

Preserving Our Homes: An Analysis of the Mitchell-Lama Affordable Housing Program

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EXECUTIVE SUMMARY

The United States currently faces one of the most acute affordable housing crises to date, affecting the ways people form communities, gain access to food, travel to work, build stable lives, and live in safe spaces. In New York City (NYC), a lack of new housing stock and privatization of affordable housing units has intensified this crisis, causing rents to soar out of reach for low- and middle-income families, young workers, and senior citizens. Affordable housing programs such as the Mitchell-Lama (M-L) cooperative housing program face these trends in privatization as well, threatening the survival of this sustainable solution to affordable housing in the city.

In an effort to preserve this affordable housing, my thesis asks the following questions: **How can the Mitchell-Lama program, a program developed under a different set of circumstances, evolve to address the current politics and economics of housing in New York City today? What lessons can we learn from the Mitchell-Lama program that we can implement in future housing cooperative programs modeled after M-L?** Through semi-structured interviews with residents and organizers, observational study of town halls and group meetings, and the analysis of documents provided by residents and organizers, I analyze what M-L residents believe the most pressing issues facing their communities are and how these problems intersect with one another.

I find that cooperatives in the M-L program confront **four major challenges: privatization, deteriorating building conditions, poor governance, and neglect by supervisory housing agencies.** Additionally, this thesis reveals the relationships and interactions between each issue, determining that **each problem exacerbates one another.** Based on these findings, I propose that the NYC government **facilitate communication between housing agencies and residents, implement governance training programs, put in place anti-privatization measures, and increase staffing for housing agencies to better address community needs.**

*“Housing is about more than just a building. Housing is your community. It’s your mental health. It determines where you are educated. It’s your safety. It’s all stacked together—it’s your **life**. Many people’s housing situations are very precarious, which leads to a lot of disruption in their lives. **But it’s not just about where you get to stay. It’s about where you live your life.**”*

—Adele Niederman, President of Cooperators United for Mitchell-Lama (CU4ML)

INTRODUCTION

New York City has experienced the worst affordable housing crisis it has ever experienced throughout the last two decades. Between 2000 and 2017, New York City added 643,000 new jobs, but it only permitted 390,000 new housing units, demonstrating the lack of necessary housing stock in the city. **The Mitchell-Lama affordable housing program provides crucial affordable housing stock to combat the rampant affordable housing crisis NYC and the rest of the nation faces today.** However, due to recent trends of privatization and deteriorating building conditions, **the survival of this program is at risk.**

Although the Mitchell-Lama program has existed for decades, research done by academics and policy researchers on the program mainly focuses on the effects of privatization on the program during the early 2000s. Almost all recent studies fail to investigate the issues M-L cooperatives specifically face and instead group them in their analysis with *all* limited-equity cooperatives in NYC; as a result, this research prevents policymakers from understanding **the unique features of the M-L program and the nuanced issues the program encountered** in comparison to these other affordable housing programs. Additionally, most current research **overlooks the value of community-based knowledge** by relying heavily on quantitative data and almost never on interviews with the residents who live these experiences every day. Finally, no current studies investigate the issues residents face *in addition to* privatization, **creating a blind spot for understanding the rampant existence of these issues and the intersections between them** that is vital for producing comprehensive, sustainable, and effective policy. **My thesis attempts to counter these absences by amplifying residents and organizers voices through the analysis of interviews, resident meetings, and documents provided by interviewees.**

METHODOLOGY

Within this research, I conducted three types of research: longform, semi-structured interviews with residents and organizers; observational study of resident-led meetings, grassroots organizations' workshops; and analyzed informal and formal documents provided to me by interviewees. I completed in-depth, one-on-one, semi-structured interviews with each participant to build trust to a point where they felt comfortable sharing their nuanced histories and perspectives. Each initial interview lasted at least one hour, and most lasted approximately 2-4 hours. Many residents were self-described senior citizens, people of color, and lived in their co-ops for 30-50 years. All interviews took place over the phone or over zoom, and with interviewees' permission, I audio recorded them and transcribed them for analysis. **I am grateful for the relationships I formed with each interviewee and the opportunities I have to uplift their perspectives and concerns.**

Through the connections with interview subjects and organizations, I was invited to and attended five town halls or group meetings. Finally, I analyzed primary source documents that I received from interview subjects and organizing websites to better understand the pressing issues affecting M-L co-ops. These documents range from email exchanges between co-op board members and residents to official complaints filed with the New York Attorney General's office. These sources are not available in a public archive, and I thank my interviewees for sharing important and sensitive documents with me.

FINDINGS

My research revealed **three main findings**: (1) the important benefits of M-L for residents; (2) the existence of four overlooked issues within the M-L program: privatization, deteriorating building conditions, poor Board governance, and failed supervision by Housing Preservation and Development (HPD); and, (3) the critical relationships between these issues that make each issue worse. Below, more detail is provided on each observation.

OBSERVATION #1: Benefits of the Mitchell-Lama program transcend the provision of shelter; instead, they provide important advantages such as affordability, stability, community, and pride and homeownership.

AFFORDABILITY

- Above all else, residents cited the affordability of their housing as the principal advantage of the program. The income created by removing the burden of high rent allows residents to spend their money on education, leisure, or savings. The program also provides middle-income people with *long-term* options to live without rent burden and spend their income in ways that add meaning to their lives.
- Mitchell-Lama cooperatives provide opportunities for first-time homeowners and young families to find long-term and amenity-filled affordable spaces to live in the city that may otherwise be unavailable or only temporarily available.

STABILITY AND COMMUNITY

- In a city where a rent hike can lead to catastrophe, almost every *shareholder*¹ used the word “stable” or “stability” to describe their experiences living in a M-L co-op. The M-L program aids in developing long-term, stable housing that forms strong residential communities that may not be present in other forms of affordable housing.
- Several residents recounted the importance of their buildings’ proximity to public transportation, hospitals, schools, and work as primary benefits of living in their co-op.
- M-L cooperatives form internal communities of care and encourage external construction of essential services like medical facilities, grocery stores, and workplaces that benefit residents.

PRIDE AND HOMEOWNERSHIP

- For all of these interviewees, owning a M-L apartment represented their first experience in homeownership. M-L co-ops counter harmful, racist housing policies by enhancing residents’ chances for first-time homeownership and accumulation of wealth for savings or other housing-related opportunities.

OBSERVATION #2: A false notion of wealth to be gained as a result of privatization of co-ops and a lack of transparency in the privatization process provides the foundation for this harmful trend to occur in the first place.

¹ A term to describe M-L co-op residents and the shares they hold in their building.

MORALITY OF HOUSING & THE FALSE DREAM OF RICHES

- Privatization plans commonly fail to emphasize the precarious nature of finances post-privatization, which contributes to the confusion surrounding shareholders' fates and how they should eventually vote.²
- When a M-L cooperative decides to privatize, supervising housing agencies remove tax exemptions privileges from the co-ops and expect them to pay *flip taxes*.³ However, there is no guarantee that co-ops will receive enough income in flip taxes because these are dependent on the amount of units sold and the price at which they are sold. Ultimately, this can lead a cooperative into bankruptcy, higher costs for the residents living there, and/or disastrous delays in necessary capital improvement projects.⁴

LACK OF TRANSPARENCY

- Trends in privatization are made worse by the lack of transparency between the Board⁵ and shareholders.
- Accounts from East Midtown Plaza (EMP), a Manhattan Mitchell-Lama cooperative facing a privatization battle this year, illuminated that the offering plan⁶ step of the privatization process reveals the rampant misinformation and misrepresentation of facts that occurs during the attempt to privatize.
- The complex privatization process facilitates confusion and mystery around the nuances of privatization plans that allows Boards to manipulate shareholders and prevent them from making informed decisions.

OBSERVATION #3: Since developers constructed Mitchell-Lama buildings almost seventy years ago, buildings urgently need to be updated and maintained. Poor governance, lack of training, threats of privatization, and strained interactions with supervisory housing agencies all exacerbate the poor building conditions M-L buildings experience and present a concerning trend for the safety and well-being of these cooperatives' residents.

BUILDING CONDITIONS AND GOVERNANCE

- Boards often lack the necessary training and education to adequately respond to needed repairs, indicating a strong connection between governance and building conditions.
- In some instances, Boards may choose to forego essential repairs for years because of their inability to properly impose increased fees or delegate adequate funds to each reserve, which causes the building conditions to worsen and residents to subsequently suffer. As time passes, the repairs become more expensive as well.

² Residents, also known as *shareholders*, complete a complicated process to vote on whether their building should privatize or not.

³ Flip taxes are *transfer fees* on the sale of the co-op apartments at market-rate prices that only apply to the *first* sale of the apartment post-privatization.

⁴ Capital improvement projects are projects that a building undertakes to improve its physical condition, like fixing a terrace or a rooftop.

⁵ Term used to describe the group of shareholders that are elected to govern a M-L co-op, completing tasks like elections, building improvement, finances, and more.

⁶ The offering plan is the third step in privatization, where the Board presents a plan for privatization to the AG's office.

BUILDING CONDITIONS AND HOUSING AGENCIES

- Governance that fails to address these poor building conditions and financial distress is exacerbated by the shortcomings of housing agencies. Agencies should provide oversight of major capital repairs, training for Board members to learn to better manage their finances, and enforcement of residents' housing rights.
- Shareholders have routinely asked for HPD to step in to address the violations they face—with no response—further emphasizing the failure of HPD in supervising major capital improvement projects to ensure that housing remains affordable and high quality. Several residents expressed concerns about filing complaints and not hearing back from HPD for months or even years.

BUILDING CONDITIONS AND PRIVATIZATION

- Boards where a majority of members favor privatization often will refuse to take out important loans for repairs in order to accelerate privatization. Using HCR or HPD-backed loans, co-ops can receive a low interest rate in exchange for a renewal of long-term affordability for the term of the loan. On Boards where members aim to start the privatization process in the near future, they may decline to take this low-interest loan and instead neglect the repairs that must be made.
- Some pro-privatization Boards claim that privatization will allow the cooperative to be able to pay for necessary repairs—however, this often proves untrue.

OBSERVATION #4: Poor Board governance compounds the issues Mitchell-Lama cooperatives confront in the realms of privatization, building condition, and supervision by housing agencies.

- Mitchell-Lama cooperatives experience numerous problems with shareholder participation, election and voting procedures, and overall Board education and training that decreases the efficiency and long-term sustainability of co-ops.

GOVERNANCE & HOUSING AGENCIES

- Housing agencies do not sufficiently provide training, education, and oversight for M-L cooperative boards, allowing rampant issues with governance to exist in Boards for years that result in bad decision-making and poorly-run cooperatives.
- CU4ML and other grassroots organizations have a strong reputation, and widespread success in training and educating M-L shareholders on governance. HPD does not provide equivalent training for shareholders in the M-L program.
- Boards are often ill-equipped to govern and lead democratically, failing to meet the needs of shareholders and creating mistrust across the co-op that HPD's ambivalence allows to worsen.
- Harmful carrying charge increases, corruption, failure to complete fair and regular elections are examples of the effects of poor governance on residents that are not addressed by HPD.

OBSERVATION #5: HPD's problems with understaffing act as the foundation for the agency's disturbing neglect of building condition issues, governance problems, and privatization threats that co-ops urgently need help to address.

HOUSING AGENCIES & PRIVATIZATION: ARTICLE II TO XI CONVERSION

- While Mitchell-Lama cooperatives currently confront major issues of privatization, building conditions, governance, and housing agencies, a new threat to the M-L program lies on the horizon: the possibility of M-L co-op conversion from Article II to Article XI cooperatives. Instead

of complete privatization from a M-L co-op to a market-rate co-op, this new procedure allows cooperatives to convert from a M-L co-op to a Housing Development Fund Corporation (HDFC) co-op.

- Shareholders claim that housing agencies, specifically HPD, have promoted this option to co-ops who attempt privatization but ultimately vote against it, indicating HPD's failure to preserve the M-L program as it currently stands.
- Thus far, only M-L rentals have completed Article II to XI conversions; however, Cadman Towers, a cooperative in Brooklyn, represents the *first* possible example of a M-L cooperative completing this semi-private transition. If shareholders in Cadman Towers ultimately decide to convert to an HDFC co-op, this conversion may initiate a trend across M-L cooperatives that would cause mass exiting from the program and contribute to the program's pervasive privatization problem.

POLICY RECOMMENDATIONS

In response to the affordable housing crisis, Governor Hochul proposed an affordable housing plan that presents opportunities to revitalize the Mitchell-Lama program. Governor Hochul is expected to funnel \$220 million in the coming year into the M-L program to preserve and improve buildings, and her plan also proposes a pilot program of affordable housing specifically based on M-L co-ops—a program I call “Mitchell-Lama 2.0.” Without careful consideration of the problems M-L co-ops experience, the funding will fail to preserve this essential housing stock. Therefore, I present comprehensive recommendations that address the existence and intersectionality of the four major issues afflicting the M-L program. **I recommend that city governments facilitate greater communication between grassroots organizers/residents and city officials, invest in governance training, implement anti-privatization measures, and increase staffing at HPD.**

Grassroots Organizations' Roles in the Preservation of Mitchell-Lama

Implement bi-yearly town hall meetings between M-L grassroots organizations and housing agencies to facilitate communication between the two entities to better address problems that residents face.

The grassroots organizations represent crucial sources of local knowledge and lived-experience that allow them to efficiently aid fellow shareholders with the issues in their co-ops. Intensive guides, archives, meetings, and legislative influence demonstrate their knowledge of the intricacies of the M-L program and its history that at times is unparalleled, especially in government spaces. Policy has much to gain from facilitating conversations between these organizations and policymakers. This recommendation represents a low-cost, sustainable, and easily implementable solution.

Governance & Training Programs

Invest in governance training for shareholders and Boards through HPD and grassroots organizations.

Residents and relevant sources revealed that cooperatives did not exhibit good governance or participation, which presents the need for policy to invest in training measures that will promote good governance. Grassroots organizations like UHAB and CU4ML already complete extensive, free training of shareholders on the benefits of M-L, cooperative values, shareholder participation, and Board decision-making, so HPD should provide them with resources to continue this training on a larger scale. These workshops should take place throughout the year and Board members should be required to attend a

certain number of workshops when they are first elected to the Board. Shareholders should be provided with essential materials to acclimate themselves to the co-op environment when first moving into a M-L co-op. Initially, HPD should target M-L co-ops that exhibit “bad” governance practices and encourage participation in these workshops.

Anti-Privatization Measures

Ban the Article II to Article XI conversion option for the current M-L program and write this ban into law for the new program.

Policymakers should ban this semi-privatization option for M-L co-ops. Assuming that there may be political challenges, I suggest that housing agencies put in place **intense regulations around the semi-privatization process** that would deter cooperatives from completing the process and considering privatization at all. The semi-privatization process should be as complex and comprehensive, if not more so, than the four-step privatization process that currently exists. Additionally, policymakers should learn from the mistakes made during the initial conception of the original M-L program, and write a ban on this conversion process into law to ensure the long-term affordability of these cooperatives.

Ban privatization of cooperatives in the pilot program.

To prevent the pilot program from experiencing similar trends in privatization to the original M-L program, government officials must write a complete ban on privatization of M-L 2.0 co-ops into the legislation. If not, policymakers should include more intense regulations and barriers for privatization to pass within co-ops, such as increasing the voter threshold needed to progress through the process and investing in the training to emphasize the importance of M-L’s affordability.

HPD & Staffing

Exempt the HPD from the staffing budget cuts proposed by Mayor Eric Adams and hire more staff to combat the current deficit.

Data from HPD revealed the drastic understaffing crisis occurring at the agency. Therefore, I recommend that Mayor Eric Adams decide to exempt the HPD from his proposed budget cuts that would otherwise prevent rehiring. An increase in staff may enable HPD to more effectively address these complaints and aid shareholders in their struggles against poor governance, building condition, and more.

Create an ombudsman position and office through HPD that specializes in handling Mitchell-Lama-program-related issues.

Not only does HPD lack proper staffing, but it fails to support a role that specifically handles resident issues within the M-L program. An ombudsman position would require expertise in the intricacies of the program and streamline responsibility for addressing the complaints of these residents. This allows for HPD to foster a better supervisory relationship between cooperatives and housing agencies.

CONCLUSION

Investigation of middle-income affordable housing programs like the Mitchell-Lama program is urgently needed. Future scholars must **engage in co-creation of knowledge and research with the people these topics affect the most**. The results of this research also aid resident-organizers in understanding how the issues they fight for interact with one another and which comprehensive policies to lobby for. Additional research opportunities will emerge as the city develops its M-L 2.0 pilot program, which may provide a

chance for comparative analysis or other studies. **The past and future of housing lies in the Mitchell-Lama program, and we must invest in its success because all people deserve safe, stable, secure, and affordable housing.**