New York's Rental Arrears Crisis

Threatening the Stability of Affordable & Public Housing

NEW YORK HOUSINGCONFERENCE

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New York is facing a rental arrears crisis that could result in tens of thousands of evictions, deterioration of living conditions and financial distress in affordable housing buildings. Mounting arrears also pose acute consequences for the city's public housing. New York Housing Conference has collected data on nearly 50,000 units in roughly 900 buildings of affordable housing to document the extent and consequences of the rental arrears.

While substantial, federal funding for rental arrears in the Emergency Rental Assistance Program (ERAP) was not sufficient to meet the need and since its original allocation, countless more tenants have failed to make rent payments. **With limitations on both income and borrowing, private affordable housing and public housing buildings and their tenants are especially at risk.**

Background

With the outbreak of the Covid-19 pandemic in 2020, many industries closed temporarily to prevent the spread of the virus, leaving many people unemployed. In addition, more than one million Americans perished, leaving many families with unexpected financial hardship.

In response to financial difficulties from the pandemic, Congress passed multiple aid packages, including $47 billion in assistance for renters who lost income during the pandemic. New York State received $2.3 billion for rental assistance programming in the first wave of funding distribution, plus an additional $370 million of reallocated federal money as part of two federal Covid relief bills. In addition, New York State supplemented the federal funds with $900 million of state resources.

This funding was used to create the state Emergency Rental Assistance Program (ERAP - $3.1 billion), Landlord Rental Assistance Program (LRAP - $125 million), and a fund to cover utilities arrears ($250 million). During the pandemic, there were various legal protections for tenants. Then-Governor Andrew Cuomo and the legislature enacted eviction moratoriums for tenants affected by the pandemic. In addition, state legislation was passed to guide local implementation of ERAP with priority populations for funding and additional eviction protections. Tenants that applied for ERAP were protected while their application was being processed and if a tenant was approved for ERAP, they were protected from eviction for one year after the owner received payment.

Residents of public housing and tenants of other federal and state subsidized housing where rent is limited to a percentage of income, including NYCHA PACT projects, were eligible only if funds remained after all other applicants were served. As the funding is now fully committed, these low-income tenants will not get assistance and many owe significant sums in accumulated rental arrears.

More than 400,000 households in New York applied for ERAP. The state closed the ERAP application portal on January 20, 2023 and has processed all applications submitted as of November 30, 2022. As of Feb. 17, the Office of Temporary and Disability Assistance (OTDA), the state's administering agency, has paid $2.8 billion to 226,000 applicants, distributing an average of $12,500 per household that received funding. In addition, 13,275 applications have been provisionally approved pending landlord verification for $165 million in arrears. Finally, 21,527 were provisionally approved for $267 million but the landlord did not provide the required paperwork within 180 days. For these tenants, the owed rent can be legally waived up to the maximum allowed under the legislation.

Meanwhile, 140,000 applicants did not receive any assistance before the funding ran out. According to testimony from OTDA, 73,000 of these households reside in public housing or other subsidized housing that was deprioritized for ERAP funding. OTDA has estimated that a total of $732 million in rental assistance remains to be paid out to eligible applicants, with $343 million for residents in private housing and $389 million for residents in public and federal- and state-subsidized housing.

Many affordable housing applicants were not deprioritized, as affordable housing is typically financed without rental assistance or direct operating subsidy. Therefore, some renters in subsidized affordable housing did receive funding, but many did not. For example, one affordable housing manager shared data showing that nearly 6,100 of their tenants applied for ERAP. Of those that applied, nearly 4,000 were approved and they received $37 million in arrears funding (roughly $9,285 per applicant). However, 2,100 remain waiting and based on the average payout, the manager could receive $20 million in arrears if there was more funding for residents in private housing.

While many NY renters were fully aided by the program, some were partially aided and are still left with arrears. Renters were eligible for 12 months of assistance or 15 months if they are rent burdened. Renters that had arrears lasting more than they were eligible for will have outstanding arrears. Finally, many tenants that are facing arrears were either ineligible for ERAP or never applied.

There is not comprehensive data on how many tenants remain in arrears after ERAP or have arrears because they did not apply for ERAP. In order to quantify the scale of the problem, we have gathered data from several large managers and owners of affordable housing in New York City. Using that data, we will show what typical affordable housing buildings are likely facing in arrears and how this affects their finances. We believe that the problem is widespread and the sample we have collected is representative of the financial challenges facing many affordable housing buildings.

Our data shows that the number of tenants still facing arrears in affordable housing puts these tenants and important housing resources at risk. If affordable housing fails, we lose a necessary resource for tenants and significant government investment. Federal subsidy in the form of Low Income Housing Tax Credits and city and state subsidy provide millions of dollars in funding per project. **As affordable housing projects struggle under the weight of massive rent arrears, only government intervention can protect affordable housing and their tenants from financial distress.**

The Scale of the Problem

Arrears

Nonprofit and for-profit affordable housing owners are facing significant financial distress because of excessive and growing tenant arrears since 2020 and rising operating costs, trending upward with inflation over the same period. While there may also be arrears in private market-rate housing, arrears present unique challenges for affordable and public housing. The housing is developed and run on tight budgets, rent levels are set under regulatory agreements with government agencies and increases follow the rent guidelines board.

The growing rental arrears crisis threatens the financial viability of countless affordable housing developments. We collected data from several affordable housing managers and owners – representing dozens of for-profit and nonprofit providers and roughly 900 buildings totaling nearly 50,000 units – that shows the seriousness of a problem that we believe is widespread.

In our data set of 49,121 units, 31 percent (15,237 households) are in arrears of more than two months, owing $9,565 in back rent on average. In total these tenants owe $145.7 million in arrears across these portfolios.

In addition, a small subset of tenants owe very significant rent; 10 percent of tenants (4,826 households) owe more than $10,000 in arrears, owing on average more than $22,000 and owing a total of over $106 million.

This data shows us that the scale of the crisis is extreme; nearly one-third of tenants are at risk of eviction with arrears so large that it will be difficult for low-income tenants to catch up without assistance. And the amount of money owed to affordable housing providers is putting their financial stability at risk, as we will see more clearly in the case study later in this paper.

Our data is a sample of the 384,000 affordable housing units statewide from affordable housing buildings in New York City financed through either NYC's Department of Housing Preservation and Development, the NYC Housing Development Corporation or NYS Homes & Community Renewal.

Rising Costs

Maintaining the housing in the face of massive arrears like this would be difficult under normal circumstances. However, rising costs and regulated rents with minimal increases have put additional pressure on affordable housing owners and combined with the arrears are threatening the viability of affordable housing developments.

When affordable housing (new construction or preservation) is developed with government funding, the project must demonstrate a net positive cash flow to ensure the financial stability of the building, including operating and capital reserves as required by lenders and investors. The positive cashflow provides a modest cushion of income over expenses (maintenance and operations, taxes if applicable, reserves) and debt service. Absent sufficient "debt service coverage", financial institutions would be unable to lend to developments and investors would be unable to invest in them. Sources of capital would dry up.

But rising operating costs are leaving less net cash flow, eating up much or all of the positive net cash flow. Affordable housing projects are typically underwritten assuming 2 percent increases in rent per year and 3 percent increases in costs. However, rents in affordable housing have increased more slowly than projected, growing by only 0.85 percent per year[1]. Affordable housing rent increases in New York City are tied to rent increases allowed by the New York City Rent Guidelines Board, which since 2013 have never exceeded 1.5 percent in any year and there were three years where rents were frozen. Meanwhile, since 2013 costs have increased faster than projected in the underwriting, growing 3.25 percent on average[2], and 4.6 percent per year in the last five years. With income growing slower than projected and costs growing faster, many projects are left with negative cash flow – losing money every year and some are compelled to drawdown on reserves to the extent they are available.

Case Study

Although buildings are different sizes and have different incomes and expenses, the underwriting is a function of industry-wide standards and similar across buildings, designed to produce similar shares of positive cash flow and stability. So we can look at a hypothetical building (modeled after a real project) and see how changing income, costs and rental arrears are

[1] Affordable housing rent increases are set to follow the rent increases allowed by the Rent Guidelines Board.

[2] We used the "CPI-Adjusted NOI" Commensurate Adjustment from the Rent Guidelines Board to measure cost increases.

affecting the building. We have seen and heard that the arrears crisis is similar across affordable housing based on conversations with and data from nonprofit and for-profit providers, our case study is illustrative of the situation facing much of the affordable housing stock.

Let's look at a 139-unit building financed in 2013, with average rents under $800. It was underwritten to have $1.5 million in operating income from apartment rent in the first year, including some commercial rent, and $1.085 million in operating expenses. This leaves the building generating $415,000 in net operating income. After paying $290,000 for debt service, the building has $125,000 in net cash flow.

The project would be underwritten expecting 2 percent increases in rents each year and 3 percent increases in costs each year, leaving the building to continue to generate positive net cash flow.

However, as we saw, rents in affordable housing have increased 0.85 percent on average while costs have increased 3.25 percent. After 9 years this leads to net operating income of less than $250,000, not enough to cover debt service and leaving the building with negative cash flow, losing $41,000 per year in year nine.

Example of Affordable Housing Building with Growing Costs and Arrears

139 unit building in the Bronx

	Original Underwriting	Year 9 Projected	Year 9 Income and Expense Impact	Year 9 Arrears	Year 9 Actual	Difference: Projected v. Actual
Income	$1,500,000	$1,755,000	$1,605,000	-$412,000	$1,193,000	-$562,000
Expenses	$1,085,000	$1,345,400	$1,356,250		$1,356,250	$10,850
Net Operating Income	$415,000	$409,600	$248,750		-$163,250	-$572,850
Debt Service	$290,000	$290,000	$290,000		$290,000	$0
Expenses + Debt Service	$1,375,000	$1,635,400	$1,646,250		$1,646,250	$10,850
Net Cash Flow	$125,000	$119,600	-$41,250		-$453,250	-$572,850

Source: NYHC analysis of an example building

Making the situation much worse is the excessive rental arrears in the amount of $412,000.[3] Without this income from rent, the building has negative net operating income and no money to cover debt service and more than $453,000 in negative net cash flow. Given the dire financial strain, many owners facing the same extreme impacts on their bottom line will soon be forced to utilize reserves, defer maintenance, and/or be at risk of defaulting on their loans.

Affordable housing providers are mission-oriented and they seek alternatives to legal action, working directly with tenants to avoid evictions, which will likely lead to homelessness. Management companies and building owners report eviction prevention practices that include: multiple follow-ups with tenants in arrears; offering payment plans; and connecting

[3]Assuming the average of 31 percent of the 139 renters in arrears more than 2 months and owing an average of $9,565 each.

tenants to services and forms of assistance. But given the economic reality some will inevitably be forced to evict tenants or lose the affordable housing under the financial strain of negative net cashflow.

Public Housing

The New York City Housing Authority is also experiencing significant arrears, threatening the financial security of the housing authority. According to a recent board report, NYCHA has a rent collection rate of 65 percent in 2022, down from 88 percent in 2019 with 44.5 percent of tenants are delinquent on their rent. Already cash strapped, this dramatic decline in revenues is a serious threat to NYCHA's ability to maintain its properties, which, because of chronic declines in federal support, already suffer from deferred maintenance. This means that roughly 72,000 of NYHCA's 162,000 households are in arrears. This has left the housing authority with $454 million in cumulative arrears since 2019.

Tenants in public housing pay 30 percent of their income to rent and can apply to adjust the rent they pay if their income changes. While NYCHA has received and processed rent adjustments, nonpayment continues to be a growing issue.

Since tenants of public housing and similar programs pay a share of their rent and can adjust their rent when their income changes, the state legislature deprioritized public housing tenants for ERAP.

Growing arrears are a particular problem for NYCHA. Public housing cannot forgive rental arrears, cannot borrow, and their operating funding is dictated by the federal government. Public housing authorities typically receive less than the full funding they should be entitled to under federal reimbursement formulas; in 2021 they received 96 percent of the funding they qualified for under the formula and in previous years received as little as 80 percent.

Tenant income is an important funding source for NYCHA; tenant rent makes up more than 20 percent of NYCHA's income, with much of the rest coming from federal operating support for NYCHA. In 2021, NYCHA projected collecting $1 billion in rent from tenants, but due to arrears is projecting collecting less than $900 million in 2022 and 2023.

Due to the arrears, NYCHA is facing a budget deficit of $35 million in calendar year 2023, even while using $100 million in reserves in 2022 and projecting to use $65 million in 2023. This will leave them with less than one month of expenses in reserves. HUD recommends that public housing authorities have three to four months of reserves for public housing authorities of NYCHA's size.

The state Emergency Rental Assistance Program has committed all of the federal and supplemental state money allocated, but has left many applicants without assistance. Public housing and Project Based Section 8 tenants were at the back of the line, the lowest priority, for ERAP funding. NYCHA tenants received no funding from ERAP.

Conclusion

It is clear that housing owners and managers, especially affordable housing providers, are facing significant rental arrears that is putting this indispensable part of New York City's housing stock and its tenants at risk. Many of the tenants faced terrible hardship and lost income during the pandemic and were harshly impacted by high cost inflation sweeping the US economy, making it difficult or impossible to pay their rent.

While there was financial assistance from the federal and state governments, it was not enough for every tenant nor building owner that needed it. Over 140,000 tenants that applied for assistance will not get aid under the current funding levels. In addition, some tenants, particularly in public housing and other housing that restricts rent to 30 percent of their income, may have stopped paying rent while there were eviction moratoriums and protections under ERAP. Families that have low incomes, even while paying a maximum of 30 percent of their income on rent, have trouble affording other basic necessities and were hardest hit by rapid cost inflation in recent years, spending a larger share of their budget on household essentials. These households secured an affordable housing apartment either through the NYC housing lottery or they were referred directly from a homeless shelter and risk experiencing homelessness again. Now thousands face an uncertain future with the heavy burden of rental arrears and the risk of eviction.

The rental arrears crisis is putting tens of thousands of tenants and affordable housing at risk. These tenants, mainly low-income families, qualified for affordable housing, have few if any market rate housing options. Since 2000, New York City alone has spent $13.3 billion to subsidize affordable housing hundreds of thousands of affordable housing units. In 2022, NY State launched its second 5-year statewide housing plan, continuing steady investment in affordable housing. But this housing stock and its tenants are at risk right now due to rising costs and significant rental arrears. The problem is widespread as we expect it is affecting most affordable housing developments in NYC. **Without government action, NY risks increasing homelessness and losing some of our most important resources if there is not help to make up rental arrears in our public and affordable housing stock.**