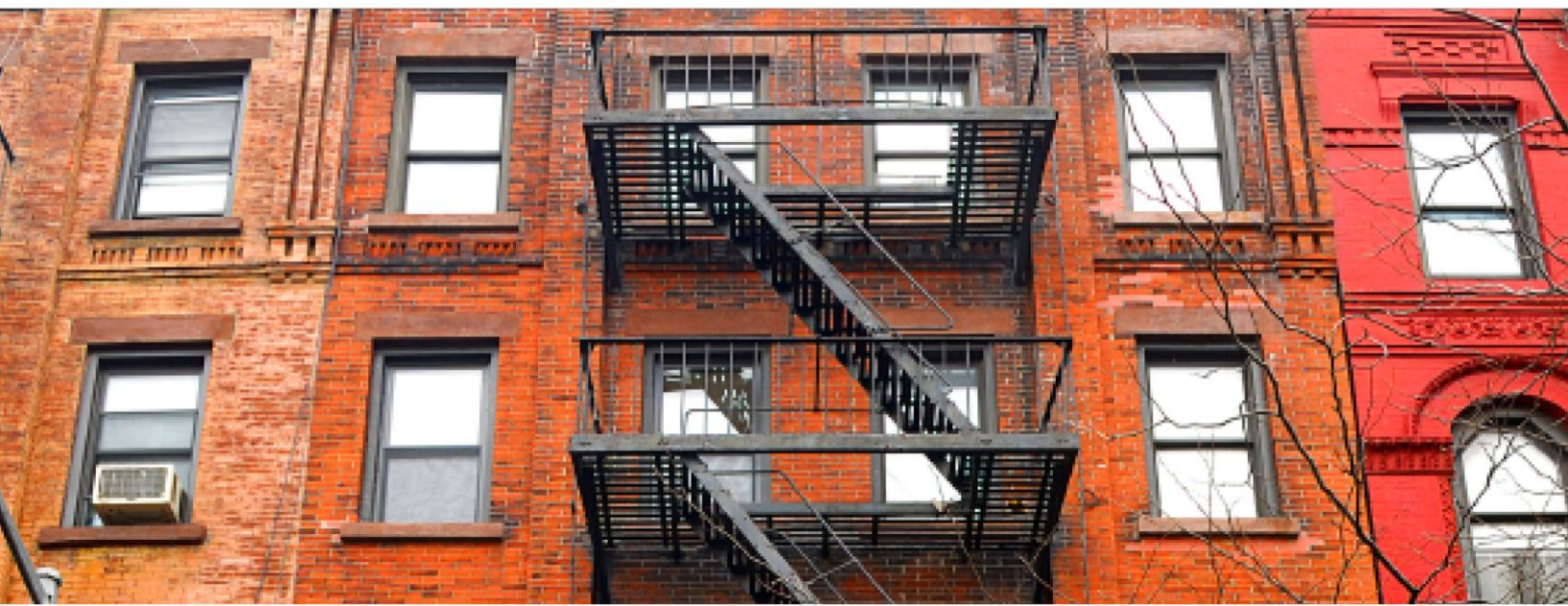


November 2011



FIGHTING RED TAPE & TECHNICAL ERRORS

BEHIND THE SCENES OF THE SECTION 8 HOUSING PROGRAM

A Red Tape Report by:



Office of
Bill de Blasio
PUBLIC ADVOCATE FOR THE CITY OF NEW YORK

Prepared by:
Jacqueline Sherman

With support from:
Ursulina Ramirez, America Canas, Sarah Figuereo & the
Public Advocate's Constituent Services Department

INTRODUCTION

Between June and October of this year, the Office of Public Advocate Bill de Blasio has experienced a sharp increase in constituent complaints from landlords and tenants regarding the New York City Housing Authority’s (“NYCHA” or the “Agency”) Section 8 program. The housing voucher program administered by NYCHA is a lifeline for nearly 100,000 households, helping them secure safe and decent housing they might otherwise be unable to afford. But because of bureaucratic red tape and technical errors, NYCHA is failing to provide on-time rent at the appropriate level, leaving tenants at risk of eviction.

The housing voucher program administered by NYCHA is a lifeline for nearly 100,000 households . . . But because of bureaucratic red tape and technical errors, the agency is failing to provide on-time rent at the appropriate level.

The Public Advocate has received reports from 39 landlords¹ and 33 tenants regarding unpaid rent due to computer system backlogs at NYCHA—and they appear to be indicative of a much more widespread problem. These mistakes have significant consequences for landlords and tenants alike. Some landlords have reported tens of thousands of dollars in Section 8 payments due; some lead to risk of defaults on mortgage payments. The deficits also can leave landlords unable to maintain their buildings. As a result, some landlords have commenced eviction proceedings against tenants with unpaid Section 8 rent. Tenants risk the loss of their homes and the vouchers that enable them to secure permanent, affordable housing. These problems have been compounded by new communications procedures and organizational structure at NYCHA that make it difficult for landlords and tenants to reach NYCHA staff who are versed in their cases and can help cut through the red tape.

To learn more about these problems and determine their source, the Public Advocate’s Office conducted a review of recent constituent cases and held discussions with property owners and their representatives, as well as advocates for Section 8 tenants. The research revealed widespread errors with tenant recertifications and lease renewals, which were the result of bureaucratic red tape and technical errors at NYCHA.

Given the stakes for tenants and building owners, NYCHA must immediately put in place quality controls to prevent the wrongful termination and suspensions of Section 8 benefits, and to ensure that benefits are paid on time and in the proper amount. Moreover, NYCHA must address any wrongful terminations of Section 8 benefits made in the past year by conducting a thorough review of these cases.

In addition to addressing administrative issues in the short term, there should be an examination of how the City might strengthen overall management of the Section 8 program through streamlining and a higher level of coordination in overall program administration.

¹ Landlord and building owner are used interchangeably throughout the document.

Background on the Section 8 Voucher Program

NYCHA and the Department of Housing Preservation & Development (HPD) separately administer the federally funded Section 8 program in New York City.² The Section 8 voucher program is a portable rent subsidy that allows participants to choose their own private market apartments, which are pre-approved by the agency administering the program (either NYCHA or HPD).³

Nearly 100,000 households in New York City depend upon Section 8 vouchers administered by NYCHA for their permanent housing.⁴ Participating families' income falls below 50% of the area median income. Program participants are responsible for paying no more than 30% of their income for rent. The administrator is responsible for paying the remainder of the rent, for which it is reimbursed by the federal government. HPD and NYCHA also receive payments from the federal Department of Housing and Urban Development to cover the costs of administering the Section 8 program.

BUREAUCRATIC RED TAPE & TECHNICAL ERRORS AT NYCHA

A. Problems in the Recertification Process

Annual Recertifications

Tenants who participate in the Section 8 program must recertify their eligibility for the program every year. Several months prior to the end of the lease, NYCHA is supposed to send each participant a recertification package, which includes an Affidavit of Income. Participants must complete the forms in the recertification package, which require information regarding family composition, household income and citizenship. NYCHA uses the information supplied to determine ongoing eligibility for the program and the participant's rent portion for the upcoming year.⁵ Failure to complete the recertification process is grounds for termination from the program. When a participant is terminated from the program, NYCHA stops paying its portion of the rent. As arrearages grow, participants face an increasing risk of eviction.⁶

During the last year, NYCHA transitioned to a new computer system and organizational structure designed to streamline administration of the Section 8 program. Instead of ensuring on time mailing of recertification materials

²The New York State Division of Homes and Community Renewal also administer a small number of Section 8 vouchers for participants in New York City.

³ See Section 8 Housing Choice Voucher Description available on the New York City Housing Authority's website, at: http://www.nyc.gov/html/nycha/downloads/pdf/lh_housing_choice.pdf

⁴ Approximately 35,000 additional households have vouchers administered by HPD.

⁵ See *How does the Recertification Process Work*, accessed on November 4, 2011, http://www.nyc.gov/html/nycha/html/section8/lh_ten_faqs.shtml#q1

⁶ Some participants who have encountered problems with the recertification process reportedly have been suspended rather than terminated from the program. Suspension, like termination, leads NYCHA to stop paying its portion of the rent. Absent an effective mechanism to dispute this step and timely reinstate payments, participants who have been suspended face increased risk of eviction.

and other notices, the computer system has compounded problems. Notwithstanding widespread reports from Section 8 recipients that they have not received recertification materials and that they have received notification of items missing from their recertification packages in error, as well as substantial reported backlogs with respect to data entry of recertification materials, the new computer system reportedly has been programmed to generate termination notices automatically when recertification materials are missing. NYCHA staff apparently have not been reviewing automatically generated termination notices and checking them against material submitted to the Agency but not entered in the computer system before termination notices have been sent to tenants. A substantial number of tenants have reported that they received no recertification package from NYCHA, but later learned that they were terminated from the program for failure to recertify. Other Section 8 participants have complained that they submitted recertification materials to NYCHA – sometimes multiple times -- but later learned that they were terminated from the program because NYCHA had no record of receiving recertification materials.⁷

According to tenants who have complained directly to the Public Advocate's Office and advocates representing many others throughout the City, NYCHA routinely fails to provide participants a real opportunity for a hearing prior to terminating their assistance. As a result, Section 8 participants are losing their subsidy, even when they have submitted all recertification materials. As discussed above, the most common breakdowns in the recertification process appear to be NYCHA's failure to send recertification materials and to enter submitted materials into the new computer system in a timely manner. In addition, problems have arisen because NYCHA does not send participants and landlords required notices detailing information they are missing in the recertification process; subsidies have been terminated or suspended notwithstanding participants' requests for fair hearings; there have been long delays in the scheduling of hearings; and requests to restore vouchers have been routinely denied, even where there is proof of errors by NYCHA.

A substantial number of tenants have reported that they received no recertification package from NYCHA, but later learned that they were terminated from the program for failure to recertify.

Case Study: The Financial Impact of "Computer Problems"

Marisol C. has been a Section 8 participant for 15 years and has lived in her current apartment in West Harlem for 14 years. She lives with her elderly mother and teenage son. Ms. C was laid off from her job as a legal secretary at the beginning of 2009 and received unemployment compensation until the end of 2010. In January 2011, Ms. C began to receive public assistance, at which time she notified NYCHA of the reduction in her income. In February, she visited the NYCHA borough office to check on the status of rent change. At an informal conference, a NYCHA representative asked Ms. C to be patient and explained that the agency was having problems with a new computer system. The representative further explained that NYCHA's efforts to re-scan documents were leading to processing delays for many people. When Ms. C returned to check on the status of the rent adjustment process in May, a representative told her that everything would be okay and that they would take care of it. As of November 4, 2011, NYCHA has not processed the change. As a result, Ms. C remains responsible for monthly rent that is approximately \$200 more than she can afford or should be required to pay.

⁷ In some instances, NYCHA may be suspending payment of its portion of the rent rather than formally terminating participants from the program. As arrearages grow, such suspensions also put tenants at risk of eviction.

Interim Recertifications

When a Section 8 participant's income changes during the year, NYCHA is required to conduct an interim examination – upon request by the tenant – to determine the appropriate share of the rent and ensure that the participant's share of the rent does not exceed 30% of their income. Constituent complaints and communications with advocates have revealed a number of problems with this process, including: serious delays in completing recalculations of rent share; inaccurate calculations; lack of clear, written notice of share changes or notification of their right to contest calculations at a fair hearing; and improper determination of effective dates for changes.

Problems with interim recertifications leave tenants with a rent burden that is disproportionate to their income and, in many instances, beyond their reach.

Participants have reported waiting months for NYCHA to act upon interim recertification requests. They have complained of visiting NYCHA offices to seek relief, only to be urged to “be patient” or to be informed that the agency would act on the request. Problems with interim recertifications leave tenants with a rent burden that is disproportionate to their income and, in many instances, beyond their reach. When tenants cannot afford to pay their share of the rent, building owners face the prospect of growing arrearages. When NYCHA does not fix the problem, they have little recourse but to bring the tenant to court to attempt to obtain proper rents.

B. Problems with the Lease Renewal Process

The lease renewal process for Section 8 involves an annual apartment inspection and paperwork that must be submitted to NYCHA. Since the implementation of NYCHA's new administrative procedures, both have given rise to numerous problems.

Annual inspections

Regulations governing the Section 8 program require annual inspections to determine if units meet federally determined “housing quality standards.” If an apartment fails inspection, the owner must correct the problems and demonstrate that they have been fixed before NYCHA renews the lease and issues rent payments. The Public Advocate's Office has received 44 complaints since June 2011 regarding problems with the inspection process.

These complaints and others that have been conveyed through conversations with other building owners include: notifications of upcoming inspections that have not been mailed in a timely fashion; owners who have not received notice of failed inspections (and instead have learned that something is wrong when they stop receiving rent); and that NYCHA does not reinspect apartments in a timely fashion or reinstate payments when repairs have been made.

Building owners have stated that, prior to changes to NYCHA's administrative structure this year, they were able to obtain faxed copies of notices of failed inspections through their NYCHA contact. Since NYCHA implemented its centralized complaint line earlier this year, landlords now must call the centralized complaint line and request a copy of the failed inspection notice to be mailed to them. Building owners have reported extraordinary difficulty contacting NYCHA representatives through the centralized call line, as well as lack of follow through by NYCHA on actually sending them the required materials. This system has left landlords unaware of how to cure problems that

lead to termination of rental payments. It also has resulted in delay of repairs, as landlords have not received notice of problems until they stop receiving rent payments.

Lease renewal paperwork

One common complaint reported by building owners relates to the process for gaining approval of rent increases upon lease renewal. Landlords have complained about a slow, inefficient process that leaves them waiting for months to receive rent increases to which they are entitled. Lease renewal requests must be submitted prior to the proposed effective date of the new lease. Landlords are responsible for requesting rent increases as part of the lease renewal process. In prior years, NYCHA sent landlords notice of renewal, which provided basic information regarding the tenant, a form to complete, and information about where to send renewal materials.



Building owners have complained that NYCHA changed its lease renewal process in the past year without providing any notice of the change. NYCHA reportedly stopped sending notices of renewal to landlords. Moreover, landlords report that NYCHA has not responded to lease renewal requests in a timely manner, which has left them in a position of not receiving rent increases to which they are entitled. Landlords have also reported inaccuracies in rent increases that are processed by NYCHA. For the majority of Section 8 landlords, whose apartments are rent-stabilized, the amount of annual increases are established by the New York City Rent Guidelines Board and should be readily ascertainable. While it is difficult to pinpoint the precise cause of the problem, the agency has not informed landlords of where to send renewal materials. This has led to confusion, as some landlords have continued to send materials to the address that they had used for years, only to learn that NYCHA had opened a new facility to receive lease renewals without providing notice.

One landlord that has over 100 Section 8 tenants indicated that NYCHA has processed only two of 36 lease renewals submitted since the beginning of the year correctly. When landlords do not receive rent and cannot obtain an explanation for why, or their efforts to cure the problems are fruitless, they are left with few options other than to file costly legal proceedings that place Section 8 participants at risk of losing their housing.

RECOMMENDATIONS

Given the size of NYCHA's Section 8 program, the problems discussed above may well be affecting thousands of New Yorkers who rely on Section 8 for stable, affordable housing. Section 8 participants and participating landlords alike benefit from consistency in the administration of the program, which is crucial to maintaining permanent housing and to providing income that enables landlords to maintain their rental properties. Problems with respect to NYCHA's administration of Section 8 undermine confidence in the Agency and have real consequences for tenants and landlords alike.

A series of administrative reforms at NYCHA could dramatically improve the administration of the Section 8 program:

1 Address problems with annual recertification process

- **Stop issuing computer generated terminations/suspensions and stop terminating participants from the Section 8 program for failure to recertify until the system is overhauled** to prevent erroneous issuance of termination letters.
- **Review all terminations for failure to recertify issued over the past year** to ensure that participants have not been terminated in error.
- **Going forward, prior to termination and suspensions, NYCHA staff should check every file to determine whether the recertification was completed and whether appropriate termination notices were sent** and participant was given an opportunity to request a hearing prior to terminating participant for failure to recertify.

2 Ensure a timely response to interim recertification applications

- Review all requests for interim recertification made over the past year for accuracy.
- Going forward, process all interim recertification applications within one month.

3 Improve communication with landlords and tenants

Many of the complaints received by the Public Advocate's Office could be resolved through relatively simple steps designed to ensure clear communication of program requirements and an effective means of resolving questions and problems as they arise:

- **Assign a specific representative to respond to questions from tenants and owners.** Tenants and owners have indicated that clear, consistent points of contact with the Agency would help to resolve minor issues.
- **Publish clear, accurate and up-to-date information regarding the lease renewal process on the NYCHA website.** Landlords have indicated confusion about the lease renewal process, including how to begin the process, where to send materials required to complete the process, and who to follow up with when questions arise. Publication of a clear and accurate description of the lease renewal process would resolve many of these basic questions. NYCHA should have a process for regular review and updating of information as necessary to ensure accuracy.
- **The Agency must ensure that landlords receive timely notice of inspections and of failed inspections.** The agency must conduct re-inspections in a timely fashion and ensure that payments are made to landlords where repairs are made.

The Agency should publish a plan that details steps it intends to take to address problems discussed in this report. The plan should include a description of the approach the agency will take to (i) review terminations and suspensions for failure to complete the recertification process that have occurred over the past year to determine whether errors have been made; (ii) address the backlog in interim recertification requests made over the past year and review requests that have been processed for accuracy; and (iii) address backlogs in processing recertification materials and lease renewal requests.

In addition to addressing administrative issues in the short term, there should be an examination of how the City could strengthen overall management of the Section 8 program through streamlining and increased coordination in overall program administration.