

LOCAL 1359/DC 37 AFSCME, AFL-CIO

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**TESTIMONY BEFORE THE JOINT LEGISLATIVE FISCAL COMMITTEES
ON NEW YORK STATE'S 2008-09 EXECUTIVE BUDGET ON HOUSING**

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Good morning. My name is Ralph F. Carbone and I am President of Local 1359, Rent Regulation Services Employees, District Council 37, AFSCME, AFL-CIO. I appreciate this opportunity to testify before the New York State Joint Legislative Fiscal Committees concerning the New York State Division of Housing & Community Renewal's 2008-09 budget.

I speak, not only as the President of the Local whose approximately 400 members administer this state's rent regulatory system for the DHCR, but as an attorney who has worked in this field for almost 26 years and is therefore fully familiar with the operational needs of the agency and the public it serves.

Let me preface my remarks by noting that Governor Eliot Spitzer, in his State of the State address, recognized that housing must be made more affordable and acknowledged that millions of New Yorkers are paying an unreasonable share of their incomes on rent. In light of the latest census data which shows that almost 28% of tenants in New York City pay more than half their income in rent and that almost 27% of homeowners with a mortgage in the city pay a similar amount, it is clear that help is desperately needed. That is why the Governor's proposed \$400 million Housing Opportunity Fund to develop affordable, supportive and workforce housing initiatives is welcome. Of concern, however, is whether future funding sources can be identified and utilized to keep this program truly viable and active as it appears that a significant portion of its revenue comes from a "one-shot" sale of government realty. Wouldn't a better program be a true Low Income Housing Trust Fund with a dedicated funding source, such as through the receipt of a portion of real estate transfer taxes, title transfer and document recording fees? Thirty-three other states utilize dedicated funding for their housing trust funds. The Legislature should therefore consider creating such dedicated funding sources which can then provide regular support for affordable housing initiatives through-out the state.

The proposed state budget for 2008-09 raises a number of concerns. For example, funding for the Low-Income Housing Tax Credit Program remains stagnant at \$4 million. Increasing the credit provides a significant positive ripple effect in the creation of affordable housing.

I further note that the 2008-09 budget otherwise cuts funding to both the Neighborhood and Rural Preservation General Funds to slightly more than what the Governor had proposed last fiscal year. This funding should be restored as Neighborhood and Rural Preservation Corporations provide vitally needed assistance to poor and working families throughout the state. Indeed, with the devastating effects of the subprime mortgage crises still reverberating through the state, one must also question why continuing funding has been denied to the Urban Homeownership Assistance Program, Home Ownership Economic Stabilization Loan Program for Long Island as well as the Rural Community Revitalization Program.

Support for repairs and maintenance to the state's existing public housing stock affecting approximately 20,000 units in 74 developments continues to remain static - as well as inadequate - for the past several fiscal years. Consequently, \$12.8 million in new funding to support municipal housing authorities is woefully insufficient, especially in the face of a 1990 state survey (the latest available) that indicated (that as of that time) \$343 million was required to adequately service and maintain this vitally needed housing. The Legislature should seriously consider increasing this funding so as to protect some of the state's most vulnerable tenants and assure that their housing maintains safe and reliable standards of habitability.

Lead poisoning and the deleterious effects that it causes in young children who occupy apartments where lead paint exists are well known. However, again the Governor proposes to end this vitally needed program. As a result, the Legislature should restore the \$400,000 cut in general funds to the Lead Poisoning Prevention Program to better protect the state's children.

It is an accepted fact that the creation of new affordable housing far lags demand. Therefore, it is of utmost importance to preserve the affordable housing we currently have, rather than promote policies - or permit the continuation of existing policies - which removes such units from the reach of low, moderate and middle income residents.

In that regard, a troubling development is the continued loss of Mitchell-Lama housing stock. In the past year alone, approximately 1,700 apartments have left the program and another 9,000 units are under threat. Generally, Mitchell-Lama housing is some of the best maintained and affordable in the state. To lose such affordable housing is a tragedy. Therefore, in the absence of a state mandated freeze on further opt-outs, the Legislature should enact legislation that places under rent stabilization any development that decides to "buy-out" of the program regardless of the year the complex was built (providing such complex is in a county covered by the Emergency Tenant Protection Act). Moreover, the agency itself must do a better job of reviewing the sale and purchase of all remaining Mitchell-Lama developments under its supervision - as the Private Housing Finance Law allows - to assure that potential purchasers intend to preserve the premises as affordable housing. Just such an evaluation was performed on the recent attempted sale of the Starrett City complex which resulted in a rejection of the buyer. The same government analysis must be performed with respect to each such potential sale of any Mitchell-Lama development in the future.

After 12 years of Governor Pataki's dreadful administration of the rent regulation system it was hoped that with the advent of the current administration many of the most negative aspects of the operation of the Office of Rent Administration (ORA) would have ended. Unfortunately, that has yet to be the case. While the agency's clarification of what constitutes a "unique and peculiar circumstance" was welcomed as it serves to protect the rents of Mitchell-Lama tenants transitioning into rent stabilization, it was much too little an accomplishment and appears to comprise the agency's only achievement to date. As the Committees are aware, the Office regulates more than one million apartments affecting several million tenants. Yet, ORA has failed to amend – or even propose changes to – the rent stabilization code to roll back the worst excesses enacted by the previous administration. The Office has countenanced the lack of strong and significantly staffed enforcement, compliance and inspectorial units – which remain two-thirds smaller today than they were under the previous Democratic administration (there has been a very small increase in their number) – which only serves to hamper efforts to police the industry. In fact, there are fewer employees on staff this January than there were last January when this administration took office. Indeed, while ORA has increased outreach efforts to the communities it serves, their entreaties can be considered empty gestures as the lack of staff will prevent the effective and efficient handling of any significant increase in applications or complaints (causing the reappearance of the dreaded and infamous "backlog"). Worse, the agency continues to refuse to independently investigate tenant heat and hot water complaints; roll back the horrendous code changes that apply to housing demolition applications which currently permit the eviction of tenants without a hearing and – in fact – without requiring owners to actually "demolish" the building; and, end the rent stabilization code's administrative hurdles to file simple rent or service complaints. This can easily be seen to be a violation of the agency's legislatively mandated obligation to protect a very vulnerable tenant population from hardship, uncertainty and the exaction of unjust rents.

Therefore, I urge the Legislature to appropriate funds to increase the enforcement, compliance and inspectorial arms of ORA so that the agency can again return to its core functions of assuring that tenants are protected against owner harassment and fraud; that services, including the provision of adequate heat and hot water, are timely inspected to assure that they are being properly maintained; and, that rent schemes to unlawfully deregulate apartments or to obtain illegal profits can be properly investigated, uncovered and punished. The resources to do any of these things – much less all of them – are sorely lacking and require the intercession of this administration as well as the Legislature. Indeed, a significant portion of the expense attributable to the hiring of the additional attorneys, rent examiners and inspectors needed for an effective enforcement/compliance program can be offset by the costs and civil penalties obtained through successful agency prosecutions. The Legislature should further direct the agency – by mandate if necessary – to properly reform the rent stabilization code and the emergency tenant protection regulations.

It is important to note as well the loss of thousands of units of affordable housing downstate to "high-rent" deregulation. More stabilized and controlled units are lost

annually than are created through all the other affordable housing programs combined. Therefore, to preserve the largest bloc of affordable housing in the state, the Legislature is urged to repeal “high-rent” deregulation. In lieu of such repeal, at a minimum the so-called deregulation rental amount (\$2,000 per month) and income level (\$175,000 per annum) must be significantly increased and thereafter indexed to the Consumer Price Index for the downstate New York area. The Spitzer administration should be given credit for their efforts in this regard by having put forth legislation to increase (and thereafter index) the deregulation rental amount.

Finally, the Legislature is urged to repeal the Urstadt Law which requires the City of New York to obtain the approval of the Commissioner of DHCR to impose more stringent rent regulations. Since current law only permits the city to ease regulations, it is unable to effectively respond to the crises in affordable housing by changing and/or expanding classes of housing covered under the law or by establishing fair rents and rental increases. The Legislature should recognize that by permitting local autonomy they will remove the need for state governmental and legislative involvement through micro-management as well as provide for appropriate home rule.

I hope that the Legislature will take cognizance of the concerns expressed in my testimony and respond appropriately.

Thank you.