



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*86 Chambers Street
New York, New York 10007*

July 29, 2022

By E-mail

Greg Russ
Chair and CEO
NYCHA
250 Broadway
New York, New York 10007

Bart Schwartz
NYCHA Monitor
260 Madison Ave., 3rd Floor
New York, New York 10016

Re: *Concurrence in Agreement Modifications Regarding Elevators*

Dear Mr. Russ and Mr. Schwartz:

NYCHA has requested two modifications to the requirements of the Agreement between U.S. Department of Housing and Urban Development (“HUD”), the New York City Housing Authority (“NYCHA”) and the City of New York, dated January 31, 2019 (“Agreement”). As described below, NYCHA requests (i) that paragraph 27 of Exhibit B to the Agreement be modified to expand the period each day during which NYCHA is permitted to schedule planned elevator outages that will lead to a no-service condition, and (ii) that paragraph 29 of Exhibit B be modified to better reflect NYCHA’s performance on elevator outages.

The Monitor has recommended to HUD and SDNY that each of NYCHA’s proposed modifications be adopted, pursuant to paragraph 43 of the Agreement. The Monitor has determined, as required by paragraph 43, that each of the modifications “will further the purposes of the Agreement.”

HUD and SDNY concur in these modifications, which will go in effect as described below. Exhibit A to the letter contains the Agreement language as modified. Attachment B to the letter contains a redline version showing changes relative to the original Agreement language.

Paragraph 27

Paragraph 27 provides:

- a. As of one year of the Effective Date, NYCHA shall have no planned outages that result in a no-service condition between the hours of 6 a.m. and 10 a.m. or between 3 p.m. and 8 p.m., except for planned elevator rehabilitation or replacement or outages mandated by another governmental agency or regulatory entity.

The Monitor has recommended that HUD and SDNY approve a request from NYCHA to shorten each of these timeframes by one hour, so that the applicable periods are “between the hours of 6 a.m. and 9 a.m.” and “between the hours of 4 p.m. and 8 p.m.” The Monitor has determined that this modification furthers the purpose of the Agreement because it allows for more efficient and effective elevator maintenance by NYCHA, while at the same time still achieving the goal of reducing no-service conditions during hours when residents are most likely to be travelling to work, to school, or to other activities. The Monitor reports that his staff have consulted with the Chairman of the City-wide Counsel of Presidents (CCOP), who supports the change.

As we have previously advised, HUD and SDNY concur in this proposed modification, effective as of January 31, 2022, *i.e.*, the beginning of the fourth year of the Agreement, as reflected in the attached Exhibits.

Paragraph 29

Paragraph 29, which does not apply until five years after the effective date of the Agreement, sets certain timeframes NYCHA must meet for resolving elevator outages. The provision sets forth two separate standards: Subsection (a) applies to “outages that result in no-service conditions,” and Subsection (b) applies to “outages that do not result in a no-service condition.” NYCHA has explained that this division may lead to confusing or unhelpful reporting in cases in which multiple elevator cars in a single elevator bank are out of service for different, but overlapping, periods. In those cases, the current division may fail to incorporate information about the periods of non-overlap for such elevators. NYCHA recommends that the two categories be modified to “length of no-service conditions” and “length of elevator outages,” which would not raise the same concern.

The Monitor has recommended that HUD and SDNY approve this change and has determined that the change furthers the purposes of the Agreement.

HUD and SDNY concur in this proposed modification, as reflected in the attached Exhibits, which will be effective when Paragraph 29 by its terms becomes applicable five years after the Effective Date.

* * *

We request that NYCHA and the Monitor post this modification letter on their websites, in the same location as the Agreement, to ensure that the revised applicable requirements are readily available to the public.

Thank you both for your continued efforts to ensure that NYCHA residents receive decent, safe, and sanitary housing.

Very truly yours,

DAMIAN WILLIAMS
United States Attorney
Southern District of New York

by:

ROBERT WILLIAM YALEN
Assistant United States Attorney
(212) 637-2722

DOMINIQUE BLOM
General Deputy Assistant Secretary
for Public and Indian Housing
U.S. Department of Housing & Urban
Development

Exhibit A
(Paragraphs 27 and 29, As Modified, Clean Version)

27. As of one year of the Effective Date and through January 30, 2022, NYCHA shall have no planned outages that result in a no-service condition between the hours of 6 a.m. and 10 a.m. or between 3 p.m. and 8 p.m., except for planned elevator rehabilitation or replacement or outages mandated by another governmental agency or regulatory entity. On and after January 31, 2022, NYCHA shall have no planned outages that result in a no-service condition between the hours of 6 a.m. and 9 a.m. or between 4 p.m. and 8 p.m., except for planned elevator rehabilitation or replacement or outages mandated by another governmental agency or regulatory entity.

29. Within five years of the Effective Date, NYCHA shall resolve no-service conditions and elevator car outages within the following timeframes:

a. No-service conditions:

- (i) 85% of no-service conditions shall be resolved within 4 hours of NYCHA learning of such condition, and
- (ii) no no-service condition shall last more than 12 hours, unless the no-service condition is in a one-elevator building and results from either (A) an outage due to an elevator rehabilitation or replacement or (B) an outage for which the industry-accepted repair time is longer than 12 hours or that requires NYCHA to order unavailable parts.

b. Elevator car outages:

- (iii) 85% of elevator car outages shall be resolved within 10 hours of NYCHA learning of such outage, and
- (iv) no outage shall last more than 18 hours, unless the outage results from either (A) an outage due to an elevator rehabilitation or replacement or (B) an outage for which the industry-accepted repair time is longer than 18 hours or that requires NYCHA to order unavailable parts.

Exhibit B
(Paragraphs 27 and 29, As Modified, Redline Version)

27. As of one year of the Effective Date and through January 30, 2022, NYCHA shall have no planned outages that result in a no-service condition between the hours of 6 a.m. and 10 a.m. or between 3 p.m. and 8 p.m., except for planned elevator rehabilitation or replacement or outages mandated by another governmental agency or regulatory entity. On and after January 31, 2022, NYCHA shall have no planned outages that result in a no-service condition between the hours of 6 a.m. and 9 a.m. or between 4 p.m. and 8 p.m., except for planned elevator rehabilitation or replacement or outages mandated by another governmental agency or regulatory entity.

29. Within five years of the Effective Date, NYCHA shall resolve no-service conditions and elevator car ~~all~~ outages within the following timeframes:

a. ~~For outages that result in a n~~ No-service conditions:

(v) 85% of no-service conditions shall be resolved within 4 hours of NYCHA learning of such condition, and

(vi) no no-service condition shall last more than 12 hours, unless the no-service condition is in a one-elevator building and results from either (A) an outage due to an elevator rehabilitation or replacement or (B) an outage for which the industry-accepted repair time is longer than 12 hours or that requires NYCHA to order unavailable parts.

b. ~~For outages that do not result in a no-service condition~~ Elevator car
outages:

(vii) 85% of elevator car outages shall be resolved within 10 hours of NYCHA learning of such ~~condition~~ outage, and

(viii) no outage shall last more than 18 hours, unless the outage results from either (A) an outage due to an elevator rehabilitation or replacement or (B) an outage for which the industry-accepted repair time is longer than 18 hours or that requires NYCHA to order unavailable parts.