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THE INSTITUTE
FOR AFFORDABLE
HOUSING POLICY

State of New York City's Subsidized Housing: 2011

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Executive Summary

Historically, families with low and moderate incomes have struggled to find affordable housing in New York City, and this challenge has only grown in recent years. Indeed, household incomes remained essentially stagnant between 1970 and 2010, while reported rents nearly doubled. To reduce the burden that households face, the city, state, and federal governments have employed numerous programs to encourage private developers to own and manage affordable housing developments in exchange for government subsidies. More than 171,000 New York City households currently depend on these subsidies to ensure that their monthly rent remains affordable.

Housing subsidies, and the accompanying rent or income limits intended to ensure that the housing is affordable, typically expire after a set time period, allowing the property owner to convert the units to market rate rent. Until now, most information about the subsidies has been housed in individual agency databases, and often in multiple databases because properties are often developed with several subsidies from different agencies. This makes it difficult for agencies, tenants, and community organizations and leaders to obtain the comprehensive and up-to-date information about subsidized properties they need to identify properties that may leave affordability programs.

With the cooperation and expertise of the city, state, and federal housing agencies, and the insights of knowledgeable advisory committees, researchers at NYU's Furman Center for Real Estate and Urban Policy combined almost 50 datasets to create a single, online searchable database of privately-owned, subsidized rental housing. Known as the Subsidized Housing Information Project (SHIP), the database maps and provides detailed information about the nearly 2,500 rental properties, containing nearly 235,000 units, ever financed in New York City by the following categories of subsidy programs: U.S. Department of Housing and Urban Development (HUD) financing and insurance programs, HUD project-based rental assistance, the New York City and New York State Mitchell-Lama programs, or Low-Income Housing Tax Credits (LIHTC). Though these are not the only sources of subsidies for income or rent restricted housing, they are the largest subsidy programs used to develop affordable housing in New York City.

Twenty-nine percent of the units subsidized through these four program categories receive financing from multiple programs, and each subsidy may have a different expiration date, different rent and income limitations, and different regulatory agencies overseeing property conditions. By linking information about the properties from all the various agencies (as well as other sources), the SHIP Database helps users understand those differences. This new resource also allows users to compare different types of subsidized housing and their distribution throughout the city, and to identify opportunities to preserve the affordability of the housing across the various subsidy programs and administering agencies.

In this report, we present the first detailed analysis of the information collected in the SHIP Database, in order to provide the most comprehensive overview available of subsidized housing in New York City. In the first section of the report, we provide a brief summary of New York City's subsidized housing and the ways in which the major subsidy programs differ from each other. In the subsequent four sections, we describe the history of development under the programs in each category, report the characteristics of properties developed within each, and analyze the number of properties and units eligible to exit each affordability program in the next five years. In the final section, we discuss the opportunities for preserving affordability by identifying properties across the four portfolios with subsidies that will expire in the next five years.

Properties in the SHIP Database

The 2,132 rental properties that currently receive subsidies through at least one of the four program categories covered in the SHIP Database contain 171,500 housing units, representing approximately eight percent of New York City's total current rental housing stock. Properties catalogued in the SHIP Database are located in every borough and nearly every community district in the city. Manhattan has 65,000 units located in subsidized properties, the highest number of any borough. However, the Bronx has the highest share of its rental housing subsidized by the programs catalogued in the SHIP Database; 13 percent of Bronx housing units receive financing from at least one of the program categories. In contrast, Staten Island has just 4,200 units, representing seven percent of its rental housing stock.

Properties in the SHIP Database tend be larger than typical New York City properties, with high numbers of units and slightly larger apartments, generally because they were designed for families rather than single adults. The average privately-owned subsidized rental property includes 80 units, compared to 25 for market rate multi-family rental properties and 540 for public housing. Properties catalogued in the SHIP Database also tend to be newer than the typical New York City rental property, with an average age of 72 years compared to 82 years for a market rate multi-family rental property.

More than 62,000 (27%) of the 233,900 units originally financed through the four program categories are no longer subject to affordability restrictions through any of the programs covered in SHIP. These units may have left the program for one of two reasons: because the property owner did not comply with the subsidy requirements ("failing out") or because the program restrictions reached their expiration date and the owner did not renew the subsidy or enter another subsidy program tracked by the SHIP Database ("opting out"). Currently, these units may be market rate, rent stabilized, or subject to affordability restrictions not covered in the SHIP Database.[1]

1 If a property failed out of a program catalogued in SHIP, but was preserved by another program in SHIP, is still counted as affordable.

HUD Financing and Insurance

Since the 1920s, the Federal Housing Administration and HUD have financed affordable housing by insuring mortgage loans made by private banks or directly lending to private developers. These programs have facilitated the development of 630 properties with 86,600 units of affordable housing in New York City. Just under half of those properties (309) currently have HUD financing and insurance; the others are now market rate, rent stabilized, or subject to affordability restrictions through one of the smaller programs not tracked by the SHIP Database. Twenty-five of these 309 properties will reach the end of all affordability restrictions tracked in the SHIP Database within the next five years.

HUD Project-based Rental Assistance

One of HUD's primary financing tools is a direct rental subsidy to property owners who agree to rent units to low or moderate-income tenants. Project-based rental assistance programs require landlords to enter into an agreement with HUD whereby the tenant pays a certain percentage of the household's income in monthly rent and HUD pays the owner the difference between the tenant's payment and the HUD-approved contract rent. Project-based rental assistance subsidies are the only subsidies provided to privately-owned, multi-family housing that guarantee that a tenant will not pay more than 30 percent of his or her income in rent.

Project-based rental assistance was used to develop 697 properties in New York City, containing 104,000 units. Currently, 593 properties (85% of those originally financed), containing 83,000 units, receive subsidies from a HUD project-based rental assistance program. Of these, 193 properties have a contract with fewer than five years remaining and no other affordability restrictions tracked by the SHIP Database. Fourteen of these properties have non-renewable contracts expiring in the next five years and will require new subsidies or incentives in order to remain affordable; the other 179 properties have contracts that are renewable at the owner's discretion.

Mitchell-Lama Program

New York State created the Mitchell-Lama program in 1955 to address the perceived shortage of safe and sanitary housing for moderate-to-middle-income families. The program offered developers of rental and co-op properties free or low-cost land, property-tax abatements, and subsidized below-market rate mortgages for up to 95 percent of the project cost. In exchange for subsidies, developers agreed to regulations regarding rents charged and tenant selection. The restrictions expire after a set period of time, and the property owner then may leave the program or refinance the loan to remain in the program.

From 1955 to 1978, 174 rental properties, containing 69,800 units, were developed in New York City under the Mitchell-Lama program. Currently, there are 78 rental properties (45% of those originally financed), containing 33,700 units, still receiving Mitchell-Lama subsidies. Twenty-six properties with 7,500 units are currently eligible to opt out if the owner gives tenants a year's notice. In the next five years, one additional property in Manhattan, with 120 units, will become eligible to opt-out for the first time.

Low-Income Housing Tax Credits

Congress authorized the LIHTC program in 1986 to encourage the private sector to provide financing for affordable housing developments. Under the LIHTC program, the Internal Revenue Service (IRS) allocates tax credits to state and local housing agencies, which offer them to developers who build or rehabilitate affordable housing. The developers then sell the tax credits to investors in order to raise capital for the project.

The LIHTC program has been the primary source of affordable housing development financing nationwide since the 1990s. By the end of 2010, 80,400 units had been financed in New York City, and nearly all (93%) of those units remain affordable. There are no LIHTC properties that will be eligible to leave affordability before 2015; however, by 2020, 24 LIHTC properties with 1,700 units will be eligible to exit affordability and rent their units at the market rate.

Preservation Opportunities

Our analysis of the SHIP Database identifies four categories of affordable properties that warrant attention in the next five years.

Non-renewable programs

Thirty-four properties, containing nearly 11,000 units, will reach the end of affordability requirements imposed by a non-renewable subsidy program and have no requirements imposed by any other SHIP subsidy program. If affordability is to be maintained, a new subsidy would likely be required to maintain affordability for current and future tenants.

Renewable programs

By the end of 2015, 166 properties are set to expire from a renewable program. These programs may be short term contracts, such as project-based Section 8, or they may be longer term mortgages. In either case, any owner already receiving subsidies is eligible to take advantage of new or extended subsidies under the same program. We are currently conducting research to identify which of these properties are at the greatest risk of exiting affordability.

Mitchell-Lama Properties

Currently, 26 Mitchell-Lama properties are already eligible to leave the program, but have not exercised that option. Owners of these properties could leave the program after giving one years' notice, and have no other financing tracked in the SHIP Database that would prevent them from leaving the Mitchell Lama program.

Distressed Properties

Ninety-nine properties with HUD financing and insurance or project-based rental assistance (16% of the total stock of such buildings) failed their most recent HUD Real Estate Assessment Center (REAC) inspection and will require corrective action to avoid foreclosure. They will likely need government subsidies to improve building conditions, or may need new ownership in order to maintain the properties as safe, quality affordable housing.

We hope that this first report on the city's subsidized housing helps arm housing agencies, owners of subsidized housing, tenants, and community organizations with the information they need to work together to develop the efficient and effective preservation efforts today's fiscal pressures demand. Our researchers are using the SHIP Database to better understand the factors leading owners to opt out rather than renew subsidies, with the aim of providing policymakers with an evidence-based early warning/opportunity system to predict which properties are at the greatest risk of leaving their affordability restrictions. We will work with policymakers, tenant advocates, and the real estate industry to analyze which preservation strategies have the greatest potential to efficiently preserve affordability for the current and future tenants of those properties. In these days of limited government resources, targeted, highly efficient preservation efforts are critical if New York City is to maintain its extraordinary commitment to housing a diverse and growing population.

Section 1. Introduction

Over the past half-century, the city, state, and federal governments have invested billions of dollars to support the creation of affordable housing in New York City. Unlike the earlier model of public housing (in which government entities developed, constructed, and managed housing for low-income residents), in the 1960s government agencies in New York and around the country began to use subsidies and other incentives to encourage private developers to build housing affordable to low- and moderate-income (LMI) households.

Housing subsidies, and the accompanying rent or income limits intended to ensure the housing is affordable, typically expire after a set time period, allowing developers to convert their units to market rate or rent stabilized housing. Because the need for affordable housing persists, government agencies often try to maintain the reduced rents and income restrictions of these properties by providing new subsidies when such expiration dates approach or property conditions deteriorate. It is generally more cost-effective for government agencies to reinvest in existing affordable housing than to build new units, especially in places like New York City, where developable land is expensive and scarce. However, efforts to design and implement programs to preserve affordable housing units have been hampered by the difficulty of identifying properties that are likely to leave or fail out of subsidy programs due to subsidy expiration or poor physical and financial conditions.

This report looks at four main categories of public subsidy programs used to develop or rehabilitate privately-owned affordable rental housing units in New York City. These programs, described in detail in the next four sections of this report, are HUD financing and insurance, HUD project-based rental assistance, New York City and New York State Mitchell-Lama, and the Federal Low-Income Housing Tax Credits (LIHTC). While these are not the only subsidized affordable housing programs used in New York City, they are the largest individual subsidy programs and—to our knowledge—have generated the majority of income or rent-restricted, privately-owned, subsidized housing in New York City.

Many properties receive subsidies from more than one financing stream, and each subsidy may have different expiration dates, impose different rent and income limitations, and require oversight by different government agencies. Until now, most information about the subsidies was housed in individual agency databases. Because there was no mechanism for matching properties across agency portfolios, it was difficult for agencies to share information about the properties.

In 2007, concerned that the subsidized housing stock was rapidly declining in an overheating housing market, the John D. and Catherine T. MacArthur Foundation funded a Preservation Capacity Assessment for the city. The assessment resulted in a series of recommendations to the five city, state, and federal agencies charged with administering New York City's housing programs, including a suggestion that the agencies create an Inter-agency Working Group (IWG) to devise strategies to

protect the affordability of subsidized properties.[1] The assessment also highlighted the need for an independent and objective source of information about the subsidized housing stock. Accordingly, the IWG (formed in 2008) selected NYU's Furman Center for Real Estate and Urban Policy to create a single database of all properties ever subsidized by HUD, the Mitchell-Lama programs, and the LIHTC.

Over the last two and a half years, researchers at the Furman Center, with the cooperation and expertise of the city, state, and federal housing agencies, and the insights of knowledgeable advisory committees, combined 50 datasets with information on over 20 unique subsidy programs. The resulting SHIP Database also incorporates reviews of legal agreements, mortgages, and other documents in the agencies' files and in public records. Further, it standardizes address data and maps every affordable property ever financed in New York City using HUD financing or insurance, HUD project-based rental assistance, Mitchell-Lama, and LIHTC. The SHIP Database, available online at www.furmancenter.org/data/search, is a unique resource; nowhere else in the country can local policy makers and housing professionals access such comprehensive information on so many properties receiving subsidies from such complex sources.

1 Originally, the IWG included the New York City Department of Housing Preservation and Development (HPD), the New York City Housing Development Corporation (HDC), the New York State Division of Housing and Community Renewal (DHCR), the New York State Housing Finance Agency (HFA), and the U.S. Department of Housing and Urban Development (HUD). In September 2010, DHCR and HFA were integrated into New York State Homes and Community Renewal (HCR).

The MacArthur Foundation's Window of Opportunity: Preserving Affordable Rental Housing Initiative, the F.B. Heron Foundation, and Herbert Z. Gold ('40), an alumnus of the NYU School of Law, all generously supported the development of the SHIP Database. The New York City Council has also committed to support technical assistance and training for community-based organizations on how to use the database in their preservation efforts and advocacy.

In this report, we present the first comprehensive analysis of the state of the subsidized properties found in the SHIP Database. The database includes both properties currently receiving subsidies and properties that once received financing but no longer do. From 1962 through 2010, a total of 2,454 properties containing 233,900 units were developed in New York City through the four subsidy programs catalogued in the SHIP Database. Of these, 2,132 properties containing 171,500 units continued to have income or rent limits designed to make them affordable to low or moderate-income New Yorkers as of the end of 2010. The other properties have left all of the affordability programs documented in the SHIP Database.

In this introductory section, we discuss the need for affordable housing in New York City, briefly describe how the SHIP-tracked programs have provided affordable housing in New York City over the last six decades, and explain why some of the currently-affordable properties may convert to market rate apartments in the future.

Affordable Housing in New York City: A Persistent and Growing Challenge

Households with low, moderate, and even middle incomes[2] have consistently struggled to find affordable housing in New York City's expensive real estate market. Despite the recent dips in the housing market, both owner-occupied and rental housing are more expensive today than they were a decade ago. Table 1A shows that, adjusted to 2010 dollars, the city's median monthly rent rose by 18 percent between 2000 and 2009, from $850 to $1,000. Because incomes have remained nearly stagnant since 2000, the average New Yorker is spending a larger share of his or her income on rent now than in 2000. In 2009, 49 percent of New York renters paid more than 30 percent of their household income on rent,[3] compared to 41 percent in 2000. This trend of increasing rents accompanying stagnant incomes has persisted for decades: after adjusting for inflation, the New York City median household income remained essentially unchanged between 1970 and 2009, while the median reported rent almost doubled.

As a result of these trends, the share of rental units affordable to low- and moderate-income residents has fallen. For residents with household incomes below 50 percent of the New York City Median Income,[4] only 18 percent of all rental units (and 4% of market rate[5] rental units) were affordable in 2009, compared to 27 percent of units in 1990. While a median-income household found 91 percent of rental units affordable in 1970, only 62 percent of rental units were affordable to such households in 2009.

2 Income levels are based on the Area Median Income (AMI) for a given geographic area, generally a Metropolitan Statistical Area. The terms extremely low, very low, low, and moderate-income are not always defined in precisely the same way, but generally, households earning less than 30 percent of the AMI (or up $24,550 for a family of four in New York City in 2011) are considered to be extremely low-income, households earning between 30 percent and 50 percent of AMI (or up to $40,900 for a family of four in New York City in 2011) are considered to be very low-income, households earning between 50 percent and 80 percent of AMI (or up to $65,450 for a family of four in New York City in 2011) are considered low-income, and households earning between 80 percent and 120 percent of AMI (or up to $98,160 for a family of four in New York City in 2011) are considered moderate-income. "FY 2011 HUD Income Limits Briefing Material." U.S. Department of Housing and Urban Development Office of Policy Development & Research, June 1, 2011. Available at: http://www.huduser.org/portal/datasets/il/il11/IncomeLimits-BriefingMaterial_FY11_v2.pdf

3 Traditionally, a housing unit is considered affordable if its occupants pay no more than 30 percent of their income on housing costs, including heating utilities.

4 Current HUD regulations calculate Area Median Income in New York City for the five boroughs of New York City combined with Putnam County. This definition has changed over time; for simplicity, we use the median income for only the five boroughs throughout this section of the report.

5 In this report we use the term "market rate" to refer to rental units that do not receive any subsidies tracked in the SHIP and are neither rent stabilized nor controlled. Some of these units may receive subsidies from programs not catalogued by the SHIP

Table 1A: Housing in New York City, 1970–2010

	1970	*1980*	*1990*	*2000*	*2010*
Total Occupied Housing Units	2,836,872	2,788,530	2,819,401	3,021,588	3,109,784
Homeownership Rate (% of occupied units)	23.6%	23.4%	28.6%	30.2%	31.0%
Renter Occupied Units	2,167,523	2,136,918	2,012,023	2,109,292	2,146,892
Affordable to 50% NYC Median Income	46.4%	20.5%	27.3%	21.3%	18.1% #
Affordable to 80% NYC Median Income	82.1%	60.9%	66.3%	56.3%	43.5% #
Affordable to 100% NYC Median Income	90.7%	81.1%	82.0%	76.7%	62.3% #
Market Rate Rental Units				672,368 *	772,650 **
Affordable to 50% NYC Median Income				6.2% *	4.4% **
Affordable to 80% NYC Median Income				38.0% *	24.6% **
Affordable to 100% NYC Median Income				62.9% *	42.6% **
Rental Vacancy Rate	2.6%	3.3%	4.1%	3.2%	4.5%
Median Household Income (2010$)	$49,693	$40,645	$51,865	$50,539	$50,886 #
Median Contract Rent (2010$)	$555	$628	$779	$853	$1,004 #
Households Paying More than 30% of Income on Rent					
(share of renter households)	28.5%	38.6%	39.0%	40.7%	48.7% #
Households Paying More than 50% of Income on Rent					
(share of renter households)	–	20.1%	–	22.3%	26.3% #

*Source: U.S. Census, American Community Survey, New York City Housing and Vacancy Survey. Note: 2010 is the most recent year available for most data in this table. Variations are indicated by the following symbols: *2002, **2008, #2009*

Although renter households make up a smaller share of all New York City households today (69%) than they have at any point in the last four decades, homeownership remains out of reach for most New Yorkers. Despite housing price declines in recent years, in 2010, just six percent of home sales were affordable to New Yorkers making the median income. The median home price for 1-4 family homes and condominiums in 2010 was $507,000, over $200,000 beyond what would be considered affordable to a household earning the median income. Thus, rental housing remains the only realistic option for most New Yorkers.

Affordable Housing Strategies: Programs in the SHIP Database

To reduce the burden that households living in a high cost market face, the federal, state, and city governments have employed a myriad of programs to create and maintain affordable housing. This first comprehensive report based upon the information in the SHIP Database analyzes subsidized housing that received financing from one or more of four major program categories: HUD financing and insurance, HUD project-based rental assistance, Mitchell-Lama programs, and the LIHTC. While the SHIP Database is not a comprehensive catalog of all federal, state, and local programs used to develop affordable housing, the properties analyzed in this report represent the largest portfolios of privately-owned, publicly-subsidized, income-limited affordable rental housing in New York City.[6] Together, the programs analyzed in this report provided financing for properties containing 233,900 units[7] of affordable housing developed from 1962 to 2010.

The four program categories analyzed in this report share several notable similarities. Properties financed through the programs catalogued by the SHIP Database are privately-owned, multi-family rental properties funded with a mix of private capital and public subsidy, which may include below-market interest rate loans, capital subsidies, rental subsidies, tax exemptions, tax abatements, mortgage insurance, low-cost land, or other benefits that serve to reduce the cost of housing development or operation. The subsidies were used both to construct new housing and to rehabilitate existing properties in

6 Other programs include, for example, the Homeless Housing Assistance Program, Housing Trust Fund Program, Participation Loan Program (PLP), Article 8A loans, and the Tenant Interim Lease Program. Each of these programs are administered by HUD, New York State Homes and Community Renewal, the Homeless Housing Assistance Corporation or the New York City Department of Housing Preservation and Development. As funding becomes available, the Furman Center intends to incorporate these programs in the SHIP Database.

7 Throughout this report, we count all units in properties that have received subsidies, even though some units in these properties may be market rate. Generally, all of the units in properties developed with HUD financing and insurance, HUD project-based rental assistance, or Mitchell-Lama subsidies are affordable. In properties with LIHTC financing, at least 20 to 40 percent of units must be affordable; however in the vast majority of LIHTC properties a much larger share of units are subsidized. Given the data available, we cannot reliably estimate the number of units that were ever rent-restricted or the number that currently are rent-restricted.

substandard condition. In exchange for these subsidies, the developers or owners of these properties must agree to specific rent and/or tenant-income restrictions to ensure that the properties are affordable to low, moderate, or middle-income families. However, in order to make such arrangements attractive to private developers, the rent restrictions for each of the programs expire after a set number of years, which varies across programs. These expiration dates allow the developer to benefit from the subsidy during the set term and gain full decision-making authority over rent levels and maintenance investments in the future.

While the four categories of programs covered in the SHIP Database share a basic model of private ownership, public subsidy, and income or rent restrictions, they differ from one another in important and complex ways. First, each is funded and administered by a different agency. HUD funds and administers both the HUD financing and insurance programs and project-based rental assistance programs, while several different state and local agencies have funded, refinanced, or monitored Mitchell-Lama developments. The IRS regulates the LIHTC program, but the program is administered by state and city agencies.

Each program also uses a different mix of subsidy types and a unique method for allocating funds. For example, the project-based rental assistance program guarantees that tenants pay no more than 30 percent of their income on rent by subsidizing the difference between that amount and market rents through supplemental payments directly to the owner.[8] Other programs offer low-interest loans and property tax abatements, rather than direct operating subsidies. Some programs provide funds to any development meeting certain criteria; others, such as certain LIHTC programs, require a competitive application process.

8 Rental Assistance Payments and Rental Charges, 24 C.F.R. § 236.735 (2010).

The programs covered by the SHIP incentivize developers to create housing that is affordable to different populations. Most HUD project-based rental assistance properties target low-income households (less than 80% of AMI), while Mitchell-Lama properties target moderate- and middle-income households (80–130% of AMI) and LIHTC targets households making 50 to 60 percent of AMI. Further, some programs are restricted to special needs populations such as the elderly or disabled.

Additionally, each program uses a different method to calculate affordable rents. LIHTC rents, for instance, are based on the rate that the target population should be able to pay, while Mitchell-Lama rents were initially set through the negotiation process with the administering agency based on average rents and projected operating costs, among other factors.

Finally, the programs vary in the process owners must use to leave the program (and thereby avoid its affordability restrictions).[9] Some programs, such as HUD project-based rental assistance, require specific rent restrictions and income guidelines throughout the length of the contract, but impose no obligations on landlords after the contracts end. Other programs, such as Mitchell-Lama, require affordability for a specific duration, but even after that period has elapsed property owners must actively opt out in order to leave the program. Some HUD financing and insurance programs, on the other hand, require affordability for the duration of the mortgage, which could be 40 years, but allow property owners to refinance to a private mortgage and thereby avoid the program's affordability restrictions after 20 years.

9 Properties that were developed and occupied prior to January 1, 1974 may become subject to rent stabilization upon leaving the affordability programs tracked in the SHIP. However, as discussed in the box *Affordable Housing Development Strategies: Other Approaches* on page 14, rent stabilization is not a means-tested program and is not considered an extension of affordability restrictions.

Affordable Housing Development Strategies: Other Approaches

Public-private development partnerships are not the only strategy policymakers have employed in the past 50 years to create affordable housing. Two other subsidy strategies also have created significant affordable housing opportunities: public housing, which is directly owned and operated by the government, and tenant-based rental vouchers. These subsidy programs differ from SHIP programs in critical ways, including their financing approach, administration, and likelihood of perpetual affordability. Additionally, rent regulation, which is not a government subsidy program, is also used to make rental units more affordable to tenants.

Public housing provides approximately 178,000 units for low-income households. Unlike units tracked in the SHIP Database, their initial development was entirely financed through a mix of federal, state, and city funds, with no private capital.[10] Additionally, they are managed directly by the New York City Housing Authority (NYCHA), rather than through public-private partnerships. Finally, existing units remain in the program indefinitely; greatly reducing the risk that they will be converted to market-rate units.

Over 120,000 households in New York City receive Section 8 vouchers from HUD, NYCHA, or HPD to supplement their rent payments to private property owners in market-rate or subsidized units. Because these vouchers are tenant-based, rather than tied to a specific property, the payments are transferred to a new rental unit if the tenant moves, and the original landlord must find a new tenant (who will not necessarily have a voucher).[11] While these tenant-based subsidies are not tracked in the SHIP Database, some voucher holders do live in properties analyzed in this report.

New York City's rent stabilization and rent control systems also make some apartments more affordable to their tenants. Those programs, however, are not means-tested—eligibility for the apartments is not limited to households who can prove that they earn low, moderate, or middle incomes. The rent restrictions therefore are not necessarily providing affordable housing to the households that affordability programs target. However, on average, stabilized apartments serve households with lower incomes than market rate apartments. In 2008, the median income of households living in stabilized units was $36,000, compared to $50,000 for households living in market-rate rental units. Over 50 percent of rental units in the city are governed by rent stabilization or rent control. Properties governed by rent stabilization are markedly different from SHIP properties. Rent-stabilized property owners do not receive a public subsidy to compensate for rent restrictions (although, owners can choose to enter new units into rent regulation by accepting tax abatements or incentives).[12]

10 In a notable exception, the New York City Housing Authority (NYCHA) sold 21 of its developments to a limited partnership between the agency and Citigroup in 2010 in order to fund their rehabilitation. The sale qualified the developments for federal subsidies under a provision of the American Recovery and Reinvestment Act of 2009 that supported "mixed-finance modernization" of public housing. In addition, the Hope for Elderly Independence (HOPE VI) program and so-called "mixed financing" create redevelopment opportunities for public housing that introduce the use of private debt and LIHTCs. Proposals are under consideration to expand the use of mixed financing and to convert public housing operating subsidies to Section 8, while maintaining public control over ownership of this housing. See Cara Buckley, "City's Public Housing Agency Gets $305 Million in Aid," N.Y. Times, Mar. 15, 2010 at A21; New York City Housing Authority, "NYCHA Seeks to Qualify its 21 State and City Public Housing Developments for Federal Public Housing Subsidies through a Unique Opportunity Provided by the Federal Government's Economic Stimulus Program," http://www.nyc.gov/html/nycha/downloads/pdf/federalization _factsheet_English.pdf.

11 In recent years in New York City, some new developments have been coupled with Section 8 vouchers for all tenants. However, unlike a project-based voucher, these vouchers stay with the tenant when they leave the building. Therefore, only the original tenants are guaranteed vouchers, and future tenants will pay the full rent. Properties developed with these vouchers are not included in the SHIP Database.

12 Units financed by Mitchell-Lama, HUD project-based rental assistance or HUD financing and insurance may have contracts requiring units to enter rent stabilization after their subsidy period ends, or may apply for tax abatements which require the properties to enter rent stabilization.

The State of Subsidized Affordable Housing: Properties in the SHIP Database

As Table 1B shows, the 2,132 rental properties that currently receive subsidies through at least one of the four program categories covered in the SHIP Database contain 171,500 housing units, representing approximately eight percent of the total New York City rental housing stock. Nearly half of the subsidized rental units (83,000) receive HUD project-based rental assistance. Another 75,100 units receive funding through the LIHTC, while the Mitchell-Lama and HUD financing and insurance financed approximately 33,700 and 40,700 units, respectively. However, as we will discuss further on page 18, many units receive financing through multiple sources.

Properties financed by HUD, the Mitchell-Lama program, or the LIHTC program are located in every borough and nearly every community district, as Map I illustrates. As Table 1C shows, 65,000 units in Manhattan are located in properties financed through one or more of the programs tracked in the SHIP Database, the highest number of any borough. The Bronx has the greatest share of rental housing units in properties catalogued by the SHIP (13%). In contrast, only two percent of Queens rental units are in properties that receive financing from any of the programs covered in the SHIP Database, and Staten Island has fewer than 4,200 subsidized units.

As Table 1D illustrates, properties in the SHIP Database tend be larger than typical New York properties, with many units and slightly larger apartments. The average property in the SHIP Database contains 80 rental units, more than twice as many units as in the average multi-family rental property in New York City. Properties financed by the Mitchell-Lama programs tend to be largest, averaging 440 units per property. LIHTC properties are the smallest, averaging just 50 units. By comparison, the average public housing property has about 540 units. The average unit in a property in the SHIP Database is about 980 square feet, compared to 890 for all New York City units. Mitchell-Lama tend to be the largest, and those financed with HUD financing and insurance are the smallest.

Properties financed by programs covered in the SHIP Database tend to be newer than typical New York City rental properties. The average age of SHIP properties is 72 years, while the average age of market-rate, regulated, or other subsidized multi-family rental properties citywide is 81 years. In comparison, public housing properties were built mostly in the 1940s and '50s, and average only 63 years of age. The average age of the property reflects the original construction date of the property; however, many properties in the SHIP Database underwent extensive rehabilitation at the time of their first subsidy, and so the building systems and units are much newer. This is especially pronounced with LIHTC properties, the majority of which were rehabilitated when they first received their subsidy.

Map I: Affordable Properties Catalogued by the SHIP Database, 2010

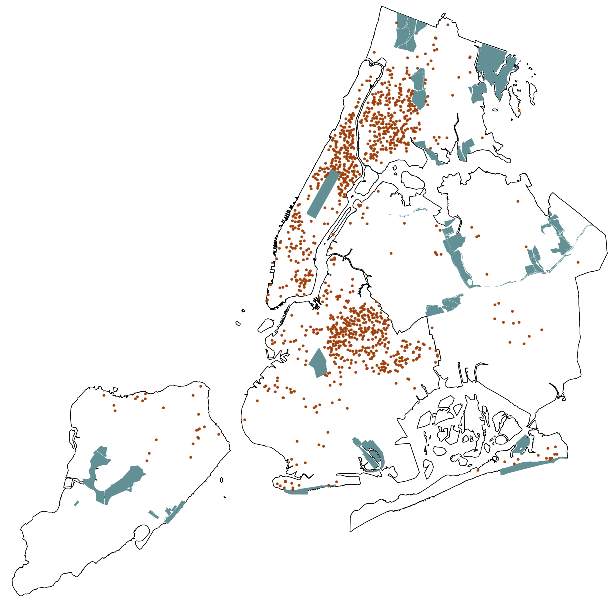


Table 1B: New York City Housing Stock, 2010

Unit Type	*Total Units*	*Share of all NYC Rental Units in Program*	*Share of all NYC Units (Rental and Ownership) in Program*
Occupied Rental Units	**2,146,892**		
SHIP Properties	*171,544*	*8.0%*	*5.6%*
HUD Financing or Insurance Program	40,701	1.9%	1.3%
HUD Project-based Rental Assistance	82,981	3.9%	2.7%
Mitchell-Lama	33,680	1.6%	1.1%
LIHTC	75,076	3.5%	2.4%
Other Programs that Provide Affordable Housing			
Public Housing	178,017	8.3%	5.7%
Tenant Based Section 8 Vouchers	123,843	5.8%	4.0%
Rent Control/Stabilization	*1,063,148*	*49.5%*	*34.2%*
Market Rate and Other Subsidized Rentals	*772,650*	*36.0%*	*24.8%*
Occupied Ownership Units	**962,892**		
Mitchell-Lama Coops	65,612		2.1%
Other Ownership Units	897,280		28.9%
All Occupied Housing Units	**3,109,784**		

Note: Figures in this table do not add up to totals because properties may receive funding support from multiple program categories, and some subsidized properties may also be rent stabilized. Ownership units include cooperative apartments, condominiums, and one-to-four family homes. Units in affordability programs not captured by the SHIP Database may appear in either the rent stabilized or market rate and other subsidized rental categories.

Table 1C: Rental Housing Stock by Borough, 2010

	Bronx	*Brooklyn*	*Manhattan*	*Queens*	*Staten Island*	*New York City*
Total Number of Rental Units	390,348	662,615	589,885	444,663	59,381	2,146,892
Units in Properties Catalogued by the SHIP Database	48,932	42,927	65,030	10,463	4,192	171,544
Share of Rental Units that are in Properties Catalogued by the SHIP Database	12.5%	6.5%	11.0%	2.4%	7.1%	8.0%

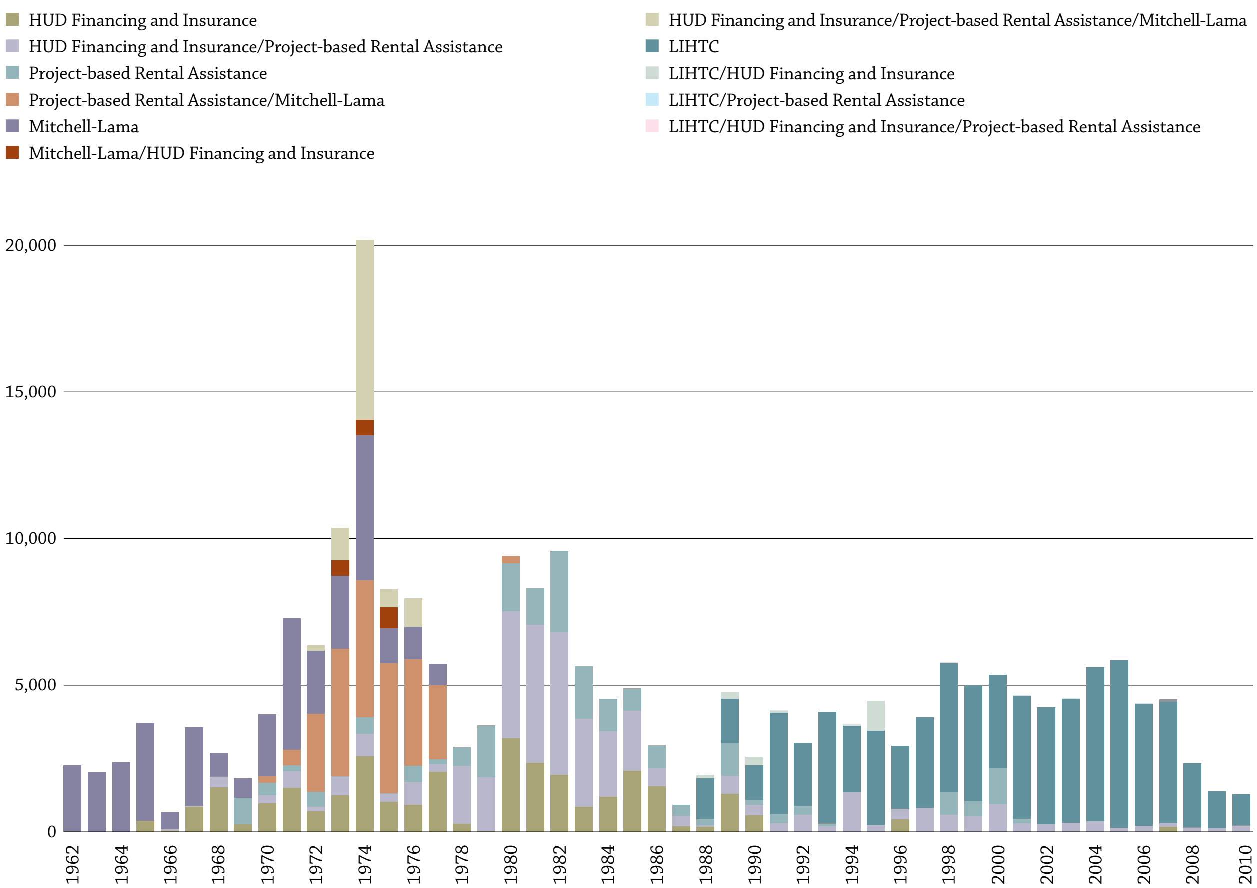
Table 1D: Property Characteristics

	Average Number of Units per Property	*Average Square Footage per Unit*	*Average Years Since Property Construction*	*Average Years Since First Subsidy*
All SHIP Properties	80	980	72	15
HUD Financing or Insurance Program	130	910	44	24
HUD Project-based Rental Assistance	140	920	57	27
Mitchell-Lama	440	1,500	40	38
LIHTC	50	980	78	10
Other Rental Properties				
Public Housing	540	900	63	–
Market Rate, Regulated, and Other Subsidized Rentals	25	880	82	–
All NYC Multifamily Rental Units	30	890	81	–

Subsidized Housing Development History

Over the last 60 years, nearly 235,000 units of affordable rental housing were developed in New York City through one of the four program categories covered in this report. As Figure 1E shows, more privately-owned, publicly-subsidized affordable housing was developed in New York City through these programs during the 1970s than in any other decade, with another uptick during the late 1990s and early 2000s. A mix of federal, state, and local support fueled both waves of development. Fifty-one properties, with over 20,000 affordable units, were developed in 1974. Many of these were very large properties developed with Mitchell-Lama financing, including: Starrett City (5,900 units), Harlem River Park (1,700 units), Hillside (1,400 units), and Independence Plaza (1,300 units). The LIHTC program has been the largest source of affordable housing development since the 1990s.

Figure 1E: Number of Units Developed by Year and Subsidy Program Category



Many of the properties financed through SHIP programs received financing from multiple sources. Table 1F shows the overlap of SHIP financing sources across the 2,100 currently-affordable properties. Fifteen percent of those properties, containing 29 percent of units, currently receive financing through multiple SHIP programs. Over 88 percent of currently active units financed with HUD financing and insurance are also receiving subsidies from other SHIP programs, while only 6 percent of units using the LIHTC have other SHIP subsidy sources.

Additionally, financing through any of the four program categories can be combined with other incentives. As Table 1G shows, 9 percent of properties in the SHIP Database receive additional financing through the New York State Housing Finance Agency, or through New York City Housing Development Corporation bonds. An additional 53 percent benefit from city tax abatement programs, including 421-a and J-51 abatements. Oftentimes, these additional financing sources have their own affordability restrictions and expiration dates.

Table 1F: Overlap of Financing Sources Across Currently Affordable Properties

Subsidy Sources	*LIHTC*	*Mitchell-Lama*	*HUD Financing and Insurance*	*HUD Project-based Rental Assistance*	*Number of Properties*	*Number of Units*
Single Subsidy Source	✓				1,468	70,239
Single Subsidy Source		✓			36	11,408
Single Subsidy Source			✓		21	4,884
Single Subsidy Source				✓	274	34,912
Total Single Subsidy Source					**1,800**	**121,577**
Two Subsidy Sources	✓		✓		2	82
Two Subsidy Sources	✓			✓	21	2,898
Two Subsidy Sources		✓	✓		8	1,730
Two Subsidy Sources		✓		✓	19	10,607
Two Subsidy Sources			✓	✓	253	23,611
Total Two Subsidy Sources					**303**	**38,928**
Three Subsidy Sources	✓	✓		✓	1	559
Three Subsidy Sources	✓		✓	✓	11	1,018
Three Subsidy Sources		✓	✓	✓	13	9,230
Total Three Subsidy Sources					**25**	**10,807**
Four Subsidy Sources	✓	✓	✓	✓	1	146
Total					**2,129**	**171,458**

Note: There are three additional properties with 86 units that have left the LIHTC program but remain affordable through inclusionary zoning regulations. They are counted as affordable throughout the remainder of this report, but are not reported in this table.

Table 1G: Currently Affordable Properties in the SHIP Database That Receive Financing Through Listed Programs

	Properties		*Units*	
421(a) or J-51 Tax Abatements	1,135	53.2%	56,281	32.8%
HDC Bonds	191	9.0%	26,009	15.2%
HFA Bonds	5	0.2%	1,318	0.8%
HUD Insurance Without Affordability Restrictions	94	4.4%	13,572	7.9%
Inclusionary Zoning	16	0.8%	1,370	0.8%

Note: There are several other programs such as 420(c), Article 8A, Article XI and Article V that likely overlap with properties in the SHIP Database but are not included in this table because the data about those subsidies are not available.

Housing No Longer Subject to Affordability Restrictions

Over 62,000 of the units originally financed through the four program categories, or 27 percent of the total, are no longer subject to affordability restrictions through any of the programs covered in the SHIP. These units may have left the program for one of two reasons: because the property owner did not comply with the subsidy requirements ("failing out") or because the program restrictions reached their expiration date and the owner did not renew their subsidy or enter another subsidy program tracked by the SHIP Database ("opting out").

In economic booms, property owners have greater incentive to leave subsidy programs because they (or new owners to whom they sell the property) may be able to command higher rents than the subsidy programs allow. High real estate appreciation in the late 1990s and mid-2000s is associated with spikes in program exits in those time periods, as Figure 1H illustrates. During recessions, program exits are more likely due to deteriorating physical conditions that cause the regulating agency to foreclose on the property. The large housing price declines from 2008 to 2010 are associated with a sharp reduction in the overall number of properties exiting from a subsidy program in the same time period.

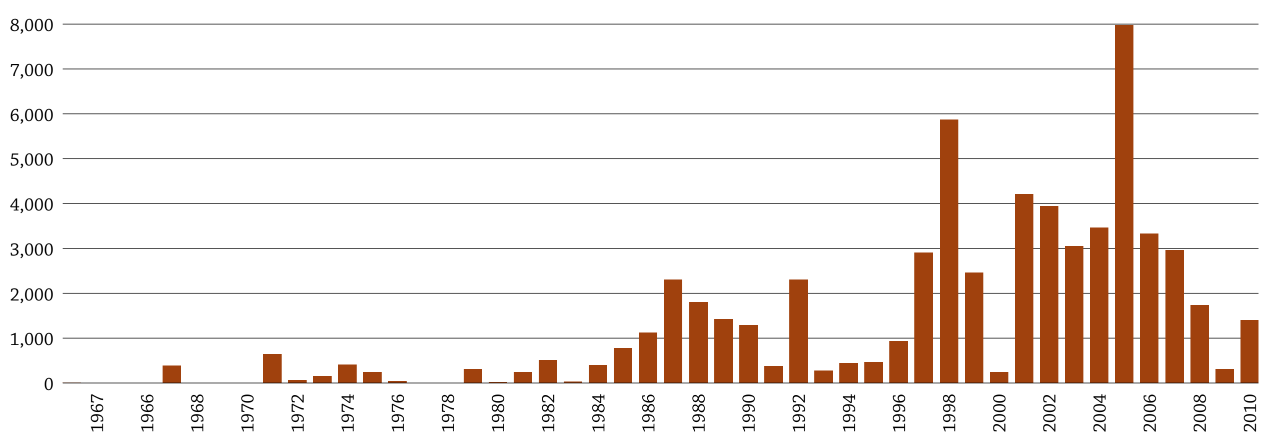
In the following four sections, we explore the development of housing through each of four categories of programs catalogued in the SHIP. Each section describes the history of development under each program, the subsidy structure, and the characteristics of properties developed within each program. Each section also analyzes the number of properties and units eligible to exit each affordability program in the next five years. Finally, in Section 6 (page 48) we conclude by describing the opportunities for preserving affordability by identifying properties, across portfolios, with subsidies that will expire in the next five years. These include properties in renewable programs, where the owners will almost certainly have the option to continue receiving the subsidy under similar terms, and non-renewable programs, which are no longer available to property owners. Properties in non-renewable subsidy programs will generally require a new subsidy in order to remain affordable.

Programs Used to Preserve Affordability

New York City and State have developed many programs to preserve subsidized units as affordable. One of the largest such programs, HPD's 8A program, provides loans for rehabilitation of low and moderate-income properties.[13] Other, smaller programs, such as the Housing Trust Fund Program, Preservation Participation Loan Program (PLP), the Repair Loan Program and the Mortgage Restructuring Program, similarly impose affordability restrictions but cannot be documented in the SHIP Database or this report. Instead, properties receiving subsidies through these smaller programs are identified as no longer subject to affordability restrictions. As the SHIP Database grows, we intend to include more of these programs in our analysis.

13 N.Y. Priv. Hous. Fin. Law § 452 (McKinney 1976).

Figure 1H: Units in SHIP Database No Longer Subject to Affordability Restrictions, By Exit Year



Section 2. HUD Financing and Insurance

In 1965, President Lyndon B. Johnson signed the law creating the U.S. Department of Housing and Urban Development.[1] Since then, HUD has employed several means of financing the development of housing across the country, including mortgage insurance, direct loans, direct grants, and operating support. In this section, we will explore the mortgage financing and insurance programs HUD offers through the Federal Housing Administration (FHA), which guarantees private mortgages that non-profit or for-profit developers use to finance affordable housing projects.

HUD financing and insurance reduce risk for lenders, which makes some private mortgage lenders willing to provide capital for projects they would otherwise consider too risky, and allows some lenders to lend at lower rates, providing an indirect subsidy to the developer. This section will also discuss subsidized mortgages, through which HUD provides a direct subsidy to the lender to reduce the interest rate, and low-cost loans and grants HUD provides directly to developers.

In New York City, 630 properties with 86,600 units have been financed using HUD financing and insurance programs, and 309 properties with 40,700 units still have HUD financing and insurance today. An additional 170 properties with 22,000 units no longer have HUD financing and insurance but remain affordable through another program catalogued by the SHIP, and 151 properties have left all affordability programs catalogued by the SHIP.

1 Department of Housing and Urban Development Act, Pub. L. No. 89-174 (1965) (codified at 42 U.S.C. § 3532 (2006)).

Programs for Low- and Moderate-Income Families

When HUD was established, it assumed management of several key FHA mortgage insurance programs, including Section 221(d)(3), Section 221(d)(3) Below Market Interest Rate (BMIR), and Section 221(d)(4). These programs were authorized by the National Housing Act of 1961 and administered by the FHA before HUD assumed responsibility.[2] The Section 221(d)(3) and 221(d)(4) programs, which still exist today, allow developers to obtain HUD mortgage insurance to finance the construction or substantial rehabilitation of multi-family housing for low- and moderate-income families.[3] Non-profit developers are able to obtain guarantees for 100 percent of their financing under Section 221(d)(3), and for-profit developers can receive guarantees of up to 90 percent under Section 221(d)(4).[4, 5] In exchange for HUD financing and insurance, developers are required to set rents at levels affordable to low- and moderate-income families, based on a property's costs, after negotiations with HUD. HUD must approve rent increases in these projects for the length of the mortgage.[6]

2 National Housing Act of 1961, Pub. L. No. 87-70 (codified as amended at 12 U.S.C. § 1715l (2006)).

3 Although the Housing Act included the language "low- and moderate- income," there were never formal income limits set for occupancy of 221(d)(3) and 221(d)(4) projects.

4 Housing for Moderate Income and Displaced Families, 12 U.S.C. § 1715l(d)(3)-(4) (2006).

5 In 1977, after the Supplemental Housing Authorization Act was passed, non-profit and public developers were also able to use 221(d)(4). However, in practice few did because the 221(d)(3) program was more attractive.

6 HUD Handbook 4350.1 REV-1, Multifamily Asset Management and Project Servicing, ch. 7 (1992).

Table 2A: HUD Mortgage Financing Development History in New York City

	221(d)(3) & 221(d)(4)	*221(d)(3) BMIR*	*236*	*202/811*
Program Inception Date	1961	1961	1968	1959/1992
Program End Date	–	1968	1973	–
Insured or Financed				
Properties	275	53	98	209
Units	39,913	6,719	24,634	16,433
Still in Program				
Properties	42	8	53	209
Units	6,570	1,213	16,918	16,433
Left Program But Still Affordable Through Other Programs Tracked in the SHIP Database				
Properties	133	15	22	0
Units	16,556	2,083	3,315	0
Left Affordability Restrictions Tracked in the SHIP Database				
Properties	100	30	23	0
Units	16,787	3,423	4,401	0

Table 2A shows that there have been 275 properties, containing 39,900 units, developed in New York City under the Section 221(d)(3) and Section 221(d)(4) programs. Of those, 42 properties, containing 6,600 units, remain in those two programs, and an additional 133 properties containing 16,600 units have left the Section 221(d)(3) or (d)(4) programs, but remain affordable through another program catalogued by the SHIP. One-hundred of the properties financed through these programs, containing 16,800 units, have left all of the affordability programs tracked in the SHIP Database.

The National Housing Act of 1961 also authorized the Section 221(d)(3) BMIR program, a more generous version of the Section 221(d)(3) program. Through this program, the FHA fully insured mortgages from private lenders and provided a below-market interest rate of three percent.[7] Additionally, Fannie Mae purchased the mortgages at face value from the lenders. Unlike the regular Section 221(d)(3) program, Section 221(d)(3) BMIR was available to for-profit developers as well as non-profit developers. The Section 221(d)(3) BMIR program provided a larger and more explicit subsidy than the regular Section 221(d)(3) program, which does not explicitly define an interest rate reduction.

7 FHA guaranteed 99 percent of the loan and the Government National Mortgage Association (GNMA) insured the remaining one percent.

Section 221(d)(3) BMIR targeted moderate-income families who did not qualify for public housing.[8] It also mandated stricter affordability guidelines than the regular 221(d)(3) program. Rents were negotiated on a project basis, but were limited to no more than 25 percent of the monthly income of a household earning 95 percent of AMI. Because, in practice, rents were set at the maximum allowed, a tenant with an income below 95 percent of AMI could still live in the property, but might be required to pay a greater share of his or her income in rent. The subsidized mortgage rates were intended to make up the difference between market rents and the affordable rent for moderate-income families. Once the property was operating, ongoing rents were approved based on operating costs and debt service, and increases were not limited to a certain percentage of tenant income.

Affordability restrictions under the Section 221(d)(3) BMIR program lasted for the term of the mortgage, which was generally 40 years. However, for-profit property owners had the option of prepaying their mortgage after 20 years and opting out of the affordability restrictions. The Section 221(d)(3) BMIR program ended in 1968 when it was replaced by the Section 236 program, which is described in more detail below.

8 HUD defined moderate-income for Section 221(d)(3) BMIR as above the income limit for admission to public housing. This tended to be 95 percent of the AMI, but had no explicit ceiling. Public housing income limits were determined locally and approved by the federal government. In 1964, when Section 221(d)(3) BMIR became available, the income limit for a family of four in New York City for public housing was $5,760, or about $40,600 in 2010 dollars. Under the 221(d)(3)BMIR program, the maximum income limit for a family of four was $8,200 in New York City, or $57,800 in 2010 dollars.

Properties already active in the 221(d)(3) BMIR program continued with their existing regulatory agreements and mortgages. However, the Section 221(d)(3) BMIR subsidy cannot be extended after the underlying mortgage matures, so we classify it as a non-renewable subsidy.

In New York City, 53 properties, containing 6,700 units, were developed through the Section 221(d)(3) BMIR program before it ended, as Table 2A shows. Eight properties developed in New York City remain in the 221(d)(3) BMIR program,[9] 15 properties remain affordable through another program in SHIP, and 30 have left all affordability programs catalogued by the SHIP Database.

The Housing and Urban Development Act of 1968 authorized the Section 236 program, which combined mortgage insurance and a subsidized mortgage.[10] Section 236 provided a monthly interest rate reduction payment (IRP) to reduce debt service costs for developers who were able to secure loans from private lenders. The IRP provided a direct monthly subsidy to the lender for the difference between the actual mortgage payment and the amount owed if the interest rate were one percent. Further, HUD insured the mortgage, greatly reducing risk to the private lender.[11] Because it provided the functional equivalent of a one percent interest rate, the Section 236 program provided a deeper subsidy than the Section 221(d)(3) BMIR program. The Section 236 program mortgage subsidy and insurance was also available for mortgages issued by state or local housing finance agencies, such as HFA or HDC, which were not insured by other HUD financing and insurance programs. In New York City, nearly all of the properties developed through the Section 236 program also received project-based rental assistance or Mitchell-Lama financing.

Under Section 236, two rent schedules were created for qualifying low-income residents—the first, the "Section 236 Market Rent," was set at a level that would cover the costs of a market rate mortgage and the other was based on a "basic rent" calculated to cover the lower operating costs and debt service associated with a one percent mortgage.[12] Under Section 236, the tenant paid the greater of the basic rent or 25 percent of their income, but in no case would rent payments exceed the Section 236 Market Rent.

Nearly one hundred properties with approximately 24,600 units were developed in New York City under the Section 236 program.[13] Currently, 16,900 units remain in the program, 3,300 have left the Section 236 program but remain affordable through another program catalogued by the SHIP and 4,400 have left all affordability restrictions catalogued by the SHIP. The Section 236 program was halted in 1973 when President Nixon put a moratorium on all housing subsidies; the program was never revived, except for completion of properties for which funds were committed before 1973.[14] Like the Section 221(d)(3) BMIR subsidy, Section 236 is a non-renewable subsidy.

Section 223(f) Insurance

In 1974, HUD developed the Section 223(f) program, a mortgage financing and insurance program exclusively for refinancing projects that require only a moderate level of rehabilitation.[15] HUD will insure up to 85 percent of the building's estimated value or acquisition cost, provided the building has sustaining occupancy[16] and has been operating for at least three years. The 223(f) program does not impose specific income or affordability restrictions, but HUD negotiates with the property owner to determine an acceptable rent level, and must approve all rent increases. Additionally, it is generally used in conjunction with other programs that impose specific affordability requirements. Sixty-nine properties with 15,300 units have received funding through both Section 223(f) and another program that imposes affordability restrictions. Thirty-one of those properties, containing 4,300 units, are still receiving Section 223(f) insurance today. Nineteen properties with 5,900 units have left Section 223(f) but remain affordable through other programs and 19 properties with 5,100 units have left all affordability restrictions tracked in the SHIP.

9 Although financing for the program ended in 1968, many properties had long development timelines. The last 221(d)(3)BMIR project was completed in 1978, so its 40-year affordability timeline extends until 2018.

10 Housing and Urban Development Act of 1968, Pub. L. No. 90-448 (codified as amended at 12 U.S.C. § 1715z-1 (2006)).

11 Mortgage Insurance and Interest Reduction Payment for Rental Projects, 24 C.F.R. § 236.520 (2010).

12 12 U.S.C. § 1715z-1(f) (2006).

13 These only include properties developed through HUD. There were also some Section 236 properties developed through HFA, but they are not included here.

14 President Richard Nixon, Special Message to the Congress Proposing Legislation and Outlining Administration Actions to Deal With Federal Housing Policy (Sept. 19, 1973).

15 Miscellaneous Mortgage Insurance, 12 U.S.C. § 1715n(f) (2006).

16 "Sustaining occupancy" is defined as having sufficient income to pay all operating expenses, monthly debt service, escrow, and make payments to a reserve for replacement requirements (capital repairs) for three consecutive months.

The Section 221(d)(3), Section 221(d)(4), and Section 223(f) programs are the only HUD financing and insurance programs for first position mortgages still available to finance new construction or substantial rehabilitation for low-income families in New York City. Multi-family developers who receive this insurance may be subject to affordability requirements because these financing and insurance programs are often coupled with other subsidies, but developers are not necessarily held to a certain rent formula. Because these subsidies can be extended and are still available for development, we refer to them as renewable.

Programs for Elderly and Special-Needs Tenants

The Section 202 and Section 811 programs are used to develop housing for low-income individuals who are also elderly or have special needs. The Housing Act of 1959 authorized the Section 202 program, which enabled non-profit organizations to build and operate rental housing for low-income people aged 62 years and older, with a small percentage of units for non-elderly people with disabilities.[17] In contrast to the other programs discussed in this section, Section 202 is not an insurance program for private loans. Instead, Section 202 allows HUD to provide loans directly. Originally, HUD provided 40-year direct loans, typically with a three percent fixed interest rate. Starting in 1977, HUD charged market-rate interest, but combined financing with long-term project-based Section 8 assistance (typically 20 year contracts, subject to annual renewals) to offset the higher financing costs.

In 1990, Congress amended the Section 202 program by replacing loans with capital grants.[18] The 1990 amendments also limited Section 202 developments to the elderly and created Section 811, a new and similar program targeting individuals with disabilities. The programs were separated because of the belief that non-elderly, disabled populations had previously not received an equitable share of the assistance available under Section 202.[19] Section 811 provides capital grants to non-profit organizations for new construction or rehabilitation of housing for people with special needs, defined as families with at least one adult who has a long-term physical, mental, or emotional impairment that impedes his or her ability to live independently.[20] Both the Section 202 and Section 811 programs serve very low-income tenants (below 50 percent of AMI), requiring tenants to pay the greater of 10 percent of their gross monthly income or 30 percent of their adjusted monthly income towards their rent.

One distinctive feature of the Section 202 and 811 programs is that since 1974, most properties have received project based rental assistance in addition to their loan or grants to cover the difference between rental income and total operating costs for the properties, including supportive housing services such as cooking and cleaning. For properties developed between 1977 and 1990, Section 202 loans were paired with Section 8 project-based rental assistance. Since the Section 202 program was overhauled in 1990, new contracts have been paired with the Project Rental Assistance Contract (PRAC) program. These subsidies will be discussed in further detail starting on page 28.

As Table 2A on page 21 shows, 209 properties with 16,400 units of affordable housing were developed using the Section 202 and 811 programs in New York City, and all still remain in those programs.

17 Housing Act of 1959, Pub. L. No. 86-372, (codified as amended at 12 U.S.C. § 1701q-3 (2006)).

18 Cranston-Gonzalez National Affordable Housing Act, Pub. L. No. 101-625, §507 (1990) (codified at 12 U.S.C. § 1437g (2006)).

19 Sandra Newman, Housing Policy and Home-Based Care., The Milbank Quarterly 73(3): 407-441 (1995).

20 Supportive Housing for Persons with Disabilities, 42 U.S.C. § 8013 (2006).

Property Profiles

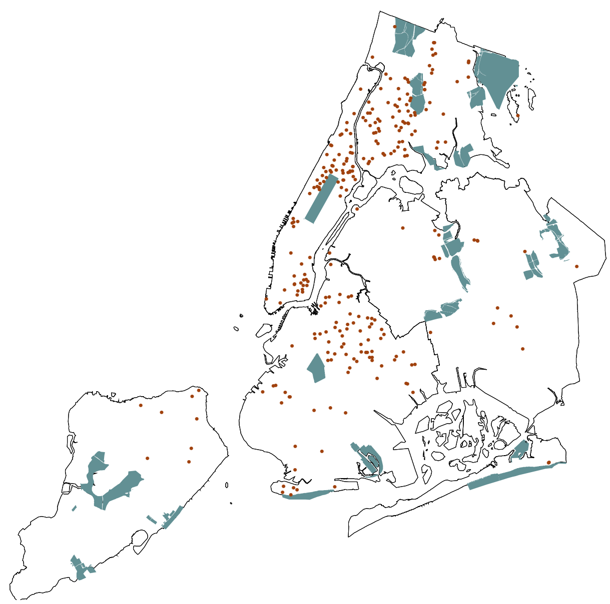
Properties with HUD financing and insurance are considerably larger than the typical New York City apartment building—as Table 2B shows, the average property with HUD financing and insurance contains 130 units. Among the program categories in the SHIP Database, HUD project-based rental assistance and Mitchell-Lama properties are larger. Further, units in properties with HUD financing and insurance are, on average, 910 square feet, which is smaller than those in any other subsidy programs covered by the SHIP, but larger than units in market-rate, regulated, or other subsidized multifamily properties. At an average of approximately 44 years of age, properties with HUD financing and insurance are newer than market-rate multi-family properties and LIHTC properties, but older than Mitchell-Lama properties. Many properties with HUD financing and insurance were substantially rehabilitated at the beginning of their subsidies.

As Map II shows, properties with HUD financing and insurance are concentrated in Brooklyn, Manhattan, and the Bronx. Staten Island has just eight properties, containing 1,200 units, with HUD financing and insurance and Queens has 23 properties with 2,700 units.

Table 2B: Characteristics of Properties with HUD Financing and Insurance

	HUD Financing and Insurance	*All NYC Multi-family Rental Properties*
Average Number of Units per Property	130	30
Average Square Footage per Unit	910	890
Average Years Since Property Construction	44	81
Average Years Since First Subsidy	24	–

Map II: Affordable Properties with HUD Financing and Insurance, 2010



Signs of Distress

For properties with HUD financing and insurance, physical and financial distress can both affect tenant living conditions and also jeopardize the continued subsidy. When a property with HUD financing or insurance suffers from physical or financial distress, HUD may be able to foreclose on the mortgage and take control of the property (see *Fail Outs: Properties at Risk due to Physical or Financial Distress* on page 25 for more information). In New York City, seven properties with HUD financing and insurance and project-based rental assistance have failed out (three more with HUD project-based rental assistance only have also failed out). All of those properties also had Section 8 project-based rental assistance contracts and all were preserved as affordable housing when they were transferred to a new owner after the foreclosure.

Among the current properties with HUD financing and insurance in New York City, 13 percent had failing REAC scores at their last inspection, which will require them to take corrective actions before the next inspection. Completing the needed repairs may also require city, state, and federal housing agencies to cooperate on financing and enforcement actions to improve these buildings' conditions.

Fail Outs: Properties at Risk due to Physical or Financial Distress

All properties developed with HUD financing and insurance or project-based rental assistance are inspected through HUD's Real Estate Assessment Center (REAC) and given a score ranging from 0 to 100, with 100 indicating a property in pristine physical and financial condition. REAC inspection schedules are based on the last score received: properties with excellent scores (90 and above) will be re-inspected every three years; properties with good scores (80 - 89) will be re-inspected every two years; and properties with scores below 80 will be re-inspected annually. A score below 60 is considered failing.

If a property fails two consecutive REAC inspections, HUD can begin an enforcement process. This can lead to termination of the rental assistance contract and, if the mortgage is HUD-held, a foreclosure process, leading to an eventual auction of the property. While the foreclosure process can take up to two years to complete, the process for terminating HUD's rental subsidy payments can begin as soon as the property receives its second consecutive failing REAC score. In principle, HUD can suspend payments without terminating the rental assistance contract (although, HUD often does irreversibly terminate the rental assistance contract in these cases), which would allow for the existing (or new) owner to begin receiving subsidies again when the property meets HUD's housing quality standards. However, suspension of payments exacerbates the financial challenge of making the repairs necessary to bring the property into compliance. Often, maintenance suffers and tenants may be living in poor conditions until the property is taken over by new owners, rehabbed, and passes a HUD inspection.

Since 2003, 10 developments in New York City, containing 1,332 units, have failed out due to physical or financial distress. All have been preserved as affordable housing: seven properties maintained a project-based Section 8 contract and three properties (Pueblo de Mayaguez, Ennis Francis Houses, and Gates Patchen Houses) no longer have a project-based rental assistance contract but are bound by a HUD use restriction that requires them to remain affordable. All of the tenants living in the latter three properties receive portable Enhanced Section 8 vouchers.

These last three high profile fail outs sparked a change in the fail-out process. Prior to 2005, any project that entered into foreclosure would automatically lose its project-based Section 8 contract and all tenants would be awarded vouchers. New York Senator Charles Schumer proposed a rule that requires HUD to offer the buyer of a Section 8-assisted property at a HUD auction the right to keep the project-based contract unless HUD deems it "infeasible" to do so. Congress adopted the rule in 2005. Now known as the Schumer amendment, it has since been renewed on a year-to-year basis. Even with the Schumer amendment, it is possible for HUD to terminate the rental assistance contract prior to foreclosure, but, in practice, HUD has opted to work with stakeholders to honor the intent of the legislation.

Housing code violations, tax delinquencies, and outstanding water and sewer bills also may be signs that properties are in distress. One percent of properties with HUD financing and insurance received more than one hazardous or immediately hazardous housing code violation per unit in 2010, a lower rate than for properties in the project-based rental assistance or LIHTC programs.

Because the Furman Center does not have access to data about a property's mortgage payments or operating costs, it is often difficult to assess the financial condition of a property. One key measure is unpaid water or sewer bills. Less than two percent of properties with HUD financing and insurance qualified for the 2011 lien sale because of an outstanding water or sewer debt, and the average outstanding balance for delinquent properties was $1,100. As of October 2010, nine percent of properties with HUD financing and insurance had a tax delinquency of more than $1,000 per unit for at least a year. This is the highest rate among properties in portfolios catalogued by the SHIP.

Table 2C: Signs of Distress in Properties with HUD Financing and Insurance

REAC Scores	
Average REAC Score (most recent inspection)	79
Share of Properties with a Failing REAC Score (most recent inspection)	13.0%
Hazardous or Immediately Hazardous Housing Code Violations (Issued in 2010)#	
Share of Properties with More Than 1 Violation per Unit	1.0%
Tax Delinquencies (Delinquent for > 1 year as of October 2010)*	
Share of Properties with a delinquency > $1,000 per unit	8.7%
Water and Sewer Debt: Eligible for the 2011 Lien Sale (90-Day Notice)*^	
Share of Properties Eligible for the 2011 Lien Sale	1.6%
Average Water and Sewer Debt (for delinquent properties)	$1,101

HPD Housing Code Violations categorized as B or C
* Some portion of these properties are likely applying for exemptions that, when approved, will retroactively abate these bills.
^ To be eligible for the lien sale, a property must have at least $1,000 of outstanding charges for at least a year. No properties with HUD financing and insurance had liens that were sold in the 2011 lien sale. The owners either paid their past due bills or arrranged another workout with DOF or HPD.

Preservation Opportunities

Since 1920, HUD financing and insurance programs have facilitated the development of 630 properties with 86,600 units of affordable housing in New York City. As Table 2D shows, just under half of those properties (309) remain in HUD financing and insurance programs. An additional 170 properties have left HUD financing and insurance but remain affordable due to other subsidy programs in the SHIP Database, generally project-based rental assistance. One hundred-fifty one properties with nearly 24,000 units are now market rate, rent stabilized or have rent restrictions due to one of the smaller affordability programs not covered by the SHIP.

Table 2D: Affordable Housing Units Developed with HUD Financing and Insurance, by Borough

PROPERTIES	*Bronx*	*Brooklyn*	*Manhattan*	*Queens*	*Staten Island*	*New York City*
HUD Financing and Insurance Properties Ever Created	**181**	**187**	**200**	**39**	**23**	**630**
Currently Have HUD Financing and Insurance	97	86	95	23	8	309
No Longer Have HUD Financing and Insurance	84	101	105	16	15	321
Have Affordability Restrictions Through Other SHIP Programs	50	52	48	12	8	170
No Longer Subject to Affordability Restrictions*	34	49	57	4	7	151
UNITS						
HUD Financing and Insurance Units Ever Created	**23,011**	**25,580**	**27,349**	**6,179**	**4,483**	**86,602**
Currently Have HUD Financing and Insurance	10,312	14,823	11,695	2,706	1,165	40,701
No Longer Have HUD Financing and Insurance	12,699	10,757	15,654	3,473	3,318	45,901
Have Affordability Restrictions Through Other SHIP Programs	7,115	4,743	5,713	2,455	1,928	21,954
No Longer Subject to Affordability Restrictions*	5,584	6,014	9,941	1,018	1,390	23,947

*As catalogued by the SHIP Database. Projects may have other affordability restrictions through non-SHIP programs.

Owners of the 40,700 units that remain affordable due to HUD financing and insurance affordability programs will reach their mortgage end date or have the option of refinancing their loan and converting to market rate-over the next two decades. Twenty-five of these 309 properties will reach the end of their mortgage and all other affordability restrictions tracked by the SHIP Database in the next five years. Twenty-three of those properties, containing 4,000 units, received financing through Section 221(d)(3) BMIR or Section 236—programs which are no longer available to owners. Owners of these properties may have to find a different subsidy program in order to cover their operating costs. Four properties, containing 600 units, have HUD mortgages that will expire in the next five years but are bound by other restrictions that will require them to remain affordable beyond the expiration of their HUD financing and insurance.

Table 2E: Currently-Affordable Properties Developed with HUD Financing and Insurance with Mortgages Ending 2011–2015

	Bronx	*Brooklyn*	*Manhattan*	*Queens*	*Staten Island*	*New York City*
All Affordability Restrictions Expiring in the Next Five Years*						
Non-renewable Mortgages Ending (221(d)(3) BMIR, 236)						
Properties	9	7	4	2	1	23
Units	1,613	882	1,047	234	178	3,954
Renewable Mortgages Ending (221(d)(3), 221(d)(4), 202/811)						
Properties	0	0	2	0	0	2
Units	0	0	84	0	0	84
Affordability Restrictions Continuing For At Least Five Years						
Mortgages Ending but Affordability Restrictions Continuing Through Another Program						
Properties	1	1	1	1	0	4
Units	56	103	146	257	0	562
Mortgages Terminating After 2015						
Properties	87	78	88	20	7	280
Units	8,643	13,838	10,418	2,215	987	36,101

*As catalogued by the SHIP Database

Section 3. HUD Project-based Rental Assistance

One of HUD's primary financing tools is a direct rental subsidy to property owners who agree to rent units to low- and moderate-income tenants. Project-based rental assistance programs require landlords to enter into an agreement with HUD whereby the tenant pays a certain percentage of income in monthly rent and HUD pays the owner the difference between the tenant's payment and the HUD-approved "Contract Rent." While project-based rental assistance programs provide a direct rental subsidy similar to tenant vouchers, they are linked to a specific property, and, unlike tenant vouchers, remain in effect for future tenants.

HUD offers direct project-based rental assistance contracts through the following four programs: the Rent Supplement Program (Rent Supp), the Section 236 Rental Assistance Payment program (RAP), project-based Section 8[1], and the Project Rental Assistance Contract Program (PRAC). Since 1965, 697 properties with 104,000 units have received HUD project-based rental assistance in New York City. Nearly six hundred properties with 83,000 units were still receiving assistance as of the end of 2010.

This section of the report will describe each of the HUD project-based rental assistance programs, the types of properties funded through these programs in New York City, and the prospects for ongoing affordability for these properties. Because many properties were developed using both HUD financing and insurance and HUD project-based rental assistance, this section will also explore this overlap. Project-based rental assistance was also sometimes used for moderate rehabilitation of existing units, but those are not covered in this report or tracked in the SHIP Database because reliable data are not available.

1 There are several forms of direct project-based Section 8: New Construction, Substantial Rehabilitation, Moderate Rehabilitation, and Loan Management Set-aside, which will all be discussed later in this section.

Non-Renewable Rental Contracts

Project-based rental assistance contracts provide a particularly attractive subsidy for property owners because they essentially guarantee rental payments at a predicable contract rent over the life of the contract, subject to Congressional appropriations. Two of the programs currently offering this reliable and significant subsidy—the Rental Supplement and Rental Assistance Payment programs—are no longer available for new property development and cannot be renewed once a property reaches the end of its mortgage term. Therefore, new subsidies will be required for properties in those programs to remain affordable.

Rental Supplement ("Rent Supp"): The Housing and Urban Development Act of 1965 authorized the creation of Rent Supp to spur the development of rental housing for low-income families. Rent Supp was often offered to property owners in conjunction with Section 221d(3) insurance, and with Section 236 rental assistance, once that program was established. Under Rent Supp, a tenant is required to pay the greater of 30 percent of monthly adjusted income or 30 percent of Fair Market Rent (FMR) for the area. HUD then pays the difference between the tenant's payment and the actual HUD approved rent amount, up to the FMR (as the sidebar Calculating Rent for Units with HUD Rental Supplements shows). Rent Supp contracts are coterminous with a project's original mortgage, meaning that the subsidies end and cannot be renewed after the original mortgage term, which usually lasts 30 or 40 years.

Table 3A shows that 41 properties, containing 13,600 units of housing, were financed with Rent Supp in New York City. New Rent Supp contracts were available through 1973, after which the program was replaced by the project-based Section 8 program.

Many of the properties that were financed using Rent Supp also received HUD financing and insurance or financing through the New York State and/or City Mitchell-Lama programs. Seventy-three percent of all Rent Supp contracts (30 properties) also received financing from the Mitchell-Lama program and 22 percent (9 properties) also received HUD financing and insurance at some point. In the 1970s, HUD allowed properties with both Rent Supp and HUD financing and insurance to convert to project-based Section 8.[2] This was attractive for many property owners because project-based Section 8 contracts can be renewed after the original mortgage matures. However, the option of converting Rent Supp units to project-based Section 8 is not available under current law, though HUD has allowed conversions on a case by case basis.

Rental Assistance Payment (RAP): The RAP program is a project-based program authorized by the Housing and Community Development Act of 1974, and is applicable only to Section 236 properties.[3] Under this program, rents are set at the Section 236 "Basic Rent" level, based on the lower operating costs associated with the one percent mortgage provided under Section 236. Additionally, the tenant pays no more than 30 percent of income in rent, and HUD pays the difference between the basic rent level and the rent affordable to the tenant.[4] Like Rent Supp, a RAP contract is conterminous with the project's original mortgage, which is generally 40 years, and cannot be renewed.[5]

Table 3A: Properties and Units Developed Using Project-based Rental Assistance

Project-based Rental Assistance Properties Developed	**697**
Units in these Properties	**104,018**
Properties Developed Through:	
Rent Supp	41
units	13,605
RAP	25
units	17,139
Section 8	538
units	73,614
PRAC	104
units	7,382

As Table 3A shows, 25 properties containing 17,100 units were financed with RAP in New York City. All of the properties that received RAP subsidies in New York City were also financed through the Mitchell-Lama program and 24 percent also received HUD financing and insurance.

2 In the future, we hope to be able to quantify precisely how many properties converted from the Rent Supp program to Project Based Section 8. However, this is not possible with the data currently available to the Furman Center.

3 Housing and Community Development Act of 1974, Pub. L. No. 93-383 (codified as amended at 12 U.S.C. § 1715z-1 (2006)).

4 Rental Assistance Payments and Rental Charges, 24 C.F.R. § 236.735 (2010).

5 Term of Contract, 24 C.F.R. §236.725 (2010).

Calculating Rent for Units with HUD Rental Supplement

For Rent Supp units, a tenant's monthly rent is based on the greater of 30 percent of his monthly adjusted income* or 30 percent of the FMR for the area. The FMR is a benchmark used to determine the highest Section 8 voucher rent that HUD will approve in an area. For example, the 2010 FMR that HUD determined for a one-bedroom apartment in New York City was $1,222. For a given unit, the landlord will receive the HUD-approved Contract Rent but the amounts contributed by the tenant or HUD will vary. For example, a single tenant with an annual income of $20,000 would pay $488 (30 percent of his or her adjusted monthly income) and HUD would cover the remaining $734. However, if the tenant made $15,000, she would pay the "Rent Supp floor rent" of $367 (30 percent of the FMR) and HUD would pay the remaining $855.

Tenant Annual Gross Income	$20,000	$15,000
Estimated Income after Allowances	$19,500	$13,000
Adjusted Monthly Income	$1,625	$1,000
30% of Tenant Income	$488	$325
30% of HUD's FMR	$367	$367
Rent Paid by Tenant	$488	$367
HUD Payment	$734	$855
Total Rent Paid to the Landlord	$1,222	$1,222

*Adjusted income is a household's annual gross income reduced by deductions or allowances for dependents, elderly households, medical expenses, disability assistance expenses, and child care. Source: http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/library/glossary/a

Renewable Subsidy Programs

There are two project-based rental subsidies that allow currently affordable properties to renew their subsidy contracts after the end of their initial mortgage term. Project-based Section 8 is the most commonly used program, whereas the PRAC program is available only for units targeted to elderly or disabled tenants under Sections 202 and 811.

Project-based Section 8: Project-based Section 8 was created under the Housing and Community Development Act of 1974[6] to better manage the diversity of housing stock and rent levels in different cities.[7] The Act created two project-based Section 8 programs: New Construction/Substantial Rehabilitation (NC/SR) and Section 8 Existing. Under the Section 8 NC/SR Program, developers of new housing were originally required to set aside units for residents making 80 percent of AMI or less, but could rent other units at the market rate. Owners signed a Housing Assistance Payment (HAP) contract with HUD, which stipulated that low-income tenants paid 25 percent of their income towards rent, and the government paid the owner the difference between that amount and the HUD-determined contract rent.[8] In 1998, this was modified to require tenants to pay 30 percent of their income for rent, with HUD continuing to pay the balance.[9] Originally, Section 8 contracts were not renewable, but the Multifamily Assisted Housing Reform and Affordability Act (MAHRA) of 1997 gave owners the ability to renew Section 8 contracts, subject to annual appropriations.[10]

By contrast, the Section 8 Existing Program included two elements: a tenant-based voucher program, which is not addressed in this report, and the Loan Management Set-Aside (LMSA) program, which targeted properties that had HUD financing and insurance and were in financial distress. Section 8

6 The Housing and Community Development Act of 1974 also created the Section 8 Existing program, a tenant-based program that was the precursor to HUD's Section 8 voucher program.

7 Housing and Community Development Act of 1974, Pub. L. No. 93-383 (codified as amended at 42 U.S.C. § 1437f (2006)).

8 Initial Section 8 NC/SR contract rents were capped at 144 percent of FMR.

9 Additionally, the Quality Housing and Work Responsibility Act of 1998 required project-based Section 8 properties to set aside units for extremely low-income and very low-income households. Very low income is defined as 30-50 percent of AMI; extremely low income is defined as less than 30 percent of AMI. Quality Housing and Work Responsibility Act of 1998, Pub. L. No. 105-276 (codified as amended at 42 U.S.C. § 1437f(c)(4) (2006)).

10 Multifamily Assisted Housing Reform and Affordability Act of 1997, Pub. L. No. 105-65 (codified as amended at 42 U.S.C. 1437f(o)(13)(F) (2006)).

LMSA contracts were project-based, and could be added as a rental subsidy to an existing property with Section 221(d)(3) or Section 236 insurance if the property was at risk of going into foreclosure due to low operating income. Originally, the five-year contracts could be renewed only twice, allowing for 15 years of subsidy, but MAHRA allowed for an indefinite number of renewals starting in 1997.

In 1983, President Reagan's Commission on Housing expressed concern that the project-based Section 8 program allowed owners to inflate their costs.[11] After a lengthy Congressional debate on this issue, the Housing and Urban-Rural Recovery Act of 1983 eliminated the Section 8 New Construction/Substantial Rehabilitation program entirely.[12] Only the Section 8 Existing program, including both the tenant-based subsidy and the project-based LMSA program, remained. No funds have been authorized since then for new project-based Section 8 contracts for new construction or rehabilitation. Contract renewal under this program is now optional for owners, but if the owner requests a renewal, HUD must comply with the request, subject to available appropriations.

As illustrated in Table 3A on page 29, project-based Section 8 rental assistance was used to develop 538 properties with 73,600 units in New York City. Fifty-eight of these properties, containing 36,700 units, were developed under NC/SR, and an additional 102 properties with 17,000 units forestalled foreclosure with the LMSA program.

Project Rental Assistance Contract (PRAC): The Cranston-Gonzalez National Affordable Housing Act of 1990 authorized the PRAC program, a rental subsidy that can be used only in conjunction with HUD's Section 202 or 811 programs for elderly or disabled tenants.[13] It pays the difference between rental income (the greater of 10% of gross income and 30% of the tenant's adjusted monthly income) and HUD-approved operating expense levels. PRAC contracts have three-year terms and are renewable, subject to the availability of federal funds.[14] PRAC is the only project-based rental assistance program still available for new construction, and has been used to develop 104 properties, containing 7,400 units, in New York City, all of which remain affordable.

11 The President's Commission on Housing, The Report of the President's Commission on Housing (1982), available at http://www.michaelcarliner.com/files/Commiss/ReportOfThePersidentsComm1982s.pdf.

12 Housing and Urban-Rural Recovery Act, Pub. L. No. 98-181, §§ 208-09 (codified at 42 U.S.C. 1427f (2006)).

13 Cranston-Gonzalez National Affordable Housing Act, Pub. L. No. 101-625 (1990) (codified at 12 U.S.C. §1701q (2006)).

14 Prior to 1990, Section 202 properties were awarded a Section 8 contract that covered repayment of the Section 202 loan and operating expenses.

Table 3B: Characteristics of HUD Project-based Rental Assistance Properties

	HUD Project-based Rental Assistance Properties	*All NYC Multi-family Rental Properties*
Average Number of Units per Property	140	30
Average Square Footage per Unit	920	890
Average Years Since Property Construction	57	81
Average Years Since First Subsidy	27	–

Property Profiles

Nearly 600 properties, containing 83,000 units of affordable rental housing currently receive subsidies from one of the four HUD project-based rental assistance programs in New York City. As Table 3B shows, properties with project-based rental assistance have an average of 140 units per property, which makes them larger than the average LIHTC property but smaller than the average Mitchell-Lama. The average size of a unit with a HUD project-based rental assistance subsidy is 920 square feet, making them the smallest units of the properties tracked in the SHIP Database, but still larger than the citywide average for rental units in market-rate, regulated, or other subsidized multi-family properties.

The median age of a project-based rental assistance property in New York City is nearly 60 years, but many of these properties were rehabilitated in the past three decades. The average time since a project-based rental assistance property received its first subsidy is just 27 years. Properties with HUD project-based rental assistance are newer than the average market-rate, regulated, or other subsidized rental, as well as those with HUD financing and insurance or LIHTC, but are older than Mitchell-Lama properties.[15]

15 The small size of these units is likely related the high percentage of single occupancy elderly and disabled units in this portfolio.

Map III shows the distribution of properties that currently have HUD project-based rental assistance. Thirty-one percent of these units are located in Brooklyn, with an additional 29 percent in the Bronx. Staten Island has just 17 properties, containing 3,600 units, with HUD project-based rental assistance while Queens has 39 properties.

Properties with Signs of Distress

Project-based rental assistance properties also face the risk of failing out of the program due to physical distress. Since 2002, ten properties have failed out of their project-based Section 8 contracts in New York City. See *Fail Outs: Properties at Risk due to Physical or Financial Distress* on page 25 for a detailed discussion. Table 3C shows that 15 percent of the properties currently receiving project-based rental assistance received a failing REAC score on their last REAC inspection. This number is similar to the share of failing properties with HUD financing and insurance. Such properties are at risk of foreclosure if they receive a failing score on their next REAC inspection.

Beyond REAC scores, other signs that properties are in distress include housing code violations, tax delinquencies, and outstanding water and sewer bills.[16] Less than two percent of properties receiving HUD project-based rental assistance have more than one hazardous or immediately hazardous housing code violation per unit. This is a larger share than that for properties with HUD financing and insurance, but smaller than for LIHTC properties.

Because the Furman Center does not have access to data about a property's mortgage payments or operating costs, it is often difficult to assess the financial condition of a property. One key measure is tax delinquencies. As of October 2010, only five percent of properties receiving project-based rental assistance were delinquent by more than $1,000 per unit on their taxes for over a year. This is a lower share than for HUD financing and insurance properties, but a higher share than for Mitchell-Lama or LIHTC properties. Two percent of HUD project-based rental assistance properties were eligible for the 2011 tax and water lien sale based on outstanding water debt. Properties developed with HUD financing and insurance are the only properties in a SHIP portfolio with fewer outstanding water bills than those with project-based rental assistance.

16 Unlike with REAC scores, there are no standard guidelines for determining what level of housing code violations or tax and/or water arrears is necessary to label a property as distressed. We used measures that could be comparable across variations in property size and are economically significant.

Map III: Properties Recieving HUD Project-based Rental Assistance, 2010

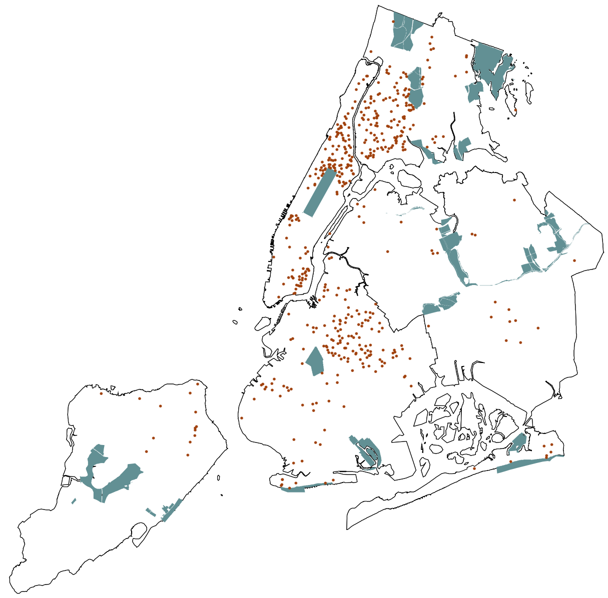


Table 3C: Signs of Distress in HUD Project-based Rental Assistance Properties

REAC Scores	
Average REAC Score (most recent inspection)	79
Share of Properties with a Failing REAC Score (most recent inspection)	13.5%
Hazardous or Immediately Hazardous Housing Code Violations (Issued in 2010)#	
Share of Properties with More Than 1 Violation per Unit	1.5%
Tax Delinquencies (Delinquent for > 1 year as of October 2010)*	
Share of Properties with a delinquency > $1,000 per unit	5.1%
Water and Sewer Debt: Eligible for the 2011 Lien Sale (90-Day Notice)*^	
Share of Properties Eligible for the 2011 Lien Sale	2.2%
Average Water and Sewer Debt (for delinquent properties)	$1,267

HPD Housing Code Violations categorized as B or C
* Some portion of these properties are likely applying for exemptions that, when approved, will retroactively abate these bills.
^ To be eligible for the lien sale, a property must have at least $1,000 of outstanding charges for at least a year. No properties with HUD project-based rental assistance had liens that were sold in the 2011 lien sale. The owners either paid their past due bills or arrranged another workout with DOF or HPD.

Table 3D: Affordable Housing Units Developed with HUD Project-based Rental Assistance, by Borough

PROPERTIES	*Bronx*	*Brooklyn*	*Manhattan*	*Queens*	*Staten Island*	*New York City*
HUD Financing and Insurance Properties Ever Created	**206**	**211**	**218**	**44**	**18**	**697**
Currently Receive Project-based Rental Assistance	175	177	185	39	17	593
Renewable Contract	166	167	183	35	16	567
Non-renewable Contract	9	10	2	4	1	26
No Longer Receive Project-based Rental Assistance	31	34	33	5	1	104
Have Affordability Restrictions Through Other SHIP Programs	4	5	7	3	0	19
No Longer Subject to Affordability Restrictions*	27	29	26	2	1	85
UNITS						
HUD Project-based Rental Assisted Units Ever Created	**29,679**	**29,448**	**32,427**	**8,751**	**3,713**	**104,018**
Currently Receive Project-based Rental Assistance	24,456	25,337	22,396	7,164	3,628	82,981
Renewable Contract	19,331	22,191	21,804	5,123	3,093	71,542
Non-renewable Contract	5,125	3,146	592	2,041	535	11,439
No Longer Receive Project-based Rental Assistance	5,223	4,111	10,031	1,587	85	21,037
Have Affordability Restrictions Through Other SHIP Programs	640	1,450	1,535	617	0	4,242
No Longer Subject to Affordability Restrictions*	4,583	2,661	8,496	970	85	16,795

*As catalogued by the SHIP Database

Preservation Opportunities

HUD project-based rental assistance subsidies are the only housing subsidies provided to privately-owned multi-family housing that guarantee that a tenant will not pay more than 30 percent of her income in rent regardless of any increases in building operating costs or local market rents, making it one of the most reliable and attractive subsidy programs for property owners and tenants. As Table 3D shows, nearly 83,000 units, or 80 percent of those ever subsidized with project-based rental assistance, continue to receive the subsidy. The vast majority of the units (86%) currently receive project-based Section 8 or PRAC; only 14 percent receive the non-renewable Rent Supp or RAP payments.

Since the project-based rental assistance programs began, 101 properties, with 20,600 units stopped receiving project-based rental assistance subsidies because their contract expired and the landlord was unable to renew it or chose to opt out. Another three properties with 400 units lost project-based rental assistance contracts because they failed to meet physical or financial standards.[17] In the last decade, properties in the renewable project-based Section 8 program left in droves—63 properties with 7,000 units opted not to renew their contracts—despite federal efforts to improve the program's attractiveness by allowing property owners to charge localized market rents rather than previously HUD-controlled rents.[18] Just 19 properties that no longer receive project-based rental assistance have rents restricted due to other programs within the SHIP.

Thirty-six of the properties that formerly had project-based rental assistance contracts, containing a total of 13,000 units, had been in the Rent Supp or RAP programs. Fourteen of those properties, with 3,900 units, are still affordable due to restrictions from another subsidy program tracked in the SHIP Database. The other 22 properties, with 9,100 units, are now market rate, rent stabilized or have rent restrictions due to one of the smaller affordability programs not covered by the SHIP.

17 For more information on these three properties see the box on Fail Outs: Properties at Risk due to Physical or Financial Distress on page 25.

18 The Multi-family Assisted Housing Reform and Affordability Act (MAHRA) of 1997 authorized the Mark-up-to-Market Program, which allowed owners in neighborhoods experiencing rapid rent increases to charge market rate rents that were higher than the citywide FMR. Tenants would not be affected, though, because they were still required to contribute only 30 percent of their income.

Table 3E: Currently-Affordable Properties Developed with Project-based Rental Assistance with Contracts Expiring, 2011–2015

	Bronx	*Brooklyn*	*Manhattan*	*Queens*	*Staten Island*	*New York City*
All Affordability Restrictions Expiring in the Next Five Years*						
Non-renewable Contracts Expiring (RAP, Rent Supp)						
Properties	6	6	0	2	0	14
Units	4,189	1,656	0	1,119	0	6,964
Renewable Contracts Expiring (Section 8)						
Properties	48	49	62	12	8	179
Units	7,207	4,620	7,470	1,726	1,950	22,973
Affordability Restrictions Continuing For At Least Five Years						
Contracts Expiring but Affordability Continuing Through Another Program						
Properties	60	45	49	12	4	170
Units	5,627	3,319	4,534	1,051	732	15,263
Contracts Continuing for More Than 5 Years						
Properties	61	77	74	13	5	230
Units	7,433	15,742	10,392	3,268	946	37,781

*As catalogued by the SHIP Database

The renewable or non-renewable nature of the project-based rental assistance programs have important implications for long-term affordability preservation. Rent Supp or RAP contracts for 14 properties (covering 7,000 units) without other affordability restrictions will expire in the next five years. While in the past many owners were able to convert Rent Supp and RAP contracts to project-based Section 8, this option is not guaranteed (or may not be economically attractive to owners relative to market rates available to unrestricted projects).

Currently, nearly half of the project-based Section 8 portfolio, or 179 properties, have a contract with fewer than five years remaining. Many of these property owners have short-term contracts because Congress has been reluctant to authorize multi-year funding in recent years. The median length of a contract for a project that renewed its contract in 2010 was five years, with 21 percent of contract renewals for two years or less. Some of these properties are bound by other affordability restrictions, but 179 properties, with 23,000, units could lose all affordability restrictions if a property owner decided not to renew the contract. When an owner decides to opt-out of a project-based Section 8 contract, all income-eligible tenants are awarded an enhanced voucher and can choose to remain in the property or move somewhere else with their voucher. If a tenant moves, the unit then can be converted to market rate.

Section 4. Mitchell-Lama

New York State created the Mitchell-Lama program in 1955 to address the perceived shortage of safe and sanitary housing for moderate- to middle-income families.[1] The program provides subsidies to both rental and cooperative ownership properties throughout the state. Participating properties are subject to rent restrictions. Tenant income restrictions vary based on the household size, unit size, and the overseeing agency.

Over 400 Mitchell-Lama rental properties with 165,000 units were funded from 1955 to 1978 in New York State. Of those, 271 properties, containing 139,400 units, were developed in New York City, including 174 rental properties with 69,800 units and 97 cooperative properties with 69,800 units (see Mitchell-Lama Cooperatives on this page). Currently, there are 78 rental properties, containing 33,700 units, still receiving Mitchell-Lama subsidies in New York City.

The Mitchell-Lama program offered developers low-cost land, property tax exemptions,[2] and subsidized below-market rate mortgages for up to 95 percent of the project cost.[3] Mitchell-Lama program loans are financed through bonds issued by government agencies and state and local governments.[4] In exchange for these subsidies, housing developers agreed to subject themselves to government regulations regarding rents charged and tenant selection, and to limit the annual return on their investment to six percent.

Mitchell-Lama Cooperatives

What are they? While not discussed in detail in this report, Mitchell-Lama limited equity cooperatives are included in the SHIP Database. Resident owners purchase shares in the cooperative that entitle the shareholders to occupy a specific unit of the building

Who are the target cooperative unit owners? The cooperative program has the same tenant restrictions as the rental program, discussed on page 37.

How many cooperatives are there? Ninety-seven cooperative properties, with 69,700 units, were built in New York City, of which 90 properties, with 65,900 units, remain restricted.

What are the financial requirements? Owners are responsible for their proportional share of common charges. Personal loans are allowed to fund co-op purchases, but if the apartment is seized by the lender, occupancy rights will continue to be governed by the Mitchell-Lama rules.

How much can a unit in a cooperative be sold for? The resale price for Mitchell-Lama cooperative units is limited to the original purchase price, plus the unit's share of the amortized mortgage and capital assessment payments on the property.

What are the program exit requirements? The regulations for leaving the program are similar to rental regulations, but also must obtain a two-thirds majority of shareholders to support submitting an offering plan to the Attorney General, and actually deciding to dissolve the cooperative. If the loan was made prior to May 1959, the owner must wait 35 years to opt-out and must repay all accrued taxes for which they were exempted. There are six Mitchell-Lama cooperative properties subject to these additional restrictions for pre-May 1959 loans.

Sources: (HPD), (HCR), N.Y. Comp. Codes R. & Regs. tit. 9 § 1750.4 (2011).

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1 The program was authorized under Article II of the New York State Private Housing Finance Law. This report does not address rental housing developed through Limited Dividend Housing Corporations, a predecessor to the Mitchell-Lama program that started in 1926. The Limited Dividend program built rental properties for moderate-income tenants and provided developers with property tax exemptions for a period of up to 50 years in exchange for a six percent cap (or "limit") on profits. These corporations were allowed to voluntarily dissolve in 1962. For more on Limited Dividend Housing Corporations, see William C. Thompson, Affordable No More 6-7 (Office of the Comptroller, 2004).

2 A housing company is exempt from local and municipal real estate taxes on land and improvements based on assessments above the assessment in place when the housing company purchased the property. Thus, the company only pays municipal and local taxes based on the current tax rates in a given year and its property assessment from the year the housing company purchased the land. This exemption is granted at the discretion of the local municipality, but is required, in practice, to induce the formation of a housing company. The tax exemption may reduce a company's tax liability to ten percent of its annual shelter rent (total rent less electricity, gas, heat, and other utilities). Shelter rent includes rent supplements and subsidies received but excludes interest rate reductions received under the Section 236 program. N.Y. Priv. Hous. Fin. Law § 33(1)(a) (McKinney 1976).

3 The program may fund the full project costs for housing for staff members, employees, or students of a college, university, hospital, or childcare institution; a municipally-aided nonprofit or municipally-aided mutual company; or the construction of low-income nonprofit housing. N.Y. Priv. Hous. Fin. Law §§ 23, 33 (McKinney 1976).

4 New York State Division of Housing & Community Renewal, Annual Report: Mitchell-Lama Housing Companies in New York State (2007).

To become eligible for the program, investors and developers were required to incorporate as "Limited-Profit Housing Companies," often referred to as Article II Companies, which became the Mitchell-Lama entities. These entities supervise construction and provide ongoing asset management for Mitchell-Lama projects. Mitchell-Lama projects were originally required to adhere to program restrictions for the full duration of their mortgage terms, generally 50 years. In order to attract additional private developers and increase overall program participation, the New York legislature amended the requirements in the early years of the program. In 1957, for example, the legislature relaxed the program requirements to allow companies to voluntarily dissolve and opt out of the program after 35 years of participation.[5] In 1959, the 35-year commitment was reduced again, to 20 years.[6]

The New York City Department of Housing Preservation and Development and New York State Homes and Community Renewal (HCR) each respectively supervise developments for which the City or State was the original lender in New York City. The Empire State Development Corporation (ESDC), Housing Development Corporation, and some private banks hold some of the Mitchell-Lama loans in their portfolios and may have varying degrees of joint oversight of the properties,[7] but they are not supervising agencies. Although enforcement of the Mitchell-Lama law and its regulations is primarily performed by HPD or HCR, HUD has joint oversight of any property that receives subsidies through the federal project-based rental assistance and Section 236 programs or insurance through the Section 223(f) program. The overseeing agencies provide asset management, determine the allowable rental increases, conduct physical inspections, regulate capital reserve accounts, monitor waiting lists and apartment rentals, and supervise the process for developments that wish to exit the program.

There are several types of Mitchell-Lama rental developments including those that are designated for families and those that are designated for senior citizens.[8] A few of the developments designated for senior citizens also provide limited social services.[9] Apartment units have specific household size guidelines associated with them. Preferential treatment in the admission and waitlist process is given to veterans and their surviving spouses.[10]

Rents in Mitchell-Lama developments are set for each individual property by the supervising agency at a level that will provide sufficient revenue for the property to meet its financial obligations, including a limited annual return to the landlord of approximately six percent, while balancing the need for the developments to remain affordable. Housing companies are required to request a rent increase from their respective supervising agency. As part of the rental increase process, HPD conducts a public hearing and HCR holds a public meeting. Developments that share joint oversight with HUD must follow HUD's rent increase requirements for the specific HUD program in use at the property. For example, for Mitchell-

5 N.Y. Priv. Hous. Fin. Law § 35(1) (McKinney 1976).

6 N.Y. Priv. Hous. Fin. Law § 35(2) (McKinney 1976).

7 For example, HDC in some cases conducts physical inspections and regulates the reserve accounts. ESDC must consent to opt out requests in addition to HCR.

8 For the Mitchell-Lama program, New York City defines senior citizen housing as housing in which the head of the household or his or her spouse is 62 years of age or older. N.Y. Priv. Hous. Fin. Law § 31 (McKinney 1976). The SHIP Database does not currently contain information that allows us to distinguish between senior and family housing for those properties supervised by HPD, so these programs are grouped for reporting purposes.

9 For more information, see NYC Department for the Aging. http://www.nyc.gov/html/dfta/html/senior/housing.shtml.

10 HCR, State Supervised Middle Income Housing Developments for Families and Senior Citizens, http://www.dhcr.state.ny.us/Apps/hsgdevls/hsgdevls.asp.

Table 4A: Mitchell-Lama Rental Property Development

	1960s	*1970s*	*1980s*	*Total*
Mitchell-Lama Properties Developed	**52**	**121**	**1**	**174**
Units in these Properties	**16,495**	**53,012**	**248**	**69,755**
Properties Developed			0	
City of New York	28	58	0	86
units	7,376	23,433	0	30,809
State of New York	24	63	1	88
units	9,119	29,579	248	38,946

Lama properties that have Section 236 financing, a housing company must apply to HPD for a rent increase but must adhere to the HUD notice requirements as well as any HPD requirements. HPD and HUD will both have to approve any increase. For Mitchell-Lama properties that have project-based Section 8 subsidies, owners may seek annual increases on the anniversary of the contract date. They may also seek special adjustments beyond these annual increases for specific significant increases in expenses.

The tenant income eligibility requirements for these properties vary by unit type, location, and oversight agency. For properties overseen by HUD, income limits are based on HUD's AMI for the New York City HUD Metro Fair Market Rent Area (HMFA), adjusted by the household size. For all other properties, the household income cannot exceed the greater of the HUD-determined median income for the metropolitan area, or seven times the annual rent for families with fewer than three dependents, and eight times the annual rent for families of three or more dependents.[11] Additionally, the state Capital Grant Low-Rent Assistance Program provided additional subsides in conjunction with Mitchell-Lama financing, allowing some properties to designate low-income units.[12]

Tenants are required to certify their income annually by submitting an income affidavit. Tenants whose income exceeds the limit for their unit type may remain in the unit, but must pay an additional monthly rental fee. Additionally, households are responsible for reporting changes in household composition to their overseeing agency.

11 For HCR companies, landlords may set minimum income requirements at their properties, provided they do not exceed 40 times the monthly rent for non-senior citizen households or 36 times the monthly rent for senior citizen households, with some flexibility for lower income households who can prove that they are able to pay the rent. N.Y. Comp. Codes R. & Regs. tit. 9, § 1727-1.3(h)(1) (2011).

12 Low-income is defined as people whose probable aggregate annual income at the time of admission and during the period of occupancy does not exceed, the greater of (i) the median income for such persons or families for the metropolitan statistical area in which the project is located, or (ii) seven times the rental, including the value or cost to them of heat, light, water and cooking fuel, of the dwelling that may be furnished to such persons or families, except that in the case of families with three or more dependents, such ratio shall not exceed eight to one. N. Y. Priv. Hous. Fin. Law § 31(2)(a and 44a); New York State Division of Housing & Community Renewal, Annual Report Mitchell-Lama Housing Companies in New York State (2007).

In addition to the mortgage, land, and property tax benefits available through the Mitchell-Lama program, developers were able to incorporate other public subsidies into their project financing, including the HUD Section 236 mortgage interest reduction contracts and Section 223(f) mortgage insurance program. Government subsidized low cost loans are available for refinancing and capital repairs such as the Empire Housing Fund Program, HPD's Article 8A Loan Program, and HDC's Mitchell-Lama Preservation Program. In addition, cost savings are available through the city's J-51 program, which provides property tax abatements and exemptions for capital improvements. Mitchell-Lama properties may be sold to other Article II Companies and remain in the Mitchell-Lama program.

Although never officially discontinued, the Mitchell-Lama program has not been used to finance a new development in over 30 years because the state stopped allocating capital funding to the program in the late 1970s. The last new Mitchell-Lama development, Risley Dent Towers, received funding in 1978. Other city and state programs are now available to support moderate and middle-income development, but are not addressed in this report.[13]

13 Such programs include the Mixed Income (50/30/20) Program, the New Housing Opportunities Program (New HOP), and the Participation Loan Program—New Construction, all of which provide loans and subsidies for new construction. The city and state governments also fund a variety of moderate and middle income homeownership programs. For additional information, see our online Directory of New York City Affordable Housing Programs available at www.furmancenter.org/iahp/directory

Property Profiles

Properties in the Mitchell-Lama program vary significantly in size and location. As Table 4B shows, the average development is relatively large, including 440 units, making Mitchell-Lama properties the largest among the programs included in the SHIP Database. The average Mitchell-Lama unit is 1,500 square feet, making them the largest units in the SHIP Database. At an average age of 40 years, the properties are also the newest of the portfolios included in the SHIP Database. The vast majority of properties financed through the Mitchell-Lama program were newly constructed, rather than rehabilitated.

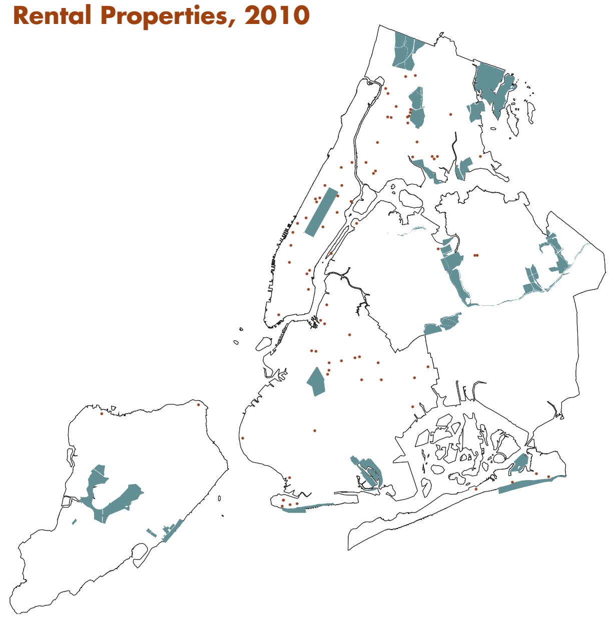
Mitchell-Lama properties are located in all five boroughs, but are largely concentrated in Manhattan, Brooklyn, and the Bronx, as illustrated in Map IV. The Bronx currently has the most Mitchell-Lama properties (24 properties with 10,000 units), although Manhattan had the most Mitchell-Lama properties ever developed (60 properties with 22,000 units). Queens and Staten Island together currently have only 11 Mitchell-Lama properties.

Mitchell-Lama financing was often coupled with other affordable housing financing programs; 54 percent of Mitchell-Lama properties currently receive additional HUD financing and insurance, project-based rental assistance, or LIHTC subsidies.

Table 4B: Characteristics of Mitchell-Lama Rental Properties

	Mitchell-Lama Properties	*All NYC Multi-family Rental Properties*
Average Number of Units per Property	440	30
Average Square Footage per Unit	1,500	890
Average Years Since Property Construction	40	81
Average Years Since First Subsidy	38	–

Map IV: Affordable Mitchell-Lama Rental Properties, 2010



Signs of Distress

As Table 4C shows, no Mitchell-Lama properties had more than one hazardous or immediately hazardous housing code violation per unit issued in 2010.[14] This was by far the lowest rate of the subsidy programs catalogued in the SHIP.

Outstanding property taxes or water or sewer payments provide another indicator of distress on these properties.[15] As of October 2010, less than two percent of Mitchell-Lama properties had a tax delinquency of more than $1,000 per unit for more than a year. Again, this is the lowest rate amongst SHIP programs. However, eight percent of Mitchell-Lama properties had outstanding water or sewer debt that made them eligible for the 2011 lien sale, the largest share of any of the SHIP programs.

Table 4C: Signs of Distress in Mitchell-Lama Rental Properties

Hazardous or Immediately Hazardous Housing Code Violations (Issued in 2010)#	
Share of Properties with More Than 1 Violation per Unit	0.0%
Tax Delinquencies (Delinquent for > 1 year as of October 2010)*	
Share of Properties with a delinquency > $1,000 per unit	1.3%
Water and Sewer Debt: Eligible for the 2011 Lien Sale (90-Day Notice)*^	
Share of Properties Eligible for the 2011 Lien Sale	7.7%
Average Water and Sewer Debt (for delinquent properties)	$1,008

HPD Housing Code Violations categorized as B or C
* Some portion of these properties are likely applying for exemptions that, when approved, will retroactively abate these bills.
^ To be eligible for the lien sale, a property must have at least $1,000 of outstanding charges for at least a year. No Mitchell-Lama properties had liens that were sold in the 2011 lien sale. The owners either paid their past due bills or arrranged another workout with DOF or HPD.

Preservation Opportunities

Although the Mitchell-Lama program has not funded new developments in over 30 years, current properties are allowed to remain in the program and receive their property tax abatements as long as the property has agency-approved financing and the owners remain an Article II Company. At any time, property owners may refinance through a private lender,[16] or through a number of other affordability programs (typically through HPD, HDC, and HCR), which may place restrictions on the property in addition to the Mitchell- Lama program requirements. Refinanced properties may continue to take advantage of Mitchell-Lama tax abatements as long as they comply with the program guidelines.

If there are no other restrictions on the Mitchell-Lama property, an owner may choose to leave the program after a predetermined duration of program participation. Due to changes in the law over time, the term requirements varied based on the year of program funding, but in New York City, all Mitchell-Lama rental properties were funded after May 1959, so owners may exit after 20 years with the consent of the supervising agency. To exit, the owner must voluntarily dissolve the Article II Company and comply with specific exit procedures based on the project loan date. The owner must pay off the full remaining mortgage balance, and properties under the supervision of HPD must return any surplus funds to HPD. Additionally, landlords must provide the supervising agency and the property's tenants with one-year's notice of their plans to leave the program, along with details about the plans for transition to non-Mitchell-Lama housing. The company must also hold a public meeting announcing the decision to opt out, at which it must provide further information to the tenants about the dissolution process.

In many cases, Mitchell-Lama properties received additional layers of funding that include further restrictions. For example, federal Section 236 mortgage subsidies have a 40-year affordability commitment. Similarly, Land Disposition Agreements, imposed if the city or state provided subsidized land, may require that the property remain affordable for a length of time that is longer than the Mitchell-Lama program restriction period.

14 Unlike with REAC scores, there are no standard guidelines for determining what level of housing code violations or tax and/or water arrears are necessary to label a property as distressed. We used measures that could be comparable across variations in property size and are economically significant.

15 The Furman Center is currently studying how well these delinquencies predict which properties will fail out.

16 N.Y. Priv. Hous. Fin. Law § 23-c(2) (McKinney 1976).

Table 4D: Affordable Housing Units Developed with Mitchell-Lama, by Borough

PROPERTIES	*Bronx*	*Brooklyn*	*Manhattan*	*Queens*	*Staten Island*	*New York City*
Mitchell-Lama Properties Ever Created	**58**	**38**	**60**	**16**	**2**	**174**
Currently in the Mitchell-Lama Program	24	23	20	9	2	78
No Longer in the Mitchell-Lama Program	34	15	40	7	0	96
Have Affordability Restrictions Through Other SHIP Programs	3	3	8	1	0	15
No Longer Subject to Affordability Restrictions*	31	12	32	6	0	81

UNITS	*Bronx*	*Brooklyn*	*Manhattan*	*Queens*	*Staten Island*	*New York City*
Mitchell-Lama Units Ever Created	**20,250**	**20,010**	**21,968**	**6,538**	**989**	**69,755**
Currently in the Mitchell-Lama Program	9,975	13,647	5,965	3,104	989	33,680
No Longer in the Mitchell-Lama Program	10,275	6,363	16,003	3,434	0	36,075
Have Affordability Restrictions Through Other SHIP Programs	579	1,064	1,735	600	0	3,978
No Longer Subject to Affordability Restrictions*	9,696	5,299	14,268	2,834	0	32,097

*As catalogued by the SHIP Database

Depending on the project start date, tenants in properties that opt out may have some affordability protections through rent stabilization. Mitchell-Lama properties that were occupied after 1974 are not subject to rent stabilization upon program exit. Those occupied prior to 1974, however, are subject to rent regulation under either the Rent Stabilization Law (RSL) of 1969 or the Emergency Tenant Protection Act (ETPA) of 1974, depending upon the date the current tenant first occupied the unit, and whether the apartment remained continuously occupied by the same family after June 1971.[17]

As Table 4D shows, 96 rental properties, containing 36,100 units, have exited the Mitchell-Lama program. Fifteen of the properties (4,000 units) that left the Mitchell-Lama program still receive financing from another rent-restricting subsidy source tracked in the SHIP Database; the remaining 81 properties are now market-rate, receiving a subsidy from a program not tracked in the SHIP or subject to rent stabilization.[18] Most of those 81 properties are in Manhattan. Sixty-five percent of all Mitchell-Lama rental units ever developed in the borough have left all SHIP-documented affordability programs, compared to 48 percent in the Bronx, 26 percent in Brooklyn and none in Staten Island. Sixty of the 96 properties that opted out did so in the past decade, but six of those had additional financing restrictions catalogued by the SHIP that kept them affordable.

17Apartments covered by the RSL of 1969 include units that were built before June 30, 1971 and did not have a vacancy after June 30, 1971 (i.e. the unit remained continuously inhabited by the same person or household since that date). Apartments covered by the ETPA of 1974 include units that were built before January 1, 1974 and (i) became vacant after June 30, 1971; or (ii), were built between March 10, 1969 and January 1, 1974. Prior to 2007, properties that fell under the ETPA were able to submit an application for the adjustment of the initial legally regulated rent for each apartment based upon a showing of "unique or peculiar circumstances." At that time, the Mitchell-Lama program was regularly considered a per se unique and peculiar circumstance that entitled the owner to an initial rent increase. Properties that fell under the RSL on the other hand, were required to apply for rent increases based upon the standards of "comparative hardship" and "alternative hardship." These standards require the showing of full economic hardship and therefore are a much more stringent standard than is applied to landlords under the ETPA. With the enactment of a 2007 amendment, all Mitchell-Lama opt-outs are now governed by the same standards, This means that currently, when a pre-1974 project applies for its first rent increase after leaving the Mitchell-Lama program, it must demonstrate hardship (comparative or alternative), regardless of which rent stabilization law governs the units. N.Y. Comp. Codes R. & Regs. tit. 9 §§ 2502, 2522 (2011).

18 Properties may be subject to rent stabilization or restrictions due to a program not captured in the SHIP Database.

Table 4E shows that 26 properties with 7,600 units currently are eligible to opt out after giving a year's notice and are not bound by any other affordability restrictions catalogued by the SHIP. Most of these properties have been eligible to opt out for quite some time; the median first year of opt-out eligibility was 1994. In the next five years, one additional property in Manhattan with 120 units will become eligible to opt out for the first time.

Table 4E: Currently-Affordable Mitchell-Lama Properties Eligible to Exit Affordability, 2011–2015

	Bronx	*Brooklyn*	*Manhattan*	*Queens*	*Staten Island*	*New York City*
All Affordability Restrictions Expiring in the Next 5 Years*						
Currently eligible to opt-out at any time given one year's notice						
Properties	6	7	10	3	0	26
Units	1,317	3,048	2,400	786	0	7,551
Will become eligible to opt-out of Mitchell-Lama in the next 5 years						
Properties	0	0	1	0	0	1
Units	0	0	120	0	0	120
Affordability Restrictions Continuing For At Least 5 Years						
Currently eligible to opt-out but affordability continuing through another program						
Properties	12	13	5	6	2	38
Units	5,727	9,244	2,602	2,318	989	20,880
Mitchell-Lama restrictions continuing for more than 5 years						
Properties	6	3	4	0	0	13
Units	2,931	1,355	843	0	0	5,129

*As catalogued by the SHIP Database.

Section 5. Low-Income Housing Tax Credits

The Low-Income Housing Tax Credit program was adopted in 1986 to encourage the private sector to provide equity for affordable housing developments.[1] Under the LIHTC program, the Internal Revenue Service allocates tax credits to state housing agencies, which then allocate them to developers who build or rehabilitate affordable housing. The developers then sell the tax credits to investors in order to raise capital for the project. Investors are able to use each dollar of tax credit they purchase to offset one dollar of taxes due each year for a ten-year period. From 1986 to 2007 (the latest year for which national data is available), the LIHTC program helped to finance 1.4 million units nationwide, with five percent of those in New York City. By the end of 2010, 80,400 units had been financed in New York City. Nearly all (93%) of those units remain affordable.

In order for a project to qualify for LIHTCs, either the developer must rent at least 20 percent of the project's units to households whose incomes are 50 percent or less of HUD's calculated AMI or the developer must rent 40 percent of the units to households whose incomes are 60 percent or less of the AMI.[2] The federal law imposes different requirements in New York City, where developers must rent at least 20 percent of the project's units to households whose incomes are 50 percent or less of HUD's calculated AMI or 25 percent of the units to households whose incomes are 60 percent or less of the AMI.[3] Developers must offer these units at rents no higher than 30 percent of the monthly income of the target group, with annual adjustments thereafter.[4]

There are two forms of LIHTCs: allocated tax credits and non-allocated tax credits. Allocated credits are often referred to as "nine percent credits," because the annual credit is equal to approximately nine percent of eligible project costs. By contrast, non-allocated credits only provide approximately four percent of most project costs annually, making the allocated "nine percent" credits more valuable, thus enabling a developer to access more capital. The federal government, however, limits the number of allocated nine percent tax credits that can be offered each year by allocating to each state a certain number of tax credits based on population.[5] Because they are limited, the nine percent credits are awarded on a competitive basis. Each allocating agency is required to develop an annual Qualified Allocation Plan as a basis for awarding their nine percent tax credits. The Qualified Allocation Plan details the specific local regulations governing the agency's allocation procedure and explains how it will score applications and monitor project compliance.

The non-allocated "four percent" credit offers developers access to less capital, but the federal government does not directly limit the available amount of these credits. These credits are issued "as-of-right" to any developer who applies for and meets the program requirements. One requirement is that a minimum of 50 percent of project costs must be financed with tax-exempt revenue bonds.[6] A developer that finances a project with tax-exempt bonds but fails to meet this 50 percent threshold may claim "as-of-right credits" on the portion of the building to which the bonds are allocated.[7] There is an implicit limit on the amount of as-of-right LIHTCs that can be issued each year because the annual authority for a state to issue these bonds is also limited by the IRS on the basis of population. Since 1986, 50,100 units of housing have been financed in New York City using the nine percent tax credit, while 30,300 units have been financed with the four percent credit.

1 Tax Reform Act of 1986, Pub. L. No. 99-514 (codified at 26 U.S.C. § 42 (2006)).

2 Low Income Housing Credit, 26 U.S.C. § 42(g)(1)(B) (2006).

3 Low Income Housing Credit, 26 U.S.C. § 42(g)(4) (2006).

4 Low Income Housing Credit, 26 U.S.C. § 42(g)(2) (2006).

5 The amount of tax credits allocated to each state per resident has changed over time. At the inception of the LIHTC program, states received $1.25 of tax credits per resident. The Consolidated Appropriations Act of 2001 increased the per capita amount to $1.75 in 2002 and indexed the amount to inflation beginning in 2003. In 2009, under the Housing and Economic Recovery Act of 2008 (HERA), each state received $2.20 per capita. In 2010, Congress reduced this amount to $2.10 per resident. In the future, the allocation will be inflation-adjusted each year from this base amount. Low Income Housing Credit, 26 U.S.C. § 42 (h) (2006)).

6 Low Income Housing Credit, 26 U.S.C. § 42(h)(4)(B) (2006).

7 Low Income Housing Credit, 26 U.S.C. § 42(h)(4)(A) (2006).

Each allocating agency decides independently how to distribute its share of LIHTCs. HCR allocates tax credits among qualifying projects throughout New York State, including New York City. HPD also receives a sub-allocation of nine percent tax credits from New York State which it can only award to projects in New York City. To date, 40 percent of the LIHTC units developed in New York City have used credits allocated by HCR and 60 percent of the units used credits allocated by HPD.

In order to benefit from the LIHTC program, a developer (the "general partner") typically forms a limited partnership with an investor (the "limited partner"). An intermediary that connects the developer with the investor, called a "syndicator," often facilitates this partnership. The developer or syndicator then sells the tax credits received from an allocating agency to the investor in exchange for an equity interest in the partnership that owns the property. The limited partnership is created for a minimum 15-year period and includes the investor, who owns at least a 99 percent share of the limited partnership, and the general partner (developer), who owns at most a one percent share. In the first ten years of the limited partnership, investors use the ensuing tax credit benefits to reduce their tax liability. However, the partnership continues for a minimum of five additional years and is structured such that the investor's return is dependent on the property remaining in stable physical and financial condition for the full fifteen years and remaining in compliance with LIHTC regulations. This equity financing structure enables the developer to charge the lower rents required through the program because the developer can reduce its long-term debt burden by using the funds received in exchange for the tax credits to pay off a portion of the construction loan, which results in a smaller permanent loan. The equity proceeds are also used to create project reserves.

Under the original terms of the LIHTC program, participating developers agreed to keep the housing affordable by continuing to comply with the income requirements for the full term of the 15-year limited partnership.[8] This 15-year term is known as the compliance period.[9] In 1989, Congress overhauled the 15-year compliance period by establishing an extended-use period for an additional 15 years, effectively mandating a 30-year affordability restriction on post-1989 limited partnerships. In addition to extending the affordability period of many projects, the 1989 amendments allowed owners to sell properties after fifteen years, for a set price based on the adjusted investor equity (the aggregate amount invested adjusted by a cost of living factor) plus the outstanding debt on the property, to a purchaser who agrees to maintain affordability for the extended-use period. The allocating agency is responsible for finding the purchaser. If such a purchaser cannot be found, the extended-use mandate is terminated and the affordability mandate is nullified.[10]

LIHTCs are often used in conjunction with other financing sources, particularly in high cost markets, because the equity from tax credits alone may not be sufficient to render a project financially viable. Additionally, while the LIHTC program, unlike other existing subsidies, can serve households with incomes below 50 to 60 percent of AMI, the tax credit financing alone is often insufficient to allow developers to offer the units to tenants with lower incomes.

8 The LIHTC was created by the Tax Reform Act of 1986. The program was originally set to expire in 1989, but it was extended several times before ending in 1992. The LIHTC was subsequently reintroduced and made a permanent part of the Internal Revenue Code by the Revenue Reconciliation Act of 1993, Pub. L. No. 103-66, § 13142)

9 26 U.S.C. § 42(i) (2006).

10 26 U.S.C. § 42(h)(6)(D) – (G) (2006).

Table 5A: LIHTC Development History in New York City

	1980s	*1990s*	*2000s*	*Total*
LIHTC Properties Developed	**39**	**581**	**965**	**1,585**
Units in these Properties	**3,011**	**32,326**	**45,058**	**80,395**
Properties Developed				
4 Percent Credits	0	37	158	195
units	0	6,157	24,188	30,345
9 Percent Credits	39	544	811	1,390
units	3,011	26,169	20,870	50,050

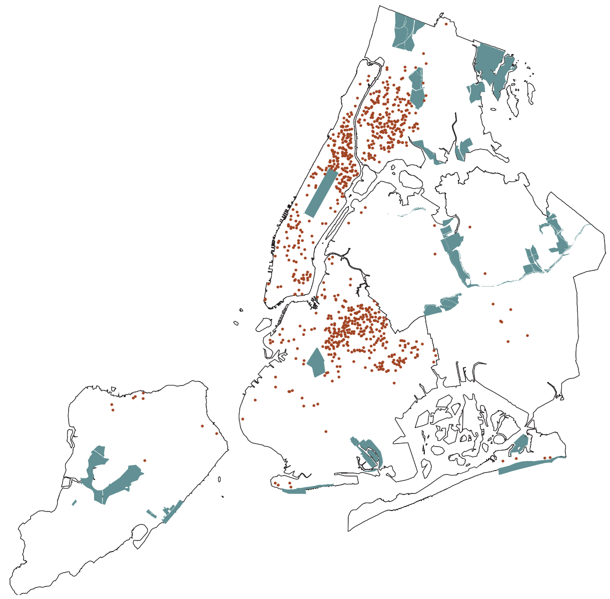
In New York City, the use of tax credits for development increased rapidly in the last two decades as developers became more familiar with this financing tool and investors became more convinced of its value. As Table 5A shows, the LIHTC program financed 39 properties with 3,000 units before 1990, 581 properties with 32,300 units between 1990 and 2000, and 965 properties with 45,100 units between 2000 and 2010.

Properties financed with LIHTC often receive other subsidies. Of the over 1,500 properties currently receiving financing through the LIHTC program, 36 properties (4,700 units) also receive HUD financing and insurance or project-based rental assistance. Additionally, seven properties with 2,400 units were Mitchell-Lama properties that refinanced their mortgages using LIHTC as a tool.

The recent economic downturn has presented challenges for those seeking to develop new units under the LIHTC program. By 2000, the LIHTC investor market consisted primarily of banks and large institutional investors, driven, in part, by the banks' Community Reinvestment Act (CRA) investment requirements. Fannie Mae alone was an investor in 40 percent of the tax credit market.[11] Because many of these institutions were not profitable in 2008, they did not need tax credits, so the demand dried up. Thus, the number of units placed in sevice in New York City dropped from 5,400 in 2007 to 1,100 in 2010.

11 Buzz Roberts, Modifying CRA to Attract LIHTC Investments, in Innovative Ideas for Revitalizing the LIHTC Market (Federal Reserve Bank of St. Louis, 2009), available at http://www.federalreserve.gov/communitydev/other20091110a1.pdf.

Map V: Properties Receiving Low-Income Housing Tax Credits, 2010



As Map V illustrates, the majority of properties financed with the LIHTC are located in Manhattan, the Bronx, and Central Brooklyn. Only 28 LIHTC-financed properties are in Staten Island and Queens combined.

Property Profile

When compared to other properties in the SHIP portfolio, LIHTC projects tend to be older buildings with fewer units. The median age of all multi-family rental apartment buildings in New York City is 81 years, and the median age of LIHTC buildings is 78 years. This contrasts with a median age of 40 years for Mitchell-Lama properties, 44 years for properties with HUD financing and insurance, and 57 years for properties with a HUD rental subsidy. The major reason that LIHTC properties are older than other properties tracked in the SHIP Database is that HPD has used most of its nine percent credits to rehabilitate existing properties through such programs as the Neighborhood Entrepreneurs Program (NEP) and the Neighborhood Revitalization Program (NRP). These two renovation programs account for 61 percent of the nine percent tax credit properties developed in New York City. The buildings rehabilitated through the NEP and NRP programs tend to be smaller and older than the other tax credit properties, with an average of 18 units per building, and an average age of 93 years.

Signs of Distress

LIHTC properties do not receive REAC scores to assess their physical and financial condition unless they also have HUD financing and insurance or project-based rental assistance. A sample of these properties do receive an annual inspection from their allocating agency; however, that information is not available to the public. Thus, we must explore other ways of assessing the health of these properties. Nearly three percent of LIHTC properties received more than one hazardous or immediately hazardous housing code violation per unit in 2010, the highest rate of programs tracked in the SHIP Database.

Outstanding property taxes or water payments can offer some indication of financial condition. As of October 2010, three percent of LIHTC properties had a tax delinquency of at least $1,000 per unit for more than a year, as Table 5C shows. This were the second smallest share of any of the portfolios we studied after the Mitchell-Lama portfolio. One possible explanation for the relatively low signs of financial distress is that the owner of an LIHTC project in financial distress can usually access an operating reserve that was created at the same time as the limited partnership. Also, LIHTC properties are usually overseen by a private asset manager in addition to a government regulating agency. Five percent of LIHTC properties were eligible for the 2011 lien sale based on outstanding water or sewer charges; none of these properties had liens that were sold in the final sale.

Table 5B: Characteristics of LIHTC Properties

	LIHTC Properties	*All NYC Multi-family Rental Properties*
Average Number of Units per Property	50	30
Average Square Footage per Unit	980	890
Average Years Since Property Construction	78	81
Average Years Since First Subsidy	10	-

Table 5C: Signs of Distress in LIHTC Properties

Hazardous or Immediately Hazardous Housing Code Violations (Issued in 2010)#	
Share of Properties with More Than 1 Violation per Unit	2.8%
Tax Delinquencies (Delinquent for > 1 year as of October 2010)*	
Share of Properties with a Delinquency of > $1,000 per Unit	2.7%
Water and Sewer Debt: Eligible for the 2011 Lien Sale (90-Day Notice)*^	
Share of Properties Eligible for the 2011 Lien Sale	5.0%
Average Water and Sewer Debt (for delinquent properties)	$1,393

HPD Housing Code Violations categorized as B or C
* Some portion of these properties are likely applying for exemptions that, when approved, will retroactively abate these bills.
^ To be eligible for the lien sale, a property must have at least $1,000 of outstanding charges for at least a year. No properties with HUD financing and insurance had liens that were sold in the 2011 lien sale. The owners either paid their past due bills or arrranged another workout with DOF or HPD.

5D: Affordable Housing Units Developed with LIHTC, by Borough

PROPERTIES	Bronx	Brooklyn	Manhattan	Queens	Staten Island	New York City
LIHTC Properties Ever Created	**395**	**577**	**583**	**18**	**12**	**1,585**
Currently in the LIHTC Program	379	551	547	18	10	1,505
Currently in their Limited Partnership	313	473	442	16	7	1,251
Have reached Year 15	66	78	105	2	3	254
No Longer in the LIHTC Program	16	26	36	0	2	80
Have Affordability Restrictions Through Other SHIP Programs	1	1	4	0	0	6
No Longer Subject to Affordability Restrictions*	15	25	32	0	2	74

UNITS	Bronx	Brooklyn	Manhattan	Queens	Staten Island	New York City
LIHTC Units Ever Created	**21,643**	**16,638**	**39,039**	**2,433**	**642**	**80,395**
Currently in the LIHTC Program	19,748	15,553	36,778	2,433	564	75,076
Currently in their Limited Partnership	15,655	12,266	27,700	2,075	447	58,143
Have reached Year 15	4,093	3,287	9,078	358	117	16,933
No Longer in the LIHTC Program	1,895	1,085	2,261	0	78	5,319
Have Affordability Restrictions Through Other SHIP Programs	104	21	199	0	0	324
No Longer Subject to Affordability Restrictions*	1,791	1,064	2,062	0	78	4,995

*As catalogued by the SHIP Database.

Preservation Opportunities

Since the Low-Income Housing Tax Credit program's inception twenty-four years ago, 1,585 properties with 80,400 units have been developed in New York City, as Table 5D shows. Eighty properties with 5,300 units were subject to the shorter 15-year affordability restrictions and have left the LIHTC program. Of those, 74 properties, with 5,000 units, are now market-rate, rent stabilized, or have rent restrictions due to one of the smaller affordability programs not covered by the SHIP. The remaining six properties, with 320 units, continue to have affordability restrictions based on new LIHTC financing or another SHIP subsidy program.

For the 75,100 units developed after the 1989 changes to the LIHTC program, "Year 15" is still a critical time period for preserving affordability. Properties leave their limited partnership after fifteen years, but owners can only convert the units to market-rate rent before the end of the thirty year compliance period if they can sell the property to a qualified buyer or the regulating agency cannot find another purchaser who can arrange a financing package that will enable them to meet the affordability requirements. So far, 254 properties with 16,900 units have reached Year 15 and had the opportunity to leave their limited partnership, but all remain subject to affordability requirements. As Table 5E on page 47 shows, an additional 332 properties with 13,900 units will reach Year 15 by 2015. Based on historical experience, it is unlikely that any of these properties will be able to exit affordability at that point, but some may require additional financing.

Although no LIHTC properties will be eligible to leave the program in the next five years, between 2016 and 2021, 24 LIHTC properties (1,700 units) will pass their 30 year affordability restriction and have no extended affordability requirements under the LIHTC program. These properties will be eligible to exit affordability and rent their units at the market rate. Brooklyn has the greatest number of properties eligible to leave affordability in the next 10 years (9 properties, with 400 units), while the Bronx has just seven properties, but they contain over 500 units.

5E: Currently-Affordable LIHTC Properties Eligible to Exit Affordability, 2011-2020

	Bronx	*Brooklyn*	*Manhattan*	*Queens*	*Staten Island*	*New York City*
Eligible to Leave the LIHTC Program in the Next 10 Years and Not Bound by Other Affordability Restrictions						
Properties	7	9	6	2	0	24
Units	532	405	448	358	0	1,743
LIHTC Affordability Restrictions Continuing for More Than 10 Years						
Properties	372	542	541	16	10	1,481
Units	19,216	15,148	36,330	2,075	564	73,333
Will Reach Year 15 in the Next 5 Years						
Properties	54	154	118	2	4	332
Units	2,458	3,021	8,137	36	264	13,916

*As catalogued by the SHIP Database

Section 6. State of Subsidized Housing: Preservation Opportunities

Nearly 235,000 units of privately-owned and publicly-subsidized affordable rental housing have been developed in New York City in the last fifty years under the four categories of programs tracked by the SHIP Database. Thus far, as Table 6A shows, 62,300 units in 322 properties, representing nearly 27 percent of units ever subsidized in New York City under these programs, have left all subsidy programs tracked in the SHIP Database.[1] A smaller share of those properties in Brooklyn have left affordability (13%) than other boroughs; 33 percent of the properties ever subsidized in Staten Island are no longer receiving subsidies and in Manhattan, 17 percent of the properties ever subsidized are now market rate, rent stabilized, or have rent restrictions due to one of the smaller affordability programs not covered by the SHIP.

In the 2000s, home prices rapidly appreciated and new residential construction increased dramatically. From 2000 to the height of the market in 2006, home prices increased by 124 percent and by the end of 2008, over 170,000 new residential units were completed, increasing the city's housing stock by nearly six percent.[2] High demand for housing, along with the increased availability of private financing, made converting to market rate housing considerably more attractive for subsidized property owners. In 2003, Mayor Bloomberg also

1 It is possible that some properties have received financing through subsidy programs that are not yet included in the SHIP Database and have affordability restrictions through those programs. Additionally, many properties entered rent stabilization after their subsidy expired due to previous agreements or in exchange for tax abatements. In many HUD subsidized properties, while the rents may have increased to market rate, the current tenants often received Section 8 vouchers.

2 Home prices are based on the Furman Center's repeat sales index, calculated based on data from the New York City Department of Finance. For more information on this indicator, see: Furman Center for Real Estate and Urban Policy, "State of New York City's Housing and Neighborhoods:2010." Available at: http://furmancenter.org/research/sonychan/

Table 6A: Affordable Housing Properties Developed With SHIP Financing

PROPERTIES	*Bronx*	*Brooklyn*	*Manhattan*	*Queens*	*Staten Island*	*New York City*
Properties Financed Through Any Programs Catalogued by the SHIP Database	**649**	**821**	**876**	**72**	**36**	**2,454**
Currently Subject to Affordability Restrictions	567	727	750	61	27	2,132
Have Extended Affordability Requirements Since 2000	*21*	*39*	*33*	*7*	*6*	*106*
No Longer Subject to Affordability Restrictions	82	94	126	11	9	322
Have Left Affordability Requirements Since 2000	*57*	*63*	*76*	*7*	*4*	*207*
UNITS						
Units Financed Through Any Programs Catalogued by the SHIP Database	**66,198**	**56,160**	**91,491**	**14,369**	**5,660**	**233,878**
Currently Subject to Affordability Restrictions	48,932	42,927	65,030	10,463	4,192	171,544
Have Extended Affordability Requirements Since 2000	*3,443*	*12,650*	*4,698*	*2,079*	*1,303*	*24,173*
No Longer Subject to Affordability Restrictions*	17,266	13,233	26,461	3,906	1,468	62,334
Have Left Affordability Requirements Since 2000	*11,110*	*4,347*	*16,505*	*1,793*	*249*	*34,004*

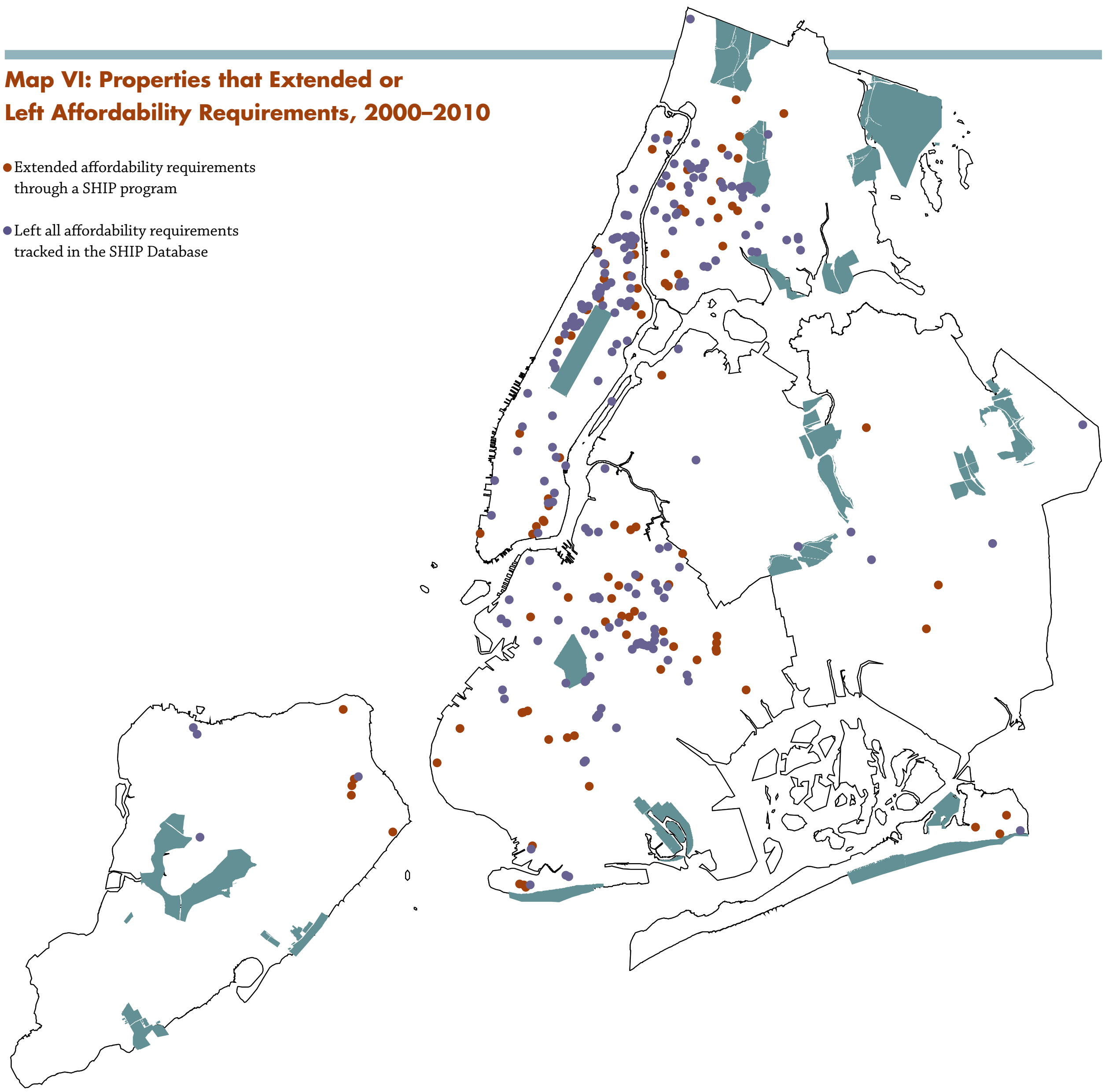
*As catalogued by the SHIP Database

announced the New Housing Marketplace Plan, an ambitious effort to build or preserve 165,000 units of affordable housing by 2013. Originally, the plan envisioned 56 percent of those units as new construction, and the remaining 44 percent coming from preservation. In 2008, Mayor Bloomberg announced an amended plan with a greater focus on preservation, based on changing market conditions and the economics of preservation.[3] The new plan committed to preserving 105,000 units, or 64 percent of the total goal.

Since the New Housing Marketplace plan was announced in 2003, the New York City Department of Housing Preservation and Development and the Housing Development Corporation report that they have preserved approximately 71,000 housing units as affordable for low- and moderate-income households. Properties preserved through the New Housing Marketplace plan include affordable units that are not catalogued in the SHIP Database, as well as properties that left all SHIP programs but were preserved as affordable housing using city-funded programs not captured in the SHIP Database. Since 2000, 106 properties that are catalogued in the SHIP Database, with 24,200 units, extended their affordability requirements though programs also catalogued by SHIP, usually by 20 or 30 years. Over that same time period, 207 properties with 34,000 units left affordability programs tracked in the SHIP Database. As Map VI shows, properties that left affordability are distributed throughout the city, while properties that extended affordability protections are concentrated in the Bronx and Central Brooklyn.

3 http://www.nyc.gov/html/hpd/downloads/pdf/10yearHMplan.pdf

Map VI: Properties that Extended or Left Affordability Requirements, 2000–2010



Tenants in Properties Leaving Subsidy Programs

When properties leave affordability programs, whether or not tenants must leave their units depends on the individual property owner and the subsidy program it is exiting. In some cases, the landlord may increase rents to levels unaffordable for existing tenants and they likely will be forced to leave. In other cases, the landlord may not be able to command rents much higher than existing tenants are paying, so tenants may be able to stretch to pay the rent and remain in the unit. As discussed earlier, Mitchell-Lama properties generally enter rent stabilization when they exit the program; this is sometimes the case for other programs, particularly if property owners seek tax abatements.

When the owner of a property chooses not to renew an expiring project-based Section 8 contract, HUD offers tenants who wish to stay in their units enhanced vouchers, provided they are income-eligible. Tenants who choose to move receive a tenant-based voucher that they can use to defray the rental costs of a market rate apartment elsewhere. New tenants that move into the property, though, will not receive a voucher.

Preservation Opportunities: A Five Year Outlook

As Table 6B shows, we find that 227 properties, with 38,800 units, will be eligible to leave affordability restrictions in the next five years (by the end of 2015), because the affordability requirements of all of the financing streams on the property will expire. Many of these property owners, though, are unlikely to exercise that right and forgo the subsidies they can receive in exchange for continued affordability. Government agencies, non-profit organizations, and developers with an interest in preserving affordability will need a more nuanced analysis to determine where to focus their preservation resources.

To help guide that analysis, in this section, we analyze four categories of properties that will reach the end of an affordability program in the next five years: properties expiring from a non-renewable program; properties expiring from a renewable program; Mitchell-Lama properties that already have the ability to opt out at any time; and properties across the four portfolios that have the potential to fail out of their subsidy program. To determine the earliest date a property can leave its affordability restrictions, we identify the financing source with the latest expiration date on a particular property.

Properties Expiring from a Non-Renewable Program

Thirty-four properties, containing more than 10,300 units, will reach the end of their affordability requirements for all subsidy programs, and will not be able to renew at least one of their existing subsidy programs. This includes properties receiving project-based rental assistance from the RAP or Rent Supp programs, along with properties in Section 221(d)(3) BMIR and Section 236 HUD insurance programs with mortgages ending in 2015 or earlier. In order to adequately finance these properties, the non-renewable program would have to be replaced with some other subsidy program. Non-renewable programs typically provide greater subsidy than currently-available project-based rental assistance as well as mortgage financing and insurance programs, so replacing these lost subsidies generally requires creative or complex financing arrangements.

Fourteen of the 34 properties, containing 7,000 units, have non-renewable RAP or Rent Supp contracts that will expire in the next five years, and are not bound by any other affordability requirements in the SHIP Database. In the past, HUD, working with local agencies, has converted some RAP and Rent Supp contracts into project-based Section 8 contracts. That option is not guaranteed, however; such conversions must be negotiated on a case-by-case basis for each property. Nearly half of these units are located in the Bronx: six properties in that borough with 4,200 units will come to the end of Rent Supp or RAP contracts without another program in place to preserve affordability.

The HUD Section 221(d)(3) BMIR and Section 236 programs offered some of the deepest subsidies of any of the HUD financing and insurance programs. Twenty-three properties containing 4,000 units have non-renewable Section 221(d)(3)

Table 6B: Preservation Opportunities

	Bronx	Brooklyn	Manhattan	Queens	Staten Island	New York City
Affordable Housing Properties Eligible to Exit Affordability, 2011–2015*						
Expiring from a Non-renewable program						
RAP or Rent Supp						
Properties	6	4	0	1	0	11
Units	4,189	1,098	0	1,093	0	6,380
Section 221(d)(3) BMIR or Section 236 [without Section 8]						
Properties	0	2	2	1	0	5
Units	0	132	758	208	0	1,098
Section 221(d)(3) BMIR or Section 236 [with Section 8 also expriring]						
Properties	9	3	2	0	1	15
Units	1,613	192	289	0	178	2,272
Both 236 and Rent Supp Expiring						
Properties	0	2	0	1	0	3
Units	0	558	0	26	0	584
Expiring from a Renewable program						
Project Based Section 8 [without HUD financing or insurance]						
Properties	39	46	60	12	7	164
Units	5,594	4,428	7,181	1,726	1,772	20,701
Section 221(d)(3) & 221(d)(4) or Section 202/811						
Properties	0	0	2	0	0	2
Units	0	0	84	0	0	84
Mitchell-Lama						
Current Mitchell-Lama that Can Opt-Out at Any Time						
Properties	6	7	10	3	0	26
Units	1,317	3,048	2,400	786	0	7,551
Mitchell-Lama Restrictions Expiring with No Other Restrictions						
Properties	0	0	1	0	0	1
Units	0	0	120	0	0	120
Total Expiring or Eligible to Opt-Out in the Next 5 Years						
Properties	60	64	77	18	8	227
Units	12,713	9,456	10,832	3,839	1,950	38,790
Affordable Housing Properties in Physical Distress						
Failing REAC Scores From the Most Recent Inspection						
Properties	39	32	24	4	0	99
Units	7,219	4,043	3,834	1,440	0	16,536

* There are no properties eligible to exit the LIHTC or PRAC programs in the next five years. LIHTC properties are only considered eligible to exit affordability when they reach Year 30, rather than Year 15. See page 42 for additional information on the LIHTC program.

BMIR or Section 236 insurance on mortgages that will expire in the next five years. These properties do not have project-based rental assistance contracts that extend beyond the length of their mortgages, but 15 of them do currently receive project-based Section 8 subsidies which are renewable. The Section 8 subsidy alone, however, is not always sufficient to meet current operating and debt service needs, and these properties may require new mortgage financing or insurance, or other subsidies such as tax abatements. Three of the 23 properties will be expiring from both Section 236 and Rent Supp programs and do not have any supplementary subsidies to ensure affordability.

Properties Expiring from a Renewable Program

While it is clear that properties expiring from non-renewable programs would require new subsidy to remain affordable, it is more difficult to determine whether new government subsidy would be required to preserve affordability for any of the properties expiring from renewable programs. This category includes properties financed through Section 221(d)(3), Section 221(d)(4), Sections 202/811, project-based Section 8, and PRAC. There are 166 properties that will expire from a renewable program; the vast majority of these properties are in Brooklyn, the Bronx and Manhattan.

Of the 166 properties with subsidy expiration dates in the next five years, 164 receive subsidized rental payments from project-based Section 8 that will expire in the next two years. These properties have the option to renew their contract at the end of the contract term. However, until recently, contract extensions have been offered only on a short-term basis, frequently for just two years, with the option for further renewal dependent upon whether the program continues to receive funding. These short contract extensions created uncertainty for property owners and investors, as well as for tenants (although tenants would typically be eligible for enhanced vouchers, allowing them to remain in the building affordably if the contract was not extended). In 2011, though, HUD directed field offices to offer 20-year contract renewals where possible, so this pattern may change in coming years.

While we cannot necessarily use the past to predict future opt-outs, 136 of the 172 project-based Section 8 contracts (80%) that were due to expire between 2001 and 2009 renewed their contracts. Although it is uncertain how many property owners faced with the future option to opt out will chose continued affordability, the experience of the last decade suggests that many will.

Two of the 227 properties expiring in the next five years have HUD Section 221(d)(3) & (4) or Section 202/811 mortgages and no other subsidies covered by the SHIP beyond 2015. Although these programs are still available to finance new mortgages, the subsidies offered through these programs are rarely sufficient by themselves to keep a project affordable. In the past, the city has used a combination of mortgage financing programs and tax abatements to preserve similar properties, and such subsidies are likely to be necessary to preserve these two properties. For more information, see Programs Used to Preserve Affordability (page 19).

Mitchell-Lama Properties that Can Opt-Out at Any Time

Currently, 26 Mitchell-Lama properties are already eligible to leave the program, but their owners have not exercised that option. Owners of these properties could leave the program immediately, and have no other financing tracked in the SHIP Database that would prevent them from converting the units to market rate (or into rent stabilization, for the 18 properties that were developed before 1974). Most of the Mitchell-Lama properties already eligible to leave the program are in Manhattan (10 properties); Brooklyn has seven properties, containing a total of more than 3,000 units. Most of these properties have been eligible to opt out for a considerable amount of time; the median year that these properties were first eligible to opt out is 1993. These properties continue to take advantage of the tax benefits associated with the Mitchell-Lama program but maintain the option to leave the program, provided owners give one year's notice to tenants.

Additionally, one Mitchell-Lama property will become eligible to leave the program in the next five years. In the past, the housing agencies have been successful in preserving some of the Mitchell-Lama properties that have fulfilled their obligations by inviting the owners to commit to extended affordability through another financing program, such as an HDC bond program or HUD financing and insurance.

Fail-Outs

Since 2002, only ten HUD properties[4] in New York City have either faced or gone through foreclosure because they failed to meet physical or financial requirements, as outlined on page 25. All were preserved as affordable housing. Furthermore, only one Mitchell-Lama property, and zero LIHTC properties, have failed out of their programs.

A total of 99 properties with HUD financing and insurance or project-based rental assistance (16% of the total stock of such buildings) failed their most recent REAC inspection, suggesting that they are in need of significant repairs. They will likely need government subsidies, such as HPD's Preservation Participation Loan Program, to improve building conditions, or may need new ownership in order to maintain the properties as safe, quality affordable housing. Sixty percent of properties that receive REAC scores have had a failing score at some point between 1998 and 2010, indicating that one failing score does not necessarily signal that a foreclosure will be necessary.

Next Steps

New York City has nearly 172,000 households who depend on the patchwork of subsidies catalogued in the SHIP Database to ensure that their monthly rent remains affordable. While we know relatively little about the tenants benefiting from these subsidies, we can assume from the overall income targeting of the programs that most would face financial hardship if these subsidies ended. Crafting cost-effective policies and programs to keep units affordable under terms that protect tenants, property owners, and neighborhoods requires not only timely and accurate information on the properties and subsidy terms, but a way to predict which property owners are most likely to opt out of affordability restrictions once they have fulfilled their obligations. Not all property owners who have a viable option to renew or extend their subsidy do so. Many factors likely determine whether an owner will choose to keep the property affordable, including whether the owner is a non-profit or for-profit entity, the likelihood and amount of profit that could be received by converting to market rate units, regulatory burdens, tax considerations, and estate planning concerns.

We hope that this first report on the city's subsidized housing helps arm the housing agencies, owners of subsidized housing, tenants, and community organizations with the information they need to work together to develop the efficient and effective preservation efforts today's fiscal pressures demand. This analysis is only a start, and we plan to do much more. The Furman Center is using the data in the SHIP to better understand the factors leading owners to opt-out rather than renew subsidies, with the aim of providing policymakers with an evidence-based early warning/opportunity system to predict which properties are at the greatest risk of leaving their affordability restrictions. Further, the Furman Center's Institute for Affordable Housing Policy will work with policymakers, tenant advocates and the real estate industry to analyze which preservation strategies have the greatest potential to efficiently preserve affordability for the current and future tenants of those properties. Faced with the realities of limited government resources, targeted, highly efficient preservation efforts are critical if New York City is to maintain its extraordinary commitment to housing a diverse and growing population.

Detailed information on each of the properties catalogued in the SHIP is available to the public on our website at www.furmancenter.org/datasearch. We encourage our readers to contact the Furman Center with questions, comments, or ideas about how the Subsidized Housing Information Project can help all actors in the New York City housing industry preserve access to safe and affordable units for low and moderate-income New Yorkers.

4 All were receiving project-based Section 8, and seven also had HUD financing and insurance.

List of Acronyms

AMI	Area Median Income
BMIR	below market interest rate
CRA	Community Reinvestment Act
DHCR	New York State Division of Housing and Community Renewal
ESDC	Empire State Development Corporation
ETPA	Emergency Tenant Protection Act
FHA	Federal Housing Administration
FMR	Fair Market Rent
GNMA	Government National Mortgage Association
HAP	Housing Assistance Payment
HCR	New York State Homes and Community Renewal
HDC	New York City Housing Development Corporation
HERA	Housing and Economic Recovery Act of 2008
HFA	New York State Housing Finance Agency
HMFA	HUD Metro FMR Area
HOP	Housing Opportunities Program
HPD	New York City Department of Housing Preservation and Development
HUD	U.S. Department of Housing and Urban Development
IRP	Interest Rate Reduction Payment
IRS	Internal Revenue Service
IWG	Inter-agency Working Group
LIHTC	Low-Income Housing Tax Credits
LMI	Low- and Moderate-Income
LMSA	Loan Management Set-Aside
MAHRA	Multifamily Assisted Housing Reform and Affordability Act
NC/SR	New Construction/Substantial Rehabilitation
NEP	Neighborhood Entrepreneurs Program
NRP	Neighborhood Revitalization Program
NYC	New York City
NYCHA	New York City Housing Authority
PLP	Preservation Participation Loan Program
PRAC	Project Rental Assistance Contract
RAP	Rental Assistance Payment program
REAC	Real Estate Assessment Center
RRRA	Rent Regulation Reform Act
RSL	Rent Stabilization Law
SHIP	Subsidized Housing Information Project

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