

SQUATTING IN NEW YORK CITY: JUSTIFICATION
AND STRATEGY

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Introduction 605
I. Roots of the Low-Income Housing Crisis in New York City 606
II. Squatting in East New York 611
Conclusion 616

INTRODUCTION

As New York City's low-income housing crisis deepens, the unauthorized, illegal occupation of a residence — squatting — becomes an increasingly popular strategy in the city's residential neighborhoods, partly because in New York and in other American cities, market processes and public policies have created a large pool of both underhoused people and abandoned, underutilized housing. The result is a serious, visible problem co-existing with an obvious, visible solution. Since adequate shelter is a matter of survival, those without it are likely to utilize empty buildings even if they do not own those buildings or have the legal right to tenancy.

Despite its advantages, squatting can be controversial even among community organizers. The following are just some of the objections to squatting: 1) it violates property rights; 2) it subjects the participants to the risk of arrest; 3) it involves significant labor and expense to rehabilitate the housing, which invariably is in poor physical condition; 4) squatters gain shelter for themselves at the expense of the hundreds of thousands on waiting lists for public housing; and 5) squatting is likely to antagonize neighborhood residents who object to the presence of squatters.

The first four objections cannot be easily dismissed. But the low-income housing crisis in the City is so severe that even strategies as controversial as squatting must be seriously considered if they can add a significant number of low-income units to the City's housing stock. The last objection is also a legitimate criticism of the increasingly common, informal squatting efforts made in New York City. Informal squatters often use ingenious means to enter boarded-up buildings, to pirate electricity, to find food and water, and to generate heat. Such efforts often take place without the support of neighbors, and they do not add permanent, safe units to the City's housing stock. The squatters generally lack the financial and political resources to transform their run-

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down housing into permanently liveable homes, to avoid eviction, and to obtain the deeds to abandoned buildings.

But the objections which can be made about informal squatting efforts cannot be as easily applied to better-organized campaigns. The latter often lead to homesteading efforts which add to the City's permanent low-income housing stock. Homesteading differs from squatting because it is legal and, as a result, more easily gains financial support from the City or other funding agencies for housing rehabilitation.

This Article describes an organized squatting campaign which the Association of Community Organizations for Reform Now (ACORN) initiated in 1985 in the East New York neighborhood of Brooklyn. This illegal squatting effort eventually led to a legal homesteading program developed by a new organization, the Mutual Housing Association of New York (MHANY). The East New York example indicates that effective squatting efforts require: local community support for the squatters, effective community organizing to persuade municipal governments to support squatting and rehabilitation in lieu of private sector remedies, financing for adequate rehabilitation of new residences, and careful selection of the squatters to ensure their continuing commitment to the housing program.¹ To explain why this and other squatting efforts are both increasingly common and justified, we must first consider what caused a housing crisis so severe that resort to the controversial act of squatting became inevitable.

I.

ROOTS OF THE LOW-INCOME HOUSING CRISIS IN NEW YORK CITY

Tens of thousands of low-income City residents are homeless.² Many can find housing only at rents that place an impossible financial burden on them; others are forced to accept run-down, unsafe apartments. From one perspective, the City does not have enough adequately maintained low-rent apartments.³ From another, it has too many poor people.⁴

In the past, many less-skilled City residents were able to escape, or avoid, poverty by working in the City's highly unionized light-manufacturing sector. Since 1947, however, this sector of the City's economy has steadily declined, due mainly to manufacturers' international search for low-wage labor, so that

1. For a brief history of squatting in the United States and a description of ACORN's squatting campaign in Philadelphia, see Borgos, *Low-Income Homeownership and the ACORN Squatters Campaign*, in CRITICAL PERSPECTIVES ON HOUSING 428-46 (1987).

2. Cuomo, *The State Role: New York State's Approach to Homelessness*, in THE HOMELESS IN CONTEMPORARY SOCIETY 199-215 (1987).

3. For example, the net rental vacancy rate for an apartment renting at \$300 per month or less was less than one percent in 1987. M. STEGMAN, HOUSING AND VACANCY REPORT: NEW YORK CITY 1987 47 (1988).

4. No housing crisis exists for those who can pay high rents. The vacancy rate for apartments renting for \$750 per month or more was approximately six percent in 1987. *Id.*

today the number of manufacturing jobs in New York City is less than half of its level in 1947.⁵

New jobs have been created, but largely in the service sector.⁶ The higher-skill, white-collar jobs — in finance, insurance, real estate, and business services — are held largely by commuters⁷ because most City residents lack the college or advanced degrees needed to work in these jobs. The lower-skill jobs — such as hospital orderlies, typists and word-processors, retail check-out clerks, waiters and waitresses, messengers, and chambermaids — are not unionized positions and pay below poverty level wages even for full-time, year-round work.⁸ The average pay for jobs in the low-wage, service sectors is forty percent lower than the typical wage level of the manufacturing jobs these service positions replaced.⁹

Job problems create poverty problems. From 1979 to 1984, the poor population of New York City increased by 300,000, the poverty rate rising from twenty to twenty-four percent;¹⁰ blacks, Hispanics, and women were hurt the most.¹¹ Employment was no guarantee of escaping poverty. Because of the inadequate nature of many jobs, fifty thousand of New York City's families were in poverty in 1984 despite having a main wage-earner who worked full-time, year-round.¹²

Changes in the pattern of investment in housing markets have also contributed to the housing crisis. In the Bronx, Brooklyn, Queens, and Staten Island (the outer boroughs, often populated by low-income minority families), financial institutions often "redline," which means that banks as well as mortgage and insurance companies make conscious decisions to stop granting mortgages, homeowners' insurance, and home improvement loans within certain bounded areas. Redlining results from the perceived business risk of investing in a neighborhood that is becoming increasingly poor.¹³

In addition to concerns of profitability, a recent study by the Center for Law and Social Justice at Medgar Evers College demonstrates that investment decisions in New York City also reflect a discriminatory concern with race

5. In 1947, there were over one million manufacturing jobs in the City. W. TABB, *THE LONG DEFAULT: NEW YORK CITY AND THE URBAN FISCAL CRISIS* 75 (1982). By the mid-1980s, there were 400,000. Tyler, *A Tale of Three Cities: Upper Economy, Lower—and Under*, 34 *DISSENT* 463 (Fall 1987).

6. Jobs in the service sector increased from 2.5 million in 1976 to three million in 1986. Tyler, *supra* note 5, at 465.

7. W. TABB, *supra* note 5, at 77.

8. *Id.* at 79.

9. As of 1984, the service jobs pay an average of \$250 per week while the manufacturing jobs pay an average of \$431 a week. Tyler, *supra* note 5, at 464, 466.

10. T. ROSENBERG, *POVERTY IN NEW YORK CITY: 1980-1985* 3 (1987).

11. The poverty rate in the City was thirty-two percent for blacks in 1984, forty-three percent for Hispanics (forty-eight percent for Puerto Ricans), thirty-eight percent for children, and sixty-five percent for female-headed households. *Id.* at 5, 13.

12. *Id.* at xii.

13. Meyerson, *Housing Abandonment: The Role of Institutional Mortgage Lenders*, in *CRITICAL PERSPECTIVES ON HOUSING* 184-201 (1987).

and ethnicity.¹⁴ According to the study, financial institutions have been less likely to make investment capital available to neighborhoods which are disproportionately black and Hispanic, regardless of family incomes, housing, age, or credit worthiness of the residents in those neighborhoods.¹⁵

For whatever reason, once lending institutions and landlords decide not to invest in a given neighborhood, a likely result is extensive "housing abandonment," whereby owners stop paying maintenance expenditures, mortgage payments, and eventually property taxes on a building. As one building is abandoned, other landlords decide their investment is worth less, and abandonment spreads. This process has affected dozens of square miles in the South Bronx, Harlem, East Harlem, Bedford-Stuyvesant, and East New York, and has resulted in the loss of tens of thousands of housing units and the displacement of an even greater number of low-income New Yorkers.¹⁶

While housing abandonment has been occurring in the outer boroughs, a ring of high-income housing has been developed around the Manhattan business district. Some may see such "gentrification" as a solution to housing problems in the City because it rehabilitates deteriorating housing stock. It certainly does create profits for developers and housing for a very small number of wealthy households. But, like the abandonment process, it also displaces the poor and removes units from the low-income housing stock.¹⁷

Gentrification, housing abandonment, and shifts in the job mix thus threaten low-income residents of the city with a variety of serious housing problems. Estimates of the homeless population in the City range from fifty to seventy-five thousand.¹⁸ Tens of thousands more are in "housing vulnerable" situations, doubled or tripled up in apartments with relatives or friends.¹⁹ These situations often lead to homelessness when the host family tires of the overcrowded conditions.

Rising rents have made it difficult for the poor and moderate-income resi-

14. P. WILLIAMS, W. BROWN & E. SIMMONS, *RACE AND MORTGAGE LENDING IN NEW YORK CITY: A STUDY ON REDLINING* 36 (1988).

15. *Id.*

16. See Marcuse, *Abandonment, Gentrification, and Displacement: The Linkages in New York City*, in *GENTRIFICATION OF THE CITY* 159-63 (1986). Marcuse estimates direct abandonment results in the displacement of 30,000 units and 75,000 people annually. Adding indirect abandonment (where people leave their homes because of the abandonment of buildings on their block or in their neighborhood) doubles the total to 60,000 units and 150,000 people annually.

17. For a general discussion of the gentrification phenomenon, see N. SMITH & P. WILLIAMS, *GENTRIFICATION OF THE CITY* (1986). Gentrification clearly helps mainly wealthy City residents. Unsubsidized, new housing is not affordable even when it is built in the less expensive outer boroughs. A recent survey found a typical sales price of \$140,000 for a new one-bedroom unit and \$239,000 for a new three-bedroom unit outside Manhattan. Stegman, *Housing*, in *SETTING MUNICIPAL PRIORITIES*, 1988 201-02 (1988).

18. M. HOPE & J. YOUNG, *THE FACES OF HOMELESSNESS* 20 (1986).

19. The Manhattan Borough President's office has estimated that from 69,000 to 100,000 families were doubled up in New York City in 1985-1986. See *TASK FORCE OF THE MANHATTAN BOROUGH PRESIDENT ON HOUSING FOR HOMELESS FAMILIES, A SHELTER IS NOT A HOME* 48 (1987).

dents of the City to afford housing. The gross rent-to-income ratio for households in New York City has risen nearly ten percent since 1970.²⁰ Nearly one-third of the City's tenants paid at least forty percent of their gross income on rent in 1987, and almost one-quarter were paying fifty percent or more.²¹ Poorer families are much more likely to be in these categories which allocate a very large amount of their income to rent.²² They thus may not have enough money left over for other necessities like food, medical care, and clothing. Poor families also are more likely to face a series of problems in their homes such as multiple maintenance deficiencies; lack of sufficient heat or hot water; rodent and insect infestation; cracks or holes in the ceiling, walls and floors; broken plaster and peeling paint; and overcrowding.²³

As a result of the trends in job and housing markets, New York City is in desperate need of a large number of decent, low-income housing units. Michael Stegman, the author of the last two major reports on housing in New York City, estimates that the City needs to build over one-half million housing units in the next decade to meet the current and predicted housing demand.²⁴ Given the minimal number of housing units currently being added to the stock by private builders, the needed units will not be built without government intervention.²⁵

Unfortunately, effective public policy solutions to these problems have not yet been implemented. The rhetoric of "austerity" politics has been used to rationalize inaction on the federal, state, and local levels. Under Ronald Reagan, the federal government took itself out of the public housing construction business.²⁶ Local policy-makers in post-fiscal crisis New York City worry about whether welfare payments will prevent recipients from accepting poverty-level jobs or whether newly constructed public housing will attract free-loaders.²⁷ Human Resources Administration Commissioner William Grinker,

20. It has risen from twenty percent in 1970 to twenty-nine percent in 1986. M. STEGMAN, *supra* note 3, at 117.

21. *Id.* at 116.

22. *Id.*

23. *Id.* at 135, 142.

24. Stegman, *supra* note 17, at 204-05. Stegman estimates 62,000 housing units will be needed to replace those already dilapidated, 69,000 for those families doubled up with family and friends, 40,000 units to shelter the City's homeless, and 60,000 units to raise the City's vacancy rate to a more acceptable level of five percent from its current level of two percent. The total of 231,000 units would meet current housing needs in the City; another 322,000 units will be needed to house new families and to replace further inevitable losses from the housing stock by the year 2000.

25. In the private sector, completions of housing units in the City averaged less than nine thousand (mainly upper-income) units annually from 1980 to 1984. *Id.* at 201-02.

26. In the City, federally assisted completions fell forty-four percent from 5230 to 2910 units between 1980 and 1985. *Id.* at 200. Another currently popular notion is to return publicly subsidized units, such as the Mitchell-Lama projects, to the unregulated market. The federal government is attempting to eliminate public housing, not to create it.

27. Statistics show, however, both that the percentage of families on welfare is not keeping pace with those in poverty and that the number of welfare recipients is declining. As the poverty rate in New York City increased from around fifteen percent to twenty-four percent be-

responding to a proposal to reserve public housing for homeless families, commented: "We don't want to create a demand for homelessness. If families knew that becoming homeless would get them a Housing Authority apartment in a month, it would be a real problem."²⁸ Rather than providing permanent housing for the homeless, the City's housing policies subsidize gentrification, permit redlining and abandonment, and provide inadequate shelters, transitional housing, and welfare hotels.²⁹

Given the large number of units needed by the City's low-income and homeless residents, all available housing resources should be utilized to the utmost. The City-owned *in rem*, or tax-foreclosed, buildings are particularly valuable resources because there are many housing units in the *in rem* buildings and because the rehabilitation of old housing stock is generally cheaper than new construction. If the buildings are allowed to stand vacant, however, they will suffer vandalism and physical deterioration from the elements, making them too costly to rehabilitate.

As recently as 1976, the City owned only 2500 buildings.³⁰ But in 1977, the City passed a "fast-foreclosure" law reducing from three years to one year the amount of time required before the City could take over a building's ownership. The legislation's purpose was to discourage tax delinquency and to preserve low-income housing by preventing further physical deterioration of buildings abandoned by their owners.³¹

The City, however, soon had an embarrassment of riches. As private owners continued to renege on their property taxes, the stock of City-owned housing increased. As of 1988, the City owned approximately 9500 buildings, containing one-hundred thousand units of housing.³² About half of the units are occupied; the rest are boarded up, burned out, or condemned.³³ At first, the City simply attempted to dump its *in rem* properties back into the private sector through auctions to the highest bidder. This program, which is still a large part of the City's strategy with regard to these buildings, was a dismal failure. Due to the operation of the same housing market forces which have caused the current crisis, over ninety percent of auctioned buildings were in tax arrears four years after they were sold at auction, and more than half were again repossessed by the City.³⁴ As a result, many useful buildings have al-

tween 1972 and 1982, yet the number of families on the welfare rolls declined by nineteen percent. The AFDC allowance for those still receiving benefits declined by thirty percent during that same period. In 1984, more than 150,000 poor families — over forty percent of the poor families in the City — were not on public assistance. W. TABB, *supra* note 5, at 56-59. See also T. ROSENBERG, *supra* note 10, at 32.

28. *Newsday*, Aug. 8, 1988, at 6, col. 3.

29. W. TABB, *supra* note 5, at 97-102. K. HOPPER & J. HAMBERG, *THE MAKING OF AMERICA'S HOMELESS: FROM SKID ROW TO NEW POOR* 58-59 (1984).

30. R. KOLODNY, *MULTI-FAMILY HOUSING: TREATING THE EXISTING STOCK* 46 (1981).

31. R. LAWSON, *THE TENANT MOVEMENT IN NEW YORK CITY, 1904-1984* 239 (1986).

32. *Newsday*, Mar. 11, 1988, at 9, col. 4.

33. *Id.*

34. W. TABB, *supra* note 5, at 98.

ready faced the bulldozer and wrecking ball.

In response mainly to political pressure from neighborhood groups, the City has begun to develop alternatives to returning the *in rem* stock to private hands. These "alternative management programs" depend on neighborhood organizations and tenant groups to take over management and often ownership of *in rem* buildings. Unfortunately, these programs have been applied to only about ten percent of the City-owned housing stock.³⁵

New York City Mayor Edward Koch responded to the City's housing crisis with a much-heralded \$4.2 billion, ten-year housing plan to run through 1996.³⁶ While the plan finally recognizes the need for City and state intervention in the housing market, it is underfunded.³⁷ Even if the production schedule is met, the plan would create a maximum of 250,000 new units — half of what is needed³⁸ — and only 125,000 of those would be affordable to low-income households.³⁹ Stegman suggests that even under Koch's plan, there will be a shortfall of 372,000 units by the turn of the century. The Department of Housing and Community Renewal and the Pratt Institute have estimated the unmet need at above one-half million units.⁴⁰

II.

SQUATTING IN EAST NEW YORK

Given the trends in the private housing market and the inadequate policy response by City officials, the low-income housing crisis may get much worse in the next decade. Residents of low-income neighborhoods around the city should be aware of a range of strategies which might be used to create additions to their low-income housing stock. One option which has been successfully employed in the East New York neighborhood of Brooklyn is squatting.

East New York has been hurt more than most areas of the City by the economic and political trends of the last ten years. Jobs are scarce, and the people who live there are almost entirely minority and poor.⁴¹ Housing problems are severe.⁴² Recent City housing policy has not helped. Only about one thousand publicly assisted housing units were added to the neighborhood's stock between 1980 and 1983.⁴³ Most of the neighborhood's families

35. *Newsday*, *supra* note 32.

36. Stegman, *supra* note 17, at 207-11.

37. *Id.* at 207-08.

38. *See supra* note 24.

39. *Id.* at 210.

40. *Id.* at 205.

41. The median household income for the neighborhood was \$13,500 in 1987, near the poverty line for a family of four. One-third of the neighborhood's households were in poverty and one-quarter were on public assistance in that same year. M. STEGMAN, *supra* note 3, at 156, 158.

42. More than one-half of the housing stock had serious maintenance deficiencies in 1987, and nearly one-third of the residents reported that they lived near boarded-up buildings. The average household paid one-third of its gross income in rent. *Id.* at 161, 164.

43. Lamiell, *Squatting in New York*, CITY LIMITS, Oct. 1985, at 14.

could not afford these new units, and the construction process contributed to the housing problem by displacing residents and stores.⁴⁴

Like many other poor communities in the City, however, East New York has plenty of potential housing resources in the form of vacant, *in rem* buildings. Until recently, the City's Department of Housing Preservation and Development continued to sponsor auctions of these buildings. This policy turned over most buildings to speculators, who either held the building indefinitely while waiting for its profitable development or again reneged on property taxes. When neighborhood residents did manage to buy a building, they often spent all of their meager resources on its acquisition and thus lacked the financial resources to finance rehabilitation and maintenance costs.

Neighborhood residents and organizers for a Brooklyn branch of ACORN organized in 1982 to confront the area's serious housing problems.⁴⁵ Housing issues were a natural organizing focus because of the obvious, visible nature of both the problem and the solution. Residents of East New York knew the problems: they were themselves homeless or could see the homeless in the streets; they were often doubled up with family or friends in apartments meant for one family; they often spent too much of their income on rent; and they frequently lived in dilapidated units.

The initial organizing effort focused not on homelessness but on abandonment and the fact that abandoned buildings increased the crime rate and reduced property values in ACORN group neighborhoods. These neighborhood groups were later to be vital as political support systems for the squatters. Squatting without such support can involve the undesirable prospect of fighting both the City and one's neighbors. That is not a winning strategy.

At first, the ACORN groups tried to get the City to agree to stop its auctions and to start a homesteading program that would utilize City-owned housing units. The City refused both requests.⁴⁶ A series of protests beginning in October 1982 was successful in stopping housing auctions in East New York. But getting a genuine commitment to the homesteading program was more difficult. After a sit-in in the Brooklyn Borough President's office in the spring of 1983,⁴⁷ the Borough President agreed to support a pilot, low-income homesteading program, and the City's Department of Housing Preservation and Development (HPD) apparently agreed to fund it. By that winter, how-

44. In 1985, these Nehemiah Houses sold for \$41,000 after a subsidy and required a \$5,000 downpayment plus \$3,000 in closing costs. *Id.*

45. ACORN was founded in the early 1970s by organizers connected to the welfare rights movement. The intention was to create a national organization that would empower poor and working-class Americans through the building of autonomous community organizations. The initial Brooklyn organizing effort built twelve ACORN neighborhood organizations through door-to-door organizing and local meetings.

46. The following section on the squatting movement depends heavily on a personal interview conducted by co-author Eric Hirsch with Francine Streich, one of the ACORN staff organizers responsible for the squatting campaign. Where possible, we have also cited relevant news articles to substantiate points made in the discussion of the campaign.

47. Daily News, Jan. 3, 1988, at 3, col. 3.

ever, the program still had not received any funds. After ACORN set up a tent city outside Gracie Mansion, a twenty-eight building housing lottery was held in August 1984, with Mayor Koch making the selections. But another year passed before a single deed was transferred to a homeowner.⁴⁸

By 1985, after three years of frustration, ACORN community groups began to discuss the possibility of squatting in City-owned buildings. There were months of discussions. Staff organizers report that the primary obstacle to gaining a commitment to such a campaign by ACORN's group members was the possibility of the arrest of squatters. Once the strategy was finally approved, the group still had to recruit squatters since most of the ACORN neighborhood group members already had homes or apartments in the neighborhood.

ACORN tried a number of recruitment strategies. A flyer with ACORN's phone number was distributed. It read simply, "NEED A HOME? DO YOU WANT TO FIGHT THE CITY FOR A HOUSING PROGRAM? CALL ACORN!" and was distributed in the Brooklyn neighborhoods of East New York, Bushwick, Brownsville, Bedford-Stuyvesant, and Crown Heights. Local churches, politicians, social service offices, and Legal Aid and Legal Services offices that deal with housing cases in Brooklyn were all invited to refer potential squatters. Community meetings were held and newspaper advertisements were placed to inform community residents of the squatting effort.

This effort resulted in the recruitment of dozens of families with serious housing needs⁴⁹ such as being doubled up with friends or relatives after a recent eviction. Many were Hispanic families who had previously found it difficult to find adequate housing for their large extended families.

Unlike many other housing development plans, this program used only vacant buildings. It did not add to the housing crisis by displacing low-income tenants or homeowners. The squatters themselves often selected the empty buildings used in the campaign. Only City-owned buildings were chosen. Fighting private owners for buildings would have been more difficult to justify to potential squatters and supporters and would have been less likely to succeed. Unlike private owners, the City government is vulnerable to political pressure and was viewed as having a responsibility to house City residents with serious housing needs.⁵⁰

Within several months, ACORN groups had taken possession of twenty-

48. *Newsday*, Aug. 1, 1985, at 11, col. 3.

49. In part due to confidentiality of the applications, no detailed statistics are available on these families. The following generalizations result from informal interviews conducted by co-author Eric Hirsch with the squatters and ACORN staff organizers and from his attendance at homesteader meetings.

50. In light of the City's vulnerability to political pressure, ACORN had required squatters to get the support of their neighbors before they moved in. Each family had to circulate a petition which stated support for the presence of squatters on the block.

five vacant, City-owned buildings.⁵¹ Undoubtedly concerned about the precedent which would be set if a massive, well-publicized squatting effort were allowed to continue unimpeded, the City arrested eighteen squatters and their supporters.⁵² City attorneys then obtained a temporary restraining order from a State Supreme Court judge calling on ACORN to cease and desist in its squatting efforts or face \$5000 in punitive damages.⁵³ In a subsequent effort to stall the squatting program, the City bulldozed a building at 412 Vermont Street which a squatter had worked on for months.⁵⁴

Many community residents, the media, and politicians reacted negatively to the City administration's repressive response to the squatting effort. Here especially, the well-organized ACORN neighborhood groups were an invaluable source of political support. Their outspoken lobbying efforts and the large numbers they turned out for rallies lent invaluable credibility to the squatting effort. The *New York Times* editorialized, "Give Squatters a Chance."⁵⁵ A State Senator, Thomas Bartosiewicz, was arrested as he wielded a sledgehammer to open a building.⁵⁶ Congressmen Ed Towns and Major Owens announced that they were willing to be arrested with ACORN members, and Brooklyn State Assemblyman Al Vann and mayoral candidate Carol Bellamy expressed support for the housing activists.⁵⁷ Brooklyn District Attorney Elizabeth Holtzman dropped criminal charges against the ACORN squatters before the case even came to trial.⁵⁸

ACORN's successful organizing forced HPD into meaningful negotiations. Perhaps to avoid legitimizing illegal squatting throughout the City, top HPD administrators refused to negotiate directly with ACORN. Instead, the squatters and ACORN activists, in collaboration with the Consumer-Farmer Foundation⁵⁹ and the Pratt Institute Center for Community and Environmental Development, created the Mutual Housing Association of New York (MHANY). From this point on, HPD negotiated with this homesteading organization rather than with the squatters or with ACORN. The main advantage of homesteading as opposed to squatting is that homesteading is legal. The program's legal status facilitates fund-raising for the extensive rehabilitation of housing units. Such rehabilitation is crucial. Without it, squatted units remain as only temporary, and often unsafe, housing resources.

The negotiations between the City and MHANY resulted in a settlement in the fall of 1987 when the City agreed to turn over the deeds to fifty-eight buildings with 180 units of housing, to commit nearly \$3 million to rehabili-

51. N.Y. Times, Aug. 2, 1985, at B1, col. 1.

52. Lamiell, *supra* note 43, at 12.

53. N.Y. Times, Aug. 10, 1985, at A28, col. 2; Lamiell, *supra* note 43, at 12.

54. Daily News, Jan. 3, 1988, at 1, col. 1.

55. N.Y. Times, Aug. 11, 1985, at A22, col. 1.

56. Newsday, Aug. 4, 1985, at 2, col. 2.

57. Lamiell, *supra* note 43, at 14; N.Y. Times, *supra* note 52.

58. Daily News, Jan. 3, 1988, at 3, col. 4.

59. The Consumer-Farmer Foundation is an organization which provides short-term financial help to cooperatives.

tate the buildings (since increased to \$5 million), and to cooperate closely with the former squatters in the creation of dozens of new units of housing for the low-income residents of East New York.⁶⁰

MHANY rigorously screened potential recruits for the homesteading program. The procedure identified those recruits with the greatest need for housing. Each potential family had to show that its total income was less than eighty percent of the standard metropolitan statistical area median. The seriousness of a family's housing problems — such as overcrowding, high rent-to-income ratios, recent eviction or displacement — was also considered in the process. No one who owned property in the New York City area or had lost property because of nonpayment of property taxes was allowed into the program. An attempt was also made to match building or unit size with the housing needs of the squatting family.

A program which recruited solely on the basis of housing needs, however, could fail because of the inability of some homesteaders to accomplish the daunting physical and financial task of rehabilitating run-down buildings. To demonstrate their commitment, each family had to put in a minimum of fifty hours of supervised sweat-equity work on their building before they would be considered for the program. Each family, moreover, not only had to submit a statement of understanding detailing their interest and goals in joining the homesteading effort, but was also expected to attend meetings and to complete three workshops on how the program would operate. All families had to prove their financial capability to undertake the rehabilitation and future maintenance of their building.

To ensure that the rehabilitated units remained in the low-income housing stock for the foreseeable future, MHANY places limits on the resale value of the rehabilitated homesteading units.⁶¹ MHANY splits the deed to each mortgage, separating the land from the building. The building deed goes to the homesteader or to a housing cooperative while the land is placed in a ninety-nine year trust. The land trust deed takes these units out of the private housing market by stipulating restrictions on the resale of the property. Homesteaders can remain in their unit as long as they wish and can pass their unit on to members of their immediate family. But if a family decides to move, MHANY can buy the unit for resale to another low-income family on its waiting list, or it can restrict the sale price of the building to what the previous owner paid. In this manner, the land trust allows the community to slow gentrification, to put rental units under internally mandated rent control, to provide a vehicle for the program's enforcement, and to conserve capital for future maintenance needs.

60. Daily News, Oct. 2, 1987, at B1, col. 1.

61. N.Y. Times, Oct. 12, 1987, at A1, col. 5. For a more general discussion of the mutual housing association model, see NEIGHBORHOOD REINVESTMENT CORPORATION, *THE MUTUAL HOUSING ASSOCIATION: AN AMERICAN DEMONSTRATION OF A PROVEN EUROPEAN CONCEPT* (1985).

MHANY also is designed to solve one of the most difficult problems with sweat-equity models of development — the lack of financial resources for rehabilitation and for continued maintenance of the housing units. It has received low-interest loans from area banks and has convinced the City to sell its buildings to the homesteaders for one dollar per building and to make a forgivable loan of \$2.7 million for the rehabilitation of the homes. The City has also agreed to a twenty-year tax abatement program and has set aside \$2 million in rehabilitation money from the Federal Department of Housing and Urban Development for the homesteading effort. The Consumer-Farmer Foundation has helped with financing administrative and planning costs. The Pratt Center — under a technical services contract with the City — has developed plans for the rehabilitation of the housing units under the provisions of the City's building code. The City has accepted a two-year schedule for installation of major systems in the buildings and has allowed five years to obtain certificates of occupancy.

MHANY has thus created a social contract between itself, homesteaders, and the City.⁶² Homesteaders provide physical labor for rehabilitation, get cheap housing, and agree not to profit from the resale of their building. The city provides the *in rem* units and funds for their rehabilitation and gets a large stock of low-income housing. MHANY provides for administrative coordination of the effort and raises additional rehabilitation funds. The model represents one of the most effective solutions to the low income housing crisis devised to date.

CONCLUSION

The extent of the low-income housing crisis indicates that the current system of delivering housing resources does not adequately meet the needs of many New York City residents. Putting the provision of housing primarily in the private sector has meant that many lower-income residents of New York City will not be provided with housing. Uneven economic development, and austerity policies that reinforce such development, have created widespread poverty, homelessness, doubling up, overcrowding, high rent-to-income ratios, poor housing quality, and a large stock of abandoned, City-owned buildings. Both the most severe housing problems and the bulk of the publicly owned buildings are located in the City's poorest neighborhoods.

Under such crisis conditions, a variety of strategies — including illegal ones — must be utilized to add units to the City's low-income housing stock. ACORN activists originally attempted to gain support for their homesteading program through legal means. It was only the endless foot-dragging by a City administration committed to ineffective private sector policies that necessitated the illegal squatting approach. The severity of the housing crisis meant

62. We are grateful to Ron Shiffman of the Pratt Center for making this point about the social contract involved in the homesteading program.

that residents had to use extraordinary means to force the City to respond to the urgent needs of East New York residents.

The squatting effort and the homesteading program which followed is accomplishing much. One hundred and eighty units of permanent, rehabilitated, low-income housing are being created because ACORN and their supporters decided to squat in those East New York buildings. The organizing model used by the group ensured that the squatters' neighbors would support the effort and that the squatters would have the resources and ability to rehabilitate their buildings successfully. Criteria established by a community-controlled board guarantee that only those with serious housing needs and the ability to carry out a successful homesteading effort will be approved as homesteaders. Recruiting potential homesteaders from the City's waiting lists for public and City-owned housing would not accomplish this goal.

ACORN has demonstrated how effective community organizing can pressure the City to release its low-income housing stock to poor City residents. MHANY has shown one way to maintain affordable housing for low-income families. Of course, this model would have to be implemented on a much larger scale to make a dent in the serious, Citywide, low-income housing crisis. What is needed is an organized squatting movement by the City's poor and underhoused to convince the City to provide for their housing needs and a housing development model that creates and preserves more low-income units than it destroys. That, along with effective anti-poverty policies and other housing development models — including public housing construction — is required if the City is to meet the housing needs of its poor residents.

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