

OFFICE OF THE FEDERAL MONITOR

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Pursuant to Agreement dated January 31, 2019

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TO: New York City Housing Authority
FROM: Federal Monitor
DATE: November 21, 2022
RE: New York City Housing Authority – Public Housing Preservation Trust Voting Procedures – Response to Requests for Comments

I. Executive Summary

On October 14, 2022, NYCHA released their draft voting procedures (the “Trust Voting Procedures” or the “procedures”) for NYCHA residents to opt into the Public Housing Preservation Trust (the “Trust”). You have requested comments on the procedures. Addressing the following issues are intended to help make the process more reliable and increase the confidence of NYCHA residents in the process. These issues are divided into the following four major areas: 1) the Funding, Processes, and Procedures for the vote; 2) Voter Outreach Efforts and Notice of Vote; 3) Voter Eligibility Issues and Requirements; and 4) Conducting and Certifying the Vote.

II. Funding, Processes, and Procedures

Below are the following identified concerns regarding the vote’s preparation:

- 1) The procedures do not address how the election will be financed, where that money is coming from, and who is responsible for spending the money. The procedures also do not address any auditing processes to monitor/prevent corruption, waste, fraud, and abuse.
- 2) The proposed procedures do not address election staffing issues, including whether third parties will run the election and whether NYCHA staff will help run the elections. If NYCHA staff are barred from participating in the vote, how will NYCHA ensure that its staff remain separate from voter outreach efforts and from the actual performance of the vote?
- 3) The procedures do not address the Resident Council’s responsibilities.
- 4) The procedures do not address whether there will be a ban on campaigning in the vicinity of polling locations, and if so, what mechanisms will be implemented to enforce this ban.
- 5) The procedures do not address NYCHA’s security preparations to ensure that the vote proceeds smoothly and fairly, and to prevent voter intimidation.
- 6) The procedures do not address whether mail-in ballots will be automatically distributed to all eligible voters, or whether voters will have to request mail ballots. If voters need to request ballots, the procedures should identify the process by which NYCHA residents can request these ballots. The procedures should also establish whether there is a deadline for requesting mail-in ballots, and clarify whether there is a date by which voters must submit their mail-in vote.

- 7) The procedures do not state whether detailed election rules will be written and published and whether there will be a comment period for these rules.

III. Voter Outreach, Notice of Vote, and NYCHA Influence

The review identified the following issues/concerns with regards to the voter outreach program:

- 1) The procedures do not address how NYCHA will perform their voter outreach efforts and whether these efforts will go beyond word-of-mouth and oral communication to raise awareness of the vote.
- 2) The procedures do not address how NYCHA will provide the Notice of Vote to voters, except for saying that they will post the Notice in a prominent location at the development. The Notice should be posted in as many public locations as possible, including on the floors of every building and in the vicinity of elevators, garbage chutes, and mail rooms.
- 3) The procedures should clearly state how NYCHA will conduct its voter outreach efforts. Will all developments conduct similar voter outreach efforts? Will NYCHA monitor how many people are attending these outreach sessions so they can determine how successful their voter outreach efforts are? Does NYCHA have the ability to monitor its voter outreach efforts?
- 4) The procedures state that on-site tabling will be conducted to the extent possible at any given development. On-site tabling should not be considered a form of voter outreach, especially if these efforts will vary by development, as it can impact voters to varying degrees based on the development they live in, without any oversight or the ability to create uniformity throughout NYCHA's developments.
- 5) The procedures should establish how NYCHA will distribute its voter outreach material to ensure the equality of the distribution of these materials.
- 6) The procedures also do not specify what safeguards are in place to prevent NYCHA from impacting the vote through its dissemination of resources, including financial resources, to either increase or suppress voter turnout. The procedures should clearly address how NYCHA plans to devote its resources to voter turnout, and what protections are being implemented to ensure that residents have confidence in the fairness of the election and NYCHA's role in it.

IV. Voter Eligibility and Requirements

The Trust Voting Procedures do little to address voter eligibility:

- 1) Does NYCHA have current, accurate lists or documentation to show who lives in each apartment to ensure that only eligible voters will be allowed to vote? Will NYCHA require signatures or proof of identification at the time of the vote to certify that only eligible voters participate and how will NYCHA confirm voter identity? How will NYCHA enforce rules related to voter identification?
- 2) The procedures fail to address whether there are any limitations that will be placed on otherwise eligible voters to prevent them from voting, such as whether a member of a household with rent arrears on lease payments will be eligible to vote and/or whether residents with other lease violations will be eligible to participate. If an arrearage is

determined to be a bar to voting, has NYCHA determined when the is latest point in time a rent deficiency can be cured to enable eligibility? In addition to rent deficiency and lease violations, are there any other situations which would prevent an otherwise eligible individual from voting?

V. Conducting the Vote and the Certification of Voting Results

The procedures do very little to address the actual performance of the election and the certification of the voting results, including vote integrity issues:

- 1) The procedures state that there will be a “21-day period in which residents can vote” and that “in-person voting will be reserved for the final 10 days,” however, they do not address where in-person voting stations will be located and the times that in-person voting will be available during these 10 days.
- 2) The procedures establish a minimum threshold of 10% of eligible homeowners to participate in order for the vote to be applicable, which is not specified in the legislation. This 10% threshold “exceeds the current NYCHA resident turnout of 7.7% of eligible voters for Resident Association elections.” Will this threshold be an obstacle to certifying the vote and what happens if the threshold is not met? Will another vote be held?
- 3) The procedures do not address when and how an eligible voter may file a protest and to whom what office/official that person will file the protest if they believe there are voting integrity issues. Who is responsible for investigating complaints, collecting evidence, and determining what standards protests will be decided upon and based on what evidence?
- 4) The procedures do not establish a threshold for rejecting the election results if they are determined to be tainted by rule violations.
- 5) The procedures focus on the number of people who vote, rather than the number of eligible voters who vote, which raises questions about whether NYCHA will perform a confirmation process to ensure that only eligible votes are counted.
- 6) The procedures fail to lay out any protections being implemented to ensure that people do not take advantage of the system and vote multiple times. How will NYCHA ensure that people do not vote in person, and by mail, so that a person’s vote is not counted multiple times.

We would be pleased to meet with you to discuss these issues at your convenience.

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