

**Office of the
NYCHA FEDERAL MONITOR
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Pursuant to Agreement dated January 31, 2019
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November 18, 2020

Dear New Yorkers:

I am submitting this letter to report on NYCHA's performance in the third quarter of 2020, from July through September, as required by the HUD Agreement. As is my practice, I also include more recent events when relevant in the interest of providing the most up-to-date information available. That is the reason for the delay in releasing this quarterly report.



Bart M. Schwartz, Federal Monitor

This letter is not intended to be a comprehensive catalogue of every action taken by NYCHA but rather aims to provide a high-level snapshot of important progress and areas of concern. This letter focuses on: (i) the urgent need for improved safety and security at NYCHA developments, especially in light of recent shootings and other violence; (ii) NYCHA's continued resumption of certain non-emergency in-unit work that was delayed during the Covid-19 crisis; (iii) the formulation of a new organizational plan for NYCHA; (iv) preparations for the upcoming heating season; (v) the status of a major ventilation project to ameliorate and prevent mold; (vi) NYCHA's identification of a significantly larger number of apartments where children under six might be exposed to lead risks; (vii) the Governor's reimbursement fund for new boilers and elevators; and (viii) the recent work of the Community Advisory Committee ("CAC"), which continues to supply innovative ideas and important feedback about conditions at NYCHA.

I. Safety and Security

The HUD Agreement underscores NYCHA's regulatory requirement to provide "decent, safe, and sanitary housing" for its residents. See Agreement I.4. More than a legal obligation, adequate safety and security measures at developments are critical not only to protect residents – the paramount concern – but also to protect staff and their ability to perform essential NYCHA services. Security lapses contribute to increased repair costs, loss of equipment, increased cleaning costs, and more.

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Security failures have led to break-ins and damage caused in boiler and elevator motor rooms. Vandalism to elevator cars is a significant cause of elevators being taken out of service. Lack of security permits non-residents easy access to lobbies, hallways, and stairwells, which often are being used as places to sleep and as bathrooms.

Security concerns in and around buildings can also inhibit the work of development staff. Particularly during early morning and evening hours, poor lighting, broken doors, and other infrastructure problems can create unsafe conditions, especially when staff must undertake tasks in dark and secluded areas. The recent increase in systemic criminal activity has only made these matters worse.

NYCHA's upkeep of physical conditions both in and outside development buildings, particularly security equipment and whether it is correctly placed and in good working order, plays a major role in resident and staff safety. Proper interior and exterior building lighting and CCTV cameras strategically located and maintained are also key security measures. Building entry doors are often chronically broken allowing non-residents easy access while exposing residents to possible harm in their own homes. A 2018 audit report by the City Comptroller found that there were more than 1000 front, rear, and side exterior doors across 195 developments that were unlockable, broken, or intentionally vandalized. Our field examiners have informed NYCHA about numerous instances of damaged entry doors observed during their site visits. The photos below are just one example, taken recently at a development in Manhattan.



Vandalized Doors

Knocked off Hinge

Everyone must take responsibility. Trash and other objects are thrown from apartment windows or from building roofs, creating danger for those below, with little consequence

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for those involved even when the perpetrators are known by development staff. We have heard from many resident leaders that these troubling circumstances are getting worse.

We have reached out to NYCHA staff responsible for safety and security at the developments, including the Office of Safety and Security. Just as we helped NYCHA to create a centralized waste management structure to oversee those services across all developments, a similar, collective effort by NYCHA is needed to correct safety and security gaps. When we started the monitorship, we found that NYCHA's waste management structure was decentralized and ineffective. Individual developments were on their own to resource and address waste management. The result was that these services were uneven at best, with insufficient direction, staffing, and other resources to keep the developments clean. In many ways, the circumstances regarding safety and security at various developments is the same – uneven and often ineffective, with no central structure to make sure these concerns are sufficiently resourced and comprehensively addressed.

NYCHA can make capital improvements to its infrastructure to both deter dangerous behavior and better catch those who engage in it. Improvements also can be made to NYCHA operations – such as having effective and comprehensive safety and security plans for every development that are both implemented and enforced – so that vulnerabilities are more clearly known and easily corrected. NYCHA needs a strike force approach to safety. All NYCHA stakeholders (staff, residents, law enforcement, community groups) must coordinate their efforts and work together in this effort.

II. Resumption of Non-emergency In-Unit Maintenance Work

Over the last few months NYCHA has been planning for, and now started to resume, some additional in-unit non-emergency work related to health and safety. Though large and sprawling, NYCHA must coordinate all its departments and push to get back to full work production, otherwise the pre-COVID backlog will become a hole from which NYCHA can never dig itself out. But all this must be done safely and smartly.

NYCHA's Operations Division along with the heads of its three new Departments – Compliance, Quality Assurance, and Environmental Health & Safety – are leading and managing its re-opening. Their focus is on recommencing in-unit repairs and maintenance, including mold and lead paint inspections and remediation. Efficiency in deploying NYCHA's workforce is more important than ever to ensure that the most critical repairs get priority.

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The Monitor team will continue to support their efforts to move ahead safely to complete more interior repairs. As one example, with our support, NYCHA has already recommenced preventive maintenance on elevators for single elevator buildings that had been halted at the start of the pandemic.

III. New Organizational Plan

The HUD Agreement directs the Monitor team to work with NYCHA to create a new Organizational Plan for how NYCHA will operate more effectively going forward. The Plan must be a comprehensive remaking of NYCHA at every level to help ensure that the Authority comes into, and remains in full compliance with, its Agreement obligations and consistently provides residents with the core services to which they are entitled. Among other things, the Organizational Plan likely will also revamp NYCHA's governance structure, including changes to the roles, responsibilities, authorities, and reporting lines of NYCHA's Chair, General Manager, and Board.

As a preliminary matter, it is important to make clear that the new plan required by the HUD Agreement is distinct from the NYCHA Chair's "Blueprint for Change," which includes a proposal to create a new legal entity, the Housing Preservation Trust, to generate funding to invest in NYCHA properties.

NYCHA delivered a proposed organizational plan document to the Monitor in early September and continues to work on drafts. NYCHA delivered the latest draft on November 16 and opened a public comment period which extends to December 28. I encourage all residents and stakeholders to take advantage of this opportunity to comment on the plan. As Monitor, I will be doing the same. And, as always, residents and others may contact me directly. NYCHA will be sharing all the public comments it receives with me. We are continuing to work out a process with NYCHA to allow all the parties to participate in the redrafting of the document to ensure all signatories to the HUD Agreement and the Monitor will agree on the plan, providing due consideration to comments by residents and staff. I am optimistic that such a process will be established. As I stated in the recent CAC meeting and again at the recent Bronx Community meeting, an essential part of this process is providing sufficient time for resident stakeholders to review and comment on the plan.

IV. Heat

The Monitor team has been working with NYCHA since the end of last year's heating season to improve performance and reduce the number and length of outages. We have been reviewing the performance of NYCHA's heating division ("HMSD"), drilling down into

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root causes of extended and repeat outages to avoid future occurrences, and working with HMSD and NYCHA's Environmental Health & Safety heat team ("EHS") to ensure the effectiveness of NYCHA's preventive maintenance program.

NYCHA's heat program has improved, as we discuss below, but we continue to have concerns based on our findings after further inspections and reviews. We have informed the General Manager of our most recent findings and he is reviewing them.

NYCHA's Compliance with HUD Agreement Heat Obligations

The HUD Agreement requires that NYCHA restore heat to units affected by a heat shortage within an average of 12 hours and, during the Heating Season, for 85% of heating failures restore heat to affected units within 24 hours. Heating shortage issues across NYCHA fall into two main categories. Most heat failures to NYCHA units are caused by "outages" where a systemic failure affects several units at once. Most often this involves a breakdown of a boiler or some other critical heating asset that might shut off heat for all the units in a building or line. The second circumstance is when an individual unit experiences a heat failure where the cause is more localized to that unit and not part of a larger systemic issue. This could be due to malfunctioning unit radiators or defects in the heat risers to that unit which shut off the proper flow of heat. While the Agreement requires that NYCHA address heating issues for all its units, NYCHA mainly focuses on tracking and correcting outages because they impact more units.

Based solely on its outage data, NYCHA calculated that it did meet this Agreement obligation with an average duration time well under 12 hours. We know that NYCHA has made some important improvements in HMSD which, among other things, has led to reducing the length of its heat outages in the last two years. But to fully know NYCHA's compliance with the Agreement heat shortage obligations, the data from the individual unit shortages not connected to outages must be included as well, which NYCHA is not yet able to comprehensively provide. Therefore, we are undertaking our own analysis of the data and not relying on NYCHA's analysis. Although HMSD staff respond to individual unit heat issues, NYCHA has not undertaken a concerted effort to better understand these smaller heating failures, which requires both that the unit heat data be more accurately collected and then analyzed to find causes and reach solutions. While the number of residents burdened by unit heat failures is smaller than those affected by outages, the chronic condition of living in a unit that never has sufficient heat in the winter is a serious problem for those residents.

In July, the Monitor's data expert provided NYCHA with the results of our analysis of unit heat complaint work orders. We identified challenges NYCHA has in its Maximo data system in accurately segregating these complaints from those connected to outages,

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which are more carefully tracked. As noted below, there is also a concern that many of the work order responses to these unit complaints did not include the recorded ambient unit temperatures or sufficient detail to clearly understand what the heating issue was and what, if any, corrective measures were taken. If the quality of the data is insufficient as a starting point, the usefulness of the resulting analysis is compromised. NYCHA has subsequently been focusing on these issues and is making progress. We are working with them in this effort and will provide updates in future reports.

The HUD Agreement also required NYCHA to establish the EHS heat team to conduct investigations into outages lasting longer than 12 hours. This new unit is already playing a major role in improving NYCHA's overall heating services. In July, EHS provided HMSD and NYCHA with a summary report of its findings from over 25 outage investigations, which included over 50 distinct recommendations for measures to improve heating services. These comprehensive recommendations ranged from topics such as increasing and improving training for heating staff, to tasking the Capital Projects Division with creating a plan to begin the systemic replacement of heat risers and other distribution equipment at developments.

One important recommendation that would help decrease response times to outages for the current season would be to establish repair equipment/tool storages areas in every borough so that repair staff would have quicker access to them closer to the sites where they are needed. We are pushing NYCHA to complete this project as soon as possible.

The HUD Agreement also requires that NYCHA comply with the City Administrative Code requirement to maintain apartment temperatures within specified ranges during the winter. Not unexpectedly, NYCHA currently does not have the means to measure all unit temperatures across its portfolio. As part of that concern, the Agreement requires NYCHA to install an electronic heat monitoring system by the end of this year for 44 of its developments, which NYCHA is close to completing. It should be noted that the main purpose of these systems is to improve the efficiency of building boiler operations. The new heat sensors will be installed in only 30% of building units. NYCHA is also working on plans to install heat monitoring systems at additional developments going forward.

Until NYCHA can install temperature measuring devices in enough units for a sufficient sampling size to reliably know what percentage of them are within the legal range, it must primarily rely on analyzing resident complaints of insufficient unit heat conditions, which are captured in NYCHA's database Maximo as work orders. The current challenge with this method of analysis is that a significant percentage of heat-related work orders too often lack sufficient data about in-unit conditions, including failing to record ambient unit

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temperature readings, as described above. NYCHA and the Monitor team are working together to correct these work order deficiencies.

NYCHA's Continued Use of Data Analytics to Improve Services

NYCHA's new heating season began October 1st. Over the last nine months, NYCHA, with the assistance of the Monitor team, worked to improve its preparation for the season by better capturing its critical maintenance, repair, and outage data and then using that information to direct operational and capital decisions. The more HMSD understands the main causes for heat outages, the better they can focus their maintenance protocols and organize their repair strategies to reduce these types of outages going forward. The head of HMSD has been committed to using NYCHA's data analytic resources to improve the effectiveness of his department in reducing both the number and length of outages.

NYCHA's data analytics unit and the Monitor team first created a data "dashboard" for NYCHA's heating services. The dashboard is essentially complete and primarily focuses on using Maximo heat data to create metrics to better assess the progress of its services for Agreement obligations. For example, most Agreement obligations for heat focus on reducing the number and length of heating outages. The dashboard provides real time reports on both, as well as other data reporting to assist NYCHA maintenance and repair staff to improve the effectiveness of their work, and also aid the Monitor and HUD in their oversight roles. As part of this effort we are redoubling our efforts to ensure that the data entered in Maximo for heat is accurate and reliable.

NYCHA's Heat Preventive Maintenance Program

NYCHA has a total of 241 boiler rooms across its portfolio as well as 1775 hot water tank rooms. Conducting preventive maintenance on all these assets is a challenge for HMSD's staffing resources, especially since staff generally use the bulk of their personal time off during the pre-season period to maintain higher staffing levels during the winter. While NYCHA has made significant staffing increases to HMSD in the last two years, it still must ensure that it has sufficient levels of its employees available and properly trained to perform comprehensive preventive maintenance in the off-season. It should also be noted that increased and improved training was one the key recommendations made by EHS from the last heating season. We know that EHS and HMSD are working together to set up these trainings.

Prior Monitor reports have addressed the crucial work that the EHS heat squad provides to NYCHA. Once the heat season ended, NYCHA deployed EHS to perform their own preventive maintenance inspections. Since April, they have conducted boiler room inspections at approximately 60 developments. The Monitor's heat team participated with them in some of these inspections. We learned a great deal about NYCHA's pre-season

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heating preventive maintenance, both about what is working as well as where improvements are needed. While HMSD staff and their supervisors are committed to doing a thorough job and are continually improving their process, we have continuing concerns based on what we have seen.

There are gaps in the needed repairs HMSD has identified in their heating equipment inspection and maintenance process, when compared to what EHS included in their inspection reports and from the Monitor team's boiler room observations. This results in some important maintenance and repairs being missed by HMSD in preparation for the upcoming season. In its inspection report findings, EHS classified more conditions as "unsatisfactory" and in need of repairs than did HMSD. HMSD and EHS are continuing to work together so that all identified necessary repairs are captured on a single list, and HMSD and NYCHA's skilled trades people (mainly plumbers) are working to complete these repairs before the cold weather comes. We will continue our oversight of this effort and we will continue to work together with EHS to make HMSD's preventive maintenance more thorough going forward.

We learned from last heating season that some outages likely could have been prevented if certain crucial pre-season repairs had been made. In early September, the Monitor team and EHS learned from HMSD that there were still many of these work orders open. It was also concerning to learn that HMSD did not have an effective way to prioritize and track the progress of these repairs to make sure they were done.

The Monitor team and EHS have been receiving regular updates from HMSD regarding the completion of these open work orders. HMSD is making progress in getting these repairs made, though a number in the Bronx still remain. The Monitor team still has concerns that progress is not being made as quickly as needed to complete repairs before the cold weather sets in. In a letter to NYCHA's General Manager we have detailed our concerns and asked the General Manager to provide even greater support to HMSD in this critical effort.

Additionally, HMSD recently provided a demonstration to the Monitor team and EHS of an electronic reporting chart they are now close to completing to track and report on these heating-related repairs. The chart was very comprehensive and, when finished, will be an excellent tool to assist HMSD in prioritizing these repairs for completion. It will also enable the Monitor team and EHS to track them. The Monitor's data expert is now reviewing it and will provide suggestions for improvement.

V. Ventilation Project to Combat Mold

In the Mold Action Plan, NYCHA committed to install and/or upgrade approximately 10,000 roof fans across its developments by June 30, 2021, as well as to clean ventilation ducts and install new fire dampers. An adequate ventilation system is critical for preventing mold occurrences and protecting residents' health. The Independent Mold Analyst who was appointed as a result of the *Baez* settlement estimates that exhaust problems in development bathrooms contribute to more than 50% of mold problems in NYCHA housing.

As with much of NYCHA's infrastructure, these aging ventilation systems have not been properly maintained for decades and in many apartments either no longer function at all or have degraded to the point of doing little to remove moisture from bathrooms. There are a number of causes for these current conditions, including inadequate and sometimes inoperable ventilation fans and bathroom vent covers that are now clogged and obstructed after years of being repeatedly painted over. In order to properly upgrade its ventilation system, NYCHA must not only replace the ventilation fans on development building roofs, but also clean out the debris in duct work and replace vent covers.

Difficulties in Completing Work and Securing Vendors

In the Mold Action Plan, NYCHA committed to undertake these long-needed ventilation improvements. The Plan lays out in specific detail what tasks NYCHA must accomplish and sets a schedule for completion by June 30, 2021. Given the lack of progress to date, there are concerns that NYCHA will not meet this deadline.

As part of NYCHA's general operations during the last two years, 1,661 roof fans have already been installed after an inspection showed that a repair was necessary. To prevent mold, under the Mold Action Plan, NYCHA agreed to centrally manage a large-scale project to upgrade roof fans across the portfolio. NYCHA has acknowledged that some 9,000 to 10,000 fans need to be replaced.¹

On August 20, 2020, NYCHA revealed a work schedule contemplating the installation of 230 roof fans by October 16, 2020. As of mid-November, NYCHA reports it has installed approximately only 200 fans.

A major stumbling block from the outset of the project has been NYCHA's ability to attract qualified vendors. When the ventilation project was conceived by NYCHA, it was thought

¹ Estimates on the record in the *Baez* matter called for as many as 12,000 fans to be replaced. See Case 1:13-cv-08916-WHP, Document 233, filed 09/11/19 at 10. NYCHA did not commit to an installation schedule in *Baez*.

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that one or two vendors with great resources at their disposal could meet certain pricing expectations. When the emergency procurement solicitation was released, at least one such vendor met NYCHA's requirements. However, NYCHA ultimately did not engage that vendor because of issues related to timely payment of invoices. NYCHA's inability to pay its contractors on time has been a recurring issue, and a prior engagement with that vendor had led to a dispute over timely payments.

The expectation of vendors of receiving late payments from NYCHA has had a significant chilling effect on vendor interest in working for NYCHA. NYCHA wrote the solicitation for the ventilation project with the provision that vendors buy the roof fans, which is a significant expense that few vendors can carry. A vendor must have ample cash reserves or the ability to incur significant short-term debt until payment is received from NYCHA.

A subsequent solicitation using the same specifications and price structure resulted in a contract with a vendor executed on July 9, 2020. On July 14, 2020, the day the Monitor was informed of the identity of the vendor, we immediately conducted an inquiry and informed the NYCHA Office of Mold Assessment and Remediation ("OMAR") that we had discovered possible issues relating to the vendor's work history. OMAR conveyed the information to the appropriate offices. On July 23, 2020, the NYCHA Inspector General reported to NYCHA in detail on these and other matters. The Inspector General recommended that NYCHA obtain clarification from the vendor; the vendor declined to provide further information and withdrew.

NYCHA now has three vendors under contract whose exclusive focus will be on roof fan replacement work. A fourth will be tested on a limited basis. NYCHA reports that initial assignments have been given and that it has a reasonable basis to expect that when the vendors are fully deployed, the aggregate weekly installation rate will be some 300-350 fans. NYCHA also plans to form a team composed of its own employees to supplement the roof fan work of the vendors and will conduct a pilot to install 45-50 fans at a particular development.

In addition to the vendor issues, Covid-19 has obviously prevented a broad scope of work from occurring inside NYCHA apartments. NYCHA has recently implemented a protocol to safely enter apartments to perform such work. We must note however, that at no point from March 2020 to date has NYCHA been able to acquire contracting resources capable of performing significant interior work in aid of the ventilation project.

NYCHA has stated that 85,000 apartment units will require vent cleaning and installation of upgraded vent registers and dampers. The vent cleaning and dampers are a crucial component of the project, not only so that the benefit of the roof fans is realized but also

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as a fire prevention measure. The photos below, which were submitted in the *Baez* case, illustrate some of the hazards found in NYCHA's ventilation systems prior to cleaning. From left to right, the photos show a clogged damper, heavy levels of dust accumulation in horizontal ductwork, and a cockroach nest obstructing vertical ductwork.²



Assuming a June 30, 2021, deadline, approximately 2,300 units would need to be finished in each of 37 weeks counted from early October 2020. That translates to 460 units per day.

Though vendors have been obtained for the roof work, a solicitation covering the vital interior work was drafted by OMAR and sent to Procurement in mid-October, it was returned by Procurement for refinements. The solicitation for interior vendors was sent to a number of companies of varying sizes during the week of October 26th. If there is interest in the work, NYCHA can expect to receive bids for the interior work that reflect current market rates for such services, which could be significantly higher than calculated under the original model.

Improvements for Vendor Payment

The net result of NYCHA's difficulty in procuring vendors means that NYCHA may end up paying much more for the ventilation project than planned. To address this problem, we discussed with NYCHA a plan to buy the fans itself rather assigning that carrying cost to the vendors. NYCHA has since devised what it refers to as a "partial payment" system whereby vendors can submit a statement and supporting documentation to NYCHA and

² These photos and others can be found in Exhibit E, Case 1:13-cv-08916-WHP, Document 233-5, filed 09/11/19.

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receive reimbursement before being compensated for services rendered. Though helpful, the process is a temporary work around for a significant problem.

We have been told that NYCHA's Capital Projects Division has the ability to get vendors paid within thirty days because it uses software that allows different systems to communicate. The software has not been deployed for use by other functions. Such abilities need to be deployed across NYCHA with all possible dispatch. The Monitor team will work with NYCHA to improve the payment process to the point of attracting more and better vendor bids at NYCHA.

VI. NYCHA's Efforts to Locate At-Risk Children Under Six

Following our practice of being current in these reports, even if the information is not from the quarter under review, I want to comment on my release of the figures showing that a far greater number of children under six years old may be at risk of lead exposure than NYCHA previously estimated. From the very beginning of the monitorship, my priority has been to identify and protect these children. Unlike NYCHA's prior leadership, under NYCHA's new leadership, and working with the Monitor team, NYCHA has made significant progress in locating apartments that may contain lead paint where children under six reside or spend significant time. NYCHA reported to us that as a result of its increased efforts, which include discussions with residents during in-apartment XRF testing visits and a "door knocking" campaign, NYCHA has added 6,000 at-risk apartments to its prior count of approximately 3,000 from two years ago. It was anticipated that the numbers would and will increase as NYCHA continues to do the work, and that is why I insisted that NYCHA improve its methodology.

NYCHA already is in the process of notifying the families residing in these apartments, including the particular steps by NYCHA that will be taken to protect their children. There is much to do to protect these children, and we will continue to work with NYCHA and to be vigilant.

VII. The Governor's \$450 million Reimbursement Fund

The Monitor is continuing to have discussions with the City and with NYCHA to get the reimbursement review process and project oversight on track and ready for the busy construction phases ahead. DASNY and the State Department of Budget have been a great help to the Monitor in assessing the monitoring requirements. I am confident that we will reach agreements and that the \$450 million of State reimbursement funds will continue to be available.

VIII. Community Advisory Committee ("CAC")

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On October 13, 2020, the Monitor team and CAC members held their seventh meeting virtually. The meeting was focused on discussing safety and security issues in NYCHA developments and CAC member updates. The Monitor and NYCHA also discussed NYCHA's draft organizational plan and the Monitor made a commitment that he will not consider accepting the plan until the residents and other stakeholders had adequate time to review and analyze the document. Next, HUD regional administrator Lynne Patton gave an update about the \$35 million grant available to public housing developments that are currently under a receivership or a Monitor. NYCHA confirmed that they have applied for funding under the grant. Citywide Council of Presidents Chair ("CCOP") Daniel Barber gave an update on the CCOP's work and the Monitor announced that a permanent CCOP seat would be added to the CAC.

The CAC had a robust discussion centered on safety and security issues. The lead investigator for the Monitor team gave an update on safety and security issues that impact the services covered by the HUD agreement. An NYPD representative provided current crime statistics in NYCHA developments. The FDNY detailed recent fires in NYCHA developments and shared information for fire safety tips and virtual training programs available to NYCHA residents. Next, Tenant Association Presidents from each borough discussed the safety and security concerns posed by scaffolding, door access codes, broken doors, homelessness, gang activity, drug activity, large dogs, and inadequate cameras and lighting. NYCHA representative Eva Trimble stated that NYCHA is working with the Mayor's office on safety and security initiatives. As noted above, the Monitor team intends to work with NYCHA and other partners on needed improvements in this area.

Respectfully Submitted,

Bart M. Schwartz
Monitor