NOT JUST A LANDLORD BAILOUT:

Choosing Emergency Relief and Long Term Impact

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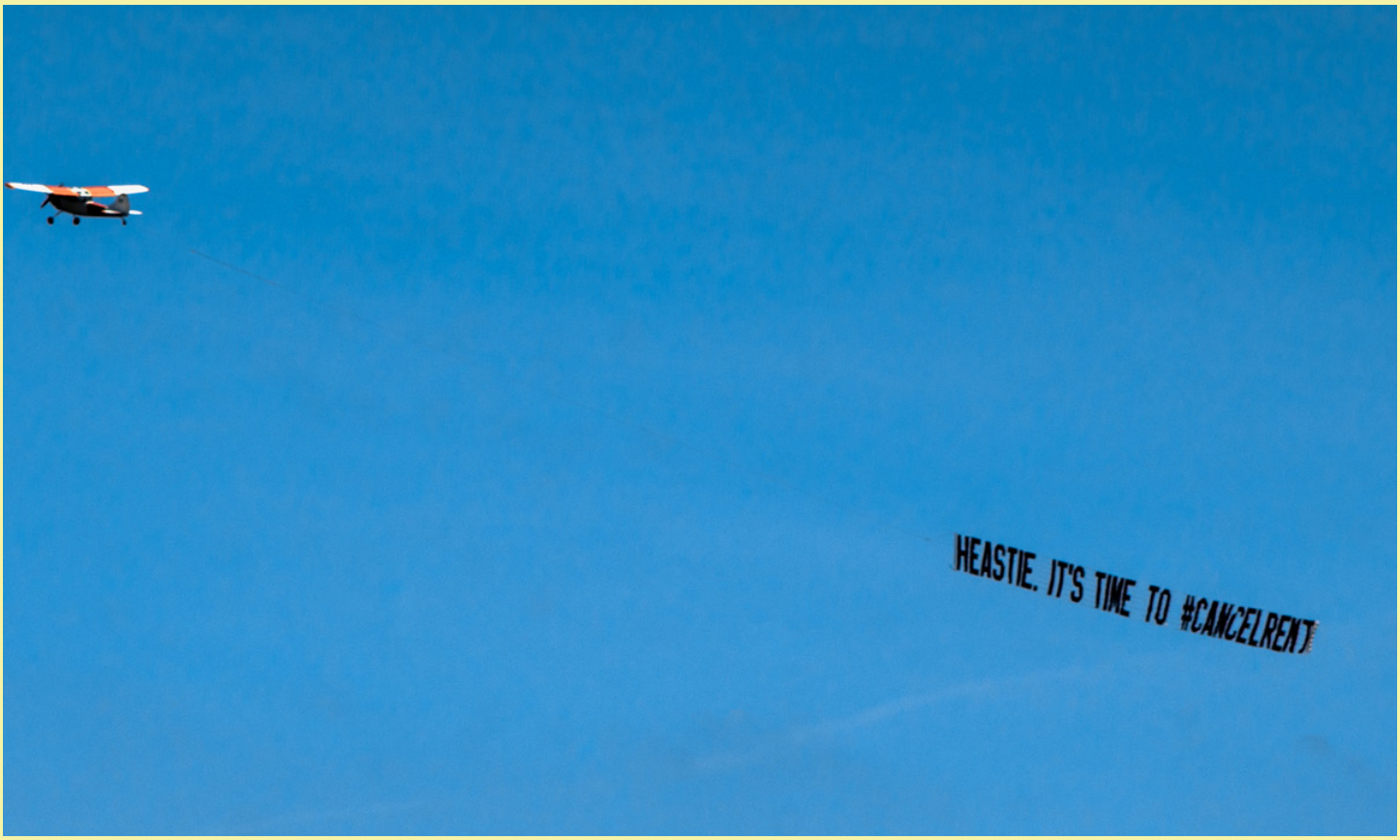

ABOUT THE URBAN DEMOCRACY LAB

The Urban Democracy Lab at NYU's Gallatin School promotes critical, creative, just, and sustainable forms of urbanism through engaged scholarship, collaborative undergraduate and graduate coursework, creative public programming, and active publication. Our Beyond the Pandemic Project explores urban policy contexts and alternatives that are both transformational and realistic.

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We are on the verge of a generation-defining housing emergency. Cities and states have had a historic opportunity to use an infusion of federal dollars to strategically address fundamental inequities in housing but have opted to again pursue unimaginative means-tested approaches. In March 2021 the Federal Government set aside $27.4 Billion for housing assistance on top of the December 2020 allocation of $25 Billion in rent relief. By comparison, together this represents nearly the entire HUD 2021 budget. While the Department of Treasury has released some regulations on how the new federal rent relief money must be spent, a good deal of program design was left up to state legislators and governors. These localities have faced questions of how to best use these funds: do we use relief to attempt to re-set to the "normal" pre-pandemic housing crisis, or do we leverage and structure relief to ensure greater housing stability for both the short and long term? Existing relief efforts up to now, which have largely placed burdens on struggling tenants and owners, have failed. If we are to both address the pending emergency of evictions and create the conditions for housing security in the long-term, we must expand the stocks of social housing outside the speculative market.

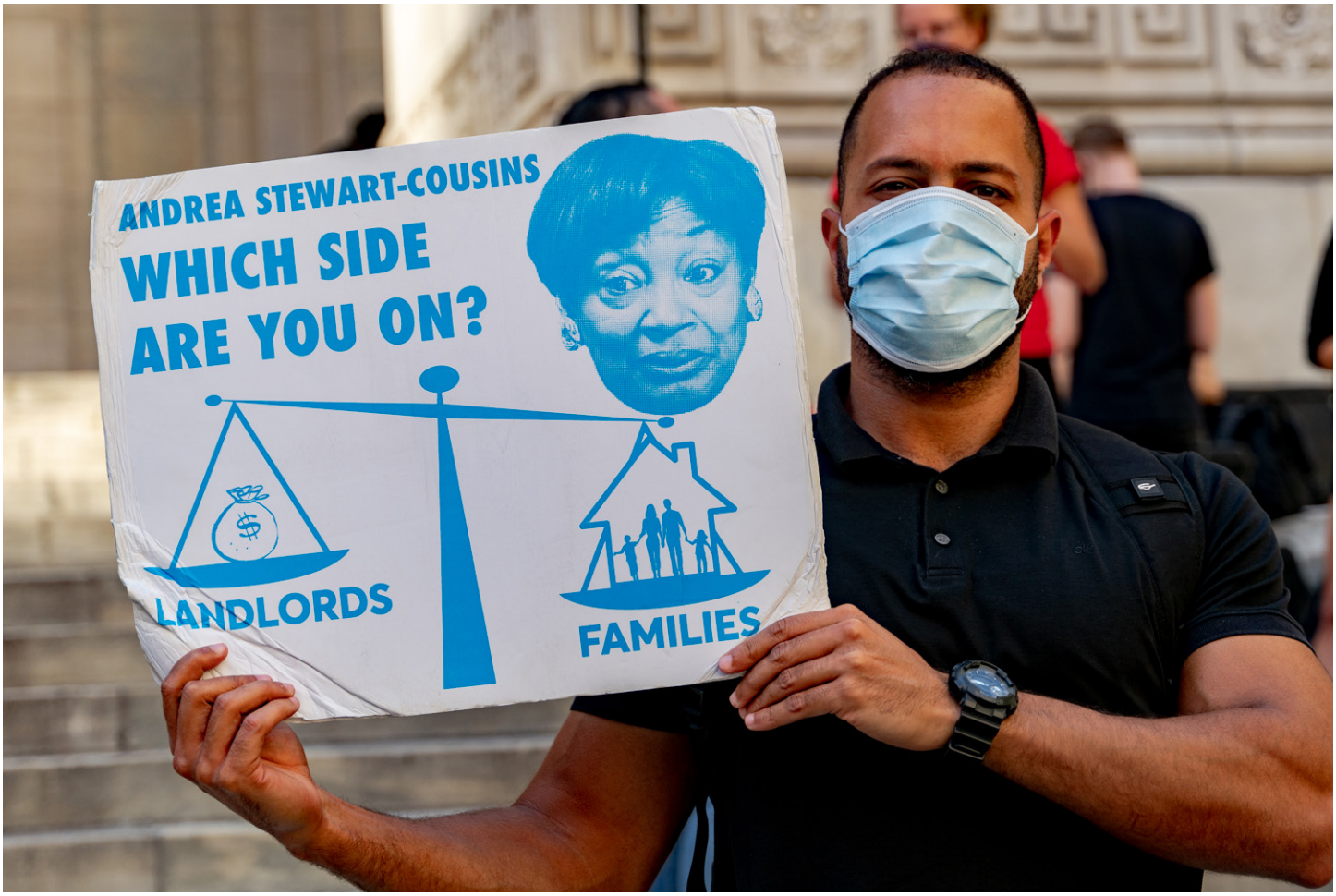
THE URGENCY OF HOUSING JUSTICE

Nationally, as of January, households are an estimated $200 billion in debt, with the average delinquent renter $5,600 behind, for an estimated total of $57 billion missed rent payments.[1] The figures for New York State are proportional – some one and a half million households are behind on at an estimated $2.5 - $3.4 billion in rent.[2] The burden rests primarily among households of color: 43% of Black households, 36% of Asian households, and 46% of Latinx households were behind on rent compared to 13% of white households.[3] These estimates do not capture the depth of the crisis, as

1 https://www.ncsha.org/wp-content/uploads/Analysis-of-Current-and-Expected-Rental-Shortfall-and-Potential-Evictions-in-the-US_Stout_FINAL.pdf

2 https://www.ncsha.org/wp-content/uploads/Analysis-of-Current-and-Expected-Rental-Shortfall-and-Potential-Evictions-in-the-US_Stout_FINAL.pdf

3 Household Pulse Survey January 6, 2021-January 18, 2021: https://www.census.gov/programs-surveys/household-pulse-survey/data.html



housing activists have noted that a number of tenants are using credit cards to pay their rent.[4]

Even before the COVID-19 crisis, more than 20 million people nationwide were struggling with high rent burdens.[5] Severe rent burden is especially common among people of color and low wage workers, who have also been the hardest hit by COVID-19.[6] In New York State, 92,000 New Yorkers were homeless before the pandemic began.[7] Solutions to this crisis, thus, must not only address the current housing insecurity but also move us closer to long-term housing security by providing affordable, stable housing options for tenants.

If we do not address these issues in a concerted way, chances are the housing market will get worse for tenants leaving them with few affordable options. Predatory landlords backed by

4 See WSJ article on credit card transactions: https://www.wsj.com/articles/out-of-work-apartment-tenants-putting-monthly-rent-on-plastic-11586966251

5 Joint Center for Housing Studies. 2020. America's Rental Housing, 2020. Cambridge, MA: Harvard University. https://jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_Americas_Rental_Housing_2020.pdf

6 Jung Hyun Choi, Jun Zhu, and Laurie Goodman, "COVID-19 Policy Responses Must Consider the Pandemic's Impact on Young Renters and Renters of Color," Urban Wire (blog), Urban Institute, April 7, 2020, https://www.urban.org/urban-wire/covid-19-policy-responses-must-consider-pandemics-impact-youngrenters-and-renters-color. Pew Charitable Trusts. 2018. American Families Face a Growing Rent Burden. https://www.pewtrusts.org/-/media/assets/2018/04/rent-burden_report_v2.pdf

7 HUD. 2019. The 2019 Annual Homeless Assessment Report (AHAR) to Congress, Part 1: Point-in-Time Estimates of Homelessness. Washington DC. https://www.huduser.gov/portal/sites/default/files/pdf/2019-AHAR-Part-1.pdf

private equity funds stand to reap enormous profits from the insecurity and pain facing renters today and are ready to invest the way they did in the aftermath of the 2008 financial crisis, with over $300 billion to purchase distressed real estate assets. Mass evictions and a lack of support for small landlords and nonprofit housing providers will likely open up avenues for private equity to make further inroads into the housing market. Throughout the nation, private equity backed landlords are associated with rising rents, high rates of evictions, and a deterioration of housing quality.[8] Moreover, predatory landlords are concentrated in communities of color, deepening housing insecurity in non-white communities as predatory landlords are more likely to neglect upkeep, and harass and evict tenants to maintain profits.[9] Their increased presence in the housing market will likely increase long-term housing insecurity, particularly for Black and brown communities. It is crucial for policies at the federal and state level to ensure that more housing does not fall into the hands of private equity funds and predatory landlords.

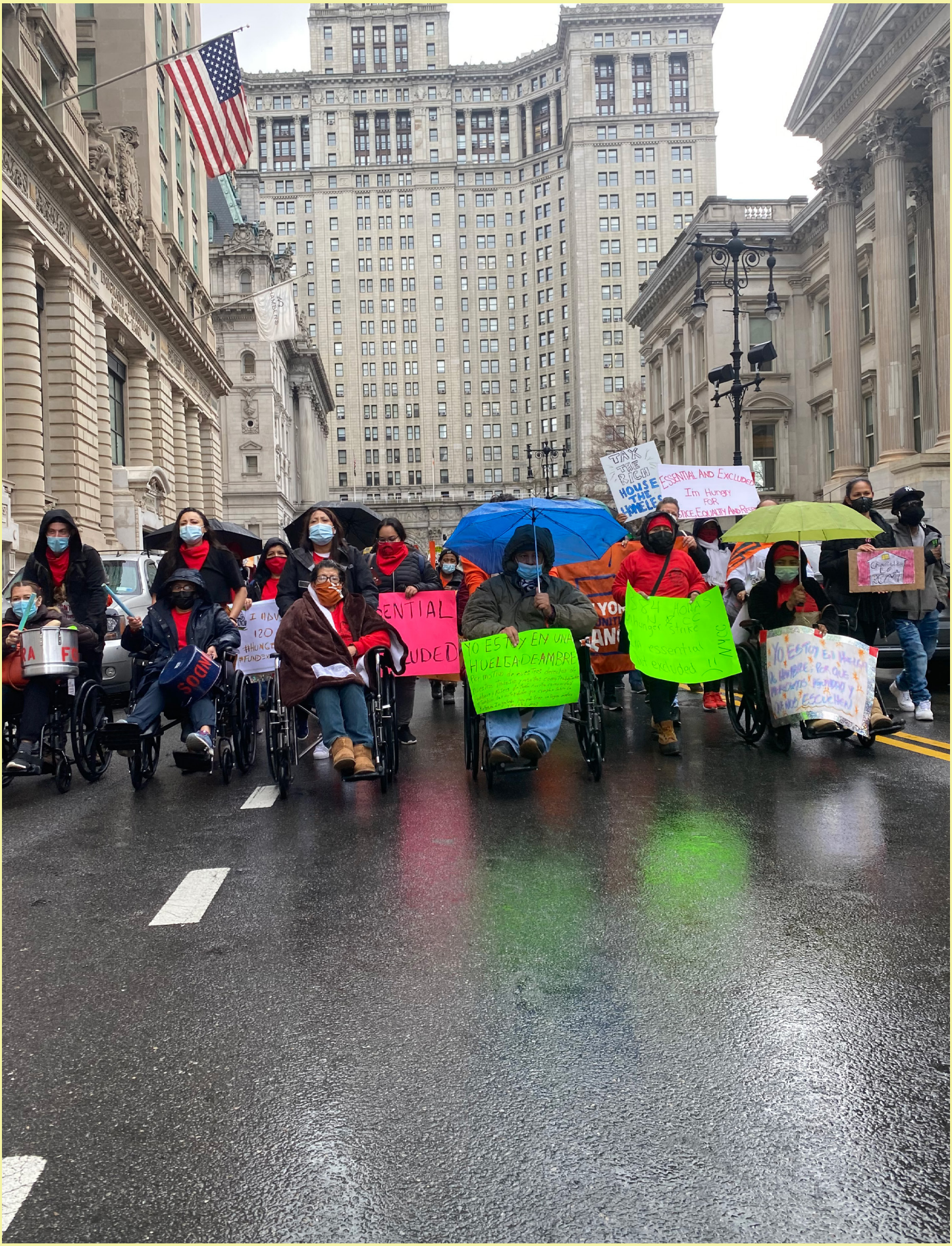
THE PROBLEM WITH NEW YORK'S PANDEMIC RELIEF APPROACH

New York State received $1.3 billion of the $25 billion the federal government set aside for rent assistance in December 2020 - a mere portion of the estimated $57 billion rental arrears nationwide.[10] Most of these funds were distributed to localities across New York, with $800 million in the state coffers for direct relief. Even assuming that the state distributes 100% of these funds, this will leave a tremendous gap of an estimated $2.2 billion in rent debt statewide. New York is anticipated to receive an additional $1 billion in rental assistance from the American Rescue Plan Act which has the potential to nearly eliminate rent arrears, but at the time of this writing,

8 Raymond, E., Duckworth, R., Miller, B., Lucas, M., & Pokharel, S. (2016). Corporate Landlords, Institutional Investors, and Displacement: Eviction Rates in Single-Family Rentals (No. 04-16; Atlanta Fed Community & Economic Development Discussion Paper Series). Federal Reserve Bank of Atlanta. Right to the City Alliance. 2014. The Rise of the Corporate Landlord: The Institutionalization of the Single-Family Rental Market and Potential Impacts on Renters. New York.

9 Fields, D., & Uffer, S. (2014). The financialisation of rental housing: A comparative analysis of New York City and Berlin: Urban Studies, 53(7),1486-1502. https://doi.org/10.1177/0042098014543704. Fields, D. (2015). Contesting the Financialization of Urban Space: Community Organizations and the Struggle to Preserve Affordable Rental Housing in New York City. Journal of Urban Affairs, 37(2), 144–165. https://doi.org/10.1111/juaf.12098

10 The December 2020 assistance also includes support for renter obligations to utility companies.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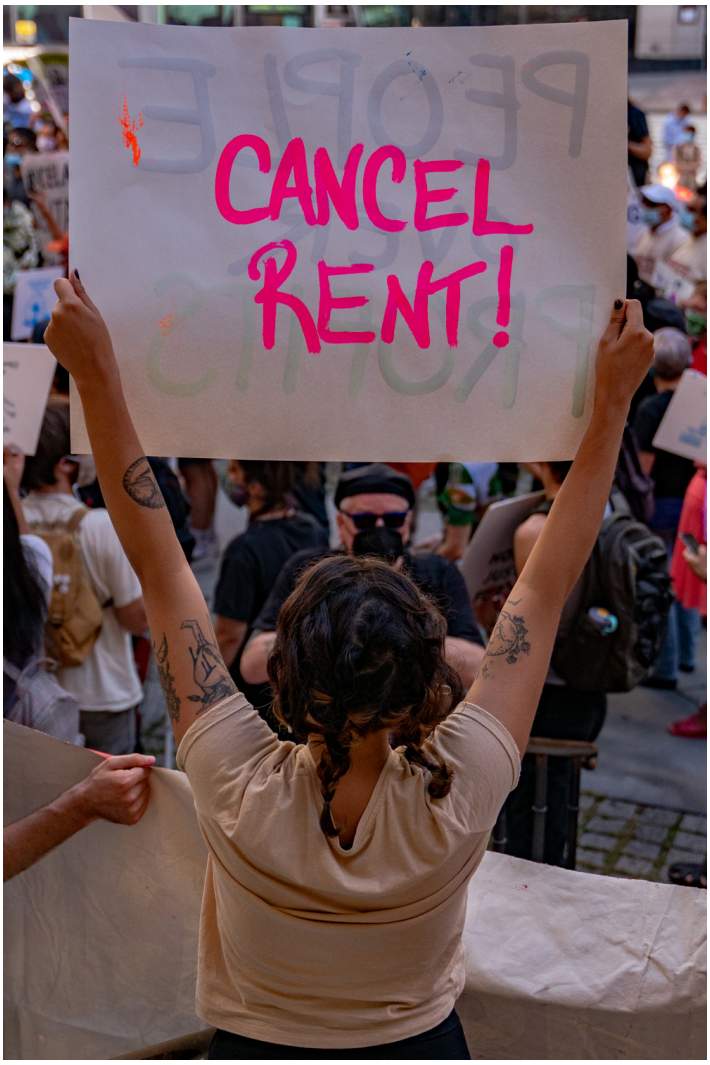
the State legislature planned to implement yet another individual, means-tested rent-relief approach for renters: one that is likely to fail to meet the scale of the crisis. On April 1st, with one month left until the New York State eviction moratorium expires, millions of tenants in rent debt will remain in limbo. The State proceeding as it has so far, with red-tape and onerous burdens on tenants, is likely to cause the most vulnerable among us to shoulder the brunt of this gap.

New York's approach to delivering pandemic relief aid continues to amount to a bureaucratic nightmare that will fail to meet the needs of renters and will leave the most vulnerable without aid. Despite the failures of the State's first COVID rent relief program, State leaders are proceeding as expected with a voucher-based system that doesn't challenge the "bi-partisain" status quo preferred by real estate interests and their powerful elected across the political spectrum on both sides of the isle. Research and advocacy supporting the greater effectiveness of universal rent cancellation and landlord based relief applications have gone unheeded and, despite other jurisdictions successfully advancing landlord-application plans, New York State will require that tenants apply for and attest to their need for aid.

New York State's first COVID-19 rental assistance similarly required overwhelming paperwork from renters who individually sought piecemeal checks to pay their landlords for accumulated arrears. Some of the hardest hit tenants – such as those in the cash economy, or those without immigration documents – were ineligible while the rest were mired in bureaucratic demands that made funds difficult to access. In



its first three months, the program only spent 72% of its allocated $40 million CARES funds, only actually approving checks for 15,000 renters of the more than 90,000 who applied. Tens of thousands of renters facing hardship instead became embroiled in red-tape and bureaucratic procedures, including intensive follow-up. The agency fielded hundreds of thousands of calls and received more than 13,000 documents that required additional case management review.[11] New York State was not the only state with a failing program. In neighboring Pennsylvania, the state's program was so inaccessible to renters and homeowners that $108 million of its $175 million CARES Act allocation for rent and

11 Homes and Community Renewal. 2020. COVID Rent Relief Program. https://hcr.ny.gov/system/files/documents/2020/10/covid-rrp-report.pdf

mortgage assistance was unused and redirected to prisons.[12]

More recent eviction protection measures of New York State were supposed to be easier to file but still failed. Only a few thousand tenants among the estimated 1.5 million tenants in arrears filed to prevent their own eviction (as of February 18, 2021). In the midst of health uncertainty, social isolation, and mistrust, nearly all New York State renters who otherwise qualify for the eviction protection will "fall through the cracks" and could face eviction beginning this spring. Without a doubt, it will be the most vulnerable renters, including those in the cash economy, those without official immigration status, and those with unmet health and mental health needs, or in precarious households, who will remain unhelped.

Placing the onus on tenants to apply for relief has failed spectacularly in New York and elsewhere, and is likely to fail again.

A landlord based universal rent debt forgiveness approach favoring small landlords and using arrears data as an indicator for low renter AMI would have benefited tenants, served small landlords, and saved the State money. Tenant-based applications create unnecessary hurdles for renters in need of assistance and those hurdles are often highest for those with the greatest need, ultimately leaving those renters unprotected from eviction. New York's tenant based approach will also have higher administrative processing and capacity costs compared to landlord based applications and will limit landlord accountability by making it difficult to ensure that relief funds don't go to landlords who defer maintenance. The tenant based application approach chosen by New York will result in millions of dollars in outstanding unpaid rent debt and puts millions at risk of eviction. By failing to prioritize landlords who show they serve low AMI renters, small and nonprofit landlords will lose out on receiving the aid they desperately need. New York's approach prioritizes big landlord profit over renters protection, small landlord survival, and all sense of reason.

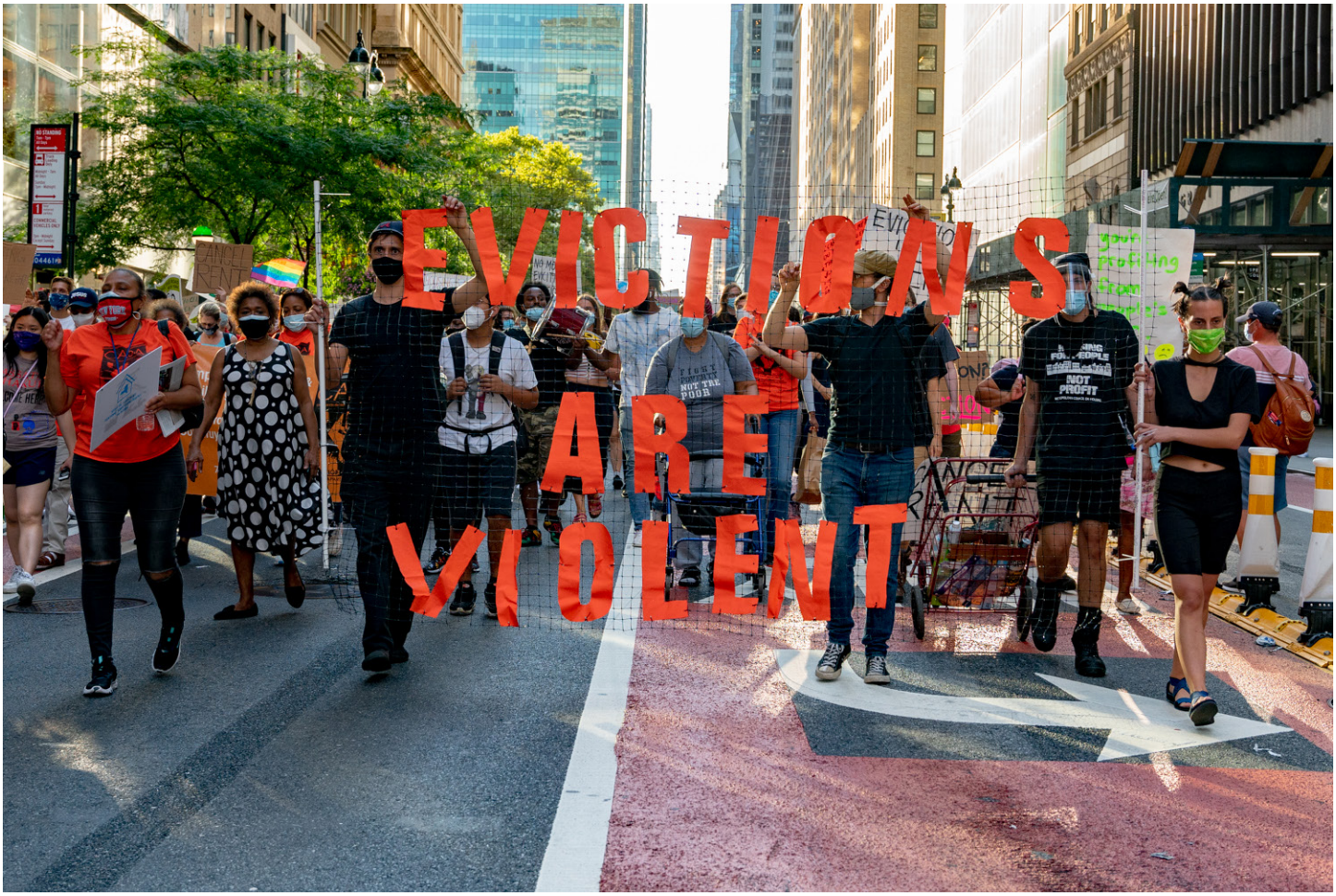
With unemployment remaining high and few concrete signs of recovery, New York rent levels, already unbearably unaffordable, will continue to go unpaid absent more resources and will continue to rise absent protections aimed at curbing speculation. The solutions offered serve at best as a band-aid. Without a comprehensive plan to protect renters and preserve and create more affordable housing, the position of renters and landlords is sure to remain grim well into the future.

IMMEDIATE NEXT STEPS

We learned during the pandemic that eviction protections save lives. Compared to the year prior, thousands fewer evictions advanced through New York's courts in 2020 due to eviction protections fought for and won by tenant advocates. Thousands of New Yorkers were able to remain in their homes and remain safe in the midst of a pandemic that will continue to rage on for the foreseeable future. Regardless of the failures around rent relief program designs lawmakers must take immediate steps to:

1. Extend the eviction moratorium for all New York renters for at least another 6 months; and

12 https://www.spotlightpa.org/news/2020/12/rent-relief-pennsylvania-rrp-cares-act-eviction-mortgage-budget-doc/



2. Pass good cause eviction protections, which shield tenants from eviction absent a determination of good cause by a judge, for all New York renters.

Doing so will allow renters to remain safe and healthy and will provide protections against landlord abuse and rent gouging at a time of great uncertainty surrounding implementation of rent relief programs and speculative investment.

LONG TERM PLAN TO CREATE SOCIAL HOUSING

No amount of thoughtful design or implementation would allow a rent relief program to completely undo the damage done by the COVID economic crisis. Unemployment levels in New York remain high with no signs of abating and tenants will continue to cycle into rent-debt while small landlords face instability and uncertainty. This crisis affords us the chance to fundamentally alter the core dynamics that have exacerbated housing insecurity in the US and New York State over the past few decades. To do so requires investing in high-quality and well funded housing that is not at the mercy of markets that systematically prioritize profits over security and shelter.

The need to take action comes at a time when, similar to ways they have done so in the past, private equity companies have shown that they are prepared to take advantage of economic crisis by buying undervalued property and eroding opportunities for affordable home ownership. New York must curb that trend by investing in the creation of social housing and

state acquisition funds with requirements of long term affordability, and by providing tenant financial and technical support that, when paired with right of first offer and refusal, support tenants in the collective organizing and purchase of their buildings and homes.

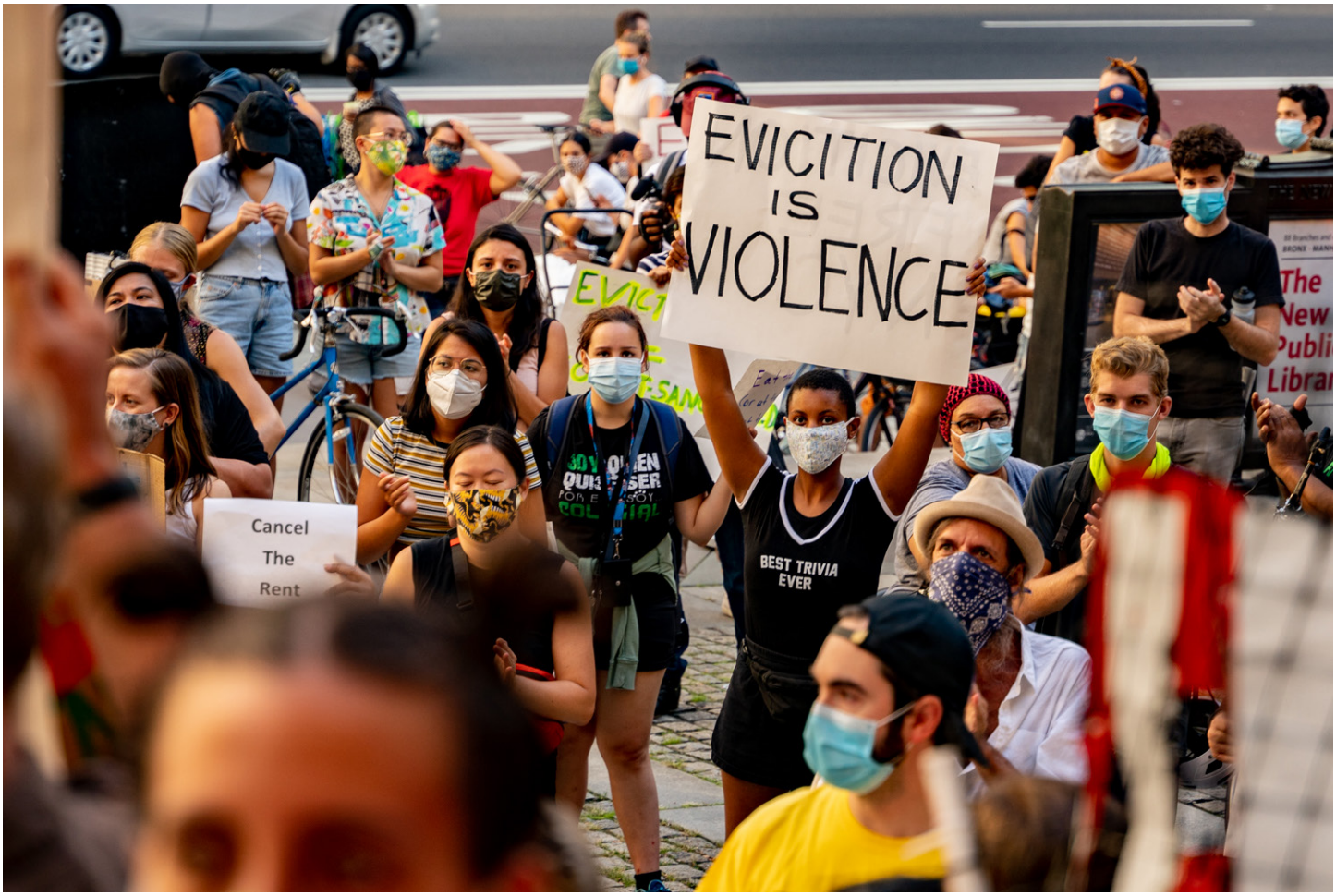
States should avert predatory investors from taking advantage of distressed assets creating statewide Tenant Opportunity to Purchase, and allowing the State to purchase and reposition distressed assets for the purposes of social housing. Distress is evident across the real estate market -- in both residential properties and in hotels, who have seen an unprecedented decline in profit. Our report "Private Equity Is Coming", detailed how in New York City, private equity-owned properties that are over-leveraged—where mortgage debt exceeds net rental income—are also more concentrated in communities of color, placing residents at greater risk of rent increases, harassment, and deferred maintenance. Just before the pandemic, in February, 2020, New York City's Housing Preservation and Development reported 182 rent stabilized multifamily properties on its Speculation Watch List, properties with low rental incomes relative to their sales price.

New York State has a clear opportunity to intervene in the distressed real estate market by passing policies and funding mechanisms that allow tenants or community groups to organize to purchase distressed and tenant-inhabited buildings and homes and facilitate their transfer into non- speculative forms of affordable housing with permanent affordability requirements. Alternative ownership mechanisms such as community land trusts (CLTs), limited equity cooperatives, or permanent management by non-profit housing providers can further ensure long-term affordability and avert predatory landlords.[13]

SOCIAL HOUSING DEVELOPMENT AUTHORITY

In conjunction with TOPA/COPA legislation, a new state-level Social Housing Development Authority (SHDA) would help ensure that distressed property is not used to enrich investors, but returned to the benefit of residents and the community. The Emergency Rental Assistance program allows for up to 10% of the federal relief allocation to go to housing stability services. Additionally, New York can utilize state and local direct assistance funding provided in the March 2021 federal stimulus. The Biden administration is proposing $3 Trillion in New Spending to invest in infrastructure and green development allowing for the opportunity to leverage the call for 1 million green homes by demanding inclusion of affordable housing in those infrastructure and environmental plans. New federal homelessness assistance funding also allows for housing acquisition and development. New York state can and should also prioritize utilizing new revenues generated in the New York State FY 2022 budget. Combined these revenue sources provide ample and sustainable funding that when strategically utilized by New York State will support broad development of affordable housing and the development of a state-level Social Housing Development Authority.

13 See examples of alternative models in the Right to the City Alliance report, Communities Over Commodities, 2018: https://homesforall.org/wp-content/uploads/2018/03/Communities-Over-Commodities_Full-Report.pdf

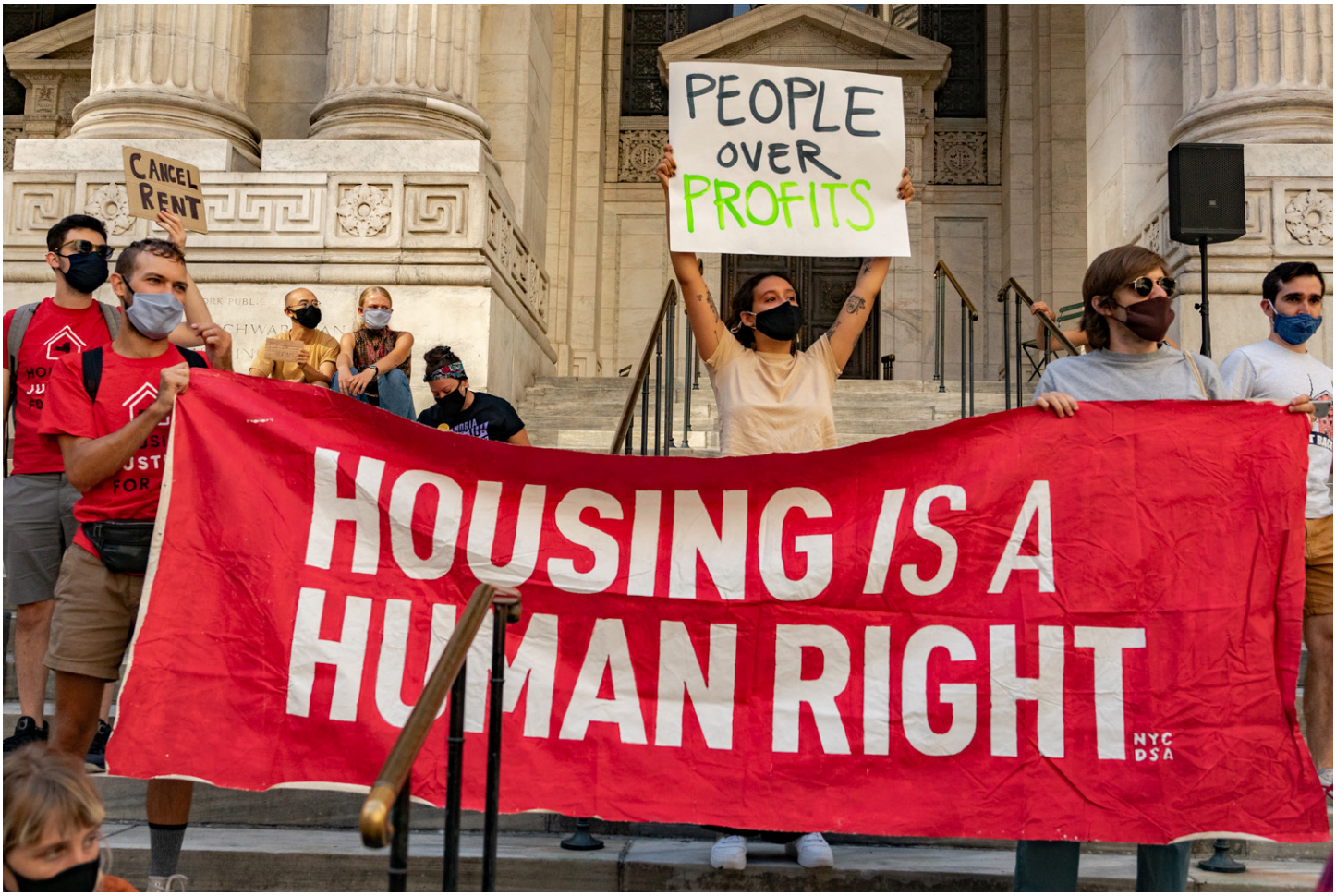


A NYS SHDA would be a new agency under the State's Homes and Community Renewal (HCR) that would directly acquire distressed real estate, including hotels, and rehabilitate it to livability and environmental standards, and then finance the transfer of the property to the social housing sector.

While funding sources exist for acquisition and redevelopment of distressed property throughout NYS programs (NYS HOME, Housing Trust Fund Corporation, Neighborhood and Rural Preservation Program), they do not acquire or undertake rehabilitation themselves. A new NYS SHDA would work in conjunction with those existing resources to facilitate and enhance the distressed asset acquisition and disposition process, as well as prioritize the creation of permanently affordable housing.

NYS SHDA would require robust staff to handle acquisition, due diligence, contracting for rehabilitation or temporary management, and disposition to ensure that property swiftly returns to the benefit of New Yorkers. Collaboration with groups that represent tenants, working class and low income New Yorkers, and the homeless would be essential to ensure that the properties are identified and transferred quickly, with the greatest benefit to the State as a whole.

The NYS SHDA would have bonding powers to raise revenue. It would provide affordable financing for acquisition to approved eligible entities, such as community land trusts, limited equity tenant cooperatives, non-profits, local governments, or public housing authorities. Those entities would be required to permanently preserve the affordability of the housing.



The returns from the financing would help meet the bond obligations. The NYS SHDA would also have the ability to acquire non-residential property, such as office space or hotels, with the purpose of converting it to affordable residential units with a priority for homeless New Yorkers.

The housing crisis we are in the midst of now was not solely created by the pandemic; the pandemic has thrown to sharp relief the housing insecurity that has pervaded the United States for years. We need solutions that address the root causes of our housing crisis: housing that is established for profit making rather than for providing shelter. This requires solutions that create additional housing outside of speculative market forces. The Good Cause eviction protections, Tenant Opportunity to Purchase, and a NYS SHDA provide long-term mechanisms to ensure tenant rights, create permanently affordable housing, and ensure that we build long-term stability rather than short term solutions.

APPENDIX 1: LANDLORD FUND LEGISLATIONS AND FEDERAL GUIDELINES

California: COVID-19 Tenant Relief Act – SB91 (Act)

Oregon: Landlord Compensation Fund (HB 4401).

Washington DC: Housing Stabilization Grants

New York State (proposed): Relief for All

New York State (proposed): Tenant Opportunity to Purchase

New York State (proposed): Good Cause Eviction

U.S. Treasury Department: Federal Guidelines

APPENDIX 2: PROPOSED DETAILS OF LANDLORD STABILITY FUND FOR NYS

Housing providers will require different application structures depending on the type of developer.

I. Affordable Housing Providers including the Not-For-Profit Community Developer/owners and HDFC cooperatives (People with income restricted units.)

   A. Submit existing compliance paperwork to demonstrate that the median income of the portfolio is at or below 80% of AMI

   B. Submit collections, arrears and operating reports for 2020 – this can be in the form of monthly operating reports, audited financial statement, year-end unaudited to document loss of income due to the pandemic

   C. In addition to funds to cover existing arrears/deficits, not for profit owners can apply for funding to create a capitalized operating reserve. Given that the economic crisis (particularly for lower income people) will not abruptly end and that it will be a long recovery to full time employment, the fund will provide for a capitalized operating reserve of two months of documented arrears.

   D. HDFC co-ops can work with technical assistance providers including: NHS, UHAB, CNYCN and other counseling organizations for assistance with applications.

II. Owners of buildings in a census tract where the medium income is at or below 80% of AMI are eligible for aid.

   A. The portfolio has 30 or fewer units.

      1. Submit collections, arrears and operating reports for 2020 – this can be in the form of

monthly operating reports, audited financial statements, year-end unaudited to document loss of income due to the pandemic.

2. They can also apply for funds to capitalize an operating reserve to cover future losses based on the tenant's inability to pay; up to two months of documented arrears.
3. Funding for proactive outreach will ensure that owners have support from a qualified technical assistance provider to submit their application.

B. The portfolio has 31 or more units

1. Submit collections, arrears and operating reports for 2020 – this can be in the form of monthly operating reports, audited financial statements, year-end unaudited to document loss of income due to the pandemic.

III. Owners with buildings located in higher income census tracts who can demonstrate that they are providing housing to lower income people (i.e., Chinatown; LES)

A. Landlord submits a notarized rent roll demonstrating that building rents are affordable to people at or below 80% of AMI in order to qualify

1. The portfolio has 30 or fewer units.
   a) Submit collections, arrears and operating reports for 2020 – this can be in the form of monthly operating reports, audited financial statements, year-end unaudited to document loss of income due to the pandemic.
   b) They can also apply for funds to capitalize an operating reserve to cover future losses based on the tenant's inability to pay; up to two months of documented arrears.
   c) Funding for proactive outreach will ensure that owners have support from a qualified technical assistance provider to submit their application.
2. The portfolio has 31 or more units
   a) Submit collections, arrears and operating reports for 2020 – this can be in the form of monthly operating reports, audited financial statements, year-end unaudited to document loss of income due to the pandemic.