

MANAGEMENT OF CITY-OWNED PROPERTY:
A LOW-INCOME HOUSING POLICY FOR NEW YORK CITY

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c Elizabeth Ann Strom

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A LOW-INCOME HOUSING POLICY FOR NEW YORK CITY

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ELIZABETH ANN STROM

Submitted to the Department of Urban Studies and Planning
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ABSTRACT

Private disinvestment from rental properties in New York City has been a problem now for at least two decades. This process results in the abandonment of buildings, many of which are also vacated by tenants. In the past twenty years, New York City has lost approximately one million housing units.

There are different theories about why landlord abandonment occurs. The neoclassical theory focuses on rent regulations and zoning laws as disincentives for reinvestment. Existing structures are allowed to deteriorate as regulated rents fail to cover maintenance and improvement costs. This theory assumes that the private market would be the most effective mechanism for providing housing if only the government would leave it alone.

Challenging this theory is the contention that a growing number of New Yorkers do not earn enough money to pay for the upkeep of their rental units. Figures on average rent-to-income ratios bear out this contention. If peoples' incomes are not sufficient to support a private housing market, then government must step in to insure that people are adequately housed. This can be done by subsidizing the private sector to continue providing housing to the poor, or by circumventing the private market altogether.

The economic problems that have led to this affordability gap are generally beyond the control of any municipal government. Yet certainly city governments suffer the consequences. City services are taxed by the symptoms of neighborhood deterioration; the city tax base is eroded as property becomes less valuable. In the most extreme cases, property loses its value completely; the city government becomes its actual owner through foreclosure for non-payment of real estate taxes. In some New York City neighborhoods the municipal government owns a sizeable percentage of the residential property.

New York City appears to be unique in the extent of its tax-foreclosed inventory and its methods of managing it. While vacant buildings are sold at auction, occupied buildings are not. Most occupied properties are managed by the city's housing agency. Others enter one of several alternative management programs; the

goal of most of these is to sell the building to the tenants as a limited equity cooperative.

While certainly none of these programs has been problem-free, all have been effective in providing shelter to the poorest segment of the population living in the most delapidated housing. Doubts about the long term success of current alternative management programs center around the lack of resources devoted to them. In spite of the fact that most buildings enter city ownership with every major system deteriorated, city programs devote only a few thousand dollars toward the rehabilitation of each unit. The future of these housing programs seem imperiled by the frayed shoestring on which they must operate.

Proper funding for city-owned property would not require substantial new resources. In fact, with a change in program design, only \$20 million more would be needed to ensure the structural viability of each unit. This is money that would be well spent, since the city's failure to invest in its properties today will only lead to greater expenses tomorrow.

While officials should explore ways of attracting more federal money and tapping private sources, in fact adequate funding should be available in the city budget. An equitable tax system, in which there would not be abatements for developers operating in lucrative areas, would generate sufficient revenue to pay for the renovation of city-owned residential buildings.

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Introduction

INTRODUCTION

...for most of the last three decades housing problems have generally been confined to low-income and minority people. Others have had housing inconveniences.

1

--Cushing Dolbeare

This study was motivated by the urgent need to provide adequate housing for the poor. Although there has been a public commitment to provide basic needs such as food and health care to all, publicly supported housing is available only to a few. There is consensus that people should not be driven to live in the streets, but there is no consensus on how to provide sufficient housing to avoid this consequence.

Difficulty in defining national policies for housing is due in part to its schizophrenic nature. Housing is both necessity and luxury, consumer good and investment. The production and distribution of housing involve the many levels of the construction and finance industries, each of which makes money at some point in the process. Consumers of housing are supporting all these participants. Finding a way to provide housing to those whose incomes aren't sufficient to motivate this establishment is therefore complex. The constant shifts in government policies over the past four decades reflect disagreement about who most needs to be subsidized--the developers, the consumers, or the owners. No group has been able to find an efficient and equitable way to create low-income housing.

Rarely has a public program worked outside of the private real estate industry, endeavoring to limit costs by eliminating profits. This is precisely the approach of New York City's In Rem Housing Program. This program represents New York's attempt to handle the thousands of occupied housing units that have come into its ownership by virtue of the former owner's failure to pay property taxes. It is thus a program by default, not by design. Gradually, city officials have begun to see the necessity of treating (or the impossibility of ignoring) their occupied housing stock. They have developed a series of programs that, taken together, offer a unique and comprehensive means of preserving low-income housing. In rem housing programs, most of which replace traditional private management with public or tenant control, have taken root only because of the private sector's lack of interest in providing low-income housing without deep subsidies. But they offer alternatives to the for-profit housing system that could extend beyond the landlord-abandoned stock.

A. Traditional Responses to Gaps in the Supply of and the Demand for Housing: The Case of New York City

More than any other city, New York is a renter's town. Less than 30% of the population owns its housing, and of that percentage 7.3% live in cooperative apartments². With the predominance of multi-family apartment buildings, most renters (75%) live in investor-owned rather than owner occupied buildings³. When tax burdens become too high in other cities,

property owners lobby for changes in tax assessments. But in New York the voices of small property owners are drowned out by those of tenants demanding rent regulations and developers lobbying for tax abatements. This may explain why New York has been able to take such bold steps in seizing tax-delinquent buildings: the landlord and homeowner lobby has relatively little influence in policy-making. The city is further unique in the fact that most landlord-abandoned property is of the multi-family tenement stock.

Furthermore, New York has lost an astounding 360,000 housing units since 1970, the equivalent of four Bostons⁴. Paradoxically this loss has persisted inspite of low vacancy rates:

Table A Net Vacancy Rates By Monthly Contract Rent, New York City, 1984

Monthly Contract Rent	Rental Vacancy Rate
Total	2.04%
Less than \$100	.52
\$100-\$124	1.44
\$125-\$149	.26
\$150-\$174	.69
\$175-\$199	.37
\$200-\$249	1.50
\$250-\$299	2.18
\$300-\$399	1.45
\$400-\$499	1.77
\$500 or more	2.99

Source: Stegman, from 1984 New York City Housing and Vacancy Survey

This apparent contradiction exists because most New Yorkers can't pay enough rent to make proper building maintenance worthwhile. Units that are abandoned, whether they are left standing or

demolished, are no longer considered part of the housing stock and therefore are not included in the calculation of the vacancy rate.

The bulk of housing loss occurred during the 1970s, a time of economic distress for the entire city. Operating costs rose faster than renters' incomes, and total population fell. Some of these trends have begun to reverse in the 1980s, and the rate of housing abandonment has slowed. For the first time since before 1970 there was a net gain of nearly 85,000 housing units, although a continued drop in the number of rental housing units. Between 1981 and 1984 population rose by 1.1%⁵. The very low vacancy rates reflect the impact of population growth on a housing market not yet recovered from the disastrous 1970s.

B. Housing Costs and Renter Incomes in New York City

The difficulty of providing housing for low-income families has increased over the past few years, as operating costs have risen much faster than incomes. This affordability crisis, which reflects a continuing trend, is so severe that it has replaced housing quality as the nation's most critical barrier to sheltering its population. In New York City the discrepancy between what people can pay and what the market demands is large indeed.

1. The Rent Gap Today: A Snapshot

Today, the median apartment in New York City rents for \$330 a month. Median income for all New York renters is close to \$13,000 a year⁶. A tenant earning the median and paying a quarter of his or her gross income for rent could afford \$270.00 a month, \$60 below the median. This gap would be closed if the rent-income ratio were increased to one-third, in which case the median tenant could pay \$360.00 a month. While this might be a feasible ratio for a single person, however, a family with children⁷ is hard-pressed to pay one-third of a small income for shelter.

A comparison of median rents and median incomes is not an adequate measure of housing affordability in New York for several reasons. First, \$330.00 a month is the median rent of all 1,901,000 rental units in the city. This includes the 168,000 units run by the New York City Housing Authority (NYCHA), in which rents are held to 27% of a tenant's income and subsidized by the federal government. With a waiting list of over ten years, NYCHA apartments are not actually available on the market. Similarly, 218,000 apartments are rent-controlled (see Appendix 1) their median rent of \$259 a month brings down the city-wide median. Under the current city regulations apartments become decontrolled upon vacancy. Therefore these apartments cannot be considered to be available on the market at those rents. In total, 386,000 apartments, or 17.5% of the rental stock, are either not available or not available at current low rents in any meaningful sense. A snapshot of the rental situation is somewhat misleading; current

tenants in place enjoy a reasonable median rent, but those seeking apartments are faced with another supply curve altogether.

In a city encompassing such extremes of wealth and poverty as New York does, any aggregate measure such as a median is suspect. A breakdown of the statistics will reveal for instance, that while annual income for all renters is just under \$13,000, for black renters it is \$11,000 a year and for Hispanics only \$8,000. The average black family can comfortably pay a \$229.00 monthly rent but the actual median is \$298.00; the Hispanic family, which can afford \$166.00, is confronted with a \$275.00 median. Clearly, minority families are far more constrained in the housing market. That finding an affordable apartment is a problem for many families is indicated by the 32.9% of all households paying over 40% of their income for rent .⁸

Another inadequacy of the median rent as a measure of affordability is that, in severely deteriorated neighborhoods, rents may not reflect the actual cost of running a building. Landlords serving low-income tenants are frequently delinquent in their property tax payments (see Chapter Two) or in their building maintenance practices. Their tenants pay low rents but receive substandard housing in return. What it costs to run a building well may be higher than the median rent in poor neighborhoods.

2. The Rent Gap: Trends

These figures suggest that, even in the absence of all other deterrents, low incomes are enough to prevent the poor from occupying decent private housing. A look at the trends affecting rent levels and incomes shows that the rent gap will most likely increase, especially for the poor. During the 1970s, when owner abandonment peaked, operating expenses rose faster than both median rents and median incomes. Two of the largest costs for property owners--fuel and capital--were climbing rapidly. The oil shocks of 1973 and 1979 drove the price of oil from a reported twelve cents a gallon ⁹ in 1970 to \$1.05 a gallon in 1980. At the same time, the prime rate jumped from 5% to 18%. Properties that were marginal in 1970 would be losing money ten years later.

While inflation is less of a problem today and operating expenses are levelling off, median rents are still increasing faster than incomes. From 1981 to 1984, real income (in 1967 dollars) of renters actually fell 4.4% while real rents increased ¹⁰ 5.8%. This disparity is due at least in part to the large number of coop conversions: because many upper income renters became coop or condominium owners, their incomes are no longer calculated as part of the renter total. But there are factors other than a shift in tenure preference at work. Landlords feel they are entitled to recover the profits they claim to have lost in the 1970s, and the Rent Guidelines Board, which determines legal rent levels in New York City, has granted increases above changes in operating costs in recognition of their claims.

Thus New York City is experiencing two related housing crises: supply and affordability. Logic would dictate that both problems be addressed by increased housing production. Subscribers to the popular theory of filtration embrace this notion when they reason that new housing, however expensive, opens up units all the way down the line, as housing vacated by one income group is filled by the group just below. It would follow that the public interest would best be served by a government policy that promoted development by removing disincentives (e.g., zoning restrictions and rent regulations) and offering incentives (e.g., tax abatements).

But just as tax cuts for the rich have never managed to "trickle down" into the bank accounts of the poor, so the filtering process doesn't appear to provide adequate low-cost housing. Weinstein proposes several reasons for its failure:

...the housing market has barriers to open competition and the easy movement of dwellings from one group of users to another, such as fixity of location, zoning, deed restriction, discrimination and simply because of the lack of a surplus¹¹.

Critics of the filtration theory have pointed to the plight of residents of the Bronx, where the construction of the 60,000-unit, middle-income Coop City project was expected to open up thousands of sound apartments. Apartments vacated by the primarily white middle-class Coop City residents were occupied by black tenants, but they soon deteriorated into slums and many are now

abandoned . . . Whatever the dynamics that lead to neighborhood deterioration and building abandonment (they will be explained in the next chapter), this example suggests that the construction of new, high-rent units provides an insufficient guarantee of improved housing conditions for the poor.

It is also unlikely that rent subsidies alone can compensate for the paucity of adequate, affordable housing. They are meant to enable renters to seek apartments at higher rents, theoretically opening up new opportunities for low-income families, but the extremely low vacancy rates in New York for all except luxury housing (see Table A) bring this line of reasoning into question. Rental subsidies would have to bring families above the \$500-a-month level to give them a significantly better chance of finding an apartment. Even then the issuance of subsidies to all eligible renters without any increase in housing supply would merely raise the base rent for slum housing without necessarily improving conditions.

The inadequacy of such provisions for low-income families led to the inception of other federal programs. HUD's Section 8, for instance, tried to address both supply and affordability by offering construction financing and generous rent subsidies to developers. But the projects sponsored by Section 8, such as a 231-unit Harlem apartment complex with estimated construction costs of \$80,000 a unit and requiring another \$12,440 a year to subsidize rentals¹³, only seemed to waste tax dollars. Such exorbitant building and operating costs render the systematic

construction of new units for the poor both impractical and politically unpopular.

Of course, such deep subsidies benefit the developers more than the tenants. Poor families can be housed just as comfortably at less expense in moderately renovated units. In this assumption lies the premise of the In Rem Housing Program, which saves deteriorated housing units before they succumb to the last stages of abandonment. It achieves moderate rehabilitation at minimal cost by relying for renovation not on for-profit developers, but on the tenants themselves.

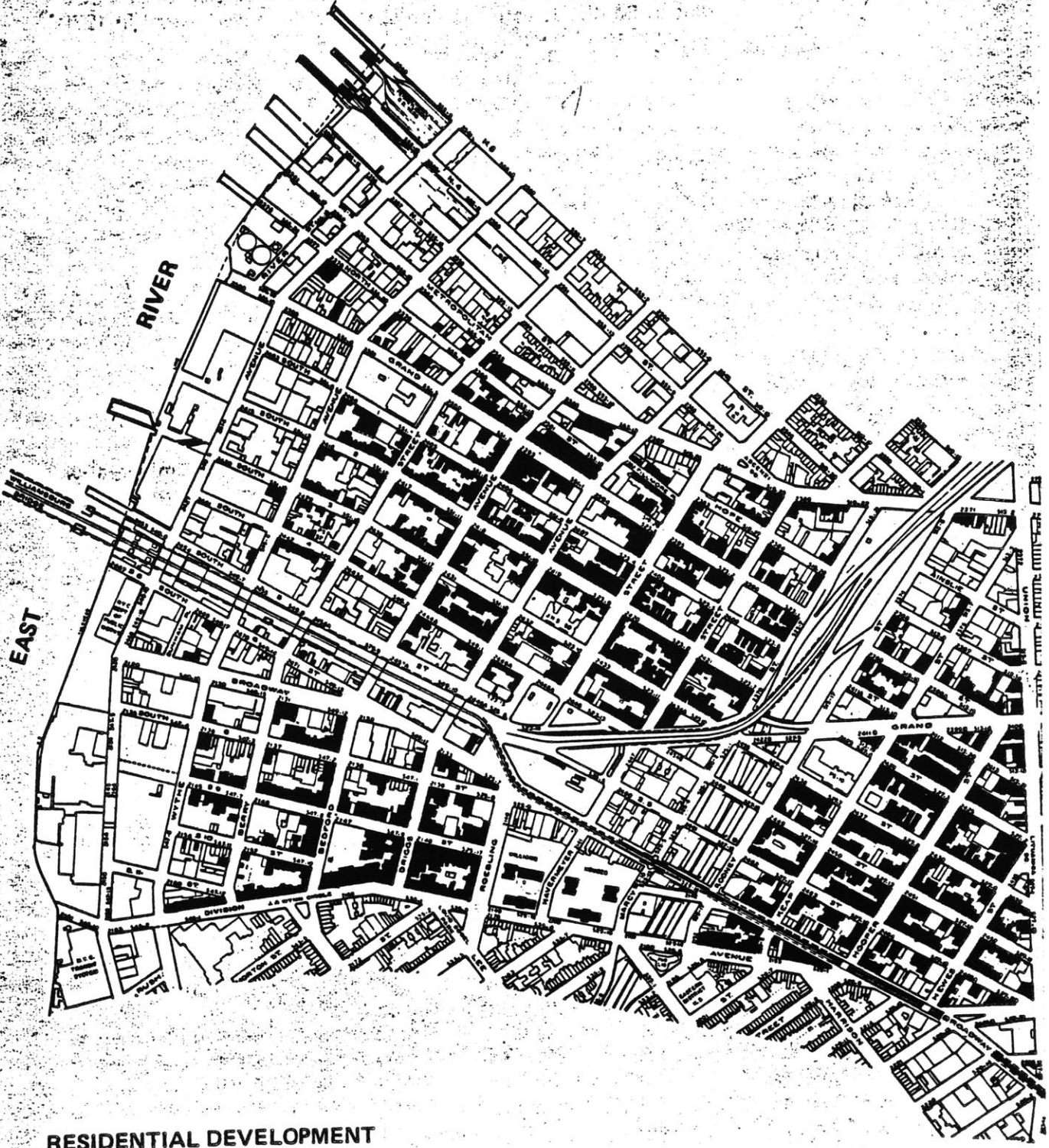
What do these trends suggest for the future of low-income housing? It's too expensive to construct new units for the poor, and new construction for the affluent is no guarantee that affordable units will open up, especially since New York's population is now growing. While newly constructed units are necessary to accommodate the demand for market-rate housing, city policy must simultaneously reduce the loss of units through abandonment. The In Rem Housing Program addresses this latter issue.

C. The Southside

Because aggregate data can obscure so many disparate and interesting factors, I felt it was important to study housing trends in one neighborhood. I wanted to examine a neighborhood that is experiencing private disinvestment, but is not a



SOUTHSIDE STUDY AREA



RESIDENTIAL DEVELOPMENT

wasteland. I chose the Southside, one of several neighborhoods comprising the Williamsburg-Greenpoint section of Northern Brooklyn, for a number of reasons:

1. Although it is located in Brooklyn and shares many of the woes of other neighborhoods in the "outer boroughs," the Southside is only ten minutes from downtown Manhattan. It has much in common with Manhattan neighborhoods such as Harlem and the Lower East Side, where the trend toward the depreciation of property values is beginning to be reversed. There are the first signs of land speculation but few yet of gentrification or upgrading.

2. 40% of the Southside's housing stock--turn-of-the-century tenements--resembles that of Manhattan neighborhoods, but the many one-to-four-unit brownstones are similar to those in other Brooklyn neighborhoods. The population therefore contains both tenants and homeowners.

3. There is a high incidence of city ownership in this area and many city-owned buildings are in alternative management programs. Because of the long history of tenant management in the Southside I was able to interview tenants in long-established cooperatives as well as those living in buildings still undergoing conversion.

4. The Southside is one of the poorest neighborhoods (see Table B) in the city. The In Rem Housing Program's effectiveness in this area would therefore indicate whether the program can indeed create housing opportunities for the least affluent.

Table B The Southside: A Profile

Number of persons	22,872
Number of households	7,493
Persons per household	3.05

Persons of Spanish origin	20,146
Population of Spanish origin	88%

Labor Force participation	52%
(labor force/population, aged 16-65)	

Unemployment	11.7%
--------------	-------

Median income	\$6,319
---------------	---------

Receiving Public Assistance	30.0%
-----------------------------	-------

Source: 1980 Census

D. What Is the In Rem Housing Program?

Officially, the In Rem Housing Program (described at length in Chapters Three and Four) is the means by which New York City handles its abundant stock of occupied, landlord-abandoned, tax-foreclosed housing. But since tenants living in the tax-foreclosed stock are among the poorest in the city--their median annual income is \$4,000 less than the median for all renters--the IRHP is, in effect, a housing program for the poor. The 46,000 occupied in rem units represent only 2.4% of the city's occupied rental stock¹⁴ but they are clustered in deteriorated neighborhoods: these areas, where there is little private market activity, the handling of city-owned property becomes the neighborhood housing policy. On the other hand, city-owned

buildings represent the last islands of affordable housing in gentrified neighborhoods; their disposition decides the future of the poor in those areas.

While many occupied, city-owned buildings are managed by the city housing agency, the Department of Housing Preservation and Development, one-third of the units are managed by other sponsors. Many of these are tenant and community groups which are able to purchase the buildings, after some renovation, as cooperatives. The IRHP has tremendous impact in neighborhoods where tenant management is taking hold, for unlike traditional production programs, it builds on community strengths and ultimately develops local institutions in the process of developing housing. In studying the In Rem Housing Program we have the opportunity to evaluate the applicability of such alternative forms of management to a large housing program. Many cities have experimented with small-scale tenant management and/or sweat equity projects, but none but the IRHP has proposed this kind of treatment for thousands of units.

In this thesis I describe the IRHP, and propose a similar alternative program that confronts some important issues, such as insuring the long-term viability of tenant-managed buildings, and determining an appropriate role for community organizations, which the current program handles poorly. I make this proposal bearing in mind that there are a few things that the IRHP is not.

1. It is not a solution to all city-wide housing problems.

It is not even a complete solution to low-income housing problems. It builds no new units, and is limited to those buildings that are abandoned by their owners.

2. It is not a proposal for renovating vacant apartments. Unfortunately there is no low-cost way to renovate vacant buildings. Even sweat equity, which was once envisioned as a means of creating housing for low-income families, can no longer produce inexpensive units.

3. While it presents a model of for the management of property in the absence of private investment, it does not provide a means or a rationale for taking low-income housing out of private hands when there is market interest. Thus it cannot support the efforts of low-income housing advocates in gentrifying neighborhoods.

4. This is not an alternative to publicly subsidized housing. The subsidies needed for this program are much lower than those for rehabilitation programs that depend on private developers and those for public housing, but they are necessary.

This thesis addresses the question, "How can a municipal government house its poor in the absence of private interest and sufficient federal funds?" New York City's response to that query is its In Rem Housing Program. In this paper I will contrast the current in rem housing alternatives and further question whether for-profit, public agency, or tenant control best addresses the need to maintain landlord-abandoned properties as low-income housing resources. The introduction has presented background data on New York City, described the Southside, and outlined some of the points of the In Rem Housing Program. Part I will examine theories of landlord abandonment and neighborhood decline, and connect these processes with the phenomenon of tax delinquency. Part II will contain a description of the components of the In Rem

Housing Program, and questions concerning its basic premise--that tenant management can save landlord-abandoned housing. The strengths and shortcomings of the IRHP will also be examined, with suggestions for improvement. In Part III I will discuss the financial resources needed for a viable program, and identify some potential funding sources.

Notes for Introduction

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Part I

CHAPTER ONE: LANDLORD ABANDONMENT

A study of city-owned housing must begin with a discussion of landlord abandonment. After all, if the City of New York now owns nearly 10,000 residential buildings it is because their landlords at some point decided that keeping them was no longer worth the trouble. While the term abandonment evokes images of empty hulks of buildings, in fact not all buildings that are left by their owners end up vacant. This chapter explains why private investors have walked from many New York neighborhoods. The remainder of this thesis is about what happens to the people left behind.

A. The Dynamics of a Declining Neighborhood

There is no simple explanation of landlord abandonment. One might think--and many housing analysts continue to maintain--that unwise government policies, such as excessive property tax burdens and stringent rent controls, might have discouraged owners from maintaining their properties and ultimately led them to walk away. Profiles of slum landlords dating back through the 1970, however, all failed to find any evidence that either taxes or rent regulations contributed to disinvestment¹. Other national studies have shown no correlation between abandonment and the existence of rent control². More likely, tenants in slum neighborhoods are paying all they can for their apartments, and landlords are charging what the market will bear. Higher legal rents would not produce higher market rents, and therefore would

have no impact on a landlord's ability to maintain his property.

The phenomenon of abandonment bears a striking correlation to the demographic changes associated with "white flight" -- the exodus of white, largely middle-class residents out of the city. It is sad to think that white families would rather abandon their neighborhoods than live with Blacks and Hispanics, but one need only talk to white families in such white strongholds as the Northwest Bronx and the southeastern part of Brooklyn to sense the fear with which they view the entry of people of color into their neighborhoods. The rapid exodus of an entire population makes a building--and a neighborhood--vulnerable to abandonment. The racial dynamic also comes into play in the hostile relationship between the slumlord and the tenant. The ugly last phases of the milking process, described later in more detail, are in part possible because of a white landlord's disrespect for his or her Black and Hispanic tenantry. Since they somehow "don't count," they can live without heat in the winter and have drug dealers as neighbors without causing their landlord much guilt. This dynamic is apparent in the previously cited studies³ and conversations with Southside landlords.

The connection between disinvestment and ethnic change is impossible to ignore but difficult to explain. Stegman posits that the lower incomes, larger families and different attitudes of non-white in-movers have an impact on the quality of housing and the cost of maintaining it. He further suggests that a family's attitude toward its apartment may be more important than its

income in estimating the potential for deterioration: "If a landlord gets or creates a tenant who does not seem to care, his net earnings are partially cut. . . and there is some incentive to allow the property to deteriorate"⁴ . More precisely, a careless tenant can double the cost of maintaining his or her unit. When the landlord and tenant are of different races, unquantifiable problems arise. The landlord may be willing to take advantage of the tenants, for instance; he may even be afraid to visit his properties, thus decreasing personal contact and increasing the potential for antagonism.

Because investment decisions in both the private and public sector hinge so much on the investors' confidence in an area's stability, the rapid turnover in a neighborhood beginning the process of abandonment discourages public agencies from devoting resources to that area. At the first signs of transition, banks, too, will declare a neighborhood off-limits. Thus disinvestment becomes a self-fulfilling prophecy. Even landlords who want to maintain their buildings can no longer get financing, and so are sometimes forced to sell to a slumlord who will milk the building and abandon it. The timidity of lenders can have a subtler impact of the low-income housing market. Because of the high risks associated with inner city investments, banks may look for shorter pay-back periods, increasing the monthly debt service burden on the property owner. This added pressure compels the landlord to look for ways of increasing his or her income to maintain his or her bank payments. Bank red-lining cannot be blamed entirely for

disinvestment, however; one study found that over three-quarters of the landlords in some inner-city neighborhoods would not make improvements even if long-term financing were available .⁵

The loss of private capital is evident not only in the inability of property owners to get financing, but also in the withdrawal of neighborhood amenities. It is the removal of a landmark, the deterioration of a recreational site that signals decline to an area's residents. Every low-income neighborhood seems to have a movie theater that is either abandoned or converted into a Pentacostal church. Many Brooklynites swear that Brooklyn began to go downhill when the Dodgers left in 1957, and see the public housing project constructed on the site of Ebbets Field as a symbol of the borough's decline.

Withdrawal of public services also contributes to the abandonment process. This has been a controversial issue in New York City ever since the fiscal crisis of 1975 caused city administrators to adopt a de facto "triage" policy, allowing the poorest neighborhoods to become even more underserved. In the Women's City Club study of a Bronx neighborhood, landlords cited poor services such as sanitation as a factor leading to abandonment. Public service reduction and housing deterioration can be very closely linked; for instance, withdrawal of fire fighters from an arson-prone neighborhood can result in the loss of housing units. The residents of the Northside of Williamsburg demonstrated this connection seven years ago. In this neighborhood, dominated by wood frame houses, arson was becoming a

disturbingly common means of landlord abandonment. Yet the city closed the only local firehouse. The residents, seeing that their neighborhood was doomed without firefighting services, began a protest that included a year-long occupation of the firehouse and culminated in a demonstration blocking rush-hour traffic on the Brooklyn-Queens Expressway. The firehouse was reopened, and the neighborhood survived. More commonly, however, the decline of services that leads to abandonment is more gradual and therefore neighborhood residents are less capable of perceiving and halting it.

B. Portraits of Slum Landlords

Responding to the stereotypes of the 1950s and 1960s that led to slum clearance policies, Sternlieb and Stegman, in their 1969 and 1970 studies, were determined to debunk the myth of the slumlord as a big-time operator reaping unconscionable profits. Their profiles of inner-city property owners in several cities showed that, while professional landlords made up a sizable minority of property owners, the rest were a diverse group. In Pittsburgh, one-third of inner city property owners were over sixty years old, and one-half earned under \$10,000 a year⁶. In Newark, 45% of all landlords were craftspeople, workers or small businesspeople, and only 21% professionals in the real estate field⁷. In New York City, where the predominance of multi-family tenements would seem to lend itself to professional ownership, only 31% of the owners were professionals. 34% were craftspeople or small businesspeople; 15% were retired or unemployed, and the

balance was split among between miscellaneous professions .

Of course, this breakdown must be viewed with some skepticism. First, percentages refer to the population of owners, not the number of housing units. Professional real estate people may represent one-third of all owners, but control two-thirds of all units. In Baltimore, for instance, fifty landlords--a small percentage of total property owners--were found to control one-quarter of the inner-city rental inventory⁹. Second, property owners can register their buildings in the name of a corporation or another individual. In the Southside buildings were sometimes "owned" by mothers, sons or associates of large landlords.

Stegman and Sternlieb describe landlords operating barely profitable rental property, many of whom seemed overwhelmed by the transformation of the neighborhoods in which they had invested. Rolf Goetze created a typology of property owners to explain the housing market in a similarly transitional Boston neighborhood¹⁰. His Type A, Established Owners and Managers, and Type B, Blue-Collar Investors, describe most of Stegman's landlords. Both types operate in stable markets, count on steady returns and security, and make their money by providing decent housing.

But the economic trends of the 1970's made it increasingly difficult for such owners to make a profit. As the data in the introduction made clear, escalating operating costs have outpaced income gains for most renters. Between 1970 and 1976, rents in

New York City rose 179% faster than renters' incomes . Given these figures, Type A and B landlords who had been barely earning a profit in 1970 were, by 1978 or 1980, faced with two unattractive options. They could walk away from their buildings, or they could sell to the Operators, Goetze's Type D landlords. Whichever of these options the original landlords chose, they contribute to the decline of the building and the neighborhood, for the Operator makes a living off of unprofitable buildings by running them down without concern for housing quality in a process known as "milking."

One of the more intriguing aspects of New York's marginal real estate market is the persistence of these Operators. In the Southside, title searches and interviews with tenants in a dozen buildings reveal a pattern: Most of these New Law tenements, which had been owned by an individual or family for decades, were at some point sold to a corporate entity that represented one of a small group of local landlords. In some cases the sale followed the death of the original owner, but often it seemed to come at a point after which he could no longer make a legitimate profit. The sales seemed to cluster around 1973-4 and 1979-80, times of rapid oil price increases. Robert Schur suggests that many original landlords who sold to Operators were "not sufficiently cognizant of ["milking"'s] nuances " . Tenant reports of decreased services, illegal rent increases, and an influx of undesirable tenants coincided with the change in ownership. Activists from other low-income neighborhoods report a pattern identical to that in the Southside.

There is money to be made in these buildings, but unfortunately for those who live in them, the profit comes not from running them well but from running them poorly. An owner "milks" a profit from a building which has already started to deteriorate by avoiding as many expenses as possible: Debt service is either minimal, because the building was purchased for very little, or postponable, because the landlord knows that the mortgage holder will be reluctant to foreclose. Payment of property taxes can be avoided for years (although legally the city can foreclose on a property after one year of indebtedness, in fact foreclosures take place every three years or so--see Chapter Two) and even when the city threatens foreclosure it is possible to sign an installment agreement that delays the action even longer. Maintenance and services provide limited heat and hot water, and only infrequent, slipshod repairs. Meanwhile the landlord continues to collect rent. Peter Salins describes the end result of this process:

A combination of aggressive rent collection efforts, minimal maintenance, tax delinquency, low purchase down payments, and delinquency in paying off purchase money mortgages can permit an owner to make a handsome profit for a limited time, even as he writes off a larger portion of the rent roll and depreciates the asset value of the property to zero by walking away from his building when its economic potential is exhausted (13).

The extent of disinvestment and the preponderance of Operators in poor neighborhoods circumscribe the policy alternatives available to city officials. For instance, a

slumlord whose profit comes from milking will not necessarily provide adequate services if government subsidies allow his or her tenants to pay higher rents. Even a more reputable property owner might not feel that rent subsidies assured a sufficient income to merit new investment. Interest subsidies on improvement loans, such as those currently offered to landlords by the city government, might encourage landlords to renovate but not necessarily to maintain rents affordable to the former low-income tenantry. A program to deal with a deteriorated neighborhood would have to couple subsidized loan money with subsidized rents. And this expensive proposition still does not address some of the less tangible but, as Stegman's study demonstrated, significant landlord-tenant tensions that contribute to neighborhood decline. Another alternative, which has become the unarticulated policy in New York City, is not to try to stop landlords from walking away from their unprofitable properties. In the landlord's absence, management of these buildings is handed over to a not-for-profit manager. The legal mechanism for doing this is the tax foreclosure statute that allow the city to seize tax delinquent properties and then either run them itself or negotiate their sale to low-income housing providers. This is the basis of the In Rem Housing Program.

Notes on Chapter One

1. Michael Stegman, Housing Investment in the Inner City, (Cambridge: MIT Press, 1972) ; George Sternlieb, The Tenement Landlord, (New Brunswick: Center for Urban Policy Research, 1969); and Women's City Club, With Love and Affection: A Study of Building Abandonment, (New York, 1977).
2. Peter Marcuse, Housing Abandonment: Does Rent Control Make a Difference? (Washington D.C.: Conference of Alternative State and Local Policy, 1977).
3. Stegman, Housing Investment, Sternlieb, The Tenement Landlord, and Women's City Club.
4. Stegman, Housing Investment, 163.
5. Sternlieb, The Tenement Landlord, 201.
6. George Sternlieb and Robert Lake, "The Dynamics of Real Estate Tax Delinquency," National Tax Journal 29 (1976), 265.
7. Sternlieb, The Tenement Landlord.
8. Ibid.
9. Stegman, Housing Investment, 27.
10. Rolf Goetze, Understanding Neighborhood Change: The Role of Expectations in Urban Revitalization, (Cambridge: Ballinger Press, 1979), 81-82.
11. Harry DiRienzo and Joan B. Allen, The New York City In Rem Housing Program, (New York: Urban Coalition, 1985), 13.
12. Robert Schur, "Growing Lemons in the Bronx," Working Papers, (July/August 1980), 44.
13. Peter Salins, The Ecology of Housing Destruction: Economic Effects of Public Intervention in the Housing Market, (New York : New York University Press, 1980), 14.

CHAPTER TWO:
TAX-DELINQUENCY AND FORECLOSURE

A. Overview

Separate from but not independent of the problem of abandonment is the phenomenon of tax delinquency. Certainly property can be neglected and vacated while the landlord continues to pay property taxes, but a building is not truly abandoned as long as the taxes are being paid. Since tax foreclosure is the city's one instrument for halting the deterioration of marginal properties in private hands, an understanding of the process is important to this study. This chapter explains real estate tax policy, and how property tax foreclosure affects low income housing in New York City. Lastly it looks at the status of property in the Southside to determine the impact, today and in years to come, of tax foreclosure. It becomes clear that the city's willingness to enforce its own tax laws is integral to the success of any programs treating the in rem housing stock.

Threatened seizure of tax-delinquent properties is, for most cities, the means of enforcing tax collection. Such seizures, like bank foreclosures, are in rem actions, or actions "against the thing," in which title to the property is vested but no further claim against the owner is made. In rem actions, which obligate the city only to inform owners by sending notices to the address on the building registration record, are preferred to in

personam lawsuits, which must be done individually and require that the owner be served personally with all legal papers. While in personam actions might be more effective for recovering lost tax dollars, they would be burdensome to any city with more than a token tax foreclosure case load.

It is hard to say just what role real estate tax payments play in the abandonment process. Studies of owners of marginal properties do not suggest that property tax burdens are the deciding factor when a landlord walks away from his investment. In fact, studies that correlate taxes with likelihood of abandonment find that landlords with higher tax burdens are less likely to abandon. Of course, this does not imply that property owners desire higher taxes; it only underscores the self-evident point that owners of more valuable properties are less likely to walk away from their investments.

Tax delinquency need not be a sign of disinvestment. If late payment penalties are below market interest rates, many property owners will be slow in their payments since it costs them less, in effect, to "borrow" money from the city than the bank. Since few cities have uniform or expeditious foreclosure policies, there is little incentive to be punctual in real estate tax payments. It is thus possible that some degree of tax delinquency can exist and not indicate any problems in an area's housing market.

High rates of tax delinquency are generally associated with abandonment, however, and indicate a housing market so weak that owners are willing to lose their property. A rule of thumb in business is that a firm must cover all variable costs in order to operate; fixed costs can be put off for a period. Since property taxes constitute a fixed cost, it is likely that a marginal landlord will stop paying taxes before defaulting on such operating expenses as fuel or salaries.¹ After all, the oil company will cut off his credit a lot faster than the city will foreclose on his building. Therefore, nonpayment of taxes is not likely to be the final indicator of the abandonment process. But neither is it the first indicator. Most building systems require periodic upgrading, but can continue to operate for some time even without proper maintenance. For instance, a roof can be patched rather than re-papered; boiler tubes can be capped rather than replaced. While title vestings for nonpayment of taxes occur every few years, such deferred maintenance can go on for a dozen years before a major system gives out.

B. Tax Delinquency in New York City

New York City is one of the few municipalities that regularly forecloses on delinquent properties, and is nearly unique in its willingness to seize occupied buildings. Pittsburgh and Cleveland, two other cities with tax payment problems, backed off from ambitious proposals that would have left them responsible for abandoned property.² In Boston, tax foreclosures are ad hoc, occurring only if there is interest in a particular parcel. I

found no references to clear-cut foreclosure procedures in any city other than New York, and no other city has policies and programs dealing specifically with occupied in rem buildings. It may be that the severity of New York's abandonment problem has forced this city to pursue a more aggressive strategy, but in fact New York has a lower percentage of abandoned units than other cities, including Boston, that do not foreclose on thousands of tax-delinquent buildings each year.

Tax delinquency to the point of foreclosure was first noted as a problem in New York City during the Depression, at which time the Citizens Housing Council published a study linking tax delinquency with other symptoms of urban blight³. A change in the state Administrative Code in 1948 allowed the city, for the first time, to foreclose directly on delinquent properties. This power was used sparingly until the mid-1960s, although landlord abandonment was noted much earlier. At this time computerization of tax records streamlined the foreclosure process, making it possible to foreclose on delinquent properties in an entire borough in one year. By law, any property that owed more than three years of taxes was eligible for foreclosure.

The fiscal crisis of 1975 focused attention on all aspects of the city's fiscal management, including its collection of property taxes. Part of the revenue shortfall that brought New York City to the brink of bankruptcy was its overestimate of potential real estate tax receipts for that fiscal year by some \$48 million⁴. Concern over growing delinquency rates was instrumental in City

Council's passage of Local Law 45, which allowed the city to begin foreclosure proceedings on any property that owed more than four quarters of taxes. Some council members, particularly those involved in community-based revitalization efforts, saw the acceleration of the title vesting process as a way to alter the involvement of city government in low-income housing. More likely, however, the majority of those on the City Council voting for this bill were anxious to "send a signal to Albany" that they were serious about pursuing all revenue collecting alternatives, and believed that a shorter grace period would simply prod landlords⁵ into paying their taxes more promptly .

In fact, Local Law 45 had the dual effect of improving tax payments and pushing unprecedented numbers of buildings into city ownership. For those owners interested in keeping their properties, yearly foreclosures limited the number of quarters they can afford to wait before paying their taxes. Buildings on the verge of being abandoned entered city ownership that much sooner. Thus the results satisfied the objectives of the disparate proponents: those concerned with fiscal responsibility could point to improved collections (see Table 2.1) and those advocating public intervention in deteriorating buildings could see an immediate increase in the number of units in city management programs. Since the sudden increase in city-owned property in 1978-1980, immediately following the law's passage, the number of buildings going in rem each year has been falling (See Table 2.2).

Table 2.1 Tax Delinquency Rates, 1974-1984
(000s)

<u>Fiscal Year</u>	<u>Tax Levy</u>	<u>%Not Collected</u>
1975	\$2,897,460	6.9
1976	NA	7.5
1977	NA	6.8
1978	3,378,611	4.7
1979	3,318,583	3.6
1980	3,329,998	3.6
1981	3,499,080	3.7
1982	3,798,604	3.2
1983	3,996,383	2.9
1984	4,200,567	3.0

From Moody's Municipal and Government Manual
(as reported by the City Comptroller)

Table 2.2 In Rem Actions Since Passage of Local Law 45

<u>Year</u>	<u>Borough (Action #)*</u>	<u>Buildings Taken</u>
1978	Staten Island(35)	536
1978	Manhattan(29)	2167
1978	Bronx(31)	3947
1979	Brooklyn(32)	7331
1980	Queens(37)	1677
1980	Staten Island(36)	131
1980-81	Manhattan(30)	813
1981	Bronx(32)	1121
1982-84	Brooklyn(33)	5824(est)
1984	Queens(38)	826(est)
1985	Bronx(33)	771(est)
Estimated Total		25,144

From Fourth Annual In Rem Report, and
interview with Howard Hecht.

*In Rem Actions numbered sequentially by borough.

In spite of these successes, Local Law 45 was never enforced after the vestings of 1978-79. While the city retains the authority to vest any property owing a year of taxes, in fact they wait at least three years between in rem actions. The official explanation for these delays centers on the expense and difficulty of taking title to and managing thousands of new properties each year (see Chapter Four). It is also likely that the improved real estate market in many areas obviated the need for an immediate foreclosure threat to enforce property tax payments. With the fiscal responsibility advocates no longer concerned about tax delinquency, only low-income housing advocates from those neighborhoods where abandonment has not abated--not a powerful constituency--are pushing for city involvement.

Further complicating the relationship between tax delinquency, abandonment and foreclosure policy is the spread of gentrification. Just three or four years ago tenant leaders in most low-income neighborhoods tenant leaders could be certain that any building with poor services and numerous code violations also had accumulated tax arrears, and would be taken by the city in the next title vesting. Today this is true in fewer neighborhoods. Wherever there exists the first whisper of market revitalization property owners will resume tax payments. Poor services may be an indication, not of the owner's intention to abandon, but of his or her plan to empty the building of its present, presumably low-income minority tenants in order to rent to more affluent

newcomers. The effects of upgrading tenantry are significant in many neighborhoods; while it bodes well for the general fiscal health of the city, it does not mean an improvement in the living conditions of those that inhabited the area in its dark days. In fact, in some areas, buildings taken by the city in earlier days are now the only remaining low cost rentals. Only the presence of city-owned buildings keeps these neighborhoods economically integrated.

City-wide statistics may reflect an encouraging trend toward prompt tax payments, but they mask the fact that in some neighborhoods tax delinquency is still rampant. Responsible owners continue to flee, selling buildings to "milkers" (see Chapter One) or simply abandoning them. In these areas both the speed with which the city forecloses on deteriorating properties and the way in which it manages and disposes of the buildings it owns have a powerful impact on the community; in fact, in these areas the city is by far the largest landlord. The data presented below shows that in the Southside, and presumably in other neighborhoods, the length of time between foreclosure actions allows hundreds of housing units to deteriorate and become vacant. Since those that do enter city ownership are successfully treated and form the still shaky backbone of neighborhood revitalization efforts, it would behoove city officials to take action against occupied, deteriorating properties as early in the abandonment process as possible.

C. City Ownership and Tax Delinquency in the Southside

A portrait of city ownership patterns and building conditions in the Southside demonstrates the impact of city action--or inaction--on one neighborhood. Of buildings and vacant parcels that can be classified as residential, 27% are city-owned (see Table 2.3); the percentage of dwelling units controlled by the city is even higher, since the small buildings are more typically owner-occupied and less likely to become in rem. Clearly, programs affecting city-owned property would have a considerable impact on this community.

The number of city-owned parcels is not surprising given the depressed condition of the private market in Williamsburg over the past fifteen years. More striking is that 40.6% of all property, city- and privately-owned, is vacant. This comes to some eleven to fifteen vacant buildings or lots on each tax block. However successful the programs that treat the 73 Southside buildings currently under city ownership, their impact is dwarfed by the presence of 456 vacant properties. Each vacant unit represents one lost to low-incoming housing for the foreseeable future. Public rehabilitation or new construction programs for low-income families no longer exist; were the market to grow strong enough to attract private investment, it would exclude most current Southside residents.

Table 2.3 City and Private Ownership in the Southside

Total Residential Parcels*	1122
City owned	308 (27%)
Privately owned, vacant lot	174 (15.5%)
Privately owned, vacant building	47 (4%)
Privately owned, occupied	590 (52.6%)

*Estimated, using maps and surveys. It is difficult to determine whether a vacant lot was once the site of a residential building; a lot is considered residential if the surrounding buildings are residential. Buildings with both commercial and residential units are considered residential, but loft buildings that have recently attracted illegal residential tenants are not.

Table 2.4 Vacant Lots and Buildings

Total Residential Parcels	1122
Vacant lots	313 (27.9%)
Vacant buildings	143 (12.7%)

Table 2.5 City-Owned Property

Total City-Owned Parcels	308
Vacant lots	139 (45%)
Vacant buildings	96 (31%)
Occupied buildings	73 (24%)
Central Management	35
Alternative Management	24
Tenant-owned cooperative	14

Sources: Survey, and New York City Department of Housing Preservation and Development, Office of Property Management.

Since HPD seldom evacuates occupied properties (only two Southside buildings were closed after the last vesting action; each was a large, seriously deteriorated structure with only one or two remaining tenants), the assumption is the the buildings are vacant by the time the city takes them (See Table 2.5) There is an active demolition program, so an in rem action would include many more vacant buildings and fewer empty lots. Thus, any public policy that is to have a serious impact on housing in the Southside must intervene earlier in the abandonment process, before a building becomes vacant. Given the state of the private market described in Chapter One, it is unlikely that incentives to landlords such as property tax abatements and low-interest loans would have a major impact on abandonment. The alternative is to take the buildings out of for-profit management once the signs of abandonment are clear, but while the buildings are still viable.

This was one of the goals of Local Law 45, and the authority to seize title to properties with over four quarters of property tax arrears remains the city's most potent weapon against abandonment. Because several years are allowed to elapse between title vestings, however, the reality is that no vesting papers have been filed on buildings three or four years in arrears. In Brooklyn the first post-Local Law 45 vesting took place in the summer of 1979, the next one three years later in August, 1982. Today, no third vesting has even been scheduled, suggesting that at the earliest it will take place is the spring or summer of 1987.

Vesting delays occur for several reasons. While the legal work behind each vesting is not enormously time-consuming, the legwork of visiting and assuming management of thousands of buildings is. Currently vesting and management are handled by the same HPD personnel, so an annual vesting would create perpetual chaos. Furthermore, each vesting brings thousands of new units under city management, adding expense and taxing the staff. Since many occupied buildings remain in city ownership indefinitely, buildings are not leaving their portfolio to make room for the new ones. Given these considerations, it is not surprising that HPD officials are reluctant to pursue a more vigorous foreclosure policy.

Delaying foreclosures may lighten HPD's burden in the short run, but in the long run it has its costs. In the time between title vestings, buildings in the abandonment cycle become more

dilapidated; their boilers give out, they lose units to fires, and ultimately they are vacated. Because there are no accurate records of the exact dates on which buildings become vacant, it is impossible to calculate the precise number of units that could be saved with faster foreclosures. But in the winter before the 1982 in rem action I did see five tenements, all with substantial tax arrears and containing a total of 250 units, go from nearly full occupancy to vacancy as services were withdrawn. There is no adequate measure of the costs of displacement to these 250 families, or the cost to the neighborhood of another five vacant buildings. For any of these units ever to provide housing again would require an investment of between \$40,000 and \$70,000, depending on the extent of destruction by exposure to the elements and vandals. Had these buildings been vested two years earlier, they would have needed only systems replacements and other maintenance work, which could have been done for \$10,000 a unit with little disruption to the inhabitants.

Tax delinquency continues to be a problem in the Southside, and tax delinquent buildings continue to be among the worst in the neighborhood. As of last June, 216 buildings owed at least three quarters of tax arrears, representing 36.6% of the privately owned housing (see Table 2.6). Many of the 174 privately owned lots may also owe taxes, but these don't show up on HPD's records.

Table 2.6 Tax Arrearage in Occupied Buildings

Total Privately Owned, Occupied Buildings	590
Quarters in Arrears:	
3	51 (8.6%)
4-7	89 (15.1%)
8+	76 (12.9%)

Source: New York City Department of City

Planning.

A profile of a sample of forty-nine of the tax-delinquent buildings in Table 2.6 reveals that they have an average of 10.4 units. This represents a skewed distribution of nine large buildings with an average of 32.7 units each, and a large number of small (three and four unit) buildings. While the irregularity of housing inspections and the pickiness of many code violations makes recorded violations a less-than-ideal measure of building quality, the presence of several hazardous conditions (e.g., lack of heat, exposed or frayed electrical wiring) in each building suggests a serious level of deterioration. The sample buildings have 35.5 violations each, or 3.5 violations per apartment. Of these, four violations in each building (.4 per dwelling unit) are considered hazardous. An examination of the large buildings alone reveals there are slightly fewer violations (3.24) but more hazardous violations (.45) per dwelling unit. In addition, tenants in 20% of the tax delinquent buildings have complained to a local tenant advocacy group about poor services in the past year.

A comparison of the scope of tax delinquency today and three years ago shows that very little has changed. The last Brooklyn

in rem action was held in 1982, encompassing buildings fallen into arrears since the 1979 action. 193 Southside buildings were eligible to be taken, and 93 of those (mostly the smaller ones), or 48.1%, were subsequently redeemed by their owners (see Appendix Two for an explanation of the redemption process). This is not consistent with the city-wide estimate that only 20% of those eligible for foreclosure will ultimately become city-owned⁶ and suggests that the Southside has fewer landlords putting off tax payments without intending to lose their buildings.

Last June, three years after the last title vesting, 165 Southside buildings were four quarters in arrears and therefore eligible for foreclosure. If the same percentage of landlords were to redeem as had in 1982, a title vesting at that time would have netted 85 buildings. In June there were also 51 buildings owing three quarters. If these landlords had neglected their next payment, then 216 buildings would have been eligible for in rem action last fall, with an expected yield of 112 city-owned buildings. Either figure is in the range of the 100 buildings taken in 1982, and suggests that there has been little change in the Southside from the 1979-82 period. Interestingly, 23 of the 216 buildings currently in arrears were those scheduled to be vested in 1982 and subsequently redeemed. This means that nearly one-quarter of the 93 redemptions will once again be on the vesting list in the next in rem action. Since the city has since instituted a policy of "supplementary vestings" in which properties that had been on the previous in rem list and whose

owners had defaulted on their redemption agreements can be taken into city ownership between official actions.

D. Conclusions

This overview of city-wide and neighborhood tax delinquency and foreclosure trends suggests several policy directions. It appears that the overall health of New York City's real estate market is improving. My familiarity with some of New York's neighborhoods, taken with the affordability data in Chapter 1, suggests the following trends in New York City's housing market: First, areas that have traditionally strong markets are getting stronger. Second, some areas that in the mid-1970's had been experiencing degrees of abandonment have now "turned around"; property values are up, tax delinquency down, and housing costs are beyond the means of the low income. Meanwhile, some neighborhoods have not experienced this upgrading, so remain affordable to the poor but continue to suffer abandonment and show high rates of tax delinquency. Tax foreclosure policy must be sensitive to these different trends.

In traditionally strong areas tax delinquency has never been a major concern. In these areas city officials are interested in collecting sufficient taxes to support municipal services. In transitional areas, the city treasury should be benefitting from the increase in property values; buildings that had become city-owned at an earlier time must be maintained as low-income housing. It is in deteriorated areas that tax foreclosure becomes the

Part II

major component of housing policy. The city must foreclose frequently --every other year at least--and be willing to conduct interim vestings, taking title to buildings whose owners had signed repayment agreements and defaulted. City foreclosures save buildings before the abandonment process is complete, and city-owned buildings can form the foundation of grassroots revitalization efforts. If a neighborhood begins to attract private interest--and even in the Southside this has begun to happen--the city-owned stock will remain a low-income resource, ensuring an integrated community. Now that the crisis is over and landlord abandonment is slowing down, the city should be able to deal with it more effectively where it is still occurring.

Notes on Chapter Two

1. If there was an outstanding mortgage, the landlord would probably continue paying debt service on it even after defaulting on taxes, since a private mortgage holder would probably act against a defaulter more expeditiously than a municipal government. In many depressed neighborhoods where tax delinquency is most common, however, there are few outstanding bank mortgages after years of red-lining. Current owners have bought their buildings with cash, or have arranged purchase money mortgages with the seller, who is probably not eager to regain his property. In many cases, therefore, the threat of mortgage foreclosure on these properties is not a real one.
2. Michael Goodwin, "City-Owned Houses Come Complete with Pandora's Box," New York Times, 7 January 1979.
3. Brian Sullivan, "The Division of Alternative Management Programs: The Last Best Hope for In Rem Housing in New York City," (Pratt Center, 1982), 3-6.
4. Harry DiRienzo and Joan B. Allen, The New York City In Rem Housing Program, (New York: Urban Coalition, 1985)
5. Goodwin, "City-Owned Houses."

6. New York City Department of Housing Preservation and Development, The First Annual In Rem Housing Report, 6.

CHAPTER THREE: ANTECEDENTS TO THE
IN REM HOUSING PROGRAM

Urban self-help housing grew out of the housing crisis that confronted low-income, inner city tenants in the early 1970s. The net result of urban renewal had been the loss of affordable housing: by 1967, 404,000 low- and moderate-income units had been destroyed, replaced by 41,580 units¹. The moratorium on federally assisted housing had left a void in the creation of low-income units not filled by city programs, which concentrated on new, mixed-income developments such as Battery Park City and Roosevelt Island, and on stabilization of transitional neighborhoods². Low city-wide vacancy rates, the worsening condition of private tenement housing, and restricted housing opportunities for blacks and Hispanics created the conditions in which poor tenants had little choice but to take action.

Tenants had been taking over their buildings from abandoning landlords since the mid-1960s, if not earlier, and by the early 1970s many had found ways to renovate and purchase their buildings as legal cooperatives. Why were they willing and able to take over where their landlord had failed? According to Robert Kolodny and Ronald Lawson, their confidence had been boosted by grassroots empowerment movements. Kolodny maintains that "without the assertion of consumer rights and the resurgence of neighborhood-based voluntary action, it is unlikely that such a dramatic reversal of roles would have emerged"³. Furthermore, the urban incarnation of the civil rights movement had focused directly on

housing issues. The Harlem rent strike of 1962-3, which had rapidly spread to other New York City ghettos, had been initiated by CORE organizers .⁴

Civil rights unrest, for better or worse, exacerbated the tension and distrust between black tenants and white landlords. Owners interviewed by Stegman and Sternlieb who were afraid to visit their properties (see Chapter One) may have been reacting to their tenants' increased racial militance as well as their certainty of their rights as renters. Residents' newly voiced dissatisfaction may have hastened the creation of legal measures that have since helped tenants take control of their buildings before the city could take them in rem. These measures include Receivership and Article 7a, both of which provide for the appointment of an administrator to manage a property in place of the landlord, and the Emergency Repair Program, which allows the city to provide emergency services when the landlord is unwilling and to place a lien on the property .⁵

A. Homeownership for the Poor

The concept of tenant-initiated cooperative conversion in New York City was built on two ideas that were in good currency elsewhere: homeownership for the poor and self-help housing. Homeownership for low-income families was undertaken on the largest scale under Title 1 of the Housing and Development Act of 1968. Known as Section 235, this program consisted of payments on behalf of the low-income homeowner by the federal government to

mortgage holders in order to reduce the interest rate to as low as 1%⁶. One goal of 235 housing was to provide poor families with alternatives to segregated, institutional public housing: "The same expenditure [as for public housing] (about \$25,000 a unit) could purchase a house in suburbia and a new car for the poor family who could live much like anybody else"⁷. Another goal, based on the assumption that an owner-occupant would be more inclined than a tenant to keep up his or her home, was to promote improved housing within the inner city. The program's proponents stressed the financial benefits of home ownership, such as tax deductions and equity accumulation, as well as the psychological benefits:

"Owning a home can increase responsibility and stake out a man's place in his community. The man who owns a home has something to be proud of and good reason to protect and preserve it"⁸.

With each summer bringing a new wave of racial unrest to the inner cities, a program encouraging the poor to invest in their neighborhoods was welcomed.

Because section 235 was exclusively a program for purchasers of single-family homes, it had little impact on New York City. (Interestingly, however, two current projects--the Nehemiah project in East New York and Charlotte Gardens in the South Bronx--are using 235 mortgage subsidies to erect single-family, factory-built houses on vacant land.) But the ideas represented in Section 235 housing were considered by the sponsors of early cooperative conversion projects. Cooperative ownership was seen as the New York City equivalent of homeownership, and the benefits

ascribed to homeowners were believed to accrue to coop
shareholders as well .

B. Self-Help Housing and Sweat Equity

The concept known as self-help housing is hardly new, being simply "participation by the family in the construction and maintenance of their dwellings"¹⁰ . Its application by planners in the late 1960s to the creation of low-cost urban housing, however, was an innovation. Two trends emerged from this application: urban homesteading, which generally involved the occupation of vacant inner city houses in much the same spirit as the push west by nineteenth-century pioneers. The second was sweat equity, which substitutes labor for cash in the acquisition and rehabilitation of property. While many urban homesteaders undoubtedly used some form of sweat equity to make their homes habitable, in this section sweat equity specifically refers to organized, multi-family efforts.

Urban homesteading is not a low-income housing program per se, and often homesteaders are more affluent than the inhabitants in the neighborhoods into which they move. HUD, which sold buildings on which it had foreclosed to homesteaders for as little as a dollar, conducted a study of 241 program participants throughout the country in 1978 and found that the homesteaders were more affluent, more likely to be white, better educated and less likely to be on public assistance than their neighbors. The differential existed even though the program was executed only in

areas that had not fallen into deterioration .

In New York City the concept of homesteading, which was thought of as a program for homeowners, was extended to multi-unit buildings. The thrust of the New York City program differed considerably from other homesteading initiatives. In the multi-family projects, emphasis was on sweat equity rehabilitation resulting in cooperative ownership. While other homesteaders were often middle income people motivated as much by the investment possibilities as by their need for shelter, the Sweat Equity projects were comprised of low-income families, and the coops were structured so that participants would not earn a profit. Whereas homesteaders in other cities were subsidized only in the low purchase price of their units, sweat equity homesteaders received more extensive public subsidy.

Original New York Sweat Equity projects in the early 1970s were of three varieties. The earliest kind was "pure" sweat equity, which relied completely on participants' volunteer labor. Later projects built labor stipends into their mortgages so that participants could devote themselves to renovation work full-time. Still later, CETA funds were used to pay participants. Low-income residents could continue to afford these projects, with the assistance of subsidies at many levels. They purchased buildings from the city for \$100 a unit, and received rehabilitation financing at below the market rate through the Municipal Loan Program. The Municipal Loan Program was replaced by the

Participation Loan Program, which mixed Community Development Funds, lent at 5%, with a conventional loan to keep interest rates low. There was no contractor's or developer's fee; the projects were coordinated by a city agency and non-profit sponsors. Professional services were usually donated by lawyers and architects who were excited by these projects.

C. Early New York City Cooperatives

A 1973 study identified 72 New York City projects containing 5200 units that either had attained cooperative status or were in the conversion process¹². The projects ranged from those initiated by sponsoring organizations to prevent disinvestment in transitional neighborhoods ("preventative conversions") to those initiated by tenants in landlord-abandoned buildings situated in severely deteriorated neighborhoods. While many of the projects involved sweat equity renovation of vacant buildings, as described above, others, like today's in rem buildings, were comprised of current tenants more concerned with gaining control in the absence of a responsible landlord than in participating in renovation work.

Since programs and funding sources have changed since 1973, a case-by-case look at early coops is not useful to this study. More relevant is an understanding of both the motivation behind the cooperative conversions and the factors contributing to their success. Recognition of the benefits of homeownership to the individual and to society motivated some of the sponsors of the

preventative conversions, but it was assumed that the cooperative model would not work for the very poor in deteriorated housing. Not only were prospective sponsors concerned that the housing stock was too dilapidated to lend itself to low-cost rehabilitation, but they were further convinced that poor tenants lacked the motivation and organizational skills to pull off such a project.

The projects studied in 1973 defied these assumptions. Most were precisely the kind viewed by experts as unworkable; they were located in deteriorated buildings in neglected neighborhoods and run by tenants with little formal training. These participants were not even attracted to the presumed homeownership benefits; they were interested simply in improving their living conditions without forgoing affordable rents. Their efforts, as Kolodny explains,

"owed little to a petit bourgeois interest in ownership for its own sake or alternatively to a radical ideology that advocated expropriation of private property and community control. The central issue has been control at a level sufficient to remedy painful housing conditions"(13).

That those seeking remedy worked in isolation, unaware of similar struggles in other buildings, further suggests that cooperative conversion was a spontaneous response to desperate conditions.

These pioneering cooperatives, formed without the benefit of public programs designed for that purpose, offered a number of principles and lessons that were important in the creation of official tenant-management programs. The early projects of the 1970s marked the beginning of the age of moderate rehabilitation,

a necessity at a time when the billions of federal dollars needed for clearance and new construction were becoming scarce. It had previously been thought that moderate rehabilitation with tenants in place was cumbersome and therefore expensive. However, the move away from the big project mentality also denoted a willingness on the part of housing officials to modify rehabilitation standards so that less extensive renovation work would be eligible for public funds. This willingness was critical to the development of sweat equity methods.

In spite of the excitement and publicity they generated, low-income coop conversions remained isolated cases until 1979. Early conversions relied on ad hoc, experimental programs, each involving a different group of participants and a different financial package. Perennial delays were most perilous to the sweat equity projects, since participants could not move in until rehabilitation was complete. Indeed, many of the projects identified in 1973 never achieved conversion due to such delays. Some were halted in mid-renovation by the 1975 fiscal crisis, during which all municipal loan programs collapsed.

While official delays prevented some tenants from realizing their goal of conversion, internal factors accounted for those that fell into trouble after conversion. The two biggest problems have been lack of money and lack of training. The dearth of management expertise in many of the cooperatives is due to the scant attention given to pre-conversion training. Cooperatives

that were initiated by outside sponsors were often later mismanaged by inexperienced tenants, but even those established by the tenants themselves were later mismanaged by "persons who were excellent leaders of struggles against landlords [but] did not prove to be good leaders in management"¹⁴. An unfortunately high number of early coops have fallen into financial difficulty, with the majority owing property taxes and falling behind on loan repayments¹⁵.

D. Early City-Sponsored Cooperatives

In spite of the early grassroots interest in cooperative conversion, city sponsorship came slowly. In 1970 a Cooperative Consultation Unit was formed within the Housing Development Administration (HPD's predecessor) to advise low-income tenants considering conversion, but the city itself did not sponsor any of the early cooperatives. Its support for conversion efforts first evolved, in fact, by default, with the failure of the Receivership Program. This program, in which the city's Department of Real Estate stepped in by court order to manage properties no longer receiving services from their landlords, was in charge of twenty buildings in 1970; by 1972 it was burdened with over 200 buildings. The DRE managers were especially ill-equipped to handle these troubled properties. Community groups, which had gained clout and sophistication, persuaded HDA to contract with them for the management of buildings in Receivership. As community-managed Receivership buildings began to go in rem, the Community Management Program was conceived.

The CMP's initial plan was as follows: The city would transfer the building to the community group, the group would receive a Municipal Loan for rehabilitation, and when work was completed the building would be sold to the tenants. But community groups balked at the notion of purchasing unrehabilitated properties. They were familiar enough with the uncertainties of municipal funding to suspect that the rehabilitation process might take years, leaving them responsible for these buildings for an indefinite period. The program was changed to provide for repairs before sale. Between the cut-off of the Municipal Loan funding and the uncertainty and red tape of the program's administration, however, no sales took place until 1979. An example of the kind of delays encountered in the early CMP is the fate of 149 South 4th Street, a Southside building. The first building to enter Community Management as a Receivership building in 1973, it was not sold to the tenants until 1982. As the program exists now, buildings are conveyed directly to the tenants after rehabilitation. Community groups only rarely become owners themselves.

In 1975 the Direct Sales Program was established to enable in rem tenants to purchase their buildings directly from the city. Simple in theory, this program was impossibly complex in practice: before sale, tenants were expected to sign a management contract for control of their building consisting of some 32 documents¹⁶. Disposition procedures were never clarified and sales prices never determined. In short, the record of city sponsorship of low-

income coops before 1978 was dismal: two coops in five years.

Thus, in spite of the growing interest through the 1970s in cooperative conversion as a response to landlord abandonment, city officialdom remained aloof. The predecessors of the current in rem tenant management programs had no significant impact until long after the cooperative movement had gained its own momentum. The programs that did exist, along with other homesteading programs for vacant buildings, were understaffed, underfunded and underestimated as viable solutions to the shortage of decent low-income housing.

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CHAPTER FOUR: CREATION OF CURRENT
IN REM HOUSING PROGRAMS

A. The Office of Property Management

By the late 1970s the City of New York was faced with a crisis. Abandonment was at its peak and the fast foreclosure law had made every residential property with a four-quarter tax debt --tens of thousands of units, many of them occupied--eligible for foreclosure. The traditional means of disposing of in rem properties had been to sell them at auction. This approach was favored because it enabled the city to return the building to the private sector quickly, absolving the city of extensive management responsibilities and generating income that could compensate for the lost tax revenues.

But New York's experience with auction sales had proved troublesome. A 1978 report documented that properties sold at auction more often than not ended up back in city ownership. Four years after sale, 94% of former city-owned parcels were in tax arrears; 54% were at least four quarters in arrears and therefore eligible for foreclosure, and 25% had paid no taxes at all. Perhaps a worse indictment of the auction program was that 44% of the buildings that had been occupied at sale no longer afforded adequate housing¹. While some purchasers, naive about the responsibilities of property ownership, may have gotten in over

their heads, the assumption was that many of the defaulting purchasers were slumlords who bought properties without any intention of properly maintaining them (see the description of "the Operator" in Chapter One for more details). In response to the disastrous consequences of auction sales, the city declared a moratorium on them in 1978. Since then no occupied buildings have been sold by auction. Sales of vacant properties have been resumed, with the added stipulation that bidders file disclosure statements revealing the condition of other properties in which they have had or currently have an interest. The failure of auction sales underscored the disintegration of the private market in poor neighborhoods, and left the city owner of thousands of properties without any means to dispose of them.

Before 1970 city ownership had been limited to a few buildings. By 1978 some neighborhoods were dominated by city-owned property, and tax delinquency was spreading to previously stable areas. When the in rem stock had been small, its management had been seen as just another aspect of municipal administration and, like all city property management, had been handled by the Department of Real Estate (later to become the Division of Real Property under the Department of General Services). But the logarithmically increasing workload proved to be beyond the capacity of the DRE, and horror stories of tenants freezing in city-owned buildings became distressingly common. At the same time, community organizations in neighborhoods with abundant city-owned stock were insisting that this landlord-

abandoned property presented an opportunity for the development of alternative management and ownership for low-income tenants. In response to these pressures, City Council passed Local Law 3 in 1978, shifting responsibility for the management and disposition of in rem residential properties from DRE, an administrative bureaucracy, to the Department of Housing Preservation and Development, the recently created housing policy agency. One council member explained the rationale for the shift: "'That's supposed to be [HPD's] area of expertise. We figured they couldn't do a worse job [than the DRE]'" ².

It is hard to convey the confusion and anxiety of housing officials during this period. They were potentially responsible for up to 30,000 substandard buildings sheltering the city's most indigent and troubled families. They had to see that all the information about these buildings was somehow transferred from one large bureaucracy to another. Had they been experienced real estate managers these buildings would have posed problems for them; and they worked for a public agency that had few trained personnel and no management system. As the fate of tax-foreclosed housing became front page news in 1978 and early 1979, press coverage of this issue conveyed a sense of impending doom: "The same sixty managers who are now incapable of managing 6,000 properties (100 properties per person) will now try their skills upon 534 properties per person, or nearly 3,800 units of housing per manager!" ³. The resulting crisis facilitated the creation of the institutions necessary to carry out the city's new and uncomfortable responsibility as landlord of last resort.

Table 4.1

OCCUPIED IN REM BUILDINGS (UNITS) BY PROGRAM, FY 1979 - FY 1983

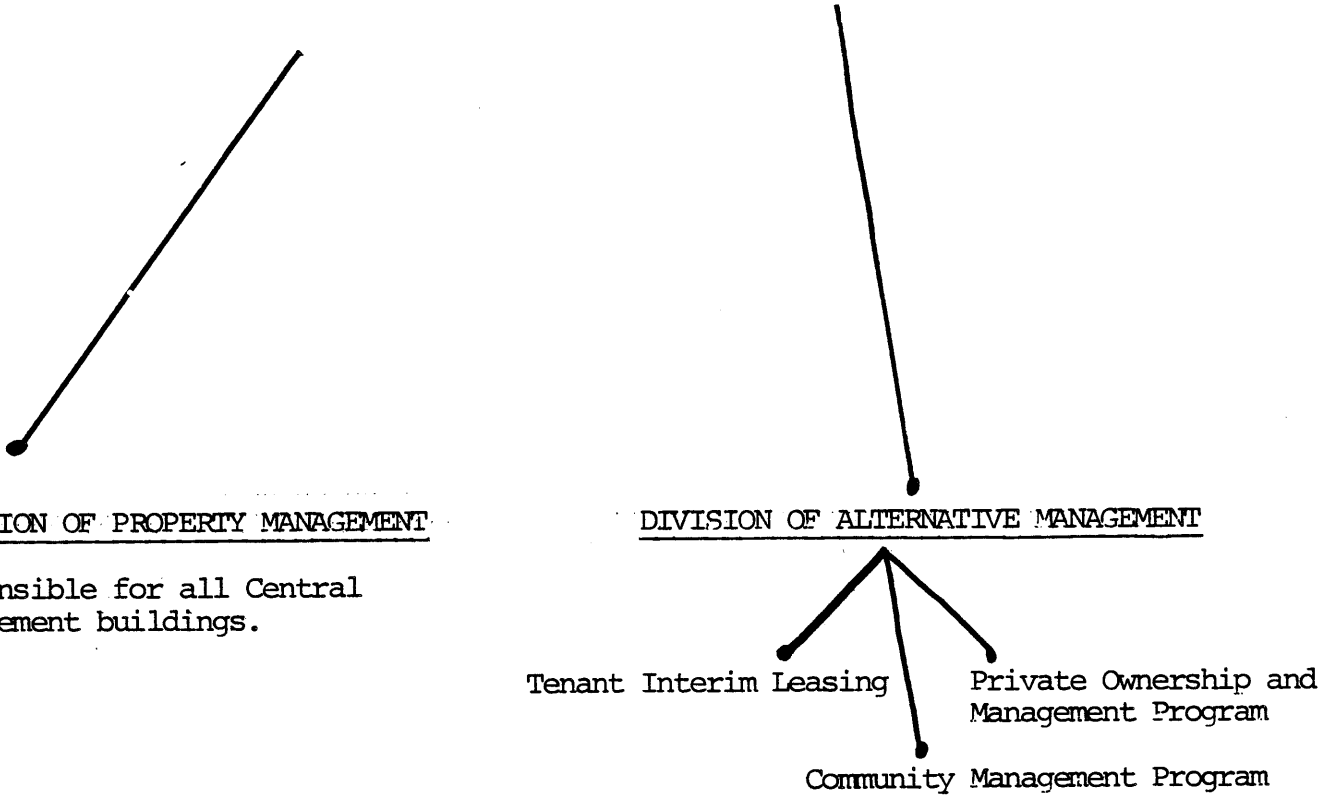
	FY 1979	FY 1980	FY 1981	FY 1982	FY 1983
TOTAL	11,717 (166,184)	NA	8,800 (NA)	8,289 (NA)	9,580 (NA)
Total Occup.	4,092 (34,779)	4,197 (38,950)	3,870 (37,462)	3,727 (36,229)	3,945 (38,677)
DPM	3,681 (26,512)	3,547 (23,745)	3,223 (22,675)	3,204 (25,292)	3,430 (26,739)
DAMP	411 (8267)	645 (15,205)	647 (14,787)	523 (10,937)	515 (11,938)
CMP	130 (2500)	230 (5645)	219 (4409)	165 (3535)	158 (3402)
TIL	226 (5683)	316 (7058)	333 (8082)	311 (7458)	291 (6636)
POMP	NA (820)	33 (1302)	48 (1363)	47 (1471)	41 (1469)
OTHER	NA (735)	66 (1200)	47 (933)	----	----
SALES	0	5 (82)	50 (1632)	112 (2263)	104 (3049)

From New York City Department of Housing Preservation and Development, "In Rem Program Annual Report" numbers 1 through 5.

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Department of Housing Preservation and Development

Office of Property Management



Although programs have been altered and improved since 1979, today's In Rem Housing Program, outlined in Figure 4.1 and Table 4.1, is essentially identical to that which emerged at that time. Most tenants in city-owned buildings continue to be managed by HPD through its Division of Property Management (DPM) much as they were before 1979. But 13% of these buildings, containing 31% of all occupied dwelling units, are in one of three areas of the Division of Alternative Management Programs (DAMP). One of these, the Private Ownership and Management Program (POMP) hires private real estate professionals to manage and purchase in rem buildings. The other two, the Community Management Program (CMP) and Tenant Interim Leasing (TIL) are outgrowths of the grassroots, urban "self-help" housing movement discussed above, and are designed to sell buildings to tenant cooperatives.

B. The Division of Property Management: Public Landlord

Buildings administered by HPD are managed traditionally, with the Division of Property Management acting as landlord. Immediately after the city takes title, all buildings enter what is known as Central Management. Those that eventually enter Alternative Management must apply to (in the case of TIL) or be selected from (in the case of of CMP and POMP) Central Management. Property managers, located at nine site offices, are each responsible for a list of buildings. Basic services are provided; repairs are done as needed. Tenants pay their rent to HPD either

by mailing it or by delivering it to the site office or one of the several banks that accept these payments.

Because centrally managed buildings are operated like traditional rental housing, they encounter the same difficulties, plus some. Tenants complain of poor services, and property managers complain of dismal rent collection figures. Indeed, both sides have a point. Centrally managed buildings are the least desirable buildings in the in rem stock, and their rent collection is by far the poorest. This is because Central Management is not a program but a default option. Its portfolio consists of properties united only in their inability to inspire anyone, landlord or tenant group, to want to own them.

Since there is no data comparing the conditions of in rem buildings across programs, much of the information regarding the comparatively deteriorated state of Central Management property is anecdotal. Certain statistics, however, do suggest factors that would lead to their troubled state. These buildings have the fewest units (16.1 per building) and have the smallest apartments (4.2 rooms per unit) of all in rem stock. They have the fewest commercial spaces and the lowest commercial occupancy (72.2%). They also have high residential vacancy rates, 23.4%, compared to a city-wide vacancy rate of 2.04%, and close to 1.0% for apartments renting for under \$250 a month. It is not surprising to find that they have the lowest assessed value of all city-owned buildings⁴. Yet Central Management buildings are expensive to run. An estimated \$3300 to \$3400 a year, or nearly \$300 a month,

is spent on each dwelling unit. Although this is 150% higher⁵ than the real estate industry standard, the poor building conditions necessitate frequent emergency repairs. Rents do not cover expenses: Tenants pay on average \$44 a room monthly, or \$184.80 for an average (4.2 room) apartment; break-even has been estimated at \$70 a room, or \$294.00 for an average apartment.⁶ Since city-owned buildings are not subject to rent regulations rents could be legally increased; but because HPD officials believe those in centrally managed buildings are among the poorest of all in rem tenants, whose median income is just over \$8,000 a year,⁷ they are probably the least able to absorb a rent increase. 50% of them are on public assistance--compared to 25% of those in alternative management buildings,⁸ 25% of all NYCHA tenants, and 14.3% of renters city-wide.⁹ Therefore Central Management runs a deficit which was as high as \$11.8 million in FY 1980, and is down to \$6 million in FY 1983.¹⁰ The deficit is made up by federal CD funds and city tax levy revenues.

If the centrally managed portfolio weren't troubled enough, its position as unwanted stepchild of in rem management further exacerbates its difficulties. City policy-makers, seemingly motivated by the belief that if you ignore a problem it will go away, have until recently refused to engage in any long-term planning for the approximately 32,000 occupied units currently in Central Management. In every policy statement officials continue their reassurances that the objective of in rem policy is to return buildings to private ownership, but seldom acknowledge the

existence of some 30,000 units stuck in Central Management.

Unwillingness to invest in buildings for which there is no private or community interest is in part due to the notion that a municipality should not be a landlord. Since the fiscal crisis New York City officials have been reluctant to overstep traditional functions of municipal governments, believing it was such beneficence that depleted the city treasury ten years ago. The further assumption of policy-makers is that the private sector can run things more efficiently than a public agency; those in the real estate industry seem especially eager to point out the city's management shortcomings¹¹. HPD should therefore be seeking ways to rid itself of its management responsibilities as quickly as possible.

In spite of these arguments, the city must accept long-term responsibility for its large rental stock. The simple fact is that HPD owns this property, and this is unlikely to change in the foreseeable future. With the shortage of affordable apartments in the city, it would behoove housing planners to examine the potential of these units. A moderate rehabilitation strategy could prove cost effective by improving rent collections and decreasing operating costs. Most of the Central Management stock has been rejected by the private sector, and has few features that would attract it back without massive subsidies. The POMP program, discussed below, which offers private managers the opportunity to purchase in rem properties, succeeds because it "creams" the most attractive of these buildings and ignores the

others. The fact is that there are properties which, due to their size, their layout, the extent of disrepair or the uncooperativeness of their tenants are neither attractive to private owners nor suited to tenant self-management. Yet tenants in these buildings are entitled to adequate services, and it is in the city's interest to provide these as efficiently as possible.

In the past few years the city has in fact improved its management capabilities. Each year the In Rem Housing Program Annual Report proudly documents increased productivity among its workers and fewer heatless days in its buildings (in 1981 it took an average of 2.1 days to restore heat, compared to 14 days in 1980)¹². When DPM first began managing buildings in 1978, hardly anyone paid rent; legal tenants never got billed, bills were sent to tenants who didn't exist, and the system that insisted that tenants mail checks to a central office was unworkable for people who were accustomed to paying a landlord cash, in person. Today, better record-keeping and a more flexible rent payment system, along with better service delivery, have led to an improvement in rent collections from a meager 36.9% in FY 1979 to a barely respectable 72.0% in FY 1982¹³. Tenants in some buildings have even begun to organize through the Union of City Tenants, and managers of some of the site offices seem pleased to deal with these tenant groups rather than constantly¹⁴ having to respond to individual complaints.

These improvements point to a tacit acknowledgement on the part of some HPD officials that centrally managed buildings are a

long-term city responsibility, and several recent initiatives underscore this commitment. In his recent budget request, Mayor Koch included the allocation of capital funds for in rem buildings (see Chapter Eight), opening up a new revenue source for repairs. The dramatic plight of the homeless has inspired HPD to renovate vacant apartments in Central Management buildings for Welfare clients living in shelters or hotels. So far 4,000 apartments have been completed; the per unit renovation cost of a few thousand dollars represents a savings for the city, whose Human Resources Administration pays over \$1000 a month for an inadequate hotel room.

While any renovation of these buildings is welcomed, this program is designed primarily to address the needs of homeless families, and is a program for in rem housing only secondarily. Long-term tenants express frustration at the fact that in New York you have to be homeless to raise public concern over your living conditions ¹⁵. A tenant who has lived with leaking pipes and peeling paint for years, perhaps struggling against a landlord's neglect and pressuring the city for repairs, must be puzzled to see the apartment next door completely renovated for a newcomer. The homeless program is a necessary one, but it is a very small step toward the acceptance of city-owned buildings as permanent fixtures in the New York City rental housing picture.

In sum, city policy toward its management portfolio denotes some ambivalence. Responding on the one hand to tenants and their advocates who demand decent housing, and on the other to critics

who call for a withdrawal of the city from the housing management business, public officials continue to provide management services but are reluctant to plan for the long-term viability of its rental property. Unfortunately this shortsightedness is expensive, as high maintenance costs are the result of inadequate repair plans for the centrally managed buildings. Perhaps, spurred by the growing numbers of homeless families, these buildings will begin to be maintained as a resource for low-income families in years to come.

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2. "Property Seizures in City are Chaotic," New York Times 19 March, 1978.
3. St. George, Philip, "City-Owned Buildings: The New Issue of 1978," City Limits 3 (January 1978), 8.
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6. Ibid.
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8. DiRienzo and Allen, 39.
9. Stegman, Housing in New York, 10.
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12. New York City Dept. of HPD, Fifth Annual In Rem Housing

Program Report.

13. Ibid.

14. Dave Robinson interview.

15. Dave Robinson interview and Sue Reynolds interview.

CHAPTER FIVE: CREATION OF THE DIVISION OF ALTERNATIVE
MANAGEMENT PROGRAMS: APPLICATIONS OF SELF-HELP
HOUSING MODELS TO MANAGEMENT OF
CITY-OWNED PROPERTY

The large in rem actions in 1978, coupled with the moratorium on auctions, created a backlog of city-owned buildings. HPD became interested in any program that could lessen its management load. So DAMP was established, consisting of a reinvigorated Community Management Program, an overhauled Direct Sales Program renamed Tenant Interim Leasing, and a staff of self-help housing movement leaders. Soon after two new programs were started: one was the Private Ownership and Management Program (POMP), and another was the Housing Authority Management Program (HAMP)--similar to POMP but with NYCHA acting as contractor--which was terminated in 1982. When DAMP opened its doors on September 1, 1978, its portfolio consisted of 85 buildings containing 1700 units. By the end of that year, responding to pressure from HPD to get as many buildings out of Central Management as possible, it had expanded to 413 buildings with 8200 units¹. In the midst of this crisis city officials were willing to overcome their suspicion of new forms of housing management: "After initially viewing these initiatives with great skepticism, the New York City government has begun actively encouraging tenant takeover, partly because the city doesn't know what else to do, and doesn't enjoy being a slumlord itself"².

In the Southside, 24 of the occupied, city-owned buildings are currently in alternative management programs--ten in CMP and 14 in TIL. An addition 14 have completed either TIL or CMP and

are now legal cooperatives. Since the alternative management buildings are, on average, larger than Central Management buildings, most likely more than half the city-owned units are in alternative management. This is a higher than the city-wide figure of one-third of all occupied units in alternative management. This probably indicates the degree of tenant organization in the Southside, where a local community group, Southside United Housing, has been active for over twelve years. Typically, large buildings have tenant associations by the time they become city-owned, and therefore their entry into alternative management is quite natural. Approximately 760 Southside households now live in city-sponsored, tenant- or community-managed buildings. Tenants from ten of these buildings were interviewed for this study. Their comments are interwoven throughout the following sections.

A. The Community Management Program

Community Management and Tenant Interim Leasing are the two programs based on self-help housing models. In Community Management, community-based organizations (CBOs) receive contracts to manage and rehabilitate city-owned properties in their service areas. Generally a contract will include five to twelve buildings, or 100 to 300 units, providing operating subsidies and a management fee. As of Fiscal Year 1983, there were twenty-two CBOs with contracts. Under the contract terms the groups hire a management and maintenance staff to collect rent and make repairs. Rehabilitation work of up to \$20,000 per unit is usually done by

subcontractors, although recently, in a money-saving effort, in-house maintenance crews have also been doing renovations. When rehabilitation is complete, tenants are expected to purchase their apartments for a predetermined price of \$250 per unit. (See Appendix 3 for a detailed explanation of sales terms.)

By involving CBOs, CMP becomes not just a housing program, but one with secondary functions of organizational development and job creation. Measures of its success include tenants' favorable comparisons of life under Community Management with other housing experiences, demonstrated by high rent collections (88%) and occupancy rates (87%)³. Because the program provides sufficient funds for a moderate level of rehabilitation it can produce attractive apartments. Through CMP community groups have been able to provide secure employment with good benefits to local residents. Money spent on maintenance and rehabilitation materials and salaries is circulated in the local economy.

Like any program with multiple goals, Community Management lends itself to extensive criticism from all sides. CMP is the most expensive DAMP program. It has the largest budget and also has by far the highest per unit costs of all DAMP programs, receiving over 60% of the budget for management of 28% of the portfolio and producing only 11% of the sold units. Of course, this statistic says more about the underfunding of the other programs than the costliness of CMP. At an average cost of \$16,000 per rehabilitated apartment, CMP costs are lower than those of private developers. Tenants and community activists

complain that CMP contractors behave too much like traditional landlords, performing adequately as managers but failing to train tenants to assume responsibility themselves. As a result, tenants take possession of their buildings without any notion of how to run them, and CBO staff struggle in their uncomfortable landlord role.

CBOs complain that management responsibilities affect all aspects of their operations. For a group to be rated well by HPD as a CMP contractor it must be prompt and accurate in its reporting, achieve high rent collections, and dispose of buildings quickly⁴. Success by these measures could force a group to abandon the role in which it most likely gained credibility in the neighborhood--that of tenant advocate and community organizer. Some groups depend on their CMP contracts for a significant portion of their budget. It is unavoidable that this dependence will make a group think twice before engaging in organizing activities that may lead to confrontations with city officials. This conflict of interest can ultimately damage the group in the eyes of neighborhood residents. One original CMP contractor, a Manhattan group called Housing Conservation Coordinators, decided not to renew its management contract for just this reason, stating:

'The basic philosophy of HCC has been to educate tenants with the aim of tenant self-help....'Community Management' has instead made HCC into a typical landlord's agent and has impeded efforts in developing tenant self-help management' (5).

While HCC is the only group that refused to renew its contract, other CBOs have voiced similar complaints about their

participation in the program.

6

B. Tenant Interim Leasing

In the TIL program tenants sign a lease with the city which gives them management control over their building. Upon signing the lease, tenants must also sign a letter expressing intent to purchase. As manager, the tenant association collects rents, and uses this money to cover operating expenses. There are no operating subsidies available. During the term of the lease, HPD will generally replace one or two faulty systems and find enough state weatherization money to cover the cost of window replacement. The nature and extent of HPD-funded pre-sales repairs is negotiated between DAMP and tenant leaders, but expenditures seldom exceed \$2,000 to \$3,000 per unit. The unit sales price for all TIL buildings is \$250.00. (See Appendix 3)

Tenant associations in TIL are not formally tied to any community institution, although many are involved with local organizations and may depend on them for various kinds of technical assistance. HPD has contracted with the Urban Homesteading Assistance Board (UHAB), a city-wide group well-known for its work with low-income cooperatives, to provide training for tenants. Association leaders are expected to attend classes upon entering the program, at which time they learn bookkeeping and management skills, and before finalizing the building's purchase, at which time they become familiar with the additional tasks associated with ownership. When TIL buildings are clustered

together and have a working relationship (usually through a mutual connection with a CBO), UHAB can arrange training classes within the neighborhood.

TIL is considered successful on several counts. First, it is the most cost effective DAMP program, producing the most units for sale at the lowest per-unit cost. It currently handles 55% of the DAMP portfolio, accounting for only 19% of its budget. Second, tenant satisfaction is high, often in spite of what appear to be oppressive neighborhood and building conditions. Measuring tenant satisfaction in a tenant-run building is tricky, since essentially it requires asking tenants to rate themselves as managers. Rent collections and occupancy rates are both over 90%, offering objective proof of success. Interviews with TIL tenants all convey the pride and commitment that these people bring to their living environment. They seem convinced that, considering the limited housing options available to the poor, they are better off under self-management. Said one respondent, asked to discuss the housing situations of friends and relatives in the neighborhood, "They live in [tenant-run buildings] or they are exploited by landlords" .

Major problems confronting most TIL buildings fall into two, not unrelated categories. The first is leader burn-out. Since TIL leaders often have functions beyond typical tenant association members--negotiating with contractors, waiting for the plumber, attending endless meetings, and all the while incurring the wrath

of the uninvolved who blame them for anything that goes wrong--it is not surprising that many begin to feel isolated and exhausted. That few buildings have sufficient income to hire a manager, a bookkeeper or a professional superintendent adds to the pressure on the elected leaders. It follows that the second problem is money. TIL is the only in rem program in which the rent roll is expected to cover all operating expenses. It is also the only one other than Central Management that doesn't have a rehabilitation component. When DAMP was designed, its originators may have envisioned TIL as a program for buildings that were practically ready for sales, with few structural defects and a healthy rent roll. In fact, TIL buildings are not, on average, significantly better off either financially or physically than the other DAMP buildings. Since TIL is the in rem tenant's only "as of right" alternative to Central Management--entrance into POMP and CMP is conditioned upon selection by the contractor--to restrict it to sales-ready buildings is to deny the option of self-management and ownership to most in rem tenants.

C. Why Self-Help?

CMP and TIL represent two means of arriving at the goal of tenant cooperative ownership. But is this the appropriate direction for the city's in rem housing policy? The next section raises some of the arguments for and against reliance on a self-help model to preserve low-income housing. It is followed by a discussion of how well current DAMP programs realize their goal,

and the outline of an alternative program that could be more effective.

1. Critiques of Self-Help: I

Critics on the right, among them many real estate professionals, do not attack the efforts of tenants who are trying to run their buildings. Instead, they question the efficacy of centering a housing rehabilitation and management program around that model. Their argument has two parts. First, the success of one cooperative depends on the confluence of so many unreliable factors--e.g., the tenants' good will, the lawyer's willingness to volunteer services, etc.--that success is never guaranteed from one project to the next. They question whether, under these circumstances, success is replicable, or whether such projects will be only token efforts. These critics claim secondly that the private market is still the most efficient provider of housing. If landlords were given the same boosts that the city now gives to coops, such as grants for rehabilitation, low purchase price, and adjusted rent levels, then they could produce more units at lower cost with far less difficulty.

The first argument, concerning the replicability of the self-help model, has some validity. When one talks to tenants in self-management buildings, one is struck by the effort and dedication that has gone into maintaining the building. Each building has its story, usually beginning before city ownership, of an oatmeal-patched boiler functioning through the winter, or a contractor

finally repairing a collapsed roof after the tenant association president's grandmother gave him a piece of her mind. Each tenant association scrapes by because someone knows someone or has a special skill. The "extras" that may allow a cooperative's success can't be predetermined. Perhaps more difficult to orchestrate than luck or special skills is the cooperation and good will of the building residents. Even an economically viable coop won't last too long if its members can't get along, or at least leave their personal differences out of their business dealings. All business relationships are conflictual, but when the participants also share their living space they may become especially contentious. When tenants are forced into collective action at the time the landlord abandons the building, they share only the fact that at some point they all happened to rent an apartment at the same address, and often, the fact that they are of similar ethnic and economic backgrounds. To some degree a tenant association resembles the cast of one of those formula disaster movies, in which an unlikely group of people are thrown into a life-threatening situation, escape from which depends on their ability to work together.

In spite of these obstacles, DAMP programs do work in more than a few cases. They are now being applied to 11,000 units having already sold an additional 10,000 units. Not even in New York could a program that is providing housing for 21,000 families be considered a token effort. Why the model works so frequently in spite of experts' skepticism is difficult to document. Comments made by tenants reflect the spirit noted in the 1973

survey of the early cooperatives which suggests simply that tenants with few housing options are willing to work hard to keep their buildings going. Those I interviewed referred continually to their neighbors' fears of displacement due to arson, abandonment or exorbitant rents, and seemed to draw inspiration from the plight of those around them. These tenants were proud of what they had accomplished, but seemed surprised that their behavior, which to them is motivated by necessity and self-interest, should seem extraordinary to others. Observed one interviewer, "Too often people are disposed to deny as soft-headed and sentimental reports that the poor are acting like other people--protecting their vital interests as best they can and banding together when the going gets rough" .

The second criticism--that with similar incentives the private sector could provide housing more efficiently--can be addressed more concretely, for there is an HPD program that gives private managers an opportunity to operate in rem housing. The Private Ownership and Management Program, or POMP, entered the DAMP repertory in 1979 after Mayor Koch suggested that there be a mechanism for tapping private real estate expertise in the management of in rem property. Initially there was little private enthusiasm and much community skepticism about the program but today it attracts more private firms than it can accommodate, and criticism has been muted. The winner of a 1984 HUD award for innovative use of CD Funds, POMP appears to be a well-designed, well-administered program and is therefore a good model by which

to test the effectiveness of private in rem management.

Under POMP, HPD contracts with real estate firms to manage and purchase in rem buildings. Firms are solicited by Requests for Proposals; last year there were eighty applicants from which six firms were chosen. Applicants are carefully screened. HPD looks for firms that are already involved in management of similar buildings in the area, for whom the additional workload (usually six to eight buildings, or 200 to 300 units) will not represent more than one-third of their portfolio. Managers who have not made payments on city repair agreements, who have been accused of harrassing tenants, who have neglected code violations, or whose buildings do not appear well-maintained upon inspection are not chosen. HPD wants above all to avoid any intimation that POMP, like the abandoned auction program, is reselling buildings to owners that had once milked them.

POMP contractors sign a one-year agreement, at the end of which the terms of purchase are negotiated. At the beginning of the contract, the manager documents the anticipated income and expenses, and with the help of POMP staff, determines the expected shortfall. A "rent restructuring" (or rent increase) plan is determined; in the meantime, HPD subsidizes any operating deficit and pays a management fee as it does to contractors in the Community Management Program. HPD also agrees to make systems repairs that come to an average of \$3500 to \$4000 per unit; subcontractors are chosen and supervised by the manager. At the end of the year, the real estate firm is expected to purchase the

entire portfolio it has been managing. Since 1979 the program has used twenty-two contractors, and only two have failed to purchase their portfolio. Restrictions extend beyond purchase: new rent levels are determined by Rent Stabilization guidelines; and buildings cannot be resold for five years without HPD approval.

While this program does not handle the same volume of units as CMP or TIL, it succeeds in selling buildings faster and with less effort than the others. At the end of Fiscal Year 83, 75 POMP buildings containing 4,000 units had been sold. Buildings in the program are closely monitored by DAMP staff, and they are generally well-managed, with 87% rent collection (second only to TIL). However, a 1982 study found a sample of POMP buildings were not as well-managed as might be expected considering the expertise the professionals bring to them¹⁰. There has been one court case, Laureano v. Koch, in which tenants in one POMP building challenged the arbitrary way in which HPD implemented its rent restructuring plan, and charged that they were denied the option of purchasing the building themselves. But this legal attack was aimed at HPD policy; it did not question the effectiveness of the POMP manager himself. There have been no complaints about the maintenance of POMP buildings from tenant or community groups, both of which could be expected to be vocal if criticism were deserved.

The success of POMP so far proves that carefully screened managers, given adequate rents and new building systems, can run buildings well. Does this mean that the POMP model should be

expanded while tenant self-help is de-emphasized? To answer this we must consider not what POMP does well but how long and how extensively its measures can be applied.

POMP will not work in most in rem buildings, because most do not meet the contractors' requirements. Peter Burgess, a Brooklyn real estate manager, has a POMP contract of seven buildings, two of which are in the Southside; he chose these from a long list of potential buildings, most of which he deemed inappropriate. To attract contractors, Burgess says, buildings must contain at least 30 units plus commercial space, and preferably be located on a commercial street so that storefronts can attract good rents. In other words, POMP succeeds only in those buildings that have qualities distinguishing them as potentially profitable--the "cream" of the in rem stock. The typical city-owned building would require more substantial subsidies to attract a private owner.

Mr. Burgess prefers buildings with a number of vacancies, because vacant apartments can be renovated using HPD money and then rented for much more than current tenants are paying. High rents paid by new tenants allow the manager to make money even though old tenants continue to pay less. An example is 145 Grand Street Extension, a thirty-unit Southside building that had actually been run by a tenant association before becoming city-owned. In September 1983, before it entered POMP, the building's rent roll was \$5197. In January 1985, after nine months in the program, monthly rents totalled \$8114. Mr. Burgess takes pride in

the fact that this 150% improvement was accomplished without increasing the rent of a single tenant in place. But while old tenants, nearly all of whom are on public assistance, pay between \$170 and \$220 for three- and four- room apartments, new tenants, whom Mr. Burgess admits are "a different kind of tenant"¹¹, are paying \$375 for one bedroom and \$425-450 for two bedrooms.

Two of the three other contractors interviewed in a 1982 survey also said that a change in tenancy was important to successful buildings, and indicated a reluctance to rent to families on public assistance¹². So although Mr. Burgess and other POMP managers are successfully improving the housing conditions of tenants in place, frequently with little or no change in rent levels, the long term success of the buildings hinges on the gradual turnover of apartments to people paying higher rents. Whether these apartments will remain available to the poor depends on the continued availability of rent subsidies, and on the new owner's willingness to keep rents at a level acceptable to the subsidy programs.

POMP buildings can, with HPD-funded repairs and good management, produce an income, but no one will get rich from them. Thus, only the good will of private managers will guarantee POMP's success. Mr. Burgess, for example, has undertaken the management of in rem buildings because he is excited by the challenge. After years of managing upper income cooperatives in another neighborhood he claims to be tired of meetings and intra-cooperative politics. But he is a businessman and as such must

look for ways to increase his profits. If the intuition that led him to choose 145 Grand St. Extension is correct and the Southside becomes a more attractive neighborhood, then in five years, when rent and resale restrictions end, he will have the opportunity to sell the buildings at a good profit to a landlord who may not have his commitment to ensuring old tenants an affordable rent. If his intuition is incorrect and the neighborhood deteriorates, he will be faced with the same situation that caused the original owner to abandon in the first place. In spite of his enthusiasm he will probably be reluctant to provide the present high-quality management if operating costs begin to exceed income.

While the short-term success of POMP has been convincing, for these reasons the units it has produced probably won't constitute a long-term low-income housing resource. Because the program is new, there have been no follow-up studies done of buildings after they are sold; since none of those buildings are past the five-year period of HPD-monitored period of restricted sales, there is no way of knowing how they will fare without government oversight. Two conditions are necessary for these buildings to provide a more than temporary resource: a landlord willing to forgo large, quick profits, and a neighborhood where the housing market is stable. Are these conditions more prevalent than the existence of groups of tenants willing to work hard to preserve their housing? Policy must be based on the assumption that people act out of their self-interest. The provision of adequate housing for the poor may not always be in the interest of the private realtors on which POMP

relies. It is, on the other hand, always in the interest of a building's inhabitants to help themselves.

2. Critiques of Self-Help II

Other criticisms of self-help housing for low-income tenants focus on both the political implications of this housing movement and on its ability to produce housing. The first of these concerns is that encouraging tenants to purchase their apartments and undertake management discourages them from radical political involvement, both by changing their position in the housing market and by distracting them with managerial tasks. The second that a self-help program without adequate support and funding, is a merely convenient way for government to absolve itself of responsibility to house the poor, is addressed in Chapter Six.

The first criticism addresses the concern that the latent purpose of programs encouraging the poor to own their dwellings is to trap them into having a financial stake in status quo society and in this way mute their opposition to those in power. First, the argument goes, ownership changes an inhabitant's relationship to his or her living space, and thus to society. No longer propertyless, the homeowner has something to protect, a reason not to throw a brick through someone's window. Second, a homeowner has a new set of responsibilities that may keep him or her away from community activities. Critics argue that cooperative ownership, while promoting contact between immediate neighbors, forces tenant leaders to arrange the complex affairs of their organization rather than use their energies to further broader

political struggles: ". . . all too often, when workers erupted in strikes, organizers collected dues cards; when tenants refused to pay rent and stood off marshalls, organizers formed building committees; when people were burning and looting, organizers used that 'moment of madness' to draft constitutions"¹³ . Not only do cooperative owners turn their energy toward the issues they confront as homeowners, but they are often forced to turn it on each other; elected leaders must exercise authority over others in order to fulfill management obligations, to the extent of being called upon to evict their neighbors.

In this view, tenant self-managers are accepting the rules of the current "housing as a profitable commodity" system. They have been handed property of their own to cultivate as they wish and are busying themselves with that activity rather than addressing the fact that the system is still unjust, that their adequate housing is still considered not a right but a privilege, and that they must earn the right to keep it by sacrificing their time and money. Some radical housing analysts believe that self-help programs divert pressure from society's powerful, hindering the development of a mass movement advocating government's responsibility to provide housing for all.

The day when our government acknowledges its obligation to shelter all its citizens may be long in coming, and meanwhile poor people have to live somewhere. The in rem housing program, through a combination of public rental housing and tenant-managed

cooperatives, offers several housing alternatives that can be realized today. The question for those who both advocate self-help housing and share the goal of a public commitment to housing is whether the self-help aspects of the IRHP run counter to the efforts to reaffirm public responsibility for the poor.

Those who fear the deradicalizing effects of a change in tenure status are basing their fears on the rhetoric of the 235 program, which implied that homeownership opportunities would turn the disenfranchised poor into upholders of American capitalist values. But it is far more probable that

many disadvantaged households place a value on a permanent homestead and the holding of property that has little to do with more mainstream, market-oriented standards of the goodness of investment(14).

Low-income minority purchasers of 235 housing, as well as cooperative participants of similar ethnic and economic characteristics, have been equally disinterested in becoming society's stakeholders. They were not "pulled" toward the attractive option of home ownership, as much as "pushed" out of substandard rental housing. Participants repeatedly cited the offensiveness of their previous living situations, and those of others in their community, as reason to pursue either single-family or cooperative ownership, without expressing any interest in altering their social status or improving their finances. The financial benefits of ownership such as tax deductions mean little to people in low tax brackets, and many subsidized cooperatives are structured so that little capital gain can be realized. In

sum, "low-income renters indicating interest in owner-occupancy are really expressing a desire for better neighborhoods and improved housing quality, and not simply a fee interest in their dwellings" .

Interviews with DAMP participants provide little further evidence of people "selling out" or abandoning their tenant sensibilities. Those questioned mentioned affordability, good services, and the power to maintain those benefits as the factors that made their present situation preferable to renting . Even residents of coops that were unsuccessful by objective standards such as fiscal health and management performance still preferred cooperative ownership for these reasons . Tenants in several Southside buildings mentioned the dismal conditions in private housing in the neighborhood as sufficient motivation for tenant takeover ; a tenant in a TIL building in a gentrified neighborhood felt that self-management was the only way she could avoid being forced to move ; a tenant in a city-owned building which has been mishandled by HPD and a local CBO and shunted between city programs still stated unequivocally that she preferred her current predicament to the exploitation of private ownership . In Harlem, residents of TIL buildings "could not answer the question, 'What would you have done if there were no TIL program?'" . The statement of a member of a recently purchased DAMP coop illustrates the continuing sense of struggle among tenants turned owners: "We started several years ago as the Desperation Tenants Association. Today, things have changed, and we are the Desperation Cooperative" .

The claim that the responsibility of running a building prevents tenants from engaging in other community activities is not borne out by the evidence. Although many leaders periodically feel overwhelmed by their responsibilities, they emphasize the lessons of participating in a coop: "Working together you can accomplish more than working alone"²³. "In the worst situations you must fight to gain something positive"²⁴. Surely these sentiments would encourage participation in other community struggles. Furthermore, the impact of participation on individuals, especially women, has been profound. All leaders interviewed felt they had gained personally from their involvement. Aside from their pride in their ability to manage a building, they have gained confidence in their organizational skills and the value of their opinions. One tenant association president spoke of the "satisfaction of being able to offer something useful, even if the issue being discussed is not directly related to your building"²⁵.

By virtue of the fact that many buildings are either officially or informally associated with a local CBO, tenant leaders may get involved in other community issues. The CBO in the Southside is run by a Board on which every tenant-run building in the neighborhood is entitled to have a representative. As a result of this initial association, several tenant leaders have become active Board members and community spokespeople on diverse issues. In the Southside and in Harlem as well, according to the study by Leavitt and Saegart, many of the men in tenant leadership

roles had previously been involved in community or church activities, but most of the women were drawn out of their homes for the first time by tenant issues²⁶. Some women involved in their tenant associations were thus exposed to community services and inspired to study English, get their Equivalency Diplomas, or participate in job training. Several who were previously on public assistance are now employed.

Another challenge to the claim that self-help housing depoliticizes its participants is the nature of cooperative ownership. Critics would argue that cooperative housing is just like single-family housing, except everyone has to chip in to pay for the oil. While New York City coops are not experiments in communal living along the lines of an Israeli kibbutz or Robert Owens' utopias, they can be an alternative--even a challenge--to the "dream house" ideal popularized and promoted in this country by government policy and private market advertising²⁷. Such an alternative becomes more important as the nuclear family for which the traditional detached home was designed becomes less common. Making cooperative ownership work in the face of official indifference and skepticism and appreciating its unique benefits have opened the eyes of some DAMP participants to the possibility of "redesigning the American dream."

As tenants in a building band together, either to challenge their landlord, or in his absence, to run their building, the nature of their relationship to each other is transformed. Skills and services are informally exchanged; older residents, for

example, provide childcare for the younger ones, who help them read or translate important letters. Families without telephones are connected to the outside world by those with them. Together residents create recreation space, the scarcest urban commodity, in basements and courtyards. In one building the tenants cleaned out the garbage-filled basement, making one room into a brightly colored meeting/party room; in another the superintendent set up weights so he and his friends could hang out in their basement while he kept an eye on the troublesome boiler. After a few months of tenant organization in another building, one of the few in this study that was equally split between white (primarily elderly and Jewish) and Hispanic tenants, apartment doors were left unlocked and children played in the hallways. Older residents commented happily that it was "like the old days."

Certainly people don't need to own their building in order to cooperate with their neighbors; some tenant-run buildings are successful because they build on close relationships that developed before the landlord walked away. But cooperative ownership gives people a sense of control over their environment that brings this contact beyond casual friendship and into collective activity. As renters, they can't decide who moves in next door or how often the halls get cleaned, or decide that the basement would be a great place to have a Christmas party. As owners, they can.

The pride of the tenants interviewed coupled with the

objective indicators of management success (e.g., low vacancy rates and good rent collection) found in this and other studies, suggests that tenant self-management can save abandoned buildings. Whether the HPD programs provide sufficient support for these efforts will be addressed in the next chapter.

Notes on Chapter Five

1. Sullivan, Division of Alternative Management Programs.
2. Schur, "Growing Lemons", 43.
3. Sullivan.
4. Ibid, 4-30.
5. Ibid, 4-13.
6. There are actually three tenant leasing programs: 7A Leasing (in which a court-appointed administrator runs the building) and Tenant Ownership Program, for buildings of one or two units. TIL is by far the largest.
7. Cosme interview.
8. Kolodny, Self-Help in the Inner City 177.
9. Alter interview.
10. Sullivan, 8-20.
11. Burgess interview.
12. Sullivan, 8-13.
13. Frances Fox Piven and Richard Cloward, Poor Peoples Movements (New York: Vintage Books, 1977), xiii.
14. Victor Bach, "A Chance to Own," Ph.D. Dissertation, M.I.T. Department of Urban Studies and Planning, (1977), 256.
15. Stegman, Housing Investment, 195.
16. Sullivan.

17. Lawson.
18. Melendez interview.
19. Cabrera interview.
20. Cosme interview.
21. Jacqueline Leavitt and Susan Saegert, " Women and Abandoned Buildings: A Feminist Approach to Housing," Social Policy 15, (Summer 1984) 35.
22. Speech given by tenant association member at City Hall reception marking the sale of the 10,000th DAMP unit, February 6, 1985.
23. Cabrera interview.
24. Cosme interview.
25. Melendez interview.
26. Leavitt and Saegert, 37.
27. Dolores Hayden, Redesigning the American Dream (New York: WW Norton & Co. 1984).

CHAPTER SIX: DAMP'S EFFECTIVENESS IN CREATING TENANT COOPERATIVES

Given the conclusion that the self-help model represents a good blueprint for preservation of low-income housing, encouraging personal development and community involvement as well as providing alternatives to the depressed rental market, in the next section I will look at whether the specific DAMP programs, as currently structured, encourage the long-term stability of the coops. Whether all the benefits described in the preceding section will mean a thing depends on whether the cooperatives created in this program are financially and organizationally viable. If, as some critics charge, the city is merely practicing its own brand of lemon socialism, dumping hopeless properties on optionless tenants, then self-help is no more than fancy rhetoric for allowing the poor to fend for themselves.

Interviews and with tenant, city officials and community organization staff point to three areas of weakness in HPD's approach to self-help which, if not addressed, seriously jeopardize the long-term success of the program. The first is the perceived lack of alternatives for tenants in city-owned buildings; the second is the general confusion about sales policy--both the pressure put on tenant groups by HPD staff to purchase and the policy of treating buildings in strong market areas differently than the others; and the third is the chronic underfunding of the cooperatives, which often are sold with serious physical defects and increasingly without assurances of

rental subsidies.

A. Lack of Alternatives

Not everyone wants to live in a cooperative. In upper income cooperatives maintenance payments are usually adequate to cover the services of a building manager, and are certainly high enough to ensure adequate upkeep. Because upper income cooperative dwellers can occupy their apartments almost as though they were renters, while enjoying ownership benefits of equity accumulation and tax deductions, coop apartments have become very popular in New York City. In spite of these advantages there are many who still choose to rent, objecting to the meetings and rules and to the sense that how you live and with whom is someone else's business. Furthermore ownership brings with it additional expenses. Monthly carrying charges don't cover repairs inside individual apartments, and building-wide emergencies sometimes require special assessments.

While one may personally prefer to rent, if faced with the choice of joining a cooperative or risking substandard housing at uncertain rents one would certainly choose the former. This is the situation of most tenants in city-owned buildings. They must either agree to an alternative management program, the result of which is cooperative ownership, or opt for Central Management. While improvements in HPD's management standards has been noted, performance is still too uneven and the future too uncertain for any tenant group to feel that choosing to remain a rental will not

be regretted shortly. The city's ambivalence about the existence of a permanent rental stock, manifested in its failure to promulgate clear policies about rent levels or commit itself to rehabilitation standards, has the effect of driving tenants to the alternatives.

Why should this be a problem? After all, one of the points of this thesis is that the self-help model should be available to as many tenant groups as possible. However, the model's desirability is predicated on the assumption that tenants are participating voluntarily. As long as there are no options there will be those in DAMP buildings who would rather be in a different housing situation. These non-enthusiasts range from those who pay their rent but resent any further involvement, to problem tenants who don't pay rent, don't keep up their apartments, and force tenant leaders to use expensive, time-consuming legal means to evict them. In some cases tenant associations, wary of their future under Central Management, agree to alternative management even though they lack solid support from the majority of tenants. (TIL requires that 75% of all tenants sign an agreement to enter the program, but experience shows that people will sign without understanding the implications and later refuse to cooperate.) When they are unable to run their building, leaders feel they have failed.

Tenant groups should choose alternative management because the concept of control and eventual ownership appeals to them, not

because it's their only way of assuring adequate services and a secure future. Furthermore, individual tenants in buildings opting for self-management who don't wish to participate in a cooperative should have the option of being relocated to another city-owned building nearby. Perhaps HPD and a local CBO could work out some kind of exchange, whereby a household in a building entering DAMP could be offered a suitable apartment elsewhere. Similarly, a tenant in a Central Management building who wants the opportunity to live in a coop by can't interest her or his neighbors in the idea could be referred to local DAMP buildings. Since it is important that DAMP tenant associations retain ultimate control over tenant selection it would not be possible to assure such a tenant a DAMP apartment, but such a system could be useful to DAMP buildings looking for prospective coop participants.

B. Sales Policy

Another shortcoming of current HPD tenant-management programs is their vague and arbitrary sales policy. Sales, or "outtake," has been the most contentious DAMP issue since the division was created. Some tenant groups complain of being pressured to purchase their buildings before they are ready, others waiting to purchase are unclear about the cause of delay. Much of this confusion stems from the lack of consensus among city officials about what should be accomplished during the interim period of tenant or community management, traceable to further lack of consensus about DAMP's purpose. During its first year, three DAMP goals were articulated: one, to provide decent housing to tenants

of in rem buildings; two, to train organizations to manage and thereby test their ability to eventually own in rem buildings; and three, "to ultimately convey title of the properties, stabilized and upgraded through a period of responsible management, to private groups"¹.

Early statements also emphasized the subordination of sales goals to the larger aims of neighborhood stabilization:

The success of the In Rem Housing Program will be marked not by short term revenue gain at the expense of future deterioration of the existing stock. Rather, the Program will have achieved its goal if neighborhoods where there are presently large numbers of City-owned properties have been strengthened and if buildings once sold remain on the tax rolls and do not return to City ownership several years after sale(2).

By 1981 program participants noted a new emphasis on sales and less concern on an appropriate stabilization period. Forgetting the initial DAMP goals of providing decent housing while training new managers, the Fourth Annual In Rem Housing Report stated, "The true test of the success of DAMP programs would be whether they could achieve volume rehabilitation and sales"³.

Ideally, for a coop to be successful in the long run, several things must occur before the tenants purchase their building. While some enter city ownership with sophisticated tenant organizations and secure finances, most require an incubation period to achieve these ends. A tenant association must be developed; its members must learn how to manage a building; they must reach a consensus on organization by-laws and learn enough

about the legal principles of cooperative ownership to make decisions about their future. Meanwhile, the renovation work agreed to by HPD must be completed. A continual complaint of tenant leaders is that HPD's pressure to purchase begins whether or not these processes have been completed. A 1982 study confirmed these impressions, finding that a building's position in the sales "pipeline" was correlated only with its length of time in the program, and not with building conditions or management ability .

The development of a cohesive sales policy has been further hindered by the Koch administration's fear that tenant cooperators in gentrifying neighborhoods will resell their apartments at great profit. Concern centered around the Chelsea-Clinton area, situated on Manhattan's West Side between 14th and 59th Streets. Here, the real estate boom that has affected all of Manhattan, plus the development of a the new Jacob Javits Convention Center and proposed commercial development for Times Square, have turned what had been New York's toughest neighborhood, previously known as Hell's Kitchen, into an area of \$1,000 a month rentals and \$100,000 coops. Ten years ago the old housing stock of this area had been considered undesirable, so much of it had ended up in the City's hands. By 1982, as the real estate market was strengthening, some dozen buildings were completing Community Management and Tenant Interim Lease and preparing for sales. At this time HPD informed the tenants in these buildings that they would have to purchase their apartments at a "fair market rate",

which would certainly be beyond the means of most of them.

An unprecedented city-wide mobilization of alternative management tenants, all of whom felt their future threatened if the Clinton-Chelsea tenants were displaced, succeeded in restoring the \$250 per unit sales price. However, this was gained in exchange for resale restrictions that require a portion of any profits earned by sale of shares to revert to the city. The efforts to work out the details of this cumbersome plan (see Appendix 3) have held up sales on a number of buildings.

C. Financial Viability

The last and most critical test of the DAMP program is whether it provides the financial resources needed to ensure the long term viability of its cooperatives. DAMP sales are too recent for there to have been any longitudinal studies at this point, but pre-sale financial data and follow-up studies on cooperatives developed under other programs suggest that many DAMP coops could be head for trouble. In this section I will examine the financial stability of projects under TIL and CMP and discuss the implications of insufficient funding for future alternative management efforts.

In 1982, Pratt Institute surveyed twelve Community Management and eleven Tenant Interim Lease buildings to determine, among other things, their financial viability. They found that to bring buildings up to acceptable standards in the Community Management Program, in which up to \$20,000 per dwelling unit may be spent for

rehabilitation, a combination of program funds and after sales low-interest loans was sufficient. On average, each building required a \$9,418 per apartment investment, with the bulk of this amount going toward building-wide systems repairs. The two survey buildings located in the Southside were at the high end of the range: 227 South 2nd Street required \$12,070 per dwelling unit (\$9848 for systems repairs and \$2222 for cosmetic apartment repairs); and 263 South 2nd Street needed \$11,938, with \$7642 for systems and \$3756 for apartments .

In TIL buildings, where the maximum investment in 1982 was \$1500 per dwelling unit (since raised to \$2,000 to \$3,000) the situation was very different. Ten of the eleven buildings in the study required repair work beyond the scope of the program. The average investment needed came to \$9211 per dwelling unit, with \$5355 needed for systems repairs. This left a gap of some \$8,000 per apartment between the needs of the building and the provisions of the program. The study concluded that

Any projections for successful long-term disposition of TIL buildings to their tenants must be based on the rather tenuous assumption that this mismatch will be overcome....The failure of the TIL program to succeed by this critical measure undermines completely whatever success it achieves by the other...criteria(6).

On the whole the Pratt analysts were satisfied that monthly carrying costs were within the rent-paying range of the in rem tenant population. CMP buildings required post-purchase rents in the \$35-50 per room range. The two Southside buildings in the

sample were at the high end of this range: 227 South 2nd Street was \$40 a room, or \$208 a month, and 263 South 2nd Street was \$55 a room, or \$273 a month for a two-bedroom apartment. These rents were affordable to families earning \$8,303 or \$10,928 respectively, assuming a family could pay a rent equivalent to 30% of its income. TIL rents fell into the same range; the TIL building located in the Southside that was studied was projected to require rents of nearly \$50 a room, or \$252 for a two-bedroom apartment, affordable (assuming a 30% rent/income ratio) to a family earning \$10,098⁷.

Pratt's conclusion that the rents needed to support these buildings are affordable to most in rem tenants is premised on two questionable assumptions. First, it assumes that a family can comfortably pay 30% of its gross income for rent. This is the figure used by the federal government, but in fact it is high for a family with children⁸, especially since monthly rentals do not include electricity and cooking gas, which could add \$25 to \$45 to a family's monthly budget. Second, projected rents are based on the assumption that the renovations needed to repair faulty systems in TIL buildings will somehow be made. If they are not operating expenses for these buildings are likely to be higher. If they borrow to make repairs, they will have to add their monthly debt service to their expenses. If they don't make the repairs, their operating expenses will reflect the fact that they will be making constant emergency repairs.

I have therefore reviewed the monthly financial statements of several TIL buildings in the Southside under different assumptions. The two presented here are fairly typical--one is in good condition, the other in fair condition. Both entered the TIL program in August, 1982 after a period of unofficial tenant management, and both are expected to be sold to the tenants within the coming year. I have calculated the income needed to support various rent levels assuming that a family can pay somewhere in the range of 25% to 30% of its gross income for rent. For each building I have given three sets of projections. The first assumes that the building is sold to the tenants as it is today. The second assumes that HPD makes all needed repairs before sale: all mechanical systems are in good enough working order so that they will function without major breakdown for another fifteen years; the building envelope is weathertight; and each apartment has a working stove and refrigerator. In the third set of projections HPD makes no repairs and the tenant association borrows money from a low-interest revolving fund to replace two systems. In both cases I have assumed that the rent collection rates will remain constant; projected rents are high enough to compensate for income lost to rent arrears. In neither case have I considered the possibility of HPD undertaking non-system repairs, except for appliance replacement; first, because the costs are too hard to estimate without a thorough building inspection, and second, because that is the kind of work tenants are most capable of accomplishing themselves.

Unfortunately it is hard to evaluate the potential financial

success of a building from these income and expense statements. It would appear, for instance, that a tenant association that had high monthly expenses could anticipate more financial problems than one that didn't spend so much, when in fact the former may be more diligent in making repairs. I have therefore combined the information from monthly expense and income statements with information from tenant interviews to get a sense of what kinds of expenses would be incurred over the course of a year. I have included the additional projected expenses associated with ownership.

195 South Fourth Street (see Table 6.1)

This is a 35-unit building with no commercial units. All apartments have either 3.5 or 4.5 rooms. It has had some rent collection problems, mostly due to one or two delinquent families. The tenant association pays 7% of the rent roll (around \$300 a month) to one of its members, who performs management functions. New windows and a recapped roof are the only major improvements undertaken over the past few years. All other systems are faulty, and the boiler has been a constant source of anxiety and expense; originally designed to heat two buildings, it is ancient, oversized, and inefficient.

Table 6.1

195 South Fourth Street

Monthly Income and Expenses
 (based on reports for November and December,
 1984 and January, 1985)

Income

Rents Billed	\$5300
Rent Collected	4660 (87.9%)

Expenses

Fixed Costs:

Super's Salary	\$150
Manager's Fee	300
Liability Insurance	90*
Debt Service	135**
Subtotal	675

Variable Costs:

Oil	2400***
Electrical Service	115****
Repairs	600
Supplies	200
Subtotal	3315
TOTAL	3990

*Not actually paid this quarter

**On no-interest loan taken from local fund to make boiler repairs.

***Adjusted to reflect winter months.

****Covers electricity for common areas (halls, basement and boiler)

In Projection 1 (see Table 6.2), in which no repairs are made, 195 South Fourth Street is very expensive to operate. Plumbing repairs, boiler maintenance and fuel make up the bulk of the monthly expenses. To make ends meet the tenants would have to pay \$68.00 a room or \$240 for the 3.5 room apartments and \$306 for the 4.5 room apartments. Assuming a family pays somewhere between 25% and 30% of its income for rent, these apartments would require incomes of \$8655 to \$11,520 and \$11,016 to \$14,688, respectively. Since tenants in this building probably have incomes somewhere between the \$6500 median for the Southside and \$8000 median for all in rem tenants in the city, most of them would require rent subsidies to pay this rent.

Projection 2 assumes that HPD has repaired all systems before selling the building. At 195 South Fourth Street that would require an approximately \$7000 per unit investment. As a result the building would need a smaller reserve fund, and operating expenses are lower. In this case, minimal rent increases would be required.

Projection 3 assume that the tenants have borrowed \$90,000 to repair their plumbing system and replace their boiler. With a debt service obligation of \$622 a month, they must raise their rents to \$52 a room: \$182 for a 3.5 room apartment and \$234 for a 4.5 room apartment. Some tenants would require rent subsidies. A large reserve fund would be needed to cover emergency repairs to those systems not covered by the loan money.

Table 6.2

195 South Fourth Street
Projected Monthly Expenses and Required Rents After Sale

	Proj. 1	Proj. 2	Proj. 3
Fixed Costs:			
Fire&Liability	\$ 416.60	416.60	416.60
Corporate Taxes	75.00	75.00	75.00
Prop. Taxes	625.00	625.00	625.00
Salaries	450.00	450.00	450.00
Debt Service	135.00	135.00	757.00
Variable Costs:			
Plumbing	1500.00	350.00	350.00
Electrical	350.00	150.00	350.00
Plastering	350.00	75.00	100.00
Painting	80.00	80.00	80.00
Appliances	400.00	200.00	400.00
Extermin.	75.00	75.00	75.00
Boiler	200.00	100.00	100.00
Elect. Serv.	115.00	115.00	115.00
Fuel	2400.00	1700.00	1900.00
Misc. Supplies	150.00	150.00	150.00
Misc. Repairs	200.00	100.00	150.00
Reserve	700.00	300.00	700.00
TOTAL	6520.00	5096.60	4470.00
Required Rent			
per room	68.00	42.50	52.00
3.5 Rm Apt	240.00	150.00	182.00
Required Income	8655-11,520	5365-7200	6552-8736
4.5 Rm Apt	306.00	190.00	234.--
Required Income	11,016-14,688	6885-9120	8424-11,232

*Projection 1--Building sold as is.

**Projection 2--HPD does all needed repairs

***Projection 3--Tenants borrow \$90,000 at 3%, 15-year pay-back.

(See Appendix 4 for an explanation of how figures were calculated.)

167 Havemeyer Street (see Table 6.3)

This building has twenty apartments, each with 4.5 or 5.5 rooms, and four stores. The rents paid by the stores, while modest compared to other commercial rents in the neighborhood, allow the tenants to keep their own rents low. The rent collection at Havemeyer Street has always been excellent. They pay no management fee. They have made a number of improvements in their building; only their plumbing and electrical systems pose problems.

Under Projection 1, the tenants would have to raise the commercial rents by 20% and their own rents to \$54 a room. Thus a 4.5 room apartment would rent for \$245 (requiring incomes of \$8820 to \$11,760); a 5.5 room apartment for \$297 (requiring incomes of \$10,692 to \$14,256). Many of the tenants would need rent subsidies to pay these amounts. Under the other two projections, however, 167 Havemeyer Street could cover its costs by increasing commercial rents (see Table 6.4).

These analyses give us only a partial sense of the potential viability of these cooperatives. Clearly both would have difficulties if they had to buy their buildings without any repairs. 167 Havemeyer, thanks to its commercial rents and good physical condition, could manage with only access to a low-interest loan and no HPD-funded repairs. 195 South Fourth Street would require at least some combination of city-sponsored repairs

Table 6.3

167 Havemeyer Street
 Monthly Income and Expenses
 (based on reports from November and December,
 1984 and January, 1985)

Income

Rents billed	\$4409
Commercial	1150
Residential	3259
 Rents collected	 4075 (92.5%)

Expenses

Fixed Costs	
Super's Salary	74.00
Liability Insurance	84.00
 Variable Costs	
Fuel (gas)	1340.00*
Electrical Service	60.00
Repairs	1533.00
Supplies	579.00
 TOTAL	 4210.00

*Adjusted to reflect winter months.

Table 6.4

167 Havemeyer Street
Projected Monthly Expenses and Required Rents After Sale

	<u>Proj. 1</u>	<u>Proj. 2</u>	<u>Proj. 3</u>
Fixed Costs:			
Fire&Liability	\$500.30	500.30	500.30
Corporate Taxes	60.00	60.00	60.00
Prop. Taxes	833.00	833.00	833.00
Salaries	74.00	74.00	74.00
Debt Service	--0--	--0--	691.00
Variable Costs:			
Plumbing	1500.00	200.00	200.00
Electrical	200.00	100.00	100.00
Plastering	200.00	50.00	50.00
Painting	50.00	50.00	50.00
Appliances	229.00	116.00	116.00
Extermin.	75.00	75.00	75.00
Boiler	50.00	50.00	50.00
Elect. Serv.	60.00	60.00	60.00
Fuel	1340.00	1340.00	1340.00
Misc. Supplies	150.00	150.00	150.00
Misc. Repairs	200.00	100.00	100.00
Reserve	500.00	300.00	300.00
TOTAL	60210.30	4058.30	4749.30
Required Rent			
per room	54.00	35.00	35.00
Commercial rent increase	20%	10%	20%
4.5 Rm Apt	245.00	157.50	157.50
Required Income	8820-11,760	5670-7560	5670-7560
5.5 Rm Apt	297.00	192.50	192.50
Required Income	10,692-14,256	6930-9240	6930-9240

*Projection 1--Building sold as is.

**Projection 2--HPD does all needed repairs

***Projection 3--Tenants borrow \$100,000 at 3%, 15-year pay-back.

(See Appendix 4 for an explanation of how figures were calculated.)

and access to loan money to survive in the long run. Of course, neither of these buildings has the resources to survive a major emergency. Since tenant cooperatives in slum neighborhoods are not likely to get conventional bank loans, it is important that the low-interest loans provided by HPD be available for emergencies. One problem with relying on these funds for systems repairs before sales is that once a tenant association has taken out a loan it will be hard-pressed to find funds to deal with an emergency.

Whether and how cooperatives will be able to cope with future financial pressures is of concern to their participants. The previously cited follow-up of the projects studied in 1973 showed that all but 26% of the 46 cooperatives had very serious tax and debt service arrears.⁹ Since DAMP cooperatives are not eligible for tax abatements and are frequently borrowing to make repairs that HPD will not do, there is the possibility that they will experience the same difficulties as their predecessors. 104 Division Avenue, a cooperative in the Southside that had gone through the TIL program and been purchased in 1982, is now confronted with the breakdown of the systems not repaired by HPD. The tenants must raise their rents in order to borrow money. They are also considering the possibility of increasing the price of the units, and raising capital when people buy into the cooperative.¹⁰ Low-income housing advocates fear that many cooperatives may turn to this method of raising money, thus discouraging other poor families from joining. Several other

Southside cooperatives had been produced through the Community Management Program, and received considerably more substantial rehabilitation. A few years after sale these buildings are still in good physical condition and therefore free of financial pressures. Some of them, however, are experiencing organizational and management problems, perhaps traceable to CMP's failure to train tenant associations adequately.

It is the spectre of financial failure that cause low-income housing advocates the most concern about the future of self-help management of in rem properties in New York City. They are worried that without proper funding these programs are doomed from the start, while desperate tenants run in circles trying to make them work. Images of tenants set adrift in leaky lifeboats, or "cooperative ownership as 'judas-goat'. . . leading the proverbial lambs to slaughter"¹¹ are evoked. The harshest critics claim that the program is merely an acceptable way for the government to ignore its responsibility to provide housing for the poor. Low-income tenants respond to the promise of control and security, but without sufficient funds it turns out to be illusory.

The lesson of the stories related above is that tenant management can work, and when it does it can produce benefits such as increased community involvement as well as improved housing. But the success of tenant-managed buildings depends on a delicate balance of financial support, technical assistance, and resident cooperation. In several crucial ways, HPD programs fail to ensure the confluence of these factors. By encouraging tenant control in

landlord-abandoned buildings, the City of New York has the opportunity to create a network of permanent, comfortable, affordable homes using minimal subsidies, thereby turning buildings that would otherwise drain municipal resources into tax paying sources of pride. HPD's efforts should be directed toward doing whatever is necessary to make these projects work, especially since their failure only results in greater management burdens for the city.

Notes on Chapter Six

1. New York City Department of Housing Preservation and Development, First Annual In Rem Housing Program Report 30.
2. Ibid, 48.
3. New York City Department of Housing Preservation and Development, Fourth Annual In Rem Housing Program Report 6.
4. Sullivan, Division of Alternative Management Programs.
5. Ibid.
6. Ibid, 10-52.
7. Ibid, 10-45.
8. Michael Stone, "Housing and the Economic Crisis," in Chester Hartman, ed. America's Housing Crisis.
9. Lawson, Owners of Last Resort 118.
10. Barbara Schliff interview.
11. Sullivan, Division of Alternative Management Programs, 2-21.

CHAPTER SEVEN: ASSISTED TENANT LEASING:
A PROPOSED ALTERNATIVE MANAGEMENT MODEL

Both Community Management and Tenant Interim Leasing, two programs designed to create tenant cooperatives, have important strengths, but both have flaws that call into question their ability to develop viable housing while fostering community development. CMP provides jobs, renovates apartments, facilitates a relationship between tenant groups and knowledgeable community organizations, and offers CBO the opportunity to extend their influence in their communities. It does not, however, adequately prepare tenants for the task of running their building, and it compromises CBOs by making them middlemen between HPD and tenants. TIL, on the other hand, gives tenants the opportunity for self-management, but leaves them with insufficient technical and financial support. Moreover, there is an inequity in these two programs, whereby the buildings in Community Management can receive up to \$20,000 of renovation funds per unit, whereas TIL buildings receive much less. While tenants in CMP buildings are arguing about the color of their new bathroom tiles, TIL tenants are making do with inadequate plumbing.

A. Program Design

I am proposing Assisted Tenant Leasing as an alternative to replace both Community Management and TIL. The structure of ATL would be very much like that of TIL. A tenant association would sign a lease with HPD, accepting management responsibility for its building and agreeing to eventual purchase at \$250 an apartment.

HPD would contract with CBOs to perform services in support of ATL buildings in their catchment area. There is already a precedent for this sort of arrangement: Currently, HPD contracts with CBOs through its Community Consultant program. Recognizing that its programs are only as good as their ability to reach those who need them, and that CBOs already have communication networks in their services areas, HPD pays groups to promote city programs and generally act as a liaison between community residents and city bureaucracy. Community Consultant Contracts, funded by federal CD dollars, are usually sufficient to cover the cost of one or two staff people.

As part of the ATL program, HPD would either expand the current Community Consultant program so that groups in areas with extensive city-owned stock could devote one or two staff people exclusively to working with tenant-run buildings, or set up a parallel program to achieve the same purpose. The contract would provide funds for staff and for overhead costs incurred by ATL buildings and coops. For instance, there might be money for a typewriter or other office equipment that would be available for tenant association officials to use, and funds to reimburse the CBO for use of its photocopying machines and telephones. Tenant-run buildings might also be able to use the CBO's facilities for meetings. Since new tenant associations are often unfamiliar with organizational procedures, CBO staff could be available to attend their meetings, help them determine agendas and set up by-laws. CBO staff can also be indispensable in acquainting tenant leaders with government programs that can benefit their building, and

arranging bulk purchasing and credit. If buildings require technical services of engineers, architects or lawyers CBO staff could arrange to hire the professional with the various coops splitting the fee. And CBO staff would be available to provide training whenever there is turnover of leadership.

One of the benefits of CMP is its provision of a trained maintenance staff performing day-to-day repairs, ordering materials, and at times undertaking major rehabilitation. This is a benefit that extends beyond its immediate function, since it also provides employment for a dozen or so community residents. Frequently CMP maintenance staff will be hired by TIL tenant associations to work in their buildings after regular work hours; this provides additional income for the staff and access to skilled local workers for tenant-run buildings. However, an on-site maintenance staff is one of CMP's largest expenses.

One of the goals of ATL would be to enable CBOs to maintain a repair staff that was more or less self-sufficient. To begin, HPD's contract with a CBO could include some provision for a maintenance staff--perhaps overhead costs and a maintenance supervisor's salary. Tenant associations, whether participants in ATL or already cooperative owners, could hire the CBO's maintenance company for repairs, paying them for their services as they would pay a private contractor. The maintenance company could even bid on large renovation jobs; if effective it would most likely start getting requests from private landlords as well.

The goal would be for the maintenance company to become a for-profit subsidiary of the CBO; if it ever actually made a profit the money could be used to fund other CBO activities.

Ideally, buildings would be able to support themselves from their rent roll while in city ownership. TIL buildings are already self-supporting. In Community Management, a CBO receives an operating subsidy to cover all the buildings in its contract; a tenant association therefore buys its buildings without any idea of what it actually costs to run it. It is important for tenants to have the experience of operating their building on its rent roll before adding the additional burden of taxes and insurance. Rent subsidies, currently available to tenants only after the building is purchased, should be extended into the pre-sales period as well.

HPD should agree to sell buildings with all major systems (electrical, heating, plumbing) working well and the building envelope secure. Tenants could be responsible for internal repairs such as replacing appliances, painting, and plastering. Tenant associations could decide for themselves whether they want to borrow money to attend to these matters, or leave them up to individual cooperators. For some buildings, a \$2,000 per unit investment by HPD might be sufficient, for others it might be \$15,000 per unit--HPD should be flexible about the amount permitted for these system repairs. (See Chapter Eight for average per unit cost estimates.) While ATL might result in unequal amounts of money being allocated to different buildings, the

inequality would be based on documented need rather than the coincidence of having landed in one program or another. Low-interest loans should remain available for emergencies, and tax abatements should be offered as well. Such abatements could take the form of a gradual phase-in of property tax payments. This represents a smaller commitment to rehabilitation than is currently available under Community Management. Ideally, of course, every building would receive a complete moderate rehabilitation as in Community Management. However, given the dearth of funds, it is preferable to attend to the structural soundness of many buildings than to completely renovate some while others have major system deficiencies.

B. Sales Policy

ATL's goal would be to enable tenants to complete the program in two to three years. This time period must remain flexible, to allow for delays in repair work and the development of tenant management skills. Periodic meetings should be held with tenant association officials, CBO staff and HPD personnel to discuss the a timetable for repairs, rent increases, and management development. HPD and CBO coordinators could arrange appropriate training to address tenant association weaknesses.

Resale restrictions should be designed to ensure the continued availability of these units to low-income families. The law under which these coops are formed (see Appendix 3 for

details), which forbids the sale of units to families whose combined income exceeds six times the rent, is sufficient to do this, but enforcement mechanisms must be created.

The terms of resale restrictions are difficult, because they must balance the public's interest in maintaining affordable housing with the coop owner's right to earn a return on his or her investment. After all, while "you've limited the profits on these buildings, . . . you've done nothing to limit the risks"¹. The current HPD policy in "hot" neighborhoods--demanding a percent of profits for itself--seems like the worst possible solution. Sellers will be tempted to charge more for their shares in order to earn their expected rate of return after paying off the city. Given the low turnover in DAMP coops and the few buildings situated in profit-making areas, HPD is unlikely to earn enough from this "tax" to pay the salary of the person hired to collect it. Far more effective would be a system in which tenants were eligible for a predetermined modest rate of return on investment.

C. Program Rationale

CMP and TIL represent two models of interaction between tenant groups and neighborhood institutions. The former creates such a dependent relationship that it stifles the development of the cooperative and diverts the CBO from its advocacy role. The latter is so ill-defined that TIL buildings may be struggling on their own in areas where the expertise of other coop leaders and CBO staff could be helpful. Once coops in either program are sold, there are few places they can turn to for support. TIL buildings and purchased coops must purchase fuel and materials,

contract for repair services, and perform clerical functions. They must develop mechanisms for training new leaders. For each building to establish its own credit or buy its own typewriter and xerox machine is counterproductive. There are many ways that time and money can be saved by inter-building cooperation. Why not use the CBOs as a basis for this cooperation?

First and foremost, Assisted Tenant Leasing is a means of maintaining low-cost, standard housing. Second, it provides the mix of autonomy and support to each tenant group that it needs to best develop its organization, and continues that support even after sale. Thirdly, by working through established community organizations it contributes to their organizational development, and even provides a means of generating additional revenues and creating jobs.

Notes on Chapter Seven

1. Bernard Cohen, "City-Owned Buildings: A Hard Sell," City Limits 5 (February 1980), 8.

Part III

CHAPTER EIGHT: FUNDING THE IN REM HOUSING PROGRAM

Proposals to improve the IRHP, both the alternative management programs and Central Management, all revolve around the need to find more money to invest in city-owned buildings. At present, the entire DAMP budget and half the Division of Property Management budget come out of federal Community Development funds (see Table 8.1). Use of CD funds to support in rem housing was a source of conflict between the City of New York and HUD when the IRHP began in 1978, because CD funds were supposed to be for the renovation, not the operation of low-income housing. The conflict was resolved when HPD agreed to use city tax revenues to pay for Central Management's operating costs, applying CD funds to Central Management buildings only for repairs (see Table 8.2). These days there is little conflict with HUD about use of the funds, but constant worry that they will be cut. Since 1980, the city's total CD allocation has fallen from \$260 million to \$213 million. At present it seems unlikely that this amount will be cut further, but even more unlikely that it will be increased. Since most of the city's housing programs depend on CD money, plans for an improved IRHP must be based on the assumption that the share of the CD budget devoted to in rem housing cannot be increased.

TABLE 8.1 Division of Alternative Management Programs
Fiscal Year 1984 Budget
(in millions)

Community Management Program	\$19.705
Tenant Interim Leasing	5.3
Private Ownership & Management	3.495
Homesteading	.842
After Sales Support (8A Loans)	.3
Technical Assistance and Professional Services	.75
Personnel and OTPS	3.0
 Total	 33.392

Source: conversation with Eileen White,
DAMP Budget Director.

TABLE 8.2 Division of Property Management
Fiscal Year 1984 Funding Sources
(in millions)

Community Development Funds	\$44.8
Tax Levy Funds	41.8
Rent Collections	28.8

Source: Harry DiRienzo and Joan Allen,
The New York City In Rem Housing Program

A. How Much for In Rem Housing?

This section calculates a budget for the In Rem Housing Program consistent with the goal articulated in the previous section: the accomplishment of systems renovations as needed for all in rem buildings. Based on conversations with real estate managers, I have estimated the following repair costs for a thirty-unit building:

Replacement of plumbing	\$50,000
Replacement of electrical wiring	50,000
Replacement of boiler	30,000
Recap roof	10,000
Replacement of apt. doors	7,500
Purchase new stove and refrigerator	21,000
Replacement of windows	50,000
Total	218,500 (\$7,283 per unit)

While this estimate omits any structural or cosmetic repairs, which in some buildings admittedly are sorely needed, it does include money for windows, which is currently provided out of the state weatherization budget. If window replacement continues to be supported with state funds then the \$50,000 included in this budget can be devoted to other repairs. The \$7283 per unit cost should be thought of as an average, since some buildings will require more and others less. Of the two buildings reviewed in the previous chapter, for example, 167 Havemeyer Street needed few major repairs, whereas 195 South 4th Street needed everything but a new roof.

At the end of FY 1983 there were 11,958 DAMP buildings, of which 10,469 were in TIL and CMP. The number of units gained in additional title vestings have been about equal to the number sold, so this figure is about the same one year later. If these 10,469 units were to be treated as prescribed by the Assisted Tenant Leasing program each would receive the proposed \$7283 per unit expenditure, for a total program outlay of \$76.47 million. If repairs are accomplished over a two-year period, the program's yearly cost would be \$38.235 million (see Table 8.3). \$2 million is added to the technical assistance line to fund community groups working with the Assisted Tenant Leasing buildings; this would provide fifty groups with \$40,000 each to hire staff and pay overhead costs. Each group would then have an average workload of ten buildings. In the projected budget other programs are increased only slightly. The total projected DAMP budget in Table 8.3 is \$16 million higher than the present budget shown in Table 8.1; while additional funds have been allocated in the projected budget, money has also been saved by equalizing the rehabilitation levels in all buildings.

Projecting a new budget for Central Management buildings is trickier, since HPD's figures don't make clear how much of their budget goes for operating expenses, how much for repairs, and how much for personnel. For the sake of this calculation I will

TABLE 8.3 Proposed DAMP Budget
(in millions)

Assisted Tenant Leasing	\$38.236	
Private Ownership & Management	4.0	
Homesteading	1.0	
After Sales Support	.5	
Technical Assistance and Professional Services	2.75	
Personnel and DTPS	3.0	
 Total	 49.486	
	33.392	CD funds
	16.094	Other sources

TABLE 8.4 Proposed Budget for
the Division of Property Management
(in millions)

Repairs	\$77.685	
	44.8	CD Funds
	32.89	Other sources
 Operating	 41.8	
	28.8	Rent Collections
	13.0	Other sources

Total Amount Required from Other Sources: 61.98

Total Amount Already Allocated from Other Sources: 41.8

(See Table 4.2)

Balance: 20.18

ignore HPD's personnel costs, and assume that the part of the

budget funded through tax levies is the operating allocation, while the part funded by CD money represents repairs (see Table 8.4). A \$41.8 million annual operating budget for approximately 32,000 units represents as \$1306 per unit cost. Rents collected from Central Management buildings cover \$28.8 million, or \$900 per dwelling unit, leaving a balance of \$406 required to cover each apartment's operating costs, or \$13 million in total.

If repair funds were to be budgeted at \$7283 an apartment, then \$233 million would be required for all units. Projecting a repair schedule spread out over three years, this would cost \$77.68 million a year, or \$2428 a unit each year. \$44.8 million of this is CD-funded, leaving \$32.885 million for other funding sources. Combined with the operating shortfall, the total program cost not covered by rents or CD money would be \$45.89 million. The total city contribution for in rem housing under this plan would be \$61.98 million, or \$20.18 million more than is currently budgeted.

B. Additional Government Funding Sources

Both Governor Cuomo and Mayor Koch, motivated by the dearth of federal funds for low-income housing and encouraged by the fiscal conditions both state-wide and city-wide, have proposed new funding sources, all of which could be used for the in rem program. Governor Cuomo has suggested directing the revenues expected from the repayment of the Battery Park City bonds to low-income housing. Since this income stream does not begin until

1991, however, it must be considered a possibility for the future . Both the Governor and Mayor Koch would like to see some revenue coming from the World Trade Center, in the form of either real estate tax payments if the complex is sold to a private concern, or payments made in lieu of taxes by the Port Authority, its current owner. The Mayor proposes using these revenues to float \$1 billion in bonds that can be used to support low- and moderate-income housing development.

As discussed previously, the Mayor is interested in using city capital funds to renovate apartments in Central Management buildings. In his current budget message he has asked for \$75 million over five years for the renovation of 9000 apartments, or \$15 million a year. Since the capital budget is used only for permanent city property, Koch's willingness to use it for in rem buildings suggests a grudging acknowledgement of the city's long-term commitment to maintain this housing. If this \$15 million were budgeted in addition to, and not in place of existing city commitments it would cover most the \$20 million shortfall shown in Table 4.4. It's possible, however, that the Mayor's proposal refers to the aforementioned program to renovate vacant apartments for homeless Human Resource Administration clients. In that case, \$20 million would still be needed to upgrade occupied apartments.

C. Alternative Funding Sources: Housing Trust Funds

In many cities confronted by the cut-back of federal housing funds efforts have been made to raise revenue for housing from the

private market. The notion that those profiting from real estate development in booming downtown markets should be contributing to the creation of housing units throughout the city underlies plans already implemented in San Francisco and Boston and under discussion in New York. These plans all involve levying some form of surcharge on development to be contributed to a housing trust fund. The justification for taxing various forms of real estate activity to aid the development of low-income housing is complex. There is the argument that commercial development increases the demand for housing by attracting new workers to the city. By making contributions to housing creation commensurate with the size of their commercial projects, developers are helping to keep housing supply and demand in balance. The legal basis for instituting such a charge is the extension of the municipality's zoning powers. That the costs and benefits of downtown development are not felt equally by all city residents is another justification for requiring developer contributions. Frequently, property taxes paid by middle-income residents of neighborhoods outside of the downtown area fund the infrastructure improvements² needed to facilitate downtown development .

In the San Francisco "linkage" plan a developer must construct one housing unit for every 1125 square feet of office space he builds. Alternatively, he may contribute from \$4000 to \$6,000 (\$3.50 to \$5.30 per square foot) to a city fund used to aid housing suppliers. The San Francisco plan is designed to address

problems of housing supply, and does little to ensure that the units constructed with this money are affordable to moderate- or low-income people. In Boston, commercial development is taxed at \$5.00 a square foot, exempting the first 100,000 square feet. Since the tax is payable over twelve years, assuming a 10% discount rate, the actual payment comes to only \$2.50 a square foot. This plan could generate \$37 to \$52 million over ten years .

Planners in New York City have entertained proposals for instituting similar levies. The Pratt Center and the Metropolitan Action Institute, both long-time advocates of publicly funded low-income housing, have proposed a housing trust fund that would include revenues from a number of sources, some of which are existing taxes and some of which would need to be enacted. (See Appendix 5 for list of sources.) The new sources all tap different aspects of commercial and luxury residential development, as well as the popularity of converting rental units into cooperatives or condominiums. For instance, the state currently collects \$3 million a year in small registration fees from real estate syndications, most of which are in New York City. By increasing and restructuring this fee, \$21 million could be collected for the housing trust fund. Sponsors of cooperative and condominium conversions pay a similarly token filing fee. An increase of this filing charge on all converted units selling for over \$75,000 would raise \$8 million. These suggestions are appealing because they increase taxes that are already in place rather than levying new ones. The existing taxes also affect real

estate transactions that are extremely lucrative for those involved but don't directly produce new housing units.

The Pratt-Metropolitan proposal includes a developer contribution provision. Like the San Francisco and Boston plans it posits a connection between commercial development and housing demand, and proposes that developers contribute \$6,000 to the housing trust fund for every 1000 square feet of rentable office space they construct. Unlike the other plans this one includes a levy on residential development, excepting projects that are part of other low- and moderate-income housing production programs. Residential builders have the option of setting aside 10% of the units in their development as low rent apartments (defined as those renting within the HUD Fair Market Rent Maximum, currently \$420 for a two-bedroom apartment), or contributing \$6 per rentable square foot to the housing trust fund. Based on current market trends, an estimated \$50 million could be raised each year from developer contributions.

These combined sources could raise \$200 million for housing in New York City. If this were added to the \$200 million of CD funds currently used to support low-cost housing efforts, and leveraged with market-rate funds, it could produce 20,000 to 25,000 new and rehabilitated units each year. If some of this money were used for moderate rehabilitation of in rem units as proposed in the previous chapter, it could be stretched even further.

Other proposals to raise money focus on taxing the large profits currently being made in the luxury housing market. Peter Marcuse, who advocates a luxury housing tax, believes that the benefits of good housing result from providing public amenities: "highways, infrastructure, utilities, public services--and tax breaks. Today those with higher income and better housing obtain more benefits from these public actions, lower income people, who need such benefits more, benefit less"⁴. A tax on the housing of those with higher incomes helps to settle the score. Marcuse proposes taxes on the income from units renting for over \$1000 a month, a progressive property tax, adding 2% to the tax rate of units worth over \$100,000, and a speculation tax on capital gains from the sale of units for over \$100,000. Altogether these taxes⁵ could raise \$250 million a year.

Whether or not a housing trust fund made up of developer contributions and miscellaneous taxes is an appropriate way to fund low-income housing, it is not likely to be implemented in New York in the near future. The less controversial proposals, such as dedicating revenues from existing taxes to the trust fund, do not invite much opposition; neither do they increase the city's ability to provide services, however, since they simply divert money from one budget line to another. Any proposals that do generate additional income for the city, such as a developer contribution or a luxury housing tax, are not supported by the Koch Administration. The only official city initiative in this regard was the creation of a mayoral commission to study the use

of zoning authority to extract concessions--low-income housing or public amenities--from developers. This Development Commitments Study Commission concluded that zoning should not be used to achieve broader social goals. It did recommend the creation of some sort of housing trust to support low- and moderate-income housing development, but suggested it be funded with CD and UDAG money, which of course is already the funding source for the city's housing programs.

The Commission's reluctance to endorse any additional levy on developers is indicative of officials' squeamishness regarding any policy that makes demands on the business community. New York analysts fear that their apparently robust economy will be debilitated by any additional tax burden. In fact, until recently it has been customary to extend tax abatements to developers almost as-of-right--even to those building in the lucrative mid-Manhattan area. The last such abatement is scheduled to end in July of this year after pressure from City Council. But planners on the City Planning Commission are dismayed to lose these incentives to developers, and believe that a disincentive such as a housing trust fund contribution would greatly discourage investment in New York City real estate.

Why is New York, with its strong Manhattan real estate market, reluctant to charge developers with some responsibility for supporting low-income housing? Certainly the attitude of the Mayor, whose position is reputedly pro-development, has influenced

city policy. But beyond that looms the memory of the fiscal crisis, which was evoked by every city official I questioned. All New Yorkers dread the possibility of returning to those dark days of job loss and service withdrawal, but the "lessons of the fiscal crisis" and their influence on city policy are as controversial in New York as the "lessons of Vietnam" are within the U.S. foreign policy establishment. The Koch administration has taken the view that the fiscal crisis was the result of an overextension of municipal responsibilities and a climate uncondusive to private investment; it therefore shuns programs that involve city dollars, and works to make the city an attractive place to do business. Proponents of developer contributions and/or taxes are critical of Administration policy, contending that the Manhattan real estate market is so strong that additional taxes can be levied without discouraging investment.

This debate over development policy ultimately boils down to a presumably empirical question: What is the elasticity of demand for office and residential space in Manhattan? If developers can pass along any additional tax burdens to those who buy or rent from them, then they will not be discouraged from investing. The Pratt-Metropolitan housing trust fund proposal analyzed the impact of a \$6 per rentable square foot charge on a residential and a commercial project. They found that a commercial developer, who can now anticipate pre-tax internal rate of return of 32-33%, would still be getting a healthy 30-32% internal rate of return with the \$6 contribution. Rents would increase 1.5-2.5%. For the residential development, the contribution lowers the pre-tax

internal rate of return from 18.6% to 16.38%, and forces rents to increase somewhere between 2.5% and 4.2%.⁶ In neither case does the tax appear to have much affect on a project's profitability. Since it would be levied on all developments, no one project would be disadvantaged. While these calculations beg the questions of the precise shape of the demand curve, they do suggest that rent increases as a result of a new tax would be minimal, and potential tenants would be unlikely to give up a Manhattan location because of a rent increase of under 5%.

D. The Cross-Subsidy Program

HPD has begun its own limited version of a housing trust fund. The cross-subsidy program, about to be enacted in one section of the Southside, contributes the income generated from the sale of vacant city-owned property in the area to a fund used to produce and improve low- and moderate-income housing. The cross-subsidy idea was actually devised as a compromise between the low-income Hispanic residents of the Southside's devastated "Triangle" area and the more affluent Hassidic Jewish community nearby. The large tracts of vacant land in the Triangle attracted Hassidic developers, who saw the opportunity to create market-rate housing for their growing community. Low-income residents saw their future in the Triangle threatened by development, and protested the sale of city-owned lots for this purpose. The cross-subsidy program, which allows existing residents to benefit from the increased market value of property in their area,

succeeded in ending the stalemate between the two groups.

Approximately \$2 million will be raised through the sale of the Triangle's city-owned property, and this revenue will be used to bring down the costs of the Section 235 units being planned, and to supplement an existing revolving loan fund that is available to tenant-managed buildings, including those in the in rem programs . A similar plan is being proposed for the Lower East Side, which has a parallel juxtaposition of poor residents, vacant city-owned land, and developers interested in new opportunities.

While the cross-subsidy allows the benefits of market activity to accrue to those it may negatively affect, and is a good way to protect the interests of tenants in a particular neighborhood, it doesn't represent any absolute addition to the resources available for in rem housing. Revenues from sale of city-owned property already go toward supporting operating costs of Central Management buildings. Contributing the proceeds from the sale of certain parcels to particular projects only means that Central Management's operating funds will have to come from another source.

E. An Equitable Tax System

While developer contributions, luxury housing taxes and cross-subsidies are worth discussing as potential sources for housing funds, New York City should be able to raise the money it

needs for in rem housing from the tax base it has. In the past, tax abatements on lucrative projects that would most surely have been built without this added incentive have cost the city millions of dollars. The midtown and Lower Manhattan office expansions of CBS and Irving Trust, for instance, could have been built without a tax abatement; so could the high-rise luxury condominiums sprouting up along the East Side. In FY 1982 an estimated \$582 million was given up by the city in tax abatements⁸. Now that the last of these programs is ending (tax abatements are now available only for low- and moderate-income housing and for developments outside Manhattan), the city could collect more taxes, making additional levies unnecessary. George Sternlieb has suggested earmarking tax revenue from new, non-abated developments for low-income housing⁹.

On a smaller scale, New York City loses money by underassessing property values in upgrading neighborhoods. Peter Marcuse studied two such neighborhoods--Park Slope in Brooklyn and the Upper West Side of Manhattan--and found that, while the average sales price rose 177%, assessed values rose only 26.3%. Since one-third of the buildings sold on the Upper West Side also received tax abatements, it is likely that net tax revenues¹⁰ decreased in these improving areas.

In sum, with an additional \$20 million a year HPD could ensure that each of its in rem buildings have, at minimum, adequate mechanical systems. While there are a number of previously untapped sources for this money, in fact it could easily be found

in the city budget if existing taxes were equitably levied.

Notes on Chapter Eight

1. Edward I. Koch, "State of the City: Housing Initiatives," January, 1985, 8.
2. Advisory Group on the Linkage between Downtown Development and Neighborhood Housing, "Report to the Mayor on the Linkage between Downtown Development and Neighborhood Housing," October, 1983.
3. Ibid.
4. Peter Marcuse, "A Luxury Housing Tax," City Limits 8 (December 1983), 16.
5. Ibid.
6. Pratt Center and Center for Metropolitan Action, New York City's Housing Crisis: Private Development and Public Need, (New York, 1983) Appendix.
7. Cathy Herman interview.
8. Richard McGahey, "Whatever Happened to Enterprise Zones?" New York Affairs 7 (1983), 57.
9. Joseph Berger, "Failure of Plan for Homeless Reflects City Housing Crisis," New York Times 19 February 1985.
10. Peter Marcuse, "Measuring Gentrification's Impact," City Limits 9 (May 1984), 26-27.

Conclusion

CONCLUSION

This thesis describes a model for housing the poor that promotes neighborhood stabilization, contributes to the personal development of its participants, and requires only minimal public subsidies, red tape and agency involvement. This model, the basis of New York City's In Rem Housing Program, is unique. It represents a clear alternative to private, for-profit ownership. It recognizes the importance of community. And its inspiration comes from the spontaneous actions of creative, desperate people who, without official sanction or preconceived ideology, began to seize control of property that no longer met the investor's need to make a profit but continued to meet their need to keep a roof over their heads. Whether these pioneers fifteen years ago were squatters who moved into empty HUD-owned houses or tenants who pooled their resources to manage their apartment buildings once their landlord had walked away, their actions reflected their conviction that the private sector was not going to provide them with satisfactory housing and their impatience with meager government attempts to augment or replace private efforts. These ad hoc responses have been formalized into government-sponsored urban homesteading programs, by far the largest of which is New York's In Rem Housing Program.

What makes the In Rem Housing Program so interesting is its ad hoc evolution, so different than that of most housing programs which are carefully designed by planners and debated by politicians. The IRHP that was created in 1978 merely tied

together a number of trends--landlord abandonment, city management, and tenant sweat equity--that had been developing for years. It is a program that must therefore be evaluated by comparing it not to other housing programs that have had the advantage of pre-planning, but to the alternative of doing nothing. If the city had refused to assume management responsibility when thousands of owners had walked away from their properties, the housing situation in low-income neighborhoods, which is hardly appealing right now, would have been completely chaotic. But even if we do compare it to more traditional housing programs it looks good. It's per unit costs are quite low, it demands minimal government review, and offers little opportunity for corruption or serious mismanagement. Although it is not available to everyone--one must enjoy the dubious distinction of living in a tax-foreclosed building to participate--it maintains a guaranteed source of low-cost rental and cooperative units.

The In Rem Housing Program, both in its present form and in the Assisted Tenant Leasing proposal, is open to criticism because it does not provide housing comparable to that constructed for more affluent residents. Some older in rem units, which lack bathroom sinks, may not even meet FHA standards. But frankly, low-income families could end up homeless waiting for planners to develop more attractive housing in at a time when the federal government has all but abandoned its role in housing subsidization. A program that ensures

structurally adequate, safe and sanitary living quarters at low costs is one that can address the housing problems faced by the poor today. Since control of the property ultimately resides with the tenants, they are the ones who will be able to benefit by further improving their buildings should more substantial funding become available in years to come. Meanwhile, there's no reason to think that a combination of city-funded systems repairs and tenant-funded cosmetic repairs, and responsible maintenance cannot extend the life of these buildings for ten or fifteen years

A. The Future of In Rem Housing

City-wide trends suggest that the rate of tax foreclosure is decreasing. Thus, while there will continue to be a net gain of city-owned housing units, the rate of increase will be slower than it had been a few years ago. The city can therefore approach in rem management without the sense of crisis it has had.

This thesis underscores the importance of tenant control as a way to ensure adequate housing for the poor. I have not devoted much attention to the role of private managers or public management in the future of in rem policy.

The discussion of POMP in Chapter Four indicated the success of this program, but questioned whether it could preserve low-

income housing in the long run. For these reasons I would recommend that POMP be continued, and even expanded, if qualified managers and appropriate properties can be identified. But private management should continue to be the exception, and not the rule for in rem properties. Too many questions about the long-term availability of low-cost units under private management remain unanswered. Tenants should continue to have "first right of refusal" to manage and purchase their buildings. Since in rem programs do involve government grants to participants, it is only right that residents of a building should have the option of receiving those grants to improve their own housing before a profit-oriented private manager is called in.

Perhaps the most difficult task for in rem policy-makers is to plan for its Central Management buildings. This task will become easier if more money is devoted to preventative maintenance in these buildings. Because HPD has so many responsibilities, including the vesting and initial processing of all the in rem buildings, it might be advantageous to relieve the agency of responsibility for managing these 32,000 units.

One alternative might be to shift Central Management buildings, after an initial stabilization period, to NYCHA. Such a plan was unsuccessfully attempted several years ago. It's failure has been attributed to poor communications between HPD and NYCHA¹, and to the inability of NYCHA, which it used to handling pre-screened tenants in newly-constructed apartments, to accomodate itself to the in rem situation². It is possible

that the improvement in HPD's intake procedures has made another attempt at inter-agency cooperation worth pursuing. It is a shame that New York's in rem tenants should not receive the benefits of NYCHA's fifty years of experience in low-income housing management because two agencies are unwilling to cooperate. Another alternative would be for HPD to create its own housing authority, which at least would leave the agency free to vest properties more frequently .

3

Landlord abandonment, like plant closings, is a symptom of larger market forces over which a municipality has little control. Yet it is the local government which must contend with the results of private disinvestment. Cities have been able to do very little to curb or replace private investment in industry. By virtue of its tax foreclosure laws, however, the City of New York has the legal weapon to seize housing from an abandoning landlord. It thus has the opportunity to create an alternative to the private housing market. Its In Rem Housing Program can be a model for other cities in two respects. First, it is a prototype of municipal involvement in a declining housing market. While the precise structure of the in rem housing programs might not be appropriate to other cities, the notion that the city can play a role in preserving housing in the face of private disinvestment is one from which others can learn. Second, it relies on tenant control to achieve much of its success. As tenant cooperatives are now touted as a means of providing housing for low-income families, the lessons of the DAMP

cooperatives--that tenant self-management can work but only with public support and in conjunction with other government housing programs--are well worth studying.

Notes on Conclusion

1. Susan Baldwin, "Exit, the New York City Housing Authority," City Limits 6 (March, 1981), 16-19.
2. Brian Sullivan, The Division of Alternative Management Programs.
3. Harry DiRienzo and Joan B. Allen, The New York City In Rem Housing Program.

Appendices

APPENDIX ONE

Summary of Changes in New York City Rent Regulation Systems, 1943-present.

Year	System	Type of Regulation	Buildings Affected
1943	Rent Control	Rents frozen except for 15% increase on vacancy.	All rental units in buildings with 3 or more units.
1950	Rent Control	Same as above, with 15% across the board increase in 1953.	All units as above in buildings built pre-1947.
1962	Rent Control	City takes over system from state; luxury decontrol in 1964.	As above; vacancy decontrol for units in buildings of 3-6 units.
1969	Rent Stabilization	Rent increases according to formula tied to CPI.	All units in buildings built 1947-1969 with 6 or more units.
1970	Maximum Base Rent	7.5% annual increases depending on costs.	All rent controlled units.
1971	Vacancy Decontrol	All apartments decontrolled upon vacancy.	All units
1974	Emergency Tenant Protection Act	Rent stabilization applied to all apartments which have reached market rents.	All previously regulated and subsequently decontrolled units.

Source: David Bartlett and Ronald Lawson, "Rent Control: A Second Look at the Evidence," Journal of Urban Affairs 4 (Fall, 1982).

1974-1984: Structure of both systems remained unchanged. Each year allowable increases for rent stabilized apartments are adjusted, and vacancy allowances are adjusted. In some years there have been no vacancy allowances.

In 1984 administration of the rent stabilization system moved from the Rent Stabilization Association to the New York State. Rent Control is still administered by New York City.

APPENDIX TWO

The Redemption Process

The process by which the City of New York takes title to tax delinquent properties is a slow one, and there are many points along the way at which a landlord can bring it to a close. The terms of redemption are complicated and controversial, since the ease with which one can get back one's property plays a large role in determining how one will handle property tax payments. On the one hand, a policy of easy redemption would encourage landlords to postpone tax payments and redeem delinquent properties at the last minute. On the other hand, when redemption is difficult, property owners who defaulted on their payments due to some kind of emergency but want to keep their buildings cannot get them back. For every story of the rapacious landlord eager to retrieve his building in order to milk it further, there is the story of the elderly couple losing their home because hospital bills forced them to miss a few payments. In recognition of the fact that there are at least two kinds of property owners who find themselves in tax arrears, and that they roughly break down into those who own and live in a small building, and those who own one or more large buildings and live elsewhere, the city has followed a bifurcated redemption policy designed to facilitate redemptions by the former group and discourage them by the latter.

Taxes are due the first day of each quarter; there is a

fifteen day grace period before penalties are levied. The annual interest charge on overdue bills is 7% for debts under \$2750 and 16.5% for other debts. These terms are in effect until the process of vesting title has begun. Once a building has been selected for foreclosure its owner must either pay in full or sign an agreement with additional penalties to redeem his property. The terms are outlined below.

Because the redemption terms are substantially unchanged from the Brooklyn In Rem Action 33 of 1982, we will use this action as a example. In the winter of 1981-82, the Department of Finance compiled a list of all buildings owing four or more quarters of property taxes. These buildings were "selected" for vesting. Owners of these buildings were notified of the pending action, and given until April 30 to come forward. In order to stop their building from being included in the next phase of vesting, called "filing," they had to do the following:

Owner occupants of 1 - 5 family buildings:

--Pay in full;

--Pay 10% of arrears down and sign agreement to pay off balance, along with future taxes, over twelve years.

--If total arrears are under \$2750 interest is 7%; if over, 16.5%.

All other owners:

--Pay in full;

--Pay 15% down and pay off balance over eight years. Interest same as for small buildings.

In both cases, agreements could be made after the April 30 filing

date but before vesting with 25.5% interest.

Once the city vests title it is still possible for a landlord to get his property back. The four month period after vesting is the "Mandatory Release Period." During this time a building is released to its former owner (with approval of the Corporation Counsel) if payment is made in full. A landlord can also enter into an installment agreement with the approval of the Board of Estimate and the Department of General Services. Such an agreement requires a \$100 filing fee, and a deposit of \$900 or all taxes owed, whichever is less. If the agreement is approved, owner occupants of one to five unit buildings receive the same terms as they had before vesting; others must pay 50% down and the balance within one year. Once the Mandatory Release Period is over, there is still a two year Discretionary Period during which time a landlord can regain his property with Board of Estimate approval.

APPENDIX THREE

The Legal Status of DAMP Cooperatives

Before purchasing their buildings, tenant groups must incorporate as Housing Development Fund Corporations as described in Article XI of New York State's Private Financing Law. Only HDFCs are permitted to purchase buildings directly from the City of New York without undergoing some kind of open bidding process. HDFCs are required to provide housing for low-income persons, defined as those whose annual gross income does not exceed six times the annual rental, including all utilities. Because HDFCs are for-profit corporations (a not-for-profit corporation cannot issue shares, therefore it is not an appropriate form for a cooperative), they must pay corporate income taxes.

DAMP cooperatives are also limited equity cooperatives in which the amount of equity, or profit, that an individual can accumulate is restricted. The resale restrictions are as follows:

First three years: seller recoups initial investment (presumably \$250) plus any special assessments. Any additional profit goes to the cooperative.

After three years: seller recoups initial investment, plus special assessments, plus any capital improvements that had been approved by the cooperative. Any additional profit is split between the seller and the cooperative, with the seller retaining 30%. The cooperative board can vote to further restrict the percentage kept by the seller, but cannot vote to liberalize the seller's share.

Cooperatives produced through the TIL program cannot vote to sell the entire building for ten years; those from the Community Management Program cannot sell the building for fifteen years.

Residents of DAMP coops in the Chelsea-Clinton area will be required to pay an additional 40% of their profit to the city. No mechanism for enforcing this has been devised, however.

APPENDIX FOUR

Assumptions Used for Calculating Projected Costs for In Rem Buildings

Fixed Costs - Based on similarly situated buildings

Variable Costs

Plumbing - Assumes each unit will have one to two leaks each year, each costing \$500 to repair.

Electrical - Based on electrical repair costs for these buildings over the past few years. It's hard to estimate the cost to a building of faulty wiring, since the risk of fire is more important than the actual cost of repairs.

Plastering - Includes repairs, usually after water damage. Therefore plastering costs decrease when plumbing and electricity are repaired.

Appliances - Refers to stoves and refrigerators. If all new appliances are purchased, each will cost \$350.00 and will need replacing every ten years. If used appliances are purchased, they will cost \$125.00 to \$150.00 each, and will have to be replaced every two years.

Painting - Each apartment is repainted every three years, as per New York State law.

Boiler maintenance - based on past experience.

Electrical Service - for building common areas; based on past experience.

Fuel - based on past experience.

POTENTIAL ANNUAL REVENUE SOURCES FOR N.Y.C. (ONLY NO TAXES FUNDS)

Title	Description	Comments	Projected Contribution
Real Property Transfer Tax - (for schedule see attached)	A levy charged everytime a deed changes hands. In FY'83 48,944 deeds changed hands resulting in collections of \$97,888,699. The entire sum stays in NYC, with \$69.6 million going into the City's General Fund.	Most of these funds are presently earmarked. However, due to the enormity of the housing need and its relationship to real estate transaction that a setaside and/or surcharge totalling 10% be instituted to contribute to a HTF.	\$10 Million
State Stamp Tax - (for schedule see attached)	Similar to Real Property Transfer Tax but earmarked for the State. Small nominal amount remains in NYC for administration. FY'83 48,944 NYC deeds generated \$6,328,743 in State revenues.	Same as above - Create a State Stamp Tax Surcharge of \$15 plus 1/10 of 1% for amounts over \$35K - Surcharge would be targeted to HTF.	1.5 Million
Capital Gains Tax	A charge on the sale of property over \$1 million. 10% charged on the gain difference between the old and the new selling price. Approximately 5000 transactions of this type occurred in FY'83, generating \$14,703,145. This revenue currently goes to the State General Fund and was recently abolished from going to the City's. \$43.5M collected statewide.	Its estimated that approx. 100 million will be generated this year. As above, we propose that a surcharge and/or setaside equivalent to 15% be instituted and that that amount be contributed to a HTF	15 Million
Mortgage Tax - (for schedule see attached)	A tax levied for recording a mortgage onto the title. 37,697 NYC recordings occurred in FY'83, producing \$79,769,961 in revenues collected, \$58M going to the State's General Fund. The balance is earmarked: 1% to the City; for obligations over \$.5M, 1/4 of 1% goes to MTA; and for mortgages of \$25K and above, 1/4 of 1% for the BONYMA Mortgage Insurance Program for rehabs. Statewide mortgage tax collections last FY amounted to \$159.7M.	This year we expect that BONYMA will receive approx. \$48.5 million. Of this they will retain about 9% leaving \$43.65 million. Of this, 65% or \$28.7 million - NYC's pro-rated share - should be invested in the Housing Trust Fund	28.7 Million
Building Dept. fees	A fee charged for building inspections. Various fees charged based on size, type, and kind, eg. \$35 for elevator inspection etc. FY'83 net fees \$13,950,000.	Using this pot of \$ at present is not feasible since an increase should go into increased inspections	

Source: Pratt Center and Metropolitan Action Center

Title	Description	Comments	Projected Contribution
UDAB repayments -	Repayments of federal Urban Development Action Grants in FY'83 yielding \$146,956 in principal plus \$478,846 in interest, total \$625,802. Current repayments supply a revolving loan fund that is administered by the Economic Capital Corporation and is used as retention, expansion, machinery or equipment monies for industrial and commercial companies.	This year's total of \$8.5 million seems exceedingly low. We estimate significant increases over the next few years. All repayments should be targeted to the Housing Trust Fund.	
PLP repayments -	Repayments attributable to NYC's Participation Loan Program. \$2.7M for FY'83.		
Article 8A Loan Program	Repayments attributable to NYC's housing systems repair loan program.		10 Million
Sale of Non-Residential City Owned Property -	Proceeds from the sales and mortgages of In-Ree commercial properties. \$26M for FY'83.	In FY'83 a total \$33.2 million was received. We estimate that this level will continue for the next few years. The total, minus administrative expenses, should be targeted to the housing trust fund.	
Sale of Residential City Owned Property -	Proceeds from the sales and mortgages of In-Ree residential properties. \$6,531,292 in sales and \$689,665 in mortgages for FY'83.		30 Million
Coop and Condominium filing fees -	Fees charged for incorporation of a Coop or Condominium, payable to the Attorney General's Office. \$3,646,307 collected for FY'83, includes \$300K in amendment fees. <u>Schedule based on 1/10 of 1% of the offering price. Maximum fee cannot exceed \$10K. Fees go to State.</u>	These fees should be completely restructured. Same fee schedule should prevail for all units selling below \$75K, the fee would be increased by 50% for units offered between \$75 - 100K, and by 100% for units offered above \$100K. The cap of \$10,000 per building should be removed.	8 Million
Corporation filing fee -	A fee imposed for the filing of corporations in NY State. \$7.8M collected statewide FY'83. Payable to Dept. of State.	Fee structure should be revamped and increased with excess income estimate at \$2 million going to housing trust fund.	2 Million

Title	Description	Comments	Projected Contribution
Registration for Limited Partnership Syndications	- A fee charged for the registration of real estate syndications. Statewide FY'83 collections amounted to \$3,650,174, almost exclusively from NYC. Fees go to State. 1/10 of 1% of dollar offering. Minimum fee \$250, Maximum cannot exceed \$10,000.	Real estate related limited partnerships are a lucrative area that have not been tapped to benefit NYC. We propose an intensive investigation of how this can be done. However, we propose that the fee structure be revamped to yield a total of \$9 - 10 million with the excess over \$4 million going to the HTF.	21 Million
Interest Earned on Real Estate Escrow Accounts	- Interest earned on state aided or assisted real estate endeavor.	This is being investigated by a Veatch Foundation Study. We estimate that \$10 million per year can be generated.	10 Million
Hotel Occupancy Surcharge	- A sliding scale surcharge averaging \$.50 per room per night occupancy tax imposed on every hotel room in the City	There are over 86,000 hotel rooms in the City averaging over 70% occupancy over the 365 days of the year. In most instances \$.50 per night would amount to less than a 3/4 of 1% surcharge to the cost of overnight lodging.	11 Million
Tax Increment Finance District	- A surcharge levied to those benefited by a particular service or local improvement in an area. Financing usually applied to redevelopment by a bond issue that will be serviced from the anticipated additional tax revenues following the redevelopment.	We estimate that about \$10 - 15 million per year can be generated by the increased real estate values attributed to public actions. These would be harnessed under our proposal by establishing a T.I.F.D. The income of which would yield about \$12.5 million per year to the H.T.F.	12.5 Million
Big Mac Pay Back	- Defined from attached.	Interest earned on reserve accounts, paybacks, and unspent \$ from the proposal. Big Mac Housing Investment Fund would yield approx. \$20 million per year.	20 Million
Inclusionary Zoning Payment Commercial Development Exactions	----->	----->	50 Million
Total \$229.7 Million			

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