing.

- **Including affordable housing in "smart growth" and transportation-oriented development strategies**: As in most states, New York communities faces the challenge of sprawl. Rapid development on suburban fringes eats up green spaces and rural land, leading to air pollution, excessive fuel consumption, and ever-longer commutes. One solution is transit-oriented development, which seeks to cluster new residential development near transportation hubs. Several states have sought to integrate mixed-income housing options into transit-oriented growth zones. California and Massachusetts have created super-agencies that can coordinate housing, transportation, and economic development policy. New Jersey has launched an impressive "transit villages" project that includes its Housing and Mortgage Finance Agency.

- **Inclusionary zoning**: Several states—most prominently California—have either encouraged or required municipalities to adopt "inclusionary zoning," which offers developers the right to build somewhat larger buildings in exchange for including a modest percentage of affordable housing, usually 10 to 20 percent of units. More than 100 cities and counties in California have implemented inclusionary zoning. New York City recently adopted an ambitious new inclusionary zoning program, and Sarasota Springs has one as well, but the vast majority of New York's communities have not.

- **Brownfields and land recycling**: In Pennsylvania, Governor Ed Rendell has won high praise for the state's Land Recycling Program which helps to identify redevelopment sites, promote agreements between buyers and sellers, and provides financial incentives and uniform standards and processes for remediation by private owners. Nearly 1,500 sites have been cleaned up and developed under the program, with many going on to provide mixed-income housing.

Addressing the Full Range of Housing Needs

- **Emphasizing preservation**: Missouri provides state-level tax credits for the rehabilitation of homes in urban neighborhoods at risk of abandonment and in need of revitalization. The program not only creates affordable housing; it directs other federal and municipal investments to targeted areas. Similarly, the Minnesota Housing Finance Agency operates a Foreclosure Prevention Assistance Program to help homeowners maintain their properties through challenging times.

Missouri gives an income tax credit to anyone who donates cash or property to a nonprofit community developer. The state uses the funds to rehabilitate old housing in distressed urban areas.

Courtesy of: Missouri Housing Development Commission

- **Supporting homeownership:** Maryland's "Live Near Your Work" program provides state grants—which must be matched by municipalities and employers—to buyers who purchase homes in designated neighborhoods and live there for at least three years. Participating employers includes businesses, universities, nonprofits, and government agencies.

- **Working to end homelessness**: Minnesota's Family Homeless Prevention and Assistance Program (FHPAP) is working to end homelessness in the state by providing public funds, including TANF block grant dollars, that counties and community nonprofit organizations can use to help families remain in their homes, re-house those who become homeless, and shorten the length of time families spend in shelters. Last year, the Illinois State Legislature established a Family Homeless Prevention and Assistance Program modeled after the Minnesota legislation.[150]

Missed Opportunities

Governor Pataki's leadership or innovation is not cited in the literature on "best practices" in affordable housing. Beyond the multitude of instances covered in this report, in which he has undermined existing efforts to create affordable housing, Pataki has missed many opportunities to innovate on critical housing issues.

While Pataki is well known for his environmental conservation efforts, he has missed the opportunity to provide leadership on the other side of the smart growth equation: encouraging higher-density development in appropriate locations, especially near transit, and insuring that this housing is affordable to people at a mix of incomes. The New York State "Quality Communities" program is defined on its website as an effort "to find smart, innovative solutions to strengthen our economy, environment, and improve the quality of the place we call 'home.'" Yet it does not even include housing as one of its primary eight categories of work, or mention housing anywhere in its description of its major programs.[151]

The Pataki administration has made no meaningful effort to integrate transportation and housing strategies, to identify appropriate "growth zones," or to encourage higher-density, mixed-income development in any suburban locations.

In fact, New York State's policy actively enables some municipalities to resist affordable housing development within their boundaries. The New York State Division of Housing and Community Renewal gives priority for its grant dollars to developers who include a letter from a municipality in support of their project. If a municipality does not want affordable housing, all it has to do is refuse to provide a support letter, and the developer's application will suffer.

The governor also failed to rise to the opportunity to support suburban state legislators who were willing to take political risks to create affordable housing in their districts. State Assemblyman Thomas DiNapoli, a Democrat, and State Senator Michael Balboni, a Republican, took bipartisan initiative to draft a bill that would require a 10 percent affordable housing set-aside for some development in Nassau and Suffolk Counties. The bill was supported by the Long Island Association (the Chamber of Commerce for Long Island) and the Long Island Housing Partnership. Senator Hillary Clinton and Republican Congressman Peter King joined at a summit to discuss the issue. But Governor Pataki did not come out in support, and the effort has languished in Albany.

The Pataki administration has also missed opportunities to plan for mixed-income housing on distressed, contaminated, or abandoned sites. The Brownfields Opportunities Area program passed with much fanfare in 2003 after more than seven years of advocacy and coalition-building. New York lagged far behind other states in launching a substantial brownfields program. Now that the state has a program, one of its central features—grants to municipalities and community organizations to plan for brownfields redevelopment, has been slow to start. Three years after the programs' creation, the state has issued few contracts for planning. And while New York's brownfields tax credits and planning grants provide new opportunities to create new mixed-income housing—projects such as Ridgewood-Bushwick Senior Citizens Center's new Bushwick Gardens development in Brooklyn, which combines owner-occupied townhouses and rentals for the poor—the state has made no effort to encourage their development. (Indeed, the governor has made numerous public appearances to celebrate the reuse of brownfields as open space, but none for housing.) As with state bond financing, valuable brownfields tax credits have disproportionately been awarded to high-end development in New York City.

In contrast to New York City, where city-owned property has been a key resource for creating affordable housing, and where the Bloomberg administration has sought to leverage property used by a diverse range of agencies, state surplus property has been simply sold at auction, with no planning or priority for affordable housing.

In upstate communities where mixed-income housing supported by New York State might have provided a means to combat the crisis of abandonment and foreclosure, little has been done. The State has been willing to hold defaulted mortgages, but not to take broader initiative to leverage housing as an investment to revitalize inner cities.

Building a New Road Home: What the Next Governor Can Do

On January 1, 2007, New York will inaugurate a new governor, who will come into office with an opportunity to get the state's housing policy back on the right track. Despite the failures and setbacks of the past 12 years, the new governor will start from a position of strength. New York is lucky to have a remarkable array of affordable housing developers and advocates, banks and investors who want to finance affordable units, and creative municipal leaders who want to create mixed-income communities. Many of the programs created by governors Rockefeller, Carey, Smith, Cuomo, and others still exist.

The next governor will be able to learn from these homegrown affordable housing leaders and from what other governors and mayors are doing around the country. The next governor's leadership on housing should be judged by how well he addresses the following key issues:

- **Increase investments in proven programs** that create and preserve affordable housing, and join the 33 states that have a dedicated housing trust fund. The next governor should make a focused, multi-year, multi-billion-dollar commitment to develop and preserve affordable housing, with specific production targets. The plan would include a combination of existing programs and new programs to meet new needs. New York State already possesses an array of potential funding sources for an increased spending, including SONYMA mortgage recording tax surcharges, the real estate transfer tax, state title transfer and document-recording fees, and increased capital commitment from the state budget. In addition to capital and expense funding, the next governor should more effectively mobilize the resources of the Housing Finance Agency to create affordable units, by committing a higher percentage of tax-exempt bonds to finance low-income housing, by using HFA reserves to subsidize affordable housing, and by more effectively coordinating HFA financing with other affordable housing, economic development, and transportation programs.

Preserve the affordable housing units of millions of New Yorkers by strengthening and fairly administering the rent laws, and by working with municipalities and the federal government to maintain the affordability of existing subsidized housing that is at-risk, especially state-sponsored Mitchell-Lama developments. The next governor will need to immediately recommit to enforcing rent regulations, by rebuilding the staff who enforce the laws and orienting them again to work with tenants. Where landlords have a track record of falsifying application for rent increases, their future applications should face additional scrutiny. Where patterns of abuse are severe and systematic—such as in the case of Pinnacle Group—DHCR must be given the resources and mandate to pursue aggressive enforcement action. The next governor should also consider repealing or amending the Urstadt Law to return control over rent regulations to the municipalities that are directly affected. In addition, the governor should quickly create a task force to work with municipalities and HUD on a plan to preserve every unit of federally and state-subsidized affordable housing in the state. New York will need to provide financial tools and incentives to make sure that Mitchell-Lama and other state-subsidized housing developments remain affordable, rather than moved to market rate as restrictions expire.

- **Create a "fair share/smart growth" plan for affordable housing that meets the various needs of all of New York's regions**. As this report has noted, various parts of the state face different housing needs. The next governor should integrate affordable and mixed-income housing into broader transportation, land use, and economic development plans for the state (perhaps through a super-agency), in order to promote transit-oriented development and smart growth that includes mixed-income housing. Such a plan could:

  o **Enable upstate communities to revitalize abandoned neighborhoods** by better using affordable housing programs in combination with other initiatives. Such a plan will enable upstate communities to leverage housing investment for economic growth to combat abandonment.

  o **Bring "fair share" housing and smart growth to the state's suburbs.** The state must both demand and offer more for suburban municipalities that are seeing growing crises of affordability and sprawl. The next governor should support initiatives like the DiNapoli/Balboni bill to create affordable housing set-asides or inclusionary zoning policies in various regions of the state. Where municipalities are unwilling to do their share, the governor must take strong leadership to persuade—or ultimately require—them to help meet the need for affordable housing. The state's brownfield and property disposition programs must be revisited, and made more effective and more oriented to the creation of affordable housing.

  o **Make the state a true partner with New York City in its affordable housing efforts.** This would require more coordination and planning, and a shared commitment to tackle the problems of the affordability crisis.

- **Develop and implement a concrete plan to end homelessness**, to provide housing opportunities for a range of people with special needs, and a real solution to the crisis of adult homes. The New York/New York III agreement provides a strong base for the creation of supportive housing, and the next governor should commit to fulfill the full $1 billion cost of producing the promised new housing. But the next governor must go far beyond this agreement. New funding, tools, and coordination are needed to help the poorest New Yorkers get off the streets, as well as out of shelters, emergency rooms, and psychiatric hospitals. In addition to providing supportive housing, the next governor should work with municipalities and the state legislature to offer funding and programs that create appropriate housing for people with disabilities, those with HIV/AIDS, and seniors.

- **Reform the state's housing agencies and authorities** to maximize affordable housing production, remove the taint of favoring contributors, and increase the agencies' professional staff capacity to develop and implement the important programs outlined above. As a result of more than a decade of neglect from the governor, the Housing Finance Agency and the rent administration division of DHCR need to be rebuilt. To start with, a high-level staff person should be appointed within the governor's office to oversee housing policy, and to coordinate housing policy with economic development, transportation, and smart-growth planning. For the wide range of housing positions that will need to be filled at DHCR, HFA, and elsewhere New York State is home to an array of professionals with experience in government, not-for-profits, development firms, and financial institutions. Additional expertise should be tapped by creating advisory boards to assist in the creation and implementation of the state's new housing policies. Finally, the next governor must commit to dramatic improvements in accountability and transparency for affordable housing by setting clear goals, making policy decisions publicly and with consultation, and by reporting regularly on whether the goals have been met.

New Yorkers cannot afford another four years of failed leadership on housing policy. Too many more will be doubled-up, paying far more than any household can afford, or homeless. Too many communities will face more abandonment and despair. Too many more dollars will be wasted on subsidies for campaign contributors, rather than going to meet the full range of housing needs of New Yorkers.

Instead, the next governor must restore the legacy of leadership on affordable housing that belongs to New York State. With a commitment to adequate resources, to strong leadership, to better planning, and to genuine accountability, millions of New Yorkers will once again be able to see the state as home, sweet home.

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