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# **Banking on Disrepair**

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Hazardous Conditions in Buildings  
Mortgaged by New York Community  
Bank

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**Housing Here and Now**

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## Housing Here and Now

In February 2005, a broad-based coalition of unions, clergy, community-based organizations and advocates launched Housing Here and Now (<http://www.housinghereandnow.org/>), a citywide effort to demand that policymakers take action to create and preserve decent affordable housing for all poor, working and middle-class New Yorkers.

At a 7,000 person City Hall rally, Housing Here and Now put forward the following five-point affordable housing platform:

- Keep the Promise — use Battery Park City money to build and preserve affordable housing.
- Guarantee housing for low- and moderate-income people in neighborhoods being rezoned.
- Win back New York City's right to determine our own rent laws.
- Provide permanent housing for homeless people, including those living with HIV and AIDS.
- Support legislation to strengthen tenants' right to a healthy home through better inspections and tougher penalties.

Housing Here and Now counts a mayoral commitment to make good on the Battery Park City promise, several inclusionary zoning victories and passage of three laws to increase placement in permanent housing for people living with HIV/AIDS among its accomplishments. Grassroots organizing and the strength and breadth of its member groups have been integral to Housing Here and Now's success.

On July 27, 2005, Housing Here and Now kicked off the Fix It Now campaign, focusing on three general areas of reform:

- Strengthening NYC's system of Housing Maintenance Code enforcement
- Increasing multi-family lender accountability
- Ending bad landlords' abuse of taxpayer-funded rent subsidies

This requires serious change from all power players involved in constructing, financing, maintaining and regulating multi-family housing: City government, landlords, lenders and the lenders' regulators. This report documents the extent to which one of New York City's biggest multi-family lenders, New York Community Bank and its divisions (NYCB), mortgages distressed buildings owned by known problem landlords without adequate plans for repairs and maintenance.

## Executive Summary

New York Community Bank has established a pattern of lending that worsens the quality of life in the poor communities of color where it operates. This pattern involves financing properties of landlords who intentionally defer maintenance, and most egregiously, the properties of owners who have been singled out by the New York City Department of Housing Preservation and Development (HPD) and public officials for their severely distressed buildings.<sup>1</sup> By financing known negligent landlords without adequate attention to conditions and rehabilitation needs, NYCB's multi-family lending is aggravating bad housing conditions rather than strengthening community development.

Housing Here and Now's key findings include the following:

- NYCB lends to landlords identified by HPD, public officials and community groups for their records of negligence and tenant harassment.
- At least 231 buildings mortgaged by NYCB counted 3.0 or more HPD violations per unit and at least 12 landlords named on HPD's 2003 Major Problem Owner list were NYCB borrowers.
- NYCB engages in questionable banking practices such as maintaining disproportionately few full service branches in low-income minority neighborhoods with high densities of NYCB mortgaged multi-family buildings, and privileging wealthier whiter census tracts in home loans.

Housing Here and Now recommends that:

- NYCB reform its policies and practices to ensure that its mortgaged properties are well maintained and its obligations under the Community Reinvestment Act are fulfilled.
- The Mayor of the City of New York and the Commissioner of the Department of Housing Preservation and Development call on multi-family lenders to ensure the good repair of their mortgaged buildings and adopt responsible multi-family lending practices.
- The New York State Banking Department and Federal Reserve deny NYCB's application to acquire Atlantic Bank of New York until public hearings are held and NYCB's problematic practices satisfactorily resolved.

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<sup>1</sup> See attached: HPD's Major Problem Owner list of 2003, the most recent one available.

## Introduction and Background

NYCB, in its own words, is “the leading producer of multi-family mortgage loans for portfolio in New York City, with rent-controlled and rent-stabilized buildings [NYCB’s] primary lending niche; multi-family loans totaled \$9.8 billion at December 31 2004.”<sup>2</sup> NYCB is now seeking to acquire Atlantic Bank, which would increase its share of the multi-family market to \$12.245 billion.<sup>3</sup> NYCB is obligated to ensure that these mortgaged buildings are well-maintained. The Community Reinvestment Act (CRA), the good repair clauses of its own mortgages, and the principles of sound and fair banking practices require that NYCB maintain its collateral well and hold itself accountable to its investors and the residents of the neighborhoods where it operates.

Enacted by Congress in 1977 in response to redlining and financial discrimination, the CRA is a state and federal law that urges banking institutions to meet the needs and conveniences of the communities in which it does business and to maintain safe and sound banking practices.<sup>4</sup> This includes doing business in a manner that strengthens community infrastructure and makes financial services accessible to traditionally marginalized populations.

The good repair clause, which states simply that the borrower must maintain his or her property in good repair, is a common feature of multi-family mortgages. It is usually enumerated as one of the various requirements the borrower must fulfill to maintain the good status of the loan, along with registration of rents and the monthly debt service. As protection against a borrower’s possible default, lenders usually reserve the right to conduct unannounced inspections, compel the borrower to escrow repair funds, and appoint a receiver if the building reaches an unacceptable level of distress, among other actions meant to protect the property.

Regardless of the wording of a particular mortgage, and even without considering the moral problems of irresponsible mortgage lending, it is common sense for the lender to ensure decent maintenance of mortgaged properties. This collateral is the only insurance against complete loss of the value of the loan if the borrower cannot pay the debt. In NYCB’s case, its hundreds of mortgaged multi-family buildings were the primary collateral backing its \$9.8 billion in loans in December 2004. Therefore, in addition to the negative impact that poor conditions in these properties had on tenants, the disrepair threatened the financial well-being of NYCB’s investors.

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<sup>2</sup> [http://64.26.27.40/interactive/nyb2004/md/page\\_001.php](http://64.26.27.40/interactive/nyb2004/md/page_001.php)

<sup>3</sup> See investor presentation, *New York Community Bancorp Announces a Strategic Acquisition of Atlantic Bank*: <http://ofchq.snl.com/cache/1500006528.pdf>

<sup>4</sup> Banking activities considered positively in a CRA review could include, for example, a large quantity of loans made in traditionally underserved low-income census tracts, free first-time homeowner education classes, or no minimum balance checking accounts. Negative reviews might consider evidence that a bank has steered people of color towards loans with less favorable terms, that it has refused to lend within a particular geographic area or to a particular ethnic or racial group, that it has established branch services located disproportionately in wealthier areas of its operation, or that its business has—actively or by neglect—negatively impacted low-income communities. The CRA requires banks be subjected to periodic compliance review; banks are also reviewed when seeking to expand, as is currently the case with NYCB.

## Report Findings

### A) Lending To Known Problem Landlords

NYCB has lent to many negligent landlords throughout New York City, prolonging and worsening distressed housing conditions in low-income communities of color.

Consider the following NYCB borrowers:

- Albert Sedacca, David Buompane, Edith and Mark Sarfati, Joseph Santangelo and Steve Tobia are thought to be members of the Palazzolo Investment Group, headed by Frank Palazzolo, who was the first landlord to be subpoenaed by HPD under the Housing Maintenance Code. NYC Department of Finance records show that NYCB has mortgaged at least 35 buildings owned and managed by these individuals. The 35 buildings average 5.0 violations per unit total, with an average of 2.7 violations per unit documented in the past 12 months. The abuses of the Palazzolo Investment Group were well-documented by the mainstream media, including the *New York Times*, even before the mortgages on these 35 buildings were reassigned from Washington Mutual to NYCB.<sup>5</sup>
- Moshe Piller was named on HPD's Major Problem Owner list of 2003 (the most recent one available). After Housing Here and Now brought attention to the poor conditions in his buildings, Piller agreed to meet with tenant representatives to discuss repairs in December 2005. However, his buildings are still distressed. For example, 2654 Valentine Avenue and 237 E. 194<sup>th</sup> Street still have 10 and 11.5 violations per unit respectively. The violation count for 2654 Valentine Avenue has worsened since 2003, when HPD listed 189 total violations and 41 immediately hazardous class C violations on its Major Problem Owner list. 2654 Valentine Avenue now has 361 total violations and 94 C violations.

These two buildings, totaling 61 units, were mortgaged together for \$3.5 million on April 22, 2004. Piller's bad track record as a landlord has been noted in the mainstream press for years. The *Daily News* cited one of his buildings, 1504 Sheridan Avenue, as one of the most violation-ridden in the entire city in 2002.<sup>6</sup>

As recently as August 2005, bad conditions in his buildings drew media attention. Reporting on a mayoral candidates housing tour, the *New York Post* noted that "2654 Valentine Avenue... had exposed pipes, peeling paint, broken mail boxes and vermin."<sup>7</sup>

- Aaron Parnes was listed on HPD's Major Problem Owner list as the owner of 515 W. 168<sup>th</sup> Street in Manhattan, an 84 unit building mortgaged by NYCB for \$1,180,142. Today that building counts 112 violations, 22 of them immediately hazardous C violations. Press coverage on Parnes' properties

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<sup>5</sup>David Gonzalez, *The Landlords, or Somebody, Striking Back*; New York Times, March 23, 2004; Sec. B Col. 2 Metro Pg. 1; Leslie Kaufman, *Report Details Flaws in a Housing Program*, New York Times, Dec. 13, 2002, Metro pg. 11; and *Nobody Should Have to Live Like This*; Amsterdam News, Sept. 3, 2003, Vol. 94, No. 5, pg. 3.

<sup>6</sup>William Sherman, *Where Poor Suffer and Slumlords Profit*, Nov. 17, 2002, Daily News, pg. 8.

<sup>7</sup>Carl Campanile, *Baseball Talk Fans Flames of Debate*, New York Post, August 31, 2005, pg. 10.

includes a description of apartments without running water and holes in the floors.<sup>8</sup>

- Richard Esposito, also named on HPD's 2003 Major Problem Owner list, owns at least three buildings mortgaged by NYCB for \$9,729,374.99: 1165 Morris Avenue (11.9 violations per unit); 1704-1710 Morris Avenue (6.4 violations per unit), and 1711 Morris Avenue (8.2 violations per unit).
- Bahram Hakakian, also named on HPD's 2003 Major Problem Owner list, owns at least three buildings mortgaged by NYCB: 60 E. 177<sup>th</sup> Street and 2526 Valentine, with 8.6 and 2.8 violations per unit respectively, mortgaged together for \$3.281 million, and 265 E. 176<sup>th</sup> Street, with 10.1 violations per unit, mortgaged for \$900,000.
- Joel Wiener of Pinnacle Management has been noted by elected officials, community groups and local press for his practices of urging long-term rent-stabilized tenants out by refusing to renew leases and overcharging on rents. NYCB recently mortgaged 40-15 and 40-45 Hampton Street in Queens for \$7.65 and \$7.55 million, which exceeds those buildings' sale prices.<sup>9</sup>

Other problem landlords identified by HPD in 2003 with NYCB-mortgaged buildings include: Labe Twerski, Ved Parkash, Michael Puderbeutel, Arthur Green, Jake Selechnik, Joel Rabine, Nick Haros and Sam Kairy.

NYCB has been made aware of problem landlord-borrowers on several occasions. Kevin Doyle, the Executive VP of Local 32BJ, SEIU, AFL-CIO submitted comments for NYCB's 3<sup>rd</sup> Quarter 2003 CRA review pointing out that NYCB made a \$62 million loan to Fred Ohebshalom, a landlord notorious for tenant harassment and poor maintenance. Mr. Doyle pointed out that "NYCB has referred to multi-family lending as its 'niche.' Yet this loan [to Fred Ohebshalom] appears to have adversely affected long-time workers and residents in communities served by NYCB." Most recently, the *New York Post* reported a police raid on Fred Ohebshalom's office in response to tenant complaints to Manhattan DA Robert Morgenthau.<sup>10</sup>

The Northwest Bronx Community and Clergy Coalition (NWBCCC) similarly submitted comments in 2003 explaining that many of NYCB's borrowers owned buildings in poor condition with rent rolls artificially inflated by the Department of Homeless Services' (DHS) Scatter-Site Shelter Program rent subsidies. Joseph Friedman and Sol Gross, two of the landlords highlighted in the NWBCCC's comments, retain a combined total of over \$60 million in loans from NYCB, and several of their buildings still have very high violation counts (1805 University Avenue tops the charts at 14.2 violations per unit with 2.8 violations per unit documented within the past year).

In November 2005, Housing Here and Now invited CEO Joseph Ficalora to meet to discuss these concerns. As of the writing of this letter, a bank representative has informed us that NYCB is conducting inspections of some of its mortgaged buildings owned by landlords of particular concern. However, NYCB continues to deny Housing Here and Now's request for a meeting to discuss our concerns and possible solutions in more detail. Because of the severity of this problem, and because these issues have been brought to NYCB's attention in the past, this response is inadequate.

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<sup>8</sup> Adam Lisberg, *City Pays for Slum*, Daily News, Dec. 17, 2004, p. 34 documents hazardous conditions in 100-102 E. 124<sup>th</sup> Street, which was sold by Aaron Parnes to problem landlord Gadi Zamir, another NYCB customer, in 2005.

<sup>9</sup> Heather Haddon *Investor's Tactics Worry Tenants*, Norwood News, Nov. 3-16 2005 Vol. 18 No. 21 and Heather Haddon *Manhattan Tenants Also Report Problems with Pinnacle*, Norwood News, Dec. 1-16 2005, Vol. 18 No. 23.

<sup>10</sup> Brad Hamilton *Cops Barge in on Bad Landlord*, New York Post, 23 Oct. 2005, pg. 24.

## **B) High Violation Counts in NYCB-Mortgaged Properties**

NYCB has lent against many multi-family properties with high HPD violation counts. Using NYC Department of Finance's ACRIS program and HPD's violations database, Housing Here and Now identified over 1000 properties in NYC mortgaged by NYCB and its divisions, and noted violation counts for over 600 multi-family buildings (over 6 units), mostly located in the Bronx, finding that 231 had more than 3.0 violations per unit.

Some of NYCB's mortgages contain repair riders detailing specific repairs that the borrower must complete to maintain the good terms of the loan, suggesting that NYCB staff at least examined the HPD violations or conducted a cursory walk-through of the building. Almost all NYCB mortgage documents that have come to Housing Here and Now's attention—like a vast majority of mortgages originated by institutional lenders in general—stipulate that the borrower must maintain the mortgaged property in “good repair.”

For example, the mortgage for 653 Crotona Park North, which is part of a \$14.715 million spreader, indicates that—among other repairs--the missing coping stones must be replaced. However, the HPD violation count for this building indicates that the status of the B violation first documented in April 2005 for “replacing the broken/defective terracotta copings, roof” was “not complied” as of Dec. 5, 2005—approximately 17 months after the mortgage was signed on August 5, 2004.<sup>11</sup>

That many of the mortgaged buildings with repair riders still have high violation counts over a year after the loans were originated or refinanced suggests either unsuccessful enforcement efforts or a lack of enforcement altogether on the part of NYCB. Further, most of the repairs riders that we have observed focus on exterior and public area conditions, suggesting that thorough apartment inspections were not conducted. This apparent systematic inability or unwillingness to ensure the good repair of its mortgage properties again questions NYCB's commitment to low-income communities and the soundness of its business.

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<sup>11</sup> Documentation of Housing Code violations usually do not occur simultaneously with the occurrence of the bad condition, and because the system is driven by individual complaints, many poor conditions are never documented at all.

Additional examples of NYCB-mortgaged buildings with high violation counts from Brooklyn, Manhattan and the Bronx include the following:

	<b>Landlord</b>	<b>Mortgage Amount &amp; Date</b>	<b>Violations per Unit</b>	<b>Violations per Unit documented in past 12 months</b>
<b>2239-41 Creston Avenue, Bronx</b>	Victor Fein	\$2.6 Million; 3/11/03	11.3	4.8
<b>2509 Hoffman Street, Bronx</b>	Nick Haros	\$701,250; 8/9/01	17.3	8.0
<b>2229 Creston Avenue, Bronx</b>	Elan Jaffa	\$470,557; 11/1/02	5.3	2.4
<b>105 Eliot Place, Bronx</b>	Jacob Finkelstein	\$2.3 million; 4/29/04	3.7	2.3
<b>105 Clarke Place East, Bronx</b>	Jacob Finkelstein	\$2.81 million (includes 2385 Creston Avenue); 3/27/03	4.9	1.5
<b>1531 Taylor Avenue, Bronx</b>	Joseph Santangelo	\$11.985 million (includes other buildings); 9/22/04	17.6	7.1
<b>221 Avenue F, Brooklyn</b>	Moshe Goldstein	\$1,015,155.22; 3/11/04	19.3	14.3
<b>126 East 103<sup>rd</sup> St, Manhattan</b>	Steven Kessner	\$6 million (includes 122 and 124 East 103 <sup>rd</sup> St.); 5/24/04	6.6	3.9
<b>65 Wadsworth Terrace, Manhattan</b>	Moshe Piller	\$772,445 (11/22/02)	3.4	1.6
<b>603 W. 140<sup>th</sup> Street, Manhattan</b>	Fred Ohebshalom	\$66.27 million (includes other buildings); 12/17/04	3.4	2.1

### **C) Lending Against Buildings with Rent Rolls Distorted By Subsidies**

NYCB has lent against distressed buildings with rent rolls inflated or destabilized by rent subsidies. Instead of fostering community development and raising quality of life for rent-subsidized tenants, NYCB mortgages in these buildings seem to prolong and worsen poor maintenance.<sup>12</sup>

The Department of Homeless Services' (DHS) Housing Stability Plus (HSP) program is one such subsidy. HSP is ostensibly intended to transition recently homeless tenants into a permanent apartment by (or despite) decreasing the voucher value by 20% annually. This program places difficult demands on the tenant—who must be unemployed and on welfare to receive HSP yet must increase her annual income by 20% in order to maintain her apartment and HSP benefits—and for those same reasons HSP does not logically lend itself towards stable tenancies and rent rolls. DHS, which administers HSP and conducts its own inspections of potential HSP apartments, has been criticized for failure to enforce even its own lax inspection criteria.<sup>13</sup> Unscrupulous landlords who reasonably

<sup>12</sup> Safe and sound practice requires that banks lending against buildings with subsidized apartments—especially when those subsidies are temporary or are inflated above stabilized rent—must underwrite with added conservatism and with an eye towards good repair. Unfortunately NYCB has not always done this. As the NWBCCC pointed out in its letter of 2003, the City's Scatter-Site Shelter subsidies that several major NYCB borrowers received reached up to \$3,000 per unit per month and had the effect of artificially, and temporarily, inflating rent rolls. Seeing profit potential in this loosely regulated program, unscrupulous landlord-borrowers cut back on building maintenance and forced out long term rent stabilized tenants in favor of more financially lucrative Scatter-Site tenants.

<sup>13</sup> *Your Tax Dollars At Work: How NYC Subsidizes Slumlords*, Housing Here and Now, Oct. 2005: <http://housinghereandnow.org/pdfs/YourTaxDollarsFINAL.pdf>

suspect that the HSP client will not be able to continue to pay her rent as the voucher value drops have even less incentive to do repairs. Housing Here and Now counted more than 20 buildings mortgaged by NYCB that have apartments approved for HSP tenants. These buildings average 3.0 violations per unit.

Safe and fair practice requires that banks should lend against buildings with subsidized apartments with added conservatism and with an eye towards good maintenance, especially when those subsidies are temporary or inflated above stabilized rent. This is something that NYCB does not appear to be doing.

#### **D) Overleveraging Properties in Poor Condition**

Housing Here and Now is concerned that in many NYCB borrowers cannot support their mortgage debt without maintenance cutbacks. Hundreds of NYCB-financed buildings are located in very poor neighborhoods where a vast majority of rental units are rent stabilized and suffer from the City's highest levels of housing maintenance deficiencies.<sup>14</sup> Trends of real estate speculation combined with worsening housing maintenance require that responsible multi-family lenders in the Bronx do business conscientiously and with special attention to rehabilitation needs and building conditions.<sup>15</sup>

In Housing Here and Now's experience, responsible multi-family lenders have taken some of the following steps to facilitate repair of their collateral: obtaining a third party engineer's report to assess rehabilitation needs, increasing the frequency of the loan review cycle, conducting more frequent inspections, restructuring the building's debt to ensure funding for repairs, and facilitating meetings between the landlord and tenant association or relevant community group to discuss repair plans and apartment access schedules.

Take as examples two NYCB-mortgaged Bronx buildings, 657 Crotona Park North and 1920 Walton Avenue. Both reflect the poor conditions and violation counts of many of the buildings in our NYCB building database and are owned by problem landlords who have several dozen buildings mortgaged by NYCB.

657 Crotona Park North is a typical NYCB-financed Palazzolo Investment Group building; it is in very poor condition, yet it has a mortgage that appears to exceed a standard 80% loan to sale price ratio. One of the 11 Palazzolo Investment Group buildings on the \$14.715 million NYCB spreader mortgage of August 2004, 657 Crotona Park North was purchased in November 1997 for \$725,000. The building has 4.9 violations per unit. The combination of the building owner's poor track record and the building's distressed conditions raise concerns about the soundness of this mortgage.

1920 Walton Avenue—another NYCB financed building with a history of bad management and poor conditions—is located only 1.4 miles from 657 Crotona Park North. In 2002, the then-landlord of 1920 Walton Avenue pushed out long term residents to make way for Scatter-Site Shelter tenants, to the point where over 15% of the units were occupied by

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<sup>14</sup> Specifically, the sub-borough areas of Highbridge/South Concourse, University Heights/Fordham and Kingsbridge Heights/Mosholu—where many dozens of these buildings are located—had median monthly rents of \$615, \$578 and \$675 respectively in 2002. These same three sub-borough areas experienced the highest percentage of housing units with 5 or more maintenance deficiencies in 2002: 5.4%, 10.4% and 3.4% respectively (the NYC average was 2.8%), according to *State of New York City's Housing and Neighborhoods 2004*, Furman Center for Real Estate and Urban Policy, NYU.

[http://furmancenter.nyu.edu/CREUP\\_Papers/state\\_of\\_the\\_city/SOC\\_intro.html](http://furmancenter.nyu.edu/CREUP_Papers/state_of_the_city/SOC_intro.html)

<sup>15</sup> *A Real Estate Bubble in the Bronx?* University Neighborhood Housing Program (<http://unhp.org/pdf/bubble.pdf>); *Inequitable Enforcement*, Association for Neighborhood and Housing Development <http://housinghereandnow.org/downloads/ANHD%20report%20final.pdf>; *State of New York City's Housing and Neighborhoods 2004*, Furman Center for Real Estate and Urban Policy, NYU [http://furmancenter.nyu.edu/CREUP\\_Papers/state\\_of\\_the\\_city/SOC\\_intro.html](http://furmancenter.nyu.edu/CREUP_Papers/state_of_the_city/SOC_intro.html)

Scatter-Site Shelter residents and several others were vacant in anticipation of more Scatter-Site tenants' arrival. This sort of displacement was common in Mt. Hope, where this DHS program was concentrated.<sup>16</sup> The 1920 Walton Avenue tenant association reported a decrease in the level of building services – including lack of repairs, obvious and persistent drug activity in the public areas, broken mailboxes and broken building door locks. Indeed, on HPD's 2003 Major Problem Owner list, 1920 Walton Avenue was listed with 799 total violations, 235 of them immediately hazardous class C. Because of lack of updated data on the phase-out of this program, the current status of the rent subsidies and formerly stabilized apartments is unclear. NYC Department of Finance records show that 1920 Walton Avenue was purchased, along with 2260 Walton Avenue, on May 1<sup>st</sup> 2003 for \$3.875 million. On May 20<sup>th</sup> 2005 it was mortgaged alone by NYCB for \$5.5 million.

### **E) Lack of Branches in Low-Income Neighborhoods**

Housing Here and Now's research shows that NYCB has mortgaged over 600 Bronx buildings with a total of over 30,000 units in recent years, yet there are only two NYCB branches in the entire borough. While New York City's five boroughs count over 60 branches, fewer than 15 are in Manhattan, the Bronx and Brooklyn combined.<sup>17</sup> In light of this, the planned closing of the 37-85 Nostrand Avenue branch in Brooklyn is particularly worrisome.<sup>18</sup> Additionally, the planned closing of three Long Island NYCB branches — although not located in New York City—could indicate a worrisome trend towards branch closings.<sup>19</sup>

NYCB's branch distribution is as least as dismal as the aggregate distribution of bank branches in NYC neighborhoods where the population is more than 50% Black or Hispanic. The areas of the Bronx and northern Manhattan where many NYCB multi-family buildings are located have one or fewer branches (of any bank) per 10,000 people, whereas most lower and mid-Manhattan neighborhoods count three or more per 10,000 people.<sup>20</sup>

### **F) Home Loan Mortgage Act (HMDA) Data Suggest Discrimination in Home Loans**

A comparison between NYCB's 2004 Home Mortgage Disclosure Act (HMDA) data in the Metropolitan Service Area/Metropolitan Division (MSA/MD) 35644 (encompassing New York, White Plains and Wayne, NY-NJ) and the aggregate HMDA data for the same MSA/MD suggests that NYCB privileges wealthier, whiter census tracts even more than industry average in conventional home purchase loans and refinancings. At the same time, NYCB makes a larger proportion of multi-family loans in low- and moderate- income minority tracts. But because of the negative impact that many of NYCB's borrower-landlords have on these communities, the anticipated community development benefits of these multi-family loans are very doubtful.

Unfortunately this analysis is compromised by the fact that NYCB did not report much of its race, ethnicity, minority status and gender data. For example, these data were not

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<sup>16</sup> *Scattered Dreams*, Urban Justice Center and NWBCCC, <http://www.urbanjustice.org/pdf/publications/ScatteredDreams.pdf>

<sup>17</sup> See [www.mynycb.com](http://www.mynycb.com)

<sup>18</sup> Dec 23, 2005 NYS Banking Department bulletin: <http://www.banking.state.ny.us/wb051223.htm>

<sup>19</sup> The planned closings are at the following locations: Stop & Shop Supermarket, 2350 North Ocean Avenue, Farmingville, Town of Brookhaven, Suffolk County, NY; 481 Hempstead Turnpike, Elmont, Town of Hempstead, Nassau County, NY 11003; Pathmark Supermarket, 941 Carmans Road, Massapequa, Town of Oyster Bay, Nassau County, NY 11758.

<sup>20</sup> <http://www.nedap.org/resources/pdfs/NYC%20BANK%20BRANCHES%202004.pdf>; also see <http://www.amsterdamnews.org/News/Article/Article.asp?NewsID=65095&slD=4> (Talise D. Morer, *Poor Banking Ops for Low-income New Yorkers*; Amsterdam News, 4 Jan. 2006)

available for more than 50% of conventional home purchase loan denials and over 40% of home refinancing denials.

The HMDA data for MSA/MD 35644 show the following:

	<b>% in low-income tracts</b>	<b>% moderate income tracts</b>	<b>% in middle income tracts</b>	<b>% in upper income tracts</b>
<b>NYCB Home Purchase Loans (98 total)</b>	0%	8%	38%	54%
<b>Aggregate Home Purchase Loans (120,236 total)</b>	3%	14%	27%	54%
<b>NYCB Home Refinancing Loans (191 total)</b>	0%	8%	31%	60%
<b>Aggregate Home Refinancing Loans (131,534 total)</b>	3%	15%	29%	53%
<b>NYCB Multi Family Purchase Loans (149 total)</b>	27%	39%	18%	16%
<b>Aggregate Multi Family Purchase Loans (4,841 total)</b>	17%	38%	21%	24%

	<b>80-100% minority</b>	<b>50-79% minority</b>	<b>20-49% minority</b>	<b>10-19% minority</b>	<b>Less than 10% minority</b>
<b>NYCB Home Purchase Loans (98 total)</b>	11%	11%	34%	24%	18%
<b>Aggregate Home Purchase Loans (120,414 total)</b>	24%	16%	31%	21%	9%
<b>NYCB Home Refinancing Loans (191 total)</b>	9%	13%	36%	22%	20%
<b>Aggregate Home Refinancing Loans (131,642 total)</b>	29%	15%	26%	20%	10%
<b>NYCB Multi Family Purchase Loans (149 total)</b>	56%	18%	18%	7%	0%
<b>Aggregate Multi Family Purchase Loans (4,874 total)</b>	46%	18%	23%	10%	2%

## Recommendations

Housing Here and Now recommends that a public hearing be held in the Bronx and that NYCB's proposed acquisition of Atlantic Bank of New York be denied until NYCB ensures good repair of its current and future mortgaged collateral, according to the terms of its own mortgage documents and principles of good banking practice, and until NYCB fulfills the credit needs of the communities in which it operates. These new policies and practices should include but not be limited to:

- Thorough pre-loan inspections of multi-family properties using HPD Division of Anti-Abandonment's conditions survey forms and evaluation criteria
- Pre-loan evaluations of potential multi-family borrowers that include a check of violation counts of potential borrower's other properties, with extra attention paid to violations documented within past 12 months; check of relevant litigation against potential borrower; and consultation with HPD and relevant community groups
- Regular inspections of mortgaged properties already in NYCB's portfolio on a 6-12 month cycle (with exact cycle length depending on financial and structural distress of that particular building and borrower's track record); inspections should be done using HPD Division of Anti-Abandonment's conditions survey forms and evaluation criteria, with a third party engineer's report required if evidence of structural problems is found
- Vigorous enforcement of repair riders and the good repair clause, involving holdbacks, escrow, debt restructuring, and/or appointment of receivers and foreclosure, to ensure that repairs are done in a timely and workmanlike manner
- Commitment to inform relevant community groups of upcoming building inspections in that group's area of operation and to facilitate tenant-landlord meetings for tenant groups and associations that request it
- Establishment of full service branches in low-income areas where NYCB is active in multi-family lending that include multi-lingual staff (in Spanish and other relevant languages), multi-lingual written materials (in Spanish and other relevant languages), low interest loans, first time homebuyer and other types of financial education, no-minimum balance checking accounts, aggressive promotion of low-balance accounts (as mandated by New York's Basic Banking law), weekend and evening hours, and 24-hour ATMs that allow withdrawals in denominations of \$5 and \$10 without fees for frequent withdrawals, and non-surcharging access for transactions involving Quest cards (Electronic Benefits Transfer cards)

Housing Here and Now calls on the Mayor of New York and the Commissioner of HPD to involve NYC's multi-family lenders in redoubled housing preservation efforts; including educating lenders on NYC's housing violation system, establishing and promoting best practices for multi-family lending in low-income communities with large quantities of distressed housing stock, and sharing information on track records of borrower-owners. .

Finally, Housing Here and Now calls on the New York State Banking Department and the Federal Reserve Bank of New York to deny NYCB's application to acquire Atlantic Bank of New York until public hearings are held in the Bronx and NYCB's problematic practices satisfactorily resolved.