

TESTIMONY FOR NYCHA GENERAL MANAGER MICHAEL KELLY

THE FUTURE OF SECTION 8 IN NEW YORK CITY

**STATE SENATE COMMITTEES ON SOCIAL SERVICES AND CONSTRUCTION AND
COMMUNITY DEVELOPMENT**

THURSDAY, APRIL 15, 2010

Chairman Squadron, Chairman Espada, distinguished members of their respective Committees, and distinguished members of the State Senate — Good afternoon. I am Michael Kelly, the New York City Housing Authority's (NYCHA's) General Manager. And joining me today are Gloria Finkelman, Deputy General Manager for Operations and Section 8 Leased Housing Program Director Gregory Kern. I appreciate this opportunity to update you on the Section 8 Housing Program and on NYCHA's efforts to secure the Program's viability for our fellow New Yorkers.

New York is not alone in the challenges facing Section 8. Public housing authorities across the nation are grappling with difficult choices as they work to provide housing assistance to low income families at a time of economic turmoil. But let me be clear: NYCHA is focused on resolving our budget shortfall with the least impact on the families who count on Section 8.

SECTION 8 IS A FEDERALLY FUNDED AND REGULATED PROGRAM

Our enduring commitment to low income New Yorkers makes NYCHA one of the three custodians of the City's federal Housing Choice Voucher Program, better known as Section 8. Section 8 is a housing assistance program, provided by HUD, and dedicated to supporting subsidized housing for very low income families and individuals.

Section 8 seeks to tackle the housing crisis by addressing the gap between family incomes and housing costs. It sounds simple—family incomes either stay level or don't rise fast enough to maintain pace with rising rents, and the government steps in to help close the gap. But as I hope to make clear, determining both sides of the cost curve—for Washington and for local agencies—can be quite difficult.

First, there is a formula, part statutory from Congress and part regulatory from HUD, to determine the amount HUD awards each locality to provide voucher assistance, known as the Housing Assistance Payment or HAP subsidy. A separate formula, based mostly on the number of apartments in each program as well as certain other factors, is used to determine how much the housing authority will receive in administrative fees, or operating funds.

Each fiscal year, housing officials must perform a complicated analysis to predict how many apartments can be assisted by assessing the local apartment rents within the federal rent ceiling, the average tenant's rent share at 30 percent of the voucher holder's income, and the average subsidy payments to fill the gap between apartment rents and the tenant's rent share. Those average subsidy costs must then be matched against the funding appropriated by Congress for subsidy and operating funds, including funding to renew existing vouchers and funding to authorize any new vouchers.

After all of that, if any funds are left over at the end of the fiscal year, they are rolled over into the authority's reserves. But to calculate the level of funding, Congress and HUD may "offset" a housing authority's reserves accumulated from previous years—thereby reducing that

year's funding by the offset amount and forcing the authority to use its reserve funds to close the gap between their Congressional allocation and the actual value of the housing vouchers managed in that year's portfolio.

Congress and HUD also impose a “cap”—a limit to the number of vouchers each authority may manage in a given year. And HUD imposes strict guidelines requiring that authorities maintain utilization rates at or above 95 percent of the cap. Failure to meet that benchmark can result in administrative penalties and a loss of funding for the next fiscal year. Overshooting the cap may force the housing authority to pay for vouchers that Congress has not funded and will result in the authority suspending the issuance of new vouchers.

In summary, Section 8 funding is based on multi-variable formulas, subject to changes in housing market forces and enrollee's income, challenged by possible offsets and recaptures, and bounded by a federally imposed cap. Most importantly, the structure of Section 8 is dependent on fund availability, and fund availability changes from one year to the next with little advance warning.

PROGRAM PARTICIPATION

One of the benefits of Section 8 is its portability—the housing subsidy follows the family. But the housing authority and the federal government do not guarantee that the subsidy is permanent, nor do they provide any additional social or supportive housing services.

Housing authorities screen applicants for Section 8 eligibility; it enters into contracts with owners and

approves leases for families to provide Section 8 assistance; it inspects apartments to make sure they meet HUD's Housing Quality Standards; it annually re-inspects apartments; and it monitors the landlord's compliance for maintaining apartments consistent with those Housing Quality Standards.

Tenants must also undergo annual re-certification, which is based, in part, on availability of funds—activation of vouchers is dependent on the funds and vouchers available to the housing authority. Additionally, the value of each voucher may change as a response to any changes in the family's income.

Building owners are another important player in maintaining the viability of Section 8. Owners and landlords screen tenants and provide leases to voucher

holders in exchange for housing assistance program payments. Owners agree to comply with all HUD and housing authority guidelines and to maintain the property to meet those specifications.

The net result is voucher program enrollees are able to find an apartment in the private market and have a portion of their rent paid by the federal government. They cannot be evicted for any failure of the housing authority to make timely payments to their landlord, and the housing authority becomes their advocate to ensure that the landlord continues to provide quality housing. In return, tenants are responsible for cooperating with the housing authority in the annual re-certification and apartment inspection processes, and for paying their share of the rent to the landlord.

THE ECONOMY

The economy also plays an important role in this equation.

Budgets—whether family or government—are not made in a vacuum. Each year that we monitor the Section 8

Program, owners open their doors to new tenants,

Program enrollees get a better job or a new opportunity

and leave the Program voluntarily, the forces of our

economy shift, re-align, and re-shape the landscape.

Recently, those forces have been particularly powerful.

The weakening of the city, state and national job markets,

the many downward pressures on incomes, and the surge

in cost of living expenses have merged to create a massive

economic shift to which families and government agencies

are still struggling to respond. The Section 8 Program is no different.

And our current economic struggle, while magnified, is not entirely new. In January 2007, NYCHA began a major initiative, assisted by the New York City Council, to issue new Section 8 vouchers. The Program waiting list was opened to non-emergency applicants, for the first time since 1994, during February to May 2007. The number of applicants that we determined were eligible and were issued vouchers jumped from 5,774 in 2006 to 20,860 in 2007 (a 361 percent increase and NYCHA's highest number ever). The number of applicants who received vouchers remained at historically high levels for 2008—15,111—and 2009—11,022.

As more voucher holders had time to search for and locate apartments and with more building owners now willing to accept Section 8 tenants—in part due to the worsening economy and in part due to the prohibition on source-of-income discrimination in Local Law 10—enrollee rentals shot up from 3,997 in 2006 to 8,522 in 2007 (a 213 percent increase). It rose to 12,003 in 2008 (up another 41 percent); and then to 13,449 in 2009 (another 12 percent rise).

And as economic pressure mounted on families, fewer voluntarily left the Program. The attrition rate in 2006 and 2007 was between 8.2 and 8.5 percent, representing about 7,000 tenants leaving the Section 8 Program. In 2008, the number of families leaving the program dropped sharply to 6.1 percent, and again in 2009 to 4.1 percent.

Today, we can safely assume that the attrition rate will remain at around 4 percent in 2010.

With the number of new enrollees rising sharply, and the number of current enrollees leaving the program dropping sharply, our utilization rate began to balloon—87.4 percent at year's end for 2007, then 93.9 percent at the end of 2008; and 102.8 percent at the end of 2009.

As of March 31, 2010 there are 101,389 tenants enrolled in the NYCHA Section 8 Program. This is three hundred fewer tenants since the beginning of 2010. Earlier, I mentioned that there is a federally imposed cap and I talked about the risks of either failing to come close enough to the cap or going over it—not close enough and you can lose funding for the next year; go over, and you must close the gap with your own funds and take measures

to come into compliance with the cap. The HUD voucher allocation cap for NYCHA is 99,951—those 1,703 unfunded vouchers represent a budget deficit of at least \$17 million for the Authority.

I also stated that budgets are not made in vacuums. And recently federal budgets have been approved and disbursed on a more varied timetable. The federal fiscal year begins on October 1. But NYCHA, as well as housing authorities across the country, did not receive Section 8 subsidy and operating funds until months after the start of the new fiscal year. This fiscal year NYCHA only received its funds from Congress in mid February. Last fiscal year 2009 it was May—five months into the year.

Exacerbating the timing impact is the fact that Congress bases funding on the prior year's average program

participation as measured through their fiscal year (September – October), not NYCHA’s calendar year. In a growing program such as ours, this mis-alignment equates to tens of millions of dollars.

And while our funding allocation from Congress changes year to year, it often fails to meet the full demand of the Program. Just last May, NYCHA projected that Congress would recapture \$10 million in funds for our 2009 Section 8 Program, but the federal government recaptured \$58 Million — or almost six times more than anticipated for the Section 8 budget.

WHAT WE DID TO PRESERVE SECTION 8

Despite these challenges, NYCHA took several steps to preserve funding for those most in need. We immediately limited Section 8 voucher issuance to only those families

referred by the Department of Homeless Services; to families who were victims of domestic violence; to families and youth referred by the Administration for Children's Services (ACS); and to individuals in the intimidated witness and witness protection program. Taking this step resulted in an immediate 70 percent reduction in the number of vouchers NYCHA issued.

We also accelerated our fraud detection efforts, bringing in an additional \$3 million in savings and freeing up approximately 300 vouchers. As an added measure, we stopped extending housing searches beyond the standard 6-month time limit.

I would also like to give a sense of our efforts to close the Section 8 budget shortfall. On May 20, 2009, we

requested additional funding from HUD and continued those requests on a monthly basis through December.

Our funding requests were denied. We alerted our Congressional delegation to the severity of the situation and our steps to that point to alleviate our appropriations shortfall. We also sent a letter to HUD requesting \$16.5 million of additional funding in the form of Tenant Protection vouchers. This request is still pending as of now.

In December 2009, despite our best efforts, we had to make the difficult decision to stop processing new Section 8 applications, assisting new Section 8 voucher holders looking for apartments, scheduling inspections for apartments they had already found and approving apartment rentals. But we did not end program assistance

to families already under lease, nor did we severely cut the number of voucher subsidies. More than 400 public housing authorities across the country did just that. And NYCHA plans to give first priority to voucher holders whose vouchers were cancelled if and when additional funding becomes available.

Since December, we have been working with our partners at ACS, DHS, and HRA to aggressively identify alternative housing assistance, and providing our call center operators with the most up-to-date information to insure that at-risk families have access to the resources they need to sustain rental assistance.

CURRENT FUNDING STATUS

Currently, NYCHA's 2010 funding is insufficient to maintain full support for all recipients currently enrolled

in the program. If things remain as they stand today NYCHA will run a \$45 million dollar deficit at the end of 2010.

We have exhausted our resources. In addition to \$58 million that was recaptured from Section 8, to keep families in their homes NYCHA exhausted \$120 million in remaining reserves and used \$8 million of funds designated for administering the Program.

NYCHA is working with city, state and federal officials to close this shortfall and we continue to seek additional funding. This year, Congress authorized \$150 million of Section 8 subsidy as a national competitive set-aside for authorities that qualify as a result of the nation-wide challenges confronting Section 8. Based on HUD's criteria, NYCHA has submitted a request for a portion of

those funds. Also, Representatives Nydia Velázquez, Jerrold Nadler, and Senator Charles Schumer, all tireless champions of New York's low-income residents, have submitted letters to their colleagues requesting that Congress fully fund the Section 8 Program, as well as fund additional tenant-based vouchers.

Should we not receive additional funding, NYCHA has two options at its disposal to reduce costs: 1) to reduce the Section 8 payment standard, thereby lowering the amount of subsidy we provide to tenants; this option will cost tenants an average of \$100 per month and impact approximately 30,000 families or 2) terminating recipients from the Section 8 Program, which would affect as many as 10,000 New York families.

CONCLUSION

I hope I have made clear our continued commitment to serving our fellow New Yorkers who are most in need of safe, affordable housing, but when we look at our budget shortfall, at the nation's economic climate, and at the Authority's as yet unsuccessful efforts at securing new funding for the Section 8 program, it is clear that we need your help and your Committees' help so that we can develop long-term solutions to ensuring that the Section 8 program will be there for the New Yorkers who need it most.

We face a range of difficult choices, and I want to stress that our commitment to providing safe, affordable housing to the New Yorkers who depend on us is as strong as ever. Our task is as complex today as at any time in our history.

NYCHA has faced many challenges over the years, and we are up to this one, however we cannot do it alone. We owe it to the families who work hard everyday to make a life for themselves and their families in our great city to make this program work for them to help secure their futures. I look forward to working with you to ensure that we do.

Thank you.