

TESTIMONY  
**COOPERATORS UNITED FOR MITCHELL - LAMA  
CU4ML**

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Thank you for this opportunity to speak on behalf of Mitchell-Lama cooperatives.

Cooperators United for Mitchell-Lama is encouraged by the proposed changes to the Mitchell-Lama Rules that address “shareholder concerns regarding transparency and the need for increased oversight of the City’s Mitchell-Lama portfolio.”

CU4ML has long advocated improved transparency in the administration of Mitchell-Lama developments to bring fairness and greater efficiency to our communities and homes.

Once again we revisit rules for the dissolution and reconstitution of the most successful housing program for middle and low income New Yorkers.

HPD must surrender neutrality and, enact and enforce, regulations that prevent privatization. The pandemic has so clearly illustrated the need to work cooperatively to protect our communities and not sell off pieces of it for individual profit.

***(CU4ML is responding to your modification of Rules Governing Privatization)***

CU4ML has always contended that conducting a Feasibility Study is the first step to privatization. This is still our position even when we support rule changes to improve transparency and efficiency of these studies. We agree with imposing a shorter time schedule on the Feasibility Study, the Offering Plan, and reports to the State Attorney General’s office. Our experiences have been that Feasibility Studies, and subsequent Offering Plans, unnecessarily take excessive amounts of time for their completion.

The information becomes stale and the whole process can drag on for years as a Board delays necessary repair projects.

Shortening the time line, though, does not do enough to protect the affordability of Mitchell-Lama homes and apartments. The Feasibility Study is flawed because the information that

is provided is speculative. During the COVID pandemic, when our world is now upside down, facts about the future of our City are elusive and projections can carry great risk to the residents.

- We cannot assume that just because a two-bedroom apartment, in a similar building, sold for an amount pre COVID, will fetch a similar price in the future.
- We cannot assume the number of apartments that will be for sale in a development will parallel past turnover as families consolidate due to loss of income as jobs evaporate.
- Huge amounts of money has been spent on privatization. East Midtown Plaza has spent more than \$2 million over the years. Smaller developments have spent more than \$100,000 on repeated attempts to privatize. Even worse, Boards hold their communities captive to dragging out the process hiring lawyers and consultants to reach their goals of privatization.
- Preliminary research of the privatization impact at Southbridge Towers and Rivercross demonstrates that even before the start of the COVID pandemic these privatized cooperatives were not selling enough apartments to generate flip tax income to cover the dramatic rise in real estate property taxes. Their Black Book projections were overblown and did not adequately, flip tax revenues are down, and lawyers did not account for the rise in real estate taxes. Both developments are substantially revising their financial strategies and will be raising maintenance and/or their flip tax rates.

**We ask HPD to strongly consider the following recommendations:**

**1. Require a vote of 80% of all dwelling units on votes for Feasibility Study, Offering Plan, Red Herring and Black Book as well as votes to authorize expenditures of additional funds.** The 80% standard is an HPD requirement for all of its affordable housing programs and should be extended to Mitchell-Lama cooperatives too.

**2. Impose a moratorium on all activities and expenditure of funds on**

**Feasibility Studies, Offering Plans, Red Herrings and Black Books as well as votes on expenditures of funds (even though previously authorized).** The COVID pandemic is not the time to change the structure of Mitchell-Lama cooperatives. To quote from a recent letter to HPD from our friends and colleagues of Mitchell-Lama United:

**'We are concerned that privatization and semi-privatization efforts by some Mitchell-Lama cooperative boards have continued unabated during the pandemic, with the implicit or explicit encouragement of HPD. It is irresponsible to allow decisions of this magnitude to be made about the future of working peoples' homes when so many are focused on surviving the crisis themselves or helping their family, friends and neighbors to do so, and when the risks involved in privatizing are entirely unknown, given the devastating economic damage wrought by the pandemic. We believe these privatization expenditures and activities should cease, at least temporarily, so that all Mitchell-Lama residents can turn their full attention to the extraordinary and unprecedented demands of the current public health and economic crisis.'**

### **3. Require all funding of Feasibility Study, Offering Plan, Red Herrings, Black Books be funded from special assessments.**

Funds should not be taken from Operating Budgets to engage in risky actions. The Operating budget should be earmarked only for the daily work and maintenance of the cooperative and not for any privatization efforts. Mitchell-Lama Operating budget are under stress from problems generated by the pandemic. Boards hide attorney and privatization costs in their operating budgets. Boards that are intent on privatization assure shareholders that they will not have to pay the privatization fees. The inference is that privatization is magically funded since shareholders are not taxed directly and do not see a rise in their maintenance fees. Boards also assure shareholders that all costs of privatization will be bundled into future mortgages and refinancing so no one resident's individual maintenance bill will see any increase.

CU4ML has noticed a disturbing trend among Boards intent on privatization. Even when the authorization to spend more money on an Offering plan fails to win the 2/3 vote stubborn Boards, and their Officers, refuse to consider financial offers from HDC. Innuendos and rumors fly about HDC: HDC is 'lying'; 'money will never be available from a bankrupt city'; denial of the concept of a blended rate; not reporting the effective interest rates or debt service fees.

Families and individuals are under stress and suffering job loss and are unable to keep up with monthly maintenance payments. Developments are losing income as commercial tenants ask for special consideration because they are unable to pay monthly rent or the retail locations are vacated with no prospects for future rentals.

#### **4. HPD must remove the option of semi-privatization from the Rules.**

We see no advantage, either financial or moral, to this proposal. For close to ten years the Article 2 to Article 11 option has disrupted our meetings and upset efforts to protect our communities. HPD has twisted their rules to allow a few people to profit.

#### **5. Calling for the creation of a website to post documents from a mutual**

**company** is an excellent forward move to promote transparency and participation by shareholders in the governance of their development. We suggest listing more documents that should be posted at this website.

- Retainer agreements
- Contracts for building services, construction and repairs
- All Minutes from Board of Director meetings including all motions and resolutions including votes and names of the Directors
- Financial Offers from HPD/HDC to The Board of Directors and/or the housing corporation.
- Corporation By-Laws
- House Rules and Regulations
- Annual audited Financial Report

- Special COVID procedures and protocols
- Amenity waiting lists
- Links to HPD Mitchell-Lama Rules and Regulations
- Link to HPD application for Succession as well as directions on how to fill out the application
- Announcement of the Annual Meeting including election procedures, candidate statements and all timelines.

The COVID pandemic has disrupted the lives of New York City residents. We must all work cooperatively to protect families and individuals to ensure all have homes. Allowing privatization to move forward is bad public policy. HPD's mission is to preserve affordable housing and City investments.