



Brooklyn Defender Services
177 Livingston St, 7th Fl
Brooklyn, NY 11201

Tel (718) 254-0700
Fax (347) 457-5194
info@bds.org

TESTIMONY OF:

Evan Ma

Senior Staff Attorney, Civil Justice Practice

BROOKLYN DEFENDER SERVICES

Presented before

The New York City Council Committee on Public Housing

Oversight Hearing on Security Measures for NYCHA's Vacant Apartments

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My name is Evan Ma, and I am a senior staff attorney with Brooklyn Defender Services' (BDS) Civil Justice Practice. BDS is a public defense office whose mission is to provide outstanding representation and advocacy free of cost to people facing loss of freedom, family separation and other serious legal harms by the government. We want to thank the Committee on Public Housing and Chair Banks for the opportunity to testify about ensuring vacant apartments managed by the New York City Housing Authority (NYCHA) are safe and made available to eligible residents.

For 30 years, BDS has worked, in and out of court, to protect and uphold the rights of individuals and to change laws and systems that perpetuate injustice and inequality. After 30 years of serving Brooklyn, we expanded our criminal defense services to Queens. We represent over 40,000 people each year who are accused of a crime, facing the removal of their children, or deportation. Our staff consists of attorneys, social workers, investigators, paralegals and administrative staff who are experts in their individual fields. BDS also provides a wide range of additional services for our clients, including civil legal advocacy, assistance with the educational needs of our clients or their children, housing and benefits advocacy, as well as immigration advice and representation.

BDS' Civil Justice Practice aims to reduce the civil collateral consequences for the people we serve who are involved with the criminal, family, or immigration legal systems. Our practice combats housing instability in a variety of ways: we defend people from eviction in housing court and provide proactive relocation assistance and benefits advocacy. We work with clients who are entering the shelter system as well as shelter residents attempting to secure stable housing. Through this work we see the profound challenges New Yorkers face in securing safe, affordable, and permanent housing.

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Background

BDS supports the goal of creating more safe and affordable housing in the city and ensuring that truly vacant NYCHA apartments are filled by new tenants. However, we are concerned about some of the methods the Department of Investigation identifies, particularly as it related to the removal and eviction of occupants of NYCHA apartments in conjunction with the NYPD.

While BDS supports reducing the wait time for applicants and tenants to be able to access vacant NYCHA apartments, we caution this committee against expediting NYCHA's vacant unit reclamation process without important procedural safeguards. BDS has represented several people in the past year who have been removed directly from NYCHA apartments by the NYPD in plain violation of their due process rights, which demonstrates the clear dangers of circumventing the existing administrative and judicial eviction processes and the profound need for procedural guardrails in any situation where NYCHA seeks to evict people from apartments, particularly in circumstances where they are collaborating with the NYPD.

Existing NYCHA Regulatory Structure is Insufficient in Determining Eligibility and Remaining Family Members

Today's hearing on security measures and apartment turnover in NYCHA cannot be separated from the overall context of NYCHA's underfunded and understaffed reality. Critical processes, like determining eligibility of a family member to be added to a household composition, are complex and opaque. People seeking to become authorized occupants in a NYCHA apartment must navigate both the NYCHA administrative system and the local development management office. We regularly hear from the people we represent that attempts to be added to their family's apartment household composition were rebuffed for unofficial or unclear reasons. These denials have led to our clients being deemed unauthorized occupants and eventually led to their eviction, judicial or otherwise. To better assess whether apartments are actually vacant and, where they are not, who is living in those apartments, NYCHA needs more trained staff to assess these situations and more procedural safeguards to prevent violation of New Yorkers' constitutional due process rights.

Unauthorized Occupants are Entitled to Due Process Protections

Unauthorized occupants residing in NYCHA apartments are often still entitled to due process protections, regardless of their long-term eligibility for NYHCA housing. BDS represents a wide range of NYCHA tenants and occupants. These New Yorkers have procedural rights that must be protected regardless of whether NYCHA ultimately deems them eligible to continue living in their homes. If the tenant of record vacates that apartment, there must be stronger protections for the unauthorized occupants they leave behind—and certainly the determinations regarding their right to stay in the short or long term cannot be made by the NYPD. In many cases, these

unauthorized occupants have been living in an apartment for months, years, or decades but are not formally on the household composition. If the tenant of record moves, leaves, or died, the unauthorized occupant is often deemed a dangerous person. As public defenders, we are all too familiar with the existing process for dealing with individuals that are perceived to be dangerous by NYCHA—the police are called, a person is arrested and arraigned in criminal court for trespassing, orders of protection that exclude individuals from their homes during and sometimes beyond the pendency of their trespassing case. Instead of using available administrative and judicial pathways to challenge occupancy, NYCHA frequently deputizes the NYPD to remove people from their homes. NYCHA must not circumvent the due process rights of occupants in NYCHA apartments by using NYPD to remove residents and illegally locking out people without going through the civil legal process that exists for this very purpose. NYCHA should cease its collaboration with the NYPD to permanently evict individuals residing in NYCHA apartments.

Case Example of Illegal Eviction

In the fall of 2025, BDS represented Mr. A who was residing in a NYCHA apartment who was wrongfully removed from the apartment by NYPD and subsequently illegally locked out by NYCHA. He had lived with the tenant of record in their home until that person moved out. Upon the tenant of record's vacatur, Mr. A was provided with the Remaining Family Member (RFM) grievance paperwork by his development management office. Despite having submitted this paperwork, NYCHA had the NYPD enter the apartment without warning, advised our client that he was no longer permitted to live there, and arrested him for trespassing. After he was released, NYCHA informed him that he was not permitted to re-enter the apartment and was provided with a form entitled "NYPD Public Housing Apartment Reclamation Request Form." On our advice and in order to expedite his restoration, our client filed a *pro se* illegal lockout proceeding in housing court and was restored immediately on NYCHA's consent after they consulted with their attorneys. Mr. A slept on the streets for weeks while his housing court case was pending. His housing may not have ever been restored to his home if he did not have access to legal counsel. NYCHA was acutely aware of who he was—they had supplied him with paperwork in his name for complete the RFM process. This illegal eviction was effectuated after a NYCHA employee signed off that any remaining people in the apartment have "no occupancy rights in this apartment." Regardless of his eligibility under the NYCHA RFM process, Mr. A client was entitled to the same procedural rights in housing court as any other tenant in this city. If nothing else, the eviction process in housing court affords New Yorkers the dignity they deserve to find alternative housing before being evicted from their homes. But in some situations, these occupants may have justiciable claims to succession, even if they have not been able to follow every NYCHA guideline along the way. NYCHA should promulgate processes for addressing unauthorized occupants that do not involve the NYPD due to the severe harm that residents, authorized and otherwise, suffer when their due process rights are ignored.



Expand RFM Process to allow for Some Unauthorized Occupants to Succeed

In most cases, only authorized occupants who have been added to the household composition while the tenant of record lives in the apartment are eligible to succeed a NYCHA tenancy. In limited cases, unauthorized occupants have been able to demonstrate that they made reasonable efforts to be added to the household composition, but were met with bureaucratic barriers. NYCHA should consider creating a more generous policy and process to provide NYCHA residents who are not strictly eligible for the RFM process with an opportunity to succeed to their family's home. For example, The Permanent Affordability Commitment Together (PACT) Pilot Program allows unauthorized occupants who are residing in a NYCHA apartment when their building converts into the PACT program to succeed to the tenant of record's now-Section 8 voucher and tenancy. This is a clear demonstration of NYCHA's recognition of the reality that there are New Yorkers who are deserving of affordable housing, who are currently living in NYCHA apartments, and who have been unable to successfully navigate NYCHA's administrative processes. This is particularly salient for those who have been incarcerated and are seeking another chance at a stable life. Expanding the RFM process to allow for some unauthorized occupants succeed their family's tenancy would lead to more equitable outcomes in often messy situations and still accomplish this city's goal of reducing homelessness and increasing access to affordable housing.

Conclusion

BDS supports this committee's efforts to ensure that NYCHA housing continues to improve its internal policies to maximize the availability of safe and affordable housing stock to all New Yorkers. However, we have serious concerns regarding the involvement of the NYPD in expediting the eviction of unauthorized occupants in NYCHA apartments, particularly where there is no clear policy for determining apartment vacancy. If NYCHA is to be permitted to circumvent the typical eviction process for unauthorized occupants in rare circumstances, there must be clear guidelines and that process must be documented every step of the way. There must also be a clear internal appeals process that allows these occupants a formal review of their eviction and an opportunity to be heard by an impartial third party. Finally, NYCHA's administrative abilities are overtaxed and under resourced—this committee should continue to advocate for increased resources for NYCHA to ensure that the agency is able to effectuate its rules, process applications, and protect its residents as designed.

BDS is grateful to New York City Council's Committee on Public Housing for your time and consideration of our comments. We look forward to further discussing these and other issues that impact the people and communities we serve. If you have any additional questions, please contact Anya Mukarji-Connolly, Managing Director, Policy & Advocacy, at amukarjiconnolly@bds.org.