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January 21, 2021

Via ECF

The Honorable William H. Pauley
United States District Judge
U.S. District Court for the Southern District of New York
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: *Baez, et al. v. New York City Housing Authority (NYCHA)*,
13 Cv. 8916 (WHP)
Ombudsperson Quarterly Report (Q4), 8/1/2020 — 10/31/2020¹

Dear Judge Pauley,

In its fourth quarter of operation, the office of the Ombudsperson and the Ombudsperson Call Center (“OCC”) continue to successfully assist NYCHA residents to resolve their mold and leak complaints. This quarter was the first in which the OCC was available to the full portfolio of residents. As of the close of the quarter, the OCC and the Ombudsperson had assisted over 4,400 NYCHA households in its first year of operation. The OCC averaged 153 new complaints per week this quarter. Several complaints were escalated for my individual attention and interaction with NYCHA residents and hundreds were flagged for my oversight and potential involvement should progress not be made in the short-term. I remain actively involved in monitoring the activities of the OCC, monitoring progress on matters that may potentially reach me, and coordinating with NYCHA on many issues.

At the close of the quarter NYCHA reported that there were 72,500 open mold and leak work orders across NYCHA. This was an increase from 60,000 in quarter 3. The overwhelming majority of open work orders had aged over the 7-day or 15-day consent decree requirement. And while operational limitations remain due to the COVID-19 pandemic, NYCHA significantly increased its Mold Response Unit (“MRU”) staff in this quarter to support the OCC – it hired 29

¹ As in all previous quarters, also being filed today is the separate quarterly report of Stout Risius Ross, LLC regarding its operation of the Ombudsperson Call Center containing a comprehensive analysis of complaints received, resolved, and still outstanding.

of 30 Resident Coordinator Associates (“RCA”s). This increase in the necessary MRU staff should make a significant difference in responsiveness to OCC tickets in quarter 5 given the resident communication and coordination challenges NYCHA faced in the past. Many of the newly onboarded RCAs were not assigned to cases in the quarter due to training, and those that were, had a significant caseload. Hopefully in quarter 5 the RCAs will gain enough experience and have more manageable caseloads such that they can significantly decrease the extraordinary amounts of resident follow-up calls the OCC has been required to make in order to obtain basic information to respond to resident questions and follow-up requests. I am hopeful that these new RCA hires will make a significant impact on NYCHA’s responsiveness to open OCC complaints and avoid the need to escalate, for my adjudication, non-complex resident complaints such as scheduling or missed appointments.

Even with the increased numbers of complaints to the OCC, it appears that a significant portion of NYCHA residents are still unaware of the OCC’s existence or how it can assist them with their unresolved mold and leak complaints. In this quarter, NYCHA engaged in social media outreach efforts regarding the OCC. While important for maintaining awareness about the OCC, these social media posts did not appear to be particularly impactful. Separate from NYCHA, in October 2020, I participated in a virtual information session organized by Metro IAF attended by approximately 200 people. Many attendees reported that they had not previously known about the OCC. In addition, I recorded a video message in both English and Spanish for the OCC website that I expect will be utilized in further outreach efforts.²

1. Ombudsperson Adjudicatory Actions and the OCC Operations

In this quarter, two matters were escalated for my involvement. One complex matter required my contact with counsel for a resident regarding relocation issues. The other matter required me to have numerous conversations directly with a resident. I expect that both these matters will be closed in quarter 5. In addition, there have been hundreds of complaints elevated to me for oversight and potential action in quarter 5 or later quarters. Those complaints do not require my active involvement now but depending on the progress made by NYCHA to address those complaints, I may be called upon to step in and resolve them.

In this quarter, the OCC was increasingly busy. By the end of the quarter, the OCC was averaging 153 new complaints per week. As of October 31, 2020, the Ombudsperson and OCC have assisted over 4,415 NYCHA households with mold and leak related complaints. More than 1,000 complaints (1,169) were fully resolved in this quarter of which 65% involved severe conditions or a lack of proper repair work. The average number of days it took to resolve those matters was 31 days. At the close of the quarter, 2,777 OCC complaints remained open, however, substantial progress had been made in almost all of them. With consistent pressure and demands for accountability, the OCC and the Ombudsperson are getting results for NYCHA residents. Unfortunately, as addressed below, residents are largely still unaware of the existence of the OCC and how it can assist them with their mold and leak complaints.

² Only the English version of the Ombudsperson video message has been posted to the OCC website. Some minor edits need to be made to the Spanish version of the Ombudsperson video message and it will be posted in the coming weeks.

2. NYCHA Staffing

As noted in prior reports, NYCHA staffing challenges are perhaps one of the biggest obstacles to NYCHA's compliance under the Consent Decree. Of course, COVID-19 is still affecting operations NYCHA-wide but NYCHA has continued its commitment, as it should, to prioritizing mold and leak complaints. Despite their prioritization, nearly 20% of mold and leak complaints residents made to the OCC this quarter experienced delays due to COVID-19 (up from 15% last quarter). NYCHA noted in its Quarter 26 report that for 89% of open founded Mold Busters work orders, "NYCHA is far from meeting the 15-day *Baez* consent decree timeliness." NYCHA Leak, Mold and Excess Moisture Remediation Compliance Report August 2nd [*sic*], 2020 through November 1st [*sic*], 2020. The delays and backlogs are still, in great part, due to NYCHA's continued need for maintenance workers, plumbers, painters, carpenters, and other skilled trades. And there still remains vacancies at important management levels within developments.

In Quarter 4, 50% of OCC calls were follow-up calls with residents to provide them with basic update information that should have been performed by NYCHA RCAs. However, in this quarter NYCHA appears to have taken a big step forward towards adequately addressing its staffing issues within the MRU by adding 29 of the budgeted 30 RCAs to its team. The additional RCAs should not only make a substantial difference in NYCHA's failures to apprise residents of the basic status of their mold and leak complaints, but also should significantly reduce the costs of the OCC to NYCHA. In this quarter, the average case load per RCA was 94 complaints. As I have emphasized from the OCC's inception, simple, effective, and humane communications with residents must be its highest priority. Basic, frequent, and effective communication with residents suffering from unresolved mold and leak problems will reduce overall OCC costs and, most importantly, establish goodwill with its residents.

3. Continued Resident Outreach Difficulties

As reported in prior quarters, NYCHA does not appear to have been able to reach the majority of residents regarding the existence of the OCC. In this quarter, only 27% of complaints originated from targeted NYCHA outreach efforts such as social media posts, flyers, robo-calls, emails, and mailers, as reported by the residents contacting the OCC. It remains unclear what efforts NYCHA has employed to try and determine the most effective means to reach its residents. In this quarter, NYCHA committed to working with the OCC on the content of its outreach efforts and hopefully those efforts will be fruitful next quarter.

Outside of NYCHA's efforts, on October 27, 2020, I participated in a virtual information session organized and hosted by Metro IAF at which I made a presentation regarding the OCC and my role. Attendees were also able to hear from residents that had benefitted from the OCC. Nearly 200 people attended. Many of the attendees expressed that they were not previously aware of the OCC. We have found that following supplemental outreach activities we have seen an increase in calls to the OCC.

In addition, I recorded an informational video regarding the OCC in English and Spanish. The informational video is available on the OCC website and the OCC provides residents information

regarding this video during its calls with residents. We expect the video to be helpful to NYCHA and others in their outreach efforts.

4. Leak Standard Procedure

I understand that in November 2020, NYCHA's pilot to test its preliminary leak standard operating procedure concluded. NYCHA has been developing this desperately-needed procedure since October 2019. As I have noted previously, NYCHA's response to leaks is not standardized across the NYCHA portfolio in the way that it is for mold. Leaks that are not handled properly will likely lead to countless mold complaints and leak recurrence when the source (or root cause) of the leak is not properly identified. In quarter 4, 49% of complaints to the OCC were leak related (down from 55% in quarter 3), many of which required additional work by NYCHA's staff because the source was not previously properly identified. An appropriately implemented standard operating procedure with built in oversight and accountability provisions should limit the number of resident complaints received by the OCC and thus should reduce the costs of the OCC to NYCHA. I urge NYCHA to prioritize learning from its pilot, incorporate any necessary changes to the draft standard operating procedure, and finalize it as soon as possible so that it can be implemented across the NYCHA portfolio.

5. Conclusion

In quarter 4, the OCC and Ombudsperson continued to get results for NYCHA residents. The Ombudsperson and OCC have assisted over 4,400 NYCHA households with mold and leak related complaints since its launch. In quarter 4, we resolved more than 1,000 complaints of which 65% involved severe conditions or a lack of proper repair work. While NYCHA is still experiencing extensive staffing shortages, it took a much-needed step forward when it added 29 of the 30 budgeted RCAs to its MRU staff. There continues to be opportunities for NYCHA to raise resident awareness of the OCC and I am hopeful that changes made to coordinate and improve those efforts will be fruitful in quarter 5. Lastly, I once again urge NYCHA to prioritize the finalization of the desperately-needed new Leak Standard Procedure.

Respectfully submitted,

/s/

César de Castro

cc: All Parties (*via* ECF)