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To: Honorable Bill De Blasio

From: Michael Sussman, Esq. 

Re: **RAD Conversions**

I recently wrote you on behalf of tens of thousands of tenants whose NYCHA units you have supported converting through the RAD program. As closing date for on such project remains set for next week, I am again appealing to you to intervene and slow down this process, allowing your successor to bring fresh eyes to this important and, we believe, wrong-headed initiative.

The group I represent, Fight For NYCHA, has been very vocal in opposing RAD conversions based on its members belief that Section 9 public housing is irreplaceable. It submits that RAD conversions represent an end to public housing as we know it, and asserts that changes of this magnitude, at the very least, must be subjected to the ULURP Process.

Before you continue with any more RAD conversions, we are requesting that you fulfill on the promise that you made on 19 Dec 2019 to hold a meeting with Fight For NYCHA and U.S. Representative Nydia Velazquez. See <https://youtu.be/aiMCI0b2e6g>. Many elected officials have pending legislation to save NYCHA, and it is dishonest to move forward with RAD as the sole solution when other solutions are within reach. This is particularly true when one recognized that, in 2018, the National Affordable Housing Management Association noted that the private sector leverage ratio from RAD conversions was only \$1.23 : \$1 and given all of the negatives we have noted (including the observed high eviction rates at Ocean Bay Apartments in Far Rockaway Queens, which was your "model" for RAD), we submit that maintaining the status quo whilst pursuing options being created by U.S. Rep. Velazquez and others will better support tenants.

A review of the Transaction documents that will give rise to the RAD conversion of 344 East 28<sup>th</sup> Street, for example, requires that, should the HAP Contract or the Section 8 program be terminated, the Owner will continue to provide housing exclusively to low-income households for the duration of the term of the Transaction documents. Since we have seen a lack of appetite in Washington to fully-fund rental assistance, how can you justify moving all of NYCHA public housing under Project-Based Vouchers with RAD and the new State Trust structure, when Government shutdowns or ideological shifts in Washington risk turning off funds for Section 8 housing? Under the Transaction documents, various (albeit overlapping) periods requiring the provision of housing exclusively to low-income households have termination dates. This puts at risk strategic, public assets may one day cease to provide housing to low-income households.

Moreover, as we have seen during your administration, restrictive covenants in real property deeds have been lifted by the Department of Citywide Services without public scrutiny or a public approval process. How can you guarantee that the sites in the Manhattan Bundle will truly provide housing for low-income tenants, particularly since a review of the Transaction documents shows that in its sole discretion, HUD may reduce the number of rental units in your RAD bundles to protect the financial viability to the RAD Landlord and/or Owner?

In light of the fact you seem hell bent on going forward with RAD conversions despite strong opposition, I wanted to further elaborate on issues tenants have raised about the conversion, specifically onerous new provisions in the leases they have been directed to sign. The below derives from discussions with these tenants and a review of the leases NYCHA offers tenants and those tenants are being directed to sign as part of the conversion.

1. There are numerous additional charges which the new leases allow the owner to pass through to tenants. See Section 4. The vague authorization for these charges concerns the low-income residents.
2. Similarly, section 6 permits an increase in security deposits when tenants' leases are renewed.
3. Section 8 allows the new owners to defray utility costs to tenants, a major change and cause of concern for obvious reasons.
4. Section 9 provides too easy an out for landlords with respect to their provision of basic standards of habitability.
5. More generally, RAD conversion entails a shift from tenant-based vouchers [which are portable] to project-based vouchers which are specifically conditioned upon a tenant retaining residency in the project. This makes onerous section 12 which ends a tenant's right to subsidy should fire or other form of damage make a unit uninhabitable. Absent adequate sprinkler systems, such provisions are even more troubling.
6. Tenants express concern that the RAD lease will more easily enable building owners to evict tenants for violations of house rules and that this will allow selective enforcement and retaliation through the enforcement process. Sections 13 and 20 highlight the loosening of grounds for terminations of tenancies.
7. Section 14 suggests that tenants will have no say in renewal leases.
8. Current leases have a grievance procedure, which is eliminated in RAD leases.
9. The new lease expands the owner's right to unilaterally evict based on non-adjudicated criminal activity, as it defines those terms. This again provides great new leeway to owners.
10. The new lease contemplates owners ceasing to provide facilities for tenant engagement.
11. None of the documents we have seen mentions the future of the parking garage at 344 East 28<sup>th</sup> Street. What are NYCHA's plans for the parking garage? Will the RAD Landlord take the parking garage?

In my view, these many lease changes [and others] adverse to the interests of tenants need to be the subject of negotiation, not imposition. A designated group of representative and informed

tenants should be empowered to work with NYCHA and new owners to improve and make more balances these leases.

Finally, I have also spoken with Fight for NYCHA leaders about the implementation city-wide of capital improvements at NYCHA buildings, either already implemented or contemplated by the funds raised through RAD conversions. These leaders describe a lack of transparency in identifying these program benefits. I would strongly suggest including tenants directly in the process of prioritizing capital improvements enabled by the RAD conversions. Tenants know their projects better than new owners and will be living with the consequences. A process to gain such input and ensure respect for its outcomes would make this entire process more palatable to tenants and more likely to meet shared objectives. Given the Coronavirus pandemic, any process should begin after the wide availability of a vaccine.

Happy Holidays.