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New York State Joint Legislative Hearing Regarding State Housing Budget in 2019 - 2020

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Thank you Chairs Krueger, Weinstein, Kavanagh and Cymbrowitz, and other distinguished Committee members. My name is Rafael E. Cestero, President and CEO of the Community Preservation Corporation (CPC), a nonprofit affordable housing and community revitalization company that was formed in the early 1970s to help New York City stabilize and rebuild communities that had been devastated by deterioration and abandonment. Today, CPC helps communities and local governments across the state meet their housing and revitalization challenges, frequently leveraging government resources to ensure the development and preservation of quality, affordable and workforce housing. Since inception, CPC has deployed more than $10 billion in capital to develop and preserve over 193,000 residential housing units, including $3.3 billion in financing for 59,000 units in communities outside of New York City.

I appreciate the opportunity to deliver testimony to highlight the importance of New York's continued investments in housing for the 2019 – 2020 Budget. In the face of a hostile federal environment that would cripple affordable housing programs and put vulnerable citizens at risk, I encourage our elected leaders to come together and show that New Yorkers fight for our communities. The security of hundreds of thousands of hardworking low- to middle-income residents, in both upstate and downstate, depend on what we are able to do to at the state and municipal levels to offset the loss of those vital but dwindling federal resources.

Eliminating and slashing programs funded by the U.S. Department of Housing and Urban Development means that state resources will be critical in supporting and preserving our already drastically underfunded Public Housing stock which is home to hundreds of thousands of low-income families. The preservation of our aging Public Housing isn't just an issue with the New York City Housing Authority; there are over 30,000 units managed by over 70 local public housing authorities, from Albany to Buffalo.

We must also ensure that the resources exist to maintain the stability of our small buildings, which serve as a haven of affordability throughout the State, and are where the majority of low-income renters in New

York live. The Governor's housing plan promised an unprecedented investment to address these housing priorities across the state. Time is running out, and it is vital that we all work together to deliver on that promise.

I would like to highlight the importance of maintaining a balanced view on housing quality and tenant affordability for programs and subsidies. While State resources can, and should, be allocated to promote increased affordable housing for seniors, disabled, and low-income individuals, it is equally important that the subsidized housing stock is kept in good condition over the long-term, to protect the health and economic opportunity of all New Yorkers. This requires appropriate incentives and subsidies which ensure owners can benefit from continued investment in their buildings and its major systems -- particularly for units which extend affordability to the lowest end of the income-spectrum, where affordable rents are simply insufficient to cover the basic costs of operating a building, let alone the capital investments needed to keep units in good condition over the course of a building lifecycle.

As an example, setting rents low enough to support a family with an income of $25,000 per year also means that there isn't enough income generated through the rent roll to support the basic operating costs or capital needs of a building without subsidies like those the State can provide. Our borrowers rely on these subsidies to continue to provide and invest in quality, affordable housing for low-income individuals across New York.

On a related note, I would like to touch on key issues surrounding rent regulation reforms the State legislature will consider in the coming months. First, I strongly endorse a system which continues to allow building owners to recover in excess of the cost of Major Capital Improvements (MCIs), as a mechanism to incentivize continued investments in housing quality over the long-term. While I have dedicated my career to addressing the challenges of housing affordability, I believe it is vitally important to provide building owners with an economically sensible incentive to invest in their properties. From the standpoint of a nonprofit affordable housing lender, CPC's underwriting relies on the fact that our borrowers, the owners of these buildings, will not only invest in capital needs to maintain building integrity, but also that they can recover those costs to pay their mortgages over a decades-long time horizon.

The absence of a reliable mechanism for owners to invest in building quality and recover the costs of capital improvements would create significant uncertainty about an owner's ability to generate the income needed to maintain the property and repay the mortgage. This directly affects our ability to responsibly underwrite long-term loans, and therefore our ability to provide capital to affordable and workforce housing projects would be severely limited. This could lead owners and developers to resort to short-term debt with less favorable, riskier financing terms, or to abandon an affordable housing project altogether where needed financing is unattainable. This is a losing outcome for the developer, the State, and tenants who depend on those affordable homes.

While the existing system may be flawed through imposing too great of a cost burden on low-income tenants, we can find a solution that ensures tenants are protected, but that also provides a sensible incentive for owners of subsidized housing to keep their buildings in good condition. With a broad spectrum of reforms under consideration, I believe that any legislation must ultimately ensure that owners have some incentive to invest in their buildings. I look forward to working with the legislature in developing a solution which appropriately balances the needs of all interested stakeholders.

Furthermore, I would like to voice my support for the elimination of the luxury decontrol provisions, which creates unnecessary incentives to generate unit turnover while severely threatening affordability for tenants across New York. I also support a reduction, but not an elimination, of the 20% vacancy allowance, in conjunction with the complete elimination of Individual Apartment Improvements (IAIs) increases upon vacancy. For one, allowing for such significant increases in rents upon vacancy, along with the rent increases available from IAIs, generates perverse and unnecessary incentives where owners can substantially benefit from gaming the system to generate turnover in units. As a building owner, CPC frequently makes necessary unit improvements upon vacancy, and generates economic returns for those investments through modest increases allowed in rents for the costs of those investments. However, providing for a 20% increase in rents, in addition to rent increases for IAIs, has always been an over-the-top, unnecessary incentive, which overly compensates building owners and threatens to worsen the growing affordability crisis across New York. Therefore, I believe the 20% vacancy allowance should be reduced, but should still provide for an amount larger than the normal rent increase allowed from the Rent Guidelines Board to ensure owners can generate fair but sufficient economic returns for necessary improvements upon unit turnover.

In addition, I would like to voice opposition to proposals that would implement a universal rent regulation system across the entire State. Rent regulation in New York City and its surrounding counties is crucial due to a confluence of market pressures which simply do not exist in most communities Upstate. For one, housing development in New York City is always in demand; given strong economic growth, private market development will naturally occur across the City where developers can legally construct a building. This penchant for new construction can fundamentally change communities and create market pressures which drive displacement and gentrification, particularly in “up-and-coming” low-income areas across all five boroughs. In conjunction with historically low vacancy rates and increasing rent-burdens across the City, the rent regulation system has effectively served as a barrier against large rent increases which would otherwise displace low-income tenants as communities change and gentrify over time.

However, market conditions in New York City substantially differ from those in the rest of the State, and the same policies that work for New York City will not work for most cities and towns in Upstate New York. In fact, the economic basis of New York’s rent regulation system is rooted in the fact that provisions apply only in communities experiencing a housing emergency, defined in State legislation as a City with a vacancy rate below 5%. This ensures that tenants are protected from substantial rent increases in communities where a tenant’s ability to substitute to a new unit is effectively unavailable, without imposing undue burdens in more economically distressed areas where ample supply is available and tenants have more leverage to achieve naturally affordable rents. According to the 2017 Housing and Vacancy Survey, vacancy rates in New York City stand at a historically low 3.63%, while no other communities across New York fall below the 5% threshold. For example, according to the Census, rental vacancy rents in the Buffalo metropolitan area are 6.2%; Rochester and Syracuse MSAs both stand at 6.5%; and the Troy MSA stands at 8.5% vacancy.

In contrast to New York City, many of these communities Upstate have experienced blight, abandonment, and population loss as economic activity has concentrated in urban centers over the course of several decades. In order to revitalize these areas and provide new economic opportunity for residents, legislators must find solutions which make new housing construction feasible and more attractive overall as an investment vehicle. This could include providing government subsidy where needed, but also necessitates a regulatory regime which limits barriers to investment and income generation to the greatest extent possible. Imposing a regulatory burdensome rent regulation system across the State would directly counteract those needs, reducing the relative attractiveness of housing investments in communities that need it most by reducing the potential income a given property could generate. This could either drive away private investment entirely, or at the very least increase the government subsidy needed to make a housing project financially viable.

As a native son of Rochester, I understand the history of our upstate cities and their decades-long struggle to recover and revitalize. I have also dedicated my life to housing and to working to solve the challenges of affordability and responsible community development. While I believe this legislative proposal is rooted in good intentions, ultimately a uniform rent regulation system would have a significant negative economic impact on communities across upstate New York.

In addition, the debate surrounding prevailing wages for state subsidized projects is an important discussion, which must consider the need to maximize the impact of public resources along with the need to ensure living wages for the workforce across the State. First, I would like to emphasize that living wages for construction workers is something that CPC supports and believes in. However, “prevailing” wages, and the system in place to monitor and set them, is a broken system that will cause significant harm to affordable housing, small community-based construction companies, and Minority and Women Owned Business Enterprises (M/WBEs), for several reasons. For one, prevailing wage rates and the corresponding work rules will significantly increase the cost of building and renovating affordable housing; this will result in fewer units produced, and fewer units available for the many households desperate for an affordable apartment. In addition, the regulatory burdens and compliance requirements within the prevailing wage system will make it nearly impossible for developers to comply with the important local hiring and M/WBE requirements of New York State. I do believe that it is time to have a real conversation about minimum wage rates for construction workers, and believe such reform is something the affordable housing community should support. However, for the reasons outlined above, I would strongly encourage the legislature to exempt developments with at least 35% affordable units from the current prevailing wage bills. We can lead the way in designing and implementing a new wage standard for affordable housing that works for those individuals in need of affordable housing, as well as those involved in its creation and preservation.

We understand the positive impact that substantial commitments by the state can have on the health and vitality of our communities, because we've seen it firsthand. For more than 25 years, CPC has partnered with the New York State Homes and Community Renewal and its sister agencies to address the complex housing and community revitalization needs of cities from Long Island to Buffalo. Working with the State, we have seen how affordable senior housing can bring stability to seniors struggling to keep pace with the rising costs of living and ever increasing rents. We've seen how the adaptive reuse of vacant factories into new housing can bring life back to our historic downtowns. And we've seen how an affordable home and the right services can help formerly homeless families get back on their feet and live with dignity.

I look forward to CPC's continued partnership with the State, and to working together to help execute the State's plans to bring stable housing to all corners of New York. Thank you for your continued focus on these pressing issues, and for the opportunity to testify before the Joint Committee.

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