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NYCHA & HUD announce agreement for third-party monitor

By Kathie Soroka and Deborah VanAmerongen

In an [agreement dated January 31, 2019](#), HUD, NYCHA, the City of New York and the U.S. Attorney's Office for the Southern District of New York ("SDNY") agreed to appoint a monitor over NYCHA. HUD and SDNY will select the monitor. The City will hire and pay for the monitor, and pay for the monitor's consultants and associated costs. With this agreement, SDNY will move to dismiss their case against NYCHA.

While the monitor will not have responsibility for NYCHA's day-to-day operations, the monitor will have broad powers. The monitor's power will include access to all NYCHA data systems, documents, programs, services and facilities and rights to communicate with employees, board members and residents. The monitor will oversee NYCHA's compliance with the agreement and work with NYCHA to develop recommendations for reorganization (see below).

Highlights of the agreement include:

- **Lead-based paint action plan:** NYCHA must develop an action plan for lead-based paint abatement. However, the agreement gives NYCHA five years to abate lead-based paint in Harlem River Houses and Williamsburg Houses, and although there are milestone requirements along the way, NYCHA has 20 years to achieve lead-based paint abatement in all its developments.
- **Other physical conditions:** The agreement sets out requirements for heating, mold, elevators, pests and annual inspections.
- **City funding:** The City commits to \$1.0 Billion over four years and \$200 million per year for the six years after that, all in addition to the monitor costs.
- **New Chair/CEO:** A new Chair/CEO will be selected by the City but only from a list of candidates, all of whom must be agreed to by HUD and SDNY. Unless the agreement is terminated sooner, HUD and SDNY will have rights to consent to Chair/CEO candidates for the next 10 years. The agreement gives the City 60 days to compile the list and select a Chair.
- **Reorg:** A Management Consultant will examine NYCHA's systems, policies, procedures,

management and personnel structures. The agreement gives NYC 60 days to select this consultant, who must be consented to by the Monitor. Within six months of the consultant's report, NYCHA and the Monitor must develop an Organizational Plan to suggest changes to roles, responsibilities and reporting structures within NYCHA. Organizational changes must include a Compliance Department to oversee regulatory compliance, an Environmental Health and Safety Department, and a Quality Assurance Unit.

- **Community advisory committee:** A community advisory committee—comprised of NYCHA stakeholders such as residents, employees, managers and others—will meet quarterly to discuss progress toward the agreement's goal. The monitor will also solicit comments directly from residents and other stakeholders.

Property owners, managers and developers can take proactive steps to work alongside the federal monitor and NYCHA and keep affordable housing investments moving forward. Nixon Peabody's [affordable housing team](#) is one of the largest in the country, and we offer unparalleled knowledge in this field. Our experience, coupled with the key strategic relationships we continue to forge gives our clients a special advantage as we bring parties together. For more information on the content of this alert, please contact your Nixon Peabody attorney or:

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