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Dear New Yorkers:

This letter reports on NYCHA's progress as required by the HUD Agreement, providing a high-level overview of NYCHA's performance since my letter dated June 28, 2021.



*Bart M. Schwartz, Federal Monitor*

In this report I discuss: (1) the need for greater focus on improving NYCHA's operations, and not only on capital projects; (2) the success of a pilot program that improved elevator service at NYCHA's worst-performing development; (3) NYCHA's efforts to reorganize its heating equipment storerooms to prevent waste and to facilitate quicker heating repairs; (4) the rollout of the Neighborhood Model as part of the Implementation Plan, which is aimed at empowering local control of developments; (5) the ongoing work to install door sweeps as a pest control measure; (6) recent actions related to lead-based paint, particularly in units where children under six reside; and (7) an update on the fan ventilation project and other mold-related activities.

There are some important recent developments at the city, state and federal levels that impact NYCHA. Governor Hochul announced that one of her administration's priorities is improving services for NYCHA residents. I have recently met with the new Lt. Governor, who has long worked to improve conditions at NYCHA, and expect to have regular interactions with him regarding various NYCHA issues, particularly projects where state funds are being used. We also will soon have a new mayor, who likely will also have some new and innovative ideas to improve conditions for residents. It is also a real possibility that public housing authorities across the country will soon receive additional federal funding through the infrastructure legislation (known as the *Build Back Better* bill) currently under consideration by Congress. NYCHA could receive billions of dollars in additional capital funding for critical projects to help its aging developments. And lastly in other news, the Memorandum of Understanding between the Citywide Council of Presidents ("CCOP") and NYCHA was recently finalized and executed. This should establish a clearer structure for communication and collaboration between resident leaders and NYCHA, which is crucial to the development of NYCHA's new Organizational Plan as required under the HUD Agreement.

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As the Monitor, my team and I stand ready to work with NYCHA to take full advantage of these opportunities and ensure that there are effective, achievable plans in place for using these new resources.

### I. Greater Focus on NYCHA Operations

At the recent Monitor-led Bronx resident community meeting, I spoke about NYCHA's capital versus operational funding, and the need to have increases in both to improve NYCHA in the present and near future, as well as in the longer term.

As I described at that meeting, a good way to think about capital projects is that they generally focus on improvements to long-term infrastructures and fixtures, such as replacing roofs, boilers, elevators, interior building piping, or building a new community center. On the other hand, operations work generally concerns the maintenance and repairs of assets and equipment, as well as the work required to provide services to residents. Operations funds are used to cover the costs for staff salaries (NYCHA's major operational expense) and for other resources needed by the staff to perform their work, such as the costs for training, equipment, computers, phones/hand-held devices, vehicles, and Maximo and other data platforms, among many other things.

Over the last few years, NYCHA has focused on improvements, particularly with the introduction of its *BluePrint for Change*, with the aim of raising substantially more funding for its capital projects. That makes sense, because it is clear that NYCHA must replace many of its aging boilers and elevators and rehabilitate much of its building infrastructure. Over time, these assets will continue to degrade and will ultimately reach a point where no amount of maintenance or repairs will keep them going. But completing these new capital projects will take time, even under the best of circumstances – years in many cases. What are the residents supposed to do in the meantime? Focusing solely on increasing funds for NYCHA capital projects to the detriment of operating expenses would delay improving conditions for residents now and in the short term in the hopes of future rebuilding.

The push to rebuild NYCHA by completing these new capital projects cannot be done to the exclusion of improvement in NYCHA's operations performance – mainly the delivery of core services to its residents. While the HUD Agreement obligates NYCHA to complete significant capital improvements – especially new boilers and elevators – the main pillar service improvements that NYCHA and the city committed to in the Agreement center on the work of NYCHA's Operations Division. The primary work of the monitorship has been on these main service delivery areas, including: 1) reducing the number and duration of various service disruptions like heating and elevator outages, 2) responding faster and

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more effectively to resident complaints of mold and pest conditions, apartment leaks, and insufficient heat, 3) identifying more effectively and then correcting lead-based paint deficiencies in units and 4) ensuring that buildings and units are properly maintained and that needed repairs are properly performed, including ensuring that developments are cleaned daily and that garbage is managed and removed. It is also important to remember that one of Operation's central jobs is also to properly maintain the completed capital projects – such as boilers, elevators and building infrastructure – so that they last and are in use to serve residents for their intended lifespans.

Under the HUD Agreement NYCHA must implement a new Organizational Plan precisely because, during the process of negotiating the consent decree and then the Agreement in 2018-2019, it was realized that NYCHA's organization had become outdated, and in many ways ineffective and inefficient. This was particularly true regarding its ability to deliver core services to residents, its main operational obligation. Going forward, the centerpiece of NYCHA's new reorganization strategy is to decentralize its operations and move to a "Neighborhood Model," premised on the idea that greater localized control and accountability by NYCHA managers and supervisors at the developments will improve operations. More details about the roll out of this plan are discussed later in this report.

There are two necessary elements for improving NYCHA's operations. First, NYCHA must increase its efforts to improve operational performance with the resources it presently has. This includes: 1) continuing to collect and use its data to drive decisions, 2) more effective staff management including worker compliance with standard operating procedures and other protocols, 3) more comprehensive staff training, 4) better communication between and among pillar service areas, and 5) fostering a true service delivery mentality and culture of integrity among staff for the work they do.

As part of these improvements, the Operations Division must become better at finding solutions and overcoming common failures that often undermine its performance, particularly at the development level. To take a recent example, Monitor team field examiners discovered this past May that individuals had commandeered two terraces at a Bronx development by placing locks on the terrace entry doors, excluding other residents and development staff. The individuals turned one terrace into a private gym and the other a motor bike repair shop, which creates a safety issue because of potential fire hazards. We learned from our interviews of residents that this circumstance had existed for some time. When we notified development staff, they were aware of the gym but apparently not the bike shop, which raises a concern about how well they know the conditions of their buildings. What was very clear was that development staff were not going to address the issue; we spent the next three months pushing the development to reopen the terraces to all residents with no results.

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Finally in mid-August the development hired a vendor to remove the locks and the materials (gym equipment and bikes) from the terraces, under the supervision of the local NYPD PSA. Unfortunately, by the Labor Day weekend the same conditions returned and both terraces are once again locked and unavailable for common use. In a discussion the Monitor team had with the Operations Division in August, all agreed that local development staff were possibly not equipped to correct this problem and that a more centralized security-type enforcement team within Operations should be established at NYCHA to address this and other similar circumstances. But situations like this where there are potential safety concerns for local staff to take actions are common enough that NYCHA should have a workable process in place. It is now two months after that conversation and nothing to our knowledge has been done or decisions made regarding next steps to correct this and reopen these terraces to all building residents.

Another example of the kind of performance breakdown that the Operations Division must more quickly overcome is the problems with the door sweep installation project that is addressed later in this report. As described in more detail below, it took NYCHA three attempts over the last two years before it finally corrected the flaws in its process and began to perform these installations satisfactorily. A common thread in all these and other examples we have seen during the monitorship is that NYCHA at times seems to accept failure as an option rather than addressing and then resolving problems head on.

Second, in addition to NYCHA improving its overall operational performance, it is equally critical that NYCHA be provided with additional funding to meet more of its operational needs – both to implement the Neighborhood Model and to otherwise comply with its performance obligations under the Agreement. Among other things, NYCHA needs more staff in many areas – in its heating and elevator departments, mold and lead-paint remediation/abatement, skilled trades (painters, plumbers, plasterers, electricians, carpenters), and maintenance workers and caretakers at the developments. For example, NYCHA indicates that it does not have the money to hire an additional 300 mold remediation workers (or to retain vendor equivalents) in various skilled trades – the number that NYCHA acknowledged was needed during the drafting of the Mold Action Plan in early 2020. Without such workers, NYCHA will be unable to significantly improve its compliance with the mold remediation requirements of the HUD Agreement.

There is a need for more and better staff trainings, both in-classroom and in-field, as well as the equipment necessary to support staff in their work. More operational resources are also needed in connection with the reorganization of several departments within NYCHA, especially procurement, human resources, safety and security, materials and asset management, IT, and resident engagement. As the Monitor, I will continue to advocate

for more operational funding for NYCHA, as well as continue our work with each pillar service area to improve performance with NYCHA's current resources.

## **II. Elevator Pilot Program**

Maintaining the continuous operation of NYCHA's 3,163 elevators is a challenge under the best of conditions. NYCHA's elevators run essentially 24 hours a day, 7 days a week, and the majority of those elevators have reached the manufacturer's intended life span of 20 years use.

To further complicate matters, preventative maintenance work declined during the first five months of the Covid pandemic (April 2020 to September 2020) because NYCHA was concerned about shutting down elevators to perform maintenance if that would create "no service" conditions in single-elevator buildings. Resource scarcity in terms of available mechanics and preventative maintenance staff also impacted performance.

In order to improve service and decrease outages, NYCHA's Elevator Services and Repair Division ("ESRD") and the Monitor team analyzed key elevator performance metrics and identified NYCHA's worst-performing development. That development, located in the Bronx, has 16 elevators which historically have experienced continual breakdowns. During a series of onsite inspections, NYCHA's Environmental Health and Safety Elevator Oversight Team ("EHS EOT") found 80 deficiencies alone from just four elevators, including problems with the door operator pulley and operator belt, hatch and cab, brake components, and pins and eyebolts.

Leveraging NYCHA and the Monitor team's data analysis and recommendations, NYCHA instituted a pilot program at that development to address the excessive outages. The pilot program lasted seven months, from January through the first week of August 2021. As part of that effort, two designated ESRD teams – a preventative maintenance team and an outage response team – were deployed in a concerted effort to conduct preventative maintenance and correct deficiencies. Among other strategies, ESRD modified its maintenance regimes for these elevators to better address the deficiencies found by both EHS EOT and its own inspectors.

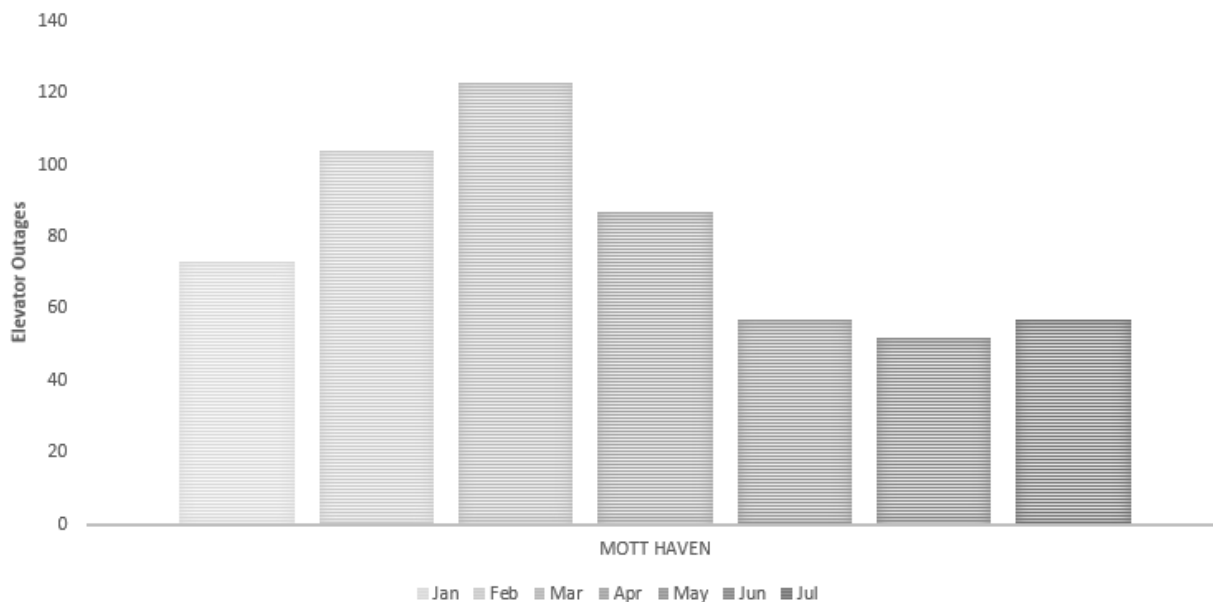
Improvements in performance as of April 2021 have been observed. From April 16<sup>th</sup> to August 5<sup>th</sup> of 2020, NYCHA reported a total of 404 outages, whereas the same period in the current year saw 232 outages – a 43% improvement. In addition, NYCHA realized a 43% improvement in decreasing outage duration times and a 47% improvement in response times for the same reporting period. The table below summarizes the improved metrics.

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Table 1.1 – Pilot Program 2021					
Reporting Period: April 16 <sup>th</sup> -August 5 <sup>th</sup> 2021					
	2021 (Pilot)	2020	Change	% Improvement	
Average Duration Time (Hours)	6.6	11.7	-5.1	43%	
Average Response Time (Hours)	4.3	8.2	-3.0	47%	
Total Outages (EA)	232	404	-172	43%	
*Table above populated utilizing data provided by NYCHA's Maximo Database					

Additionally, overall elevator outages were reduced by 60% from the reported peak in March 2021 through August 5<sup>th</sup>.

### PILOT PROGRAM TOTAL OUTAGES BY MONTH (JANUARY THROUGH JULY 2021)



(Table 1.2 – Pilot Program Outages by Month – EHS Report)

NYCHA concluded that the pilot was successful and will be testing the strategies at another site. Among other things, NYCHA determined that the dedicated preventive maintenance team had a significant impact on reduction in outages. Because this team generally was not diverted to deal with outages elsewhere, the team members could perform a more thorough and consistent preventative maintenance program on the elevators located at the pilot site. Also, having a dedicated team concentrating on the same group of elevators allowed them to better understand the elevators' specific needs, all leading to more effective preventive maintenance. Managers also saw that more in-

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depth inspections and oversight of their teams on their part helped improve elevator performance. The dedicated team led to shared learning, increased knowledge base of staff, better morale, and ownership and pride in the team's work. Improved management, oversight, and accountability, as well as the utilization of data analytics, also helped to drive better performance.

ESRD, EHS EOT, and the Monitor team are evaluating the lessons learned from the program, and ESRD will identify strategies to apply these more broadly across NYCHA, taking into account NYCHA's staffing constraints and the age of elevator equipment at each development. One key challenge for ESRD is improving its ability to attract and then retain elevator repair and helper staff. Given the great need for elevator workers in both the public and private sectors, this remains a chronic problem for NYCHA. ESRD is currently trying some new strategies in this area which will hopefully enable it to increase staffing. The ability to expand on the success of this pilot and bring the lessons learned to other poor-performing developments depends on having enough maintenance teams.

### **III. Heating Equipment Storerooms**

As part of our monitoring of NYCHA's summer heating preventive maintenance program, we have been examining NYCHA's equipment parts storerooms. HUD has joined us for some of these inspections. During the heating season, we have seen that having the correct repair parts on hand is necessary to reduce the duration of heating outages. The time it takes to identify and then locate the parts or equipment often makes up a significant portion of the overall outage times. In addition, purchasing these materials on an as-needed, emergency basis (instead of keeping them on hand) is both time consuming and more expensive.

Setting up and then properly operating these storerooms can be complicated and requires resources, experience, and expertise. Not only should the storerooms have the proper types and quantities of parts and equipment, the rooms must be conveniently located across NYCHA so that NYCHA's Heating Department ("HMSD") staff can quickly get what they need for maintenance and repairs. Storerooms must also be effectively managed with inventory controls in place so that, at a minimum, NYCHA tracks the parts and equipment as they come into each storeroom and then also captures by whom, when, where, and why items are removed and then installed. It is also essential that NYCHA maintain an electronic cataloging system of the types of parts and equipment they have on stock and the storerooms where they are located, so that HMSD can quickly obtain them when needed.

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HMSD has struggled over the last few years to properly set up and maintain its storerooms, largely lacking the staffing and expertise for this purpose. Over the last few months, NYCHA's Chief Procurement Officer ("CPO") and his team have been working with the different departments and units within NYCHA (including HMSD), along with the Monitor team and HUD, to revamp and improve the quality and accessibility of all the storerooms for these respective pillar service areas within NYCHA.

Currently, HMSD has its main storeroom at a development in Brooklyn, which it manages with a small staff. This storeroom has inventory controls in place and appears to be well managed, including being locked when the staff managing the facility is not on duty. The problem is that having only one central storeroom is impractical to cover every development at NYCHA. This has resulted in the creation of many informal storerooms in every borough by HMSD staff, ten of which we have located and inspected in the last few weeks. The conditions of all of them raise concerns because none has proper inventory controls, among other deficiencies.

The worst we saw is at a development in the Bronx, located in a large basement room near the boiler room. When we were there in mid-August, the room and its contents were completely unsecured, with no staff present and no lock for the entry door. The storeroom contained scores of boxes of heating equipment (some pieces worth tens of thousands of dollars) seemingly thrown on top of one another in a haphazard fashion. There was no logbook, purchase orders, or any written records to indicate any sort of inventory list or sign-out system for when parts were brought in or removed for use. There was also no indication that anyone from HMSD or NYCHA was managing the site. We quickly completed an inspection report, including over 70 photographs, and provided it to HMSD management with the request that they immediately draft an inventory list, which they then completed and gave us a few days later. Some photos of the storeroom are included below.



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Among the many parts found in this storeroom were stand-alone condensate tanks (worth over \$90,000 per unit) and various kinds of motors (feed water, burner, and condensate). None were displayed or stored in an organized manner but were piled together in boxes on the floor. When we spoke with local HMSD staff, they stated they rarely used materials from the storeroom because they believed them to be outdated. Our observations indicated that many of the materials were fairly new and certainly useful for NYCHA boiler room repairs or equipment replacements. In fact, we know from various heat outages over the last year that much of this equipment could have been used to make those needed repairs, including an instance when HMSD needed a stand-alone condensate

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tank for a heat outage in an upper Manhattan development and apparently purchased a new tank when they already had two available in the Bronx storeroom as described here.

Given the condition of the room and the lack of an inventory system, it is doubtful that many others in HMSD even knew the equipment was there. Additionally, given the value of the equipment and the unsecured condition of the storeroom, there is a concern that items may be stolen or sold or otherwise improperly used for non-NYCHA purposes.

The other HMSD storerooms we inspected were better organized, but still lack proper controls or have an inventory system. The heating parts storeroom at a Queens development we saw was secured with locked gates and all the equipment was neatly organized on shelves. As before, we presented HMSD with our findings and asked them to conduct an inventory and provide us with the results, which they promptly did.

In addition to inspections, we have also participated in some recent meetings between NYCHA's CPO and HMSD managers as they rethink and reorganize all their storerooms as part of the Procurement Department's larger initiative to assess and overhaul all NYCHA storerooms and inventory structures. The CPO has suggested some innovative ways various NYCHA departments (including HMSD) can amend their purchasing strategies, focused on using fewer vendors for maintenance and repair materials to help drive down costs for NYCHA and improve service. It was also discussed how the storerooms would be managed with inventory controls by trained staff (or even possibly the vendors themselves) to ensure materials are properly accounted for and the staff can easily access what they need.

The storeroom overhaul is a major undertaking that will take a few years to complete. Interim measures must be implemented now based on the current conditions of heating equipment storerooms. We have suggested that all HMSD storerooms be immediately located and put under HMSD management to keep them secure and organized. It is also essential that HMSD create a digital inventory list for all materials in these storerooms and make that list available to all HMSD staff so they know what materials are on hand and where to obtain them when needed for repairs or maintenance.

### **IV. Rollout of the Neighborhood Model**

Throughout the summer NYCHA has been working to develop the Implementation Plan, which will further define the organizational challenges, activities, and changes NYCHA needs to put into place to achieve the objectives of the Transformation Plan, which was completed in March 2021. The Implementation Plan will move NYCHA to a "Neighborhood Model," in which accountability and responsibility for service delivery is

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relocated closer to the developments. The HUD Agreement and the Transformation Plan require that the Implementation Plan be developed collaboratively by NYCHA and the Monitor with input from residents and other stakeholders. The Monitor deployed subject matter experts to participate in the various working groups and to evaluate and develop execution plans to implement the changes. The Monitor also added several public housing experts to the team who can bring their experiences from across the country.

The first step of the Neighborhood Model was completed in January 2021 when NYCHA restructured its properties into four Boroughs and thirty neighborhoods. This resulted in more contiguous groupings of developments into separate “neighborhoods” which will enable staff to manage and monitor conditions and respond to service requests more effectively. NYCHA has established various working groups consisting of staff from multiple departments, residents, the Monitor, SDNY, and HUD to define (i) how the new operating model will work, (ii) what is required, and (iii) how the changes will be implemented. These efforts are being supported by various pilot programs that are testing out the recommendations from these working groups.

A significant amount of work has been completed on evaluating the changes required to improve NYCHA’s response to in-unit repairs. In 2019, NYCHA began to evaluate ways to decentralize skilled trades and to improve the accountability, visibility and the speed of repairs. For example, a pilot for work order reform in western Queens occurred over a four-month period from October 2020 to January 2021. The pilot resulted in a series of recommended changes that are intended to: (i) improve the residents’ experience with service requests, (ii) reduce the backlog of open jobs, (iii) increase the output and productivity of maintenance workers and skilled trades staff, (iv) increase personal accountability, and (v) improve the overall condition of units and buildings. NYCHA is currently planning for the roll out of these changes by hiring staff, preparing the properties, and increasing training. The changes will be phased in over time and borough by borough, starting with Queens and Staten Island. NYCHA will monitor each implementation, reevaluate the effectiveness of the changes, and adjust as appropriate.

The next step of the Neighborhood Model – which will launch on January 1, 2022 – is a redefinition of the responsibilities for each of the primary management roles. Three roles form the primary reporting chain of the Neighborhood Model – the Property Manager, the Neighborhood Administrator, and the Borough Vice President. Each role is responsible for a layer of the Property Management structure.

Much work remains to be accomplished to realize the potential of NYCHA’s reorganization. NYCHA will further develop implementation strategies that are necessary to improve service delivery in the resident-facing functions that NYCHA performs. These

include performing in-unit repairs, maintaining common areas, maintaining building systems, mitigating and abating hazards, managing tenancy, providing access to services and opportunities, providing safety and security, and managing the Section 8 voucher program. Existing challenges to effective service delivery, strategies to address these challenges, and plans to implement the changes within the context of the Neighborhood Model are being identified. These efforts will continue through 2022 and beyond while NYCHA continues to implement improvements that will be apparent to residents.

## **V. Door Sweep Installations**

The HUD Agreement, at Paragraph 46 in Exhibit B, requires the installation of 8,000 door sweeps across NYCHA developments as a pest-control measure. The door sweeps, when properly installed, seal gaps below ground-level doors to prevent ingress by rats and mice. A properly installed door sweep should be flush with the ground to block rodents' access. It also must extend the full length of the door, leaving no gaps for the rodents to enter.

Three times over a period of two years NYCHA has attempted to install door sweeps, but each time the Monitor team observed numerous deficiencies. NYCHA's emphasis was on installing door sweeps as quickly as possible, seemingly irrespective of quality. Thus, the incentive was to work quickly, not well. There was also a lack of accountability and responsibility for correcting the deficiencies, with NYCHA sometimes incorrectly blaming residents for the continued problems. Monitor team members repeatedly informed NYCHA Operations Division management that NYCHA's training and supervision were inadequate. As the third attempt was under way and the Monitor team was continuing to raise the issue of improper installations with NYCHA, the Waste Management and Pest Control Departments intervened, recognized that sub-optimal equipment was being used (including the door sweep models and the drills used to install them); and directed that a more comprehensive plan for door sweep installations be developed and implemented.

The plan required a survey of all targeted doors to identify those that required repair or replacement before door sweep installations could be made; repair or replacement of those doors in advance of installations; purchase of the right equipment for the installations; retraining and continuous supervision of the installers to ensure that the work was done properly; and effective quality assurance thereafter.

The revised plan is now under way, and the initial results are positive. A newer, more effective door sweep model has been purchased, and better installation equipment is being used. The seasonal workers doing the work have been properly trained, and they are being effectively managed by Supervisors of Extermination, who observe the work

while it is being done and inspect it upon completion. The Monitor Team's recent inspections indicate that the new door sweeps appear to be properly installed.

Our assessment is that NYCHA's three prior failed attempts were due to a lack of consistent quality control to ensure proper installations and an absence of accountability and responsibility. Some of the installers did not know how to do the installations properly and there were no negative consequences for sub-par installation work. Nor did NYCHA communicate any "lessons learned" to those responsible for the succeeding round of installations (who, in some instances, were the same personnel from the previous rounds). It was only when the Monitor Team audited the work that the causes of the poor installations were identified. The new plan – with its emphasis on supervision and quality control – should make NYCHA better equipped to identify and rectify problems going forward.

## **VI. Lead-Based Paint Updates**

### The "TEMPO" Program

On May 15, 2021, NYCHA deployed its new program to address lead-based paint risks in apartments occupied or frequently visited by children under six ("CU6"). As detailed in the Initial Lead Action Plan approved by the Monitor earlier this year, the new "TEMPO" Program commits NYCHA to abate lead in apartments where CU6 live or regularly visit, starting with apartments with two or fewer lead components. This phase of the TEMPO abatement program was scheduled to conclude by October 2022. By December 31, 2021, NYCHA must provide an updated Action Plan with the schedule of abatement for the next tranche of CU6 apartments.

However, the TEMPO abatement program has already run into difficulties as it must now adjust to a new lower threshold for lead-based paint under New York City law.<sup>1</sup> NYCHA has recently suspended TEMPO abatements. Among other urgent steps that must be taken, NYCHA must conduct an IT upgrade to accommodate the more rigorous standard in order to populate x-ray fluorescence ("XRF") testing results into Maximo. With the IT Department currently operating at maximum capacity, we do not yet know the impact on the TEMPO abatement schedule. Further, NYCHA must now decide whether to re-test all TEMPO units to the new ".5" standard before performing abatements, or test batches of units and perform abatements as results are gained. The Monitor team considers the

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<sup>1</sup> More stringent lead paint requirements go into effect in the city starting at the beginning of 2022 which reduce the threshold from 1.0 mg/cm<sup>2</sup> down to .5 mg/cm<sup>2</sup>. The federal standard remains 1.0 mg/cm<sup>2</sup>, but HUD regulations require that stricter local standards be applied.

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TEMPO program to be a top priority. Strict adherence by NYCHA to the commitments made in the Lead Action Plan is expected.

TEMPO also established enhanced, coordinated work practices for apartments with three or more lead components where CU6 live (or apartments that have not been XRF tested and are presumed to have lead-based paint). These work practices are designed to ensure that lead paint or presumed lead paint deficiencies and repair activities are carried out as safely and as expeditiously as possible to prevent any negative impact to CU6. Having a dedicated team to manage and address lead-related work in these apartments will help to ensure accountability, as well as to enable NYCHA to more effectively manage protocols related to lead-based paint around the youngest residents.

As part of the TEMPO program, NYCHA will conduct twice per year visual assessments in certain apartments where CU6 live or routinely visit more than 10 hours per week. NYCHA initially determined that there were approximately 3,000 such apartments. Through NYCHA's improved efforts to identify where children under six live in or regularly visit units with known or presumed lead paint, that number has more than doubled and is regularly updated.

The first visual assessments will be completed by June 30th each year. The second round of visual assessments will be completed by December 31st each year. Remediation of any deficiencies will be completed in 21 days. Residents enrolled in the TEMPO program will be provided with a hotline to request additional visual assessments during each year.

The Monitor team has begun auditing a sampling of the files containing the records that must be created for each abatement and has found some deficiencies. NYCHA's Compliance Department is also doing such oversight work. We will be sharing our findings and coordinating efforts with NYCHA to help ensure that such deficiencies are minimized and ultimately eliminated.

The change to New York City's lead threshold will require some modifications to the TEMPO program. NYCHA will work with the Monitor to develop and implement these changes.

### XRF Testing

Since NYCHA began XRF testing of apartments in April 2019, results have been obtained for approximately 100,000 units. Approximately 34,000 remain to be tested. NYCHA hopes to finish testing by December 1, 2021. The results are entered on a per-component basis into Maximo. Such detail allows NYCHA staff to know with precision where lead-

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safe work practices and rules must be followed, and where abatement will be required. The testing was performed at the prior mg/cm<sup>2</sup> threshold, and thus additional testing at the new threshold will be necessary over time.

### NYCHA's Semi-Annual Lead Certification and Report

In early August, NYCHA published its semi-annual lead certification required by Paragraph 30(b) of Exhibit A to the HUD Agreement. It was accompanied by a 55-page report prepared by NYCHA's Compliance Department detailing where NYCHA was complying (or not) with Paragraphs 8-15 of Exhibit A (addressing abatement and the lead-safe housing, renovation, repair, and painting rules).

As stated in the report:

Since January 31, 2021, NYCHA has continued to take certain actions to correct or attempt to improve its ability to meet the requirements set forth in Paragraphs 14 and 15. However, NYCHA continues to have continued compliance struggles in several areas, including related to documentation for vendor-performed RRP work, clearance examinations for RRP and interim control projects, and the transmittal of timely NOHRs following the completion of abatement or remedial work.

In addition, two new separate areas of compliance risk have been identified during the covered period. First, NYCHA has identified 4,523 apartments with positive components in buildings with local and/or federal exemptions from lead-based paint requirements. This finding has required modifications to the Maximo work order system, as well as adding these apartments to the lead compliance program. Second, Compliance has identified that, for over 94% of work orders potentially subject to RRP requirements, NYCHA renovators are indicating on the work order that they are not performing work that requires RRP protocols. While this does not necessarily mean these work orders are non-compliant, it does mean that there should be greater supervisory oversight to ensure that NYCHA renovators are correctly following the work order protocols when determining if they are performing RRP work. Compliance's ongoing review of this issue found that additional training for renovators and IT enhancements are necessary to further improve its already sophisticated work order system for lead.

General Update on Compliance with Paragraph 14: NYCHA has made significant strides in building a compliant abatement program. Both documentary and field monitoring from the Covered Period show a high rate of compliance for abatement

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projects. EHS observed 441 jobs and observed a 100% compliance rate with various requirements. Compliance's documentary monitoring also exhibited a high rate of compliance. Based on results from field monitoring and file review, Compliance recommends that NYCHA can continue to certify substantial compliance in the following parts of Paragraph 14: a, b, d, e, and f. Despite these improvements, continued field and documentary oversight is necessary to detect non-compliance and ensure staff accountability, especially in abatement work performed in occupied units. Compliance is a continuous process and NYCHA needs to maintain the positive performance. This is very important as NYCHA begins its efforts to in complete abatement work in units with children under 6 ("CU6") and one to two lead components through the new TEMPO program, which is described below.

General Update on Compliance with Paragraph 15: NYCHA continues to make some strides to improve compliance with RRP Rule and Lead Safe Housing Rule requirements set forth in Paragraph 15. Field monitoring performed by EHS continues to show that NYCHA renovators are adhering to their training in the field. EHS has also observed improvements in all aspects of RRP performance and availability of RRP equipment in storerooms. The major issues preventing certification with Paragraph 15 are establishing better controls for vendor RRP documentation, maintaining more consistency in issuing the NOHRs, and improving performance of clearance examinations.

### **VII. Mold Updates**

#### The Ventilation Upgrade Project

The NYCHA Office of Mold Assessment and Remediation ("OMAR") has deployed engineers to inspect 8,677 roof fans and determined that 6,889 must be replaced. As of October 1, 2021, approximately 3,555 fans have been replaced, and 1,923 fully functional modern fans were retained after inspection. Some 3,094 fans remain to be installed.

NYCHA's performance in fan installations has greatly improved in recent months, as has overall project management. All of the 3,094 fans that remain outstanding have been assigned to contractors; orders were initiated for 2,903 fans, with 1,324 fan orders confirmed and in the pipeline for manufacturing and installation. NYCHA has also replaced approximately 810 roof fans through its EPC Ventilation Work and Weatherization Assistance Program. OMAR also has had to address unexpected circumstances, including that many thousands of old roof fan casings have asbestos-



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coated material on them, which has (or had) to be addressed before new fans can be installed.

NYCHA also committed to cleaning or replacing approximately 104,000 vent covers and cleaning lateral ducts that are served by the roof fans (as well as assessing and replacing and balancing all nonfunctioning fire dampers). The scope of interior work was scaled down temporarily due to COVID-related issues to focus on the cleaning of vent covers and the area behind the cover (including old dampers) to realize the enhanced flow from new or fully functioning fans. Some 39,000 such cleanings have occurred to date. Residents refused cleaning in 2,885 units and NYCHA has attempted twice to clean 13,999 units but was unable to gain access to the unit.

Access to apartments has been a challenge, with NYCHA gaining access to apartments when work is scheduled about 68% of the time. NYCHA is working to improve the access rate, including by performing interior work on Saturdays. Air flow measurements taken after cleaning work demonstrate up to 40% improvement in air draw. Existing dampers must still be balanced in order to ensure well-distributed air flow among floors. Such instructions have been given by OMAR to all vendors.

### Monitor Auditing of Mold Inspections

Since April 2020, each business day the Monitor's office has selected ten newly performed NYCHA mold inspections for review to evaluate compliance with the requirements of NYCHA's standard operating procedure for mold. When a deficiency is identified, the inspection is referred to NYCHA's Compliance Department for review under the "progressive discipline" program (which is part of the Mold Action Plan approved by the Monitor in March 2020).

For example, we recently examined a work order for a development in the South Bronx that listed the root cause for the mold as "resident cause," without the required further explanation for the basis for this assessment. A review of relevant photos of the ceiling, however, shows that the leak clearly comes from above. Additionally, there is a hole in the wall behind the toilet. Three child work orders were created for painting and mold cleaning, yet no work orders were opened to investigate the leak of the hole in the wall.

In another recent example, the Monitor team found that a superintendent in a Manhattan development appeared to be entering false moisture readings into the mold inspection work order. The matter was referred to NYCHA's Compliance Department. When Compliance interviewed the superintendent, he admitted that they were intentionally not taking proper moisture readings so they could reduce the number of positive findings to

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lessen their work loads. This case has been referred by NYCHA for a general administrative trial and discipline.

Depending on the severity of the violation, NYCHA may assign the mold inspector (usually a superintendent or assistant superintendent) to receive supplemental training, counseling, or various forms of discipline, including administrative trials that could result in suspension or termination. We have referred approximately 600 such inspections to NYCHA's Compliance Department.

### Exhibit B, Paragraph 17 Compliance

NYCHA has not met its obligations under HUD Agreement Paragraph 17 (pertaining to NYCHA's response to mold and leaks), the deadline for which was January 31, 2021. Listed below are the relevant provisions and the extent of the noncompliance.

- For 95% of instances in which a resident reports a mold complaint that is subsequently verified or NYCHA identifies mold in a unit, consistent with the NYCHA Standard Procedure SP 040:14:1, Mold/Mildew Control in NYCHA Residential Buildings, Revised December 19, 2018, within five business days of the resident reporting or NYCHA identifying mold in the unit, NYCHA shall prepare and provide a written plan for addressing the root cause to the resident. NYCHA may meet this standard by mailing a copy of the written plan to the resident via U.S. or electronic mail within the five-day period. *[NYCHA's percent compliant based on its calculations through July is 58.5%.]*
- For 95% of instances in which a resident reports a mold complaint that is subsequently verified or NYCHA identifies mold in a unit, consistent with the NYCHA Standard Procedure SP 040:14:1, Mold/Mildew Control in NYCHA Residential Buildings, Revised December 19, 2018, within five business days of the resident reporting or NYCHA identifying mold in the unit, NYCHA shall remove mold that is visible from within the unit. In the alternative, NYCHA may comply with this standard by remediating the mold and its underlying root cause (i) within 7 days, for repairs that can be performed by a Maintenance Worker or Caretaker, or (ii) within 15 days, for repairs that must be performed by skilled trade workers or other specialized staff in one or more visits. *[NYCHA's percent compliant based on its calculations through July is 3.7%.]*
- For 95% of reports to NYCHA of floods, leaks from above, and other conditions that cause sustained or recurrent moisture to flow into a resident's unit or the walls of the unit, NYCHA shall abate the condition within 24 hours of a report of the

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condition to NYCHA, and NYCHA shall remove any standing water that resulted from such condition within 48 hours of the report. [*NYCHA's percent compliant based on its calculations through July is 62.4%.*]

We have worked with NYCHA to add types of staff who can conduct mold inspections. A pilot is being conducted to use Mold Busters-trained maintenance personnel to conduct mold inspections. The outcome in this effort will likely be limited, based on lack of resources at most developments. Most property managers and assistant property managers have received Mold Busters training but have never been directed by NYCHA to conduct a minimum number of inspections.

NYCHA's degree of compliance with Paragraph 17 is of course problematic. The overwhelming number of all mold cases are in the "complex," or 15-day category. We continue to believe that adding at least 300 mold remediation workers – the number originally calculated by NYCHA with the assistance of the Independent Data Analyst in the *Baez* federal case – must occur in order to improve this performance. The new workers (mostly skilled trades personnel) could be onboarded either through direct hiring or through vendor equivalents. As stated above, NYCHA made such a commitment in discussions as part of the drafting of the Mold Action Plan in 2020 but has since said that it does not have the funding to do so. We are reviewing this assertion. We note that in NYCHA's five-year budgeting plan, some \$461 million would be spent on overtime (starting with \$107 million in 2022). For skilled trades, an overtime man hour is usually at least time and a half for the same task that could be performed at straight time.

### Other Mold Initiatives

We have worked with NYCHA to improve its process for accurate identification by inspectors of the root causes of mold. The resulting amendment of the "drop down" menu on worker handheld devices is currently scheduled for October 2021. The standard procedure will be amended accordingly.

We also have recommended that NYCHA adopt a methodology to assess and rate individual development mold and leak problems and compliance. The Independent Data Analyst in *Baez* has created and shared a "scorecard" methodology with NYCHA. The use of such a procedure will aid in establishing priorities for expensive capital improvements throughout NYCHA's system. It will also be a valuable tool in assessing the needs of "neighborhoods" in the Neighborhood Model, including in the deployment of Operations resources.

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Additionally, the Independent Data Analyst (IDA) in the *Baez* mold class action case created a set of mold and leak dashboards presenting detailed information regarding - and allowing detailed analysis of - the occurrence and handling of mold and leak work orders on a per development basis. The program and dashboards are currently being used by NYCHA to assess and improve mold and leak work order performance at a particular development, with plans to add developments on a piecemeal basis. The monitor team has examined the dashboards and recommends that the program be applied to all of NYCHA's developments as soon as possible. Further, access to particular dashboards developed by the IDA should be provided to Borough personnel, Neighborhood Administrators, and Property Managers (as a tool in identifying and fixing mold and leak work order issues) and to NYCHA leadership involved in tracking and assessing the Neighborhood Model as it is implemented over the next year.

Residents who have already contacted the NYCHA Customer Contact Center (718-707-7771) but still have concerns or complaints regarding mold/leaks and any associated repairs can contact the NYCHA Compliance Department at [compliance@nycha.nyc.gov](mailto:compliance@nycha.nyc.gov) or contact the independent court-appointed Ombudsperson Call Center (OCC) at 1-888-341-7152 or at [ombnyc.com](http://ombnyc.com). We also encourage NYCHA residents to use the Monitor phone lines [347.809.5555 or toll free at 844.309.6080] or email address [[monitor@nychamonitor.com](mailto:monitor@nychamonitor.com)] to directly report problems with mold and leaks, as well as any other issues of concern.

Respectfully Submitted,

Bart M. Schwartz