



CITY OF NEW YORK

**MANHATTAN COMMUNITY BOARD FOUR**

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Delores Rubin  
Chair

**Jesse Bodine**  
District Manager

December 15, 2016

Vicki Been  
Commissioner  
NYC Department of Housing Preservation and Development  
100 Gold Street  
New York, NY 10007

**Re: Proposed Regulatory Agreement for HDFC's**

Dear Commissioner Been:

For decades, Manhattan Community Board 4 (MCB4) has been a strong advocate for affordable housing at a range of incomes and believes that socioeconomic diversity and integration are the only way to keep Chelsea / Hudson Yards and Clinton/Hell's Kitchen the thriving neighborhoods they are today. You may not know, however, that from the early 1980's, MCB4 has been a strong and consistent advocate for the creation of affordable home ownership in cooperative housing in Housing Development Fund Companies (HDFC's).

Our district's HDFC co-ops have been largely successful and have provided affordable homes for community residents in MCB4, based on a limited equity/limited profit model. The Board is invested in ensuring that the affordability of these co-ops is sustainable and requests that HPD work with MCB4 to enact new policies that allow this housing resource to serve our residents in the long-term.

**Background**

The majority of affordable home ownership in Manhattan Community District 4 lies in 2 major resources. The largest resource is the Penn South Mutual Development Houses comprising over 2820 affordable coop apartments for low and moderate income households. Dedicated by in 1962 for low and moderate income individuals and families, Penn South has maintained its affordability. Most recently, a large majority of shareholders voted in favor of maintaining income and price caps through 2052 in exchange for receiving further real estate tax caps.

**However, our second largest resource of affordable home ownership lies in HDFC cooperatives, comprising 94 original buildings now containing 949 affordable coop apartments for low, moderate and middle income community residents.**

While Penn South is a highly visible development, these HDFC's are part of the background fabric of residential blocks in Chelsea and Clinton/Hell's Kitchen. They are almost all in old law or pre old law tenements. Early HDFC's from the early 1980's had minimal capital improvements funded by HPD (mostly mechanical system replacement.) HDFC's created in the late 1980's through the late 1990's were gut renovated through a combination of HPD Capital Funds and the Clinton Preservation Fund<sup>1</sup>.

The common thread holding all these HDFC's together is that they were created from city owned property acquired through In Rem Foreclosure<sup>2</sup>. In the late 1970's and early 1980's, the city was in financial and social decline. Many property owners abandoned their buildings and left the long term tenants to fend for themselves. These tenants, banded together to pool their rent monies and pay bills for heating oil and Con Edison in the public areas which had been turned off for non-payment. These activities then led to organized tenant associations, which in turn, as the City of New York took the properties for non-payment of real estate taxes, petitioned the City to manage their own homes.

Eventually, HPD created affordable housing programs to allow tenants to have their homes renovated to varying degrees by the City itself or not-for-profit community organizations. The housing programs required that the buildings would first enter a leasing or contract program, the tenants would be trained in co-op management, HPD would fund some degree of major capital improvements and the long term tenants would purchase the buildings for a nominal price (in most cases for \$250 per unit). The idea adopted was to create limited-equity, limited-profit housing cooperatives under Article XI of New York State's Private Housing Finance Law.

The social contract was based on limited equity (nominal purchase price) and limited profit (apartment resale restrictions governing profit split between the outgoing shareholder and the co-op). Income restrictions were set for incoming shareholders, but all long term tenants were grandfathered in with no income test, to ensure no displacement occurred.

***It is important to remember that these future co-op owners did not choose to become property owners, but instead were tenants of buildings abandoned by their owners. The majority of tenants chose to purchase their apartments to provide affordable housing security for themselves and their families.***

#### **Efforts to Secure HDFC's as Affordable Housing in MCB4**

After its initial commitments in the late 1970's to preserve such buildings as affordable housing with nominal sales prices (\$250 per unit), in 1982, in Clinton/Hell's Kitchen and Chelsea, the City proposed to increase the purchase prices for the long-term low income tenants from \$9,000 to \$13,500 per apartment. That proposed policy change was then extended to Harlem and parts of Brooklyn. With the housing security of hundreds of neighborhood families at risk, MCB4, alongside a coalition of future HDFC shareholders, neighborhood organizations, churches and

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<sup>1</sup> The Clinton Preservation Fund was comprised of City and State budget funds set aside to ensure the production and preservation of affordable housing in Clinton/Hell's Kitchen as a result of Times Square Development Project undertaken by the State and City of New York in 1984.

<sup>2</sup> In Rem Foreclosure was the taking of real property by the City of New York for non-payment of real estate taxes by the their property owners

elected officials, was the leader in a city wide campaign to ensure affordable sales prices for these future HDFC shareholders. Early in this campaign, MCB4 and the tenants of these future HDFC's embraced apartment resale restrictions as a means of keeping apartments affordable. In late 1982, the City's then Board of Estimate, enacted a version of resale restrictions. In 1985, after years of study, the City began HDFC cooperative sales to tenants.

### **Continuing HDFC Affordability**

MCB4 realized in the late 1980's that affordable sales prices with apartment resale restrictions were not enough to ensure long term affordability. As our west side neighborhoods began to develop and improve, real estate taxes rose dramatically. MCB4 advocated on behalf of current and future affordable HDFC co-ops for specific real estate tax exemptions. The DAMP Real Estate Cap<sup>3</sup> was enacted ensuring stable real estate tax increases, preserving affordable monthly co-op maintenance charges. That DAMP Cap Real Estate Exemption will expire in 12 years, putting hundreds of households at risk of displacement through unaffordable real estate tax increases.

### **HDFC Success in Ownership**

In Chelsea and Clinton/Hell's Kitchen, many HDFC's have been successful examples of home ownership. They are stable, affordable housing occupied in the main by their long term original tenants, now shareholders. Apartment turnover for sales is low; most sales are a result of death of long term occupants. Most have maintained affordable resale prices, but some have not. In many cases, HDFC's have flip taxes, ensuring a portion of the apartment sale profit is retained by the co-op.

However, it must be noted that some co-ops have not been successful, plagued by in-fighting and internal disagreements, in some cases leading to legal action. Other shareholders are no longer primary residents and live elsewhere while renting their units for a profit. Others have sold apartments to non-income eligible shareholders. These actions are not part of that social contract, which was based on limited equity and limited profit with income restrictions.

But again, it is important to remember, these future co-op owners did not choose to become property owners, but instead were tenants of buildings abandoned by their owners. These HDFC's remain a work in progress.

### **Proposed HPD Regulatory Agreement**

To address long term affordability, primary residence requirements, subletting for profit, unaffordable resale prices and host of coop management matters, HPD has proposed, in conjunction with a long term Real Estate Tax Exemption, a regulatory agreement for HDFC's. While the intent to address these matters is laudable, the details of this agreement have caused considerable controversy among HDFC's, HDFC Shareholders, City Councilmembers and Community Boards. HPD's communication and explanation of these matters has unfortunately

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<sup>3</sup> Passed by City Council in 1989, it created a capped real estate tax assessment of \$2500 per apartment, increasing at 6% per year throughout 2029. The real assessment taxes are based on the highly reduced assessment ensuring a stable real estate tax bill to not create huge annual coop maintenance increases due to increase RE taxes.

compounded the controversy. A citywide HDFC Coalition has been formed in response to the proposal. MCB4 urges the following:

- HPD recognize the decades long history of these HDFC coops and understand their reaction to these proposed changes
- HPD increase its public outreach to HDFC's and Community Boards on this evolving and important matter, and schedule Community Board based presentations
- HPD, as these proposed regulatory agreements evolve, understand that one size does not fit all. The proposed regulatory framework must be flexible enough to be tailored to each HDFC's different circumstances.

### Conclusion

MCB4 has worked for decades to preserve the fabric of our neighborhoods of Chelsea and Clinton/Hell's Kitchen. The 94 buildings and 949 affordable cooperative apartments in these HDFC's are part of that community fabric. MCB4 requests to meet and work with HPD, with and on behalf of our community based HDFC's to ensure both their long term affordability and to meet the promise of limited equity/limited profit cooperative home ownership for low, moderate and middle income households. This affordable housing security has existed for 34 years since 1982, and MCB4 requests to ensure its long-term future.

Sincerely,



Delores Rubin  
MCB4 Chair



[ Signed 12/6/2016 ]  
Barbara Davis, Co-Chair  
Housing, Health &  
Human Services Committee

Joe Restuccia, Co-Chair  
Housing, Health &  
Human Services Committee

cc: Hon. Brad Hoylman, State Senate  
Hon. Richard Gottfried, State Assembly  
Hon. Gale A. Brewer, Manhattan Borough President  
Hon. Corey Johnson, City Council  
Jordan Press, NYC HPD  
AM Hendrickson, HPD  
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