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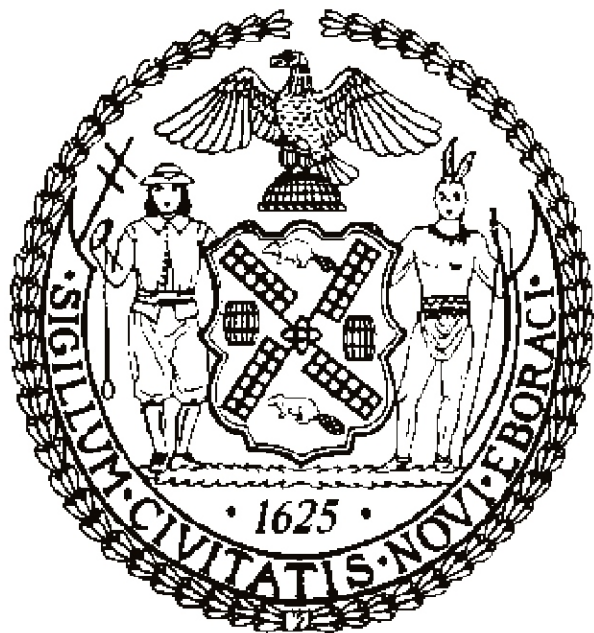
**William C. Thompson, Jr.,  
Comptroller**

# policy report

## Affordable No More: An Update

New York City's Mitchell-Lama  
and Limited Dividend Housing  
Crisis Is Accelerating

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# Affordable No More: An Update New York City's Mitchell-Lama and Limited Dividend Housing Crisis Is Accelerating

## Executive Summary

**T**he City continues to suffer from a significant lack of affordable housing. This problem has intensified as owners of Mitchell-Lama and Limited Dividend housing continue to leave these programs by buying out their subsidized mortgages. For residents of many of these affordable housing developments, a buyout typically leads immediately to large and possibly unaffordable rent increases.

In February 2004, New York City Comptroller William C. Thompson, Jr. issued *Affordable No More: New York City's Looming Crisis in Mitchell-Lama and Limited Dividend Housing*. This report provided the first comprehensive review of the buyout status of Mitchell-Lama and Limited Dividend housing programs in New York City. Since the release of the 2004 report, there has been a further increase in the rate at which the City's affordable housing is being lost. The following report provides an update of this troubling trend and proposes a number of approaches to help stem the loss of this critically important affordable housing stock.

This report documents the following findings:

- **Since 2004, the pace at which developments leave these programs has accelerated dramatically.** Prior to 2004, more than 24,000 units withdrew from the program. Since 2004, more than 25,000 units have either withdrawn or filed a notice to withdraw.
  - **Thirty-two Mitchell-Lama developments, with a total of 12,603 units of affordable housing, constituting 8 percent of all the units built, have left the program since 2004.** The majority of units lost are located in Manhattan (7,860), followed by the Bronx (2,257), Queens (1,517) and Brooklyn (969).
  - **Many more developments are planning to withdraw from the programs.** Twenty-eight Mitchell-Lama developments and one Limited Dividend development, representing 12,952 units, have begun the process to withdraw from the programs.

**If these developments withdraw, New York City will have lost more than 49,000 units -- almost 33 percent of affordable units built under the Mitchell-Lama and Limited Dividend programs.**

**The significant and rapid loss of Mitchell-Lama and Limited Dividend housing has offset some of the City's affordable housing gains.** Although the City's Department of Housing Preservation and Development (HPD) funded the creation of 12,229 units since 2002, the City lost 12,943 units of Mitchell-Lama housing during that same period.

The majority of Mitchell-Lama rental units that have withdrawn from the program are eligible to raise their rents to market rate. For example, of the 12,603 units that left the Mitchell-Lama program since February 2004, 9,187 were first occupied after 1973 and are therefore eligible to raise their rents to market levels.

A recent court ruling permits owners of potentially thousands of pre-1974 Mitchell-Lama units to seek to raise rents to market levels. To date, eight Mitchell-Lama developments with a total of 2,028 apartments have submitted requests to the Division of Housing and Community Renewal (DHCR) for market rate rent adjustments under the "unique and peculiar circumstances" provision of the Emergency Tenant Protection Act of 1974 (ETPA).

## Recommendations

- New York State should establish a program to help refinance mortgages and pay for needed repairs for the remaining units of DHCR-supervised Mitchell-Lama housing that were financed by the New York State Housing Finance Agency, the Urban Development Corporation or the State Loan Fund.
- New York State should immediately enact legislation to place under rent stabilization all post-1974 Mitchell-Lama housing developments that leave their program. Legislation to accomplish this task passed the NYS Assembly in 2005 and 2006, and awaits action by the Senate (A2454 and S2061).
- New York State should immediately enact legislation to stop owners from applying for a rent increase based on "unique and peculiar" circumstances when a Mitchell-Lama project leaves the program (A10596 and S7120).
- Working with financial institutions and the City's public employee pension funds, the City should investigate the feasibility of new partnership loan programs that would provide Mitchell-Lama and Limited Dividend developments (that are not eligible for the Housing Development Corporation Refinancing and Rehabilitation Assistance Loan program) with access to long-term low-interest financing if they continue to remain in their respective programs.

- The City should clarify the new Housing Development Corporation (HDC) Mitchell-Lama Co-Op Conversion Program. For example, many Mitchell-Lama rental developments need extensive repairs in order to overcome years of deferred maintenance, yet it is unclear how capital improvements would be financed.
- The City should develop affordable housing production goals on a targeted neighborhood basis, taking into account those neighborhoods that are most likely to lose Mitchell-Lama and Limited Dividend housing in the coming years.
- The City should work with community organizations and elected officials to develop programs to help Mitchell-Lama and Limited Dividend families, especially those with low and moderate incomes, find replacement housing, in their current neighborhoods or in other sections of the City.

## Introduction

New York City and State have a history of providing developers with financial incentives to encourage affordable housing construction. Two of the most successful programs, the Mitchell-Lama and Limited Dividend programs, facilitated construction of 292 housing developments with more than 150,000 units of affordable housing in New York City.

In return for low-cost financing and property tax exemptions, these programs strictly control rents and cooperative maintenance charges to ensure long-term affordability. Mitchell-Lama and Limited Dividend developments first occupied after April 1961 are allowed to “buy out” of these programs after meeting certain conditions, such as retiring their subsidized mortgages. Buyouts can lead to immediate and sharp increases in rent that are unaffordable to many or most of the development’s residents. Maintenance charges can also increase substantially.

In response to widespread concern over the rapid pace at which Mitchell-Lama and Limited Dividend developments were opting to leave these programs, New York City Comptroller William C. Thompson, Jr. examined this issue and released a report entitled *Affordable No More: New York City’s Looming Crisis in Mitchell-Lama and Limited Dividend Housing* in February 2004. This report provided the first comprehensive review of Mitchell-Lama and Limited Dividend housing program participation status in New York City and included maps showing the location and key characteristics of every development. The report documented the loss of more than 24,000 units of Limited Dividend and Mitchell-Lama housing and identified eleven developments, representing 6,363 units of affordable housing, which had given their formal notice of intent to leave the programs. The report also identified 59 Mitchell-Lama developments with a total of more than 40,000 units that were scheduled to retire their mortgages by 2015, thereby removing a major barrier to leaving the program.

*Affordable No More* communicated the large scale and wide scope of the affordability crisis facing residents of these two housing programs, and became an important tool for elected officials, community organizations and residents in developing public policy responses to the loss of affordable Mitchell-Lama and Limited Dividend housing.

Since then, low-interest rates and a soaring real estate market have continued to entice owners of limited profit housing projects into prepaying their mortgages to seek early departure from these programs. As tens of thousands of middle- and low-income Mitchell-Lama and Limited Dividend housing residents face the prospect of entering a real estate market that has few affordable housing options, it is important that elected officials and community organizations are equipped with the most current information available. Comptroller Thompson therefore has prepared this update to his February 2004 report.



## I. Status of Existing Limited Dividend and Mitchell-Lama Housing Projects

There are currently 113,810 units of Limited Dividend and Mitchell-Lama housing in New York City (see Table 1), a decline of 12,603 units since 2004, and 36,629 since buyouts first began. A total of 24% of the units developed in New York City under the Mitchell-Lama and Limited Dividend programs have been lost. Appendix I lists all Limited Dividend and Mitchell-Lama developments remaining in the program as of May 10, 2006.

**Table 1. Existing Limited Dividend and Mitchell-Lama units by borough and type**

	<i>Rental Units</i>	<i>Co-op Units</i>	<i>Total Units</i>
Bronx	13,767	24,170	37,937
Brooklyn	15,286	16,353	31,639
Manhattan	10,421	15,867	26,288
Queens	3,756	13,202	16,958
Staten Island	988	0	988
<b>NYC Total</b>	<b>44,218</b>	<b>69,592</b>	<b>113,810</b>

Mitchell-Lama developments occupied on or after January 1, 1974 are not subject to rent-stabilization upon leaving the program.<sup>1</sup> Therefore, after the buyout of a rental development is completed and it leaves the program, the owners can immediately charge market rents. Mitchell-Lama rental developments that are eligible to charge market rate rents upon leaving the program have been the most likely to buy out and, consistent with previous patterns, most of the units are located in Manhattan. Of the 16,609 units of Mitchell-Lama housing lost in Manhattan since 2000, 11,387 units were not subject to rent stabilization.<sup>2</sup>

As shown in Table 2, the largest numbers of Remaining Mitchell-Lama housing which were first occupied on or after January 1, 1974 are located in Brooklyn and the Bronx. There would be substantially fewer Mitchell-Lama units today had it not been for a recently created New York City Mitchell-Lama preservation program. In June 2004, the City announced a New York City Housing Development Corporation (HDC) program to help preserve Mitchell-Lama housing supervised by the New York City Department of Housing Preservation and Development (HPD) through mortgage refinancing and loans for rehabilitation work and repairs. Under the refinancing

**Table 2. Existing Mitchell-Lama and Limited Dividend rental units occupied on or after January 1, 1974**

	<i>Rental Units</i>
Bronx	6,083
Brooklyn	12,151
Manhattan	4,968
Queens	2,618
Staten Island	988
<b>NYC Total</b>	<b>26,808</b>

<sup>1</sup> No Limited Dividend developments were occupied on or after January 1, 1974.

<sup>2</sup> Rupert-Yorkville Towers converted from rental into condominium upon leaving the Mitchell-Lama program. West Village Houses has successively converted to a co-op as of February 28, 2006.

component, Mitchell-Lama owners can refinance and extend their HDC mortgages at a lower, subsidized rate, thereby reducing operating costs. Owners are also eligible for grants that are deposited in the development's reserve account. In return, participating developments must remain in the Mitchell-Lama program for at least 15 additional years.

Under the repair and rehabilitation assistance component of the program, developments can receive subsidized loans for needed repair and rehabilitation work. HDC initially made available approximately \$50 million from its reserves for this program, an amount the City expects to be sufficient for 7,500 units. Additional funding has been added. Loans are available in amounts ranging from \$100,000 to \$7.5 million per development. HDC has stated that even lower interest rates may be available for projects that demonstrate financial need.<sup>3</sup> Participating developments are required to remain in the Mitchell-Lama program for at least 15 additional years.

As of November 2005, HDC had completed closings for 13,071 units of Mitchell-Lama housing located in 27 developments. These represented 47% of the 27,681 units in developments that are eligible for this program. The next closing is scheduled for June 2006. Table 3 shows the numbers of units by borough.

**Table 3. Number of units in developments preserved by the HDC Refinance and Repair Loan Program<sup>4</sup>**

	<i>Rental</i>	<i>Co-op</i>	<i>Total</i>
Bronx	2,293	775	3,068
Brooklyn	716	984	1,700
Manhattan	569	7,200	7,769
Queens	0	0	0
Staten Island	534	0	534
<b>NYC Total</b>	<b>4,112</b>	<b>8,959</b>	<b>13,071</b>

However, 28 eligible Mitchell-Lama developments, accounting for 27% of units eligible for the HDC program, have left or given their notice of intent to leave the program and are therefore unlikely to participate.

New York State has provided new financing for 27,075 DHCR-supervised units. However, unlike the HDC program, the State has not established a policy requiring developments to remain in the program for a period of time.<sup>5</sup> Separately, Co-op City in the Bronx, with 15,372 units, secured private financing and under an agreement with the New York State Housing Finance Agency (HFA), paid HFA \$11 million to eliminate the final \$57 million in arrearages. In return, Co-op City must remain in the program for seven more years. If two-thirds of the shareholders vote to opt out of the Mitchell-Lama program before the seven years has elapsed, they will have to pay HFA an additional \$7 million.

## **II. Limited Dividend and Mitchell-Lama Housing Projects That Have Bought Out or Have Given Notice of Intent to Buy Out**

The formal process of leaving the supervision of the Mitchell-Lama and Limited Dividend programs begins when a development owner serves DHCR or HPD and the tenants with a formal Notice of Intent to leave their limited profit housing program. One year after filing this document, the owner may leave the program if all other terms and obligations of the contract that established the development have been met. *Affordable No More* noted that all Mitchell-Lama and Limited Dividend developments<sup>6</sup> in New York City have met the minimum number of years that were required to remain in their respective programs. Appendix I lists all developments that have filed a Notice of Intent to leave their respective programs and Appendix II lists all Limited Dividend and Mitchell-Lama developments that have left their respective programs.

<sup>3</sup>Press Release, Office of the Mayor, June 28, 2004

<sup>4</sup>Source: HDC.

<sup>5</sup>DHCR may have required certain developments to commit to remain in the program for a period of time.

<sup>6</sup>Limited Dividend developments occupied after 1961 are eligible to leave the program. However, this is currently being challenged in *Reyna-Torres et. al. v. Knickerbocker Village Inc., et al.*, discussed later in this report.



Since *Affordable No More* was released in 2004, thirty-two more developments with a total of 12,603 units have completed their buyouts. All of these developments provided rental housing. A total of 36,629 units have left the Mitchell-Lama and Limited Dividend programs.

- Ten of the eleven developments that *Affordable No More* reported had given their Notice of Intent to leave their program subsequently completed buyouts and no longer participate in the Mitchell-Lama program.<sup>7</sup> Only Knickerbocker Village, a Limited Dividend development supervised by DHCR, was listed in *Affordable No More* as filing a notice of intent and still remains in the program, although it may yet leave depending on the outcome of a DHCR determination and possible additional legal actions, discussed later in this report.
- Since 2004, twenty-two additional Mitchell-Lama developments filed a notice of intent and subsequently left the program.

Of the 12,603 units that left the Mitchell-Lama program since 2004, 7,860 were located in Manhattan, 2,257 were in the Bronx, 969 were located in Brooklyn and 1,517 were located in Queens.

## Completed Buyouts

The 9,187 units in rental developments that completed their buyouts and increased rents to market levels since 2004 are shown in Table 4. Of these, 7,414 are located in Manhattan, 856 are in the Bronx, and 917 are located in Queens.

Table 4. Rental developments which completed buyouts since February 2004 and could raise rents to market levels			
Development	Oversight and Borough	Units	Section 236 Development
Boulevard Towers 2	HPD, Bx	3,546	Yes
Bronx Lebanon Hospital	DHCR, Bx	155	No <sup>8</sup>
Cooper Gramercy	HPD, Man	167	No
Eastwood	DHCR, Man	1,003	No
Hudsonview Terrace	HPD, Man	395	Yes
Independence Plaza North	HPD, Man	1,329	Yes
Lands End 1	HPD, Man	251	Yes
Metro North	DHCR, Man	761	Yes
Phipps Plaza W	DHCR, Man	894	Yes
Riverside Park Community	HPD, Man	1,190	Yes
Roy Reuther	DHCR, Qns	917	No
Schomburg Plaza	DHCR, Man	600	Yes
Stevenson Towers	HPD, Bx	354	Yes
University Riverview	HPD, Bx	2,265	No
UPACA 1 & 2	DHCR, Man	405	Yes
West Village Houses	HPD, Man	419	No
<b>TOTAL</b>		<b>9,187</b>	

Mitchell-Lama residents in developments that are also Federal Section 236 buildings who do not exceed specified income thresholds may be shielded from unaffordable rent increases by Federal Section 8 Enhanced Vouchers.<sup>9</sup> However, once a Section 8 Enhanced Voucher tenant vacates an apartment, the apartment is permanently lost from the stock of affordable housing.

<sup>7</sup> Central Park Gardens, Cooper-Gramercy, Hudsonview Terrace, Independence Plaza, Leader House, New Amsterdam, Sea Park East, Sea Park West, Phipps Plaza West, and West Village Houses.

<sup>8</sup> Bronx Lebanon Hospital has agreed to provide current tenants with five years' protection.

<sup>9</sup> Under Section 236 of the National Housing Act, developments receive a monthly Interest Reduction Payment subsidy to reduce the effective mortgage rate paid by the project to 1%. Rents in Section 236 developments are based on income and family composition and cannot exceed 30% of a family's monthly adjusted income or basic (minimum) rent.



Table 5 provides a borough-wide analysis of the 36,629 housing units that have left their respective programs. Developments that provide rental housing have been significantly more likely to leave the Mitchell-Lama and Limited Dividend housing programs and have accounted for 92% of the units withdrawn from the two programs. Seventy-seven percent of the Mitchell-Lama units that have been lost since 2000 are eligible to charge market rate rents.

**Table 5. Mitchell-Lama and Limited Dividend developments that left their programs\***

<i>Borough</i>	<i>Rental Units</i>	<i>Co-op Units</i>	<i>Total</i>	<i>Percentage of projects leaving program that are rentals</i>
Bronx	8,383	177	8,560	98%
Brooklyn	3,205	326	3,531	91%
Manhattan	16,904	236	17,140	99%
Queens	5,376	2,022	7,398	72%
Staten Island	0	0	0	0
<b>NYC Total</b>	<b>33,868</b>	<b>2,761</b>	<b>36,629</b>	<b>92%</b>

\* Sources: DHCR, HPD, Mitchell-Lama Task Force

### Developments seeking to leave their limited profit housing program

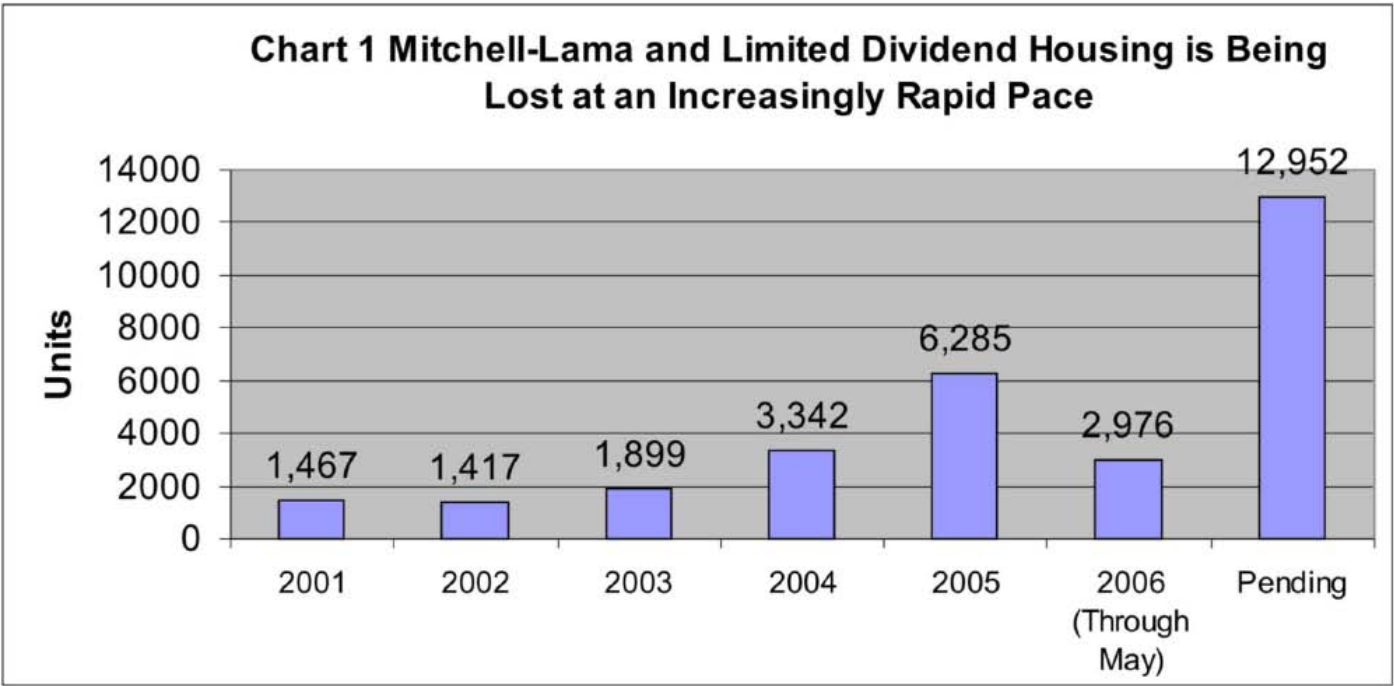
As of May 2006, 28 Mitchell-Lama developments and one Limited Dividend development, representing 12,952 units of affordable housing, had served their tenants with formal Notices of Intent to leave the supervision of their respective programs.<sup>10</sup> Table 6 identifies, by borough and type, the number of units in buildings whose departure from the Limited Dividend or Mitchell-Lama programs is pending.

**Table 6. Mitchell-Lama and Limited Dividend Housing Projects that have given Notice of Intent to leave New York State or City Supervision**

	<i>Rental Units</i>	<i>Co-op Units</i>	<i>Total</i>
Bronx	4,132	167	4,454
Brooklyn	965	2,980	3,945
Manhattan	4,167	908	4,329
Queens	379	0	379
Staten Island	0	0	0
<b>NYC Total</b>	<b>8,897</b>	<b>4,055</b>	<b>12,952</b>

<sup>10</sup> Appendix I lists Mitchell-Lama developments with pending buyouts.

Chart 1 illustrates the quickening pace at which units have left and/or have given formal notice to leave the two programs. From 2001 to 2005, the number of units lost increased by 328%. Considering that 12,952 buyouts are pending, totals for 2006 should substantially exceed totals for 2005.



The significant and rapid loss of Mitchell-Lama housing has offset some of the affordable housing gains realized under the City’s New Housing Marketplace (NHMP) plan, which was announced in 2002 and expanded in 2005. HPD’s October 2005 NHMP progress report identified a total of 28,500 units of affordable housing that received funding for new construction (12,229 units) or preservation (16,271 units). During this same period, 12,943 units of affordable Mitchell-Lama housing were lost, and since January 1, 2006, an additional 15,928 units of Mitchell-Lama have been lost or are in buildings that received Notices of Intent to leave the program.

The result is a projected net loss of affordable housing in New York City. While this does not diminish HPD’s efforts to address the City’s housing needs, it demonstrates the need to track the loss of affordable housing as well as the creation of new and the preservation of existing affordable housing.

### III. Recent Lawsuits that Could Further Reduce the Limited Profit Housing Stock

#### *KSLM/Columbus Apts. v. DHCR*

KSLM/Columbus Apartments, a 472-unit Manhattan complex, participated in the Mitchell-Lama Program for twenty years before leaving the program in March 1998. In May 1998, KSLM's owners applied to DHCR for an adjustment of the initial regulated rents under a section of the Emergency Tenant Protection Act (ETPA) of 1974 that allows rent increases due to "unique and peculiar circumstances."<sup>11</sup> Under this provision, an owner with units governed by the ETPA can submit a request to DHCR for an adjustment of the initial legal regulated rent if the rent is found to be substantially different from the prevailing rents in the same area for substantially similar housing. In order to be considered, an owner must apply to DHCR for rent adjustments within 60 days of leaving the program.

KSLM's application claimed that since the owners no longer received real estate tax exemptions, the regulated rents to which they were entitled no longer would cover expenses. DHCR denied the requested adjustment on the basis that the development was not subject to the ETPA, but to the Rent Stabilization Law (RSL) of 1969. The RSL has no provision similar to the "unique and peculiar" section of the ETPA.

In March 2001, KSLM sued DHCR and in June 2002, in *KSLM-Columbus Apartments v. Division of Housing and Community Renewal*, State Supreme Court dismissed the owner's lawsuit. The Appellate Division subsequently reversed the Supreme Court and held that the development indeed was subject to the ETPA.<sup>12</sup>

In June 2005, the New York State Court of Appeals modified the Appellate Division ruling and split Mitchell-Lama units into three distinct categories, determining that:

- all units built prior to 1969 and occupied continuously between July 1, 1971 and December 31, 1973 were to remain under the RSL. Therefore, they are not subject to the ETPA "unique and peculiar" circumstance increases, although nothing precludes the owners from filing for rent increases under RSL "hardship" rules;

- all units that were built prior to 1969 but were not occupied continuously between July 1, 1971 and December 31, 1973 are covered by the ETPA and therefore owners can apply for rent adjustments for these units under the "unique and peculiar" circumstances provision;

- all units built between March 10, 1969 and January 1, 1974 are governed by the ETPA and are subject to increases for "unique and peculiar" circumstances.<sup>13</sup>

KSLM-Columbus advised the Court that only 60 of the 418 apartments in the three buildings were continuously occupied since July 1, 1971. The owner was granted the right to apply to DHCR for "unique and peculiar" rent increases for the 358 apartments that were not continuously occupied.<sup>14</sup>

To date, tenants in eight former Mitchell-Lama developments with a total of 2,028 units have received notice that their owners have submitted applications to the Commissioner requesting rent increase adjustments under "unique and peculiar circumstances": KSLM/Columbus Apartments, Boulevard Towers I, Bruckner Towers, Central Park Gardens, Janel Towers, New Amsterdam Houses, Noble Mansion, and West Side Manor.

Using the criteria in the KSLM decision, 15,664 units of Mitchell-Lama housing are potentially subject to significantly increased rents upon leaving supervision of the program.

Meanwhile, HPD announced at a March 2006 meeting of the Mitchell-Lama Task Force that the agency has authored legislation to amend the ETPA by removing the "unique and peculiar circumstance" section from the law. This legislation would place post-1973 limited dividend housing into rent stabilization upon dissolution without the right to ask for "unique and peculiar circumstances" rent increases.<sup>15</sup>

<sup>11</sup> In order to prevent enormous rent increases after New York State repealed the Rent Stabilization Law in 1971, in 1974 New York State enacted the Emergency Tenant Protection Act (ETPA) (Chapter 576 of the Laws of 1974). Vacancies occurring on or after July 1, 1971 became stabilized under the ETPA.

<sup>12</sup> *In the Matter of KSLM-Columbus Apartments, Inc., Appellant, v. New York State Division of Housing and Community Renewal, Respondent, and Westgate Tenants Association et al., Interveners-Respondents*, 6 A.D.3d 28; 772 N.Y.S.2d 665 (1st Dept, 2004)

<sup>13</sup> *KSLM-Columbus Apts., Inc. v. N.Y. State Division of Housing and Community Renewal*, 5 N.Y.3d 303 (2005).

<sup>14</sup> The Court of Appeals remanded the case back to DHCR for final determinations as to comparable rents, the establishment of rent adjustments, collectability, and a determination if participation in the Mitchell-Lama Program is a "unique or peculiar" circumstance.

<sup>15</sup> S-7120/A10596, introduced in 2006, would add a new section 35-b to the Private Housing Finance Law (PHFL), stating that "the initial legal regulate rent on and after the dissolution date shall be the last rent authorized for the affected dwelling unit, including rental surcharges, if any, and such rent shall not at any time be subject to adjustment pursuant to subdivision(a) of section § 2."

*Reyna-Torres et al. v. Knickerbocker Village, Inc. et al.*

Knickerbocker Village is a 12-building, 1,589-unit Limited Dividend rental housing development on Manhattan's Lower East Side built in 1934 under the Private Housing Finance Law of 1926. In August 2002, upon being notified of the owners' intent to dissolve as a Limited Dividend Housing Company and leave DHCR supervision, the tenants' association filed suit in New York State Supreme Court, asserting that limited dividend housing companies organized prior to 1962 are prohibited by law from dissolving, notwithstanding DHCR having granted Knickerbocker Village permission to do so.<sup>16</sup> A letter from DHCR's Deputy Counsel to another limited dividend housing company in 1979 stated that limited dividend developments built before 1962 could be dissolved.<sup>17</sup>

In December, 2004, the court dismissed the lawsuit, saying the 1979 letter was not applicable. According to the decision, DHCR's stated position is that the 1979 letter "does not represent a current, immutable policy as to its authority in this area." Therefore, DHCR has not made a determination as to its authority to permit the dissolution and deregulation of Knickerbocker Village as a limited dividend housing development and the plaintiffs and Knickerbocker Village must first exhaust their administrative remedies before coming back into court.<sup>18</sup> The matter was returned to DHCR to determine.

Knickerbocker Village tenants claim that even though the apartments would be rent-stabilized upon dissolution, the long-term affordability of their apartments would be threatened if dissolution proceeds. They note that over the years, rent increases approved for Knickerbocker Village under the Private Housing Finance Law have consistently been lower than they would have been under the New York City Rent Guidelines Board. In addition, apartments that are rent-stabilized under the ETPA or RSL are subject to "luxury" decontrol when their monthly rents reach \$2,000 and they are vacated, and rents for all vacated apartments can be very substantially increased through vacancy allowances.<sup>19</sup> Moreover, under the Private Housing Finance Law, applicants for apartments in Knickerbocker Village must not exceed maximum income limits. There are no income limits for applying to rent a stabilized apartment.

In an apparent effort to raise rents as much as possible before dissolution takes effect, and thereby increase the base rents that would thereafter be rent-stabilized, Knickerbocker Village's owners applied to DHCR for large rent increases to cover the cost of capital improvements. They proposed giving tenants a choice of a one-year increase of 9.43% or a two year increase of 12.6%.

On January 13, 2006, the DHCR Commissioner signed a consent order allowing Knickerbocker Village's request to dissolve and withdraw from Article 4 Regulation subject to certain conditions. The tenant/petitioners appealed and filed an order to show cause with a request for a temporary stay. A hearing is scheduled for June 9, 2006.

If dissolution of pre-1962 limited profit housing is allowed, the long-term affordability of the developments listed in Table 7 could be threatened.

**Table 7. Limited Dividend housing developments organized prior to April 1, 1962**

<b>Project</b>	<b>Borough</b>	<b>Units</b>
Knickerbocker Village	Manhattan	1,589
Harry Silver Housing	Brooklyn	288
Electchester 1 <sup>st</sup> Houses	Queens	382
Electchester 2 <sup>nd</sup> Houses	Queens	688
Electchester 3A & 3B Houses	Queens	792
Electchester 4 <sup>th</sup> Houses	Queens	362
<b>NYC Total</b>		<b>4,101</b>

<sup>16</sup> *Reyna-Torres et al. v. Knickerbocker Village, Inc. et al.*, Index No. 100550/03 (2003).

<sup>17</sup> Letter of DHCR's Deputy Counsel to counsel for Boulevard Gardens Housing Corporation, December 5, 1979.

<sup>18</sup> Supreme Court of the State of New York, County of New York, IAS Part 30, Decision & Order, Index No. 100990/03.

<sup>19</sup> Knickerbocker Village owners have reserved the right to apply for rent increases based on the "unique and peculiar circumstances" provision of the ETPA. Apartments that were vacated between July 1, 1971 and December 31, 1973 would be subject to the ETPA and its "unique and peculiar" rent adjustment provision.



#### IV. Recommendations

Through the new HDC Refinance and Rehabilitation Loan Program for Mitchell-Lama developments, the City has succeeded somewhat in slowing the loss of HDC-financed developments from the program. However, there are tens of thousands of limited profit housing units in New York City that are not eligible for this program and that may leave the Mitchell-Lama and Limited Dividend programs.

- **New York State should establish a program to provide reduced interest loans to help refinance mortgages for the remaining 52,090 units of DHCR-supervised Mitchell-Lama housing that were financed by the New York State Housing Finance Agency, the Urban Development Corporation or the State Loan Fund.** Such a program could be modeled on the NYC Housing Development Corporation's Mitchell-Lama Refinance and Repair Program and, similarly, prohibit developments from leaving the program for at least 15 years. If DHCR developments participated in this program at a rate comparable to HDP developments participating in the HDC program, a State program would preserve more than 26,000 units of housing.
- **New York State should enact legislation to place under rent stabilization all limited profit housing developments built after 1974 that leave the program.** Legislation to accomplish this (S2061, A2454,) passed the Assembly in 2005 and 2006 but was not acted on in the Senate. The initial legal regulated rent following a buyout and dissolution would be the last regulated rent before the dissolution date. To encourage housing companies to remain in the program, this measure would also authorize returns in excess of the statutory limit of six percent. When introduced in 2005, the sponsors estimated that their measure would protect approximately 32,000 tenants.
- **Legislation (S7120, A10596) should be enacted to prohibit an owner from applying for a rent increase based on "unique and peculiar" circumstances when a Mitchell-Lama project leaves the program.**
- **Working with financial institutions and the City's public employee pension funds, the City should investigate the feasibility of instituting new loan programs for Mitchell-Lama and Limited Dividend developments that are not eligible for the HDC Refinancing and Rehabilitation Loan Program partnerships.** Such new loan programs would provide access to long-term low-interest financing to developments that remain in their respective programs. Some 20,395 HPD-supervised Mitchell-Lama units are not

eligible for HDC's Refinancing and Repair Loan Program because HDC does not hold their mortgages.

- **The City should clarify the new HDC Mitchell-Lama Co-op Conversion Program.** The City's recently announced program to assist tenants of Mitchell-Lama rental buildings to convert their buildings to cooperatives is intended to help preserve substantial amounts of affordable housing. But housing advocates and attorneys who assist Mitchell-Lama residents and who were interviewed for this report said that because important provisions of the co-op conversion program as released are vague, its potential for preserving affordable housing cannot be fully assessed. For example, many Mitchell-Lama rental developments need extensive repairs in order to overcome years of deferred maintenance, yet it is unclear how capital improvements would be financed. Also, the program as announced does not say whether shareholders in the new co-ops who exceed maximum income levels will be required to sell their units and move or be allowed to stay and pay maintenance surcharges.
- **The City should develop affordable housing production goals on a neighborhood basis, taking into account which neighborhoods are most likely lose Mitchell-Lama and Limited Dividend housing in coming years.**
- **Working with local community organizations and elected officials, the City should develop programs to help Mitchell-Lama and Limited Dividend families find replacement housing in their current neighborhoods or in other sections of the City.**

In conclusion, New York City and State face a number of responsibilities, as well as opportunities, as they address this critically important issue.

New York City plans to build and preserve 165,000 units of affordable housing by 2013. Last year, the Mayor and Comptroller Thompson announced that \$130 million in Battery Park City excess revenue will be directed into a housing trust fund to build 4,500 units of low income housing.

At the same time, the City faces the prospect of losing tens of thousands of affordable units through Mitchell-Lama and Limited Dividend program buyouts. As recommended in this report and in the 2004 report, everything possible must be done to prevent the loss of limited profit affordable housing while new sources affordable housing are created and existing housing is preserved through other programs.

## Appendix I

### Housing Developments Regulated Under the Mitchell-Lama and Limited Dividend Housing Programs as of May 15, 2006

DEVELOPMENT, OVERSIGHT	PROJECT ADDRESS	PROJECT TYPE	UNITS	YEAR OCCUPIED	OVERSIGHT	STATUS	@ YEARS PROTECTED
<b>BRONX</b>							
Adee Towers	3000 Bronx Park East	CO-OP	292	1962	HPD	In	
Albert Einstein Staff Housing	1975 Eastchester Road	Rental	634	1972	HPD	In	15
Aldus Green	33-01 Vernon Boulevard	Rental	395	1977	DHCR-LD	In	
Amalgamated Houses	98 Van Cortland Park South	CO-OP	1,486	1970	DHCR-LD	In	
Bronxwood Tower	855 East 233 Street	CO-OP	108	1964	HPD	In	
Cannon Heights	3400 Ft. Independence Street	CO-OP	170	1965	HPD	In	
Carnes McKinney	750 Faile Street	CO-OP	111	1965	DHCR	In	
Carol Gardens	880 Theriot Avenue	Rental	314	1967	HPD	In	15
Chatterton Terrace	1041 Pugsley Avenue	CO-OP	132	1964	HPD	In	
Clinton Towers	740 East 178th Street	Rental	455	1974	DHCR	Pending 12/16/05	
Co-op City (Riverbay)	1 Adler Place	CO-OP	15,372	1968	DHCR	In	7
Concourse Village	773 Concourse Village East	CO-OP	1,883	1965	DHCR	In	
Corlear Gardens	290 West 232 Street	CO-OP	117	1967	HPD	In	
Dancia House	1889 Sedgwick Avenue	Rental	103	1967	HPD	Pending 12/9/05	



DEVELOPMENT, OVERSIGHT	PROJECT ADDRESS	PROJECT TYPE	UNIT S	YEAR OCCUPIED	OVERSIGHT	STATUS	@ YEARS PROTECTED
Dennis Lane Apartments	665 East 181 Street	CO-OP	280	1959	HPD	In	
Evergreen Gardens	955 Evergreen Avenue	Rental	355	1962	HPD	In	
Findlay House (Weinstein)	1160 Teller Avenue	Rental	227	1971	DHCR	In	
<b>Fordham Towers</b>	<b>480 East 188 Street</b>	<b>Rental</b>	<b>168</b>	<b>1967</b>	<b>HPD</b>	<b>Pending 5/4/05</b>	
Fort Schuyler Houses	3077 Cross Bronx Expressway	Rental	143	1973	DHCR	In	
General Sedgwick House	1520 Sedgwick Avenue	Rental	101	1969	HPD	In	
Hutchinson Parkway Apts.	1950 Hutchinson River Pkwy	CO-OP	156	1961	HPD	In	
Jamie Towers	633 Olmstead Avenue	CO-OP	620	1967	DHCR	In	
Jonas Bronck Apartments	230-1 East 179th Street	Rental	215	1974	DHCR	In	
Keith Plaza	2475 Southern Blvd	Rental	310	1975	HPD	In	
Kelly Towers	237307 Southern Blvd	Rental	301	1975	HPD	In	
Kingsbridge Apartments	170 West Kingsbridge Road	Rental	88	1973	HPD	In	
Kingsbridge Arms	2865 Kingsbridge Terrace	CO-OP	105	1965	HPD	In	15
Kittay (W. Kingsbridge)	2550 Webb Avenue	Rental	294	1970	DHCR	In	
<b>Lafayette Boynton</b>	<b>820-2 Boynton Avenue</b>	<b>Rental</b>	<b>972</b>	<b>1971</b>	<b>DHCR</b>	<b>Pending 1/23/06</b>	
<b>Lafayette Morrison</b>	<b>820 Boynton Avenue</b>	<b>Rental</b>	<b>900</b>	<b>1963</b>	<b>DHCR</b>	<b>Pending 1/23/06</b>	
Lind-Ric Apartments	2410 Barker Avenue	CO-OP	173	1963	HPD	In	
Lindville	3555 Olinville Avenue	CO-OP	142	1966	HPD	In	
Mayflower Terrace	1720 Mayflower Avenue	CO-OP	120	1964	DHCR	In	



DEVELOPMENT, OVERSIGHT	PROJECT ADDRESS	PROJECT TYPE	UNITS	YEAR OCCUPIED	OVERSIGHT	STATUS	@ YEARS PROTECTED
Michaelangelo	225 East 149th Street	Rental	494	1975	DHCR	In	
Mins Plaza	443045 St. Ann's Avenue	Rental	83	1977	HPD	In	
Montefiore Staff Housing 2	3450 Wayne Avenue	Rental	398	1972	HPD	In	15
O.U.B. Houses	370 Brook Avenue	Rental	360	1977	HPD	In	
Oak Towers (Oak Drive)	3260 Cruger Avenue	CO-OP	100	1965	DHCR	In	
Orloff Towers	3900 Bailey Avenue	CO-OP	189	1965	DHCR	In	
Park Lane	1965 Lafayette Avenue	Rental	352	1971	HPD	Pending 5/12/05	
Park Reservoir Apartments	3915 Orloff Avenue	CO-OP	275	1957	DHCR	In	
Parkside Apartments	3850 Bronx Boulevard	CO-OP	167	1958	DHCR	Pending 5/01/06	
River Park Towers	10 Richman Plaza	Rental	1,654	1974	DHCR	In	
River Plaza	1240 Morrison Avenue	Rental	153	1969	HPD	In	
Robert Fulton Terrace	530040 East 169 Street	Rental	319	1967	HPD	Pending 5/4/06	
Rosedale Gardens	1810 Bruckner Avenue	CO-OP	406	1961	HPD	In	
Scott Towers	3400010 Paul Avenue	CO-OP	351	1967	HPD	In	15
Stevenson Commons	1850 Lafayette Avenue	Rental	947	1974	HPD	In	15
Stratford Towers	1340 Stratford Avenue	Rental	129	1966	DHCR	In	
Tibbett Towers	3125 Tibbett Avenue	CO-OP	224	1960	HPD	In	
Tilden Towers 1	3511 Barnes Avenue	CO-OP	125	1967	HPD	In	
Tilden Towers 2	801 Tilden Street	CO-OP	265	1971	HPD	In	
Tower Gardens	1569 Bruckner Boulevard	CO-OP	209	1961	DHCR	In	
Tracy Towers	40 West Mosholu Pkwy S.	Rental	869	1974	HPD	In	



DEVELOPMENT, OVERSIGHT	PROJECT ADDRESS	PROJECT TYPE	UNITS	YEAR OCCUPIED	OVERSIGHT	STATUS	@ YEARS PROTECTED
Twin Parks N.E. 2	2311 Southern Boulevard	Rental	249	1973	DHCR	In	
Twin Parks N.E. 6 & 8	2260 Crotona Avenue	Rental	274	1972	DHCR	In	
Twin Parks N.W. 4,5 & 11	333 East 181st Street	Rental	331	1972	DHCR	Pending 12/16/05	
Twin Parks S.E. 3 & 4	2111 Southern Boulevard	Rental	408	1973	DHCR	Pending 12/16/05	
Twin Parks S.W.	1880 Valentine Avenue	Rental	536	1973	DHCR	In	
Undercliff House	1655 Undercliff Avenue	Rental	124	1967	HPD	Pending 11/30/05	
United Odd Fellows Co.	1072 Havemeyer Avenue	Rental	112	1971	DHCR	In	
Waldo Apartments	3800-3802 Waldo Avenue	CO-OP	173	1966	DHCR	In	
Woodlawn Veterans Mutual	4260 Katonah Avenue	CO-OP	100	1959	DHCR	In	
Woodstock Terrace	890 Trinity Avenue	CO-OP	319	1962	HPD	In	15
<b>Sub-Total Bronx</b>			<b>37,937</b>				

### Brooklyn

Atlantic Plaza	216 Rockaway Avenue	Rental	716	1967	HPD	In	15
Atlantic Terminal 1	161 South Elliott Place	CO-OP	201	1976	HPD	In	
Atlantic Terminal 2	455 Carlton Avenue	CO-OP	305	1976	HPD	In	15
Bayridge Air Rights	260-65 65th Street	CO-OP	811	1972	DHCR	In	
Bedford- Stuyvesant Restor	109 Summer Avenue	Rental	267	1977	DHCR	In	
Bedford Gardens	94 Ross Street	Rental	639	1975	HPD	In	
Brighton House	500 Brightwater Court	CO-OP	191	1968	HPD	In	15
Brookdale Hosp. (Baird)	7-29 Hegeman Avenue	Rental	285	1967	DHCR	Pending 2/1/06	
Brooklyn Hosp. (Ashland)	240 Willoughby Street	Rental	157	1976	DHCR	In	
Cadman Plaza North	140 Cadman Plaza West	CO-OP	250	1967	HPD	In	15
Cadman Towers	101 Clark Street, Brooklyn	CO-OP	421	1973	HPD	In	



DEVELOPMENT, OVERSIGHT	PROJECT ADDRESS	PROJECT TYPE	UNITS	YEAR OCCUPIED	OVERSIGHT	STATUS	@ YEARS PROTECTED
Contello 2	2015 Shore Parkway	CO-OP	321	1962	HPD	In	
Contello 3	2652 Cropsey Avenue	CO-OP	160	1967	HPD	Pending 11/30/05	
Crown Gardens	845 Nostrand Avenue	CO-OP	238	1973	HPD	In	15
DCA Central Brooklyn No.1	62066 McDougal Street	Rental	215	1974	HPD	In	
Earl W. Jimerson	1407 Linden Boulevard	CO-OP	423	1958	DHCR	In	
Essex Terrace	827 Linwood Street	Rental	104	1970	HPD	In	
Fulton Park Plaza	1711 Fulton Street	Rental	287	1975	DHCR	In	
Gorman Apartments	1371 Linden Boulevard	CO-OP	342	1963	DHCR	In	
Harbor View	2920 West 21st Street	Rental	224	1975	DHCR	In	
Harry Silver Housing	828 Midwood Street	CO-OP	288	1953	DHCR - LD	In	
Harway Terrace	2483 West 16 Street	CO-OP	365	1963	HPD	In	
Highlawn Terrace	1969 West 5 Street	CO-OP	124	1960	HPD	In	
Jewish Hosp of Brooklyn	753 Classon Avenue	Rental	142	1968	DHCR	In	
Kings Bay 1	2540 Batchelder Street	CO-OP	538	1958	HPD	In	
Kings Bay 2	2525 Batchelder Street	CO-OP	356	1962	HPD	In	
Linden Plaza	745 Lincoln Avenue	Rental	1,524	1971	HPD	In	
Lindsay Park	25 Boerum Street	CO-OP	2,702	1964	HPD	In	
Luna Park	2894 West 8 Street	CO-OP	1,576	1961	HPD	In	
Marcus Garvey Village	325-363 (odd ) Bristol Street	Rental	625	1975	DHCR	In	
Marien-Heim Tower	870 Ocean Parkway	Rental	182	1975	DHCR	In	
Mutual Apartments	636 Brooklyn Avenue	CO-OP	160	1959	DHCR	In	
Northbay Estates	2850 West 24th Street	Rental	542	1975	DHCR	In	



DEVELOPMENT, OVERSIGHT	PROJECT ADDRESS	PROJECT TYPE	UNITS	YEAR OCCUPIED	OVERSIGHT	STATUS	@ YEARS PROTECTED
Northside Gardens	111 North 4 Street	CO-OP	41	1974	HPD	In	
Ocean Towers	2950 West 24th Street	Rental	360	1974	DHCR	Pending 12/16/05	
Pratt Towers	333 Lafayette Avenue	CO-OP	326	1965	HPD	In	
Regina Pacis	2424 Cropsey Avenue	Rental	167	1972	DHCR	In	
Roberto Clemente Plaza	60 Division Avenue	Rental	532	1976	HPD	In	
Rutland Road	5 East 93rd Street	Rental	438	1975	DHCR	In	
Ryerson Towers	309 Lafayette Avenue	CO-OP	326	1964	HPD	In	
Sam Burt Houses	3504 Bayview Avenue	CO-OP	147	1966	HPD	In	
Scheuer House	3601 Surf Avenue	Rental	197	1973	DHCR	In	
Sea Rise 1	2770 West 33rd Street	Rental	334	1974	DHCR	In	
Sea Rise 2	3395 Neptune Avenue	Rental	338	1974	DHCR	In	
Shore Hill	9000 Shore Road	Rental	559	1977	DHCR	In	
Smith-Woodward	16 Court Street	Rental	141	1974	DHCR	In	
St. James Towers	21 St. James Place	CO-OP	326	1963	HPD	In	
Starrett City	1285 Delmar Loop	Rental	5,888	1974	DHCR	In	
Stuypark House	77 New York Avenue	Rental	103	1975	DHCR	In	
Tivoli Towers	49 Crown Street	Rental	320	1974	HPD	Pending 4/26/05	
Trump Village III	440-448 Neptune Ave.	CO-OP	1,674	1964	DHCR	Pending 11/14/05	
Trump Village IV	2928-2932 West 5th Street	CO-OP	1,146	1963	DHCR	Pending 9/9/05	
Warbasse		Co-OP	2,595		DHCR	In	
Sub-Total Brooklyn			31,639				



DEVELOPMENT, OVERSIGHT	PROJECT ADDRESS	PROJECT TYPE	UNITS	YEAR OCCUPIED	OVERSIGHT	STATUS	@ YEARS PROTECTED
<b>MANHATTAN</b>							
Beekman Staff	69 Gold Street	Rental	89	1972	HPD	In	
Bethune Towers	650 Lenox Avenue	Rental	133	1970	HPD	Pending 3/31/04	
Canaan House	Fifth Avenue & 118th Street	Rental	146	1976	DHCR	In	
Cathedral Parkway	418 Cathedral Parkway	Rental	309	1975	DHCR	In	
Clayton Apartments	485 Lenox Avenue	CO-OP	159	1963	HPD	In	
Clinton Towers	790 11 Avenue	Rental	395	1974	HPD	In	15
Columbus Park Towers	100 West 94 Street	CO-OP	162	1967	HPD	Pending 5/11/05	
Confucius Plaza	20 Confucius Plaza	CO-OP	760	1975	HPD	In	15
East 106th Street (Lakeview)	35 East 106th Street	Rental	446	1976	DHCR	Pending 5/4/04	
East Midtown Plaza	311 East 23 Street	CO-OP	746	1971	HPD	Pending 12/28/04	
Eleven Ninety-Nine Plaza	2070080 1 Avenue	CO-OP	1,590	1974	HPD	In	15
Esplanade Gardens	2569 7 Avenue	CO-OP	1,870	1967	HPD	In	15
F.I.T. Staff Housing	230 West 27 Street	Rental	216	1974	HPD	In	
Franklin Plaza	315 East 106 Street	Rental	1,632	1962	HPD	In	
Goddard-Riverside Towers	711 Amsterdam Avenue	CO-OP	193	1967	HPD	In	15
Gouverneur Gardens	75 Montgomery Street	CO-OP	781	1967	HPD	In	15
Hamilton House	141053 West 73 Street	Rental	174	1972	HPD	In	15
Independence House	176 West 94 Street	Rental	120	1967	HPD	In	
Inwood Gardens	45 Fairview Avenue	CO-OP	218	1963	DHCR	In	
Inwood Heights	17 Fort George Hill	CO-OP	207	1962	DHCR	In	
Inwood Terrace	49 Hillside Avenue	CO-OP	205	1960	DHCR	In	
Inwood Tower	11 Fort George Hill	CO-OP	190	1963	DHCR	In	
Island House	552 Main Street (RI)	Rental	400	1975	DHCR	Pending 6/29/05	



DEVELOPMENT, OVERSIGHT	PROJECT ADDRESS	PROJECT TYPE	UNITS	YEAR OCCUPIED	OVERSIGHT	STATUS	@ YEARS PROTECTED
James Lenox House, Inc.	49 East 73rd Street	Rental	100	1975	DHCR	In	
Jefferson Towers	700 Columbus Avenue	CO-OP	189	1968	HPD	In	15
Knickerbocker Plaza	1751 2 Avenue	Rental	576	1974	HPD	In	
Knickerbocker Village	10 Monroe Street	Rental	1,589	1934	DHCR - LD	Pending 8/5/02	
Lincoln Amsterdam	102016 West End Avenue	CO-OP	185	1977	HPD	In	15
Lionel Hampton Houses	301 West 130th Street	Rental	355	1973	DHCR	Pending 12/16/05	
Manhattan Plaza	484 West 43 Street	Rental	1,685	1977	HPD	In	6
Masaryk Towers	71 Columbia Street	CO-OP	1,108	1967	HPD	In	
Nagle House	240 Nagle Avenue	CO-OP	180	1964	DHCR	In	
Phipps Plaza East	485 1 Avenue	Rental	103	1973	HPD	In	
Phipps Plaza North	331 East 31st Street	Rental	208	1970	DHCR	In	
Promenade Apartments	150 West 225th Street	Rental	318	1972	DHCR	In	
R.N.A. House	160 West 96 Street	CO-OP	207	1967	HPD	In	15
River Terrace	157010 Riverside Drive	CO-OP	430	1964	HPD	In	
River View Towers	626 Riverside Drive	CO-OP	386	1965	DHCR	In	
Riverbend Houses	2301 5 Avenue	CO-OP	624	1968	HPD	In	15
Rivercross	506-580 Main Street (RI)	CO-OP	373	1976	DHCR	In	
Rosalie Manning	230 East 88 Street	CO-OP	108	1967	HPD	In	
Ruppert Homes	238044 East 93 Street	CO-OP	650	1975	HPD	In	
Southbridge Towers	66 Frankfort Street	CO-OP	1,651	1970	DHCR	In	
St. Martin's Guild	65 West 90 Street	CO-OP	179	1971	HPD	In	
St. Phillip's House	220 West 133rd Street	*Rental	200	1974	DHCR	In	
Stern Residence	154-8 West 106th Street	Rental	43	1969	DHCR	In	



DEVELOPMENT, OVERSIGHT	PROJECT ADDRESS	PROJECT TYPE	UNITS	YEAR OCCUPIED	OVERSIGHT	STATUS	@ YEARS PROTECTED
Strykers Bay	689 Columbus Avenue	CO-OP	233	1967	HPD	In	15
Tanya Towers	612 East 13 Street	Rental	137	1973	HPD	In	
Tower West	65 West 96 Street	Rental	216	1971	HPD	In	
Tri-Faith House	1646 1 Avenue	CO-OP	147	1968	HPD	In	15
Trinity House	100 West 92 Street	Rental	199	1969	HPD	In	
Upaca 7	1900 Lexington Avenue	Rental	134	1975	DHCR	In	
Village East Towers	711 East 11 Street	CO-OP	432	1968	HPD	In	15
Village View	80 1 Avenue	CO-OP	1,234	1964	HPD	In	
Washington Sq. South East	505 LaGuardia Place	CO-OP	174	1967	HPD	In	15
Westview	552 Main Street	Rental	361	1976	DHCR	Pending 1/31/05	
Westview Apartments	765 Amsterdam Avenue	Rental	137	1966	HPD	Pending 11/30/05	
York Hill Apartments	1550 York Avenue	CO-OP	296	1963	HPD	In	
Sub-Total Manhattan			26,288				

### QUEENS

Aguilar Gardens	71050 Parsons Blvd	CO-OP	256	1961	HPD	In	
Bay Towers	319 Beach 98 Street	Rental	374	1973	HPD	In	
Big Six Towers	47030 61 Street	CO-OP	982	1963	HPD	In	
Bridgeview 3	8010 27 Avenue	Rental	170	1975	HPD	In	
Brookdale Village	125 Beach 19th Street	Rental	547	1976	DHCR	In	
Cedar Manor	116031 157 Street	CO-OP	215	1961	HPD	In	
Court Plaza	82037 Kew Gardens Road	Rental	247	1974	HPD	Pending 3/31/04	
Dayton Beach Park	8400 Shore Front Pkwy	CO-OP	1,147	1964	HPD	In	
Dayton Towers	7600 Shore Front Pkwy	CO-OP	1,752	1967	HPD	In	
Electchester 1st Houses	161-04 Jewel Avenue	CO-OP	382	1953	DHCR - LD	In	



DEVELOPMENT, OVERSIGHT	PROJECT ADDRESS	PROJECT TYPE	UNITS	YEAR OCCUPIED	OVERSIGHT	STATUS	@ YEARS PROTECTED
Electchester 2nd Houses	161-29 Jewel Avenue	CO-OP	688	1955	DHCR - LD	In	
Electchester 3rd Houses	65-52 160th Street	CO-OP	792	1953	DHCR - LD	In	
Electchester 3rd Houses -3B	65-52 160th Street	CO-OP	0	1954	DHCR - LD	In	
Electchester 4th Houses	65-83 160th Street	CO-OP	362	1954	DHCR - LD	In	
Electchester 5th Houses	65-83 160th Street	CO-OP	184	1966	DHCR - LD	In	
Forest Park Crescent	90050 Union Turnpike	CO-OP	240	1964	HPD	In	
Goodwill Terrace Apartments	4021 27 Avenue	Rental	207	1970	HPD	In	
Jamaica Hospital Staff	8902 135th Street	Rental	102	1977	DHCR	In	
Kissena I (Fellowship Fd)	45-25 Kissena Boulevard	Rental	136	1964	DHCR	In	
Kissena II (45th Ave Housing)	137-47 45th Avenue	Rental	289	1970	DHCR	In	
Meadow Manor	34-12 113th Street	Rental	132	1973	DHCR	Pending 5/24/05	
Nordeck Apts (Arverne)	321 Beach 57th Street	CO-OP	342	1960	DHCR	In	
Ocean Village	Bldg. 8: 119-125 Beach 56th Street	Rental	1,091	1974	DHCR	In	
Rochdale Village	17210 133rd Avenue	CO-OP	5,860	1963	DHCR	In	7
Seaview Towers	331 Beach 31 Street	Rental	461	1976	HPD	In	
Sub-Total Queens			16,958				
STATEN ISLAND							
Arlington Terrace	35 Holland Avenue	Rental	534	1976	HPD	In	15
Castelton Park (St Marks)	165 St. Marks Place	Rental	454	1974	DHCR	In	
Sub-Total Staten Island			988				
New York City Total			113,810				



## Appendix II

Mitchell-Lama and Limited Dividend Developments that Left Their  
Respective Programs as of May 15, 2006

DEVELOPMENT	PROJECT ADDRESS	PROJECT Type	UNITS	YEAR OCCUPIED	YEAR LEFT
<b>BRONX</b>					
Academy Gardens	Randal Av/Commonwealth Av/Rosedale Av	Rental	466	1931	1979
Adelphi House	1590 Undercliff Avenue	Rental	150	Pre-1974	1990
Allerville Arms	2550 Olinville Avenue	Rental	212	Pre-1974	1989
Arlyne Gardens	Bruckner Boulevard	Rental	181	1964	1989
Boulevard Towers 1	2010 Bruckner Boulevard	Rental	329	1967	2006
Boulevard Towers 2	2045 Story Avenue	Rental	354	1975	2005
Branford House	1210 Cross Avenue	Rental	157	Pre-1974	1990
Bronx-Lebanon (Millstein)	1650 Selwin Avenue	Rental	155	1974	2004
Bronx Park East	2324 Boston Road	Rental	738	1965	1986
Bruckner Towers	950 Underhill Avenue	Rental	208	1967	2006
Cloverleaf Towers	920-922 Metcalf Avenue	Rental	238	Pre-1974	NK
Farband Houses (LD)	Williamsbridge Rd/Mathews Av/Arnow Av/Barns Av	Co-Op	129	1928	1966
Hazel Towers	1730-40 Mulford Avenue	Rental	1,148	1965	1988
Highbridge House	1133 Ogden Avenue	Rental	399	1971	2006
Hillside (N.E. Bronx)	3436 Corsa Avenue	Rental	286	1970	1999
Hugh Grant Gardens	1966 Newbold Avenue	Rental	137	Pre-1974	NK
Janel Towers	801 Neill Avenue	Rental	229	1971	2006
Kingsbridge Gardens	3424 Kingsbridge Avenue	Rental	191	Pre-1974	1989
La Fontaine	1974 La Fontaine Avenue	Co-Op	48	1974	2002
Leland House	910 Theriot Avenue	Rental	454	Pre-1974	1989
Mark Terrace	Boller Avenue	Rental	98	1963	1988
Montefiore 1	3411 Wayne Avenue	Rental	155	1963	1995
Morris Heights	1849 Sedgwick Avenue	Rental	209	1965	1997
Nathan Hale Gardens	3411 Irwin Avenue	Rental	400	Pre-1974	1990
Noble Mansion	1500 Noble Avenue	Rental	236	1966	2005
Stevenson Towers	830 Magenta Street	Rental	121	1974	2006
Trio Apartments	1670 East 174th Street	Rental	465	1974	1997
University Riverview	1750 Sedgwick Avenue	Rental	226	1975	2005
Winthrop Gardens	White Plains Road & Mace Avenue	Rental	441	1964	1992
<b>Bronx Sub-Total</b>			<b>8,560</b>		



DEVELOPMENT	PROJECT ADDRESS	PROJECT Type	UNITS	YEAR OCCUPIED	YEAR LEFT
<b>BROOKLYN</b>					
Anthony J. Contello	2630 Cropsey Avenue	Co-Op	326	1973	1989
Brooklyn Garden Apts. Navy Yard (LD)	Park Av/Adelphi St/Carlton Av	Rental	140	1932	NK
Brightwater Towers	Surf Avenue	Rental	738	1965	1986
Brooklyn Gardens Apts. (LD)	23 St/5 Av/34 St/4 Av	Rental	165	2029	1980
Fairfield Towers	1019 Van Siclen Avenue	Rental	323	1963	1997
Middagh Street Studios		Rental	42	1975	2003
New Field	Bedford Avenue & Montgomery Street	Rental	147	1964	1997
Prospect Towers	341 10 Street	Rental	153	1967	2006
Sea Park East	2980 West 28 <sup>th</sup> Street	Rental	332	1972	2004
Sea Park West	2930 West 30 <sup>th</sup> Street	Rental	484	1972	2004
Trump Village I	2940 Ocean Parkway	Rental	240	1965	1989
Trump Village II	3000 Ocean Parkway	Rental	441	1964	1992
<b>Brooklyn Sub-Total</b>			<b>3,531</b>		
<b>MANHATTAN</b>					
Amalgamated Dwellings (LD)	Delancy St/Columbia St/Grand St/Willett St	Co-Op	236	1930	1963
Beth Israel North Apts.	353 East 17th Street	Rental	184	1969	1991
Booth House	318 East 15th Street	Rental	148	1965	1997
Bridge Apartments	Audubon Avenue & West 179 Street	Rental	960	1964	1987
Central Park Gardens	50 West 97th Street	Rental	247	1970	2005
Columbus House	95 West 95 Street	Rental	248	1970	2006
Columbus Manor	70 West 93 Street	Rental	202	1971	2006
Cooper-Gramercy	401 2nd Avenue	Rental	167	1976	2005
Eastwood	552 Main Street (Roosevelt Is)	Rental	1,003	1976	2005
Garden Court	210 West 119 Street	Rental	157	Pre-1974	1982
Glenn Gardens	175 West 87 Street	Rental	265	1975	2003
Hargrave House	111 West 71 Street	Rental	112	1975	2002
Heywood Towers	175 West 90 Street	Rental	187	1975	2003
Hudson View Terrace	747 10th Avenue	Rental	395	1976	2004
Independence Plaza	45 Harrison Street	Rental	1,329	1974	2004
Isabella House	525 Audubon Avenue	Rental	72	1966	2000
KSLM - Columbus Apts.	135 West 96th Street	Rental	306	1965	1993
Lands End 1	257 Clinton Street	Rental	251	1978	2004
Leader House	100 West 93 Street	Rental	279	1972	2003



DEVELOPMENT	PROJECT ADDRESS	PROJECT Type	UNITS	YEAR OCCUPIED	YEAR LEFT
Maimonides Hospital Apts.	950 49th Street	Rental	427	1968	1998
Manhattan House	E 3rd St / Avenue B / Avenue A	Rental	46	1931	1980
Metro North	400 East 101st Street	Rental	761	1976	2005
New Amsterdam	733 Amsterdam Avenue	Rental	228	1971	2004
New York Eye & Ear	310 East 14th Street	Rental	1,321	1962	1987
North Waterside	30 Waterside Plaza	Rental	369	1974	2001
Phipps Plaza West	480 2nd Avenue	Rental	894	1976	2003
Polyclinic Apartments	350 West 51 Street	Rental	139	Pre-1974	1989
Residence Hall Mt. Sinai	3 East 101 Street	Rental	113	Pre-1974	1994
Riverside Park Community	3333 Broadway	Rental	1,190	1976	2005
Roosevelt Hospital Staff	428 West 59th Street	Rental	123	1974	2000
Ruppert-Yorkville Towers	16-19 3rd Avenue	Rental	1,257	1974	2002
Schomburg Plaza	1660 Madison Avenue	Rental	600	1974	2005
Stanton Houses	Stanton St/Attorney St	Rental	440	1931	1980
Stuyvesant	350 East 17 Street	Rental	147	Pre-1974	1994
Town House West	5 West 91 Street	Rental	47	1973	2006
Upaca 1 & 2	1990 Lexington Avenue	Rental	405	1974	2005
Waterside Plaza	30 Waterside Plaza	Rental	1,098	1973	2001
West Side Manor	70 West 95 Street	Rental	245	1968	2005
West Village Houses	690 Washington Street	Rental	419	1976	2004
Westwood House	50 West 93 Street	Rental	123	1971	2006
<b>Manhattan Sub-Total</b>			<b>17,140</b>		
<b>QUEENS</b>					
Bell Park Gardens	67-02 Springfield Blvd	Co-Op	800	1950	1989
Bell Park Manor/Terrace	221-22 Manor Road	Co-Op	850	1951	1990
Boulevard Gardens (LD)	30-47 Hobart Street	Rental	956	1935	1980
Hillside Hosp (Green House)	75-59 263 <sup>rd</sup> Street	Rental	1,416	1974	1992
Kew Gardens Hills	73-07 *153 <sup>rd</sup> Street	Rental	1,255	1973	1998
Ocean Park	125 Beach 17 Street	Rental	600	1972	2005
Ridgewood Gardens	52-24 65th Place	Co-Op	372	1955	1995
Roy Reuther (Seagirt)	711 A-D Seagirt Avenue	Rental	917	1974	2006
Skyview Towers	47-50 59th Street	Rental	232	1970	2003
<b>Queens Sub-Total</b>			<b>7,398</b>		
<b>New York City Total</b>			<b>36,629</b>		

## Appendix III

### Recent New York State and City Enactments Intended to Help Preserve Mitchell-Lama and Limited Housing

Faced with the steady loss of affordable Mitchell-Lama and Limited Dividend housing, residents and legislators have advocated new laws and financial incentives to halt, or at least slow, the “exodus.” Outlined below are the significant laws recently enacted to preserve and maintain Mitchell-Lama and Limited Dividend housing.

#### 50-Year Extension of Tax Exemption for Limited Profit Housing

Limited-profit housing developments receive real property tax exemptions that remain in effect for the length of the mortgage. To encourage owners to stay in the program as their existing mortgages expire, State legislation signed into law in August 2003 allows municipalities to grant an additional 50-year real property tax exemption to limited-profit housing projects when the existing exemption expires.<sup>20</sup> The tax exemption continues for as long as the project is operated under the same restrictions and for the same purposes as the Mitchell-Lama and Limited Dividend programs. After fifty years, the owner can renew participation in the program. New York City has opted into this new law.

#### Mortgage Restructuring and Six-Year Dissolution Prohibition

State legislation signed into law in July 2004 allows HPD to approve refinancing for developments it supervises for repairing, rehabilitating and upgrading deteriorating building systems and strengthening their cash flow and reserves.<sup>21</sup> In exchange, the owner applying for refinancing and the continued tax exemption cannot dissolve the limited profit housing company for six years. In addition, the owner may not pass capital improvement costs on to tenants.<sup>22</sup> To date, only Manhattan Plaza, an HPD-supervised rental development, has taken advantage of this program.

<sup>20</sup> Chapters 389 and 449 of the Laws of 2003, amending the Private Housing Finance Law (PHFL) and the Public Housing Law (PHL) Chapter 389 and 449 of the Laws of 2003.

<sup>21</sup> Chapter 257 of the Laws of 2004, amending the Private Housing Finance Law (PHFL) by adding a new Section 23-c. More specifically, this law allows municipalities, with the approval of the supervising agency, to (a) substitute a new mortgage, (b) extend or modify an existing mortgage, (c) subordinate an existing mortgage, and/or (d) borrow funds and secure repayment by note and mortgage.

<sup>22</sup> This law does not cover Mitchell-Lama buildings supervised by DHCR. DHCR did not join in this legislation because it prohibits Major Capital Improvement costs from being passed on to tenants as permitted by the RSL and the ETPA.

### J-51 Tax Abatement for Mitchell-Lama Housing

A measure signed into law by the Governor in July 2005 allows Mitchell-Lama and Limited Dividend developments to apply for J-51 property tax abatements<sup>23</sup> for certain capital improvements, even if the work is not privately financed.<sup>24</sup> Another measure signed into law at the same time eliminates the property assessment cap of \$40,000 per-unit for Mitchell-Lama cooperatives; this cap had been intended to limit the benefit that can be received by luxury cooperatives, but the cap had not been increased to reflect soaring property values. These two measures are intended to create further incentives for Mitchell-Lama owners to upgrade and rehabilitate their property.

Mitchell-Lama developments that take advantage of the J-51 tax abatement are required to remain in the program for a minimum of fifteen years from the date the benefit commences. For New York City developments to take advantage of the expanded J-51 tax abatements, the City Council must pass legislation conforming to the State amendments. In December 2005, the City Council held a hearing on legislation that would do this, Intro. 0756/05, which eliminates the \$40,000 property assessment cap, and Intro. 0757/05, which permits Mitchell-Lamas to receive J-51 property tax benefits even if the alteration or improvement is financed with grant, loan or subsidy from a federal, state or local agency. However, due to objections that were raised by Mitchell-Lama residents, the legislation was held for further review.

#### Advance Notice of Buyouts

In June 2005 the New York City Council enacted Intro.186-A, the “Tenant Empowerment Act,” introduced by Council Member Gerson. Intro. 186-A requires advance tenant notification of a buy-out and ensures tenants living in Mitchell-Lama or other eligible subsidized developments the “right of first refusal” to purchase their development independently or by working with a qualified not-for-profit when the owner leaves the Mitchell-Lama program. It also guarantees owners fair, appraised, market returns on their investments. The Mayor vetoed the bill in July and the City Council overrode the veto on August 17th.

<sup>23</sup> New York City's J-51 Program, established in 1955, issues tax abatements on any increased assessed valuation due to improvements for a fixed amount of years depending on the life expectancy of the improvement. The program applies to upgrading or replacement of building systems, including but not limited to, plumbing, electric, elevators and windows.

<sup>24</sup> A-08120 / S5359 amended the Real Property Tax Law regarding exemption from taxation for alterations and improvements for Limited Profit Housing Companies by allowing these developments to receive J-51 benefits for rehabilitation work financed with government loans, grants or subsidies. Previously, only repair work financed by private funding was eligible to apply for benefits. Developments that apply and are approved for this benefit are required to remain in the program for a minimum of fifteen years from the date the benefit commences.

## Appendix IV

### HDC Co-op Conversion Program

In early 2006, the New York City Housing Development Corporation (HDC) announced a Mitchell-Lama Co-op Conversion Program. This program is intended to encourage Mitchell-Lama rental developments that are eligible for buyouts or that recently left the program to re-finance and establish cooperative housing corporations.

Under the new program, HDC will offer first and second mortgages to newly formed tenant corporations in order to help them purchase their developments. HDC is repaid from apartment re-sales.

Among the ways the conversion assistance program seeks to ensure long term affordability are:

- Prices for “inside buyers” in the new cooperative will be set at a level affordable to residents earning up to 90% of area median income (\$56,531 for a family of four).
- When shareholders sell their units, purchasers must earn no more than 165% of area median income. During the first three years of a cooperative’s existence, any profit from sales goes back to HDC to help repay the co-op’s debt. After the third year, sellers pay 50% of their profit back to HDC. Once HDC’s debt is repaid, re-sales are subject to a 20% flip tax, which will be applied to keep maintenance fees for existing residents affordable.
- HDC expects that the new owners of a development will apply to retain the development’s real estate tax exemption.
- Non-purchasing tenants are to be protected under existing rent stabilization laws. Owners and/or potential sponsors who seek to participate in the program must provide a letter of interest from at least 25% of the existing residents.
- If the development currently receives HUD Section 236 assistance, enhanced vouchers can be used to protect existing tenants as well as to subsidize income-eligible residents’ maintenance fees.

Housing advocates and attorneys who assist Mitchell-Lama residents and who were interviewed for this study said that since there are still many unanswered questions about the new program and the prospects for the program to retain substantial amounts Mitchell-Lama rental housing as affordable co-ops remains uncertain. Among these issues:

- When the buildings were rentals, there was little incentive for landlords to invest in capital improvements and maintenance because their return was limited. Therefore, many Mitchell-Lama buildings require substantial capital upgrades. The new program does not appear to deal with either current capital improvement requirements of the buildings or likely future capital needs.
- In addition, the program requires owners and/or sponsors to obtain a “physical needs assessment” to determine how much capital work is needed. No mention is made of financial assistance to help pay for an engineer’s report or for the legal and financial advice that would be required to establish a new cooperative.
- Oversight of how cooperators resell their units and how to establish the selling prices is not specified.
- It has not been established whether shareholders who exceed maximum income levels will be required to sell their units and move or be subjected to maintenance surcharges.
- Although HDC states that the agency will assist owners in determining the appropriate real estate tax exemption and/or abatement, the time frame for tax benefits has not been established.

**William C. Thompson, Jr.,**  
**Comptroller, City of New York**

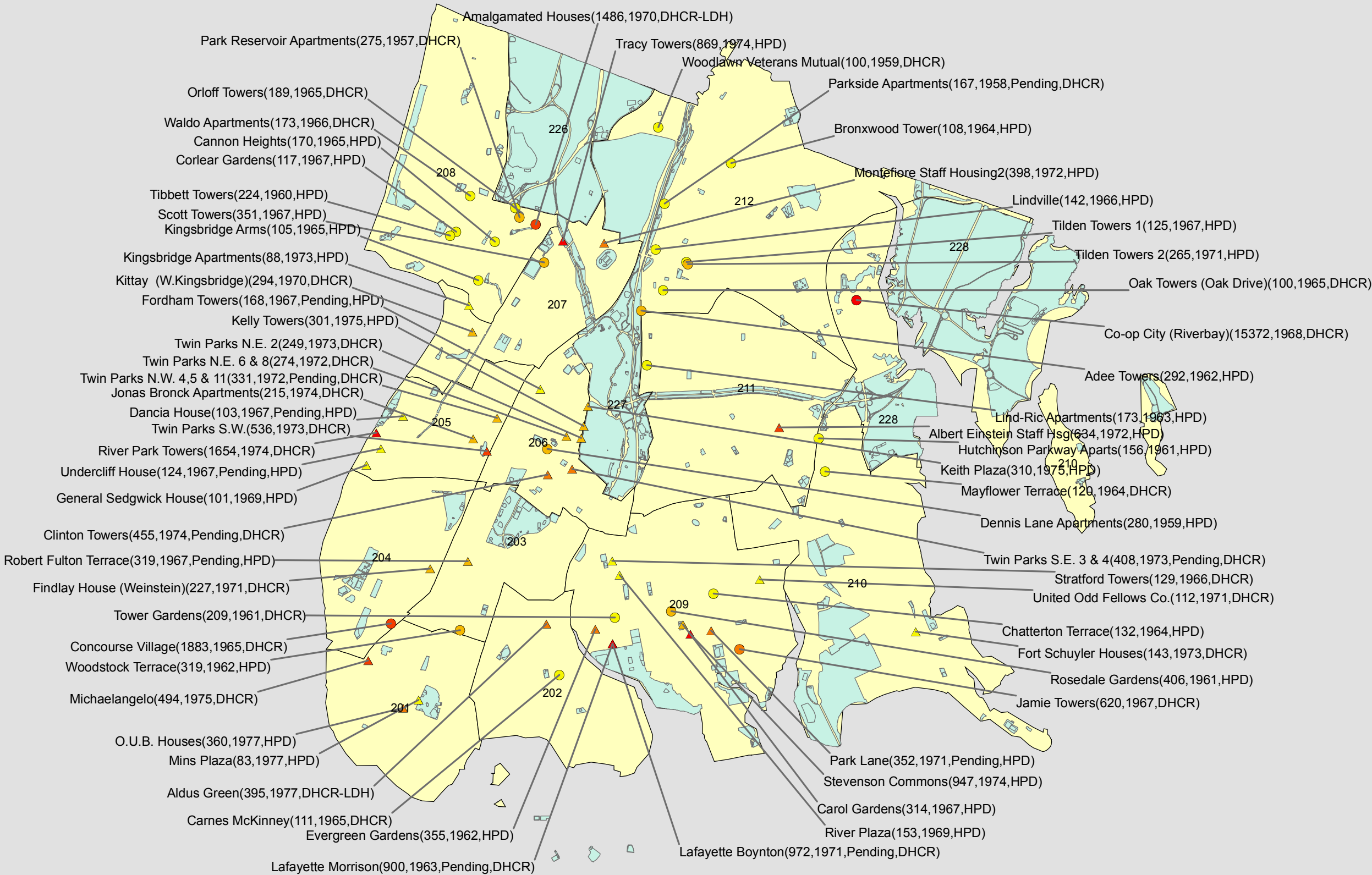
**Gayle M. Horwitz,**  
**Deputy Comptroller/Chief of Staff**

**Glenn von Nostitz,**  
**Director, Office of Policy Management**

**Gail Benzman and Christopher Boyd, Authors**



# Mitchell-Lama & Limited Dividend Housing Bronx - Existing Projects

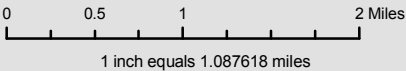
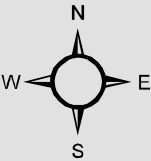


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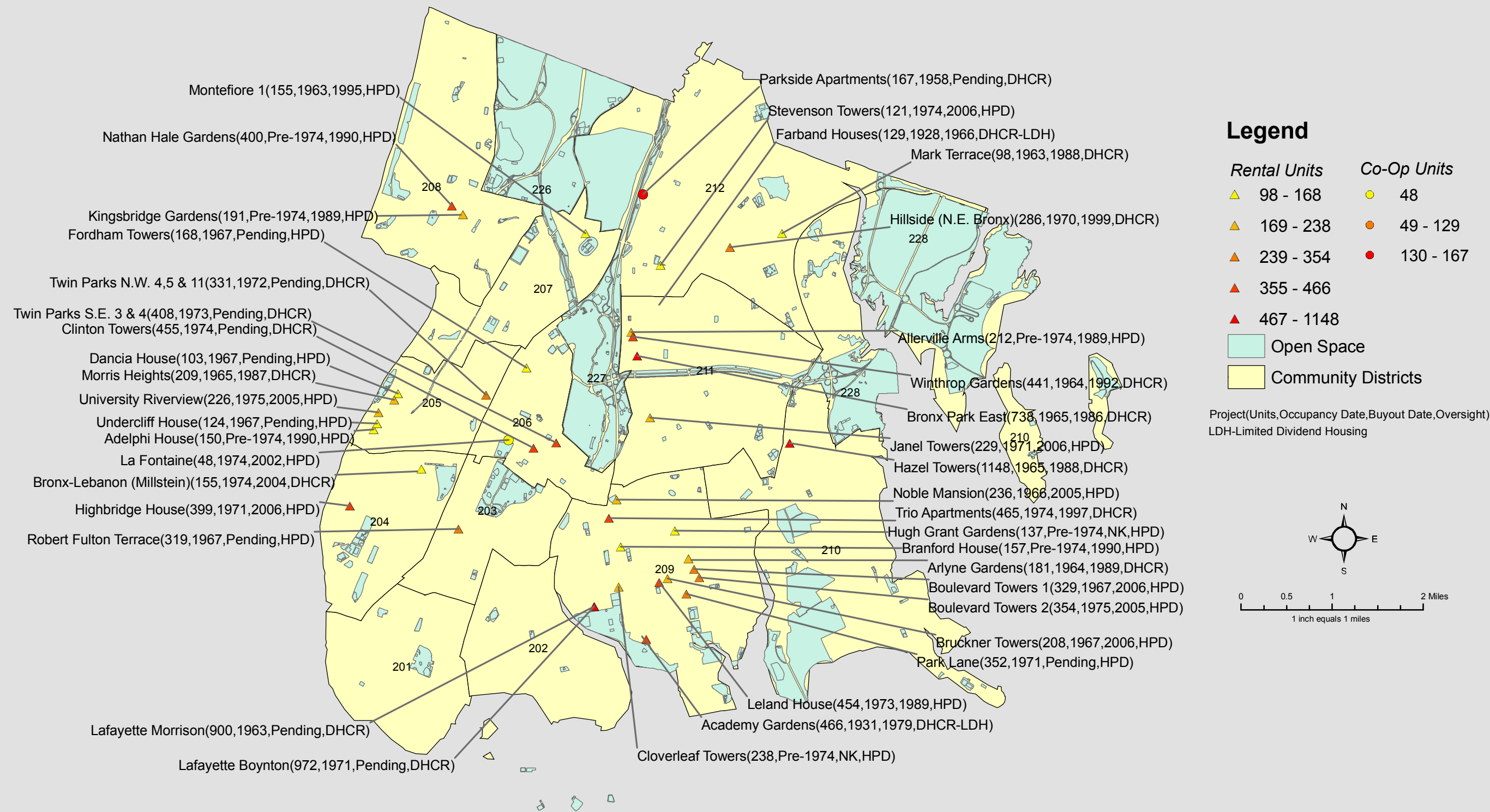
Rental Units	Co-op Units
▲ 83 - 168	● 100 - 224
▲ 169 - 331	● 225 - 406
▲ 332 - 455	● 407 - 620
▲ 456 - 634	● 621 - 1883
▲ 635 - 1654	● 1884 - 15372

□ Open Space  
□ Community District

Project(Units,Occupancy Date,Ovesight,LD)  
LDH-Limited Dividend Housing

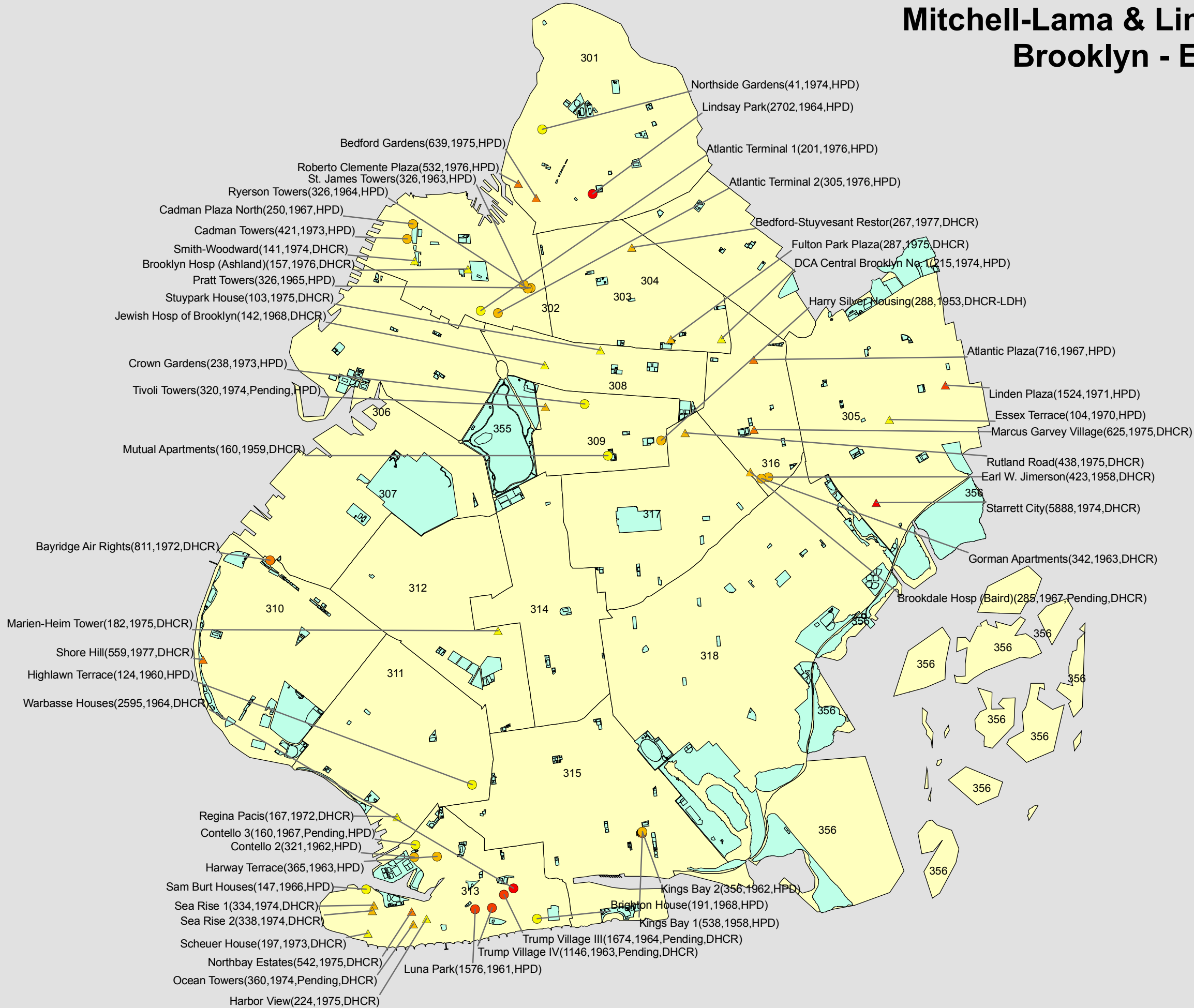


# Mitchell-Lama & Limited Dividend Housing Bronx - Buyouts & Pending Buyouts





# Mitchell-Lama & Limited Dividend Housing Brooklyn - Existing Projects



Legend	
Rental Units	Co-Op Units
▲ 103 - 224	● 41 - 238
▲ 225 - 438	● 239 - 423
▲ 439 - 716	● 424 - 811
▲ 717 - 1524	● 812 - 1674
▲ 1525 - 5888	● 1675 - 2702

Open Space

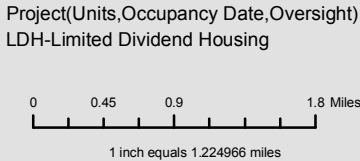
Community Districts

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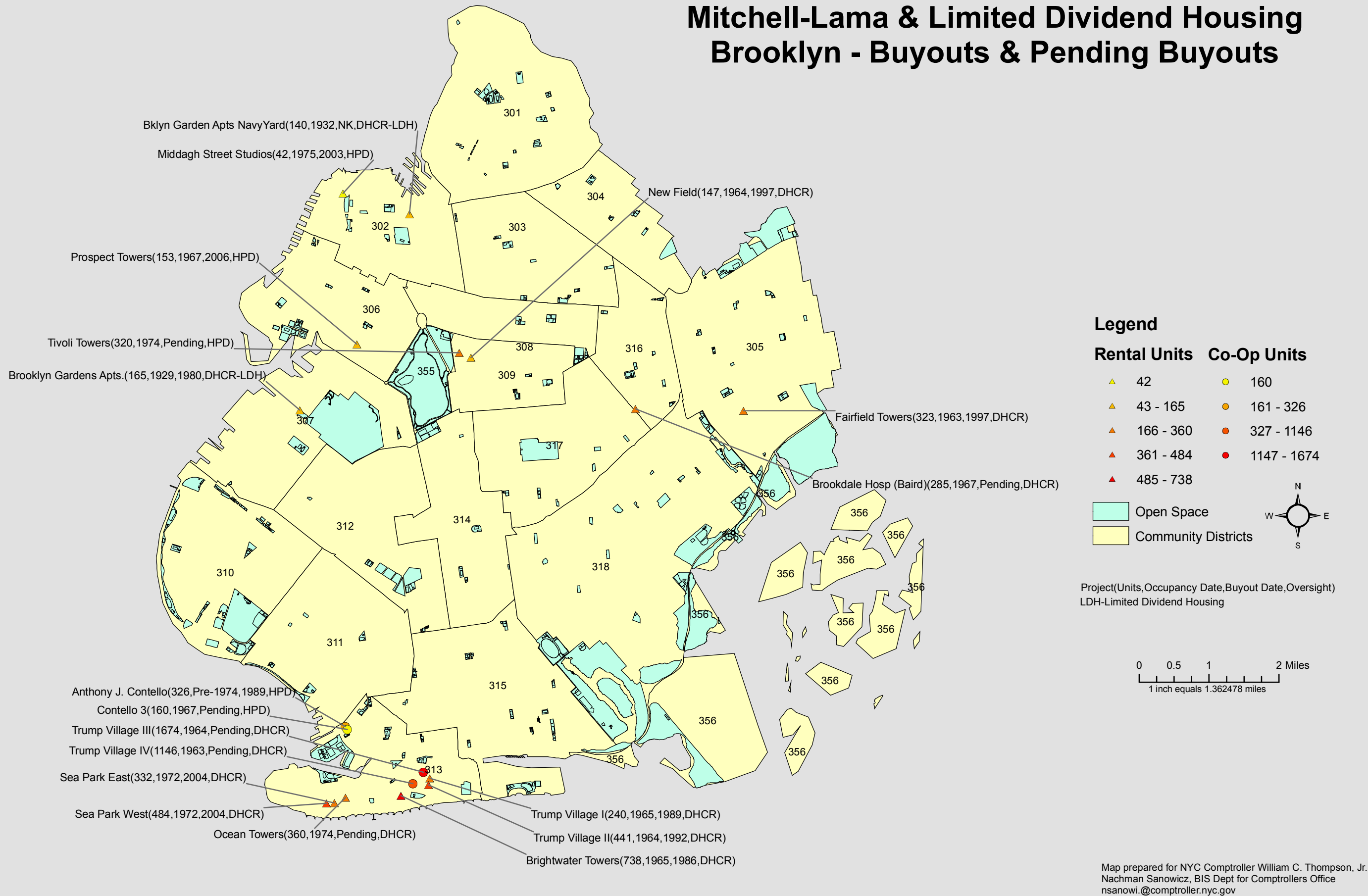
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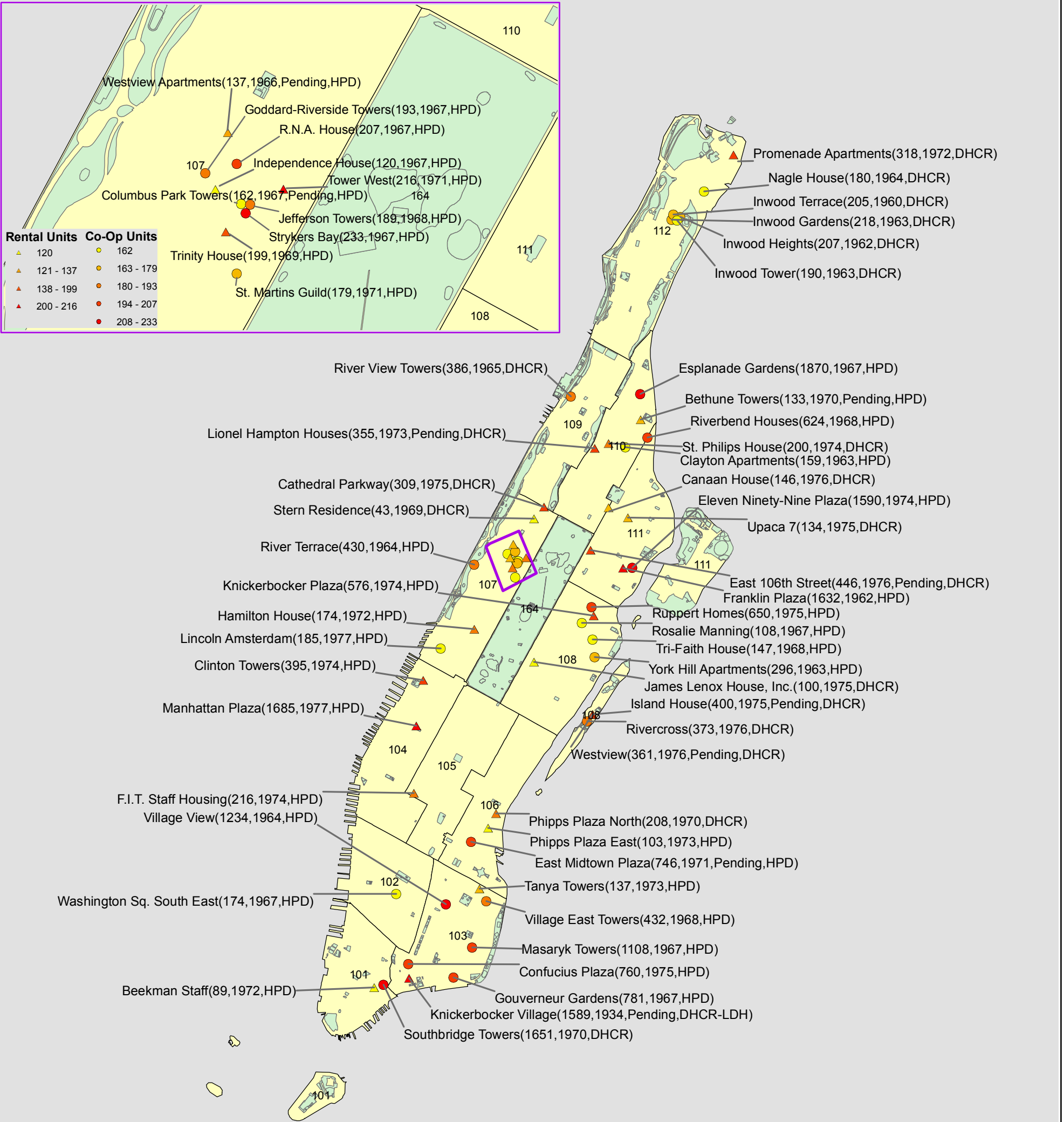


# Mitchell-Lama & Limited Dividend Housing Brooklyn - Buyouts & Pending Buyouts

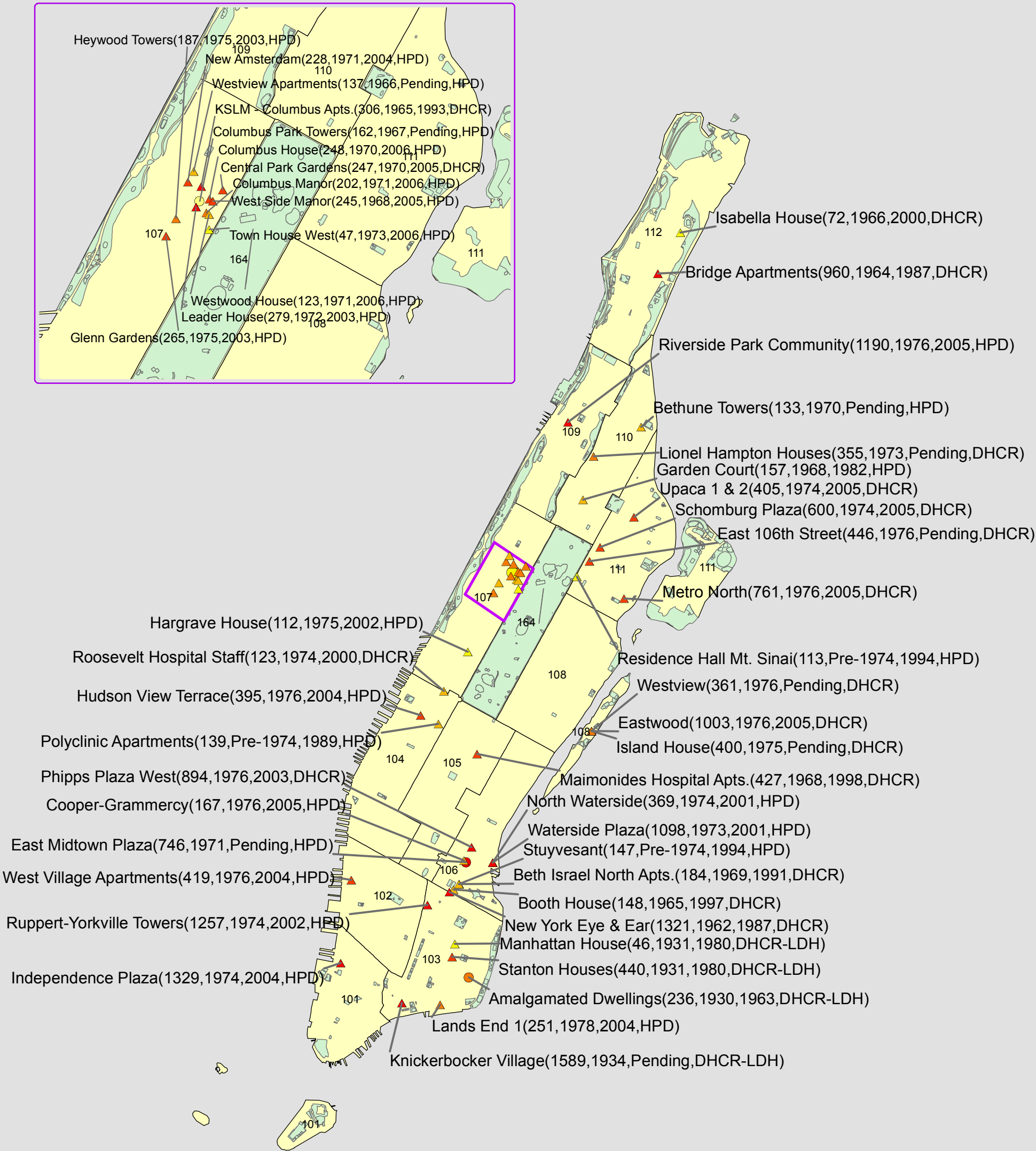




Mitchell-Lama & Limited Dividend Housing  
Manhattan - Existing Projects



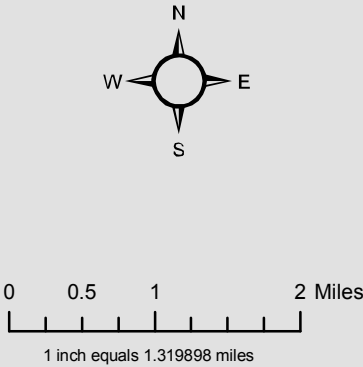
Mitchell-Lama & Limited Dividend Housing  
Manhattan - Buyouts & Pending Buyouts



Legend

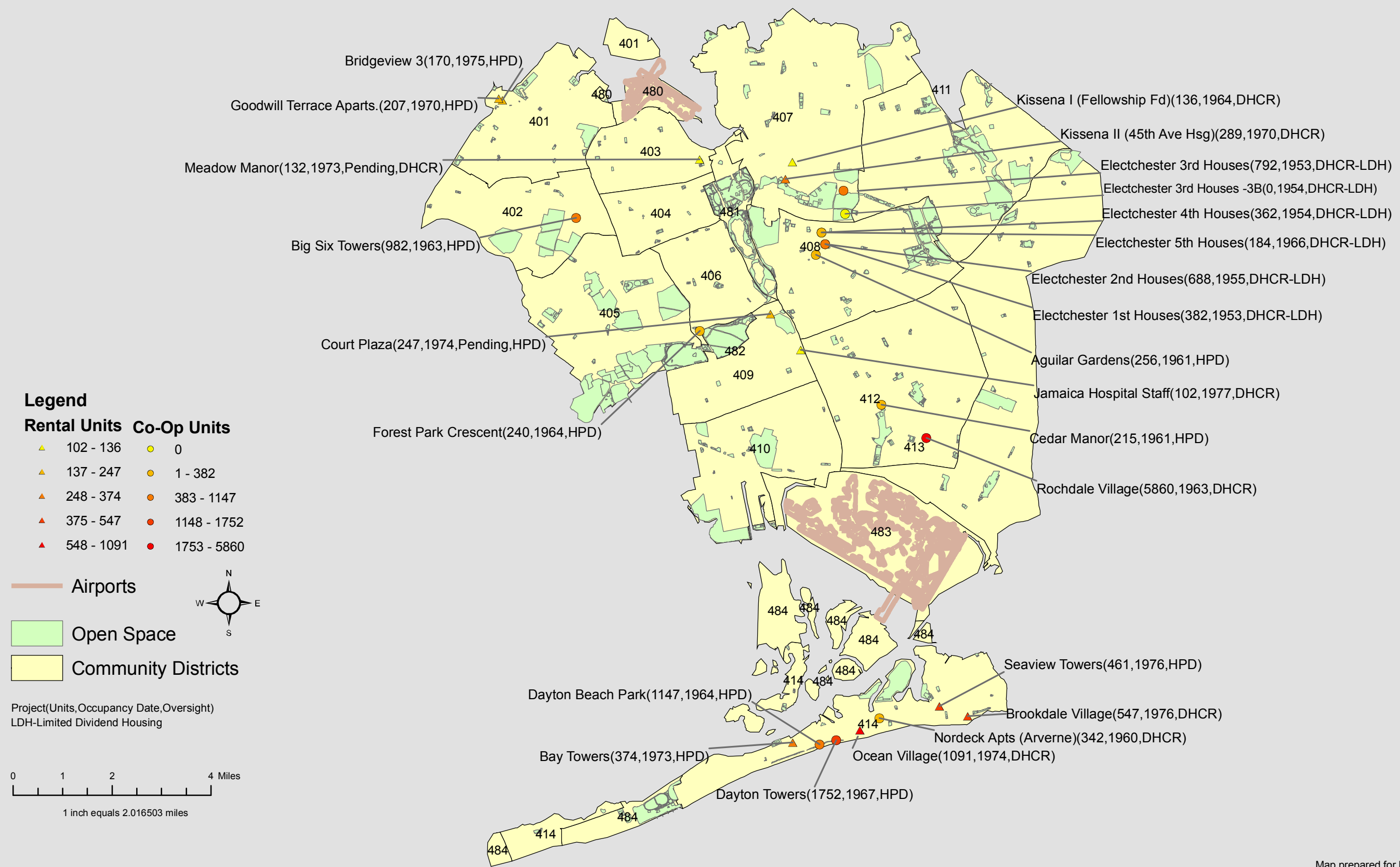
Rental Units	Co-Op Units
▲ 46 - 113	● 162
▲ 114 - 202	● 163 - 236
▲ 203 - 369	● 237 - 746
▲ 370 - 761	■ Open Space
▲ 762 - 1589	■ Community Districts

LDH-Limited Dividend Housing  
Project(Units, Occupancy Date, Buyout Date, Oversight)

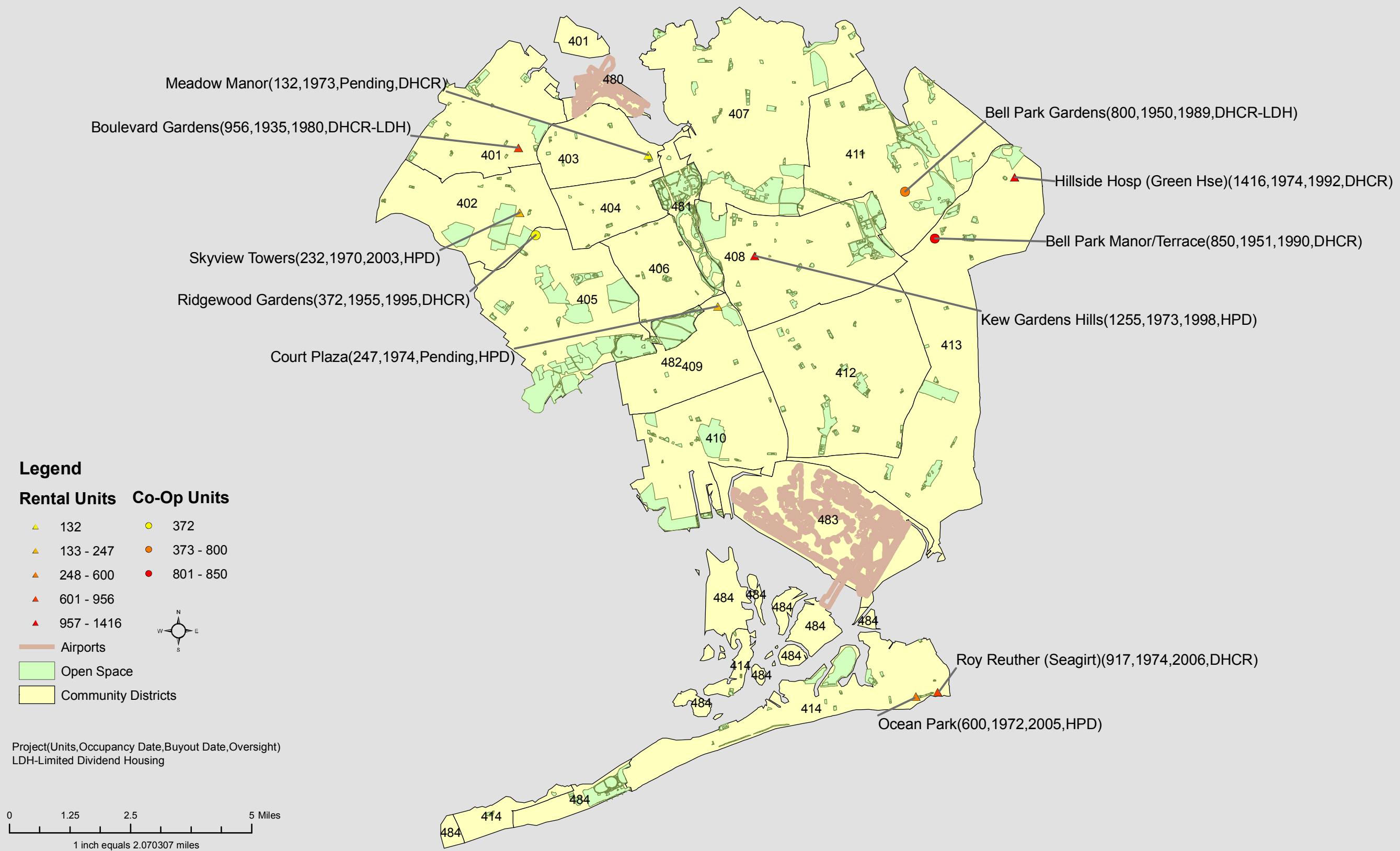




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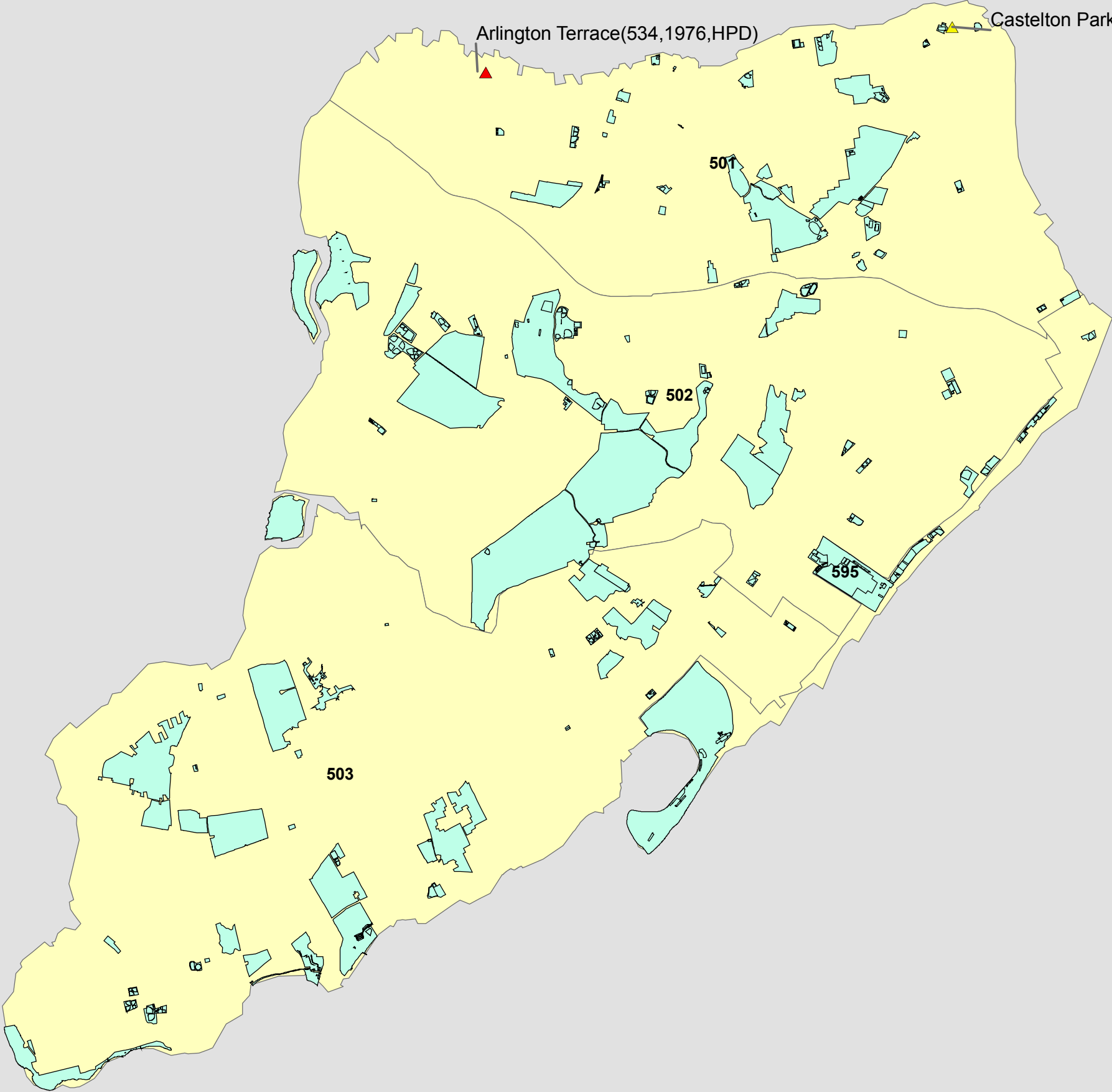


# Mitchell-Lama & Limited Dividend Housing Queens - Buyouts & Pending Buyouts





# Mitchell-Lama & Limited Dividend Housing Staten Island - Existing Projects



## Legend

### Rental Units

- 454
- 455 - 534
- Open Space
- Community District

Project (units,Occupancy Date,Oversight)

