

POLICY BRIEF: Preserving Quality Affordable Housing by Adequately Funding and Administering the HPD Tenant Interim Lease (TIL) Program

BACKGROUND ON THE TENANT INTERIM LEASE (TIL) PROGRAM

The Tenant Interim Lease (TIL) Apartment Purchase Program is an HPD program created in the late 1970s that “assists organized tenant associations in City-owned buildings to develop economically self-sufficient low-income cooperatives where tenants purchase their apartments for \$250. Tenant associations enter into a lease with the City to maintain and manage the buildings in which they live.”ⁱ In addition to preserving affordable housing and ownership, an important TIL goal was that these homeowners would become anchors to maintain stable communities and help improve the city’s finances.ⁱⁱ

There are currently 145 TIL buildings with 2,322 units across New York City: 117 buildings in Manhattan, 16 buildings in Brooklyn, and 12 buildings in the Bronx.ⁱⁱⁱ HPD’s goal is for the buildings to be in TIL for three to five years in order to achieve financial viability and stability.^{iv} In actuality, buildings have remained in TIL for an average of 13 years—and none of the buildings have been in TIL fewer than 10 years.^v

HPD has a new program, the Affordable Neighborhood Cooperative Program (ANCP), which it claims will expedite the cooperative conversion process.^{vi} ANCP “selects qualified developers to rehabilitate distressed city-owned occupied multi-family properties, managed by the [TIL Program], in order to create affordable cooperatives for low and moderate-income households.”^{vii}



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HOW THE TENANT INTERIM LEASE (TIL) PROGRAM WORKS

The Tenant Interim Lease (TIL) Apartment Purchase Program provides training to tenant associations in building management, maintenance, and financial recordkeeping. During the City-ownership period, the building undergoes rehabilitation so that the tenants are able to reside in a safe and habitable building. The tenants also pay rent during this period which covers operating expenses, minor repairs, and management fees.^{viii}

Tenants in TIL buildings must form a Tenant Association (TA), conduct regularly scheduled elections, and take on the established responsibilities of running the building, such as managing the financial affairs.^{ix}

While the building is in TIL, HPD maintains three levers of control^x:

“First, HPD assigns a financial reviewer to review the TA’s monthly financial report, which provides an account of the TA’s income and expenditures.

“Second, HPD has access to the TA’s bank accounts through riders that the TA and bank execute upon establishing a bank account.

“Finally, HPD has the power to place delinquent buildings on probation and, as an ultimate sanction, it has the power to revoke a building from TIL.”

Once the TIL building completes the rehabilitation and tenant training process, it becomes a low-income cooperative where rents are restructured so that buildings remain financially viable after sale.^{xi}



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PROBLEMS WITH HPD'S SUPPORT OF TIL BUILDINGS AND TRAINING OF TENANTS

Concerns about the Tenant Interim Lease (TIL) Apartment Purchase Program were raised recently at the Public Advocate James's Talk to Tish town hall in Harlem in March 2017 where residents shared that their TIL building was not being well-managed and discussed concerns with HPD's new Affordable Neighborhood Cooperative Program (ANCP).^{xii} These concerns were not new. The Public Advocate's office has maintained consistent contact with a group of TIL tenants and cooperators. In April 2016, her representatives attended a tenant association meeting at a Brooklyn TIL building and heard the frustrations of long-term residents about faulty HPD oversight and constantly shifting policies. Concerns were also raised with Mayor de Blasio regarding a TIL building at 615 West 150th St. where tenants had been moved out in 1996 for what was supposed to be a two-year rehabilitation period—but to date the remodeling has not been completed and tenants reported having their possessions locked up without being provided access.^{xiii} Concerns with the TIL program were also discussed at the March 2017 City Council budget hearing on housing.

In discussions with affordable housing groups and TIL building residents, the Public Advocate's Office has learned that there are a number of challenges, both in the TIL program and in the transition from TIL to ANCP.

Slow progression through the TIL program

At the beginning of the TIL's existence, participating buildings would be in TIL for roughly three to five years; now many buildings have been languishing for an average of 13 years. In addition, HPD is not allowing buildings to fill vacancies when people move out or pass away, contributing to a very high vacancy rate and a resident population that skews very elderly. Of the current 2,322 TIL units, 884 units are vacant—that's almost 40 percent.^{xiv}

The delayed transition process is also problematic because as more time passes, the Tenant Associations (TAs) become less able to sustain energy and the technical capacity to self-manage, which is a fundamental requirement of successfully transitioning out of TIL to become a self-sufficient and self-managing low-income cooperative.^{xv} To make matters worse, the Department of Finance has repeatedly raised property taxes on TIL buildings, often to unsustainable levels.^{xvi} Many of the buildings have also become more dilapidated; HPD



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estimated in 2013 that approximately 30 percent of the buildings have some degree of financial distress, and many have Department of Buildings violations.^{xvii}

One housing group shared that a partial explanation for the long TIL transition time is that in the mid-90's, HPD shut down its Central Management Department and “dumped the remaining occupied City-Owned properties from that department into the TIL program, whether they wanted to be in the program or not.... The original TIL buildings were highly motivated and had to apply to get into the program and complete five classes before even being accepted into the program. So, many of the remaining buildings in the program were placed in the program against their will and were not as excited, energetic, passionate and motivated about the opportunity for home-ownership as buildings/residents who clamored to be in the program.”^{xviii}

Inadequate training and assistance to tenant associations to become owners

Housing advocates also expressed concern that HPD’s training to tenant associations is not adequately preparing tenants for the reality of what it takes to own and run a building in 2017.

For example, tenant associations must track their income and expenses on an HPD-made Excel template that is emailed to tenants quarterly, resulting on a reliance on HPD that is unnecessary and not reflective of how co-ops manage their finances. Additionally, rents do not go up while a building is in TIL, meaning many residents are paying rents as low as \$250/month. Because buildings are now expected to take out large loans to pay for their renovation at time of conversion to cooperatives, maintenance fees could end up being twice as much as what tenants are used to paying, or more.^{xix}

Tenant Associations report that HPD staff has not adequately performed their jobs, because they were frequently unavailable or unreliable, inadequately trained or inexperienced, or failed to follow-up on critical matters. It appears that HPD failed to work closely with some of the TIL building TAs until problems became serious and were spiraling out of control.^{xx}

An additional problem is that HPD has not provided bilingual information to tenants despite the fact that there are many buildings where the majority or all of the residents are Spanish speakers.^{xxi}



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Lack of communication, transparency, and tenant choice

Housing and community advocates share that there has been very little communication from the City about why certain buildings have been selected for the new the Affordable Neighborhood Cooperative Program (ANCP), how quickly ANCP buildings will be developed, and what will happen to the buildings that are still remaining in TIL.^{xxii}

HPD has also left tenants out of other decisions. Tenants are not generally able to choose the developer of their building, or weigh in on significant decisions about the renovation work that will be done.^{xxiii}

PROBLEMS WITH CORRUPTION IN THE TIL PROGRAM

The City's Department of Investigation (DOI) found in 2014 that the Tenant Interim Lease (TIL) Apartment Purchase Program contained "significant corruption vulnerabilities" that allowed the former Treasurer of the Tenant Association of a TIL building to steal over \$50,000 for the building.^{xxiv} The former Treasurer accomplished this fraud by writing checks to herself, stealing rent, and living "rent-free".^{xxv} She was able to cover up the fraud by submitting false and misleading financial reports to HPD, issuing phony rent receipts, and misappropriating rents paid by relocated tenants.^{xxvi}

Based on the DOI investigation and findings, HPD agreed to take the following actions to address these corruption vulnerabilities:

- HPD will provide training for its TIL financial reviewer employees in reviewing and auditing financial reports;
- HPD will ensure that it has full and unfettered access to the books and records of the Tenant Association (TA's) accounts by enforcing its riders;
- HPD will revise its process for tracking and accounting for the rent receipts of tenants who are relocated; and,
- HPD will improve its corrective actions for TIL buildings that are in probation or delinquent in submitting financial reports.

The Public Advocate's Office has requested information from HPD regarding its compliance with these steps since 2014.



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There have also been concerns expressed regarding corruption within HPD in regards to TIL. Contacts with the Public Advocate's Office state that TIL is rife with corruption. It is alleged that HPD staff look to get their friends, family or themselves special access to TIL units by asking TIL staff to locate and process units for these individuals. It is alleged further that HPD is not sufficiently overseeing its TIL staff which has led to TAs not receiving adequate and timely training, or oversight. The Public Advocate's Office has requested information from HPD on these matters. These matters, including the DOI investigation, were recently reported on by local media.^{xxvii}

CONCERNS WITH AFFORDABLE NEIGHBORHOOD COOPERATIVE PROGRAM (ANCP)

HPD's new program, the Affordable Neighborhood Cooperative Program (ANCP), supposedly expedites the cooperative conversion process through qualified developers to rehabilitate distressed city-owned occupied multi-family properties. ANCP is managed by the Tenant Interim Lease (TIL) Apartment Purchase Program and shares the similar goal of rehabilitating the distressed properties to create affordable cooperatives for low- and moderate-income households.^{xxviii}

Under ANCP, HPD created an entity, the "Restoring Communities HDFC," in order to transfer the TIL buildings to private developers upon the closing on a construction loan. After rehabilitation and cooperative conversion, the buildings are conveyed to the newly formed cooperative HDFC.^{xxix} TIL buildings that are in need of moderate or substantial rehabilitation are eligible for ANCP.^{xxx} Unfortunately, co-ops created under ANCP will not be permanently affordable because developers are given a 30 year tax abatement similar to those with the Mitchell-Lama program. The expiration of the tax abatement will likely lead to the loss of affordable units due to subsequent rent increases.^{xxxi}

Concerns have been raised that the ANCP will leave TIL/HDFC tenants and buildings in financial stress because of the large amount of debt from the construction loan that the buildings will have to pay off, which will be added to tenants' co-op maintenance charges.^{xxxii, xxxiii} There will thus be a significant increase for tenants from the typical TIL rent of \$200-400 per month to maintenance charges that can be up to 60% of Area Median Income (AMI), which is about \$4,500 for a family of four. HPD's plan is to subsidize the maintenance costs using HUD Section 8 funds, but advocates raise reasonable questions about the reliability of those funds given the proposed cuts to the federal budget and past budget cuts.^{xxxiv} Thus, instead of owning a



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TIL/HDFC building free-and-clear, the buildings will have a lien, presumably for the duration of the ANCP 30 year tax abatement. Tenants will likely have higher monthly maintenance charges, and the ANCP “buy-in” will be \$2,500 instead of the \$250 that was promised when the tenants agreed to give up their rent stabilization status to enter the TIL program.^{xxxv}

Another concern with ANCP is the loss of affordable units. Under TIL, all of the units would have remained affordable; but under ANC, some of the units will be for moderate-income people. HPD’s aim is that the revenue from the sale of these moderate-income units will go towards off-setting some of the rehabilitation costs.^{xxxvi} According to statements made by then-HPD Deputy Commissioner for the Office of Asset and Property Management Ann-Marie Hendrickson, HPD has had this plan in mind for years because it was warehousing a significant percentage of TIL units (estimated at around 40 percent^{xxxvii}).^{xxxviii} Unfortunately, the warehousing of these units have had the effect of weakening the TAs and the financial strength of TIL buildings since they were running at only 60% capacity.

RECOMMENDATIONS

The City must ensure that all Tenant Interim Lease (TIL) Apartment Purchase Program buildings receive sufficient funding to timely rehabilitate the buildings for conversion to low-income cooperatives. HPD should also be adequately staffing the TIL program, and training and overseeing its TIL workers to ensure that the TIL Tenant Associations (TAs) and buildings are being moved along towards conversion in a timely manner. HPD must develop an effective system to track the progress and status of the buildings so that it can address delays and remove barriers to the conversion process.

HPD must ensure also that its TIL employees are providing all of the services needed, including in appropriate languages; that the training is relevant to preparing the tenants to manage a building; and that the TIL staff are actively engaging, as well as monitoring, the TAs. Lastly, HPD must ensure that it is fully complying with the DOI agreed upon anti-fraud measures, and makes clear that no special access will be granted to TIL units for HDP staff, friends, family, etc.

The Affordable Neighborhood Cooperative Program (ANCP) should be postponed until an independent review is conducted to determine all the options available to timely rehabilitate and convert the existing TIL buildings into low-income cooperatives. The City should look to meet its



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original obligation to these tenants, buildings and communities of 100% permanent affordability. The TIL TAs needs to be consulted and their input incorporated into the final decision.

The review of the ANCP is a good time to reinvigorate the TIL program and significantly improve how it is managed to ensure that tenants are treated as valuable stakeholders throughout the process. This requires that HPD communicate regularly with the TAs about its plans and create a process for timely tenant input. TIL will only be successful if the building TAs are motivated and empowered—and are trained to be able to fully participate.

ⁱ <http://www1.nyc.gov/site/hpd/developers/development-programs/til.page>

ⁱⁱ Siegel Teitelbaum & Evans, LLP, “Broken Promise: New York City’s Tenant Interim Lease Program And Those Left Behind,” February 11, 2017.

ⁱⁱⁱ Urban Homesteading Assistance Board (UHAB) [Personal Communication, March 13, 2017].

^{iv} <http://www1.nyc.gov/assets/doi/downloads/pdf/2014/Sept14/TIL%20Rpt.pdf>

^v Ibid.

^{vi} Jordan Press, Government Relations Unit, New York City Department of Housing and Preservation Department (HPD) [Statement at the Office of the Public Advocate’s Harlem Talk to Tish event, March 1, 2017].

^{vii} http://www1.nyc.gov/assets/hpd/downloads/pdf/developers/term-sheets/PDF_ANCP_Term_Sheet.pdf

^{viii} <http://www1.nyc.gov/site/hpd/developers/development-programs/til.page>

^{ix} <http://www1.nyc.gov/assets/doi/downloads/pdf/2014/Sept14/TIL%20Rpt.pdf>

^x Ibid.

^{xi} <http://www1.nyc.gov/site/hpd/developers/development-programs/til.page>

^{xii} Statement at the Office of the Public Advocate’s Harlem Talk to Tish event, March 1, 2017.

^{xiii} <http://nypost.com/2017/03/21/de-blasio-shocked-by-displaced-tenants-10-year-renovation-saga/>

^{xiv} Urban Homesteading Assistance Board (UHAB) [Personal Communication, March 13, 2017].

^{xv} Ibid.

^{xvi} Siegel Teitelbaum & Evans, LLP, “Broken Promise: New York City’s Tenant Interim Lease Program And Those Left Behind,” February 11, 2017.

^{xvii} Ibid.

^{xviii} Personal communication with the Office of the Public Advocate and affordable housing group.

^{xix} Ibid.

^{xx} Siegel Teitelbaum & Evans, LLP, “Broken Promise: New York City’s Tenant Interim Lease Program And Those Left Behind,” February 11, 2017.

^{xxi} Personal communication with the Office of the Public Advocate and affordable housing group.

^{xxii} Ibid.



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xxiii Ibid.

xxiv <http://www1.nyc.gov/assets/doi/downloads/pdf/2014/Sept14/TIL%20Rpt.pdf>

xxv Ibid.

xxvi Ibid.

xxvii <http://nypost.com/2017/04/20/special-housing-program-is-probed-for-alleged-scam/>

xxviii http://www1.nyc.gov/assets/hpd/downloads/pdf/developers/term-sheets/PDF_ANCP_Term_Sheet.pdf

xxix Ibid.

xxx Ibid.

xxxi Siegel Teitelbaum & Evans, LLP, “Broken Promise: New York City’s Tenant Interim Lease Program And Those Left Behind,” February 11, 2017.

xxxii Personal communication with Barry Weinberg, Community Board 9 Housing and Land Use Committee Member, April 19, 2017.

xxxiii Siegel Teitelbaum & Evans, LLP, “Broken Promise: New York City’s Tenant Interim Lease Program And Those Left Behind,” February 11, 2017.

xxxiv Ibid.

xxxv Ibid.

xxxvi Ibid.

xxxvii Urban Homesteading Assistance Board (UHAB) [Personal Communication, March 13, 2017].

xxxviii Siegel Teitelbaum & Evans, LLP, “Broken Promise: New York City’s Tenant Interim Lease Program And Those Left Behind,” February 11, 2017.

