



HFA Annual Awards of the National Council of State Housing Agencies

Category: Rental Housing

Subcategory: Preservation and Rehabilitation

Submission: "nyhomes" (comprised of New York State Housing Finance Agency, the State of New York Mortgage Agency and the New York State Affordable Housing Corporation)

Entry Name: Mitchell Lama Rehabilitation and Preservation Program

General

In September 2007, HFA launched a preservation program strategically targeted to a specific portfolio of aged, state-financed, multi-family projects located throughout the State. Over the years, these projects were financed by three different state agencies, and a separate fourth agency acted as the program's administrator. Through unprecedented interagency coordination and the sharing of information, the State was able to identify strong preservation candidates. HFA then proactively conducted outreach to the owners of such projects, and attempted to make the case that preserving the projects as affordable housing for the long-term made economic sense for all stakeholders – the owners, government and the residents. In general, the "Mitchell Lama Rehabilitation and Preservation ('RAP') program," which reflects how these projects are referred to within New York State, enables owners of state financed Mitchell Lama buildings to recapitalize and rehabilitate their projects in return for keeping rents affordable for a significant period – in most cases, 40 years. In achieving its program objective, the RAP program furthers Governor David Paterson's objectives of creating more safe, decent and affordable housing opportunities for working families and making New York State the best possible place to live, work and raise a family.

From inception through December 31, 2008, HFA expects to preserve 2,857 units throughout New York State, representing an aggregate of \$101,380,000 in first mortgages and \$42,425,000 in second mortgages under this new program.

Background

New York's Mitchell Lama program, created by state legislation in 1955, offered property tax exemptions and low-interest mortgages to developers in return for below-market rents and limits on profits. In addition, there were income limits for residents at initial rent up. Today, 184 state-financed projects remain in the program with about 73,000 units. These projects are located in 30 counties and 60 cities throughout the State.

Many of the Mitchell Lama projects built in the early years of the program (1960's-early 1970's) are in need of major repairs. Among the capital improvements required for much of the portfolio include fixing and replacing obsolete major systems in need of immediate repair; upgrading facilities to meet applicable new federal, state or local housing or building codes; and improving energy efficiency as many of the projects were built with electric heat. In addition, owners are permitted under the Mitchell Lama laws to opt out of the program, and depending on the local rent stabilization laws, turn the projects to unrestricted market rent. This opting out process has accelerated in recent years, particularly in high cost areas like New York City where many previously working-family neighborhoods are no longer affordable to long time residents. For example, from 1990 to 2005, the stock of Mitchell-Lama rental housing in

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New York City went from about 67,000 apartments to about 44,000 apartments, a loss of about 23,000 apartments, according to the Community Service Society. A similar dynamic has occurred statewide.

Development of RAP: Targeted Outreach, Inter-Agency Collaboration and Streamlined Execution

In early 2007, confronted with a loss of decent and affordable units throughout the state, either through expiring subsidies or aging stock in desperate need of rehabilitation, new leadership at nyhomes made preservation one of its first priorities. With the desire to have an immediate impact and to deploy resources where most needed, nyhomes decided to focus on a portfolio for which the State had familiarity and information, yet such information was housed in multiple state agencies among which there was no prior coordination.

We reached out to our sister state agency, the Division of Housing & Community Renewal (DHCR) which administers all of the state financed Mitchell Lama projects. Together with DHCR and another state agency, the Empire State Development Corporation, which holds the mortgages on many of the Mitchell Lama projects, Mitchell Lama projects that were most likely preservation candidates were identified. In fact, a "first tier" and "second tier" list were developed. These lists included projects owned by nonprofits, for which the provision of housing to the needy is a basic part of their mission, as well as owners outside of the hottest real estate markets and/or those who were in need of immediate and significant rehabilitation and recapitalization. With these lists in hand, HFA then contacted the owners of these projects and discussed the project needs and incentives required to keep their projects in the Mitchell Lama program going forward. Once candidates expressed an interest, HFA offered them a financing and underwriting process that was streamlined and efficient, and which leveraged resources of multiple state agencies, including HFA, its sister agency, the State of New York Mortgage Agency (SONYMA), and the state's energy and research development authority, as described more fully below.

Program Specifics

As a result of our conversations with sister state agencies and owners, HFA developed the parameters of its RAP Program. Under the RAP program, HFA offers flexible, low-cost financing to help lower debt service payments for Mitchell Lama owners, which will free up resources for capital improvements and building repairs. In exchange, owners will be required to keep rents affordable for an additional 40 years. While HFA will finance loans under the RAP program from a number of sources, most projects will receive an allocation of tax-exempt private activity bonds and the accompanying 4% federal Low-Income Housing Tax Credits. For qualified nonprofit owners, HFA has issued tax-exempt 501(c)(3) bonds to make mortgage loans. HFA has also prioritized Mitchell Lama projects for its Second Mortgage "Subsidy Loans," which are vastly oversubscribed. These loans are subordinate and accrue interest at 1% until certain financial benchmarks (i.e., payment of deferred developer fee) are met.

As a compliment to RAP capital financing program, HFA offered up to \$15 million to fund zero-interest immediate repair loans to nonprofit owners of state-financed Mitchell Lama projects. This aggressive product was offered to assist owners in meeting some of the most immediate capital needs until a full restructuring plan can be worked out. Several urgent repair loans have already been funded.

Special Incentives for RAP -- Bring other agencies to the table

To encourage participation in RAP, HFA and its sister agency, SONYMA, agreed to facilitate credit enhancement, through SONYMA's Mortgage Insurance Fund (the "MIF"), for bond financed projects by agreeing to the following guidelines for RAP projects:

1. streamlined processing for MIF credit enhancement; and
2. a waiver of the standard 10 basis point MIF application fee and, in some cases, the requirement for a bank letter of credit during rehabilitation.

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These steps make the financing less costly to owners and will provide an incentive for maintaining the affordability restrictions.

In addition, HFA partnered on RAP with the New York State Energy Research and Development Authority (NYSERDA), which agreed to make its Multifamily Performance Program (MPP) available to Mitchell Lama owners participating in the RAP program on a priority basis. MPP provides capital grants to enable owners to make their projects more energy efficient, and requires buildings to reach documented performance targets. As noted by then NYSERDA President Paul Tonko, "Energy efficiency is important for affordable housing. NYSERDA's [MPP] not only lowers energy costs, but improves the comfort and indoor air quality of the building. This project with [HFA] demonstrates a coordinated effort to pool our resources to improve affordable housing and the quality of life for its residents."

Finally, HFA has offered, on as limited and as needed basis only, to pay for engineering studies for Mitchell Lama projects, documenting their physical needs.

Results

HFA closed on two Mitchell Lama RAP refinancings by the end of 2007.

- a \$6.7 million loan with a \$3,920,000 HFA Second Mortgage for the 119-unit Admiral William F. Halsey Senior Village Apartments in Poughkeepsie; and
- a \$7 million loan with a \$4,750,000 HFA Second Mortgage for the 130-unit Creek Bend Apartments in Hamburg, Erie County.

Through June 30, 2008, HFA had closed two additional Mitchell Lama projects, with first mortgage loans of \$11,280,000 and \$8,000,000 in HFA Second Mortgages, representing 347 units. In addition, HFA is on schedule to close an additional nine Mitchell Lama projects, for an aggregate of \$76,400,000 in first mortgage loans and \$25,755,000 in second mortgage loans, representing 2,261 units.

Replicable by other states

nyhomes believes that the Mitchell Lama Rehabilitation and Preservation program is replicable in other states. We found the following three ingredients were critical. First, identify a portfolio that has statewide reach and for which the state has immediate access to information about the condition and vacancy of the projects and the markets in which they are located. This could include older 9% LIHTC projects or old Section 8 projects, for example. By identifying these candidates, outreach is targeted, resulting in a higher success rate. Second, collaborate with other local and state agencies that have information on the projects, and reach consensus as to what the best targets might be. Also, reach out to non-housing agencies that might have resources that can further leverage the housing resources, such as agencies that have resources for energy conservation, infrastructure work, etc. Lastly, take the lead, and develop a program that brings all resources available in a state and develop a comprehensive, "one stop shopping" streamlined program that is easy to access.

Conclusion

When announcing the launch of RAP, New York State's Governor stated: "Preserving affordable housing in New York State is a key objective of my administration and that is why the Mitchell Lama preservation program is so important. This plan will improve the quality of life for tens of thousands of New York renters and give them peace of mind that their apartments will remain affordable for generations to come."

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