

TESTIMONY FROM NYCHA CHAIR & CEO SHOLA OLATOYE
“EXAMINING THE NEED FOR CONTRACTING ACCOUNTABILITY AND TRANSPARENCY
AT NYCHA IN LIGHT OF LEAKING ROOFS AT KING TOWERS”
COMMITTEE ON PUBLIC HOUSING WITH THE COMMITTEE ON CONTRACTS
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COUNCIL CHAMBERS, CITY HALL, NEW YORK, NY

Chairs Ritchie Torres and Helen Rosenthal, members of the Public Housing and Contracts Committees, and other distinguished members of the City Council: good morning. I am Shola Olatoye, the New York City Housing Authority’s Chair and CEO. Joining me today are David Farber, Executive Vice President for Legal Affairs and General Counsel; Brian Clarke, Senior Vice President for Operations; Farhan Syed, Vice President for Construction; and other members of our executive and Capital Projects leadership team.

Thank you for the opportunity to explain the circumstances that led to the unfortunate incident at the King Towers development in Harlem. To put that incident into context, I will discuss the scope and successes of NYCHA’s overall capital program, which will deliver about \$4.2 billion of infrastructure improvements, major modernization, and Hurricane Sandy-related repair and resiliency work over the next five years to benefit more than 250,000 residents. I will also provide an overview of our contracting and procurement processes and our efforts to increase transparency as part of our long-term strategic plan, *NextGeneration NYCHA*.

The Incident at King Towers

On August 12, the *Daily News* published a story on a situation at King Towers that should never have happened. Building #10 at that development was undergoing roof repairs while its roof drains were clogged; as a result, residents living below experienced major leaks into their apartments. While repairs can sometimes, unfortunately, become disruptive, they should never diminish the quality of life of residents as they did in the case of King Towers. It was preventable and it was unfortunate.

King Towers was the perfect storm. One of the worst roofs in our portfolio, years of deferred maintenance led to rotting through to its sub-roof, a previously unknown condition that was discovered during construction. Secondly, operations procedures for NYCHA to clear the drains on the roof before construction began were not followed. Lastly, the weight of repair equipment on the rotting roof led to additional seepage. All of these unfortunate circumstances contributed to leaks into residents' apartments when it rained. Furthermore, the lack of responsiveness by staff was simply wrong and unacceptable.

The ultimate responsibility lies with NYCHA to prevent outcomes like this. In this case, procedures regarding clogged drains were not followed and disciplinary action was taken.

I think it would be helpful to take you through the details of this incident. In March of last year, we awarded the King Towers façade and roof replacement contract to Technico Construction. We also selected a construction manager, Jay Shapiro & Associates, based on their experience and qualifications. King Towers was chosen for these repairs because its roof is one of the worst in our portfolio, according to our portfolio-wide assessment. It also had façade conditions that needed to be corrected per the City's Local Law 11.

In April of 2014, we kicked off the resident engagement process by notifying residents about the upcoming work through a pre-construction meeting that introduced the resident leadership to the construction manager. From July 2014 to the present, we held 46 construction progress meetings with the construction team (12 of which were attended by NYCHA property management staff) and five meetings with residents leaders to discuss how the work might affect residents.

King Towers' roofs are in bad shape. When construction managers work on roofs that are in such poor condition, it's not possible to entirely ascertain what's "beneath the surface" – that is, the extent of the deterioration. This reality isn't an

excuse for what happened at King Towers; it just means that our capital projects are more complicated than those at buildings where the elements have had a regular repair or replacement schedule.

Our protocols help us manage the scenarios that can occur when working on old buildings. Before construction even begins, we conduct surveys of the work site, documenting existing conditions, identifying any needed work and responsible parties, and checking for potential problems. We conducted the survey of building #10 in April 2015, during which time three clogged roof drains were identified. Even with these surveys, unforeseen field conditions can arise. For instance, we discovered in June 2015 that the roof slab above apartment 13A needed to be replaced. Shortly thereafter, senior NYCHA staff visited the development to assess the roof and the apartment's ceiling. We immediately issued a change order to the contract to fix the roof slab and the apartment beneath it. In addition, we coordinated with the two residents on the necessary permanent relocation.

The building survey was where we failed to follow our own protocol. While the appropriate property management staff did participate in the survey, the staff failed to ensure that a work order was created regarding the clogged drains and that they were cleared before construction began. Furthermore, NYCHA staff allowed the contractor to move ahead with construction prior to confirming that the drains had been cleared.

Roof work on building #10 began on April 16, 2015, with asbestos removal. I want to note that a temporary roof was always used to cover the roof during the repair work, per our policy and as part of the contract. Following heavy rainfall, top-floor residents reported leaking in their apartments, which NYCHA staff and the contractor investigated. We determined that the leaks resulted from the construction work and addressed them as conditions allowed; however, we could have done a much better job with respect to this.

The article about the leaks at building #10 was published on August 12. Senior NYCHA staff again visited the site to investigate on August 13, determining that the clogged roof drains, heavy equipment on the roof, and the need to lower the roof drains were the main cause of the leaks. We immediately cleared and lowered the drains. Since then, residents have not reported any leaks due to heavy rainfall.

We acknowledge that we could and should have done a better job communicating with residents on what we were finding and how that could impact them. We should have also responded more adequately to their complaints.

As a result of our review of this matter, we are updating our protocols to more clearly specify which parties from NYCHA, the contractor, and the construction manager need to participate in the pre-construction building survey, and to clarify that construction work cannot begin until all clogged drains are cleared. We implemented improved processes for escalating issues regarding clogged roof drains portfolio-wide and for deploying staff to remedy any conditions that arise due to severe weather at King Towers. We are also convening a group of industry experts, including certified roof manufacturers, architects, certified roofing contractors, and construction managers, to help us develop additional best practices for working on old buildings.

The roof work at building #10 is nearing completion. We finished several stages of the work in September without further incident, and are currently working on metal and railing installation.

This unfortunate incident should not characterize all the good work we're doing for residents. While an incident or two may make headlines, our staff work hard day and night to make sure our communities are safe, clean, and connected. The roof replacement project at King Towers is part of our \$500 million exterior rehabilitation of 319 buildings citywide that are home to about 30,000 residents. In the past two years, we've successfully completed construction at 83 buildings

as part of this program, and construction is underway at an additional 173 buildings. Residents across the City can attest to an improved quality of life as a result of this vital roof and façade repair program, which we expect to complete by 2016.

More Context: Old Buildings and Lack of Federal Funding

As you have heard before, NYCHA's buildings are old: 60 percent of them are more than 50 years old. As buildings get older, their problems increase – the entire NYCHA portfolio currently has nearly \$17 billion in unfunded capital needs. Our buildings need more investment than ever, at a time when Federal funding for them is scarce and declining.

We are very grateful for the Mayor's \$300 million investment in roof replacement, which is a great start to an immense problem. Roof replacement delivers significant benefits and dramatically improves quality of life for residents: it prevents leaks that cause mold and reduces leak-related work orders, freeing us to focus on other important issues. In August, we began an \$87 million capital project at Queensbridge Houses, which includes \$60 million of City funding for roof repairs at all 26 buildings as part of the three-year roof replacement initiative. We hope that the State will follow the City's lead and invest \$100 million in State capital funding to replace significantly deteriorated roofs at an additional 100 NYCHA buildings.

The vast majority of funding for NYCHA's regular capital program is Federal – about 88 percent in recent years. From 2001 to 2013, annual Federal capital grants have declined \$162 million, or 36 percent, from \$420 million to \$259 million. As a result, NYCHA has experienced a cumulative Federal capital grant funding loss of more than \$1 billion since 2001, on top of previous years of State disinvestment. Even in the years of flat appropriations to the Capital Fund, rising costs have resulted in very real cuts to the program. This chronic funding gap severely constrains NYCHA's ability to make necessary repairs and upgrades to

brickwork, roofs, elevators, building systems including heating and plumbing systems, and apartment interiors. Modernization is crucial for NYCHA to maintain its housing stock in a state of good repair and improve service levels and quality of life for the next generation of New Yorkers.

NYCHA's Capital Program: A Record of Progress and Achievement

In spite of the significant challenges of aging infrastructure and declining Federal funding, NYCHA has established a track record of completing quality construction projects in a timely manner. Over the past five years, NYCHA has implemented a series of improvements to the way we plan capital projects, incorporating industry best practices into our policies and procedures. Those improvements included organizational changes, such as creating a capital planning unit to collect and analyze technical data to make better decisions about which projects get funded and when; and procedural changes, such as assigning a single point of contact for every project to increase accountability and provide a clear line of responsibility. This strategic focus enables us to complete projects more quickly and efficiently, which is vital considering the age of our buildings and the deadlines associated with Federal funding.

HUD requires public housing authorities to obligate 90 percent of capital funds within 24 months and to expend them within 48 months. NYCHA obligated HUD's latest capital grant in only eight months, well ahead of the 24-month deadline. And NYCHA beat HUD's deadline in expending \$311 million on critical infrastructure, including façades and roofs, elevators, and heating and plumbing systems, that's improving the quality of life for about 48,000 families. We're also completing more projects. Last year we obligated over \$740 million on major modernization projects, including the entire proceeds of a \$500 million bond (which was obligated about a year under deadline); this is three times the \$232 million NYCHA obligated in 2012. Another indication of our progress is the fact that the number of construction change orders has gone from about 600 in 2012 to just over 200 last year.

Despite all the progress NYCHA has made in overhauling the way we do business — obligating money faster, cutting the number of construction change orders by more than half, and seeing reductions in leak-related work orders at buildings with replaced roofs — there is still a sense that NYCHA operates in the dark. The only way to dismantle this assumption is to shine a bright light into our capital program.

Within the first 90 days of my tenure, we launched NYCHA Metrics on our website, which features a range of current and historical information pertaining to work orders, service wait times, apartment vacancy rates, rent collection rates, and more. More recently, we've made all of our active capital contracts available online, similar to other City agencies. We're also planning to post online all awardees of RFPs and contracts moving forward. We just posted online a summary of the most recent Physical Needs Assessment. The PNA, which is performed every five years, is a comprehensive overview of the major infrastructure needs of our developments. We're doing this because transparency is the best form of oversight, fostering accountability and efficiency without hindering our efforts to better serve residents.

Contracting and Procurement

A number of agencies are responsible for NYCHA's oversight. NYCHA abides by a comprehensive set of Federal, State, and internal procurement statutes, rules, and regulations known as the Contract Procedure Resolution. Again, about 88 percent of NYCHA's regular capital funding is Federal and is overseen by the U.S. Department of Housing and Urban Development; HUD's procurement standards are outlined in the Code of Federal Regulations (primarily, 2 CFR 200.317-326). Federal regulations stipulate, for example, that public housing authority contracts comply with Davis-Bacon Act provisions regarding prevailing wages; cannot exceed five years; and must abide by Section 3 resident hiring requirements. Section 151 of the State's Public Housing Law requires NYCHA to

procure via sealed bids: all construction contracts over \$50,000 and contracts for materials and supplies over \$25,000. The contract is awarded to the lowest responsive and responsible bidder. All other contracts over \$150,000 may be procured via RFPs or sealed bids.

The same procurement rules apply to City capital funding, a small percentage of our funding, with several agencies and entities overseeing its expenditure. All contracts funded through the New York City Office of Management and Budget are registered with the City's Comptroller. Additionally, through the City's Department of Investigation and Housing Development Corporation, an independent auditor will monitor contracts for capital projects that are funded by a bond issuance, at a cost to NYCHA of approximately \$6.5 million.

NYCHA uses the City's Vendor Information Exchange System, known as VENDEX, to verify the reliability and integrity of the vendors we select, regardless of the funding source. NYCHA also has a process for evaluating contractors at the end of a contract, as well as at different milestones during the life of the project, on criteria such as timeliness, completeness, safety, and quality of work.

In addition to HUD and the Comptroller's Office, NYCHA reports regularly to: the Mayor, the City Council, the New York City Office of Management and Budget, the IRS, the State Comptroller, New York State Homes and Community Renewal, the New York City Housing Development Corporation, the New York City Department of Housing Preservation and Development, the New York City Department of Finance, the New York City Department of Investigation, the State's Department of Taxation and Finance, the State Attorney General, and more than a dozen other agencies and entities.

Dozens of NYCHA staff spend thousands of hours working to promote accountability and engage our partners through these more than 100 reports. We take very seriously our responsibility to the public. Clearly, the issue at hand is

not creating additional layers of unfunded reporting, but more transparency for proper oversight and accountability. We want to make sure our capital dollars are spent as effectively as possible, on time, within budget, and to the maximum benefit of residents. And so we are building upon the work we've already begun to become a more transparent organization.

Conclusion

Unlike private landlords who can raise rents to fund major capital improvements, NYCHA relies mainly on government funding. To make the best use of scarce Federal dollars, we have been working to improve our operations – and become a better and more efficient landlord – through our long-term strategic plan, *NextGeneration NYCHA*.

Every year that repairs and upgrades are not completed increases the risk for further deterioration to our buildings. Through our capital program, we're making critical, timely improvements that will prevent further deterioration and undo decades of disinvestment, such as beginning the restoration of 66 roofs this year with the Mayor's \$300 million investment. However, hundreds of roofs that are not included in this work are also in dire need of repair, so we must continue talking about how to get that work funded.

Thank you for your support as we move forward to address NYCHA's challenges. I am happy to answer any questions you may have.