

October 18, 2017

Hon. Anne-Marie A. Hendrickson
Deputy Commissioner
Office of Asset & Property Management
New York City Department of Housing Preservation and Development
100 Gold Street
New York, NY 10038

Dear Ms. Hendrickson:

Thank you for your letter of September 26, 2017. In your letter, you request feedback on HPD's proposed Regulatory Agreement (RA) for HDFC cooperative multi-family buildings. You also state that you plan to conclude your gathering of comments in early October of this year, and then finalize HPD's proposed RA. The proposed Regulatory Agreement is part of your department's larger effort to ask the City Council to cancel the existing DAMP tax abatement that keeps HDFCs affordable to their residents.

While the HDFC Coalition wishes to engage HPD in conjunction with other HDFC advocacy groups, and to work with you to help create better policy for HDFC cooperatives, we believe that your deadline for comment is premature and must be extended. The current DAMP tax abatement does not expire until 2029, so there is more than sufficient time to ensure that HDFC shareholder groups from across the city are able to review, consult and jointly respond to HPD's highly complex and far-reaching proposals. This is particularly true as HPD's current proposal would dilute HDFC shareholders' rights to manage and control their private property, and in some ways effectively render it public property. This would be a seismic change that should rightfully concern any home-owner.

We ask HPD to halt its efforts to impose an unworkable and legally flawed Regulatory Agreement on privately owned, self-managed, low, moderate and middle income HDFC cooperatives, and to halt its attempt to have the City Council revoke the DAMP tax abatement that allows our buildings to remain affordable homes for thousands of New Yorkers.

Our HDFC cooperative homes are buildings that we shareholders bought from the City after they were abandoned by landlords and HPD was unable to maintain them. Some 33,000 New York City families rebuilt these buildings with their own sweat and personal funds, achieving the American Dream of home ownership. By doing so, we also sparked the revival of many of New York City's formerly distressed neighborhoods.

Over the past year, HDFC shareholders citywide have overwhelmingly objected to HPD's proposal and stated publicly that they would refuse to be coerced or threatened into signing any such onerous new Regulatory Agreement.

As you know, fewer than 20 percent of HDFC cooperatives have active Regulatory Agreements, and getting a supermajority shareholder vote in favor of signing a new RA at every other HDFC would clearly be an insurmountable hurdle. HPD's plan to cancel all tax relief for HDFCs that do not sign the proposed RA, and the fact that HDFC cooperatives are not eligible for the essentially restriction-free NYC Co-op and Condo Tax Abatement available to non-HDFC co-ops, would rapidly push hundreds of thriving HDFCs, housing thousands of NYC families, into economic distress. Dramatically escalating monthly housing costs for thousands of NYC families is clearly not consistent with Mayor de Blasio's goal of preserving housing affordability for low, moderate and middle income New Yorkers.

With so much at issue, and so much at stake, we think it imperative that HPD slow down and not attempt to rush regulatory and taxation policy changes affecting some 75,000 to 100,000 New Yorkers living in over 1,200 HDFC cooperative apartment buildings. The unintended consequences would be disastrous.

We would also like to clarify that while your letter refers to a single issue when it refers to "our proposed Regulatory Agreement," in fact there are two key issues at stake here, that must not be conflated: (1) HPD's proposal for the City Council to revoke the existing DAMP tax abatement 12 years before it expires, and (2) HPD's proposal for the City Council to create a new, revised DAMP abatement that would require HDFCs to sign the onerous proposed RA.

A third issue not mentioned at all in your letter is HPD's legislative proposal to actually transfer property rights away from thousands of HDFC cooperative homeowners and to HPD itself, via a change to New York State's Private Housing Finance Law (PHFL), the legal foundation of our HDFC co-op corporations. This legislative proposal was submitted to the NY State Senate with no notice or input from shareholders or our elected City Council representatives. Furthermore, Mayor de Blasio stated on October 12, 2017 at a Town Hall meeting that he was unaware of the City's proposal to change NY State law or NY State Senate Bill S6543. This bill is unknown to many HDFC shareholders and elected officials, and we find its very existence extremely troubling and not consistent with the Mayor's promises to the HDFC Coalition. As you may recall, when representatives of the HDFC Coalition met with yourself, HPD Commissioner Torres-Springer and Mayor de Blasio at City Hall on March 28, the Mayor affirmed that any proposal to re-regulate HDFCs would go through an "open public process, including stakeholders," and that it would include "hearings and a public vote" on any new legislation.

We are also extremely concerned by HPD's decision to proceed with foreclosure proceedings against a record 84 HDFC co-ops for money owed to city agencies. These buildings were in poor condition when sold to the residents, or had other issues not addressed, yet for more than three decades they were ignored by HPD. We are dismayed that rather than help keep these buildings in the hands of largely lower-income shareholders, many of them seniors and people of color, your agency plans to give these foreclosed buildings debt-free to an unpublished list of developers who would convert these cooperatives back to rental apartments.

While we are working actively with HDFC shareholders, other advocacy groups and our attorneys to create a detailed policy proposal that we will share with you early next year, we can provide you today some fundamental points of our position that are clear and unchanging:

- The right to self-determination for HDFC shareholders must be respected and rightfully celebrated. As the New York Times reported August 9, 1981, Mayor Ed Koch proclaimed at a City Hall ceremony to turn over deeds of Harlem buildings to the tenants: "It means that the people, the tenants will control their own destiny."
- HPD should not ask the City Council to revoke or amend the DAMP tax abatement that expires in 2029.
- HPD should ask that NY State Senate Bill S6543 be immediately withdrawn. This bill is an attempt to revise the corporate status of our HDFC buildings to transfer our property rights to the City of New York and would change the rules of the game to take control of our property decades after we agreed to save these buildings in exchange for real ownership.
- HPD must recognize that there is no "one-size-fits-all" approach to the future of HDFCs. Some 1,200 plus HDFC cooperatives are of different size and character physically, financially and culturally. Multiple options must be developed so that each HDFC may choose the one that most suits their needs.
- HPD should immediately terminate all remaining 60/40 agreements. These agreements send 40% of the profit on sales of HDFC apartments to the City, taking those moneys away from the co-op where it could be used for capital improvements. Astonishingly, your agency will not apply this money to outstanding tax and water/sewer bills for distressed HDFCs, destabilizing not only these buildings but families and communities.
- HPD should do everything possible to prevent the foreclosure of HDFC cooperatives, and respect Mayor de Blasio's request of March 28 that everything be done to avoid foreclosure on HDFCs. In cases where foreclosure cannot be prevented, HPD should help to re-form these buildings as new HDFC cooperatives with real shareholder equity to preserve affordable homeownership for New Yorkers, rather than give them debt-free to developers.

When HPD stopped conducting community forums in February of this year, the HDFC Coalition continued its outreach to HDFC shareholders, holding meetings at numerous HDFC co-ops and a rally at City Hall in June. The outreach to shareholders expanded further when

we became aware of the mass HDFC foreclosures. We have been meeting with HDFCs at risk of foreclosure since June, to help them develop plans to work out its debts to the City.

Presently, we are communicating with other HDFC coalitions and groups to formulate a joint response and proposal to HPD that includes input from HDFC shareholders across the city, and to reach consensus with as broad a base as possible. Our team of expert pro bono attorneys is finalizing a white paper on the legal issues raised by HPD's proposal that we hope to release very soon.

Our continued organizing, consensus-building, research and drafting of proposals with the assistance of housing professionals and attorneys is an opportunity for HDFC shareholders to come together, and then jointly engage HPD to develop a future for HDFC cooperatives that is viable, respectful, pragmatic and affordable. With sufficient time, there is the real potential for an agreement beneficial to HDFC shareholders, HPD and the City of New York.

Deputy Commissioner Hendrickson, we want to work together with you and HPD to secure a future for HDFC cooperative housing that is affordable and viable. We believe that we can be a very valuable partner in this regard, if HPD will work with HDFC shareholders, and allow us sufficient time to develop the best possible response. Please also keep in mind that all our work is presently being done on a volunteer basis by HDFC shareholders.

After our consultations and collaboration with other HDFC advocacy groups we will be happy to meet jointly with HPD. Please also note that our work will be greatly assisted if HPD could provide the data that we have asked for via the FOIL process and emailed requests.

We look forward to hearing from you soon and to establishing a fruitful working relationship in order to preserve our HDFCs as affordable homes for generations to come.

Sincerely,

Glory Ann Hussey Kerstein
HDFC Coalition Steering Committee

John McBride
HDFC Coalition Steering Committee

Cc: Mayor Bill de Blasio
HPD Commissioner Maria Torres-Springer
New York City Council Members
HDFC Coalition Members
Betty Little, NYS Senator and Chair, Housing, Construction and Comm. Dev. Committee
Steven Cymbrowitz, NYS Assemblyman and Chair, Housing Committee