February 18, 2024

ON NYCHA

By Greg Byrne

As word spread earlier this month of a bribery scandal involving 70 property management and maintenance employees at the New York City Housing Authority (NYCHA), the reaction within the public housing industry, to which I consider myself a member, was as expected, i.e., a combination of both resignation but also hope that interest would quickly fade with the next news cycle.[1] When it comes to NYCHA, with approximately 160,000 public housing units, or 17% of the national total, we are all too aware of the impact that NYCHA's image, real or perceived, can have on the fate of the program. Over the years, this oversized role has led to a more generous picture of conditions than otherwise would be warranted. It has also led to an unhealthy aversion to just about any action by NYCHA, or its regulator, the US Department of Housing and Urban Development (HUD), that could cause static. Keeping affected interest groups relatively happy, especially collective bargaining units, is prioritized over operational performance.

The response from NYCHA to this latest crisis is also quite predictable. The agency immediately announced that it was transferring purchasing responsibility "from development staff to a centralized procurement department." From the public's eye, this response seems reasonable and appropriate. It conveys action and managerial accountability. But the problem is that, when it comes to property management, NYCHA already suffers from a truly suffocating level of centralization and these new protocols will only make it more difficult to successfully operate the properties.[2]

Over 20 years ago, I was the project director for the Public Housing Operating Cost Study, which eventually led to the 2005 Final Rule on the Operating Fund Program and, with it, the associated reforms of project-based funding, budgeting, management, and oversight for public housing.[3] This final rule was a tacit recognition by HUD that property management is inherently a decentralized exercise; that management practices within public housing agencies (PHAs), often abetted by HUD, were at odds with the norms in the wider multifamily community; and that PHAs needed to be prodded, encouraged, and ultimately required to adopt these same arrangements. Indeed, the final rule only allows a PHA to centralize a task traditionally performed on-site, or overseen by the housing

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[1] See https://www.nbcnewyork.com/news/local/nycha-corruption-arrest-scheme/5109613/

[2] Per the agency's 2023 Budget Book, more than one-third of the agency's employees, even after adjusting for the voucher program, are not directly assigned to properties, which is a stunning ratio for this profession.

[3] See https://www.hud.gov/sites/documents/DOC_9235.PDF and, in particular, Paragraphs 10 and 11 of this Notice.

manager, if it can demonstrate that it's in the best interests of the property and the residents. The organizational arrangements at NYCHA are anything but in the best interests of the properties or the residents.

To illustrate this point, let's consider that one of NYCHA's properties needs to replace a rusted steel door to the dumpster room. The door is inoperable, making it difficult for the custodial staff to roll the dumpsters to the parking lot to be picked up by the trash truck, but also results in added vandalism (access to an area that should be secured) and rat infestation. The work will cost about $2,800. Rather than secure an outside vendor to replace the door under small or "micro" purchase procedures, which could be completed in a matter of days, the site manager will now need to prepare a purchase requisition (a "Purchase Order"), to be approved by the regional manager, that will be routed to a central purchasing department. The PO will be added to the purchasing department's long queue of other requests. Ultimately, a vendor will be selected (without involvement of the housing manager). Not only will this process take longer, but there is now an added level of coordination/communication between central purchasing, the housing manager, and the vendor in scheduling the work, overseeing the work, and getting the vendor paid. The cumulative effect of the additional bureaucracy and delays has an absolutely debilitating effect on morale, on the ability of the housing manager to build trust and respect with residents, and on efforts of the agency to recruit energetic and competent management talent from outside the organization, who would prefer to work in an environment where they are respected and given the tools to do the job.

But why can't NYCHA adopt or implement the same kinds of decentralized management systems found in private industry? What's keeping them back? First, there's the organizational culture, which holds that, based on many decades of experience, site management personnel are not capable of carrying out these traditionally decentralized responsibilities. Second, there's the impact that decentralized management would have on the staffing of the central office (a source of organizational "static," which is to be avoided). Finally, any system of decentralized management requires well-trained site staff, well-functioning accounting and IT systems, and effective supervision, including the need to discipline and hold employees accountable for non-performance. If you can't ensure these preconditions, then you have no choice but to centralize, which is essentially an admission that the agency is not organized in the best interests of the residents or the development.

One does not need to take my word for it. Ask any respected property management company to spend a modicum of time at a NYCHA property, wherein they would be unsettled by the accepted management standards[4], the restrictive work rules and maintenance specializations, and the general lack of authority invested in the on-site management staff in the day-to-day operations of the properties, including control over development funding (property budgets). The site managers are not at the center of the system but at the effect of the system.

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[4] Curb appeal, work order response times, and cleanliness, to name a few.

Unfortunately, we've been down this road before, most recently with the 2018 Complaint filed by the United States District Attorney for the Southern District of New York (SDNY).[5] Most people remember the 2018 complaint as having to do with NYCHA's failure to comply with Federal lead-based paint requirements, and associated falsification of documents. But the 2018 complaint made clear that "beyond lead-based paint, NYCHA failed to provide an environment free from mold and pest infiltration, and without adequate heat and functional elevators." Further, NYCHA purposely disguised conditions of its properties by, among other things, turning off water to developments to prevent HUD inspectors from detecting leaks. In all, SDNY determined that there was "a colossal failure to protect residents, reflecting management dysfunction and organizational failure, including a culture where spin is often rewarded and accountability doesn't exist." It was truly a shocking and damning indictment, not just of NYCHA but of local, state and federal governments, all of whom abdicated their responsibility to the agency and its resident population.

If HUD had encountered these conditions at a private Section 8 community, it would have readily cancelled the Section 8 contract, debarred the principals from further participation in HUD programs, and, very likely, sought civil money penalties. Under public housing's Annual Contributions Contract (ACC), HUD likewise could have rightfully imposed any of the following "remedies," including (1) some form of takeover or receivership, (2) alternative (private) management, or (3) abrogation of the collective bargaining agreements. But none of these paths was chosen. Instead, in what seems completely at odds with the severity of the circumstances, the resulting settlement agreement created something called "the Monitor," whose role can best be described as a quasi-ombudsperson with no actual authority over the agency. The Monitor created lots and lots of extra agency reporting but without any consequences for underperformance. Most importantly, there was no fundamental organizational restructuring or plan for the agency to comply with the broader requirement to develop effective property management structures, ones that prioritize the best interests of residents and the properties. In fact, the Monitor arrangement was one in a long line of concessions to preserve the interests of the organization over the larger public good, leaving residents short-changed.

Might it be possible that, purely on its own, the agency itself might grow out of these problems? Unfortunately, the conditions are so systemic that the current leadership cannot possibly survive politically by undertaking the kinds of structural changes that are needed. When the new leadership team was hired, the expectations were more around maintenance-of-effort, with improvements at the margin. It was not to turn things upside down and upset protected interest groups. As a result, there is no cover – no support – for more fundamental reform.[6]

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[5] See https://www.nyc.gov/assets/nycha/downloads/pdf/US%20v%20NYCHA%20Complaint_Filed.pdf

[6] To appreciate how much opposition exists to any real organizational change, in a March 2, 2021, operational plan presented to HUD and the Monitor, the agency blatantly stated that it would be impossible to discuss the challenges posed by the collective bargaining agreements "due to the City's on-going conversations regarding layoffs." In other words, there would be no room in the plan for any consideration of lay-offs or changes to collective bargaining.

Also, we shouldn't be deceived that the agency's "Preservation Trust" proposal, where ownership would be transferred from NYCHA to another, newly-formed public body, will itself bring about the kind of reform desired here.[7] There is nothing in the Trust proposal that includes any structural changes to the agency, its work rules, or staffing levels. It is merely moving those arrangements from one balance sheet to another.

My own view is that the only way to bring about the changes needed would be through the protection of some form of administrative or court receivership, possibly breaking up NYCHA into smaller parts or by disposing to other qualified mission-driven sponsors, to which there are ample candidates. Unlike when public housing was created in the 1930s, there is today a large and mature market of affordable housing providers who can do this work when a PHA is found incapable. For too long, decision-makers have operated as if NYCHA is too big to fail. Instead, we should be asking ourselves if NYCHA is too big to manage.

This bribery scandal comes at a terrible time for both NYCHA and PHAs nationally, particularly as we consider proposals to preserve and recapitalize a very fatigued physical inventory (see "*After a Decade of RAD, What Now?* https://www.gregbyrneconsulting.com/papers).[8] No doubt, these recent events will set this agenda back, which is all the more reason that our public leaders need to have a frank conversation of what real reform means for NYCHA (including decisions over the future of the ill-conceived and ineffectual Monitor). We can't sweep uncomfortable truths under the rug anymore. For the residents of public housing, and for the neighborhoods that surround public housing, which suffer from a form of collateral damage, we need for these assets to perform better. But that may not mean that NYCHA should continue as owner or manager. Yes, it's a terribly complicated political subject, affecting some 12,000 public employees, but let's agree to confront it honestly. It is not, however, a complicated property management subject. Keep the rain out, the heat in, and pick up the trash. Property management is property management.

I've spent over 40 years in public and assisted housing. To many of my professional colleagues, I have just broken the unwritten rule of not calling (or extending) unwanted attention to NYCHA. But the real damage was done when conditions weren't properly addressed in 2018. We blew that opportunity. Let's do better this time.

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[7] See https://www.preservationtrust.org/

[8] The most promising development at NYCHA has been the fact that, since 2016, the agency has converted approximately 20,000 public housing units to Section 8 under RAD, for an average of more than $200,000/unit in hard costs. (See this Photo Essay for, among other things, the physical transformation https://express.adobe.com/page/IcDJBTR8i9ZQA/). As part of these conversions, NYCHA has retained ownership of the land but brought in private development partners, who, in turn, have introduced private property management. The lower operating costs of the private managers has allowed the agency to support higher levels of first mortgage proceeds, which, in turn, has allowed higher levels of rehab. Although incredibly encouraging, the success of RAD in New York remains a threat to many and, therefore, there is an uncertain organizational commitment moving forward.

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