



State of New York

Executive Chamber

No. 180

EXECUTIVE ORDER

DECLARING A PUBLIC HOUSING DISASTER IN THE COUNTIES OF BRONX, KINGS, NEW YORK, QUEENS, AND RICHMOND

WHEREAS, the New York City Housing Authority (NYCHA) is the largest public housing authority in the United States, managing 326 public housing developments across New York City's five boroughs and housing over 400,000 residents;

WHEREAS, tenants, local and state legislators, and health and safety experts, have raised grave concerns regarding the conditions in NYCHA-managed residential properties, resulting from NYCHA's chronic, widespread failure to adequately inspect and maintain residential units;

WHEREAS, as a result of such conditions, tenants have been exposed to a variety of environmental and safety hazards, including, but not limited to, lead-based paint, mold, and a persistent lack of heat and hot water during winter months;

WHEREAS, previous government investigations and judicial determinations have detailed a pattern of neglect and mismanagement of NYCHA-managed residential properties, including failures to inspect for lead-based paint, adequately remediate mold, and maintain and repair boilers to provide reliable and consistent heat and hot water, that affect nearly all residential properties managed by NYCHA;

WHEREAS, pursuant to Public Health Law Section 1301, I directed the Commissioner of Health to make examinations concerning nuisances or questions affecting the security of life and health in NYCHA-managed residential properties as they relate to indicators of habitability, including but not limited to lead-based paint, mold, heat and hot water, and to report on the findings of those examinations;

WHEREAS, the Commissioner of Health has informed me that the environmental health conditions in NYCHA apartments observed during his examinations constitute a nuisance or condition affecting the security of life and health of residents, and that based on other government investigations of NYCHA-managed housing, documents disclosed in New York City Council committee hearings and private litigation, and reports by elected officials, non-governmental organizations and the press, it is apparent that the conditions in NYCHA apartments observed during his examination may be consistent with conditions in many other NYCHA-managed properties; and

WHEREAS, the NYCHA tenants have been forced to take legal action to enforce their rights and to protect their families, and, as a result, have filed litigation against NYCHA and the City of New York for completely disregarding their legal rights as rent paying tenants, and, their health being in peril, have requested that the State act to protect and safeguard their families and afford the tenants the opportunity to participate in the management of their housing.

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, do hereby declare, pursuant to the authority vested in me by the Public Health Law Section 1301, that conditions of habitability at NYCHA-managed residential properties constitute a public nuisance affecting the security of life and health in the city of New York and, further, find that a disaster is imminent for which the affected local government is unable to respond adequately. Therefore, as a result of the foregoing, and pursuant to the authority vested in me by the Constitution of the State of New York and Executive Law Section 28, I hereby declare a State Disaster Emergency for NYCHA complexes effective April 2nd, 2018 within the territorial boundaries of the counties Bronx, Kings, New York, Queens, and Richmond and order the nuisance conditions located therein to be abated and removed in accordance with this Order.

FURTHER, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law, and after having considered all of the relevant facts and circumstances, do hereby temporarily suspend or modify, as the case may be, the following laws, or parts thereof, as compliance with such provisions would prevent, hinder, or delay action necessary to cope with the State disaster emergency:

Section 112 of the State Finance Law, to the extent consistent with Article V, Section 1 of the State Constitution, and to the extent necessary to provide for additional work, sites, and time to State contracts or award to emergency contracts;

Section 163 of the State Finance Law and Article 4-C of the Economic Development Law, to the extent necessary to allow the purchase of necessary commodities, services, technology, and materials without following the standard notice and procurement processes.

Section 151 of the State Public Housing Law, to the extent necessary to effectuate the purpose of this Order, and allow for the expedited demolition, excavation, construction, alteration, or renovation of NYCHA-managed residential properties or for the purchase of materials or supplies related thereto without following the standard notice and procurement processes.

IN ADDITION, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by Section 402-d of the Public Housing Law, do hereby direct there to be established within the NYCHA an Independent Emergency Manager in accordance with the terms and conditions set forth below:

Section 1. Purpose. Chronic mismanagement at NYCHA has resulted in conditions across its residential properties that pose a significant and persistent risk of harm and constitute a public nuisance to New York residents for which the local government has been unable or unwilling to respond adequately. Accordingly, the provisions herein provide for the development of an emergency plan for the effective deployment of up to \$550 million in emergency state resources, and, additionally any unspent and not contractually obligated state appropriated funds for the repair, including construction and reconstruction as required, of NYCHA-managed resident properties and any unspent New York City funds or funds to be provided by New York City, which shall be used exclusively for the immediate remediation of the nuisance conditions to the maximum extent possible and the assessment of long-term solutions to provide for the proper governance and management of public housing in the City of New York.

Section 2. Selection of an Independent Emergency Manager. Within 60 days of the effective date of this Order, the Mayor of the City of New York ("Mayor"), the Speaker of the New York City Council ("City Council"), on behalf of the Council, and the president of the NYCHA Citywide Council of Presidents ("CCOP") or designee, collectively the "Selection Authorities," shall unanimously select an Independent Emergency Manager ("Manager"). The Manager shall have prior experience in the management of real estate developments, construction and affordable housing. In the event the parties fail to make such selection within 60 days, the Comptroller of the City of New York ("City Comptroller") shall, within 14 days therefrom, consult with the Mayor, City Council, and the President of the CCOP to make the selection.

Section 3. Administration. The Manager shall be a wholly independent entity situated within NYCHA and shall be afforded the personnel and resources necessary to effectuate the purpose of this Order. The Manager shall work in cooperation with the Mayor, the City Council and the NYCHA CCOP to assess the nuisance condition across the relevant properties, prioritize the work necessary to abate and remediate such conditions, and design an implementation plan accordingly. The Manager shall submit a budget and resource request based on anticipated costs to the Mayor, the City Comptroller and the City Council for review prior to start of the abatement and removal of the nuisance conditions. Pursuant to Public Health Law Section 1301, those costs incurred by the Manager which are necessary for the abatement and removal of those conditions that constitute a public nuisance shall be paid by the City of New York pursuant to law.

Section 4. Authority. Notwithstanding any provisions to the contrary contained in any general, special, or local law, the Manager is hereby authorized to exercise all of the power provided to NYCHA under the Public Housing Law to the extent necessary to effectuate the purpose of this Order and further the manager is not bound by rules of procurement and contracting applicable to NYCHA and is granted design/build authority.

Section 5. Duties. The Manager, in collaboration with State and local agencies and authorities as may be appropriate, shall develop a comprehensive emergency remediation plan, in accordance with Section 1 of this Order, based on an assessment of the nuisance conditions, the availability of additional resources beyond the State and City appropriation described herein, and other factors necessary for the proper and efficient deployment of resources. The manager may request additional City funds if needed. Thereafter, within 30 days and upon consultation with the City Comptroller, the Manager shall select an independent contractor through an open and public bidding process which shall detail the scope of work and with the selection based upon the contractor's experience and the estimated time and cost of repairs. The Manager may consult NYCHA in the development of the procurement, but NYCHA shall have no role in the selection. The contractor, to the extent possible, shall comply with minority and women business enterprise ("MWBE") requirements under Article 15-A of the state Executive Law and existing project labor agreements and include employment opportunities for NYCHA tenants consistent with Section 3 of the Housing & Urban Development Act of 1968. The Manager shall, in collaboration with State and local agencies and authorities, the NYCHA CCOP, the Mayor, the City Comptroller, and the City Council assess the progress of the plan at regular intervals and provide for the timely and public reporting thereof. Further, the Manager shall examine issues related to the governance, management, and maintenance of NYCHA-managed properties that contribute to the existence of the persistent conditions giving rise to the public nuisance and make recommendations necessary to protect the health and safety of New York residents living in such properties and the proper use of resources in furtherance thereof.

IN ADDITION, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by Section 1301(a) of the Public Health Law, do hereby direct the Commissioner of Health to make continued examinations of environmental health and safety hazards within NYCHA-managed residential properties, as may be necessary to effectuate the purpose of this Order, and report the results of such examinations to me and the Independent Emergency Manager as directed. Pursuant to Public Health Law Section 1301, those costs incurred by the Commissioner of Health which are necessary for the examinations of environmental health and safety hazards within NYCHA-managed residential properties that constitute a public nuisance shall be paid by the City of New York pursuant to law.

FURTHER, I, ANDREW M. CUOMO, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York do hereby order the City of New York, NYCHA and any other relevant agency or employee of the City of New York to cooperate fully with the Selection Authorities and Independent Emergency Manager as described in this Order, including but not limited to the execution of contracts and other instruments necessary to effectuate the purpose of this Order and the Commissioner of Health in his continued examination of environmental health and safety hazards within NYCHA-managed residential properties, including but not limited to permitting and facilitating the Commissioner or his representatives' examination and inspection of all NYCHA-managed property and any records pertaining thereto.



G I V E N under my hand and the Privy Seal of the
State in the City of Albany this second
day of April in the year two thousand
eighteen.

BY THE GOVERNOR

A handwritten signature in black ink, appearing to be "Mr. C" followed by a long, sweeping horizontal line.

Secretary to the Governor

A handwritten signature in black ink, appearing to be "Andrew M. Cuomo" in a cursive style.