



May 19, 2015

Shola Olatoye
Chair & Chief Executive Officer
New York City Housing Authority
250 Broadway
New York, NY 10007
212-306-6081

Re: NYCHA Non-Compliance with the New York City Recycling Law

Dear Chairperson Olatoye:

We are writing to inform you of our intent to bring suit on behalf of our clients to compel the New York City Housing Authority (“NYCHA”) to fulfill its mandatory obligations under the New York City Recycling Law of 1989.

I. Introduction

We are attorneys with the Natural Resources Defense Council (“NRDC”), a non-profit environmental organization based in New York City. NRDC has more than 1.4 million members and online activists worldwide, including approximately 12,500 who reside in New York City. Since 1970, our lawyers, scientists and other environmental specialists have worked to protect the world’s natural resources, public health and the environment. In addition to New York City, NRDC has offices in Washington D.C, Los Angeles, San Francisco, Chicago, Livingston (MT), and Beijing. Our New York-based staff has been active on environmental health, recycling and solid waste, and quality-of-life issues of importance to New York City residents for more than four decades.

This letter is being sent on behalf of three environmental justice organizations whose members include residents of NYCHA housing. They are: Mothers on the Move, the Morningside Heights/West Harlem Sanitation Coalition, and WE ACT for Environmental Justice. These organizations and their members contend that people living in public housing have the same right to a clean environment as do all other New Yorkers. This includes the right to recycle and, more generally, to have their refuse collected and disposed of in a healthful and environmentally sound manner.

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The New York City Recycling Law guarantees all New Yorkers access to recycling services. For persons living in multi-family buildings with four or more units, certain recycling services must be provided by building landlords. We set forth landlords' obligations under this statute below.

NYCHA, the city's single largest landlord, is not currently meeting its obligations under the city's recycling law. In recent years, NYCHA has acknowledged that its efforts have fallen short in terms of recycling and other sanitation services. Under this and previous administrations, NYCHA has promised to remedy these failures. To date, however, little has changed. Based upon our clients' reports and our own observations, it is clear that there is widespread non-compliance by NYCHA with New York City Recycling Law requirements as well as a more general failure to provide sufficient sanitation services in NYCHA housing.

These failures are having serious adverse impacts. Over 400,000 people live in NYCHA's 328 public housing developments. And the vast majority of them do not have convenient access to the city's recycling program, more than 25 years after the statute was first enacted. Because of NYCHA's failure to provide recycling at all of the buildings under its control, more than one thousand tons a week of recyclables generated at NYCHA developments are bypassing recycling facilities and are instead being sent to landfills and incinerators. NYCHA's lack of participation in the city's recycling program has dragged down citywide recycling rates, reduced the cost-effectiveness of the city's recycling operation, and made it much more difficult for NYCHA tenants to engage in household recycling.

II. Clients

Our clients are environmental justice organizations that work to secure, among other things, public health and environmental protections in their communities. Each group represents members living in NYCHA housing.

Mothers on the Move is a community group based in the Hunts Point neighborhood in the Bronx. Its mission is to create a greener South Bronx, with safe and healthy places for neighborhood children to live and play. To this end, it organizes residents of the Hunts Point community around housing, education, and environmental justice issues. Since its founding in 1992, Mothers on the Move has engaged over 1,000 residents in various campaigns to enhance the environmental and quality of life for its members and the South Bronx community more generally.

The Morningside Heights/West Harlem Sanitation Coalition is a grassroots coalition of residents' associations working for comprehensive, environmentally safe waste management

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policies and environmental justice. Founded in 1994, the Sanitation Coalition is a member of the New York City Environmental Justice Alliance and is committed to bringing effective recycling and waste-management programs to public housing. Many of its members are or have been residents of public housing, and all are devoted to addressing environmental and quality-of-life concerns in their community.

WE ACT for Environmental Justice is a Northern Manhattan community-based organization founded in 1988. Its mission is to build healthy communities by assuring that people of color and low-income families participate meaningfully in the creation of sound and fair environmental health and protection policies. Among other things, WE ACT works to educate and mobilize the more than 630,000 residents of Northern Manhattan on a wide range of issues including clean air, affordable and equitable transit, open and green space, and solid waste.

III. NYCHA's Obligations Under New York City Law

The New York City Recycling Law of 1989 declares that it is “the policy of the city to promote the recovery of materials from the New York City solid waste stream for the purpose of recycling such materials and returning them to the economy.” N.Y.C. Admin. Code § 16-302. In enacting the statute, the City Council stated that among the law’s primary purposes was “to create a recycling program that provides opportunities for everyone in the city to recycle.” N.Y.C. Council, Local Law 19, § 1 (1989).

To achieve these objectives, the statute and its implementing regulations set forth a comprehensive scheme designed to develop a full-fledged recycling program in New York City. Among other things, owners, net lessees, and persons in charge of residential buildings with more than four dwelling units have specifically enumerated responsibilities.

Since public housing developments are residential buildings of four or more dwelling units, these requirements apply to NYCHA. The city’s recycling law applies to both public and private owners of residential buildings and does not provide any exemption for NYCHA properties.

These responsibilities include: (1) separating recyclables from non-recyclable trash; (2) providing designated recycling areas; (3) providing sufficient recycling bins; and (4) educating residents about the recycling program requirements.

(1) NYCHA is required to separate recyclables from non-recyclable trash.

NYCHA is required to “separate from other materials designated recyclable materials that are required to be recycled and [] place such separated materials in the appropriate containers.”

R.C.N.Y. 16 § 1-08(g)(1). NYCHA is also required to “remove non-designated materials from the containers of designated source separated recyclable materials before such containers are placed at the curbside for collection and ensure that the designated materials are placed at the curbside.” N.Y.C. Admin. Code § 16-305(f)(3).

(2) NYCHA is required to provide accessible areas designated for storage of residents’ recyclables.

NYCHA must “designate a storage area or areas . . . that is reasonably accessible to building residents for the pre-collection storage of designated recyclable materials.” *Id.* § 1-08(f)(2)(i). That area must be in the building, if possible. *Id.* And the storage area must be maintained “so as not to create a nuisance or sanitary problem.” *Id.* § 1-08(f)(2)(ii).

(3) NYCHA is required to provide sufficient recycling bins for residents’ use.

NYCHA is required to provide a “sufficient number of recycling containers so as to prevent spillover from containers and to avoid the improper disposal of designated recyclable materials.” *Id.* § 1-08(f)(2)(iii). Those containers must be “clearly labeled . . . to indicate what designated recyclable materials may be properly placed therein.” *Id.*

(4) NYCHA is required to educate residents about the recycling program’s requirements.

NYCHA is obligated to provide resident education about the New York City’s recycling program requirements. This includes posting one or more signs in the designated storage area for recyclables that explain “what materials are required to be source separated, the location of the building’s designated recycling area where source separated recyclables will be stored, and how to dispose of such materials in that building.” *Id.* § 1-08(f)(1). In the event that the designated area for recycling is not the regular solid waste collection area, NYCHA must “post a sign in the regular solid waste collection area informing residents of where to bring such materials.” In addition, NYCHA is required to make a Department of Sanitation-issued guide to recycling available to each resident at the beginning of their lease. *Id.*

IV. NYCHA’s Failure to Comply with the City’s Recycling Law

NYCHA is failing to comply with these and other provisions of the city’s recycling statute. Our clients have observed NYCHA’s systematic failures to sufficiently address recycling and other sanitation issues in their communities. And NRDC’s random inspections, as well as media reports and statements from NYCHA officials themselves, confirm that our clients’ experiences are not isolated incidents. Many NYCHA buildings have no effective recycling at all. And in

those NYCHA buildings where limited recycling services have been provided, building managers have often not received sufficient resources from NYCHA to fulfill their responsibilities. Still other NYCHA properties are not complying with the city's recycling program requirements due largely to on-site management shortcomings.

What follows is a partial list of NYCHA properties identified by our clients and staff at which NYCHA is violating the requirements of the city's recycling law, and at which other trash-disposal services may also not satisfy minimum standards:

(1) The Dr. Ramon E. Betances Houses – Not in Compliance

The Betances Houses is a NYCHA development at 537 East 146th Street, Bronx, New York 10455.

Although there are many labeled recycling bins outside of the Betances Houses, each is of insufficient size to handle all of the recyclables that could be reasonably expected to be generated in the Betances Houses. Upon inspection, these bins contained comingled recyclables and landfill trash. There were no posted signs about recycling.

(2) The General Ulysses S. Grant Houses – Not in Compliance

The General Ulysses S. Grant Houses is a NYCHA housing project located at 1320 Amsterdam Avenue, New York, New York 10027. The complex includes nine buildings, each 13 or 21-stories tall. There are 1,940 apartments housing more than 4,500 residents.

Recycling at the Grant Houses has been well-studied. Although residents have some access to recycling bins, independent monitors have observed NYCHA personnel emptying recycling bins into bags of non-recyclable trash. When questioned about this practice, those personnel have replied that recycling "is not [their] job." The number of recycling bags collected at the Grant Houses over time has also been monitored by concerned residents; results have shown a marked decline in the volume of recyclables produced in recent years. Residents confirm this lagging commitment to obeying the Recycling Law. They report that recycling bins are regularly overfilled and are not emptied in a timely manner.

(3) The Harlem River Houses – Not in Compliance

The Harlem River Houses is a NYCHA complex at 231 West 151st Street, New York, New York 10039. Harlem River has seven 4 and 5-story high buildings with 571 apartments housing about 1,008 people.

Based upon our inspection, trash cans contained comingled recyclables and landfill trash. There is also no signage about recycling.

(4) The Andrew Jackson Houses – Not in Compliance

The Jackson Houses are located at 799 Courtlandt Avenue, Bronx, New York 10451. It contains seven 16-story buildings, with 867 apartments housing an estimated 2,570 people.

Based on our inspection, there is no recycling at the Jackson Houses. There are no recycling bins or posted signs inside or outside the buildings. Trash was piled up outside the main entrances to 765 and 785 Courtlandt Ave. Those refuse piles contained unseparated landfill trash and recyclables.

(5) The Abraham Lincoln Houses – Not in Compliance

The Abraham Lincoln Houses is a NYCHA development at 2142 Madison Avenue, New York, New York 10037. This community has 14 buildings, 6 and 14-stories tall. The Lincoln Houses has 1,282 apartments housing approximately 3,117 residents.

Recycling services at the Lincoln Houses are insufficient. There is less than one recycling bin per building. These bins are medium-sized green ‘Hide-A-Bag’ brand bins, and they do not appear large enough to hold the amount of recyclables regularly produced by a brownstone, let alone multiple 14 story buildings such as those at Lincoln Houses.

(6) The Manhattanville Houses – Not in Compliance

The Manhattanville Houses is a NYCHA development at 549 West 126th Street, New York, New York 10027. It has six 20-story buildings with 1,272 apartments housing an estimated 2,756 residents.

The Manhattanville Houses have the green ‘Hide-A-Bag’ recycling bins, and again there is less than one bin available per building. There also appears to be a designated recycling area with a large dumpster marked for recyclables. But our inspection revealed that the dumpster was heavily comingled with landfill trash, food waste, and bulk garbage. There are no posted signs about recycling in the hallways, and posted signs in what appears to be the recycling area are peeling and paint-covered.

(7) The Melrose Houses – Not in Compliance

The Melrose Houses are at 345 East 153rd Street, Bronx, New York 10451. Melrose has eight 14-story buildings containing 1,020 apartments for around 2,670 people.

Our inspection revealed no recycling bins at the Melrose Houses. There are also no posted signs about recycling visible.

(8) The Mill Brook Houses – Not in Compliance

The Mill Brook Houses are at 160 St. Ann's Avenue, Bronx, New York 10454. Mill Brook has nine 16-story buildings with 1,255 apartments for about 3,026 people.

There are no recycling bins at Mill Brook. Instead, our inspection found garbage piled up outside the front doors of 584 and 600 East 137th Street – garbage containing both recyclables and nonrecyclable trash. No posted recycling signs were visible.

(9) The Mott Haven Houses – Not in Compliance

The Mott Haven Houses is located at 373 East 141st Street, Bronx, New York 10454. The complex comprises eight buildings, 20 and 22-stories tall. In total, there are 993 apartments housing approximately 2,500 residents.

Each 20 story building has only been provided with a handful of small recycling bins which regularly overflow. Recyclables pile up near the bins and are scattered throughout the surrounding area, causing many residents to dispose of recyclables with the nonrecyclable trash. Residents report NYCHA personnel disposing of recyclables in the nonrecyclable trash. There is also no signage about recycling in the hallways of the buildings.

(10) The Lester Patterson Houses – Not in Compliance

The Patterson Houses are located at 301 East 143rd Street, Bronx, New York 10451. This development has 15 buildings, each either 6 or 13 stories tall. Those buildings contain 1,788 apartments providing housing to around 4,460 people.

There are green 'Hide-A-Bag' brand recycling bins in front of each building at the Patterson Houses, but these bins appear largely unused. The bin in front of 271 East 143rd Street was open in the rear and contained no bags. Other bins were snowed in when we inspected and had clearly been out of use for some time. In multiple locations, residents had left recycling and mixed

garbage in front of these out-of-service bins. There also appeared to be no posted signage about recycling.

(11) The Polo Grounds Towers – Not in Compliance

The Polo Grounds Towers is located at 2975 Eighth Avenue, New York, New York 10039. The complex includes four 30-story towers. In total, there are more than 1,600 apartments housing approximately 4,200 residents.

There are no recycling bins at this complex at all. All waste is thrown indiscriminately into large receptacles, where recyclable waste is comingled with landfill waste. Tenants are provided with no education about recycling. There are no posted signs about recycling, and tenants do not receive information about recycling from NYCHA.

As is true in other NYCHA developments, there are also more general waste management problems at the Polo Ground Towers. Access to regular garbage bins has been steadily reduced over time. Residents dispose of most waste via small garbage chutes that are not large enough to fit a standard kitchen bag. What few small garbage bins remain are often left overflowing with garbage for days or weeks, giving off a foul odor and attracting vermin.

(12) The Ralph J. Rangel Houses – Not in Compliance

The Rangel Houses are located at 159-16 Harlem River Drive, New York, New York 10039. This community has eight 14-story buildings with 984 apartments, and is home to an estimated 2,242 residents.

The Rangel Houses appear to have a handful of green ‘Hide-A-Bag’ recycling bins, but these bins are hidden behind semi-permanent construction barriers and are completely inaccessible. There is also no signage about recycling visible in the hallways or near these bins.

(13) The Red Hook I Houses – Not in Compliance

The Red Hook I (East) Houses is a NYCHA development at 62 Mill Street, Brooklyn, New York 11231. It is the largest part of the largest development in Brooklyn, with 27 buildings, 2 and 6-stories high with 2,528 apartments housing some 5,654 residents.

The recycling receptacles used at Red Hook East are blue and white, similar in size to the green ‘Hide-A-Bag’ bins, but are not labeled for recycling. In addition to its inadequate size, the opening of the receptacle is a wide, narrow slot which would inconvenience a would-be recycler

by requiring disposal of individual recyclable items by hand. Some receptacles were located behind temporary construction barriers or snowed in without any sign of recent access. No signs were posted inside the building in the trash areas.

(14) The Red Hook II Houses – Not in Compliance

The Red Hook II (West) Houses are located at 55 Dwight Street, Brooklyn, New York 11231 and are part of Brooklyn’s largest development, with three buildings, 3 and 14-stories tall with 345 apartments housing some 864 residents.

The Red Hook West Houses use the same receptacles as Red Hook East. The opening is too narrow for practical use. The receptacles are not labeled as designated recycling areas and are not located in proximity to the trash dumpsters. Some receptacles were located behind temporary construction barriers or snowed in without any sign of recent access. No signs were posted inside the building in the trash areas.

(15) The Saint Nicholas Houses – Not in Compliance

The Saint Nicholas Houses are at 215 West 127th Street, New York, New York 10027. The development has thirteen, 14-story buildings on 15.63 acres in Manhattan. There are 1,523 apartments housing some 3,521 people.

Our inspection found that although the Saint Nicholas Houses have green ‘Hide-A-Bag’ recycling bins, there is less than one bin per tower. These bins are also completely inaccessible, blocked by chain-link fences. Residents reported that they have no recycling, and piles of recyclables could be found in front of the inaccessible bins.

(16) The Senator Robert F. Wagner, Sr. Houses – Not in Compliance

The Wagner Houses are a NYCHA housing project at 2396 First Avenue, New York, New York 10035. The Wagner Houses consist of 22 buildings, 7 and 16-stories high with 2,154 apartments housing roughly 5,290 residents.

Our inspection of the Wagner Houses found a single recycling bin the size of a curbside city trash, and it contained recyclables comingled with landfill trash. Aluminum cans and plastic bottles littered the grounds, and recyclables and bulk garbage could be found in trash disposal areas. There are no posted signs about recycling. Multiple residents reported that there is no recycling in their community at all.

V. New York Civil Practice Laws and Rules Article 78

Article 78 provides that a special proceeding may be brought to compel a body or officer to perform a duty enjoined upon it by law. N.Y. C.P.L.R. § 7803(1) (McKinney 2014). The statute of limitations for such an action is four months “after the respondent’s refusal, upon the demand of the petitioner or the person whom he represents, to perform its duty.” *Id.* § 217(1) (McKinney 2014). This letter serves as our clients’ demand, pursuant to Article 78. We ask that you reply to this request within 60 days following receipt of this letter. If we have not received such a reply, we will construe the decision not to respond as a denial of this request.

VI. Conclusion

On behalf of our clients, we respectfully request that NYCHA comply with its legal obligations to fully implement the New York City Recycling Law at all of its properties.

We are familiar with your recently announced plans for expanding recycling at NYCHA developments in 2015. Unfortunately, our clients believe that this latest effort was not designed to engage or inspire residents themselves, or to employ the expertise of those residents who are most familiar with and committed to recycling in their buildings. Without more active involvement by and engagement with the residents themselves, NYCHA’s latest recycling effort is unlikely to succeed.

Our clients also understand that NYCHA is facing numerous management and operational challenges and that there are many legitimate demands for NYCHA’s financial resources. They -- and we -- are committed to finding a way forward that successfully expands recycling at NYCHA buildings without extravagant spending or interference with other essential services. Indeed, our clients believe they can provide NYCHA with valuable information regarding how to design recycling operations that can engage and involve residents, build upon the experience of previous NYCHA recycling efforts, and implement community-driven recycling efforts at NYCHA properties that could even generate meaningful green jobs for NYCHA residents.

To break the 25 year record of recycling failures at NYCHA and to advance a genuinely progressive recycling program for NYCHA residents -- one that both satisfies the statutory requirements and inspires NYCHA residents to participate enthusiastically in such a program -- we and our clients would be willing to meet with you or your representatives in the weeks ahead.

We hope that NYCHA will take advantage of this opportunity to bring itself into full compliance with the city’s recycling law, to implement new recycling strategies that involve and

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engage NYCHA residents in the program, and to ensure that NYCHA tenants finally receive the same access to recycling services that all residents of this city are entitled to enjoy.

Sincerely,



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