STATE OF NEW YORK

9672

IN ASSEMBLY

April 3, 2024

Introduced by M. of A. L. ROSENTHAL -- read once and referred to the Committee on Housing

AN ACT to amend the public housing law, in relation to the conversion and transfer of real property in public housing developments

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Legislative Findings. The legislature finds and declares that supplemental protections, enhanced resident engagement, and transparency in reporting are crucial for the stability and welfare of public housing residents during conversions of public housing projects, as authorities seek to use private public partnerships to renovate, rehabilitate, rebuild, and take measures to preserve public housing developments.

§ 2. The public housing law is amended by adding a new section 62 to read as follows:

§ 62. Supplemental tenant rights and protections. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) "Conversion" shall include acts by an authority to dispose, transfer, convey, sublease, lease, or mortgage real property, or a leasehold interest in real property, in a public housing development or ancillary property owned by such public housing agency, in accordance with the RAD program, section eighteen of the federal housing act of 1937 (42 U.S.C. § 1427p), or similar plan approved by the federal department of housing and urban development.

(b) "Management agent" shall mean the entity being contracted with through a management agreement or similar contract for the maintenance of a property following a conversion;

(c) "RAD program" shall mean the rental assistance demonstration program pursuant to 42 U.S.C. § 1437f.

2. Upon the provision to tenants of notice that a public housing development is under consideration for the RAD program, as required pursuant to such program, an authority shall:

(a) provide notice to tenants, tenant associations, as described by part nine hundred sixty-four of title twenty-four of the code of federal

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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regulations, and any group, committee, and any other organization comprised of tenants that conducts meetings authorized pursuant to section two hundred thirty of the real property law that the development is under consideration for a conversion;

(b) distribute RAD handbooks, as described by subdivision five of this section, to residents between the time the authority gives notice that the development is under consideration for a conversion pursuant to paragraph (a) of this subdivision and the first meeting conducted pursuant to RAD program notice requirements; and

(c) with the consultation of the tenant association at the development where the conversion is being considered, or, where there is no such existing organization, with the approval of the commissioner, create and implement an engagement plan that lasts no less than a period of one hundred days to provide tenants with information relating to the proposed conversion, including but not limited to the difference between section nine and section eight housing, the tenant rights and protections, the process which precedes the conversion, and the voting process for such conversion.

3. (a) No development may be converted unless:

(i) a voting process is carried out in compliance with subdivision four of this section and more voters vote in favor of the proposed conversion than against such conversion; and

(ii) at least twenty-five percent of eligible voters vote in favor of the conversion.

(b) An authority shall contract with a company, local or state government representative or agency, or entity or person selected by or contracted with the commissioner to carry out the counting of ballots, certification of the vote, and audit of the process, which shall provide a process for tenants, tenant associations, and the public to register complaints about the process and allegations of impropriety or vote inaccuracies. Such complaints shall be considered and responded to within seventy-two hours of the end of the voting period.

4. (a) In no less than thirty days prior to providing to residents the notice required pursuant to paragraph (a) of subdivision two of this section that a public housing development is under consideration for a conversion, an authority shall publish voting rules and the process by which tenants can vote regarding the proposed conversion. Such information shall include but not be limited to:

(i) eligibility to vote, including a right to vote for all tenants aged eighteen and over;

(ii) the date and time of the beginning and end of the voting period, which shall be no less than thirty days in length, and instructions for casting of a ballot during such voting period via an in-person ballot box, a by-mail option with how to access a mailable ballot and pre-addressed envelope, and an online option; and

(iii) available materials and sources to learn about conversion programs and how to vote, where those materials and sources can be accessed, and how to access language translation and accessibility services, which shall include written translation for materials, documents, the ballot and webpages and oral translation in all languages that a significant portion of residents of the development under consideration for conversion speak and sign language interpretation.

(b) An authority shall conduct no less than six meetings, at least two of which shall be held virtually and at least two of which shall be held in person at an accessible location for tenants, at which the informa-

tion required pursuant to paragraph (a) of this subdivision shall be provided to tenants.

5. The commissioner shall create, contract for the creation of, or select an existing document to serve as a RAD handbook. Such handbook shall include but not be limited to a brief description of the difference between section nine and section eight housing, as they relate to a proposed conversion, the rights and protections afforded tenants in converted properties, including the supplemental protections provided by this section, a fair and objective review of risks involved in remaining in section nine housing and converting to section eight housing, dispositions and demolitions under section eighteen of the federal housing act of 1937 (42 U.S.C. § 1427p) and the RAD program, and other relevant facts and information, as determined by the commissioner. The RAD handbook should be updated upon the occurrence of relevant changes to federal regulation, code, state law, and/or administrative and industry practice.

6. An authority shall include in any contract or agreement with a managing agent that such managing agent shall, for the duration of the agreement and any subsequent agreement as managing agent:

(a) invite tenant associations, as described by part nine hundred sixty-four of title twenty-four of the code of federal regulations, and any group, committee, and any other organization comprised of tenants that conducts meetings authorized pursuant to section two hundred thirty of the real property law to all meetings held by such managing agents relating to tenants;

(b) meet regularly with tenant associations to discuss emerging property-wide issues, particularly during the construction and rehabilitation process. Managing agents should consult the tenant associations in scheduling such meetings and the frequency of such meetings. If there is no tenant association at a development, the managing agent shall meet with tenants and inform them of the right to form a tenant association, the federal requirements for managing agents to provide no less than twenty-five dollars per unit per year for tenant participation activities, which may include education, organizing around resident issues, and trainings, and no less than fifteen dollars per unit per year for tenant organization-eligible activities, and other relevant information;

(c) adhere to a set of procedures for tenant grievances and lease termination proceedings that will take effect upon conversion. Such procedures shall be uniform for each converted development and shall be implemented by each managing agent. Every managing agent shall provide ongoing orientations regarding the details and procedures for tenants to sign new leases;

(d) explicitly notify residents of their rights to eligibility determination and succession and how these differ from typical section eight eligibility and succession rights, including rights resulting from the definition of family pursuant to subdivision seven of this section; and

(e) notwithstanding any provisions of law to the contrary, allow tenants of converted developments to engage in profit-making businesses within their units.

7. (a) For the purposes of determining eligibility and household composition for public housing occupancy and continued occupancy, authorities shall define a "family" as:

(i) a single person, who may be an elderly, displaced, or near-elderly person, or any other single person;

(ii) an otherwise eligible youth who is at least eighteen years of age but not more than twenty-four years of age and who has left foster care,

or will leave foster care within ninety days, in accordance with a transition plan described in section 475(5)(H) of the federal social security Act (42 U.S.C. § 675(5)(H)), or who is at least sixteen years of age and is homeless or at risk of becoming homeless; or

(iii) a group of persons residing together that includes, but is not limited to, a family with or without children, including children who are temporarily away from the home because of placement in foster care, an elderly family, a near-elderly family, a family with one or more persons with disabilities, a displaced family, the remaining member of a tenant family, or a group of individuals who would otherwise be eligible to reside in public housing who reside together.

(b) The definition of family pursuant to paragraph (a) of this subdivision may not be restricted to kin, descendants, marital relations, or relatives.

§ 3. Section 38 of the public housing law, as amended by chapter 260 of the laws of 1945, is amended to read as follows:

§ 38. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) "Conversion" shall include acts by an authority to dispose, transfer, convey, sublease, lease, or mortgage real property, or a leasehold interest in real property, in a public housing development or ancillary property owned by such public housing agency, in accordance with the RAD program, section eighteen of the federal housing act of 1937 (42 U.S.C. § 1427p), or similar plan approved by the federal department of housing and urban development.

(b) "Management agent" shall mean the entity being contracted with through a management agreement or similar contract for the maintenance of a property following a conversion.

(c) "RAD program" shall mean the rental assistance demonstration program pursuant to 42 U.S.C. § 1437f.

2. (a) An authority shall file with the commissioner a copy of each proposed project embodying the plans, layout, estimated costs and proposed method of financing. Any change made in the project shall be filed with the commissioner by the authority. With reasonable promptness after each project shall have been completed, and from time to time prior to completion upon request of the commissioner, an authority shall file with the commissioner a detailed statement of the cost thereof.

(b) Upon receipt of a copy of a proposed state project, or of any proposed change therein, the commissioner may transmit [~~his~~] their criticisms and suggestions with reasonable promptness to the authority or the municipality. No change in a state project may be made by an authority or a municipality without the approval of the commissioner.

3. (a) Within thirty days of being requested by the commissioner, an authority shall provide the commissioner with the following information:

(i) the name of such authority;

(ii) the name of the public housing development;

(iii) the total number of units in such development;

(iv) the distribution of units by bedroom count, race, income, elderly status, and disability status;

(v) the status of a development's subsidy, broken down by units, detailing the number of units counted as section nine housing on an annual contributions contract with the federal department of housing and urban development, a project-based voucher or project-based rental assistance via conversions or other conditions such as vacancy, both funded and unfunded, and/or under other federal department of housing

and urban development programs outside of those that result from RAD program conversions;

(vi) the application date of any proposed conversion, disposition, or demolition to the federal department of housing and urban development;

(vii) the approval date of any proposed conversion, disposition, or demolition by the federal department of housing and urban development, and date of approval of such project by the commissioner;

(viii) a summary of the criteria used to justify any section eight or RAD program demolition application to the federal department of housing and urban development;

(ix) information on the relocation of affected residents and the amount of persons displaced by a project, conversion, or demolition approved by the federal department of housing and urban development; and

(x) details regarding the cost test conducted, if applicable, as required by the federal department of housing and urban development.

(b) By December thirtieth of each year, the commissioner shall post on a public webpage the information required pursuant to paragraph (a) of this subdivision and other relevant information regarding projects and conversion and any section eighteen dispositions or demolitions approved by the federal department of housing and urban development, as determined by the commissioner.

(c) The commissioner shall maintain a centralized online database where the information required pursuant to this subdivision can be accessed. Such information shall be listed on such database based on the year of their publication.

§ 4. This act shall take effect immediately.