



**FOR THE RECORD**

**Testimony of the  
New York City Department of Housing Preservation and Development  
to the New York City Council Committee on Land Use  
On Introduction 1487**

**May 7, 2019**

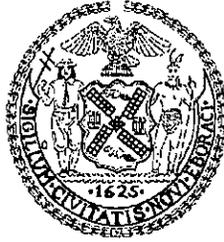
The de Blasio Administration has focused on making this City more fair and affordable for everyday New Yorkers since day one. New York City continues to face a housing affordability crisis and everyday New Yorkers continue to feel the strain of extraordinary market pressures. Given that the demand for housing consistently outpaces available supply, it is vital that we take a multi-faceted approach to ensuring New Yorkers can remain in the City they love. Although displacement is an incredibly difficult thing to track and can occur in many forms, HPD is open to evaluating and updating our tactics to address this issue.

As a City, we are focused on keeping people in their homes and neighborhoods by closing loopholes in rent regulation laws at the State level, creating and preserving historic numbers of affordable homes through a variety of tools, empowering tenants with more resources, aggressively enforcing City codes, and utilizing all of our partnerships to create data-driven, innovative tools targeted at stopping harassment before it starts. The Council has been an invaluable partner at every step, from working together on the Certificate of No Harassment pilot to the Speculation Watch List, and the creation of the Partners in Preservation pilot; we thank Speaker Johnson and Chair Salamanca for their leadership on this issue from the very beginning.

Further, we take seriously our obligation to affirmatively further fair housing. Despite the Trump Administration's delayed implementation of the required Assessment of Fair Housing, the City of New York remains committed to a comprehensive fair housing planning process to study, understand, and address patterns of residential segregation and concentrated poverty in our neighborhoods, and how these patterns impact New Yorkers' access to opportunity – including jobs, education, safety, public transit, and positive health outcomes. This data-driven, collaborative fair housing planning process is done through an initiative we call *Where We Live NYC* and includes extensive community participation throughout all aspects of the process that will culminate with the release of a public report in the Fall of 2019. The report will include measurable goals and strategies that are designed to foster inclusive communities, promote fair housing choice, and increase access to opportunity for all New Yorkers.

The Council's partnerships in all of these areas have been vital to the Administration's efforts to keep people in their homes. However, the proposed Intro 1487 that would require HPD to analyze secondary displacement impacts five years after a neighborhood rezoning and report on the effects does not achieve those aims nor address the multi-faceted and complex issues causing displacement. Neighborhood rezonings, which pair City-financed affordable housing with investments in a variety of improvements that neighborhoods need to thrive, assist in increasing the supply of critically needed housing and especially low income housing. Combined with the Administration's preservation efforts, we are working hard to prevent displacement and simultaneously create more affordable housing opportunities in a variety of New York City neighborhoods. As the pressures causing displacement evolve and change, we look forward to further conversations with the Council about data-driven, targeted approaches to effectively work at combatting these effects.

HPD is in the business of protecting tenants, and our work is a critical piece of this aggressive approach to combatting displacement and keep residents in their homes. Thank you for the opportunity to testify and I look forward to answering any questions you may have.



**TESTIMONY OF THE MAYOR'S OFFICE  
BEFORE THE NEW YORK CITY COUNCIL  
COMMITTEE ON  
LAND USE**

*May 7, 2019*

**INTROS. 0252, 1487, 1523, AND 1531**

Good afternoon. I want to thank Chair Salamanca, Chair Moya, and members of the committees for this opportunity to testify on the City Environmental Quality Review procedures and the proposed Intros. 252, 1487, 1523, and 1535. I am Hilary Semel, the Director and General Counsel of the Mayor's Office of Environmental Coordination (or "OEC"). I have been at this position for nearly three years. Prior to this role, I was an environmental lawyer in the New York City region, both in the private sector and public interest, for over 20 years. I am joined by Esther Brunner, Deputy Director of Regulatory Programs at OEC.

**THE MAYOR'S OFFICE OF ENVIRONMENTAL COORDINATION**

Before I address the legislation, I would like to provide some background about the role of OEC, as many members of the public may be unfamiliar with us, as well as the development and use of the CEQR Technical Manual.

OEC is an independent office within the Office of the Mayor<sup>1</sup>, established in 1991 under Mayor Dinkins to be the City's central CEQR office with procedural, legal, and policy expertise on all aspects of environmental review. Our mission is to ensure the integrity of the environmental review process by providing information and assistance to agencies and applicants. Transparency is also a main priority of our work. We coordinate environmental reviews across the technical agencies, assist city agencies that may not have the expertise and capacity to undertake environmental review on their own, maintain the public repository for all environmental reviews conducted in the City, and coordinate periodic updates to the guidance found in the CEQR Technical Manual. OEC is also charged with developing and maintaining a technical database for applicants and city agencies to complete environmental review documents, and with tracking mitigation measures<sup>2</sup>.

My office is currently pursuing two major initiatives as part of the CEQR work flow: 1) The CEQR Technical Manual Update, and 2) the CEQR Database Update.

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<sup>1</sup> New York City Executive Order No. 29 of 1991.

<sup>2</sup> Rules of the City of New York, Title 62, Chapter 5, Sections 5-04(c)(1)(2)(9), respectively.

## **THE CEQR TECHNICAL MANUAL**

### **New York City's Guidance Document for Environmental Review**

As mentioned by my colleague, environmental reviews are disclosure documents. They exist to inform decision makers what the potential environmental impacts of a city action might be based on available information at a point in time and what measures are available to mitigate significant adverse impacts identified in the review, to the maximum extent practicable.

CEQR is New York City's environmental review process pursuant to the New York State Environmental Quality Review Act – SEQRA. SEQRA is triggered when a state or local government agency takes a discretionary action such as funding a project, approving a rezoning, or disposing of government-owned property. Since SEQRA only applies to discretionary actions, the majority of development projects undertaken in the City are not subject to environmental review because they are done as-of-right. The purpose of environmental review is to inform decision makers by disclosing the potential for significant adverse environmental impacts and the required mitigation measures prior to discretionary actions being taken. If the initial review of a project, which is documented in the City by an Environmental Assessment Statement or EAS, determines, at a threshold level, that a project has the potential for significant adverse environmental impacts, the lead agency will undertake a more in-depth analysis of the action or project, which is documented in an Environmental Impact Statement or an EIS. During the EIS process, the lead agency or applicant collaborates with other technical agencies to scope and review the environmental impact analysis and, where significant adverse impacts are identified, to identify potential mitigation measures. Public comments are solicited and responded to with regard to scoping, and on the analysis and mitigation measures described in the draft EIS. The Final EIS describes in detail the completed analyses in each technical area and, in addition to including the above-mentioned response to comments, also describes mitigation measures for the project. The lead agency then makes findings based on the conclusions in the Final EIS by which the agency commits to the identified mitigation measures.

When a City action triggers the need for environmental review under SEQRA, the lead agency will utilize the CEQR Technical Manual guidance and methodologies to conduct the appropriate analyses. The Manual includes 19 technical areas such as air quality, noise, transportation, and socioeconomic conditions, and recommends analysis methodologies for each area. The purpose of the Manual is to ensure a rigorous standard of review while maintaining uniformity and transparency for applicants, city agency reviewers, and public stakeholders. Lead agencies and applicants utilize the methodologies and guidance provided by the Manual to assist in identifying potential adverse environmental impacts of proposed actions, assessing their significance, and proposing feasible, practicable measures to eliminate or mitigate significant impacts – in other words make informed decisions with regard to the potential environmental impacts of the proposed action and potential mitigation measures based on the information that is available at the time such action is proposed. The CEQR Technical Manual methodologies are developed by city agencies with the respective subject matter expertise in collaboration with OEC. The CEQR Technical Manual, while a living document like all technical guidance, has been cited as one of the most rigorous environmental analysis guidance documents that allows for one of the most comprehensive environmental impact review processes in the nation.

### **CEQR Technical Manual Users**

The key entities in the environmental review process that use the CEQR Technical Manual are the lead agency and the applicant. The lead agency is the city entity that is principally responsible for undertaking, funding, or approving a proposed project. The applicant is the entity that is seeking city discretionary approvals, such as for funding or CPC approvals, to facilitate their proposed project. The applicant can be

either a private or city entity. For any environmental review conducted under CEQR, OEC recommends that the analysis methodologies in the CEQR Technical Manual be followed.

### **Periodic CEQR Technical Manual Updates**

As mentioned before, OEC is the keeper of the CEQR Technical Manual. In line with OEC's mission, we maintain and periodically update the CEQR Technical Manual to ensure the integrity of environmental review for proposed City actions. The methodologies in the Technical Manual are the most rigorous in the nation and help ensure that decisions by the City are made in a transparent, well-informed manner. The first CEQR Technical Manual was published in 1993 and it was updated in 2001, 2010, 2012, and 2014. The initial publication of the manual, and subsequent updates, occurred under OEC leadership.

During the update process, OEC and its partner agencies align CEQR methodologies with applicable policies and standards, and take into account relevant changes in the City. The recent updates were all structured to enable the most comprehensive and informed environmental analysis where City discretionary actions are required. City agencies with expert jurisdiction over certain technical areas led the updating to those methodologies. Some agencies are in charge of one analysis area, while others cover multiple analysis areas. For example the Department of Sanitation is responsible for the Solid Waste analysis, while the Department of Environmental Protection is responsible for natural resources, water and sewer infrastructure, hazardous materials, air quality, and noise analyses. The updates ranged from simple text revisions to making the Manual more accessible to changes in how certain analysis steps are to be conducted. In parallel these updates all included targeted stakeholder engagement to collect input on the Manual from professionals who work in the urban planning and land use fields. OEC provided the public input to the respective technical agencies for consideration. City agencies provided regular progress reports to OEC. The relevant agencies worked collaboratively throughout the update to ensure that the methodologies continued to be state of the art and to reflect the environmental concerns that are unique to New York City.

As mentioned, the most recent update to the manual was in 2014 and I am excited to share that we will soon be launching a Manual update. While we are still working out the details regarding the timing, scope, and format of the update, we look forward to engaging with the Council throughout the process.

### **THE PROPOSED LEGISLATION**

**With regard to Intro. 252**, OEC is generally in support of the intent of this bill with respect to bringing more transparency to mitigation tracking. However, we think the bill as proposed is not the best approach to accomplish the intent and suggest that the responsibility for mitigation tracking remain with OEC for several reasons.

First, because tracking mitigation is very complicated due to a variety of factors such as different agencies in charge of mitigation measures, complex contractual obligations, the need for additional monitoring and post-CEQR analyses required to confirm that agreed upon measures are feasible, particularly in the case of long term projects such as rezonings, we believe that the best suited entity to undertake this effort is OEC. As discussed before, OEC is already tasked with overall environment review coordination in the City, including mitigation, and is currently actively working on initiatives that will incorporate aspects of mitigation tracking. OEC will be able to apply its unique CEQR expertise to the development of process and the development of a public mitigation tracker.

Second, our office is already tasked to develop and implement a tracking system to ensure that mitigation measures are implemented in a timely manner, and we believe delegating this responsibility to the Mayor's Office of Operations, which manages the NYC Rezoning Tracker, is not appropriate. The

Rezoning Tracker tracks Administration commitments made to Council and communities during ULURP that may be outside the scope of the project and therefore environmental review. Thus, tracking mitigation measures identified in environmental review is something entirely different. The two should not be mixed up in the same tracker.

We would like to note that developing a mitigation tracking system will require substantial additional resources, not just in our office but potentially also at certain agencies.

**With regard to Intros. 1487, 1523, and 1531, like the Department of City Planning,** OEC believes that intent to this legislation is to ensure that the City is doing all it can to promote transparency in the CEQR process, we do not believe CEQR is the appropriate tool to address the universal concerns that these bills are raising. We reiterate that environmental review, by nature, simplifies reality at a couple moments in time in order to inform decision makers about a proposed project's potential significant adverse impacts in specific technical areas and to develop measures that may mitigate those impacts or, if such measures are not practicable – to inform them that proceeding with a project would lead to unmitigated impacts.

## **CONCLUSION**

In conclusion, I would like to thank this committee for recognizing the importance of CEQR and transparent mitigation implementation and tracking. Thank you for the opportunity to testify. I am happy to answer any questions that you may have at this time.

TESTIMONY OF THE NEW YORK CITY DEPARTMENT OF CITY  
PLANNING ON INTRODUCTION NOS. 0252 1487, 1523, & 1531

MAY 7, 2019

Good morning Chair Salamanca and members of the Land Use Committee. My name is Susan Amron and I am the General Counsel at the Department of City Planning. I am joined by Olga Abinader, the Acting Director of the Environmental Assessment and Review Division at the Department of City Planning. Thank you for the opportunity to testify on the City Environmental Quality Review procedures and on Introduction Numbers 0252, 1487, 1523 and 1531. We appreciate the City Council's concern for adequate planning and take the issues raised, including residential displacement, very seriously.

At the Department of City Planning, New York City's primary land use agency, we are responsible for planning for the orderly growth and development of the City of New York. We administer the City's land use review process (ULURP), conduct planning studies, and collect statistical and other data that serve as the basis for land use planning recommendations. Department of City Planning staff also aid the City Planning Commission in all matters under its jurisdiction. The City Planning Commission holds regular

public hearings and votes on applications concerning the use, development, and improvement of real property subject to City regulations.

The Planning Commission's considerations includes environmental review -- an assessment of the potential environmental impacts of land use actions where required by law. These environmental reviews are conducted in accordance with the State Environmental Quality Review Act -- SEQRA -- and City Environmental Quality Review procedures -- CEQR. The City's environmental review process is among the most comprehensive and thorough in the nation.

It is important to remember that environmental review is a disclosure process that applies only to discretionary decision-making, and not to the as-of-right developments that constitute nearly 80% of projects in the City. It is intended to provide the best information available to decision-makers about the potential significant adverse environmental impacts of an action. For example, when DCP or a private applicant proposes a zoning map amendment, DCP analyzes and discloses in a full Environmental Impact Statement or a shorter Environmental Assessment Statement the potential significant adverse environmental impacts of that zoning map amendment. My colleague at the

Mayor's Office of Environmental Coordination will discuss the process in more depth. The City Planning Commission considers those potential environmental impacts when it votes on the proposal. But, the results of the environmental review process represent only one of many pieces of information considered by the City Planning Commission – or any other decision maker. Other considerations include the purpose and need of an action, appropriateness of use, bulk and density considering surrounding land use, and availability of transit.

Because environmental reviews assess potential impacts of actions that don't occur until years later or over a period of years, they are necessarily based on assumptions about the future. These assumptions could project conditions only a few years into the future, such as for an application where a single building is proposed, or a decade or more into the future, such as for an application affecting a larger geography, such as an area wide rezoning. Although projections are based on the best information that's available at the time, projections made for environmental reviews, like all projections, are imperfect. There is a limit on the kind of data and indicators that are available to measure many of these issues. Even if we had perfect data, which does not exist, it could not eliminate uncertainty about what will happen in the future.

And the further into the future we seek to predict, the less precise we will be. Past traffic analyses could not have predicted the rise of for-hire vehicles such as Uber and Lyft. Current traffic analyses cannot accurately predict the impact that congestion pricing or self-driving vehicles will have. Past displacement analyses could not have predicted changes in federal immigration policy, global economic trends and the 2008 economic recession, Superstorm Sandy, and other influencing factors. Environmental review cannot and should not be expected to predict the future with the degree of precision that is implied by these bills.

Environmental review is also not a tool that looks backward to identify causes of current conditions; indeed, it is doubtful that one could trace current conditions to specific causes, including rezoning. In fact, displacement resulting from rising rents is a challenge citywide – inside and outside of rezoned areas – and there are myriad reasons why households move and median incomes in neighborhoods rise. To focus solely on rezoning as the driver of neighborhood change misses the complex reality of New York City's population dynamics, and treats neighborhoods as static places. While we take these issues very seriously, addressing them in the context of environmental review is not helpful, as environmental review is not a panacea to address

systemic issues. Again, it is a disclosure tool prepared at a specific moment in time, intended to aid decision makers.

I would also like to note that through the environmental review process, the Department of City Planning works closely with its sister agencies, particularly those with technical expertise. When DCP undertakes an environmental review, it seeks other agencies' expertise on specific technical areas typically considered in environmental reviews – including hazardous materials, open space, historic and cultural resources, transportation, and community facilities (schools) among other topics. Expert agencies provide guidance related to methodologies used for environmental review analyses, the identification of significant adverse impacts, and appropriate mitigation measures. However, these agencies do not rely on environmental review analyses and development projections to perform their programmatic functions. This includes the School Construction Authority with respect to the need for public schools, the Department of Transportation with respect to transportation infrastructure, and the Department of Housing Preservation and Development with respect to measures to protect tenants and implement affordable housing strategies. Environmental review represents at most one of many pieces of information agencies consider before decisions are made.

with regard to building new schools, investing in transportation improvements and implementing affordable housing programs.

In summary, the Department of City Planning agrees that robust, reasoned analyses of potential environmental impacts of land use actions are critical to good decision making. At the same time, we recognize the role that environmental review was designed to play and believe that the environmental review process is not an appropriate means to address the broader traffic, school capacity, and displacement concerns raised in these bills.

We support tracking of mitigation commitments, which our colleagues in the Mayor's Office of Environmental Coordination will speak to.

Thank you again for the opportunity to testify today. We look forward to continued dialogue with the Council on these topics.



**Testimony of the New York City School Construction Authority  
Submitted to the New York City Council and heard jointly before the Land Use Committee  
with the Subcommittee for Zoning and Franchise**

May 7, 2019

Introduction and Overview

Good morning Chairs Salamanca and Moya as well as members of the Land Use Committee and Zoning and Franchise subcommittee. My name is Lorraine Grillo and I am President and Chief Executive Officer of the New York City School Construction Authority (SCA). I am pleased to have this opportunity to submit comments on Introduction 1531 and discuss our work to address overcrowding and successfully plan new school capacity.

The mission of the SCA is to design and construct safe, attractive, and environmentally sound public schools for children throughout New York City as well as modernize existing school facilities. In order to do this we conduct comprehensive planning that is updated on a yearly basis and holistically look at planning, siting, and construction. By overseeing all aspects of this work the SCA can ensure a timely delivery of work and equally as important understand and respond to changing needs.

Capital Plan Development

Our comprehensive planning process includes developing and analyzing quality data, creating and updating the Five-Year Capital Plan, and monitoring projects through completion. We have sought out opportunities to strengthen and refine our planning strategies—including the introduction of an annual amendment process and the identification of need at the sub-district level. We look forward to continuing the conversation on ways to better refine and enhance our process.

In order to support our Capital Plan development, we undertake an annual review of our capacity need analysis, which includes updating our enrollment projections. For this work, we solicit professional services from Statistical Forecasting LLC, a reputable demographic firm. These projections incorporate data on birth, immigration, and migration rates from various City agencies. Additional agencies provide statistics on housing starts and rezoning efforts—whether City-led or private applications. These enrollment projections, which are performed on a district and sub-district level, help inform our need for new capacity projects.



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When compared to actual enrollment, our projections consistently take an aggressive stance towards growth. Over the years, our estimates have been between one and two percent over actual enrollment figures citywide.

Using a broad range of sources provides a complete view of potential student demand, and the annual updates allow us to make timely adjustments when there is a sustained increase in student population in one part of the city or a decline in student population in another. This also ensures that our projections accurately represent all of New York City and its nuances.

Coupled with the work of our enrollment projections, is a look at our existing portfolio and the capacity we will be bringing online. For this work, we employ the latest data from the report on Capacity, Enrollment and Utilization, commonly known as “The Blue Book.” As you may know, we exclude the capacity of all mini buildings and Transportable Classroom Units, or TCUs, from existing capacity calculations.

Public feedback plays a crucial role in our capital planning process. Each year, we undertake a public review process with Community Education Councils (CECs), the City Council and other elected officials, and community groups. We offer every CEC in the City the opportunity to conduct a public hearing on the Plan and we partner with individual Council Members and CECs to identify local needs. Your insights during this process are essential, and we look forward to our continued partnership.

#### Introduction 1531

With respect to the proposed legislation, we do not believe CEQR is the appropriate tool to address the concerns that the bill is raising. While we work very closely with our colleagues at the Department of City Planning (DCP) as well as the Mayor’s Office of Environmental Coordination (MOEC) whenever an application, whether a private developer or the City, seeks to change zoning and move forward with an application involving CEQR. And while our involvement is strong, CEQR is not intended to supplant our planning process, but rather its purpose is to serve an environmental review for the identification of potential impacts that may occur should the conditions studied come into fruition.

We believe firmly in the planning process that is in place and proven successful.

Thank you for allowing me to submit this testimony. I look forward to our continuing partnership on behalf of all New York City students!

TESTIMONY OF THE LEGAL AID SOCIETY

IN SUPPORT OF INTRO. 1487

New York City Council Committee on Land Use

May 7, 2019

Thank you to Speaker Johnson, Chair Salamanca, and the Committee on Land Use for holding this very important hearing. I welcome the opportunity to testify before the New York City Council Committee on Land Use on behalf of the Legal Aid Society concerning the proposed legislation to study the incidence of secondary displacement resulting from neighborhood rezonings.

**Introduction**

The Legal Aid Society (Legal Aid) is the nation's oldest and largest not-for-profit legal services organization advocating for low-income individuals and families across a variety of civil, criminal, and juvenile rights matters. Legal Aid has performed this role in City, State and federal courts since 1876. With a staff of more than 2,000 lawyers, social workers, investigators, paralegals, and support and administrative staff, and through a network of borough, neighborhood, and courthouse offices in 26 locations in New York City, Legal Aid provides comprehensive legal services in all five boroughs for clients who cannot afford to pay for private counsel. Legal Aid is involved in 300,000 cases annually, and also takes on law reform and appellate cases, the results of which benefit more than 1.7 million low-income New Yorkers; the landmark rulings in many of these cases have a state-wide and national impact.

Legal Aid's housing attorneys fight for the rights of tenants across all five boroughs every day, taking on thousands of cases each year. As such, we are intimately familiar with the pressure experienced by tenants in the current and developing housing market. We have seen firsthand the effects of recent neighborhood rezonings under Mayor de Blasio's *Housing New York*<sup>1</sup> policy in East New York, East Harlem, Jerome Avenue, Far Rockaway, and Inwood on

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<sup>1</sup> The City of New York Mayor Bill de Blasio, *Housing New York 2.0* (2016).

our clients. Despite the fact that these rezonings are part of the Mayor’s plan to increase the number of affordable housing units across the City, they have been subject to intense scrutiny by tenants and advocates for their potential to accelerate development and speculation in low-income communities of color, thereby increasing rents and forcing long-time tenants to leave. In each neighborhood rezoning thus far, the community’s response has been dominated by anxiety over potential displacement, and unfortunately, many of these fears have been well-founded; tenants in these neighborhoods are facing increased displacement pressure through rising rents and harassment by their landlords. Based on our clients’ experiences, Legal Aid recently challenged the Bedford Union Armory project and the East Harlem rezoning on that basis that the City had failed to properly assess the potential indirect and direct residential displacement that would result from the projects, most notably through their failure to include rent-regulated units in their displacement analyses.<sup>2</sup>

Despite the fact that five neighborhood rezonings have been approved, we still have very little concrete data demonstrating the impacts of the projects undertaken on communities and neighborhoods. Currently, there is no requirement that the City collect data about residential displacement after a rezoning, meaning that as future rezonings are considered, both communities and policymakers have no quantitative information available to guide them. Without data on the effects of rezonings—most importantly, indirect residential displacement and socioeconomic and demographic changes—it is difficult to assess the effects they have had on vulnerable tenants, or to predict their potential impacts on future communities.

We are excited to see the Committee taking up this issue and working toward a more informed and thoughtful process for making land use decisions in New York City, and we are hopeful that meaningful studies of proposed and actual secondary residential displacement will give us a better understanding of the full effects of neighborhood rezonings. However, it is critical that these studies do not simply replicate the analysis laid out in the current methodology (in the City Environmental Quality Review Technical Manual), which contains significant and well-documented flaws—such as the exclusion of rent-regulated apartments—that impede its

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<sup>2</sup> *Ming v. City of New York*, 54 A.D.3d 1011 (N.Y.S. 2d 2008); *Ordonez v. City of New York*, 60 Misc. 3d 1213 (N.Y.S. 3d 2018).

ability to accurately measure residential displacement.<sup>3</sup> We echo our colleagues at ANHD, Pratt, CSS, and the Thriving Communities Coalition in urging the Committee to adjust the some of the criteria of the mandated studies in order to capture the most useful and meaningful data possible, giving legislators and planners the tools they need to craft data-driven policies that work for our communities.

### **Affordable Housing Crisis**

Each day, more tenants across the City are facing the potential loss of their homes, due to ever-increasing rents that exceed most of our clients' ability to pay. The 2017 New York City Housing and Vacancy Survey (HVS) found that between 2014 and 2017 the median monthly contract rent of rental units across the City increased by 8.1 percent.<sup>4</sup> Rent-regulated apartments are the largest source of housing for New York's more than one million low-income households.<sup>5</sup> Rents across New York City have persistently risen faster than incomes since 2002, and households with the lowest incomes have fallen behind the most. For those households at the bottom 20% income level, rents have risen 30% faster than income.<sup>6</sup> As a result, the median amount of income that low-income tenants in the private unassisted market retained after paying rent was 8% lower in 2014 than it was in 2005, after adjusting for inflation.<sup>7</sup>

Indeed, one of the most astounding findings of the 2017 HVS was that the median rent sought – the rent for people who are looking for housing – increased, in three years, almost 30 percent to \$1,875.<sup>8</sup> An individual would have to work an astonishing 114-120 hours per week at minimum wage, 52 weeks a year, in order to afford an average two-bedroom apartment in New

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<sup>3</sup> Renae Widdison, Jen Becker, and Elena Conte, *Flawed Findings: How NYC's Approach to Measuring Displacement Risk Fails Communities*, PRATT CENTER FOR COMMUNITY DEVELOPMENT (2018).

<sup>4</sup> E. Gaumer, *Selected Initial Findings of the 2017 New York City Housing and Vacancy Survey*, NEW YORK CITY DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT 21 (2018).

<sup>5</sup> Defined as those with incomes below 200 percent of the federal poverty threshold, or about \$38,150 for a family of three. See Oksana Mironova, *A Guide to Rent Regulation in New York City*, COMMUNITY SERVICE SOCIETY 1 (January 2019).

<sup>6</sup> *Id.* at 16.

<sup>7</sup> *Id.* at 16.

<sup>8</sup> *Id.* at 5.

York City.<sup>9</sup> Alternatively, the individual would need a wage increase to at least \$31.48 per hour, or \$65,480 a year, in order to afford the same apartment.<sup>10</sup>

Unfortunately for New York renters, declining affordability is coupled with declining availability. In 2017, the vacancy rate for all units with rents less than \$800 was 1.15 percent,<sup>11</sup> and the vacancy rate for units under \$1,000 was only 2.09 percent.<sup>12</sup> Thus, the units that remain available are increasingly unaffordable to low-income New Yorkers. This is further reflected by the dwindling rent-regulated housing stock in the city: according to the New York City Rent Guidelines Board (RGB), in 2016 alone, 7,524 apartments were deregulated across the City, and over 290,000 units have been lost since 1994.<sup>13</sup>

The scarcity of affordable housing, rising rents, and the increasing cost of living have contributed to record use of the City's shelters in 2018. In the last decade, the number of homeless New Yorkers sleeping in municipal shelters has risen an astonishing 82 percent.<sup>14</sup> The average period for which those families remain in temporary housing has been over 400 days, the longest ever recorded, for the past 5 years.<sup>15</sup> At the end of 2017, an average of 63,495 men, women and children slept in New York City's homeless shelters.<sup>16</sup> Three-fourths of New Yorkers sleeping in shelters are members of homeless families, including 23,600 children.<sup>17</sup>

Against this backdrop, Mayor de Blasio's *Housing New York 2.0* policy promised to add a total of 300,000 units of affordable housing by 2026, in large part via neighborhood rezonings. Yet, these rezonings have also resulted in the direct and indirect displacement of tenants, both in regulated and unregulated apartments, by introducing and/or accelerating the pace of socioeconomic change in the neighborhood. Thus, it is critical that we have robust systems in

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<sup>9</sup> New York City Rent Guidelines Board, *2017 Income and Affordability Study* 12 (April 13, 2017).

<sup>10</sup> *Id.*

<sup>11</sup> *Supra* 4, at 16.

<sup>12</sup> *Id.*

<sup>13</sup> New York City Rent Guidelines Board, *Changes to the Rent Stabilized Housing Stock in New York City in 2017* 15 (May 24, 2018).

<sup>14</sup> Giselle Routhier, *State of the Homeless 2018: Fate of a Generation*, COALITION FOR THE HOMELESS 1 (March 2018).

<sup>15</sup> *Id.* at 10.

<sup>16</sup> *Id.* at 1.

<sup>17</sup> *Id.* at 1.

place to keep track of the full range of impacts of these policies on communities, generating quantitative data that reflects the lived experiences of tenants in these neighborhoods.

### **Land Use Processes**

#### *Background*

All land use decisions in New York City are required to be evaluated for their potential environmental impacts pursuant to state and city law. Environmental impacts include impacts on socioeconomic conditions such as direct and indirect residential displacement. The New York City Charter contains the procedure that Community Boards, the Borough Presidents, and the City Council must employ when considering land use decisions – the Uniform Land Use Review Procedure (ULURP). ULURP does not contain substantive requirements; to the extent that such requirements exist, they are imposed by the State and City Environmental Quality Review laws (SEQR and CEQR, respectively). The methodology used to determine the risk of indirect residential displacement is set forth in the CEQR Technical Manual. This methodology can be revised at any time by the Mayor’s Office of Environmental Coordination, with limited input from the public.

#### *Shortcomings of the CEQR Methodology*

The CEQR Technical Manual’s method for estimating potential indirect residential displacement is flawed in two main ways: first, the analysis considers only low-income tenants in unregulated apartments to be vulnerable to displacement, excluding rent regulated tenants; second, the manual directs analysts to examine solely specific population characteristics, such as income and household size, but does not assess other demographic information such as race and ethnicity, gender, age, education, and language.<sup>18</sup>

In seeking to identify an “at-risk” population, the CEQR methodology includes only low-income renters in unregulated units, and excludes rent regulated tenants, voucher holders, NYCHA tenants, and tenants displaced through illegal tactics. This means that the City considers

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<sup>18</sup> Chapter 5: Socioeconomic Conditions, *City Environmental Quality Review Technical Manual*, MAYOR’S OFFICE OF ENVIRONMENTAL COORDINATION (March 2014).

only a very small subset of the population that could possibly be displaced when assessing how a proposed project would impact a study area. The assumption rent regulated units are not vulnerable to displacement affects the analysis in two ways: first, it assumes that rent regulated housing is not vulnerable to development, and second, it skews the analysis of indirect residential displacement by underestimating the potential for gentrification in neighborhoods with majority-regulated units.

We know from firsthand experience that rent regulation does not protect our clients from displacement, and this is supported by the data. Rising rents due to vacancy bonuses, the rescission of preferential rents, the resulting high rent vacancy deregulation of rent stabilized units, and the proliferation of tenant harassment subjects tenants to the same market influences as those in unregulated apartments. In the Community Service Society's 2017 *Unheard Third Survey* of low-income New Yorkers, CSS asked tenants questions about landlord harassment, including shutting off heat/hot water; threats; long delays in necessary repairs; repeated efforts by landlord to pay the resident to move out; prolonged construction; and, eviction attempts. Among low-income rent regulated New Yorkers, 43.7% reported one or more of these forms of harassment as compared to 36.3% of low-income New Yorkers residing in unregulated apartments. This could indicate that landlords of rent regulated buildings are using harassment as a strategy to push out rent regulated tenants.<sup>19</sup> Displacement from rent-regulated apartments is in fact occurring at an alarming rate. In 2014, over 75,000 families with children entered New York City homeless shelters; 43 percent of the families listed a rent-regulated apartment as their last address, and about one third of those families had been evicted.<sup>20</sup>

Furthermore, nearly one-third of rent regulated apartments have preferential rents,<sup>21</sup> meaning that the tenant is not being charged the full legal regulated rent of the apartment, but

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<sup>19</sup> Oksana Mironova and Victor Bach, *Tenants at the Edge: Rising insecurity among renters in New York City*, COMMUNITY SERVICE SOCIETY 9 (2018).

<sup>20</sup> New York City Independent Budget Office, *The Rising Number of Homeless Families in NYC, 2002-2012: A Look at Why Families Were Granted Shelter, the Housing They Had Lived in & Where They Came From* 10-11 (Nov. 2014).

<sup>21</sup> Cezary Podkul and Marcelo Rochabrun, *Rent Limits Just a Fiction for Thousands of NYC Tenants, Record Discloses*, PROPUBLICA (March 10, 2016), <https://www.propublica.org/article/rent-limits-just-a-fiction-for-thousands-of-nyc-tenants-records-disclose>.

rather is paying a lower “preferential rent” set by the landlord. In most cases, the preferential rent can be revoked anytime the lease is renewed, leaving tenants vulnerable to steep rent increases. Preferential rents are growing more common each year, and the gap between the preferential rent and the maximum legal rent is also steadily increasing. Between 2008 and 2015, the gap increased 55 percent, from \$286 to \$444.<sup>22</sup> In Manhattan, the average difference between preferential and maximum legal rent is over \$800.<sup>23</sup> Low and middle-income tenants cannot support these rent increases, and are thus left especially vulnerable to displacement; nonetheless, under the CEQR methodology, these tenants are not captured in the “at risk” population.

By failing to track demographic shifts based on race and ethnicity, the CEQR methodology also assumes that displacement affects all low-income tenants equally, ignoring the fact that displacement occurs inequitably in different communities, often following longstanding trends of racial discrimination and segregation. This is especially problematic in the context of neighborhood rezonings, which have largely targeted low-income communities of color for development. While income is certainly one very important factor in determining tenants’ risk of displacement, tracking additional factors, such as race and ethnicity, age, gender, housing voucher status, language, and education, is necessary to holistically evaluate the impact of neighborhood rezonings on communities.

### **Recommendations**

The section below details the components we believe are most important to include in the study methodology, and we look forward to continuing to work together with the Council to ensure this bill produces the information necessary to capture the nature and scope of indirect displacement.

Intro. 1487 proposes using the at-risk population identified in the EIS as a point of comparison for the actual displacement after 5 years. Yet, the methodology for identifying the at-risk population is so flawed that in many cases the City does not even identify an at-risk

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<sup>22</sup> Cezary Podkul, *New York Landlords Exploit Loophole to Hike Rents Despite Freeze*, PROPUBLICA (April 25, 2017), <https://www.propublica.org/article/new-york-landlords-exploit-loophole-to-hike-rents-despite-freeze>.

<sup>23</sup> *Id.*

population; thus, in these cases it is unclear what baseline would be used as a point of comparison for actual displacement. Intro. 1487 should specify that the study of potential secondary displacement includes rent regulated tenants and all vulnerable low and middle-income tenants in the study area. The studies should also track a much wider range of demographics than those mandated by CEQR methodology, including race and ethnicity, age, gender, housing voucher status, etc.

Intro. 1487 also calls for the study to include a measure of the actual secondary residential displacement effects of neighborhood rezonings. However, the CEQR Technical Manual does not prescribe a methodology for conducting this type of study. Following the CEQR methodology after a neighborhood rezoning would simply reveal the current at-risk population, not the full universe of households that have been displaced. Thus, a study measuring “actual displacement” must be assessed via a methodology outside of the CEQR Technical Manual. There are many different proxies for assessing secondary residential displacement, and we would welcome the opportunity to work together with the Council to determine which would best serve the aims of this bill. However, at minimum, the study should measure the true at-risk population, including rent regulated tenants, before and after at the time of the land use action to see how the population has changed as a result of the neighborhood rezoning. In the absence of data about displaced tenants, information about how the number and demographics of vulnerable tenants in the study area changed over time would be a helpful metric.

Finally, because the CEQR Technical Manual can be revised at any point by the Mayor’s Office of Environmental Coordination, tying the studies mandated by Intro. 1487 to the CEQR methodology risks resulting in inconsistent data being reported to the Council. This could be remedied by specifying the methodology that should be used to conduct the studies without relying on current CEQR guidelines.

### **Conclusion**

Intro. 1487 presents an exciting opportunity to collect much-needed data about how neighborhood rezonings are affecting our communities, which will help to ensure that future rezonings are as informed and equitable as possible.



## COMMUNITY DEVELOPMENT PROJECT

**Testimony of Paula Z. Segal  
to the New York City Council Committee on Land Use and  
Subcommittee on Zoning and Franchises  
May 7, 2019**

My name is Paula Segal; I am a senior staff attorney at the Community Development Project (CDP), a non-profit legal services organization that works with grassroots and community-based groups in New York City to dismantle racial, economic and social oppression. My practice, Equitable Neighborhoods, works with directly impacted communities to respond to City planning processes and private developers, helping to make sure that people of color, immigrants, and other low-income residents who have built our city are not pushed out in the name of “progress.”

CDP commends the Council and particularly Council Member Barron <sup>for</sup> ~~from~~ Introducing Reso 9-2018 calling on the Mayor and relevant agencies to re-examine the standards in the CEQR regulations and the Technical Manual. This re-examination is long overdue, both in terms of compliance with current law and in terms of making sure that our neighborhoods are only exposed to significant adverse impacts when the decision-makers are aware that their decisions will lead to them, and make the informed decision that the benefits outweigh the harms that will be caused. The Technical Manual must be updated to make sure that agencies are not making decisions in the dark. We are also supportive of Intro 252, which will require the tracking of mitigation promises made during environmental review, and am happy to discuss that bill with any member of the committees, but I will focus the remainder of my comments on changes that are long overdue in the CEQRA Technical Manual.

As you know, both the New York State Environmental Quality Review Act (SEQRA)<sup>1</sup> and the City Environmental Quality Review Act (CEQR)<sup>2</sup> require lead agencies to consider the secondary effects of a proposed action in determining whether the action may have a significant effect on the environment. A significant impact must be disclosed before an agency makes decision that is likely to lead to it. To ensure disclosure, the law requires a lead agency must prepare an environmental impact statement on any action which may have a significant effect on the environment.<sup>3</sup> The purpose of an environmental impact statement, by statute, “is to provide detailed information about the effect which a proposed action is likely to have on the environment, to list ways in which any adverse effects of such an action might be minimized, and to suggest alternatives to such an action *so as to form the basis for a decision whether or not to undertake or approve such action.*”<sup>4</sup>

A court can only uphold an agency determination if those who made it were “fully informed of all pertinent environmental issues and considered them before approving project.”<sup>5</sup> The court must find that

- (1) the agency identified the relevant areas of environmental concern,
- (2) took a hard look at them, and
- (3) made a reasoned elaboration of the basis for its determination.<sup>6</sup>

Where a determination was made by an agency that did not take a “hard look” at the potential for impacts on any aspect of the environment covered by SEQRA, a court must annul.<sup>7</sup>

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<sup>1</sup> N.Y. Env. Cons. L. § 8-0101 et seq.

<sup>2</sup> 62 RCNY § 5-02 et seq.

<sup>3</sup> N.Y. Env. Cons. L. § 8-0109(2).

<sup>4</sup> Id. (emphasis added).

<sup>5</sup> *Sutton Area Community v. Bd. of Estimate of Cty. of NY*, 78 N.Y.2d 945 (1991).

<sup>6</sup> *Jackson v. N.Y.S. Urban Dev. Corp.*, 503 N.Y.S.2d 298, 305 (1986).

<sup>7</sup> See e.g. *Chinese Staff and Workers Ass'n v. Cty. of NY*, 68 N.Y.2d 359 (1986).

In is settled law that SEQRA requires an agency to consider the potential secondary displacement of residents in determining whether a proposed project may have a significant effect on the environment prior to approving the project.<sup>8</sup>

Yet the environmental impact statements prepared following the guidance in the CEQRA Technical Manual routinely leave out detailed information about the impacts of proposed actions on the likelihood that tenants who are living in rent stabilized apartments will be displaced. The guidelines lead drafters to erroneously conclude and communicate to agencies making decisions that shape our neighborhoods that all tenants in rent stabilized units are protected from market forces.

This couldn't be farther from the truth.

Many tenants of rent stabilized units are paying preferential rents that landlords can raise whenever they think the market can handle it. Tenants paying a preferential rent are not guaranteed that their landlord will only raise their rent by the limited amount set for other rent stabilized units by the Rent Guidelines Board; landlords who are charging preferential rent have retained the right to add increases of thousands of dollars per month when a lease is renewed. These tenants are not protected from displacement due to sudden steep increases in rent.

It is also well-known fact that landlords use extralegal tactics to push out rent stabilized tenants even when those tenants are supposed to be entitled to lease renewal and rent increases set by the Rent Guidelines Board. Turning rent-stabilized units into market rate ones by getting tenants to move is well-developed business practice with its own financiers and its own sub-industries, e.g. buy-out experts.

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<sup>8</sup> *Chinese Staff and Workers*, 68 N.Y.2d at 368.

These facts is well-known and well-reported<sup>9</sup> yet agencies making decisions that are sure to escalate harassment and rent increases do not have this information revealed to them in the statements produced to help them decide whether or not to approve changes to land use regulations that will increase market pressure.

By not leading drafters to make this disclosure, the CEQRA Technical Manual leaves applicants and agencies vulnerable to lawsuits every time they approve an action based on a deficient impact statement. Further, the guidelines in the Manual ensures that impacts residents vulnerable to displacement as a result of these actions - and the residents themselves - are absent from the review process.

**For further information, contact:**

Paula Z. Segal, Esq.  
Equitable Neighborhoods Practice, Community Development Project  
123 William Street, 16th Floor. New York NY 10038  
[psegal@urbanjustice.org](mailto:psegal@urbanjustice.org) | (646) 459-3067  
<https://cdp.urbanjustice.org/cdp-equitable-neighborhoods>

<sup>9</sup> See e.g. *Landlord Brothers Admit to an Illegal Eviction Campaign in Brooklyn*, Colin Moynihan, New York Times, November 29, 2016; *Landlord's Upper West Side building 'renovation' forces tenants to use fire escape to access their apartments*, Gabrielli and Smith, New York Daily News, June 18, 2017; *New fraud charges for NYC landlord in illegal-eviction case*, Associated Press, June 20, 2017; *BK tenant sues Jonas Equities for attempting illegal eviction*, The Real Deal, July 11, 2017; *City Must Address the Reality of Tenant Displacement*, Vega-Rivera and Markman, May 31, 2017; *Leaks, mold, and rats: Why New York City Goes Easy on Its Worst Landlords*, Grace Ashford, The New York Times, December 26, 2018; *Queens landlord demands tenants prove their immigration status or face eviction*, Rayman, Ray and Brown, New York Daily News, July 18, 2017; *Allegations of Tenant Harassment in Bushwick Spotlight Issues with City Enforcement, State Rent Laws*, Sam Raskin, Gotham Gazette, Nov 28, 2018; *Brooklyn landlord with criminal contempt warrant is still harassing tenants*, Boyer and Bekiempis, New York Daily News, June 11, 2018; *Landlord Raped, Harassed Tenants at 50 New York Properties, Justice Department Says*, Olivia Messer, The Daily Beast, April 12, 2018; *Landlord Daniel Melamed found guilty of illegally evicting tenants*, Rich Bockmann, The Real Deal, June 21, 2017; *Tenants Face Eviction Before the Holidays, Hope Mayor Intervenes*, Kadia Goba, Bklyner, November 12, 2018; *When Calling 911 Makes You a 'Nuisance' and Gets You Evicted*, Mead and Pappas, New York Times, November 9, 2017; *E. 176th Street tenants call out abusive landlord*, Steven Goodstein, Bronx Times, July 1, 2017; *Dozens of Tenants sue big time landlord over alleged systematic illegal rent increases*, Nathan Tempey, Gothamist, April 19, 2017; *Brooklyn man busted for using dead certified notary to illegally evict tenants*, Christina Carrega, New York Daily News, February 28, 2018.

**Testimony of Alex Fennell, Network Director Churches United For Fair Housing**

**Committee on Land Use Joint Hearing with Zoning and Franchises**

**Oversight - Are City Environmental Quality Review (CEQR) procedures useful for accurately predicting and mitigating impacts of City Planning Commission decisions?**

**Committee Room, City Hall**

**May 7, 2019**

Good afternoon Chairmen Moya and Salamanca Jr, and members of the committees. My name is Alex Fennell and I am the Network Director of Churches United for Fair Housing based in North Brooklyn and a member of the Thriving communities coalition. I would hope that in this room there is consensus that the current iteration of the CEQR technical manual is deeply flawed, and I am excited that we are beginning to have a meaningful discussion around the ways the deeply flawed technical manual can be improved. CUFFH's work began shortly after the 2005 Williamsburg waterfront rezoning which devastated the Latino Population of Williamsburg, and this was largely due to the unanticipated consequences of the rezoning as found by the CEQR technical manual. The EIS predicted that no more than 2510 residents would be displaced following the rezoning, but to date over 17,731 Latino residents have been forced out of Williamsburg. The EIS also predicted that there would be an increase of about 17,731 residents in Williamsburg, instead over 39,000 affluent white residents moved in to the over 9, 167 units that were created rather than the roughly 7,000 units. (2010 Census Data, 2017 ACS Data, Lessons From williamsburg CM Reynoso's office). This is an unacceptable margin of error.

Currently the analysis for secondary displacement does not include rent regulated tenants, but in rezoning neighborhoods these are the residents most often targeted for speculation, harassment and ultimately eviction. So while we applaud the council and Councilmember Moya for proposing a look back to address the displacement effects of rezonings, doing so with the current CEQR methodology is doomed to under represent the reality on the ground.

In our eyes there are 3 solutions proposed by the thriving communities coalition to meaningfully address CEQR reform in the charter

First, to limit the mayor's power to arbitrarily change the technical manual by convening a CEQR revision commission to create meaningful public engagement to guide CEQR revisions in ways that reflect the lived realities of communities facing zoning changes.

Second, to demand more meaningful mitigations and stronger enforcement for negative impacts caused by rezonings and expand upon the tracking measure introduced by CM Reynoso to create greater enforcement capabilities.

And third, to require the city to address displacement as it actually occurs not in a way that is tailored to rubber stamp projects in favor of development interests.

The rezonings experienced in our communities since the Bloomberg administration have overwhelmingly affected communities of color and the CEQR technical manual remains silent on issues of racial and demographic change. The city of NY has an obligation under the fair housing act to affirmatively further fair housing, this means that the city has a duty far beyond not segregating neighborhoods, the duty is to promote

equity and integration without limiting the fair housing choice of residents of color by displacing them. Being displaced is not a choice. The city must include Racial Impact Studies in the Environmental Impact Statement with methodology that accurately reflects the observed racial displacement patterns in rezoning neighborhoods in order to meet their federal obligation. After Bed-Stuy was rezoned, the black population dropped 17% while the white population increased over 1200%. After the 2005 Williamsburg waterfront rezoning the Latino population dropped 16% while the white population increased 41%.

[https://www.citylab.com/life/2017/05/mapping-the-transformation-of-new-york-city/5253](https://www.citylab.com/life/2017/05/mapping-the-transformation-of-new-york-city/525330/)

[30/](https://www.citylab.com/life/2017/05/mapping-the-transformation-of-new-york-city/525330/)) The displacement we see is almost exclusively along racial lines. This is not just gentrification this is segregation. The very first zoning plans developed in the 19 teens were explicitly designed to segregate, and the current implementation of zoning policy is doing precisely the same thing. (*Buchanan v. Warley*, "that creating such separate zones for different grades of residence was 'more or less coincident with racial divisions'" *Frederick Law Olmstead*) New York considers itself one of the nations most progressive cities, yet we remain the 5th most segregated. If we have any hope of living up to our progressive ideals, we need a guiding document that addresses segregation and ensures that New York is truly for everyone. Our current rezoning process leads to aggressive displacement which leads to increased segregation in an already segregated city. Everybody in our communities already know this, so it's about time the city caught up. Color blind policies that pretend this is not a race issue have gotten us where we are today, and it is well past time to not just stop this trend but to reverse it.

Thank you for the opportunity to testify. CUFFH and the Thriving Communities Coalition look forward to addressing these issues together.



**Regional Plan Association Comments to the New York City Council oversight hearing regarding the City Environmental Quality Review (CEQR)**

Are CEQR procedures useful for accurately predicting and mitigating impacts of City Planning Commission decisions?

May 7, 2019

The City Environmental Quality Review (CEQR) process requires authorized City agencies to assess, disclose, and mitigate to the greatest extent practicable the significant adverse environmental impacts of projects they fund, directly undertake, or approve. At the same time, the environmental review process often results in inaccurate projections, creating unnecessary work for City agencies, cost overruns for private entities, and planning fatigue across communities. RPA believes that the process as a whole and the guidelines provided by the *CEQR Technical Manual* can be significantly improved to ensure accurate disclosure documents are created through a process that does not constrain beneficial development. This is especially important today as the city struggles with a severe, ongoing housing emergency.

The legislative package under consideration ([intros 0252, 1487, 1523, and 1531](#)) would bring important improvements to CEQR procedures evaluating the impacts of neighborhood rezonings.<sup>1</sup> These bills would require additional oversight, transparency, and when necessary the refinement of methodologies used by the *CEQR Technical Manual*.

Intro 0252 is a positive step in bringing oversight and transparency to the provisions of CEQR intended to mitigate adverse impacts. Typically, environmental impact statements (EISs) do not provide sufficient information about proposed mitigation measures, lacking clarity on when and where will they be executed, and who is responsible for implementation. While recent efforts such as the NYC rezoning commitments tracker has improved transparency in this area, CEQR findings and mitigation measures remain disjointed from such requirements. This disconnection disincentives applicants and city agencies from following through with mitigation measures.

Intros 1487, 1523 and 1531 would in time help to refine and improve the accuracy of methodologies used in the *CEQR Technical Manual*. In particular, Intro 1487 could help illuminate and address the extensive residential displacement documented by RPA in a report that focused on the impact of rising rents and neighborhood change on low and moderate-income households.<sup>2</sup> In this report RPA demonstrated that the instability caused by indirect displacement has a much bigger impact on the lives of people with few resources to adapt to the resulting financial, social and psychological disruption.

While RPA supports the legislative package being discussed, we believe the city could go even further. We encourage the city to explore additional efforts that takes into account the following:

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<sup>1</sup> Neighborhood rezonings defined as city sponsored land use actions affecting four or more contiguous blocks

<sup>2</sup> Pushed Out: Housing Displacement in an Unaffordable Region. Report for the Fourth Regional Plan by Regional Plan Association, March 2017

1. The city could develop models for proactive decision making, without having to wait 5 years to conduct an analysis. For example, RPA developed a draft methodology for considering displacement risk in local decision-making. Comparable methods could be used to inform land use changes, grant funding, housing subsidies, tax benefits, and tenant protection programs.<sup>3</sup>
2. Many inaccurate projections are a result of limited guidelines for identifying and evaluating “soft sites”.<sup>4</sup> Identifying soft sites is the first step in the creation of the analysis framework by which development scenarios are evaluated. Such analysis also serves as the basis for all 19 technical areas assessed by CEQR.<sup>5</sup> The city should develop a quantifiable soft site methodology that considers plausible local real estate market trends, neighborhood accessibility in terms of jobs, infrastructure, and amenities, and the amount development rights granted by zoning, among other indicators.<sup>6</sup> This would provide site-specific criteria for projected and potential development scenarios and a more accurate disclosure document.
3. While CEQR procedures can provide important analytical information, these should not be seen as replacement to planning tools and long-term vision efforts. In particular, mitigation measures related to transportation impacts should be careful as to not overemphasize approaches that would favor vehicular infrastructure over public transit. Methodologies that heavily rely on level of service and traffic counts at intersections could undermine sustainability efforts. For example, mitigation measures favoring strict parking ratios would be a reversal towards failed transportation policies from the past.
4. The scope of actions that would trigger the legislative package under consideration is limited to city led rezonings encompassing four or more contiguous blocks. A preliminary analysis suggests that the City has been relying more frequently on spot rezonings on a smaller scale - doubling the frequency of map amendments since 2016, compared to the prior 15 years, for areas that are on average six times smaller. None of these private spot rezoning applications would trigger the improvements aimed by the legislative package currently under consideration.<sup>7</sup> RPA recommends evaluating a broader range of actions that would trigger the transparency and oversight provisions regarding commitments and mitigation measures.

We appreciate the effort the City Council has made to improve CEQR. It is a good first step in a much larger discussion involving decision-makers, the public, and stakeholders to arrive at critical solutions.

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<sup>3</sup> Pushed Out: Housing Displacement in an Unaffordable Region. Report for the Fourth Regional Plan by Regional Plan Association, March 2017

<sup>4</sup> Locations where a specific development within a rezoned area may not be planned, but may occur as a result of a rezoning

<sup>5</sup> The CEQR Technical Manual provides guidance for assessing 19 areas, including socioeconomic conditions, community facilities and services, open space, transportation, sewer infrastructure, climate change, and others. Imprecise evaluations of the full environmental impacts of a particular project leave neighborhoods to contend with unmitigated long-term adverse consequences. In other instances, the review process predicted adverse impacts, but the anticipated development did not materialize to the extent that was projected during the review process.

<sup>6</sup> Private firms and consultants have already developed soft site methodologies that incorporate site specific criteria. An update to the Technical Manual would bring that analytical capacity to city agencies.

<sup>7</sup> During the review process of 1601 Dekalb Avenue Rezoning a community benefits agreement was reached between the applicant and local stakeholders. However, such agreement would not be subject to the provisions required by legislative package under consideration.



**Oversight on City Environmental Quality Review (CEQR) process**  
Testimony before the New York City Council  
Committee on Land-Use and Sub-Committee on Zoning and Franchises  
Chairs Salamanca and Moya  
Elena Conte, Director of Policy, May 7, 2019

Thank you for the opportunity to testify. My name is Elena Conte, Director of Policy at the Pratt Center for Community Development. In our extensive experience supporting low-income and communities of color in urban planning, we have encountered many of the shortcomings of the city's environmental review process, and witnessed the ways these technocratic exercises have supported and advanced direct harm in communities.

There's nothing wonky about the documents that dress wolves in sheep's clothing, and become the repeated basis for decisions that exacerbate inequality and rob communities of the physical and social investments that they need to thrive.

The shortcomings of City Environmental Quality Review process (CEQR) are extremely detrimental in several fundamental ways.

First, they set up unreasonable expectations and provide false information to decision makers who are considering the merits, impacts, and ways to mitigate a proposed project.

Second, even when a significant adverse impact is found, suggested "mitigations" are not required to address the impact in any meaningful way, mitigations are not required to be instituted, and there are no funding or accountability mechanisms to ensure commitments come about or, in the future, to measure whether the issue has been addressed.

Yet for all the obvious harm of these grave flaws, they become all the more maddening because of the larger failings of our current planning system. Because the CEQR process is detailed and produces a long report, this creates the guise that it is accurate and thorough, and this is often used as an excuse not to provide communities with kind of planning analyses and follow-up activities that they are truly seeking. In turn, communities place major significance on the review process because it is the only "official" one made available to them. But the manual provides far from a complete look at what's important; for example, in its 833 pages, "race" is avoided almost entirely, save for its mention of the State's definition of environmental justice and a prohibition against survey bias.

This hearing is a vital first step to creating the type of rigor and accountability in the environmental review process that is necessary in an honest process, and the Intros that are being heard today (1487, 1523, 1531) are important conversation starters that point to three key areas where the guidance in the technical manual is deficient – measuring secondary residential displacement risk and impact, transportation effects, and accounting impacts on school capacity. Intro 252 elaborates on important questions that were unaddressed when the Neighborhood Commitment tracker was heard as Intro 1132 in June 2016.

We have done an extensive exploration of the ways that the guidance of the Technical Manual belies logic and common sense to erase the vulnerability of those facing significant residential displacement risk through loopholes and assumptions. Building on the work of Renae Widdison to articulate these flaws, we further examined eight Environmental Impact Statements (EISs), conducted as part of rezoning actions from 2005 – 2018, spanning the Bloomberg and de Blasio administrations, to see how the guidance was applied. We found widely inconsistent results, with a “significant impact” rarely being found. In the instances where it was found – Greenpoint-Williamsburg and the Columbia Expansion – the scale of the impacted population identified was less than 3,400 people, while in other instances, such as East New York, the number of vulnerable people was identified as more than 49,000 but dismissed as being insignificant; in still other neighborhoods, (Inwood, East Harlem, Far Rockaway) the number of people at risk was never quantified at all.

As a follow up to this work, we have performed a deep dive into the methodology for assessing commercial displacement risk. Similarly, we find tremendous gaps related to the functions businesses serve in neighborhoods and as employers, complete avoidance of consumer differences, and an inaccurate conception of industry clusters function. For our forthcoming publication, we examined twelve EISs dating back to the Downtown Brooklyn rezoning, including Greenpoint-Williamsburg, Gateway in the Bronx, Gateway in East New York, Willets Point, and more recent ones such as Inwood and Jerome. What we learned here is that none of the EISs concluded that there would be any displacement impact – direct or indirect – on businesses. In fact, we believe that there has never been an EIS that has found a business displacement impact. The “methodology” here appears to be an elaborate exercise designed to declare that there is no impact, and therefore that no scrutiny should be paid to the way that land use actions affect economic activity or policy.

These two pieces of research illustrate some of the egregious ways that the CEQR review paints over the impacts of rezonings – but the flaws in the methodologies in the Socioeconomic Conditions section of the manual are just one illustration of the larger issues across the manual. Many of the sections of the manual perform the same function – glossing over impacts so as to facilitate approval, robbing decision-makers of the tools needed to properly assess projects and create public policy. At a minimum, sections that are well overdue for overhauls include: school sites, transportation, open space, climate change, public health, and the overall consideration of environmental justice.

The question for today is not what is the best methodology for any given section, but rather how to we change our systems to incorporate the wisdom of the public, and how we develop the forecasting, measuring, and accountability tools that can provide us with shared information from which we can learn and create policy.

We propose:

**1. Regular, public, and transparent process for updating the guidance of the CEQR technical manual**

- Currently the manual is updated at intermittent timeframes subject to the whim of different administrations or interests and dominated by the policy perspective of the administration, instead of data from the environmental review and planning process(es) informing policy.
- We propose that an update process be required every five years, and that process should
- include official, transparent methods of taking input from the public, including:
  - hearings and a
  - published summary of all the input offered and how it was considered.
- This process should also incorporate data that looks at neighborhood change over time in areas where EISs have been conducted order to learn from the ways different public actions

**2. Expanding planning processes to include goal setting, measurement, and accountability tools in the context of new development and beyond; these should be used to inform policy**

- One of the greatest tensions in the debate over environmental review is whether a particular impact can be tied exclusively to the proposed action. For communities, that completely misses the point; they care about what they are experiencing and seeing from a cumulative perspective. Residential displacement, for example, is rampant across the city and we have the tools to measure risk and create policy in response. However, we fail to do so.
- We need a comprehensive planning approach that
  - identifies goals and principles – squarely aiming at racial and economic disparities, seeking to overcome the unequal legacy of historic decisions --
  - sets citywide and local targets with active participation from the public, and
  - implements measurement and accountability measures, such as budget alignment and look-back provisions.
- We are striving for this now in the Charter Revision process; if that process does not go far enough, the Council has and should exercise its power to legislatively require a citywide residential displacement risk analysis, as well as other key measures of issues of unmet need across communities.

We look forward to sharing and discussing our research in more detail, and to working with the Council to strengthen the proposed Intros to align with these goals, as well as to working with you to craft an overarching CEQR and planning agenda. We also look forward to working with the Mayor's Office of Environmental Coordination and other relevant agencies to incorporate more specific recommendations in methodology that grow out of our research and experience.

*NOTE: This testimony was prepared by the Pratt Center for Community Development. It does not necessarily reflect the official position of Pratt Institute.*

**Attachments:**

Charter Revision: Comprehensive Planning for a more just, equitable NYC, 2019

Flawed Findings: How NYC's approach to measuring residential displacement risk fails communities 2018

Fulfilling Planning Promises: Neighborhood Commitment Plans and Their Context, 2016

**For more information,** please contact

Elena Conte, Director of Policy, 718-399-4416, [econte@prattcenter.net](mailto:econte@prattcenter.net)



**TESTIMONY BEFORE THE COMMITTEE ON LAND USE AND  
THE SUBCOMMITTEE ON ZONING AND FRANCHISES**

May 7, 2019

My name is Luis A. Henriquez Carrero and I am the Director of the Tenant Rights Coalition (TRC) for the Brooklyn program at Legal Services NYC (LSNYC). The Tenant Rights Coalition is LSNYC's citywide program devoted to tenant protection work in the neighborhoods rezoned by the current administration over the past 4 years. I oversee our TRC work in Brooklyn, particularly East New York, Brownsville, and surrounding neighborhoods.

Legal Services NYC fights poverty and seeks racial, social and economic justice for low-income New Yorkers. For 50 years we have challenged systemic injustice and helped our clients meet basic needs for housing, family safety, income security, and access to high-quality education and health care. Our staff of nearly 600 across all five boroughs helps more than 110,000 New Yorkers annually. At the TRC offices across the City, our dedicated staff of housing advocates works with individual and tenant groups to prevent evictions and support collective tenant action, often in partnership with community based organizers and tenant associations.

I am here today to provide testimony in relation to various bills before the New York City Council which seek to amend the City Environmental Quality Review (CEQR) procedures to more accurately assess and mitigate the impacts of the City Planning Commission's decision to rezone certain neighborhoods across the City.

In February and in March 2016, LSNYC, alongside scores of community-based and legal organizations, testified in hearings before the New York City Council on the proposed creation of a Citywide mandatory inclusionary zoning program and the proposed rezoning of the East New York neighborhood in Brooklyn. Our organization's basic message at those hearings was two-fold—first, to recognize that the current administration has in fact prioritized the preservation and creation of affordable housing across the City, but secondly, to express grave concern with the proposed programs as they, foreseeably, would lead to a speeding up of gentrification and, ultimately, the displacement of the communities of color who have for generations lived in neighborhoods such as East New York, East Harlem, and the South Bronx.

In the three years since, our organization has in fact seen the unfortunate trends described above. We have seen it, for instance, in the uptick of eviction proceedings seeking to evict unregulated tenants living in 2-or-3 family homes, often at the hands of limited liability corporations (LLC) who increasingly are acquiring property which has traditionally been individually owned. We have seen it with property owners increasingly pursuing more complex eviction proceedings against long-term rent stabilized tenants in the rezoned neighborhoods—such as owner's use, non-primary residence, and chronic rent delinquency eviction cases—this under the promise of the arrival of more affluent renters. We have seen it with one of the largest property owners in Brownsville, Brooklyn, Nelson Management Group, wanting to add a face recognition entry system at Atlantic Pacific Towers to (among other intentions) create a more “high-tech” and “secure” living experience for more affluent newcomers. And we have seen it in many other instances across our citywide housing practice in East New York, East Harlem, Inwood, Flushing, and the South Bronx.

Our organization is, of course, not alone in seeing these trends in the rezoned neighborhoods across the City. One year after its rezoning, East New York saw a 284% increase in applications to build new residential units.<sup>1</sup> Rental prices in surrounding neighborhoods have also had a spillover effect in the East New York rezone. For instance, Bedford Stuyvesant and Crown Heights have been in the top 5 list of neighborhoods in NYC with the largest increase in monthly rents in the past decade. Inwood in Manhattan, another rezoned neighborhood, is also in that list.<sup>2</sup> In the Southwest Bronx, one year after the Jerome Avenue rezoning, longtime neighborhood residents and community leaders have started to see the disappearance of the auto-repair and home improvement mom-and-pop shops which have been a staple of the community, together with an increase in Major Capital Improvement (MCI) applications and eviction proceedings more generally.<sup>3</sup> Longtime East Harlem residents have also seen similar effects as a result of the rezoning in their neighborhood.<sup>4</sup>

With all of this in mind, we believe that the proposed legislation in question will provide much needed oversight of the neighborhood rezoning processes currently playing out throughout the five boroughs, by, among other things:

- a) requiring that mitigation measures be included as part of the tracking commitments publicized by the City Planning Commission,

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<sup>1</sup> Dennis Lynch, "Why Investors are flocking to East New York," *The Real Deal*, January 25, 2018, available at <https://therealdeal.com/2018/01/25/why-investors-are-flocking-to-east-new-york/>

<sup>2</sup> Kim Velsey, "The New High-Rent Districts," *The New York Times*, August 24, 2018, available at <https://www.nytimes.com/2018/08/24/realestate/the-new-high-rent-districts.html>

<sup>3</sup> Sadeq Ali Kully, "One Year After the Rezoning, Has Jerome Avenue Changed?," *City Limits*, March 26, 2019, available at <https://citylimits.org/2019/03/26/one-year-after-the-rezoning-has-jerome-avenue-changed/>

<sup>4</sup> Bloomberg News, "East Harlem gentrification boosted by rezoning, tax breaks," *Crain's New York Business*, December 13, 2018, available at [https://www.crainnewyork.com/real-estate/east-harlem-gentrification-boosted-rezoning-tax-breaks?fbclid=IwAR3sGRYBim\\_7cYzPuivGyOIrFMSTaCzI\\_ualt6lm4R44nroaTuN0wt10Ls&utm\\_source=Coalition+for+Community+Advancement&utm\\_campaign=5c0120faee-EMAIL\\_CAMPAIGN\\_2019\\_01\\_18\\_04\\_18&utm\\_medium=email&utm\\_term=0\\_fbff0be20e8-5c0120faee-65386169](https://www.crainnewyork.com/real-estate/east-harlem-gentrification-boosted-rezoning-tax-breaks?fbclid=IwAR3sGRYBim_7cYzPuivGyOIrFMSTaCzI_ualt6lm4R44nroaTuN0wt10Ls&utm_source=Coalition+for+Community+Advancement&utm_campaign=5c0120faee-EMAIL_CAMPAIGN_2019_01_18_04_18&utm_medium=email&utm_term=0_fbff0be20e8-5c0120faee-65386169)

- b) requiring that the Department of Housing Preservation and Development (HPD) conduct a study, five years into each particular rezoning, related to the displacement effects of longtime residents, businesses, and employees caused by increased gentrification in the rezoned neighborhoods, and
- c) requiring that HPD issue recommendations to amend the CEQR Technical Manual in the event that its assessment reveals a disparity of more than 5% between the potential displacement envisioned by the City Planning Commission and the actual displacement as of the time of the HPD reports for each rezoned neighborhood.

We additionally believe that waiting 5 years for the HPD reports may be too late to conduct an assessment of gentrification and displacement in the rezoned neighborhoods, which we see every day in our work. Our suggestion for the Committee on Land Use would, therefore, be for HPD to execute the above described studies beginning in 2019 for every rezoned neighborhood, as well as every year thereafter. We believe nothing less is required to adequately understand the effects of the citywide rezoning program and take corrective measures before it is too late.

I thank the City Council for the opportunity to testify. Should the City Council have any questions or require any further information from LSNYC concerning the proposed legislation at hand, you may contact Marika Dias, Citywide Director of the Tenant Rights Coalition, at [mdias@lsnyc.org](mailto:mdias@lsnyc.org).



ANHD  
50 Broad Street, Suite 1402  
New York, NY 10004  
Tel: (212) 747-1117

**TESTIMONY OF EMILY GOLDSTEIN BEFORE  
THE NEW YORK CITY COUNCIL COMMITTEE ON LAND USE  
REGARDING CEQR**

May 7<sup>th</sup>, 2019

Good Morning, and thank you Speaker Johnson, Chair Salamanca and members of the committee for the opportunity to testify today.

My name is Emily Goldstein and I am the Director of Organizing and Advocacy at the Association for Neighborhood and Housing Development (ANHD). ANHD's mission is to advance equitable, flourishing neighborhoods for all New Yorkers. We are a coalition of 100 community-based affordable housing and equitable economic development organizations in New York City, and we use organizing, policy, advocacy, and capacity-building to advance our mission.

Over the past five years, we have worked intensively to prevent our City's land use and planning processes from exacerbating New York City's housing affordability and displacement crises, and have come to see the current CEQR process as a key obstacle to that goal.

In every rezoning hearing for years now, community residents have testified regarding their experiences of harassment, rising rents, displacement pressure, and speculation on their homes, only to be told that their concerns are out of scope or contradicted by official DCP projections – because the methodology used to evaluate residential displacement risk is extraordinarily outdated and inaccurate.

Most notably, the CEQR methodology incorrectly assumes that many populations, including rent stabilized tenants, face no risk of displacement. We know this to be untrue – rent stabilized tenants face enormous displacement pressure and are frequently harassed out of their homes. In fact, both the City Council and other mayoral agencies, such as HPD, have acted repeatedly through laws and programs to try to prevent or address the displacement of tenants that are automatically disregarded in the environmental review process.

That we are in the midst of a protracted affordability crisis is not a debate. In New York City, more than half of all tenants, and more than three-quarters of low-income tenants, are rent burdened. The number of New Yorkers in homeless shelters increased 77% from 2007 to 2017. New York City is also one of the most segregated and unequal cities in the country, and the failure of the CEQR process to accurately assess the negative impacts of land use actions, especially harms low-income communities of color. Low income communities of color have been repeatedly targeted for increased density, Black and Latinx households disproportionately live in rent stabilized housing compared to unregulated housing, and Black, Asian and Hispanic households all have higher rates of rent burdening and severe rent burdening compared to White households.

To continue using a methodology that ignores so many residents, that is so clearly out of touch with the reality of most New Yorkers' experiences of displacement threats, discredits the whole land use process, and prevents the acknowledgement, let alone mitigation, of the negative impacts many land use actions have on existing residents.

Unfortunately, there is no requirement for regular updates to the CEQR methodology, and decisions about whether or how to update the CEQR technical manual are made through a closed door process by the Mayor's Office of Environmental Coordination, without public input, transparency, or accountability to the people affected by these decisions.

Furthermore, even when negative impacts are found, there is no requirement that a mitigation plan be enacted or that a land use plan be changed to prevent or reduce harm.

And finally, the lack of follow-up study from the City of the actual effects rezonings have had on numerous communities makes it difficult to learn from and make data-driven changes to our land use approach.

Therefore, ANHD believes:

- that we should mandate a regular and public review of the CEQR technical manual, with a process for genuine public input regarding revisions, and transparency in decision-making;

- that any land use action requiring an Environmental Impact Statement should also include a detailed analysis of direct and indirect residential displacement;
- and that an enforceable mitigation plan to address identified negative impacts should be required following an Environmental Impact Statement, in conjunction with any final land use change.

While we are currently pursuing these goals as reforms to the City Charter, we applaud the City Council for stepping up to help correct for and fill in some of the gaps left by the system we have now.

We have a few specific concerns and recommendations that we believe would help ensure that Intro 1487 would achieve its purpose of gathering information to more accurately assess the true impact of neighborhood rezonings.

We believe that attempting to assess real displacement impacts using the same flawed methodology in CEQR would be a mistake. The methodology in the CEQR manual will produce a highly inaccurate measure of risk to use as a baseline. The only people the CEQR manual identifies as “at-risk” are low-income renters in unregulated units. Using the same methodology to look at the impacts of a rezoning 5 years later would only reveal an updated count of that same population, not the full universe of displaced households.

A further challenge comes from the fact that in many cases the EIS does not even identify an at-risk population at all, providing no baseline for future comparison.

Instead, we recommend that the legislation be revised to require a study of all at-risk tenants, providing parallel and far more accurate information at the time a rezoning takes place, and then using the same measure to account for changes 5 years on. Any true picture of displacement must include analysis of changes in the population of tenants living in both unregulated and regulated housing.

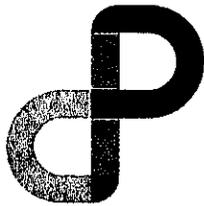
We also recommend that Intro 252 be revised to go beyond the initial, and useful, step of tracking and reporting on mitigations to create enforceable mechanisms to ensure that promised mitigations are completed in a timely manner. One step towards that goal would be to require that all identified mitigations be included in a



**ANHD**  
50 Broad Street, Suite 1402  
New York, NY 10004  
Tel: (212) 747-1117

commitment letter from the Mayor's office, with a timeline and process by which the mitigations will be enacted. If the administration will not commit to mitigations in such a letter, the reporting required in the legislation should include an explicit statement of the reason behind the administration's refusal, and information on where responsibility for enacting mitigation lies.

Thank you again for the opportunity to testify, I look forward to working with you all to gather information and create tools to help our City's land use policies become drivers of equity and inclusion.



# PRATT CENTER

## FOR COMMUNITY DEVELOPMENT

### **Fulfilling Planning Promises: Neighborhood Commitment Plans and their Context**

**Testimony to Committee on Land Use  
Hon. David Greenfield, Chair  
Adam Friedman, Director  
June 7, 2016**

*Testimony delivered by Pratt Center director Adam Friedman Tuesday, June 7<sup>th</sup> on Intro 1132, an amendment to the New York city charter that would establish a publicly accessible tracking database of all commitments made by the city as part of any city-sponsored application subject to the uniform land use review procedure (ULURP).*

*This bill would require an agency of the Mayor's choosing to maintain a publicly accessible online database tracking all written commitments made by the Mayor or any mayoral agency to the Council, a community board, a borough president, or a city council as part of any city-sponsored application subject to the ULURP. It would also require the agency to report on June 30th of each year the current status of all unfulfilled commitments and commitments that have been fulfilled six months prior to such report, which shall be issued to the Mayor, the Council, the borough presidents, and the community boards.*

Chair Greenfield, Council Members, thank you for the opportunity to testify today. We offer remarks in support of Intro 1132, highlight key considerations around implementation of the Intro, and recommend measures that would complement the Intro so that it best fulfill its dual goals of enhancing transparency and accountability in land use and planning actions.

Pratt Center for Community Development works for a more just, equitable, and sustainable New York City by supporting low- and moderate-income communities to plan for and realize their visions. In service of this mission, we have partnered with and provided technical assistance to more than a dozen community-based organizations and coalitions to engage in rezoning conversations during the Bloomberg administration alone. These communities include: Greenpoint-Williamsburg, Gowanus, Coney Island, Crotona Park East, Hunters Point South, Willets Point (in 2008 and 2013, the Kingsbridge Armory, and the USTA expansion into Flushing Meadow Corona Park. Our support of communities to navigate land use processes continues under the de Blasio administration, with partnerships in East New York, the Jerome Avenue corridor in the Bronx, East Harlem, Flushing West, and Bay Street in Staten Island.

### **The problem**

In our experience, despite the diversity of these neighborhoods and land use actions, a few realities invariably hold during rezonings –

1. Communities work attentively to learn about the process and educate, organize and mobilize community members, exerting tremendous effort in a limited time frame in a process that feels stacked against them
2. At the time of the City Council vote, regardless of how the community views the rezoning overall, commitments have been made throughout the process that communities wish to see honored
3. In the period following the vote, it becomes difficult to impossible for communities to establish a clear record of what has been promised and by whom, and, as time passes, the energy behind

those initial promises fades and it becomes increasingly challenging to ensure that commitments are fulfilled

In many of these instances, community groups had developed their own plans (whether 197-a or not) in advance of land use changes proposed by the administration. The frustration that they experience is not simply about broken promises from a rezoning, but about the gaping disconnect between the holistic planning that communities call for and the narrow limitations of the land use review process. This pattern is deeply disillusioning to communities and erodes faith in the process. As a result, future planning and land use conversations become more difficult to conduct.

- 1. Intro 1132 provides an important and much-needed opportunity to jump-start conversations with the Council, the administration, and the public regarding not just the recording of agreements, but the quality of those agreements, the degree to which they can be enforced, and, more importantly, the relationship of rezoning actions to larger issues of planning and public participation.**
- 2. Intro 1132 takes an important step forward in addressing the disturbing lack of transparency that currently exists around land use agreements.** The range of ways that commitments are currently “recorded” – restrictive declarations, side letters, FUCAs (follow-up corrective actions), and press releases, to name a few – are labyrinthine, difficult to obtain, and, because commitments are housed in so many different places, it becomes nearly impossible to decode how all the agreements will work together to impact a community; as a result, it has become easy for commitments to go unfulfilled. In the face of the 15 rezonings that the de Blasio administration has proposed to advance Housing NY, a tracking system is needed now more than ever.
- 3. More detail around the parameters of commitments, the content of the database, and the process for recording commitments is needed**

### **3a. Commitments**

The language in Intro 1132 for “commitment” is broad, and we would not seek to limit it. However, the breadth of the language allows for an overly wide interpretation. Below, we seek to concretize the conversation about commitments with a preliminary list of the types of promises that merit tracking. *If there is anything listed below that the Council or the administration do not consider to be eligible as a “commitment,” it would be useful for that to be indicated now.*

**Overall, it is essential that there be a single, comprehensive, publicly accessible document/database that accounts for all commitments.** This would include a summary of all commitments made, even if the commitments appear elsewhere in other official documents, such as a restrictive declaration, the Environmental Impact Statement and/or through a change to the zoning text that is adopted late in the process.

Commitments as considered by communities include (but are not limited to): commitments of capital funding; commitments of programmatic and maintenance funding; wage, labor, apprenticeship, and hiring agreements or targets; environmental mitigations; commitments to create space for schools, community facilities, and/or other goals; commitments to change land uses on public sites and/or to purchase land; commitments to create funds dedicated for a specific purpose (business relocation, creation of affordable housing); staffing commitments; and/commitments to new agency actions related to enforcement.

The document should also include commitments to perform studies that may lead to future land use actions. Additionally, communities are often promised that a concern they raise will be addressed by citywide

programs or projects that will be implemented in the area. These commitments should also be recorded so that the Council and community have the opportunity to evaluate the actual impact of such programs.

### **3b. Content of the database**

The format in which commitments are recorded will influence the way that the mayoral office, the Council, and communities are able to follow-up on commitments, and the design of the database is an opportunity to enhance the success of progress reporting.

At a bare minimum, the database should include fields for a) the action the City is planning to take; b) the expected timeline that implementation of the commitment will take; c) the budget for the commitment and the funding source; d) which agencies will be involved in carrying out the commitment; and which agency has the primary responsibility for executing the commitment.

Since the database will include a comprehensive list of commitments, it also presents an opportunity to assist the public in understanding and distinguishing between “guarantees” and “goals,” including the enforcement mechanism for items that are legally bound. For commitments that are dependent on a number of variables, such as the actions of parties external to the City (state level agencies, private actors), it may also be useful to explicitly disclose those variables. Finally, commitments are made in response to needs articulated by local stakeholders, and those needs merit articulation in a tracking document. While unforeseen circumstances may sometimes interfere with the ability to deliver a commitment as originally intended, listing the need that a commitment is intended to address alongside the commitment in the database may assist future conversations about fulfilling promises, and may assist in evaluating whether the promised commitment did, in fact, address the need for which it was intended.

**More information about the proposed design of the database should be shared with the public, and Council staff should engage in conversations with highly engaged stakeholders to shape the database’s development.**

### **3c. Process for recording commitments**

The Intro does not make explicit what the process will be for compiling commitments and delivering them to the mayoral office for entry into the database, and, unfortunately, this exercise is likely not as straightforward as it would appear. There should be a clear way throughout the rezoning process for community stakeholders, Community Boards, and Borough Presidents to submit commitments that they have received to Council staff for compilation with commitments that emerge later in the process. Council staff should have the responsibility of summarizing the content that appears in other official paperwork linked to the rezoning for inclusion in the compilation. In the 30 days following the vote, entities that submitted agreements to the compilation should have the opportunity to review the content which would be transmitted to the mayoral office. The process for submitting content to the compilation should be made clear and accessible to the public before the onset of ULURP.

1132 can be most effective when it works in concert with a system designed to integrate promises, create clear lines of accountability, and create ways for not just the City Council, but also community stakeholders to have a role in ensuring that commitments are fulfilled.

## **4. Role of the mayoral office**

**To truly support an accountability system, a mayoral office with the mandate and resources to provide agency coordination and accountability for fulfilling the commitments made during the rezoning process is needed.** The number of agencies that play key roles in implementing rezoning commitments and the degree of coordination required among them to successfully carry out those commitments is extensive.

To ensure that the task of fulfilling commitments does not get lost among other agency priorities, an overarching presence with the power to direct agencies that are focused on those commitments is necessary.

This mayoral office, whether new or existing, should create goals and benchmarks for each rezoned neighborhood, based on commitments made in the zoning plan, and goals stated by the community throughout the process. These benchmarks should form the basis of progress assessments that are shared with neighborhood monitoring committees (see below) and the Council.

**5. Community members, not just the City Council, should have an ongoing role in monitoring progress on commitments and troubleshooting issues that arise through Neighborhood Monitoring Committees.**

The local expertise and dedication that community stakeholders bring to rezoning processes are assets to any government seeking to fulfill its commitments in the face of unforeseen obstacles. These contributions should be tapped and supported, and neighborhood monitoring committees create the mechanism for effectively accomplishing this.

A reasonable threshold can be established to identify the land use actions of greatest significance that should be accompanied by a neighborhood monitoring committee. These committees should be comprised of key stakeholders from the rezoning process, should also directly receive the progress report from the mayoral office indicated in Intro 1132, and should otherwise be supported by that mayoral office to make sure they have the access they need to city agencies, data, and information in order to participate in overseeing the commitments in their neighborhood.

**6. Establish metrics to evaluate neighborhood change in key areas of concern and need.** The City should work with neighborhood monitoring committees to establish a set of metrics to evaluate changes in rezoned neighborhoods over time. This information will give communities and the City concrete information about neighborhood changes, which will allow the City to refine its plans and strategies to address unmet needs and to assess the impacts of land use actions locally and on a borough- and city-wide scale.

**7. Future City Council actions should expand this Intro to include land use agreements that are reached by private entity applicants and to include commitments made by private entities.**

There is as much if not more need to document agreements with and reached involving private entities, since there are fewer levers available for the public to hold private entities accountable. Examples of private land use applications that would be excluded from this database include:

- The USTA expansion into Flushing Meadows Corona Park
- The Crotona Park East Rezoning
- SL Green's 1 Vanderbilt Development

**8. Ensure that Intro 1132 applies to the recent East New York rezoning**

Although we understand that it is the Council's intention for Intro 1132 to apply to the recent East New York rezoning, our reading of the text does not indicate that it would indeed be applicable. It should be amended to explicitly cover the set of commitments made during and at the end of that process in April 2016.

Thank you for the opportunity to testify today in support of Intro 1132, and we look forward to continuing to work with our local partners, with the City Council, and the administration to craft ever more effective ways to support planning that leads to a more just, equitable, and sustainable city.

For further information, contact: Elena Conte, Director of Policy, [econte@prattcenter.net](mailto:econte@prattcenter.net), 718-399-4416

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## MAS Comments to New York City Council Committee on Land Use and Subcommittee on Zoning and Franchises regarding Oversight of City Environmental Quality Review

May 7, 2019

The Municipal Art Society of New York (MAS) has long been one of the city's strongest advocates for City Environmental Quality Review (CEQR) reform. In recent years, we have published two comprehensive reports that highlight ways to strengthen the CEQR process. *SEQRA and Climate Change*, released in 2009, raised the importance of measuring greenhouse gas emissions for projects subject to CEQR. Last fall, MAS released *A Tale of Two Rezoning: Taking a Harder Look at CEQR*, an in-depth comparative analysis of projected and actual development fostered by the rezonings of Long Island City (2001) and Downtown Brooklyn (2004). The report also examined the environmental consequences that resulted from the gross miscalculations of development that happened under each plan.

To answer the question posed on today's agenda: "Are CEQR procedures useful for accurately predicting and mitigating impacts of City Planning Commission (CPC) decisions?" We respond with an emphatic no. Although the Downtown Brooklyn and Long Island City rezonings happened over 15 years ago, the same deficiencies and flaws remain today.

We are pleased that CEQR reform has advanced with the legislative measures introduced today. While these proposals are commendable, we believe that more robust, wholesale changes are necessary for CEQR to be truly transparent, dependable, and effective. To achieve this goal, we pose several recommendations to reinforce the bills introduced today and strengthen the inherent flaws in the CEQR process.

### **Strengthening Mitigation Measures and Procedures**

Strengthening mitigation procedures is vitally important to CEQR reform. Although *Intro 0252-2018* seeks to improve the tracking of mitigation measures identified in environmental review documents, the bill needs to go further. In *A Tale of Two Rezoning*, MAS recommended that Draft Environmental Impact Statements (DEISs) must include specific details of approved mitigation measures that address significant adverse impacts and identify the agency responsible for implementing them. Typically, DEISs provide very few details about mitigation other than to state that measures have not been approved. When details of proposed mitigation are finally made available in the Final EIS (FEIS), it is too late for the public to review and comment.

Applicants and the City must be held accountable for adverse impacts of development permitted under large-scale rezonings. One way to accomplish this is to require the fulfillment of mitigation commitments as a condition for granting certificates of occupancy. Further, environmental review documents must take into consideration unmitigated and unfulfilled mitigation measures from previous rezonings within a project's quarter-mile study area to effectively address cumulative environmental impacts of a rezoning. And finally, CEQR lead agencies should provide follow-up technical memoranda at designated times during project construction and operation to evaluate the efficacy of identified mitigation measures. This information would provide an inventory of successful mitigation measures that could be applied to other large-scale rezonings.

In terms of improving the tracking of mitigation measures, Local Law 175 should be strengthened to include written commitments for mitigation measures identified in EISs, including the type, location, and schedule of the specific measures (e.g., traffic signal changes at specific intersections) that would be implemented, monitored, and if applicable, tested for effectiveness.

### **Strengthen CEQR Evaluation Methodology**

*Intros 1487-2019, 1523-2019, and 1521-2019* seek to improve CEQR evaluation methodology and increase transparency in areas of indirect residential displacement, traffic, and school capacity, respectively. Resolution 0009-2018 calls for improved coordination with involved City agencies in re-examining CEQR evaluation and mitigation criteria for impacts on neighborhood character and socioeconomic conditions. While these measures are a step in the right direction, we feel no effective change in the CEQR process can happen without strengthening the criteria and methodology in the *CEQR Technical Manual* for establishing the Reasonable Worst Case Development Scenario (RWCDs), the analytic framework of CEQR evaluations.

To accomplish this, MAS recommends using an expanded build year that includes all development sites under a rezoning. Furthermore, under large-scale rezonings, a significant amount of development occurs on soft sites that are not identified or evaluated in EISs. To strengthen soft site analysis criteria, we recommend that lots smaller than 5,000 square feet should be considered, based on the potential for lot mergers.

### **Increase Range and Scope of Alternatives Evaluated Under CEQR**

Another fundamental improvement needed in the CEQR process is the evaluation of wider range and scope of alternatives. Typically, CEQR documents are limited to the evaluation of a No-Action and With-Action development scenario. MAS has several recommendations for strengthening alternatives analyses and disclosing the full development potential of a large-scale rezoning.

The first recommendation is an alternative that would evaluate development that could reasonably be expected to occur through zoning lot mergers and the transfer of development rights. This alternative could also bolster soft-site analyses and the formation of the No-Build development scenario by examining the potential development of smaller sites where development rights could be assembled through lot mergers.

The second recommendation is the evaluation of a reverse land use alternative, in which different primary land uses permitted under the new zoning are considered. The evaluation of this alternative would be helpful in the event that market or economic conditions change and the development that was anticipated under a rezoning changes course.

For the third alternative, we recommend an Optimal Sustainable Development Scenario alternative, which would assess the sustainability of a project, from construction through operation. This alternative would evaluate measures to reduce water and energy use, greenhouse gas emissions, urban heat island effect, shadows, and other sustainability metrics.

Finally, CEQR needs to be strengthened to better gauge community input in the planning process. To accomplish this, we recommend the evaluation of a Community-Based Plan alternative that is consistent with the goals of an existing community-based plan, 197a or otherwise.

### **Transparency and Accountability**

We believe CEQR lead agencies should provide a clear and accurate explanation in the Purpose and Need section of EISs as to how a particular project would balance its goals with environmental concerns. For City-sponsored projects, stated objectives in CEQR documents must correspond with how the project would meet public needs and respond to applicable policies. For example, if a project proposes to provide affordable housing or result in sustainable benefits, the EIS must evaluate the impacts of various income levels under the City's Mandatory Inclusionary Housing program or quantitatively disclose and assess the particular sustainable measures being proposed.

To improve accountability, we recommend requiring post-implementation review as part of the City's contract with an EIS preparer. Furthermore, applicants should be required to commit to performing post-implementation review as a condition of EIS approval when an EIS is prepared by consulting retained by a private applicant.

The CEQR Access portal on the Mayor's Office of Environmental Coordination website should include all EISs and Environmental Assessment Statements in the search function. The database should be integrated with the New York



State Department of Environmental Conservation and include all applicable SEQRA documents linked to a GIS mapping feature that shows the locations of all environmental review projects in the city. CEQR Access should also include all CEQR findings statements and mitigation commitments integrated into GIS. This will make it much easier to track mitigation.

Finally, EIS quality must be improved. In general, EISs are cumbersome, unwieldy documents that are difficult for most people to read, let alone understand. We recommend improving standards for form, content, and consistency to make EISs more clear. We also suggest a short version highlighting the primary findings and conclusions in plain language.

**Conclusion**

The time is ripe for an overhaul of the CEQR process. As we stated in *A Tale of Two Rezoning*s, we recognize that no City official or planning practitioner has a crystal ball with which to forecast future development. However, when the City initiates a large-scale neighborhood rezoning, even one with laudable goal, New Yorkers deserve a reliable representation of expected development and realistic evaluation of its impacts. Too often, they receive neither.

Thank you for the opportunity to provide comments on these important bills.



**Testimony of Robert Cornwell  
Make the Road New York  
In Support of Intro 1487**

**New York City Council Committee on Land Use**

**May 7<sup>th</sup>, 2019**

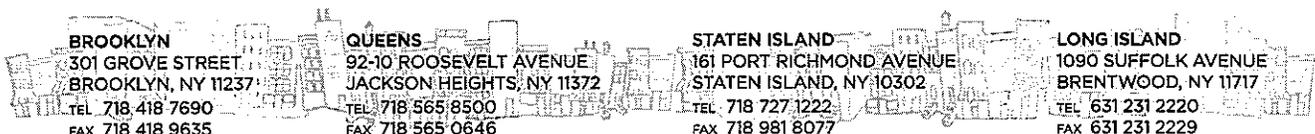
My name is Robert Cornwell and I am a Senior Housing Attorney at Make the Road New York (MRNY), a non-profit organization based in the communities of Bushwick, Brooklyn; Jackson Heights, Queens; Port Richmond, Staten Island; Brentwood, Long Island; and White Plains, Westchester. MRNY builds the power of immigrant and working class communities to achieve dignity and justice through organizing, policy innovation, transformative education, and survival services, which includes legal services. Our organization consists of more than 23,000 members, most of whom are immigrants and many of whom live in substandard housing. Our legal services department routinely represents low-income tenants facing harassment, chronic disrepair conditions, and displacement. I submit this testimony on behalf of MRNY and I thank the Committee for the opportunity to participate in this hearing.

MRNY supports Intro 1487 to study the secondary displacement that has occurred from neighborhood rezonings since 2015.

We believe this study is a needed tool to enable the City to capture the real world effects that rezonings have had on neighborhoods already facing displacement due to market forces. We also believe this data will be useful in future rezoning processes so that communities and the City will have quantifiable data to analyze and mitigate the likely effects on the subject neighborhoods.

Prior to this bill, applications for neighborhood rezonings repeatedly brushed aside or failed to analyze indirect displacement in a meaningful way. The methodology employed in the Uniform Land Use Review Process (ULURP) relies on the City Environmental Quality Review (CEQR) Technical Manual. The CEQR manual is notably flawed in that it requires the rezoning under study to “introduce” or “accelerate existing trends” of displacement for there to be a finding of significant socioeconomic change, but there are no standards for how this is analyzed. Moreover the CEQR manual fails to include an analysis of secondary displacement of rent regulated units, incorrectly assuming that the rent regulation laws effectively prevent any threat of displacement to rent regulated tenants. In prior rezoning applications the City has relied on the CEQR Manual’s flawed methodology to buttress a conclusory argument that rezonings are not harmful to communities because those communities are already experiencing gentrification and displacement. Moreover the City has not studied the risk of indirect displacement of rent stabilized units due to the untenable reasoning that rent regulation protects against the risk of such displacement.

Courts that have reviewed the issues of secondary displacement and rezoning have also missed



the facts on the ground that show the link between rezonings and increased displacement of long-term tenants. For example, in the cases of *Ordonez v. City of New York* and *Ming v. City of New York*- regarding the East Harlem and Bedford Armory (Crown Heights) rezonings- the courts upheld the rezoning applications against challenges from affected community members. Notably, in *Ordonez* the court held that the Petitioners did not “provide any data that displacement occurs because of rezoning.” We believe that Intro 1487 will provide that data to show the actual effect of rezoning on low income communities.

When future rezonings are proposed, we cannot have a real debate under the false assumption that greater density in a working-class neighborhood, by itself, will solve the housing crisis. We know that building more luxury apartments in a neighborhood means higher rent for everybody else. We have seen this pattern of displacement across North Brooklyn. And the impact is not limited to unregulated tenants. Rent regulated tenants face unending efforts by speculative landlords to pressure them to vacate their affordable homes so that the landlords can make increased profits. In a neighborhood like Bushwick, where the city has just proposed a neighborhood rezoning, we already see how speculative real estate investors use strategies of neglect and harassment to displace rent stabilized and working class tenants to take advantage of rising market-rate rent levels.

In a working-class neighborhood, the prospect of neighborhood rezonings significantly raises property values which attracts speculative investors that employ any means necessary to remove long-term tenants from their homes. Long term tenants are subject to unsolicited buyout offers, illegal and unpermitted renovations, intentional lack of repair, frivolous lawsuits, fraudulent filings with DHCR, and we have even heard of threats to call ICE on undocumented immigrants. These unscrupulous methods are part of a business plan. At our office we are fighting against this business plan every day. For this reason we think it is important that Intro 1487 be adopted to enable the study of the secondary displacement that has occurred in rezoned neighborhoods so we have quantifiable data on what has happened in our communities and so we can use that data in future rezonings to prevent the unnecessary loss of existing affordable housing.

Notwithstanding the merits of the proposed local law; we do believe the bill should be strengthened to specifically include a focus on measuring the acceleration of displacement and the loss of rent regulated units; in contrast to the methodology laid out in the CEQR manual. The CEQR manual incorrectly assumes that rent regulated units are not vulnerable to displacement because rent regulation by definition is meant to protect against displacement. As I have mentioned, and as many of us know, this is contrary to reality on the ground. In addition, it is important to hear from the communities who have been impacted by these rezonings.

In conclusion, at a time when much of our conversation has been about producing new affordable housing units as part of the rezoning of our neighborhoods, it is important to recognize that rezonings and redevelopment is already driving the loss of our existing affordable housing stock. We thank the Council for giving attention to the study of the actual loss of affordable housing that has occurred as a result of past neighborhood rezonings.

Good morning/afternoon,

My name is Ivan Garcia and I am the neighborhood rezoning coordinator at MRNY. I am here today to speak in favor of this bill, intro 1487.

Currently, I oversee MRNY's housing and land use portfolio and spend much of my time coordinating the Housing Dignity Coalition, a Staten Island faith and community based coalition that is responding to yet another bad rezoning targeting the North Shore of Staten Island.

For the past two years in my role, our coalition has engaged hundreds of community leaders in visioning circles to articulate what a responsible North Shore rezoning would look like. In that time, we have also trained dozens of local leaders to become mini planning experts along side technical partners like the Association for Neighborhood and Housing Development.

There is much wrong with the way that our city treats neighborhood placed planning. For a start, the key word - neighborhoods - are always left out of the process. But for the sake of this hearing, I will limit my comments to the on the ground experiences of our members and what CEQR gets wrong about their experiences.

The housing stock of the North Shore is made up of smaller homes that today, are not protected under the Emergency Tenant Protection Act. 85% of the housing stock is unregulated and renters, who make up a significant stock of the market, are vulnerable to displacement at any moment as they have no access to a guaranteed lease renewal and can have their rents increased by any amount at any time after the current lease expires.

Given the tens of thousands of renters in the district, and the lack of protections, we know the impact that a rezoning will have when the market heats. However, the impact is underestimated per the displacement analysis of the Department of City Planning. According to the EIS, only 1,782 renters were identified as being potentially vulnerable to displacement. I can tell you by first hand account, that speculation of the market has already resulted in several members of my coalition, including one church, being displaced by this rezoning.

The problems are many. For one, CEQR currently only considers low income tenants who are in unregulated units, as at-risk of displacement. The city must understand that every low income tenant in the study area of a rezoning is at-risk of displacement. It does not matter if they live in a rent stabilized apartment or have a housing voucher. Our tenants, even those with some level of protection, are facing landlord neglect and harassment so they can self evict. These tactics that landlords use to get tenants out are used more frequently when landlords believe that the market can bear higher rents than they are collecting today.

It is also important to note the undercount of unregulated units on the market. Today, DCP assumes that all apartments within buildings with at least one rent-stabilized units are themselves rent-stabilized, ignoring the fact that there are multiple avenues through which an

apartment can leave stabilization, and so likely significantly under counting the number of renters who are unprotected.

Second, while the CEQR manual identifies vulnerable populations, there is no mandate to implement a proper mitigation plan for that identified vulnerable population. Currently, in Staten Island, tenants are asking what they are supposed to do if they can lose their current unit due to rent hikes and cannot afford the increasing rents in the community they call home.

The sad truth, because of our bad planning practices, is there is no answer for them; the EIS does not have adequate tenant protection plans in place. This has led to massive displacement in communities across the city and unless we vote down a bad North Shore rezoning, these tenants will be next.

While this bill is not a silver bullet for all our planning problems, it does take positive steps in the right direction. CEQR, must serve communities as an ever evolving document that adjusts based on what we are learning over time. This bill calls for just that.

With this bill, the city would have to conduct a study of the actual displacement of tenants in the study area of any land use action. The study would have to result in a report to the Mayor and Speaker that highlights the overall displacement change from the proposed impact to the actual impact. Finally, where there is a disparity of more than 5%, the report must make recommendations to the CEQR manual on how to capture potential indirect displacement in future rezonings and land use applications.

While we do recommend changes to the CEQR manual today in regards to which types of units it studies, we also fully support this bill to adjust and modify the CEQR manual so that communities facing land use changes in future applications are more adept to respond and plan for involuntary displacement factors.

Thank you for taking time to hear my testimony in favor of intro 1487.



The North Shore Waterfront Conservancy of Staten Island, Inc.  
P.O. Box 140502  
Staten Island, New York 10314

May 6, 2019

To: Rafael Salamanca Jr., Chair of Committee Land Use and Committee members.  
To: Francisco Moya, Chair of Subcommittee on Zoning & Franchises & Committee members.

**Reference: Oversight- Are City Environmental Quality Review (CEQR) procedures useful for accurately predicting and mitigating impacts of City Planning Commission decisions?**

**On behalf of the North Shore Waterfront Conservancy of Staten Island, Inc., and the Environmental Justice and Waterfront Communities on Staten Island's North Shore that we advocate on behalf of we are submitting our comments below on Int. No. 252, Int. No. 1487, Int. No 1523, Int. No. 1531, and Res. No. 9.**

**Int. 0252,** We agree that there should be tracking of mitigation strategies in the final environmental impact statement and a review process that is more than perfunctory in the form of a check off list that states that the mitigation has been performed and meets at best someone's subjective requirements. There should be tangible proof that shows that the mitigation works successfully and has improved the condition of the site and any negative/adverse environmental impacts even those that were preexisting.

**Int. No. 1487,** Unfortunately, for the Environmental Justice and Waterfront Communities on Staten Island's North Shore, there have been several instance over the years that we have inquired to our officials and the City Planning Commission in reference to Zoning Changes that would help to protect our communities from Local Unwanted Land Uses (LULUs). Our requests for Zoning Changes have been denied siting that the Zoning Changes are difficult because of the City Charter. However, we cannot help but to think that our requests for Zoning Changes have been denied because officials, agencies, non-for-profits, industries and developers have targeted our communities for their purposes, by placing things in our communities that more affluent communities would not allow. History involving Red Lining states that we are correct in believing this. Such as the over saturation of social services that deal with halfway housing for criminals that are violent offenders, sexual predators and/or suffer from mental health issues, drug and alcohol abuse issues. Many times, these persons' claim to be from Staten Island and can provide residency identification from local social service intake centers, but they are not from Staten Island and they also may suffer from mental health illness, substance and drug abuse

issues. There is no one monitoring them, and whatever their issues are then become the issues of neighborhood's home and property owners because the home and property owners are stationary, sitting targets for whatever takes place. Everyday residents must assess whether or not the person in front of their home or property that is acting out is a danger to themselves or to others.

We have industries that are polluters and contaminators, and they are often directed to our communities due to As of Right Zoning even though there aren't any environmental buffers between the residential Environmental Justice communities and these industries.

What we have noticed is that Zoning Changes occur in Environmental Justice communities when they are being proposed for gentrification. Therefore, for a brief time we may see some relief from adverse environmental conditions before we are pushed out. We are very familiar with what that waves of displacement look like. What we would like to see are improvements being made in our communities that are for the existing residents and only the existing residents. And not with the dreaded undertow of knowing for certain that this is the beginning of the end for us. It is unreasonable to think or believe that the City Planning Commission, Department of City Planning and NYC Economic Development Corporation has no idea of which Environmental Justice Communities are being targeted for gentrification prior to it happening, they know. Especially when they are doing everything in their power to promote gentrification. This data should be captured and monitored and acted upon way before the secondary displacement occurs.

As it stands NYC Zoning is a very unfair in how it is administered and disseminated.

**Int. No. 1523**, In order for NYC City Planning Commission and NYC Department of City Planning to actually provide a study or report that is timely and effective in detailing transportation impacts in connection with certain or any land use actions, they would actually have to know that the word "planning" is more than what is in the name of their agencies. The name of City Planning should not be oxymoron.

An example of poor transportation planning would be Richmond Terrace a 2- lane road on the North Shore of Staten Island. That is maybe 75 feet wide in certain sections and 65 feet wide in others, it is a truck route and a main thoroughfare for commuters. It is also adjacent to an Industrial Waterfront and an Industrial Park; it has 3 bus depots and 3 cement plants, several salvage yards, waste transfer stations that operate 24/7 and are allowed to bring in 99.9 trucks round trip for their operations, there are also numerous auto body shops in the vicinity. Nearby residential Environmental Justice communities are bombard with trucks, buses and commuter traffic looking for on street parking and short cuts daily from 4 A.M. until 8 P.M. making life quite miserable and with no relief in sight.

<https://www.google.com/maps/place/Richmond+Terrace,+Staten+Island,+NY/@40.6400158,-74.1326243,17z/data=!3m1!4b1!4m5!3m4!1s0x89c24de3f8d61e31:0x74e397e2054bda3e!8m2!3d40.6400158!4d-74.1304356>

<https://www.nycedc.com/industry/industrial/nyc-industrial-business-zones>

<https://www.mapquest.com/us/new-york/mv-transportation-inc-263010955>

We would be in favor of any mitigations (that don't require gentrification) that would help to improve or even drastically improve the above transportation situation that is described and then some.

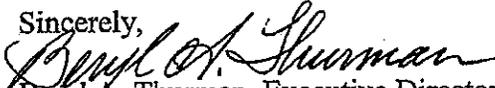
**Int. No. 1531**, We are in favor of this Into, however, we would like to add that due to over development on the North Shore of Staten Island, in order for new schools to be built or refurbished with suitable space for physical recreation and organized sports Eminent Domain would have to be used to acquire the needed land. The same would apply for any real public infrastructure projects that were take place. That's how bad the planning has been for Staten Island.

**Res. No. 0009**

Yes, we are in favor of Res. No. 0009, however, we would like clarification in terms of the definition of Affordable Housing provided, as it is sometimes used in a subjective manner based on the economic condition of whoever is talking about it. What is affordable to some may not be affordable to others.

Thank you for your time and consideration.

Sincerely,

  
Beryl A. Thurman, Executive Director/President  
NSWCSI  
*Creating Livable Communities*

**NYC DEPARTMENT OF TRANSPORTATION TESTIMONY  
HEARING BEFORE THE CITY COUNCIL LAND USE COMMITTEE ON  
INTROS. 252, 1487, 1523, AND 1531  
May 7, 2019**

Good morning Chair Salamanca and members of the Land Use Committee. I am Naim Rasheed, Senior Director of Traffic Engineering and Planning at the New York City Department of Transportation. Thank you for having me here today to speak about DOT's transportation analysis and methodologies.

Land use and travel patterns are constantly changing based on a variety of factors, of which zoning actions are but one. At DOT we are always in the process of evaluating evolving conditions, and developing and implementing projects in response. We collect and analyze data related to traffic flow, transit usage, roadway user safety and other data along with community input, and implement street design changes to improve pedestrian accessibility, safety of all street users, transit use, traffic flow, bicycle use, public space, and other city priorities. DOT strives to address many types of priorities, while also providing equity of improvements across the city. At the same time we work in a comprehensive and systematic way to achieve a good state of repair on our streets, bridges, and ferries and require that property owners maintain or install appropriate sidewalks.

Regarding Intro 1523, DOT is always open to considering, refining, and updating the methodologies in the CEQR Technical Manual in partnership with the Mayor's Office of Coordination, as it relates to transportation impacts. The process for reviewing and updating the CEQR Technical Manual that OEC is charged to undertake on a periodic basis is the ideal forum to consider these methodological questions. However, DOT does not believe that the studies set forth in the bill would effectively inform this consideration of methodologies, and they would be highly resource intensive.

On the specific question of whether a Vehicle Miles Traveled or "VMT" model would more accurately and usefully capture impacts, we have determined in the past that VMT is not the most appropriate measure for determining transportation-related impacts for New York City. This is because we have much higher density and much lower motor-vehicle mode share as compared to other parts of the country. One benefit of our current "Level of Service" model is greater utility for capturing the highly localized impacts and another is its applicability to both traffic, transit, pedestrians, bikes, and parking. However, a VMT methodology is still worthy of discussion and the CEQR Technical Manual update process will be a good venue to discuss this.

Thank you again for the opportunity to offer testimony and I would be happy to answer any questions.

**The New York City Council**  
**Committee on Land Use**  
May 6, 2019

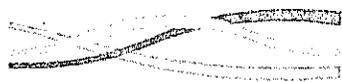
**Testimony:**

My name is Father Clyde Kuemmerle and as Chair of the Housing Commission of the Micah Institute, I represent more than two-hundred multi faith leaders from the five boroughs of New York. We seek passage of Resolution 0009, in fact we urge that it make its way to the full Council as an Intro with enforcement teeth.

Gentrification and untrammled development are rapidly changing the fabric of our City. It is being eaten away by displacement of the people and the small businesses from our neighborhoods whose vitality and variety have been the envy of the world. The beautiful mosaic of which we have been so proud and which makes New York a world-wide tourist destination, bringing huge tourist dollars, is disappearing before our eyes.

Worse yet, the everyday workers who make New York function are being displaced at unprecedented rates. Our fire people, our teachers, our sanitation workers, our police, our care givers, our service workers cannot afford the rents which are being charged as development continues to displace our people—the people who make up the congregations in our houses of worship. This is not what our faith(s) teach us is the Creator's way. We have been placed on this earth to flourish and the Creator has provided resources so that all may share in the bounty which is so freely given. It is the sinful nature of human greed that results in low wages, unchecked development, 63,000 people living homeless in the richest city on Earth. You, our law makers, have not created this mess, but now you are in a position to take action to change it and **NOW IS THE TIME.**

# Gowanus Canal



CONSERVANCY

## FOR THE RECORD

Testimony of Gowanus Canal Conservancy (GCC)  
Before the New York City Council Committee on Land Use  
May 7<sup>th</sup> 2019

**RE:** T2019-4215 Are City Environmental Quality Review (CEQR) procedures useful for accurately predicting and mitigating impacts of City Planning Commission decisions? (Intro 0252-2018, 1487-2019, 1523-2019, 1531-2019, and Resolution 009-2018)

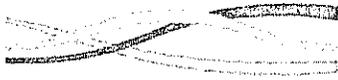
My name is Cait LaMorte and I am the Development Director for the Gowanus Canal Conservancy (GCC). Thank you to the many forward thinking city council members for introducing a proposed legislative package and resolution to evaluate the City's Environmental Quality Review (CEQR) process and associated impact on large-scale neighborhood rezonings. We appreciate the opportunity to offer the following comments.

Since 2006, GCC has served as the environmental steward for the Gowanus neighborhood through leading grassroots volunteer projects; educating students on environmental issues; and working with agencies, elected officials, and the community to advocate for, build, and maintain green infrastructure around the Gowanus Canal. The future of Gowanus is entering a critical phase, with the confluence of several major long-standing efforts including the federally mandated cleanup under the canal's Superfund status and an imminent city rezoning that will cue dozens of landowners on and near the water to invest in and develop their property. In March 2019, NYC Department of City Planning (DCP) released the Draft Scope of Work (DSOW) which lays out proposed methodologies and assumptions for the rezoning's environmental analysis. This is a critical point of the process to ensure that the City accurately measures environmental impacts of rezoning and plans for needed infrastructure, particularly in relation to the existing combined sewer system which under current conditions discharges more than 377 Million Gallons (MG) of Combined Sewage Overflow (CSO) into the Gowanus Canal each year.

The DSOW refers to CSO actions that are Superfund-mandated to deal with existing conditions, including two planned CSO tanks or a tunnel. These remedies are designed only to address current needs, and do not account for additional CSO loading due to land use changes. Furthermore, these remedies as currently outlined only address CSO volumes in two CSO drainage areas, leaving 8 CSO drainage areas, or 115 MG of untreated sewage, unmanaged.

These workplans address existing issues and they cannot be cited as mitigation for increased sewage and stormwater load. The CEQR process can and should do more than disclose limited outcomes from these actions and our comments today will focus on improvements for tracking mitigation strategies and providing a more accurate and accessible environmental review process.

# Gowanus Canal



CONSERVANCY

## FOR THE RECORD

Specifically in regards to the proposed legislation, we have the following comments:

Under Intro 0252-2018, we strongly support the tracking of mitigation strategies in a Final Environmental Impact Statement (FEIS) as part of the Uniform Land Use Review Process (ULURP) through the publicly accessible database: the NYC Rezoning Commitments Tracker. Written commitments for mitigation measures identified in the EIS should be site specific, provide a timeline for implementation, and a procedure for monitoring and testing effectiveness.

With regard to Water and Sewer Infrastructure, we recommend that the FEIS report baseline conditions for existing water quality based on real-time monitoring at CSO outfall points along the canal. Current CEQR guidelines only require a description of the existing sewer system based on records of current flows to the Wastewater Treatment Facilities but a comprehensive localized study must evaluate wastewater load by CSO drainage area and model adverse impacts at each CSO outfall. To ensure accuracy of future assumptions, modeling results should be ground-truthed by real-time data collected at CSO outfalls. Ongoing monitoring at these locations should be tracked and evaluated to assess unaddressed impacts and mitigation strategies outlined in the FEIS.

Under Intros 1487-2019, 1523-2019, and 1531-2019, we strongly support the reinforcement of mitigation measures and procedures through post approval impact analyses and reporting pertaining to the identification and impact of secondary displacement, transportation, and public school capacity to be studied four, five, and ten years after the final approval of a neighborhood rezoning application. We further recommend that the impacts of Water and Sewer infrastructure be studied similarly and CSO annual volume and number of events be reported by each CSO drainage area.

Under Resolution 0009-2018, we recommend that a re-examination of standards in the CEQR regulations and Technical Manual consider:

- Strengthening the Reasonable Worst Case Development Scenario (RWCDs) criteria through an analysis framework that includes a long-term build year incorporating all development sites under a rezoning rather than only those likely to be developed in a shorter period of time, including smaller lots (less than 5,000 sf).
- Increasing the range and scope of alternatives to include additional scenarios for future development that include optimal sustainable development and existing community-based plans.
- Improving accuracy of project purpose and need by more clearly stating objectives and requiring quantitative evaluations which demonstrate how goals will be achieved.
- Improving overall EIS quality through active coordination to improve the standards for form, content, and consistency to make EISs more readable and highlight primary findings and conclusions in plain language.

**Gowanus Canal**



**CONSERVANCY**

**FOR THE RECORD**

As is, the City Environmental Quality Review (CEQR) process frequently underestimates the scale of developments, leaving decision makers with incomplete information and neighborhoods unequipped

to successfully absorb impact. While the Gowanus Neighborhood Rezoning has many laudable goals for the provision of affordable housing, open space planning, streetscape improvements, and other capital investment, a reliable representation of expected development and a realistic evaluation of impact and mitigation strategies are necessary to ensure residents are not displaced or left to bear the burden of miscalculation.

Sincerely,

A handwritten signature in black ink, appearing to be the initials 'AA' followed by a horizontal line.

Andrea Parker  
Executive Director



United Auto Merchants Association

14 W 170<sup>th</sup> ST Bronx NY 10452

## The Questions of What, Why and When?

1- **What** actually happen to over 250 auto businesses and their employees from Willets Point?

2- **What** happen to the 45 auto businesses and their employees allegedly moving to 1080 Leggett Ave in the Bronx from Queens, paid by the \$ 5.8 million awarded to them by the Supreme Court?

3- **What's** happening with the proximally 200 auto businesses and their employees located in the Jerome Ave corridor?

They all have something in common

A- They are all being displaced from their neighborhoods.

B- They are an arrangement of businesses owned by Latino and Minorities along with their employees that live in the neighborhoods ending with no place to go.

1- **Why** is this happening to ours small auto related and others businesses and their employees?

2- **Why** are the developers taking advantage of the situation by planning long ahead to spend so much money on how and what to build to change the landscape, but not wanting to spend hardly anything on planning to prepare for the transition those that being there for generations?

They all have something in common

A- They are victims of the gentrification and their peril according to the developers is not their responsibility.

B- No respect is giving to them by those implementing their will because they consider they can.

1- **When** are our representatives going to put a stop to this abuse from the developers, and think of those that are going to suffer, before they approve the implementation of the rezoning in our neighborhoods?

2- **When** are they going to realize that the residents don't want any rezoning if the people that reside in those neighborhoods are not included and respected in deeds not in words when these rezoning are being planned and implemented?

Those are the questions from the Business owners and their employees  
that are also the residents of these communities

## TESTIMONY OF THE REAL ESTATE BOARD OF NEW YORK TO THE NEW YORK CITY COUNCIL COMMITTEE ON LAND USE ON CEQR ANALYTICAL FRAMEWORK AND STUDY REGARDING SECONDARY DIPLACEMENT, TRANSPORTATION AND SCHOOL CAPACITY

May 7, 2019

### INTRODUCTION

The Real Estate Board of New York (REBNY) is the City's leading real estate trade association representing commercial, residential, and institutional property owners, builders, managers, investors, brokers, salespeople, and other organizations and individuals active in New York City real estate. REBNY strongly supports policies that expand the local economy, grow and improve the City's housing stock, and create greater opportunities for middle class New Yorkers.

The issues related to housing affordability warrant the attention by the legislative body and study by the City. REBNY believes better data can lead to better policies and supports the goals of the bills.

New York City's success depends upon increasing our supply of housing, a strong infrastructure, and a skilled workforce. Yet, the city has not kept pace with the housing needs of our existing population. In 2018, the Office of the NYC Comptroller announced that since 2019, resident employment grew by 500,000 people, while during the same period the city saw a net increase of only about 100,000 units. That deficit gets worse when trying to address future housing needs as a result of a growing population. Critical to the city's ability to meet housing demand is its as-of-right zoning framework. Since 2010, 80 percent of new housing was permitted as-of-right, and any changes that reduce predictability would needlessly put housing production at risk. At the same, it is the responsibility of policy makers to understand the impacts when making the trade-off between new construction, densification and change to the status quo.

However, when contemplating changes to the City Environmental Quality Review (CEQR) and its technical manual, such as studying secondary displacement, school capacity and transportation mitigation, we caution against a mandate for change based on an individual rezoning or project. CEQR exists as a disclosure mechanism and is designed to be one of many considerations this body and the City Planning Commission should consider in its land use decision making. CEQR is neutral to good or bad proposals or outcomes. Prescribing a retroactive value judgement on those outcomes based on a singular outcome and then using that as the basis for instituting those values into CEQR would create uncertainty for any proposals caught in the pipeline at the time of the revision. Furthermore, as drafted, the legislation package does not prevent against multiple revisions within a set period if such changes are triggered for multiple categories – secondary displacement, transportation and education.

The final determination of whether and how the Manual should be changed should rest with the agencies responsible for conducting environmental review, as well as the operating agencies with the technical expertise to evaluate and the obligation to implement mitigation measures.

The proposed 5% disparity between EIS predictions and current landscape falls within a reasonable statistical margin of error and should be increased if the agencies agree that a percentage difference is an appropriate marker. The legislation package should also be amended to take a ten-year look back period, account for multiple actions and clarify a regularized schedule for updates. Given the current and contemplated [as part of the 2019 Charter Revision Commission] layers of review, a four-year

lookback period is quite feasibly the term of initial community outreach to initial construction, and therefore not an adequate length of time to conduct a review. A shorter look back is also an incomplete comparison as the outcome judged will be measured against a 10-year projection, not four or five, and could lead to misleading results. There are also concerns with the resource capacity for agencies to complete these reports in a meaningful way given that timeframe.

Resource issues aside, the analysis proposed is incomplete. A proper framework should look at the effects of housing construction suppression through downzoning's and historic district designations alike and how those actions impact residential displacement, affordability, access to jobs and health.

HPD is the appropriate body to consider secondary displacement – they are the only agency that can aggregate data on where people are moving to and from through the affordable housing lottery. It is important to draw a distinction between those households that are unfortunately and truly displaced versus those that moved into affordable housing in their current neighborhood, or even elsewhere in the city, where their rents will be tied to their income. The analysis should account for macro trends from the Department of City Planning regarding population growth, inward and outward migration, and regional access to jobs and housing and adjust the margin of difference accordingly.

Thank you for the opportunity to share our concerns with the committee today. What follows are more specific comments on the individual bills.

**INTRO. NO:** 252

**SUBJECT:** A local law to amend the New York city charter, in relation to tracking mitigation strategies in final environmental impact statements as part of the uniform land use review process.

**SPONSORS:** Reynoso, Kallos

This bill would require an agency of the Mayor's choosing to include environmental mitigation strategies among the commitments tracked as part of the publicly accessible online database tracking commitments made in relation to uniform land use review applications pursuant to section 206 of the Charter.

REBNY believes that accountability is critical to ensuring that City objectives are met, and that government can best respond to the needs of its constituents. Section 206 of the City Charter mandates that the Mayor share "all commitments made by letter by the mayor or a representative designated by the mayor to the council or a council member that relate to an application" and that "such list shall include any commitment made." Environmental mitigation strategies should be categorically included in these lists of commitments and reports on their progress. REBNY believes that environmental mitigation strategy commitments should be tracked and made public in order to support the health of our planet and communities and that the public has a right to know if the City is upholding commitments made as a result of rezonings.

**INTRO. NO:** 1487

**SUBJECT:** A local law to amend the New York city charter, in relation to studying the incidence of secondary displacement resulting from neighborhood rezonings.

**SPONSORS:** Moya, Gjonaj, Chin, Salamanca, Kallow, Reynoso, Powers, Adams, Rosenthal, Ayala, Cumbo, Rose, Cornegy Jr, Grodenchik, Barron, Constantinides, Deutsch, Gibson, Lancman, Miller, Rivera, Torres

This bill would require the Department of Housing Preservation and Development to conduct a study in connection with each neighborhood rezoning certified after January 1, 2015, to identify the actual secondary residential displacement effects of each such rezoning five years after the final approval thereof. The bill would require the reporting of such effects and a comparison of the actual effects to the potential effects identified in connection with the rezoning application. The bill would require the Department to issue such report 5 years and 6 months after the final approval of a neighborhood rezoning application.

REBNY believes that policy makers should make decisions based on facts and data, and the proposed bills are a step in the direction to make better informed decisions about the City's growth and development. While it is important to collect, retain, analyze and publicly report this information, it is vital that these data points are not the only ones considered when deciding whether or not to approve rezonings in neighborhoods. Important metrics for establishing the effects of displacement include: who moves in and out of neighborhoods on race and income lines, where people who leave neighborhoods move to, health outcomes for those who move into or out of neighborhoods and quantify quality of life improvements for residents who stay and benefit from updated open spaces, reduced pollution and better services. In order to collect such robust and detailed information on the movements of residents, adequate and appropriate funding is required for the relevant agencies so that undue burden is not placed on them to complete such complex and important analyses. There are concerns if the bandwidth currently exists for these agencies to carry out these duties in a responsible, rigorous and comprehensive manner.

Studying the impacts of zoning changes is significant; it is also important to analyze the impact of historic districts on the City's ability to produce enough housing for its population. The City continues to have a chronic housing shortage. Landmarks designation curtails housing production—especially affordable housing. For the past 10 years, the rate of landmarking – particularly the creation of historic districts that contain hundreds or in some case thousands of properties – has dramatically increased. During that same period, there were a series of downzoning's throughout the city.

For more than fifty years the City has had a housing emergency, which is defined as a citywide rental vacancy rate of less than 5%. Analysis completed by REBNY in 2015 found that housing production – and especially affordable housing production – is markedly lower on landmarked districts than in similar – but non-landmarked areas. More specifically, focusing first on the 1,318 units of housing constructed on landmarked property across all boroughs of New York City, just 100 of those units—or 7.6%—were built as affordable housing. This number is inflated (and even distorted) by the 95 units in the Cedars/Fox Hall project, a heavily subsidized housing. Removing Cedars/Fox Hall from the data set lowers the percentage of affordable housing that was constructed on landmarked property to only 0.38% citywide—in other words, there is far less affordable housing constructed on landmarked properties than elsewhere in the City. As a comparison, the overall ratio of affordable housing constructed in the non-landmarked properties throughout the City during this period is 17%. As a percentage of the total number of affordable housing units built throughout the five boroughs, the amount of affordable housing constructed on landmarked property is even more dismal. A total of 34,904 units of affordable housing were constructed during this time, but only 0.29% of those units were built on landmarked properties. With some neighborhoods in Manhattan approximately 70% landmarked, and others in Brooklyn more than 25% landmarked, large swaths of the City effectively have their development potential curtailed.

If landmarking practices of the previous decade continue, and without a study of their impacts on gentrification and income inequality, New York City runs the risk of further inhibiting housing production and preventing the City from meeting the housing needs of its growing population. The problem is exacerbated due to regulations that largely limit the transfer of a landmark's unused development rights to an adjacent receiving site.

Landmarking is an important tool in preserving a community's history, and that benefit is recognized and valued. Its value should be balanced against other public policy goals of this city. Rezoning and historic district designations for a neighborhood should be done in coordination. Moving forward, historic districts should be evaluated as to whether they would have the unintended consequence of blocking lower-income residents from being incorporated into neighborhoods and achieving the goals of the City's Affirmatively Furthering Fair Housing Initiative. Consideration should be given to whether that can be offset by a more fine-grained approach to boundaries and its relationship to any adjacent opportunities for greater density.

**INTRO. NO:** 1523

**SUBJECT:** A local law to amend the New York city charter, in relation to studying and reporting on transportation impacts of decisions of the city planning commission in connection with certain land use action.

**SPONSORS:** Gjonaj, Kallos

This bill would require the Department of City Planning (DCP), or if the City Planning Commission (CPC) is not the lead agency, the lead agency, to report on the transportation impacts in areas affected by neighborhood rezonings. Each study would require a comparison of the impacts in existence at the time of the study to the potential impacts identified in the final environmental impact statement (EIS) approved by the City Planning Commission in connection with such rezoning. If there are significant disparities between the impacts identified in the study and those identified in the EIS, DCP or the lead agency shall make recommendations on how to amend the CEQR Technical Manual to more accurately forecast such impacts in future land use actions. As part of that report, DCP or the lead agency would be required to discuss whether a vehicle miles traveled model would more accurately and usefully capture project impacts. The bill would require DCP or the lead agency to submit such studies and reports four years and ten years after final approval of a neighborhood rezoning.

REBNY supports studying the impacts of rezonings on transit capacity and outcomes related to emissions, health, and access to jobs. The use of that information should be encouraged to make informed decisions on whether it is helpful to the health of the City and to increase density and opportunities for housing around high-transit areas that are currently under capacity for their transit access. Some neighborhoods with access to subway stations had average weekday ridership rates of less than 1,000 people in 2014, according to the Metropolitan Transportation Authority, compared with stations that have over 50,000 and 100,000 riders per weekday. Allowing for the up-zoning of neighborhoods with underutilized stations would stimulate the local economies, create local jobs, provide for housing with access to better jobs elsewhere, and potentially decrease car-dependence as those in transit-deserts have housing options with better access to employment.

A 5% disparity between the potential for impacts identified in the EIS and the existing condition analyzed to make recommendations for amending the CEQR technical manual is an excessively low standard. Typically, margin of error rates up to 8% are considered acceptable by researchers. Using one rezoning to rewrite the entire manual could have deleterious consequences to development, at a time when the City is experiencing the 50th year of a housing vacancy emergency. Additionally, a four block threshold seems nominal for the amount of work necessary for reporting, and the bill language does not distinguish between city or private nor whether an (environmental assessment statement) EAS or (environmental impact statement) EIS was required. This type of analysis seems geared toward EIS projects, and as such the proposed language should be amended to focus on city proposals above a higher threshold that generated an EIS.

**INTRO. NO:** 1531

**SUBJECT:** A local law to amend the New York city charter, in relation to studying and reporting on the education capacity and overcrowding impacts of decisions of the city planning commission in connection with certain land use actions.

**SPONSORS:** Moya, Kallos

This bill would require the Department of City Planning (DCP) or the lead agency to report on the actual impacts on public school capacity and overcrowding in areas affected by neighborhood rezonings four years and ten years after each such rezoning. Each study would require a comparison of the public school capacity and utilization rates projected by the final environmental impact statement approved by the City Planning Commission in connection with such rezoning to the capacity and utilization rates existing at the time of each study. If such a study shows a significant discrepancy between the existing condition and the impacts projected in the EIS, the bill would require DCP or the lead agency to make recommendations on how to amend the CEQR Technical Manual to more accurately forecast such impacts in future land use actions.

New York City's public schools are some of the most segregated in the nation. Integrated schools benefit students; students in integrated schools have higher average test scores, are more likely to enroll in college, are less likely to dropout, and are more likely to seek out integrated communities later in life, according to the Century Foundation. In 2016, NYC public schools had enough room for 1.14 million children, while only 1.09 children were enrolled in NYC public schools. In fact, 47 percent of schools had more capacity than they used, while other districts are overcrowded, according to the Citizens Budget Commission. In addition to re-evaluating the CEQR Technical Manual to more accurately forecast such impacts in future land use actions, the City should also measure the benefits to children of more integrated school systems, if that is the result of rezoning. Similarly, historically landmarked districts should be measured to evaluate if they prevented or hindered school integration and addressed accordingly. Housing production, opportunities to access that housing, and where housing production occurs is a central backdrop to school capacity and school integration concerns.

Similar to the other bills, it is problematic to use a 5% disparity, the singular rezoning trigger for CEQR revisions, the four-block threshold, and capturing all projects versus city involved actions.

## **CONCLUSION**

The package of bills before the City Council have a lauded goal of providing greater transparency on the long-term effects of land use decisions adopted by this body – a goal that REBNY fully supports. We recommend that the package be amended to better reflect this goal. The Council should maintain its focus on neighborhood impacts by aligning the bill package to focus on neighborhood rezonings and historic district designations alike. It is critical that such update considers both the impacts of densification and housing suppression when it comes to secondary displacement of the people of this city and weighed against opportunities for integration, greater health outcomes, and job access. Taking a holistic view on multiple analytical categories will ensure for a complete update in a predictable manner without jeopardizing the housing pipeline. Thank you again for the opportunity to testify today.

**CONTACT:**

Basha Gerhards  
Vice President, Policy & Planning  
Real Estate Board of New York  
212-616-5254  
[bgerhards@rebny.com](mailto:bgerhards@rebny.com)

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. 1487 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 5/7/19

(PLEASE PRINT)

Name: IVAN GARCIA

Address: 161 PORT RICHMOND

I represent: MAKE THE ROAD NY

Address: 161 PORT RICHMOND

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

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I intend to appear and speak on Int. No. 1457 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 5/7/19

(PLEASE PRINT)

Name: Robert Cornwell

Address: 301 Grove St BK NY 11237

I represent: Make The Road NY

Address: 301 Grove St BK NY 11237

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THE CITY OF NEW YORK**

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I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 5/7/2019

(PLEASE PRINT)

Name: Luic A. Henniguer Carrero

Address: \_\_\_\_\_

I represent: Legal Services NYC

Address: 40 Worth St, 6th Floor NY NY

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Appearance Card

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in favor  in opposition

Date: 5/7/19

(PLEASE PRINT)  
Name: CAIT LAMORTE

Address: 305 WARREN ST #1 BROOKLYN NY

I represent: GOWANUS CANAL CONSERVANCY

Address: 543 UNION ST #1E BROOKLYN NY

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THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. ALL Res. No. \_\_\_\_\_

in favor  in opposition

Date: 5/7/19

(PLEASE PRINT)  
Name: THOMAS DEWANNEY

Address: \_\_\_\_\_

I represent: MUNICIPAL ART SOCIETY OF NY

Address: 488 MADISON AVS

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THE CITY OF NEW YORK**

Appearance Card

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in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)  
Name: PAULA SEGAL

Address: \_\_\_\_\_

I represent: COMMUNITY DEVELOPMENT

Address: PROJECT

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 0009 Res. No. 2018

in favor  in opposition

Date: 05/07/2019

(PLEASE PRINT)

Name: Bishop Dr. James I. Clark, JR.

Address: 111-20 174th Street, Jamaica, NY

I represent: Habitat New York Commis 11433

Address: West For Affordable Housing 120th St, 10027

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1487,252 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 05/07/19

(PLEASE PRINT)

Name: Alex Fennell

Address: 60 Clarkson Ave

I represent: Churches United for Fair Housing

Address: Imanus 62nd Blvd

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Appearance Card

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in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: CARMEN VEGA-TRIVERO

Address: \_\_\_\_\_

I represent: CASA

Address: \_\_\_\_\_

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. <sup>252, 1287</sup> 1523 1571 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 5/7/14

(PLEASE PRINT)

Name: Basha Gerhards

Address: \_\_\_\_\_

I represent: The Real Estate Board of NY

Address: 570 Lexington

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. CEQR Res. No. \_\_\_\_\_

in favor  in opposition

Date: 07/05/2019

(PLEASE PRINT)

Name: MARCEL NEGRET

Address: \_\_\_\_\_

I represent: REGIONAL PLAN ASSOCIATION (RPA)

Address: 1 ONE WHITEHALL FL 16

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THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Susan Amron

Address: \_\_\_\_\_

I represent: General Counsel - City Planning

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. 0009

in favor  in opposition

Date: 6 MAY 2019

(PLEASE PRINT)

Name: THE REV. CLYDE KUEMMERLE

Address: 440 RIVERSIDE DRIVE

I represent: THE MICAH INSTITUTE

Address: 475 RIVERSIDE DRIVE NYC 10027

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Olga Abinader

Address: \_\_\_\_\_

I represent: Acting Director - City Planning Env. Review

Address: \_\_\_\_\_

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THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1487, 252 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Emily Goldstein

Address: \_\_\_\_\_

I represent: ANHD

Address: \_\_\_\_\_

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THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1987 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 5/7/19

(PLEASE PRINT)

Name: Alyssa Chan

Address: \_\_\_\_\_

I represent: Legal Aid Society

Address: \_\_\_\_\_

0009-2018

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 5-7-19

(PLEASE PRINT)

Name: Pedro S. Estevez

Address: 14 W 170th ST Bronx

I represent: United Auto Merchants

Address: 14 W 170th ST Bronx NY

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. 0009-2018

in favor  in opposition

Date: 5/7/19

(PLEASE PRINT)

Name: Rev. Dr. ALLEN HAND, SR.

Address: 633 NEW JERSEY AVE., BKLYN, NY 11207 <sup>APT 1B</sup>

I represent: NYPBSC

Address: W 116 ST., NYC

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. 9-2018  
 in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Dedrick Blue

Address: 3743 Bronxwood Av.

I represent: NY Interfaith Commission

Address: \_\_\_\_\_

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THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 252, 1487 Res. No. \_\_\_\_\_  
 in favor  in opposition 1487, 1523, 1531

Date: 5/07/18

(PLEASE PRINT)

Name: Esther Brunner

Address: 253 Broadway, New York, NY 10007

I represent: Office of Environmental Coordination

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. 9-218  
 in favor  in opposition

Date: 05/07/2019

(PLEASE PRINT)

Name: Clavour R. Tucker

Address: 14 Woodway Rd, Stamford Ct.

I represent: NY York Interfaith on Equal Housing

Address: \_\_\_\_\_

0009-2018

# THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 05

(PLEASE PRINT)

Name: Reverend Robert Jones Jr - Pastor

Address: Second St JOHN BAPTIST Church

Address: 141 West 118 Street NYC 10026

I represent: The Baptist Ministers Conference of Greater New York & VICINITY

Address: 145th CONVENT AVENUE NYC

# THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 252, 1457 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1523  
1451, 1523, 1531  
May 7, 2019

(PLEASE PRINT)

Name: Hilary Semel, MDEU

Address: 253 Broadway 14th FL 10002

I represent: Mayor's Office of Environmental Coordination

Address: 253 Broadway 14th Fl 10002

# THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. Oversight Res. No. \_\_\_\_\_

in favor  in opposition

Date: 5/7/2019

(PLEASE PRINT)

Name: Elene Conte

Address: 200 Willoughby Avenue Bk NY

I represent: Pratt Center for Community Dev.

Address: \_\_\_\_\_