

NEW YORK CITY HOUSING AUTHORITY



Statement of Basis and Purpose

On June 16, 2022, Governor Kathy Hochul signed into law the New York City Public Housing Preservation Trust Act (“Act”). The Act provides a pathway for addressing the overdue repair, rehabilitation, and modernization of 25,000 New York City Housing Authority (“NYCHA”) apartments, while maintaining residents’ rights and keeping properties 100-percent public. Central to the Act is providing residents the power to determine the future of their developments: developments will only transfer to the Public Housing Preservation Trust (“Trust”) if the residents of that development vote to join the Trust. Additionally, if residents choose to join the Trust, the Act also ensures resident involvement in the selection and oversight of vendors completing rehabilitation work at their development.

In support of resident determination, the Act requires NYCHA to finalize by December 13, 2022, the process to be followed when residents vote whether or not to join the Trust (“Voting Procedures”). These Voting Procedures were developed in consultation with residents and resident advocates and after consideration of comments received by residents, elected and government officials, advocates and members of the public, and address those elements required by the Act, including how NYCHA will inform residents of an upcoming vote at their development, the information to be provided on each option residents will consider, the criteria used to determine voter eligibility, how and for how long residents may cast a vote, the minimum resident participation required for the vote results to be valid, as well as how the vote results will be determined.

In finalizing these Voting Procedures, residents are not being asked whether or not to join the Trust. The goal of these Voting Procedures is to support residents’ informed and independent choice through education and outreach provided ahead of any vote, ensure transparency into the voting process, as well as provide confidence in the ultimate vote results.

Voter Eligibility

The Act requires, at a minimum, that “Tenants of Record” 18 years of age or older be eligible to participate in any vote at their development. As the term “Tenants of Record” means any tenant who has signed a lease for an apartment and, at NYCHA, these individuals are known as “Heads of Household,”¹ the Voting Procedures use the term “Head of Household” in place of “Tenants of Record.”

In support of residents’ right to determine the future of their developments, the Voting Procedures expand the population of eligible voters beyond Heads of Household as minimally

¹ The term “Head of Household” also includes “co-Heads of Household” in the case of co-tenancy when two individuals sign a lease for a NYCHA apartment.



required by the Act to include any resident 18 years of age or older with permanent written permission from NYCHA to reside in the apartment – also known as the “Household Composition.” An individual’s age and permanent status on the Household Composition are the only two factors used to determine eligibility to vote.² For purposes of voter eligibility, how recently an individual was added to the Household Composition is not relevant: any individual 18 years of age or older on the Household Composition is eligible. Finally, the Voting Procedures also clarify that any otherwise-eligible resident relocated to a different development through a NYCHA relocation plan with a right to return to their development is still eligible to vote; conditions within a resident’s apartment or building necessitating their relocation will not impact their eligibility to participate in a vote.

Vote Options

As required by the Act, any vote at a development must provide residents the option to agree to join the Trust or to reject the Trust and remain in the Section 9 Program. In these Voting Procedures, NYCHA commits to also include in any such vote the option to join the Permanent Affordability Commitment Together (“PACT”) program. Thus, any vote held pursuant to these Voting Procedures will include three options for residents’ consideration: join the Trust, join PACT, or reject both the Trust and PACT and remain in the Section 9 Program.

Voter Outreach

NYCHA understands significant outreach will be required before any vote is held pursuant to these Voting Procedures. Residents must be presented with clear and comprehensive information on the three voting options. They must understand their rights through the Trust and within PACT, as well as how those rights compare to their existing rights in Section 9. They must be provided with information explaining the financing that is or is not available under each option to address the needs at their development. They must understand how construction would proceed under each option, as well as the roles of residents, NYCHA and third parties in ensuring work is completed to the standards residents have long deserved. The future property management structure must also be described so that residents understand how their developments will be managed and maintained once construction is complete. And NYCHA must provide residents the opportunity to raise their questions and concerns and to have them addressed.

These points and others will be addressed through the outreach and education required under these Voting Procedures. This process begins by providing residents via mail, telephone and email with key information related to the upcoming vote through the formal notice of vote required in Section 3 of the Voting Procedures. The formal notice is then followed by comprehensive outreach over the 100 days preceding the start of the voting period, which specifies not only the information to be provided to residents ahead of a vote but also how NYCHA will provide such information to residents, including through in-person and virtual meetings, tabling events, printed and electronic materials, and more. And as NYCHA recognizes that a one-size-fits-all approach cannot provide the individualized outreach necessary before such an important vote, the unique needs of the development will be considered with local resident leadership when developing an outreach plan for the residents of a development.

² For clarity, how recently an individual was added to the Household Composition will not impact their eligibility to vote.



Factors relevant to developing an outreach plan could include the development size, unique physical needs of the buildings and residents' apartments, specific types of communications likely preferred by residents, and more.

Conducting the Vote

To further support transparency and confidence in the voting process, third parties with expertise in elections will administer votes held pursuant to these Voting Procedures. These administrators will be responsible for conducting the vote, receiving and investigating any allegations of irregularities or misconduct, and certifying the vote results.

The Voting Procedures provide residents with three means of casting a vote, as required by the Act: voting in person, by mail or online. The Voting Procedures further provide a 30-day period in which residents can vote, and residents will be able to vote by mail or online at anytime during this voting period. In-person voting will be reserved for the final 10 days.

Once the voting period closes, the vote administrator will count the votes and investigate any allegations of irregularities or misconduct received within 72 hours prior to certifying the vote results. As part of its vote certification, the administrator will also be required to confirm a minimum voter participation threshold was achieved. Although the Act provides NYCHA flexibility to expand the population of eligible voters to anyone 18 years of age or older on the family composition, the Act requires the participation of Heads of Household³ be used when determining if the minimum participation threshold was achieved. The Voting Procedures sets this minimum threshold at 20% of all Heads of Household at a development. In the event less than 20% of Heads of Household at a development cast a vote, the vote results would be null and void and no action taken. NYCHA will strive to achieve turnout far greater than this minimum threshold through resident engagement utilizing the advice and expertise of the vote administrator on effective engagement strategies as well as through partnership with resident leaders, advocates and elected officials throughout the 100-day engagement period. NYCHA will also monitor the effectiveness of the chosen engagement strategies and will prepare an analysis upon the completion of elections held at six developments pursuant to these Voting Procedures detailing successes, challenges and commitments for further improving voter engagement and participation. As part of such analysis, NYCHA will consider if the minimum turnout threshold provided in these Voting Procedures should be revised.

Assuming the vote results are certified by the administrator, the option receiving the most votes from residents will be the winning option, with NYCHA required to implement the residents' decision subject to applicable law and regulations. The vote results, along with the administrator's certification, will be provided to all residents and posted at the development and on NYCHA's website, providing not only the notification of the winning option but also transparency into how the result was determined.

³ As discussed above, the Act refers to Heads of Household as Tenants of Record.



Trust Voting Procedures

1. Definitions

- (a) *District Council Officers* mean the Chair, First Vice President, Second Vice President, Secretary, Treasurer, and First Sergeant at Arms of the recognized regional resident organizations established pursuant to the bylaws of the Citywide Council of Presidents.
- (b) *Eligible Voter* means a resident of a public housing development in which a vote is held pursuant to these procedures who is 18 years of age or older and either (i) a Head of Household or (ii) otherwise has permanent written permission from NYCHA to reside therein; the Head of Household, co-Heads of Household (in the case of co-tenants) and other residents with permanent permission comprise and are also known as the “Household Composition.”
- (c) *Head of Household* means the individual or individuals (in the case of co-tenants) who executed a lease for an apartment in a public housing development in which a vote is held pursuant to these procedures, also referred to as “Tenant of Record” in the New York City Public Housing Preservation Trust Act.
- (d) *Notice of Vote* means the formal notice of a planned vote held under these procedures to be provided by NYCHA to residents of a development at least 100 days before the Voting Period commences.
- (e) *NYCHA* means the New York City Housing Authority.
- (f) *Resident Councils* mean the local resident organizations established and approved pursuant to § 964.115 of Part 24 of the Code of Federal Regulations or any successor regulations.
- (g) *Trust* means the New York City Public Housing Preservation Trust.
- (h) *Vote Administrator* means the third party entity engaged to oversee and certify a vote held pursuant to these procedures.
- (i) *Voting Methods* means the three ways Eligible Voters may cast their vote: in person, by mail and online.
- (j) *Voting Period* means the time when Eligible Voters may cast a vote.
- (k) *Applicability to relocated residents:*
 - (1) The defined terms *Eligible Voter* and *Head of Household* shall also include, as applicable, residents not residing at the development at the time the vote is noticed and held pursuant to these procedures because they have been relocated under a NYCHA relocation plan with a right to return to the development.

2. Engagement with Resident Leadership

- (a) NYCHA shall develop a voter outreach plan customized to the needs of the residents at the development.
- (b) NYCHA shall invite the development’s Resident Council or, in the event no Resident Council exists, the local District Council Officers to discuss and refine the proposed voter outreach plan.
- (c) At such discussion, NYCHA shall provide an overview of the voting options and consider how to most effectively reach residents of the development, including but not limited to:



- (1) The number, times and locations of planned in-person and virtual resident meetings to discuss the voting options as well as the content to be discussed and shared in such meetings;
 - (2) The number, times and locations of planned tabling events;
 - (3) Strategies for ensuring effective postings at the development, including posting locations as well as processes for identifying and reposting removed postings;
 - (4) Feedback and suggestions on information NYCHA plans to communicate to residents to ensure such communications are clear, comprehensive and effective;
 - (5) Identifying individuals at the development for residents to contact regarding the upcoming vote;
 - (6) The ways in which community organizations can support voter outreach and engagement;
 - (7) Consideration of utilizing ballot watchers; and
 - (8) Mailings, fliers and electronic communications.
- (d) NYCHA will seek the assistance of the recognized Resident Council or, in the event no resident council exists, the local District Council Officers in engaging residents ahead of the planned vote.
 - (e) NYCHA shall finalize the voter outreach plan prior to providing the Notice of Vote pursuant to section 3 below and prior to commencing voter outreach pursuant to section 4 below.

3. Notice of Vote

- (a) At least 100 days before the Voting Period commences, NYCHA shall provide the Notice of Vote to the residents of the development through the available phone, mail and email contact information on record with NYCHA.
- (b) NYCHA shall also post the Notice of Vote in a prominent location at the development as well as on the NYCHA website at least 100 days before the Voting Period commences.
- (c) The Notice of Vote shall include the following information:
 - (1) An explanation of the purpose of the vote;
 - (2) The options that will appear on the ballot;
 - (3) The dates, times and location of planned outreach meetings where NYCHA will provide information about the options and where residents may ask questions and provide comment;
 - (4) The address on NYCHA's website where information on the options can be reviewed;
 - (5) Contact information residents may use to submit questions to NYCHA prior to the vote;
 - (6) Information on how individuals can submit written comments and the deadlines for submitting such comments;
 - (7) The available Voting Methods;
 - (8) The applicable Voting Period when a vote can be cast for each Voting Method;
 - (9) Information on how Eligible Voters can cast a vote for each Voting Method, including location where and time when votes can be cast, as well as any information Eligible Voters will be required to provide;
 - (10) Information on how individuals may request a reasonable accommodation to participate in the planned voter engagement and cast a vote; and



- (11) The list of languages into which all ballots will be translated as well as information on how residents may request a ballot in any other language or may request other language services to participate the voting process.

4. Voter Outreach

- (a) Upon providing the Notice of Vote pursuant to section 3 above and at least 100 days before the Voting Period commences, NYCHA shall begin the voter outreach plan developed pursuant to section 2 above.
- (b) NYCHA shall prepare outreach materials to support Eligible Voters in making independent, informed choices. The information provided in such materials shall include but not be limited to:
 - (1) A description of each option to be presented to Eligible Voters. For each option, the information shall include but not be limited to:
 - (i) A comparison of resident rights under each option, including but not limited to rent determinations, succession rights and temporary relocation rights;
 - (ii) An overview of how project planning, vendor/partner contracting, design and construction may proceed;
 - (iii) A description of the respective roles of NYCHA, residents and other entities during the construction process;
 - (iv) Any impact on existing capital work; and
 - (v) The future management structure.
 - (2) A physical needs assessment describing the capital needs for the development;
 - (3) Information on how financing can be used to address the needs of the development under each option, as applicable
 - (4) A description of the construction standards under each option;
 - (5) A copy of the ballot to be used by Eligible Voters when casting a vote; and
 - (6) An explanation of the how voting will be conducted and the results determined, including the role of the Vote Administrator as well as the minimum voter turnout required for the vote results to be considered valid as provided in subdivision 6(b) below.
- (c) NYCHA shall provide information described in subdivision 4(b) above to Eligible Voters in the following ways:
 - (1) Pamphlets delivered to each household in the development;
 - (2) A dedicated webpage, available on the NYCHA website;
 - (3) Emails sent to all development resident email addresses on file with NYCHA;
 - (4) Printed materials posted in a prominent location at the development and available at the development's property management office;
 - (5) To the extent possible given the physical layout of the development, on-site tabling by NYCHA staff; and
 - (6) At least four meetings with residents of the development.
 - (i) The focus of each meeting shall be on at least one of the options, with all options covered in at least one of the scheduled meetings.
 - (ii) NYCHA will schedule the meetings to occur both during and outside of normal business hours.
 - (iii) At least one meeting will be held in-person at a location at the development or, if one is not available, within the immediate area of the development.
 - (iv) At least one meeting will be held virtually.



5. Conducting the Vote

- (a) NYCHA shall engage a third-party Vote Administrator to conduct and oversee the vote. The Vote Administrator shall also advise on effective strategies NYCHA can utilize to increase voter engagement and participation.
- (b) The Vote Administrator shall be selected based on the following criteria:
 - (1) Demonstrated independent expertise in developing policies and protocols to ensure vote integrity;
 - (2) A track record of administering secure, accurate and transparent elections;
 - (3) Technical expertise and capacity necessary to support electronic and accessible voting methods; and
 - (4) Technical expertise and capacity to investigate alleged irregularities prior to vote certification.
- (c) Eligible Voters may choose to vote through any one of the three Voting Methods of in-person, mail, or online.
- (d) Eligible Voters may select one of at least three options when voting: the Trust, the Permanent Affordability Commitment Together (“PACT”) program, or rejecting both the Trust and PACT and remaining in Section 9.
- (e) The Voting Period shall last for 30 days.
- (f) For the first 20 days, voting shall only be available online and by mail.
- (g) For the final 10 days, voting shall be available in-person, online and by mail.
 - (1) Mail-in ballots will be considered timely if they are postmarked no later than the final day of the Voting Period. Mail-in ballots postmarked after the Voting Period will not be counted.
- (h) Ballots:
 - (1) Ballots shall state the voting options and will provide a brief explanation of each.
 - (2) Ballots will have a simple design, utilize plain language and be translated as described in section 7 below.

6. Vote Results and Certification

- (a) As soon as practicable after the Voting Period, the Vote Administrator shall tabulate the votes.
- (b) Minimum Turnout Threshold
 - (1) As required by paragraph 2 of section 630 of the New York City Public Housing Preservation Trust Act, the Vote Administrator shall determine the proportion of Heads of Household at the development who cast a vote.
 - (2) At least 20% of Heads of Household at the development must cast a vote for the results to be considered valid. In the event fewer than 20% of Heads of Household at the development cast a vote, the results shall be null and void and any subsequent vote will be conducted according to the full process outlined in these procedures.
 - (3) In fulfilling its obligations under these procedures, NYCHA shall strive for maximum participation of all Eligible Voters and shall consider, identify and implement strategies to improve participation. Upon the completion of elections held pursuant to these procedures at six developments, NYCHA shall prepare an analysis detailing successes, challenges and commitments for further improving Eligible Voter engagement and participation. As part of such analysis, NYCHA



shall consider if the minimum turnout threshold provided in these procedures should be revised.

(c) Automatic Recount

- (1) If the outcome of the vote is decided by less than one percent of the total votes cast, the Vote Administrator shall undertake a recount of the votes prior to the vote certification.
- (2) If after a full recount the Vote Administrator determines the top two choices received the same number of votes, the tie shall be resolved through a runoff vote. In such a case:
 - (i) The Vote Administrator shall certify the tie result;
 - (ii) At least 30 days before the runoff Voting Period commences, NYCHA shall provide notice of the runoff vote as provided in subdivisions 3(b) and 3(c) above;
 - (iii) Eligible Voters may use any Voting Method to choose one of the two previously-tied options;
 - (iv) The Voting Period provided in subdivision 5(e) above shall apply; and
 - (v) The results of the runoff shall be determined and certified as otherwise required in this section.

(d) Vote Integrity

- (1) The Vote Administrator shall conduct a due diligence process to ensure the vote results are accurate and valid.
- (2) Challenges
 - (i) Eligible Voters may lodge with the Vote Administrator any allegations of vote inaccuracies or impropriety up to 72 hours after the end of the Voting Period.
 - (ii) The Vote Administrator shall investigate all allegations received up to 72 hours after the end of the Voting Period.
 - (iii) The Vote Administrator shall gather and review available evidence relevant to such allegations.
 - (iv) Using its expertise, the Vote Administrator shall determine if there are merits to the allegations received as well as determine potential impact on the results necessitating a repeat of the vote.
 - (v) The Vote Administrator shall include in the certification prepared pursuant to subdivision 6(e) below an explanation of its investigation and findings of all challenges to the vote made up to 72 hours after the end of the Voting Period.

(e) Vote Certification

- (1) If the Vote Administrator determines that the results are valid and accurate, it shall state so explicitly in a signed certification. The certification shall provide the number of votes cast for each option. The certification shall further describe the Vote Administrator's process for determining the validity and accuracy of the vote results, including but not limited to the minimum turnout threshold of Heads of Household pursuant to subdivision 6(b) above, and its investigation and findings related to any allegation of inaccuracies or improprieties as required in paragraph 6(d)(2) above.



- (2) If the Vote Administrator determines that the minimum turnout threshold under subdivision 6(b) above was not achieved, or that the votes cannot be accurately and validly tabulated, it shall immediately communicate such determination to NYCHA and to the development’s Resident Council or, in the event no resident council exists, to the local District Council Officers. Such determination shall render the results null and void, and the vote shall be re-conducted according to the full process outlined in these procedures.
- (f) **Vote Results**
 - (1) Subject to the vote certification provided in subdivision 6(e) above, the option receiving the most votes will be considered the winning option.
 - (2) NYCHA shall be bound by the winning option subject to applicable federal law and regulations.
 - (3) NYCHA shall notify all households of the vote results along with the Vote Administrator’s certification.
 - (4) The Vote Administrator’s certification shall be posted in a prominent location at the development and on NYCHA’s website.

7. Language Access

- (a) NYCHA shall comply with all applicable language access requirements in the communications and outreach undertaken pursuant to these procedures, including but not limited to those communications required in subdivision 4(c) above.
- (b) NYCHA shall ensure the Vote Administrator complies with all language access requirements applicable to NYCHA in the Vote Administrator’s role in holding the vote pursuant to section 6 above.
- (c) Language access requirements shall include but not be limited to:
 - (1) Translating all outreach materials into the commonly-encountered languages identified pursuant to NYCHA’s Language Assistance Services Standard Procedure;
 - (2) Translating ballots into the commonly-encountered languages identified pursuant to NYCHA’s Language Assistance Services Standard Procedure; and
 - (3) Notifying residents as part of the voter outreach plan how translations or additional language services may be requested.

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