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**Partnership for New York City**

April 10, 2009

Mr. Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, DC 20429
Attention: Comments

Dear Mr. Feldman:

Thank you for the opportunity to provide comments on the Legacy Loans Program.

The Partnership for New York City represents the city's international and regional business community working in the public interest to promote economic growth and job creation. The Partnership's comments are intended to broaden the benefits of the PPIP and avoid unintended negative consequences for certain multifamily buildings. The Partnership is prepared to participate in the implementation of the Community Asset Partnership as described in the attached document.

Sincerely yours,

Kathryn S. Wylde
President and CEO

# COMMUNITY ASSET PARTNERSHIP

**ISSUE**

The Public-Private Investment Program being put in place by the federal Department of the Treasury and the FDIC provides a timely and important mechanism to get credit flowing by facilitating the private purchase of "Toxic Assets" currently held by banks, in the form of whole loans and securities. What seems to be missing from this initiative is a safety net for occupied, multifamily properties where acquisition and stabilization may require some form of special assistance. To avoid collateral damage to affected neighborhoods, tenants and cooperators, there should be filter in the PPIP process that identifies at-risk multi-family residential properties that house working and middle class families and other vulnerable populations who may not be well served with a purely market-based solution. An estimated 8-9% of the $8 trillion+ toxic asset portfolio could fall into this category and represent buildings, largely clustered in major cities, which are critical to the stability of neighborhood and urban economies.

**SOLUTION**

New York City created and implemented the nation's model urban revitalization and housing stabilization program in the 1980's and is prepared to do the same in 2009. It is proposed that PPIP guidelines be amended to accommodate the concept of a Community Asset Partnership (CAP) that can harness the local, state and federal resources required to effectively refinance and preserve residential properties caught up in portfolio purchases that cannot be readily stabilized and maintained without extraordinary intervention. New York City, tapping both its public and private sector talent, is prepared to pilot such a model intervention strategy. The approach could quickly be rolled out nationally through the network of state and local housing finance agencies that possess the ability to issue debt for the long-term financing of these properties or can work with banks and CDFIs to structure appropriate ownership and financial arrangements.

To implement this program will require establishing criteria to identify occupied multi-family properties that provide housing for middle class and working families and constitute endangered "community assets." These would be properties where an economic rent and tenant affordability cannot be achieved without writing down debt or investment of needed rehabilitation capital beyond what the PPIP program on its own provides. For example, in New York City, a number of large housing developments, some built with public subsidies, have been refinanced in recent years at multiples that relied upon tenant turnover and rapidly rising market rents. These projects were often bundled with others and securitized into CMBS. The unexpected depth of the recession has put these properties at risk and even a write down of debt at auction may not accommodate affordable rents to existing tenants. These properties are likely to be either condemned and disposed of by special servicers or, in the case of whole loans, foreclosed by acquiring parties and unloaded on speculators.

There is capacity in the national affordable housing industry to handle these properties in order to avoid building deterioration, tenant displacement and community destabilization, but the current structure of the Treasury and FDIC programs does not tap into it.

State and local housing finance agencies, working with nonprofit affordable housing organizations and locally-based private owner-managers, are in a position to identify interim building management and ownership, where required. It would clearly be preferable to single out properties before auction and provide access to the leveraged funds and guarantees available through the Treasury/FDIC in order to finance their acquisition. Rather than ending up in the hands of speculators, at risk properties that are identified as Community Assets would gain the benefit of servicing, oversight and eventual long term financing from state and local housing finance agencies with significant experience managing and financing portfolios of government-assisted housing (Section 8, tax credit properties, and in some instances, real estate tax abatement programs). They can issue federally taxable debt to provide financing if long term financing is not available from the existing federal programs or other private sources. In some instances after the initial purchase the buildings could be sold to the tenants through a co-op conversion or restructures and sold to a qualified affordable housing organization or Minority or Women-Owned Business.

The purpose of the Community Asset Program would be to provide for early identification of vulnerable and important multifamily buildings and cull them out of an auction process that is not set up to deal with this category of property. The goal would be to ensure the continued affordability to middle and working class residents. The program could also provide a meaningful role for finance professionals with skill sets in loan underwriting, municipal bond and multi-family securitization that have lost their jobs as a result of the financial crisis. The cities which face the loss of the housing would be protected from buildings being purchased by speculators who may let them sit vacant and in disrepair for extended periods of time while waiting for a market rebound. Finally, Members of Congress will be able to use this program as a solid example of how PPIP initiatives are helping communities and protecting tenants and neighborhoods from the destructive consequences of multi-family building foreclosure.

To accommodate a safety net approach under the PPIP and legacy loan programs a provision will need to be made to extricate certain properties from the normal auction process. New York City has a proven model for this associated with its sale of real estate tax liens, where properties are prescreened and those occupied residential buildings that will not support market-rate acquisition are disposed of through a special affordable housing entity. Features of a Community Asset Program could include limitations on profits of private purchasers, CRA credit for banks that are divesting these assets as well as for those participating in financing acquisition and preference for minority and women-owned businesses and CDFI participation.

## REQUIRED AMENDMENTS TO THE FDIC AND TREASURY PROGRAMS

- Provision to identify and segregate the multi-family loans by location and Community Asset criteria.
- Assignment of responsibility for evaluation and packaging the disposition of such properties to a team identified by state/local HFAs.
- Waive the $10B threshold for approved purchasers of these properties and allow them access to Treasury's leveraged financing.
- Provide safe harbor protection from liability to investors/shareholders for banks and special servicers that dispose of eligible properties through a Community Asset Program that is responsive to local needs.
- Encourage bidders for any pools or individual properties to include a MWOB (Minority or Women-Owned Business) as a partner.