

Testimony of the
New York City Department of Housing Preservation and Development
to the New York City Committee on Housing and Buildings regarding Social Housing and
Introductions 196, 637, 714, & 932 and Resolutions 38, 344 & 506
Thursday, February 23, 2023

Good afternoon, Chair Sanchez and members of the New York City Council Committee on Housing and Buildings. My name is Kim Darga, and I am the Deputy Commissioner of Development with the New York City Department of Housing Preservation and Development (HPD). I am joined by Assistant Commissioner of Housing Policy, Lucy Joffe. Thank you for the opportunity to testify about Social Housing, an important and timely conversation, as well proposed legislation relating to the Community Opportunity to Purchase Act, Land Banks, Public Dispositions, and the creation of a dedicated social housing agency.

As you all know well, the last several years have been difficult for many New Yorkers. In particular, low- and moderate-income tenants citywide have struggled to find and remain in stable housing. Our vacancy rate remains stubbornly low – below 1% for units renting under \$1,500 – and rent burden continues to be too high – over 53% of New Yorkers are paying more than 30% of their income toward rent. Homeowners too have struggled to remain in their homes due to income disruptions and rising costs. We testified before this committee just weeks ago about accessory dwelling units, acknowledging that many low- and moderate-income homeowners have been renting out parts of their homes illegally and unsafely just to make ends meet. We all hear regularly about the “mom and pop” building owners, many of whom have invested their life savings in small buildings across the city and in your districts. They too are struggling with rising costs, such as gas prices, the high cost of building repairs, and labor shortages. Non-profit and M/WBE owners and developers face many of these same challenges. And when all those folks can’t make ends meet, when they can’t afford to pay the gas bills, or to fix the boilers, or to pay the building staff, critical parts of our housing suffer and the tenants we’re collectively here to serve suffer too.

Our housing system is highly interconnected. Within that system, HPD plays a critical role – offering a range of programs to encourage building owners to build new and make capital investments in their buildings, which become income-restricted rental housing so it will be affordable to more New Yorkers. And while we are committed to innovating new approaches to achieve our mission, our primary obligation is getting tenants into safe, affordable, stable housing quickly. We want to make sure that when we innovate, we do it in ways that minimize major disruptions, which could immediately harm tenants and could harm the homeowners and building owners who play a critical role in providing the safe, quality rental housing New Yorkers need.

The topic for today's hearing is social housing. There are a wide range of definitions for social housing and a wide range of examples of it in practice, including here in New York City. Some of the best examples in Europe emphasize the important role social housing can play in integrating buildings and neighborhoods. Middle-, moderate- and low-income families all live in social housing, decreasing the stigma that low-income families may otherwise face living in income-segregated housing. We share these goals and are committed to breaking down barriers to housing choice so that all New Yorkers can decide whether to remain in their home and current neighborhood or to move to a community that better meets their needs. This is especially critical for communities of color and those living with disabilities who for too long have been excluded from certain parts of the city. These goals are outlined in "Housing our Neighbors: A Blueprint for Housing and Homelessness" and Where We Live NYC.

Mission-driven ownership is also a common theme within social housing models. We work to support nonprofits, among other mission-driven entities, to expand their capacity so they can build and preserve more affordable housing. We have dedicated programs and opportunities exclusively available to nonprofits and M/WBEs. Through the New York City Acquisition Fund (NYCAF), for example, a partnership with Enterprise, the Local Initiatives Support Corporation (LISC), and a coalition of public, private and philanthropic partners, we offer flexible bridge loans for acquisition and pre-development financing that are now exclusively available to projects led by M/WBE or nonprofit developers. Nonprofit and M/WBE developers must also represent 25% of the development team for all HPD RFPs of city-owned land. We also now give additional preference points for applicants with community development experience in our competitive RFP process.

Shared equity is also a theme in social housing work. To date, we have financed or are currently planning to finance nearly 1,200 units of affordable housing on community land trusts. As part of the Housing Our Neighbors Blueprint, the City committed to providing technical assistance and operational support, to identifying additional public sites that are suitable for transfer to CLTs, and to launching new programs and tools to help CLTs acquire private sites. Many of the 1,200 units will be developed on public sites we will convey through our competitive processes. In September 2021, we announced that we had selected a team comprised of nonprofit, for-profit, and MBE partners, including the Interboro CLT, to develop a site across from Claremont Park in the Bronx that we had included in the Jerome-Anthony RFP. Although this RFP did not require or give preference to CLTs, we determined that this team's proposal to create a permanently affordable cooperative on the Interboro CLT was the most compelling submission we received. HPD also provides financing to develop limited equity cooperatives and preservation financing to support their ongoing affordability and maintenance. In limited equity cooperatives, residents purchase shares in their building at below market prices and, as shareholders, participate in its governance. Appreciation is limited upon resale of shares, typically with income restrictions. There are approximately 1,200 limited equity cooperatives with 25,000 units in New York City. There are also 85 Mitchell-Lama cooperative developments in the city consisting of more than 60,000 affordable and self-governed units.

Long-term and often permanent affordability are also fundamental features of social housing programs. These are standard requirements for HPD-financed housing.

A critical part of our work is that we achieve these goals (integration, long-term or permanent affordability, shared equity, and mission alignment) regardless of the type of owner or developer with whom we are partnering and regardless of their legal or ownership structure. Through our regulatory agreements, we dictate the terms and conditions of our engagement. Some of the things HPD can ensure is that owners select tenants equitably, implement rent and income restrictions for units, lease certain units to formerly homeless households, notify the City about transfers of ownership, and provide the City with information to effectively monitor the physical and financial health of projects. Though we try to support and build up nonprofit partners whenever possible, we require that everyone we work with builds, leases, and maintains their buildings in accordance with our mission regardless of their for-profit or nonprofit status.

We are committed to continuing to innovate. We have to do more to help our nonprofit and M/WBE partners grow. We will do more to support the expanding network of CLTs. We are expanding and improving our homeownership and shared equity programs. But our primary and most urgent work is getting tenants into stable, safe, quality housing now. The tenants who are unstably housed in illegal basements, the tenants who have suffered through the pandemic and are struggling to stay in their homes, and the tenants who are in shelter cannot afford to wait. We need more rental housing, especially low-cost and affordable housing. We need to support the homeowners and building owners that are struggling to make the repairs and investments necessary to keep our housing stock safe and high quality.

Because of this urgency, we have committed to reducing administrative burden and cutting red tape so that we make it easier to build more housing of all types in all neighborhoods across the city. We have outlined these commitments in Housing Our Neighbors and have also announced specific strategies through the Get Stuff Built and Zoning for Housing Opportunity initiatives. We also need to unlock tools at the state level to help us achieve these goals such as Affordability+, which will allow HPD to modernize our loan authorities and better address a range of housing needs, from addressing climate resiliency, to supporting existing homeowners, to providing downpayment assistance, and enabling us to provide support to CLTs. And we need a deep bench of partners to meet the need. We will continue innovating and investing in new models but it can't come at the expense of the tools we need to make more low-cost and affordable housing available to all New Yorkers quickly.

In addition to the oversight topic, we are here to discuss several pieces of legislation pending before the Council today.

As written, Int. 196 is very broad, and we believe could undermine the goal of supporting more affordable mission-oriented housing. The breadth of the legislation risks significantly disrupting the housing market, potentially causing the most significant harm to small property owners. As written, this legislation would slow the market for sales of all residential buildings

with three or more units. We look forward to further discussions with Council Member Rivera and Council staff on the best way to narrow the scope to achieve the goals of the legislation.

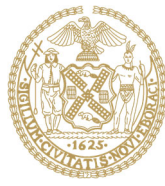
In regards to Int. 637, we have a number of resources and programs to expand the capacity of and opportunities for nonprofit partners. We are concerned that limiting our range of available tools, as this bill would, runs counter to other, critical and urgent policy goals – particularly our ability to build and preserve as much affordable housing as quickly as we can and our commitment to expanding opportunities for M/WBEs.

Though we want to continue exploring ways to make more land available for affordable housing quickly and inexpensively, we are concerned that Int. 714 does not solve the current challenges we face in acquiring land for affordable housing. It would instead add time, complexity and significant cost to the existing process. Land banks are undeniably an important tool in many cities. HPD has the tools that allows the City to achieve similar outcomes as a land bank and is fortunate to have infrastructure in place to support the acquisition of property already, unlike a lot of other cities where land banks fill that gap.

The Law Department continues to review each of these three bills to ensure that they are consistent with the state constitution and state law.

As we have laid out here in our testimony and will discuss further during Q&A, HPD is actively engaged in the work the proposed agency in Int. 932 would do, including our mission of moving New Yorker into safe, stable housing quickly. This is an urgent need for New Yorkers and creating another agency to do this work would make us less efficient and create more silos. We are committed to many of the same goals here today and are continuing to innovate in this area on top of our critical and extensive experience preserving and developing affordable housing.

Thank you for the opportunity to testify here today. We look forward to your questions.



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COVID RECOVERY + RESILIENCY

February 23, 2023

Testimony on Int. 0196-2022 at the Committee on Housing and Buildings

Thank you for holding today's hearing on this important package of legislation on social housing. I am proud to have introduced Int. 0196-2022, or the Community Opportunity to Purchase Act (COPA), which would give qualified nonprofit entities a first opportunity to purchase and the option to submit an offer to purchase defined residential buildings when offered for sale. The bill would require building owners to notify both the Department of Housing Preservation and Development (HPD) and all qualified entities when their buildings are listed for sale. The entities would then have the opportunity to submit the first offer and match any competing offers for the property.

New York City is navigating an affordable housing crisis, and we need every tool to address this crisis head on. COPA is a critical tool for ensuring that nonprofits and community land trusts are able to generate housing that meets the needs of all New Yorkers. Often, these nonprofit entities have the capacity to finance purchases of residential properties intended for affordable or supportive housing, but their bids are passed over in favor of for-profit developers who have more access to capital and can finance more quickly. COPA would create an equitable system for the sales of residential properties that would provide more fairness in a neglected area of the housing market.

I hope my colleagues will join me in passing Int. 0196-2022 to enable more affordable, supportive, and community-led housing that will address our housing crisis by serving all New Yorkers.



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BRAD LANDER

**Testimony of New York City Comptroller Brad Lander
Before the New York City Council Committee on Housing and Buildings
February 23, 2023**

Good afternoon and thank you to Housing Committee Chair Pierina Sanchez and Members of the City Council's Housing and Buildings Committee for holding this important hearing.

There's broad agreement that New York City is facing a severe housing crisis, and that we need many strategies to address it. **Dramatically scaling up the footprint of social housing – permanently affordable housing removed from the speculative marketplace – is one key strategy.**

You know the crisis: After a brief dip at the beginning of the pandemic, asking rents have risen above their previous peak, at \$3,500 on average over the last few months. Nearly 30% of New Yorkers spend over half of their income on rent. Homelessness continues to rise, with over 70,000 of our neighbors living in shelters or on the streets, including nearly 20,000 children.

The exodus of Black New Yorkers – nearly a 10% decline in the past ten years – is a particularly troubling trend. As a recent New York Times article made clear, it is mostly young people – born and bred New Yorkers – who are leaving their hometown to seek more affordable housing options in southern cities.

The unaffordability of housing also represents a real threat to NYC's economic growth. As I talk to business owners, they constantly cite the lack of affordable housing for workers, across the income spectrum, as a challenge to growing their businesses here.

So I am encouraged by the fact that housing is one of the top issues on the legislative agenda in Albany this year. Elected officials there are largely focusing on three policies:

Tenants rights advocates are prioritizing **Good Cause Eviction** protection legislation, which would require landlords to offer existing tenants a right to renew their lease and give tenants the ability to challenge unconscionable hikes. I strongly support this legislation.

There is broad support for the establishment of a **Housing Access Voucher Program**, to provide rental subsidies for homeless families and those at risk of homelessness. I strongly support HAVP as well.

Governor Hochul has made **increasing housing supply** her top housing priority this year. I strongly agree that we need additional housing supply at a wide range of incomes, and that we must remove barriers to residential development through a framework for comprehensive planning.

But let's be clear: new market rate development, even if equitably distributed, with tenant protections and some additional vouchers in place, will not alone solve the affordability crisis. There's an ongoing debate about whether market-rate development filters through the market – but, at best, it takes a very long time. With

median asking rents in NYC near \$3,500 a month and a less than 1% vacancy rate of units that rent below \$1,500, new supply will do little for working families and those who need it most.

How can we ask working-class New Yorkers people to support new market-rate development if they reasonably fear it will push them out of their own neighborhoods – and if they don't see themselves ever having a chance to gain real housing stability, or build any equity in the homes?

That's where social housing comes in.

Social housing is permanently affordable housing, removed from the speculative marketplace, with mechanisms for democratic governance. Social housing is an umbrella term, that includes shared-equity co-ops, not for profit rentals, supportive housing, public housing, and community land trusts.

New York City has a long history with social housing, in Mitchell-Lama and other limited-equity cooperatives, from Co-op City in the Bronx to Penn South in Manhattan, developed in partnership with labor unions eager to see that their working-class members could become homeowners. And in nonprofit community-development corporations born in the 1960s and 70s to bring their neighborhoods back from abandonment, from Los Sures on the Southside in Brooklyn to Harlem Congregations for Community Improvement.

In those cases, the private housing market, seeking the places where investors and developers could maximize profits, was failing to provide the type of affordable housing that New Yorkers needed. So social housing groups stepped up, developing and operating housing as a public good.

In the Koch and Dinkins Administrations, the City invested strongly in social housing. In that era, about one-third of our affordable housing land and subsidies went to for-profit developers, one-third to nonprofit developers, and one-third to tenants themselves to become shared equity cooperatives. Unfortunately, in the Giuliani, Bloomberg, and de Blasio years, the pendulum swing to for-profit, private developers, who now receive about 80% of the City's land and affordable housing subsidy dollars.

But we need social housing today, perhaps more than ever. In a highly polarized service economy, New York City has more severe affordability challenges than ever. While supply and demand mechanisms can work well in markets where goods and services are distributed more evenly, they often fail to meet the needs of lower-income and working-class people when markets are severely stratified, and supply is inelastic. Markets like the New York City housing market of 2023.

By establishing a robust public option for housing at a price-point affordable to poor and working-class families, a social housing program complements initiatives that increase the private market housing supply. As in higher education and healthcare, public options can complement what the market provides. This two-track approach offers the best opportunity forward.

With an ambitious strategy, I believe we could **double the footprint of social housing in New York City in the coming years**, from about 10% of the housing market today, to about 20%. The legislation being heard today would help create new mechanisms to make that happen.

Int. 714 and Int. 637, which I was proud to introduce during my time as a Council Member, would establish a New York City Land Bank and require that the City prioritize non-profit entities when disposing of public land.

Over the past three years, the economic uncertainty caused by the pandemic has caused some commercial buildings to fall into financial trouble. While the overall economic recovery is of course a positive thing, there was also an opportunity during this period for the city to create more social housing. Land Banks are designed

to take temporary control of distressed property while working with local and government stakeholders to return the buildings to a use that better serves the neighborhood, including social housing or other community uses. A New York City Land Bank, which would be created by passing Int. 714, sponsored by Council Member Gale Brewer, would allow the City to purchase properties or liens in periods of economic downturn in order to avoid the harmful effects of foreclosure, and to return the properties to the best determined community use while ensuring any jobs created meet robust labor standards.

Public land should be used for public good. Int. 637, sponsored by Council Member Lincoln Restler, would require the City to prioritize non-for-profit developers when disposing of public land. Nonprofit development ensures permanent affordability and increases community input and control.

Int. 196 or the Community Opportunity to Purchase Act (COPA), sponsored by Council Member Carlina Rivera, gives qualified purchasers 60 days to declare their intent to purchase and 120 days to make an offer on any multifamily residential buildings that comes up for sale. Purchasing a building and rehabilitating it as affordable housing is a more intensive process than a purely profit-driven transaction. Giving affordable housing developers additional time to work with community development financial institutions and City and State housing agencies increases their competitiveness in the process and can create new pipeline of much-needed social housing.

These three bills create opportunities for the development of new social housing on public land and greatly increase the likelihood of the conversion of existing properties to social housing. There is still more that we can do, and I am excited to support Int. 932, sponsored by Council Member Sandy Nurse, which would require the city to conduct a one-time social housing development agency feasibility study.

In order to provide stability and affordability to a broad swath of New Yorkers we must also create a new multifamily shared equity homeownership program. In an earlier generation, Mitchell-Lama housing co-operatives were built to provide affordable homeownership to working-class residents. In total, between 1928 and 1978, 292 housing developments, with more than 149,000 units of affordable rental and limited equity co-operative housing were built in New York City. Mitchell-Lama co-ops perfectly demonstrate how social housing can cultivate solidarity in a way that becomes a genuine, tangible social asset that helps us confront the problems our city faces. Unlike many other forms of affordable housing, over 90% of these developments remain in the program today, a huge success rate that keeps many neighborhoods integrated despite intense gentrification. Yet we build almost none of this today and we must change that.

By treating housing as a public good rather than as a vehicle for profit, we can ensure that all New Yorkers have a home they can afford.

I look forward to working with the bill sponsors, other members of the City Council, and housing organizers and advocates to pass these important pieces of legislation and make this vision a reality.



PUBLIC ADVOCATE FOR THE CITY OF NEW YORK

Jumaane D. Williams

**STATEMENT OF PUBLIC ADVOCATE JUMAANE D. WILLIAMS
TO THE NEW YORK CITY COUNCIL COMMITTEE ON HOUSING AND
BUILDINGS
FEBRUARY 23, 2023**

Good morning,

My name is Jumaane D. Williams and I am the Public Advocate for the City of New York. I would like to thank Chair Sanchez and the members of the Committee on Housing and Buildings for holding this important hearing.

For years, New York State has trailed behind the rest of the country in rates of homeownership. In 2022, it had the lowest homeownership rate in the country at 53.6%, twelve percentage points below the national average of 65.8%¹. With a market that's predominantly rental, New York City falls even further behind with a rate of 31.9% homeownership as of 2019². The COVID-19 pandemic exacerbated the housing crisis in both city and state, leaving many unable to pay their rents and at risk of eviction. Property owners and other landlords seeking to turn a profit during the pandemic sold their properties, leaving tenants in these buildings at higher risk of eviction and displacement.

Resolution 38 calls on the New York State Legislature to pass and the Governor to sign legislation mandating that any owner intending to sell a multi-unit residential dwelling must first make a fairly appraised offer of sale to the tenants within the residence before making any sale offers to third parties. Tenants would then have an opportunity to sell their interests to a community non-profit or community land trust that would then own and maintain the building. This would place these properties in the hands of those who have the residents' best interest at heart and it would restore security and stability in the lives of tenants.

By enacting this law, New York stands to boost homeownership, preserve affordable units and further mitigate displacement amidst a housing and homelessness crisis. The impact of the program is best exemplified by the Tenant Opportunity to Purchase Act (TOPA) enacted in Washington D.C. in 1980. Through tenant advocacy, TOPA has significantly contributed to D.C.'s total number of limited equity cooperative housing units, which currently stands at 4,400 units.

¹ "Homeownership Rates in New York." Office of Budget Policy and Analysis. October 2022, available at: <https://www.osc.state.ny.us/reports/homeownership-rates-new-york#:~:text=Owning%20a%20home%20h as%20long.compared%20to%2065.8%20percent%20nationally.>

² "State of Homeowners and Their Homes". NYU Furman Center. 2021, available at: <https://furmancenter.org/stateofthecity/state-of-the-city-2021/about>



PUBLIC ADVOCATE FOR THE CITY OF NEW YORK

Jumaane D. Williams

The production and preservation of social housing is key for city and state plans in addressing the housing crisis. The passing of this resolution, as well as several other key pieces of legislation such as Res. 344 and Int. 196, would be a first step in committing to and implementing social housing principles and policies. Thank you.

February 23, 2023

New York City Council
Committee on Housing & Buildings
City Hall
New York, New York 10007

RE: Testimony on Intro. No. 196 (Rivera)

The New York State Association of REALTORS®, Inc. (NYSAR) thanks the New York City Council's Committee on Housing & Buildings for the opportunity to submit testimony on Int. No. 196. NYSAR is a not-for-profit trade organization representing more than 65,000 of New York State's licensed real estate professionals, including approximately 15,000 licensed real estate professionals in New York City.

NYSAR **strongly opposes Int. No. 196**, which would establish a right of first opportunity to purchase for not-for-profit organizations, prior to a building with 3 or more units being listed for sale. If enacted, the bill's impact on the provision of quality, affordable housing, if any, would be limited. The bill would, however, greatly impair the ability of our members to effectively and efficiently serve consumers looking to buy and sell multifamily properties in New York City.

Land banks and trusts are used by multiple localities in New York State to address the problem of vacant properties by facilitating the sale and transfer of these properties to responsible owners. This bill attempts to expand on that model, by allowing not-for-profit organizations deemed qualified by the Department of Housing Preservation and Development to purchase buildings with 3 or more rental units before they are offered for sale to willing buyers. Unfortunately, the bill is far too expansive in terms of the number of properties to which it would apply.

More than 70 percent of New York City's buildings are comprised of 3 or more units.¹ Property owners of these buildings would be required to notify HPD at least 180 days prior to actions taken to sell the building. Once the notice of sale is provided, the bill would establish a 120-day period in which qualified entities may submit offers to purchase the building, during which time, the property owner may not accept any other offers. These timelines would be incredibly disruptive to buyers and sellers alike. Potential buyers may pass on properties if they know they will have to wait on the timelines before their offers can be accepted. Furthermore, requiring notification to, and oversight by HPD would add a burdensome layer of complexity to real estate transactions, which most often occur in under 120 days. For example, in the most recent pre-pandemic year (2019), the average number of days on the market for a multifamily building with 3 units or more sold in Brooklyn was 71 days. In 2022, the average number of days on the market decreased to 61 days.

Should this bill become law, an owner of a 3-unit property who accepts a job offer in another state that requires her to relocate across the country within 90 days, would not be able to list her building for at least

¹ <https://www.valuepenguin.com/new-york-city-renters-statistics>

another 90 days after leaving the state. Furthermore, it is unclear whether this scenario would meet the good cause standard for not adhering to the 180-day requirement to notify HPD prior to listing a building for sale. The legislation fails to adequately account for this and other instances when selling a building in less than 6 months is necessary.

Additionally, the opportunity to purchase a building at list price would lead property owners to lose income when multiple offers are likely to be placed on a building. This lost income would cost city government tax revenues, as New York City currently receives more than \$1 billion in revenue from real property transfer taxes. Many building owners are not wealthy, corporate entities. Owners of smaller buildings, a disproportionate number of whom are immigrants or people of color, would be hurt by the delay in the transaction process, which would cost them income in the form of reduced sales prices.

The bill is also narrow in terms of who would be afforded the first opportunity to purchase these buildings. The preference given to a small group of not-for-profit buyers – deemed qualified only by HPD – does little to ensure the preservation or creation of affordable housing in New York City. It cuts out all private, for-profit buyers, many of whom have valuable experience in providing quality, affordable housing.

Thus, this legislation represents an unwarranted government intrusion into private real estate transactions that would negatively impact buyers, sellers, real estate professionals, and state and city coffers, without a commensurate benefit to residents in need of quality, affordable housing.

For the above stated reasons, the New York State Association of REALTORS® respectfully requests that the Committee not advance this bill. We thank you again for the opportunity to submit testimony.



Intro. 196

Memorandum In Opposition

The Rent Stabilization Association represents 25,000 diverse owners and managers who collectively manage over one million units of housing in every neighborhood and community throughout the City. We thank the Committee for giving us the opportunity to testify on behalf of our members in opposition to Intro. 196, which would give certain qualified entities the first opportunity to purchase and the right of first refusal when residential buildings are offered for sale. This bill creates problems for both purchasers and sellers. Our members are both.

RSA membership is deeply diverse. Our members truly look like every part of our diverse city. Whether in Harlem, Washington Heights, Fort Greene, Ocean Hill, Southeast Queens, Crown Heights, Flatbush, The Bronx, the North Shore of Staten Island, or in so many other neighborhoods – property owners in all communities, RSA members – deserve a clear, unobstructed opportunity to participate in a market sometimes long-denied them.

Numerous RSA members have purchased a modest building in communities where their families first settled. They have committed to their neighborhoods and made the choice to invest in their communities. Dictating that certain corporate entities should be given purchase preference over others only limits access to ownership. And this bill establishes a preference that a certain class of corporate owners are more desirable than others.

Currently any purchaser has a right to purchase any property. Intro. 196 does nothing to expand opportunity. Instead, it strips opportunity away from individuals and seeks to direct it to a government-vetted preferred purchaser pool. The harsh reality is this bill takes away the opportunity to purchase property from communities of color and further strips them of their opportunity to create generational wealth.

As was recently reported in the New York Times, Black families are leaving New York City in record numbers, with one reason cited being lack of homeownership. This bill would make the path to homeownership even harder. Buying a three-family home, living in one unit and renting out the other two is a tired-true-method towards affording property and building wealth. This bill puts up new obstacles in that quest for ownership and creating generational wealth opportunities.

Further, the bill fails to recognize that the affordable housing market is not solely within the purview of a limited group of narrowly-defined affordable housing providers. Rather, affordable housing is provided by thousands of private owners throughout the city. The private market,

regulated and less-regulated, has done what government struggles to accomplish: private owners and developers take an active role in keeping markets affordable.

This bill would impair the property rights within the transactional market. This interjection would disrupt the sales market and take away the flexibility of the private market operations and instead establish a rigid timeline that hamstring property ownership. The right to own and the right to sell and when and for how much are the foundations of private property and contracts. There are times when market conditions and financial realities require owners to be limber and move quickly in reaction to market situations. The timeline imposed by Intro. 196 would thwart any ability to be market-responsive and adds unnecessary cost and delay and negatively impacts the value of the property.

Fully played out, this bill would mean the sales process could be delayed for up to one year. As we all know, markets can drastically change in one year and this will place undue hardship on sellers who will be forced to carry an asset for far longer than viable, and on buyers whose situations certainly can change during this extended period.

Purchase, ownership, and sale of real estate - whether three-family homes, or apartment buildings – is how families build multigenerational wealth. For too long, and for too many reasons often instigated and supported by government action, families and communities of color have been excluded from this market opportunity. Depending on the neighborhood, it is only recently that families of color have been robustly participating in this vital segment of the economy. Inserting a new third party into the real estate market, and insisting on added time for transactions, will immediately and negatively impact these communities and all residents' property rights.

For the above reasons, RSA is opposed to Intro. 196.

New York City Council Committee on Housing and Buildings NYSFAH Testimony

23 February 2023

NYSFAH is the trade association for New York's affordable housing industry statewide. Its 400 members include for-profit and nonprofit developers, lenders, investors, attorneys, architects and others active in the financing, construction, and operation of affordable housing. Together, NYSFAH's members are responsible for the vast majority of the affordable housing built across the City and State that uses federal, state and local subsidies and incentives. Founded in 1998, NYSFAH is the nation's largest affordable housing trade group.

Intro 637 and Intro 714 – NYSFAH strongly opposes this legislation.

Intro 637 would discriminate against all for-profit developers when the City disposes of real property, including M/WBEs.

- This law will hurt affordable housing production: According to the Mayor's Management Report, the City produced 45% fewer affordable units in 2022 than in 2021. Limiting the pool of companies that can apply for RFPs to build on City-owned land will further exacerbate this trend. The city's housing crisis means that we need all hands on deck. Excluding companies due to their tax status equals less production.
- Discrimination against MWBEs: MWBEs are inherently for-profit companies, and this legislation would disallow them from applying for these RFP sites.
- There is no problem to fix:
 - Permanent affordability on RFP sites is already ensured via a "remainder interest,"¹ which HPD has placed on its RFP sites since 2017.
 - HPD policy already prohibits for profits other than MWBEs from responding to RFPs for City-owned sites unless there's at least 25% ownership by not-for-profit organizations or MWBE companies.

Both not-for-profit and for-profit companies play critical roles in developing and preserving affordable housing. The City does not discriminate based on tax status when buying city vehicles, office supplies, or any other type of good. A healthy market has a large pool of competitors, unrestricted by tax status.

Intro 714 would create a land bank controlled by the city to acquire and dispose of land.

- This land bank, by law, would discriminate against MWBEs and other for-profit developers.

¹ From HPD's website: "Remainder interest is a legal tool that enables the City to retain ownership of the land at the end of an initial regulatory period, unless the developer refinances and extends affordability."

- This land bank would likely not have to go through ULURP when disposing of land, removing Council and community oversight
- If all the provisions of the City Charter apply to this corporation as though it were the City itself, then it is unclear why it should exist.

NYSFAH strongly opposes both Intros 637 and 714.

Intro 196 and Resolution 38 — NYSFAH strongly opposes this legislation

Intro 196 would create a 6+ month process for the sale of every multifamily residential building in the city, and it would directly impede affordable housing preservation.

- NYSFAH members frequently acquire residential buildings in order to enter into preservation agreements with the City or State. This type of preservation involves making badly needed repairs, improving the sustainability of the buildings, maintaining the affordability of the buildings, and keeping tenants in place.
- This legislation would add time and uncertainty onto each of these transactions, making it harder for our members to acquire and preserve these buildings.

This legislation would add great complexity and time to any residential property transaction in the city, and it would also add an extremely cumbersome process to an already overburdened housing agency.

- There are typically between 800 and 1300 multifamily buildings sold each year in New York City. This legislation would require HPD to process every single one of these sales, an enormous undertaking.
- At a time when we should be devoting as much human capital as possible towards the development and preservation of affordable housing, this would be an enormous distraction.

Resolution 38 would call on the State Legislature to create a Tenant Opportunity to Purchase law. As with Intro 196, it would heavily burden HPD with processing ~1000 building sales a year. It also solves a problem from 50 years ago, when landlords were abandoning the city.

- Today, property values are so heavily inflated that tenants are unlikely to be able to afford to purchase their buildings.
- Instead, this will impede efforts to preserve affordable housing while holding out false hope to tenants that they will have the financial wherewithal to purchase their building.



Breaking the Cycle of Homelessness
for Women and their Children

Testimony of Women In Need (WIN) for the Committee on Housing and Buildings February 23, 2023

Thank you to Chair Sanchez and to the esteemed members of the Housing and Buildings Committee for the opportunity to submit testimony today. Currently, Win is the nation's largest provider of shelter and services to families with children experiencing homelessness. We operate 14 shelters and nearly 500 supportive housing units across the five boroughs. Currently, more than 6,500 people call Win "home" every night, including 3,600 children — in total, we house over 14% of homeless families with children in New York City.

Today, there are 70,810 people, including 22,913 children, sleeping each night in a New York City shelter.¹ This already unfathomable number is only rising—during the first four months of FY23, the average number of individuals in shelter per day increased by 21% compared to the same period in FY22 due to the influx of asylum seekers from the southern border of the United States.² The shortage of shelter beds has forced the city to push for emergency spending worth over \$2 billion dollars, while warehousing families experiencing homelessness in hotels without the critical resources they need.^{3 4} Currently, across our shelters, Win has a less than 1% vacancy rate. Across the whole city, shelters for families with children have a vacancy rate of less than .5%.

Right now, the most immediate actions the city can take to ameliorate its homelessness crisis is to increase affordable housing and improve the voucher system. **Therefore, we are delighted to support Resolution 344 in relation to establishing a housing access voucher program (HAVP)** and thank Public Advocate Williams and Council Members Sanchez, Stevens, Mealy, Restler, Joseph, Hudson, Farías, Abreu and Nurse for calling on the New York State Legislature to pass, and the Governor to sign, A.3701B/S.2804B. As it stands, when vouchers are accessed and utilized, they have the potential to stabilize low-income households struggling to pay rent and to provide those in shelter with a path to permanent housing. In the last year, our trained program staff worked to move just over 840 families out of shelter and into permanent homes. Rental assistance programs have been key to this success. In FY22, of the 5,207 families with children that exited shelter to permanent housing, 79% of placements were subsidized.² Furthermore, without subsidies like HAVP, families often struggle to make a sustainable exit from shelter. In FY22, 15% of families with children who exited shelter without a subsidy returned within one year, compared to less than 1% of families who exited with a subsidy.²

¹ NYC: Department of Homeless Services. *The Daily Report*. February 2, 2023.

<https://www.nyc.gov/assets/dhs/downloads/pdf/dailyreport.pdf>

² The City of New York: Mayor Eric L. Adams. (2023). *Preliminary Mayor's Management Report*.

https://www.nyc.gov/assets/operations/downloads/pdf/pmmr2023/2023_pmmr.pdf.

³ New York City Comptroller: Brad Lander. (2022). *The State of the City's Economy and Finances*.

<https://comptroller.nyc.gov/reports/annual-state-of-the-citys-economy-and-finances/>

⁴ Anuta, Joe. Politico (Jan 13, 2023). *New York Mayor: Cost of asylum seekers could hit \$2B as shelters reach capacity* <https://www.politico.com/news/2023/01/13/nyc-cost-asylum-seekers-2b-00077885>



Breaking the Cycle of Homelessness
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However, many New Yorkers are still ineligible for housing vouchers.⁵ New York State needs an ongoing, government-funded housing access voucher program. The Housing Access Voucher Program (HAVP) (Kavanagh [S568](#)/ Rosenthal [A4021](#)) HAVP would operate much like the federal Section 8 program, which many New Yorkers remain unable to access because of its requirements and inadequate supply.⁶ HAVP would actually be more inclusive than Section 8 or CityFHEPs program because it would be available to people regardless of income, documentation, and criminal record.

HAVP has the potential to help more than 50,000 people statewide avoid the trauma of homelessness and is an essential tool to combat the homelessness crisis.⁷ Half of HAVP vouchers would go towards rehousing people experiencing homelessness and the remaining half would be issued to low-income New Yorkers at risk of becoming homeless. These vouchers would prevent families at risk of homelessness from entering shelter and keep those who have left shelter from reentering. HUD's Family Options Study revealed that long-term rent subsidies, like those offered by HAVP, rather than entering shelter, reduced homelessness and increased housing stability while also promoting benefits in other domains of family well-being, including halving intimate partner violence, reducing adult psychological distress, parent-child separation, absenteeism and behavior problems for children, and increasing food security.⁸

Based on recently released projections from the NYU Furman Center, HAVP is also the cost-effective option.⁹ Per a rough cost-saving analysis, HAVP will cost a family \$50 a night versus the \$188 a night it costs to live in shelter. The savings are even more drastic for a family that would otherwise live in an emergency hotel room paid for by the city, which can cost up to over \$300 a night.¹⁰ Therefore, we support the sponsors of Resolution 344 in calling on the New York State Legislature to pass, and the Governor to sign HAVP into law.

An increase in housing vouchers must also go hand in hand with an increase in housing options for homeless families, and we support the City Council in introducing innovative legislation that would promote the availability of additional units to be used for supportive and

⁵ <https://cccnewyork.org/press-and-media/new-york-desperately-needs-a-housing-voucher-program/>

⁶ New York State: Homes and Community Renewal. (May 6, 2021). *HCR Announces Lottery For Section 8 Housing Choice Voucher Waitlist In New York City*. <https://hcr.ny.gov/news/hcr-announces-lottery-section-8-housing-choice-voucher-waitlist-new-york-city>

⁷ Lum, Chau. Gothamist. (March 31, 2022). *As budget deadline looms, fate of a widely supported housing voucher program is in Hochul's hands*. <https://gothamist.com/news/as-budget-deadline-looms-fate-of-a-widely-supported-housing-voucher-program-is-in-hochuls-hands>

⁸ U.S. Department of Housing and Urban Development Office of Policy Development and Research. (2016). *Family Options Study: 3-Year Impacts of Housing and Services Interventions for Homeless Families*. <https://www.huduser.gov/portal/sites/default/files/pdf/Family-Options-Study-Full-Report.pdf>

⁹ NYU Furman Center. (Feb 2023). *A State-Level Rent Voucher Program*. https://furmancenter.org/files/publications/2_A_State-Level_Rent_Voucher_Program_Final.pdf

¹⁰ Campanile, Carl and Bernadette Hogan. (Jan 13, 2023). *Eric Adams inks \$275M hotel room deal to house at least 5,000 migrants* <https://nypost.com/2023/01/13/ka-ching-adams-ink-275-million-with-hotels-to-house-migrants/>



Breaking the Cycle of Homelessness
for Women and their Children

alternative housing. Supportive housing is an extremely effective solution to chronic homelessness, with more than 86% of residents in supportive housing remaining housed for several years.¹¹ Therefore, we thank Council Member Carlina Rivera and Council Member Lincoln Restler for sponsoring **Int. 196 and Int. 637 that would prioritize non-profits and 501c3 in purchases of residential and city buildings.** Next, we hope to see legislation and reform from the city and administration that would also eliminate some of the administrative burdens and extensive document requirements that currently keep supportive housing units offline.¹²

Affordable housing must remain affordable, and Int. 74 sponsored by Council Member Gale Brewer will establish a land bank for New York City to develop, rehabilitate and preserve affordable housing. According to the U.S. Census Bureau, there was an 8% drop from 2019 to 2021 in the number of apartments registered as rent stabilized in New York City.¹³ Additionally, rents across New York City have risen 20% in the past three years.¹⁴ In short, low-income and even middle-class New Yorkers are being priced out of their family neighborhoods, a phenomenon that is depleting the city of its culture and straining our social services system and shelters.

Res. 38 from the Public Advocate will require that any owner intending to sell a multi-unit residential dwelling, must first make a fairly appraised offer of sale to the tenants within the residence before making any sale offers to third parties. This mandate has the potential to counteract the unreasonable ballooning of rent prices and to preserve the priceless culture of New York's unique neighborhoods. **Int. 932** will also support social housing, a form of sustainable housing that promotes fair and communal governance of buildings by their current residents or qualified nonprofits.

Ultimately, Win stands in support of the introduced legislation and resolutions, and we look forward to the City addressing additional concerns. Homelessness is an extremely intersectional issue, and any efforts that can be made to increase affordable housing and alternative options to shelter will have a direct impact on the families and children that Win houses. While Win provides wraparound and trauma-informed services to promote recovery and prevent recidivism to shelter, homelessness is an inherently traumatic event that can exacerbate the severity of

¹¹ Kurtzman, Laura. The University of California, San Francisco (UCSF) *Study Finds Permanent Supportive Housing is Effective for Highest Risk Chronically Homeless People* (Sep 17, 2020). <https://www.ucsf.edu/news/2020/09/418546/study-finds-permanent-supportive-housing-effective-highest-risk-chronically>

¹² Newman, Andy. The New York Times (Nov 4, 2022). *Nearly 2,600 Apartments for Mentally Ill and Homeless People Sit Vacant* <https://www.nytimes.com/2022/11/04/nyregion/nearly-2600-apartments-for-mentally-ill-and-homeless-people-sit-vacant.html>

¹³ NY Department of Housing Preservation and Development (May 16, 2022). *2021 NYC Housing and Vacancy Survey Selected Initial Findings*. <https://www.nyc.gov/assets/hpd/downloads/pdfs/services/2021-nychvs-selected-initial-findings.pdf>

¹⁴ Brand, David. CityLimits. (Sep 13, 2022). *It's Not Just Manhattan: Rents Are Still Rising Across NYC* <https://citylimits.org/2022/09/13/its-not-just-manhattan-rents-are-still-rising-across-nyc/>



Breaking the Cycle of Homelessness
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preexisting mental illness or trigger additional disorders.¹⁵ The toll that homelessness has on children is particularly severe, leading to developmental delays, cognitive impairment, and increased mental health problems.¹⁶ For the health of all New Yorkers and especially the city's children, we urge City Council to vote in favor of the proposed legislation and resolutions.

¹⁵ Castellow, J., Kloos, B., & Townley, G. (2015). Previous Homelessness as a Risk Factor for Recovery from Serious Mental Illnesses. *Community mental health journal*, 51(6), 674–684. <https://doi.org/10.1007/s10597-014-9805-9>

¹⁶ Goodman, S., Messeri, P., & O'Flaherty, B. (2016). Homelessness prevention in New York City: On average, it works. *Journal of housing economics*, 31, 14–34. <https://doi.org/10.1016/j.jhe.2015.12.001>

The Real Estate Board of New York to The Committee on Housing and Buildings on Social Housing

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 thanks the Committee on Housing and Buildings for the opportunity to provide feedback at today's hearing on 'social housing', and on the need for New York City to prioritize housing production and preservation.

Supporting housing production and affordable housing preservation are two important goals that will require the collaboration of government, not-for-profit and for-profit stakeholders to find the best solutions. A [report](#) facilitated by AKRF last year identified a need to produce 560,000 units in the City by 2030, including the immediate need for over 227,000 units. While non-for-profit development should play a role in our future affordable housing needs, the units required to overcome the housing crisis far exceed the resources available from government and not-for-profit developers. Private for-profit development must play a part in housing production and preservation.

REBNY members are deeply committed to providing well-maintained safe buildings for their tenants, to the preservation and creation of affordable housing, to high quality construction and design, and efficient and sustainable operations. Before precluding or elevating one type of owner over another, the Council would be well served to do a real comparison, including on eviction filings and code enforcement. Additionally, the recent collapse of the Skid Row Housing Trust in Los Angeles is instructive to the financial challenge of building, preserving, and maintaining affordable housing over time for non-profit entities.

REBNY appreciates and supports the use of land banks and community land trusts as stabilization tools. For example, the successful use of land banks upstate in Kingston and Albany that were established to deal with swaths of vacant properties that were foreclosed on during the last recession offer a great case-study. However, these landbank programs were successful due in part to the ability to utilize public-private partnerships. Unfortunately, the proposed bills prohibit public-private partnerships as a preference category and exclude private developers as qualified entities, which will result in less housing and cost the city more money for the housing that is produced.

Affordable units are challenging to maintain regardless of ownership given the City's tax system that penalizes multifamily rental buildings, which is exacerbated by the exponential assessment growth year over year for those same buildings. In addition, the math that it takes to build and operate affordable housing that is income restricted to the varying neighborhood AMI band needs while ensuring that costs are covered to effectively operate a building is always a difficult balance. Deeply affordable rents do not cover operation costs. Coupled with inconsistent contracting practices by the city, which

controls the disposition process, term sheets, and regulatory agreements, affordable housing production and preservation is an incredibly challenging and capital-intensive process.

REBNY welcomes the opportunity to work with City Council to improve the legislation being heard today to further the solutions needed to address our housing crisis.

Bill-specific feedback is as follows:

BILL: Intro 0196-2022

Subject: A local law to amend the administrative code of the City of New York, in relation to giving qualified entities a first opportunity to purchase and an opportunity to submit an offer to purchase certain residential buildings when offered for sale.

Sponsors: Councilmembers Rivera, Nurse, Caban, Stevens, Hanif, Brewer, Won, Richardson Jordan, Restler, Krishnan, Hudson, Williams, Aviles, Sanchez, Joseph, Bottcher, Velazquez, Barron, Schulman, De La Rosa, Farias, Riley, Gutierrez, Narcisse, Ayala, Osse, Brooks-Powers, Louis, Brannan, and Speaker Adams, by the request of the Brooklyn Borough President.

This legislation, often referred to as the Community Opportunity to Purchase Act, or COPA, would give qualified entities a first opportunity to purchase and an opportunity to submit an offer to purchase certain residential buildings when offered for sale. The bill would require building owners to notify the Department of Housing Preservation and Development and a list of qualified entities when their buildings will be listed for sale. The entities would have the opportunity to submit the first offer and match any competing offers for the property.

REBNY believes this bill prioritizes one type of business model over another with no evidence demonstrating that not-for-profit development has a higher success rate in the preservation of affordable housing. Indeed, just like with for-profit ownership, not-for-profit owners who finance their buildings must demonstrate a return on investment, often via rent rolls, to secure financing for a building's purchase. Unfortunately, this legislation proposes an overreach into private property transactions, raising legal concerns along the way. First, this bill raises the very same legal concerns that existed in 2005 when the City Council passed the Tenant Empowerment Act. That bill, like this one, was deemed preempted under State and Federal Law for being overly broad and for failing to take into consideration certain statutory rights of first refusal.

The bill also raises serious scope and implementation concerns. The program is incredibly far reaching in subject properties, with purchase timelines that may be seen as too long and unworkable as to interfere with reasonably backed expectations for the transfers of property. In addition to interfering with the private marketplace, they also do not help not-for-profits, as the timelines are not consistent with the timing to negotiate necessary tax exemptions and financing to make the purchase work with subsidy. There is no regulatory regime to manage contract disputes, and it does not carve out buildings in foreclosure or mortgage default that may be operating on court ordered timelines different than the one laid out in this bill.

The number of eligible properties coupled with no funding mechanism would leave HPD resource starved to implement what the bill requires, and then forces an overzealous and punitive penalty

structure on private property owners if they are unable to comply with a system that HPD will struggle to facilitate.

Lastly, the list of qualified owners as proposed are just not-for-profits. The exclusion of any private entity and any private-public entity from the qualified entities list is both pernicious and based on false valuation of good versus bad for business practices.

BILL: Intro 0714-2022

Subject: A local law to amend the administrative code of the city of New York in relation to creating a land bank.

Sponsors: Councilmembers Brewer, Hanif, Sanchez, Nurse, Louis, Restler, Hudson, Joseph, Aviles, Schulman, De La Rosa, Farias, Riley, Gutierrez, Abreu, Caban, Won, Narcisse, Ayala, Krishnan, Osse, Menin, Bottcher, Stevens, Powers, Marte, Brannan and Rivera in conjunction with the Brooklyn Borough President.

This bill would establish a land bank for New York City, which would be tasked with acquiring, warehousing, and transferring real property to develop, rehabilitate and preserve affordable housing. The bill would require that when conveying, leasing as lessor or otherwise disposing of real property for a use that would result in the creation or preservation of affordable housing units, the land corporation shall prioritize disposition to a community land trust, a community housing development organization or a nonprofit organization, and shall prioritize disposition for a proposed use that will maximize the number of affordable housing units at the zoning lot containing the property and the affordability of such units.

Private sector investment is important to the housing stock, as for-profit entities have capital to withstand uncertainty and progress development. Larger affordable housing developments require millions of dollars of pursuit costs with no guaranty of the project moving forward. Given the ambitious and necessary housing goals set by Speaker Adams, the Mayor and the Governor, such limitation would be counter-intuitive to the end goal of increasing affordable housing. REBNY fails to see the rationale of taking away for-profit entities from stimulating housing at scale.

REBNY appreciates and supports the use of land banks and community land trusts as stabilization tools. We are impressed by the successful use of land banks in small cities such as Kingston and Albany in upstate New York. Land banks provided a much-needed framework for these small cities to deal with swaths of vacant properties that were foreclosed on during the last recession. These programs seek to place distressed and delinquent properties back on the tax rolls while addressing capital needs, and in many cases, these land banks have turned fallow properties into homes with the help of public private partnerships. Private developers are better equipped to navigate the myriad of complexities that arise in renovating tenanted properties, and we fail to see why New York City would want to limit the pool of qualified developers who are able to assist in preserving and increasing affordable housing throughout New York City, particularly with such a need for housing production.

In addition, the establishment of a land bank to effectively purchase property to then dispose of to qualified entities for housing uses is a significant process that will have to respond to the same market parameters that currently exist for all perspective development sites in the city, requiring significant city investment to be effective.

BILL: Intro 0637-2022

Subject: A local law to amend the New York City charter, in relation to the disposition of real property of the city

Sponsors: Councilmembers Restler, Nurse, Caban, Krishnan, Sanchez, Mealy, Rivera, Hudson, Aviles, Osse, Brewer, Gutierrez, Richardson Jordan, Abreu, De La Rosa, Won, Marte, Farias, Hanif, Joseph, Narcisse, Bottcher, Velazquez, Barron, Schulman, Riley, Ayala, Williams, Brooks-Powers, Louis, Powers and Brannan in conjunction with the Brooklyn Borough President.

Intro 637 would require that when the city disposes of land for affordable housing, or for any other public use or purpose, it prioritizes not-for-profit developers and community land trusts despite no evidence demonstrating these types of entities are better equipped to develop, preserve, or stabilize rental buildings to maintain long-term affordability.

Affordable units are challenging to maintain regardless of ownership and often the rents obtained do not cover operational costs. Whereas the private sector has the capital and capability to deal with the prohibitive costs associated with developing housing, in very few instances have not-for-profit entities demonstrated the ability to do so alone at scale. Permitting public-private partnerships will help stimulate much needed housing, and this legislation would benefit from allowing these types of partnerships to be prioritized if this legislation were to move forward.

BILL: Intro 0932-2022

Subject: A local law in relation to a study on the feasibility of establishing a social housing agency.

Sponsors: Councilmembers Nurse, Restler, Osse, Hudson, Richardson Jordan

This proposal would require a study for the feasibility of creating a city agency focused on social housing. While the goals are laudable, this proposal is inefficient and only further complicates the collective goals of providing social housing for our fellow New Yorkers who need it. The City already has an agency dedicated and focused on housing, inclusive of the goals of social housing as described in the memos for many of the bills being heard today. This includes the development of permanently affordable housing on city-owned and formerly city-owned land, administering the Neighborhood Pillars Program to help community organizations purchase rent stabilized buildings, and funding and supporting community land trusts.

This study would take away precious resources from an already starved HPD, cannibalizing talent and capacity for a study to tell us what we already know – the City does not need additional agencies, it needs people and resources to execute on programs that already exist.

BILL: Resolution 38-2022

Subject: A resolution calling on the State Legislature to pass and the Governor to sign, legislation mandating that any owner intending to sell a multi-unit residential dwelling, must first make an appraised offer of sale to the tenants within the residence before making any sale offers to third parties. This state legislation is often referred to as the Tenant Opportunity to Purchase Act, or TOPA.

Sponsors: Public Advocate Williams, Councilmembers Caban, Restler, Krishnan, Joseph, Won, Velazquez, Barron, Hanif, Hudson, Bottcher, Nurse, Williams, Louis, Osse, in conjunction with the Brooklyn Borough President.

This resolution is in favor of a statewide bill referred to as the Tenant Opportunity to Purchase Act, or TOPA. Like COPA, TOPA would severely undermine the residential building transaction market, putting at risk much needed housing production, limiting tax revenue to the State, and significantly extending the timeline to complete transactions.

Additionally, there is no consideration whatsoever on the interplay with the Martin Act, New York state's 'blue sky' anti-fraud law. Under this law, since these transactions could be considered a syndication if the non-profit takes a penny from the tenants or any other third party to effectuate the sale, it could thereby subject these parties to enforcement actions by the New York Attorney General, who has recently taken an aggressive stance against syndicates, including those involving affordable housing.

While REBNY supports increased affordable homeownership opportunities in New York, like as proposed in COPA, the timeline outlined in TOPA is far too lengthy and limits the pool of potential buyers for private property transactions. The bill exempts non-profits but requires an affirmative application for exemption without regard for how long it would take for an application to be put together. The timelines also appear unrealistic for tenants when attorneys specializing in these types of deals shared it typically takes two years of planning with a property owner that volunteers for such arrangement.

BILL: Resolution 344-2022

Subject: Resolution calling on the New York State Legislature to pass, and the Governor to sign, A.3701B/S.2804B, in relation to establishing a housing access voucher program

Sponsors: Public Advocate Williams, Councilmembers Sanchez, Stevens, Mealy, Restler, Joseph, Hudson, Farias, Abreu, Nurse

REBNY strongly supports the adoption of the Housing Access Voucher Program (HAVP) ([S568/A4021](#)), a permanent, statewide Section 8-like rental assistance program as part of the state budget. Direct rental assistance is a proven cost-effective method of ensuring people can stay in their homes and access new ones if so preferred. Enabling additional and more effective use of rental assistance, especially in high-amenity areas, will expand housing choice for New Yorkers across neighborhoods and should be a key component of any holistic housing plan.

As designed, a minimum of fifty percent of HAVP's resources will be dedicated to help homeless New Yorkers across the state find stable housing, while the remainder will go toward eviction prevention for households at risk of becoming homeless. HAVP is designed to be maximally accessible, flexible, and non-discriminatory, making it the most effective program for moving homeless households into stable, permanent housing. A state housing voucher would reach those New Yorkers left unserved by the underfunded federal Section 8 program and solve for the byzantine rules for eligibility of other like programs.

REBNY is proud to be a part of a statewide coalition led by Enterprise Community Partners advocating for the adoption of this critical program.

BILL: Resolution 506-2023

Subject: Resolution calling upon the New York State Legislature to pass, and the Governor to sign, A.5573/S.3082, in relation to prohibiting eviction without good cause.

Sponsors: Nurse, Brewer, Restler, Caban, Aviles, Osse, Farias, Hudson, Hanif, Richardson Jordan

The adoption of the currently introduced Good Cause bill (A4454/S305) would exacerbate our housing shortage and does nothing to address tenants' rent burdens nor failures of code enforcement by local governments.

This bill would adversely impact 1.4 million apartments in New York City alone. This bill has remained unchanged since 2019 and therefore, despite misinformation by tenant advocates and its bill sponsors, does apply an arbitrary cap that has no relationship to expenses and can be challenged in any calendar year to both renewals and initial leases. This legislation does apply to the 300,000 co-op units in the city, and completely undercuts any existing regulatory agreements to render them useless. This will disrupt current lending agreements and diminish the ability to access capital when major repairs are needed. The uncertainty of any rent increase potentially being subject to litigation also creates a liability risk that will then translate into higher interest, higher insurance costs.

As mentioned, the bill will regulate units with existing and expired regulatory agreements, thus eliminating the ability of market rate apartments to cross-subsidize affordable units, overriding government contracts used to create affordable housing for the lowest income New Yorkers and superseding local authority.

Additionally, the bill imposes severe limitations on property owners seeking to reclaim units, which is especially problematic for condominium or co-op owners and short term or seasonal rentals. For example, under the bill's definition of family and immediate need, a grandparent could not take back a unit for a grandchild to live in, and a co-op owner that temporarily re-located for a job or to take care of an ill family member could not move back into their own apartment. If an elderly homeowner wished to take a unit for a caregiver, they would not even have the option if the tenant were also elderly. Additionally, under this bill the homeowner would be precluded from consideration of anything beyond one unit under the regressive rules proposed by the State Legislature, creating serious implications for families with two kids or two of any family members.

Advocates and officials have at times misled the public noting its adoption in other parts of the country. This bill is vastly different than other similarly titled statutes in other states such as California, Oregon, and New Jersey. Those bills promote housing quality by recognizing that rent growth must keep pace with rising costs. Furthermore, those states also have a vastly different paradigm as rental properties are taxed much lower in those states, which in turn places less upward pressure on rents.

Supporters claim the bill will provide protection against reporting code violations and will improve housing conditions. To the first goal, the 2019 rent laws already grants protection to tenants against retaliatory actions by property owners. To the second goal, the policies prescribed in S305 will have the opposite impact and will instead result in degraded housing quality over time and fewer affordable housing options on the market. Limiting rent growth does not improve building conditions.

The correlation between reduced investment and rent control is well documented over multiple decades by non-partisan entities such as the National Bureau of Economic Research, Brookings, and the Manhattan Institute.

Finally, it is worth noting that the bill also fails to address the most critical challenge faced by renters today as it does not provide direct assistance to rent burdened New Yorkers to prevent them from falling further behind. Further, the bill does nothing to address rental arrears due to loss of jobs and income because of the pandemic. Therefore, we fail to see how this proposal and supporting it will do anything to impact the 80% of eviction filings related to non-payment.

For these reasons, adoption of S305 will discourage the creation of new rental housing and make our city's housing challenges worse. The City Council should not support it.

Thank you for the consideration of these points.

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Agallas Equities

TO: New York City Council Committee on Housing and Buildings

Hearing on Public Bill (Intro No. 637)

23rd February, 2023

City Hall Chambers

New York, New York

Presented by:

Manuel Tavaréz

On Behalf Of:

Agallas Equities, LLC.

A Real Estate Development Corporation, a For-Profit Developer and Stakeholder

TO: Honorable Members of the New York City Council Committee on Housing and Buildings.

Dear Chair Sanchez,

We appreciate the opportunity to submit this written testimony to the City Council Committee on Housing and Buildings, on behalf of Agallas Equities LLC (our “Organization”) and dozens of development partners and numerous clients.

We are writing to you today to express our strong opposition to Int637 (the “Bill”) sponsored by Council Member Lincoln Restler. It is our considered opinion that legislation of this nature would do more harm than good to the already disadvantaged for-profit developers, including M/WBEs in the good city of New York. This opinion has been formed on the backdrop of publicly available information and historical statistics which have been set out in detail in the ensuing paragraphs to this testimony statement. The Bill would have a significant impact on our Organization, clients, and the wider community. We are committed to creating affordable housing and economic opportunities for all New Yorkers, including underserved communities and marginalized groups. We have worked tirelessly to build relationships with the City and its agencies, and the Bill would jeopardize our ability to continue serving the community.

Our Organization and development partners have a proven track record of success in developing affordable housing and community projects in New York City. Having worked with Minority, Women & Black Owned Enterprises (M/WBEs) on numerous occasions, and their expertise and collaboration has been critical to our success. This Bill however creates more harm than good to M/WBEs, who are often already underrepresented and underfunded, and create a more competitive and less equitable environment for all developers. As members of the business community in New York City, we believe that everyone should have equal access to opportunities, regardless of race, status or ethnicity. The Bill, however, seeks to exclude minority-owned businesses and for-profit developers like ourselves from being considered for property allocation, making it difficult for us to carry on our businesses.

Empirical Research:

There is ample evidence to support the position that the Bill would harm for-profit developers. The City's own data shows that for-profit developers have historically faced significant barriers to entry and opportunities in the development industry. Furthermore, studies have shown that they often have lower access to capital, technical assistance, and networks, making it difficult for them to compete with larger and more established developers. Given that this legislation will include all for-profit developers, it will inadvertently exacerbate these inequities. As concerned stakeholders in the development of affordable housing in New York City, we strongly oppose the Bill as it is written, as it will have severe negative impacts on the production of affordable housing units. Please see below a summary of key trends relevant to the subject matter which form the basis for our opinion expressed above.

1. The City Mayor's Management Report has already shown a 45% decrease in affordable housing production in 2022 compared to the previous year, and limiting the number of companies eligible to apply for RFPs on City-owned land will only worsen this trend. Excluding for-profit developers from participating in these partnerships will not only reduce the volume of affordable housing development but also hurt tenants who are in dire need of access to affordable housing. Moreover, partnerships between not-for-profits and for-profits have been essential in managing the increasing construction costs in the City. For-profit companies bring their financial capacity and risk tolerance, while not-for-profits contribute social services provision. It is crucial that all parties are allowed to contribute their strengths to the

development of affordable housing in the City, and excluding companies based on their tax status will only hamper the progress made so far. The City's housing crisis demands that we work together and utilize all available resources.

2. For-profit developers play a crucial role in the growth and development of New York City. They bring in significant investment and generate employment opportunities for local residents. By limiting their ability to operate, the Bill would discourage investors from investing in the city, resulting in a decrease in economic activity. While we understand that the Bill aims to prioritize affordable housing, it fails to recognize that affordable housing projects often require funding from for-profit developers. Without their investment, affordable housing projects may not be able to proceed.
3. The bill's relevance is misguided and unnecessary as the city already has measures in place to ensure permanent affordability on Request for Proposal (RFP) sites. Since 2017, the Department of Housing Preservation and Development (HPD) has implemented a "remainder interest" policy that guarantees the preservation of affordable housing on RFP sites. Furthermore, HPD has already enforced a policy that limits the involvement of for-profit developers in RFPs for City-owned sites. This policy prohibits for-profit companies, other than Minority and Women-owned Business Enterprises (MWBEs), from responding to RFPs unless there is at least 25% ownership by not-for-profit organizations or MWBE companies. Therefore, the Bill is a redundant solution in search of a non-existent problem. As advocates for fairness and equality in the development industry, we oppose the Bill directly aimed at restricting for-profit developers in New York City thereby reducing their economic relevance. The Bill is severely flawed as it discriminates against MWBEs, which are inherently for-profit companies. By disallowing MWBEs from applying for Request for Proposal (RFP) sites, the Bill would hinder the growth of these businesses and limit their ability to contribute to the affordable housing market. Furthermore, partnerships between MWBEs and larger for-profit developers on RFP sites allow for greater development opportunities, leading to more buildings being constructed and more jobs created. By restricting for-profit developers, the Bill would limit these partnerships and further harm MWBEs, and by extension, the good people of New York.
4. By excluding minority-owned businesses and for-profit enterprises, the bill perpetuates the cycle of inequality and economic disparities that many minorities face in New York City. It is inconsistent with the values that our city has long upheld - that everyone deserves an equal opportunity to succeed, regardless of their background. This bill would make it harder for minority-owned businesses and for-profit enterprises to grow and thrive in New York City. These businesses already face significant challenges in obtaining funding and resources, and this Bill would only add to those challenges. It would also make it more difficult for these businesses to create jobs and contribute to the economy of our great city. The bill seems to target a particular sector in the community and would inadvertently create new obstacles for Black and Brown entrepreneurs and innovators to do business with the City, ultimately deepening the racial disparity that city leaders hope to address. Not-for-profit organizations have largely been able to work on development projects in recent years thanks to joint ventures with for-profit developers, many of which are non-minority-owned firms. While disparity studies have demonstrated the disadvantages faced by minority-owned businesses, there is little evidence to suggest that not-for-profits are similarly disadvantaged.

5. Lastly, the Bill would limit the construction of new developments, resulting in a decrease in housing availability. With the city's growing population, it is essential to encourage the construction of new housing to keep up with the demand. In fact, the New York City Comptroller's Office has revealed that 84% of MWBEs do not have access to city spending, making it clear that these businesses need more support, NOT LESS. Unfortunately, this Bill would only perpetuate the institutional denial of economic opportunity to for-profit developers and MWBEs. The Bill also goes against the City's Uniform Land Use Review Procedure (ULURP) process, which is a critical component of New York City's land use regulatory framework. This process allows for community input and involvement in the decision-making process for land use actions. However, the Bill would effectively take power away from the community, community boards, borough presidents, the City Council, and the Mayor by mandating specific requirements for RFP sites. Furthermore, the Bill contravenes specific provisions of the New York City Charter. For instance, it would limit the Mayor's authority to negotiate and execute contracts with developers for city-owned properties. The Bill would also override existing policies and procedures that have been put in place to promote equitable and inclusive development. By doing so, it could potentially create new barriers for minority-owned businesses and not-for-profit organizations that have historically faced challenges in the development industry. Moreover, the Bill would bypass the traditional ULURP process, which allows for public input and scrutiny, and would instead mandate specific requirements for RFP sites. This would limit the transparency and accountability of the development process, potentially leading to greater inequities and fewer opportunities for community involvement.

Important Questions for the Council Regarding the Purported Bill.

Here are a list of questions we have for the committee around the effect and impact of the Bill:

- a. What data or evidence supports the need for this bill, and how does it address the identified issues?
- b. How will the Bill impact the development industry in New York City, particularly in terms of affordable housing initiatives?
- c. What measures will be put in place to ensure that not-for-profit organizations have the capacity to meet the demands of development projects?
- d. Will the Bill disproportionately affect minority-owned businesses or create additional barriers for them to participate in the industry?
- e. What steps will be taken to prevent the creation of further disparities in the industry as a result of this Bill?
- f. Are there alternative solutions that have been considered or implemented that may be more effective in addressing the issues the Bill aims to address?
- g. How will the success of the Bill be measured, and what are the expected outcomes?
- h. What input was sought from stakeholders, including for-profit developers, not-for-profit organizations, and community members, when drafting this Bill?
How will the Bill be enforced, and what penalties will be imposed for violations?

Solutions & Recommendations

Overall, the Bill appears to undermine the City's existing land use regulatory framework and democratic processes. It is discriminatory and harmful. We expect the Committee to work to promote economic and social justice by supporting policies that provide equal opportunities to all businesses, regardless of race or ethnicity. It is our collective responsibility to create an environment where everyone can succeed, and this bill does the opposite. It is essential that any proposed changes to this framework are made in a manner that allows for meaningful community input and involvement, and that they are consistent with the City's Charter and other relevant regulations.

There are several solutions and recommendations that can help address the above concerns raised by the Bill, while still ensuring that the interests of for-profit developers and other relevant stakeholders are adequately considered. These include:

- a. Engaging with stakeholders: To ensure that the needs and concerns of for-profit developers are adequately considered, it is important to engage with them and other stakeholders in a meaningful and transparent manner. This includes working with community organizations, business associations, and industry groups to identify solutions that address the concerns of all parties.
- b. Strengthening the ULURP process: Instead of bypassing the ULURP process, efforts can be made to strengthen it and make it more effective in addressing community concerns. This could involve providing greater opportunities for community input and involvement, establishing clearer standards for evaluating development proposals, and creating greater accountability mechanisms for developers.
- c. Encouraging equitable development: In order to promote equitable development, it is important to ensure that not-for-profit organizations and minority-owned businesses have access to the resources and opportunities they need to participate in the development industry. This could involve providing financial and technical assistance to these organizations, creating incentives for developers to partner with not-for-profits, and establishing clear requirements for developers to meet equity and diversity goals.
- d. Creating an inclusive task force: The creation of a task force made up of a diverse group of stakeholders, including for-profit developers, not-for-profit organizations, community members, other relevant stakeholders and elected officials, can help to identify solutions that address the concerns raised by the Bill. The task force can be charged with examining the existing land use regulatory framework and making recommendations for how it can be improved to better meet the needs of all stakeholders.

While the above list may not be exhaustive, it is of paramount importance that the Committee takes a collaborative and inclusive approach to addressing the concerns raised by the Bill. By working together, stakeholders can identify solutions that promote equitable development while still ensuring that the interests of for-profit developers are adequately considered. We understand the need for transparency and fairness in the disposal of real property, and we support efforts to ensure that the process is inclusive and equitable. The Bill however goes too far in discriminating against for-profit developers, including M/WBEs. It is recommended that the City develops a more nuanced and comprehensive approach to the disposal of real property that takes into account the unique needs and strengths of all developers.

CLOSING REMARKS:

We believe that the City can achieve its goals of transparency and fairness without resorting to discriminatory policies and developing solutions which create more conflict for the community. We stand ready to work with the Council to develop a more equitable and inclusive approach that supports all developers and serves the best interests of the community.

Limiting for-profit developers will not address the issue of racial disparity in the industry. Rather, it will only serve to harm the very businesses that are already at a disadvantage. The existing policies implemented by HPD already ensure permanent affordability on RFP sites and limit the involvement of for-profit developers in City-owned sites, so there is no need for further restrictions.

Let us work towards a more inclusive and sustainable approach that will benefit all New Yorkers by prioritizing more effective and sustainable solutions that address the issue of affordable housing in New York City without unfairly targeting for-profit developers.

Thank you for considering our concerns.

Sincerely,

Manuel Tavaréz

Agallas Equities LLC



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Testimony Before the New York City Council Committee on Housing and Buildings Committee on “Social Housing”

February 23, 2023

Thank you to Committee Chair Sanchez and members of the Housing and Buildings Committee for hearing these bills, and resolutions, related to social housing.

About the Association for Neighborhood and Housing Development (ANHD)

ANHD is one of the City’s leading policy, advocacy, technical assistance, and capacity-building organizations. We maintain a membership of 80+ neighborhood-based and city-wide nonprofit organizations that have affordable housing and/or equitable economic development as a central component of their mission. We bridge the power and impact of our member groups to build community power and ensure the right to affordable housing and thriving, equitable neighborhoods for all New Yorkers. We value justice, equity and opportunity, and we believe in the importance of movement building that centers marginalized communities in our work. We believe housing justice is economic justice is racial justice.

Why Support Social Housing

As we continue to face an affordable housing and homelessness crisis, we must commit to building and preserving affordable housing for those who need it most. ANHD members have always provided housing, services, and organizing support in low and moderate income, primarily BIPOC communities. For decades, non-profit developers were the primary entities working with the government to build and preserve affordable housing in communities devastated by disinvestment from for-profit landlords and traditional financing. Our nonprofit developer members, community development corporations (CDCs), were created to build and sustain community-oriented, deeply and permanently affordable housing. While in more recent decades for-profit developers entered the affordable housing business in force, non-profit, mission-oriented developers continue to play a crucial role.

Mission-driven, non-profit developers generally maximize the public benefit of public investment of land and resources in affordable housing. They are both situated and motivated to address the community's needs instead of prioritizing bottom-line economic interests, and to think about long term sustainability rather than short-term profits. Mission-driven, non-profit developers consistently develop at deeper levels of affordability, commit to permanent affordability, and invest developer fees back into community services.

The package of bills being heard today provides our communities with more tools to fight speculation, develop responsibly, move distressed buildings into the hands of responsible community stewards, and ensure that public resources go where they're most needed.

Int. 196

ANHD supports Int. 196. Mission-driven non-profit developers and community land trusts should have the first opportunity to buy apartment buildings when they are up for sale as their rents are skyrocketing, and many tenants are unable to pay, putting them at risk of housing insecurity. Non-profit developers 'and community land trusts' (CLTs) purpose is to keep the buildings affordable and tenants in their homes.

The Community Opportunity to Purchase Act (COPA) creates a right of first offer for a list of pre-qualified developers, including primarily non-profits, MWBEs, as well as those using a CLT ownership structure, when landlords decide to sell their buildings. We cannot continue the cycle of buildings being sold from one for-profit developer to another where tenants continue to live in unsafe and unhealthy living conditions, and experience displacement with rents skyrocket. We need to ensure buildings for sale go to those that do not see housing as a way to profit, but as a human right. This is why we support the passage of COPA.

Int. 637

ANHD supports Int. 637. City owned land should transfer to the stewards of the community - mission-driven non-profit developers and community land trusts. This would ensure public land is used for the public benefit such as deeply affordable housing.

Historically, the city has favored for-profit developers over mission-driven non-profits, even for developments on public land, where the City had control of the outcome. This bill will help to maximize the unique opportunities provided by development on public land, where eliminating acquisition costs makes it possible to achieve deeper levels of affordability compared to private land. We must require publicly owned sites to be developed as 100% permanently affordable housing that reaches those with the most need, and ensure that the land is stewarded by mission-driven, not-for-profit and/or community land trusts (CLTs) to ensure long-term stewardship in the public interest.

Int 714

ANHD supports In. 714, which would establish a land bank for New York City that would be tasked with acquiring, warehousing and transferring real property to develop, rehabilitate and preserve affordable housing.

HD members have worked to develop and use a range of previous tools to facilitate the acquisition of private distressed property, but have often been outpaced and outfinanced in a frequently speculative market. The land bank would provide a more sustainable and flexible mechanism to quickly and flexibly move buildings out of the hands of bad actors, while allowing time for preservation purchasers to put together realistic financing and avoiding the requirement that individual non-profit developers take on undue risk or stretch beyond their capacity to take purchase liens or debt

Int. 932

ANHD supports Int. 932, which would require the Department of Housing Preservation and Development, in collaboration with the Department of City Planning, the Department of Social Services and any other appropriate city agency, to conduct a feasibility study on the establishment of an agency that would focus exclusively on the promotion and development of social housing and report on the findings of the study.

We need bold ideas to get us out of the current housing and homelessness crisis. This study would bring multiple stakeholders together, including non-profit developers and CLTs, to develop a vision of an equitable housing plan for New York City.

Res. 38

ANHD supports the passage of Res. 38, which supports the State Legislature's TOPA legislation. Throughout New York, tenants face horrific conditions in their buildings. Many face a lack of heat and hot water, lack of repairs, and buildings not being cleaned, among other poor conditions.

An opportunity for the State Legislature to accomplish this is TOPA. TOPA gives tenants in eligible buildings the right of first offer and the right of first refusal when a building is offered for sale. This gives tenants the power to change their conditions and create equity in their communities. TOPA also gives tenants the opportunity to partner with mission-driven nonprofit housing developers, whose purpose is to develop and sustain affordable housing, to do the necessary improvements. Cities like Washington D.C. and San Francisco have had TOPA for years and it has been an effective tool to stop displacement and gentrification.

TOPA can be an important tool in sustaining affordable housing, and give tenants the power to control and improve their living conditions, but TOPA legislation alone will not be effective without adequate resources in the budget to fund acquisitions and capital repairs for TOPA buildings.

Res. 344

ANHD strongly supports Res. 344. Enacting and funding the Housing Access Voucher Program (HAVP) (S568A/A4021) would put New York on a pathway to ending the homelessness crisis in our state.

We need immediate solutions to address our housing and homelessness crises. COVID relief and protections have expired, but need has only gotten greater. We need flexible rental assistance that will meet today's crisis. HAVP does this by offering immediate rental assistance to New Yorkers, helping them access permanent housing or from losing it in the first place. Funding HAVP at \$250 million would help an estimated 50,000 people avoid homelessness.

Crucially, HAVP would be available to New Yorkers currently excluded from Federal Section 8 vouchers and other forms of housing subsidy, including families without immigration documentation. Undocumented immigrants have some of the longest shelter stays due to eligibility issues - HAVP would help to relieve that problem and ensure that more New Yorkers can access permanent, affordable housing.

Res. 506

ANHD supports Res. 506. We support legislation to prohibit eviction without good cause - Good Cause Eviction - because it will afford rights and protections to the thousands of tenants

in New York City who live in unregulated apartments Every tenant in New York should live free from the fear of eviction: either formal, through housing court, or informal, through the landlords' decision not to renew the lease or a sudden rent hike. Rent stabilized tenants benefit from the right to renew their leases and from protections against large rent hikes. Good Cause would guarantee almost all New York renters the right to renew the lease with regular annual rent increases, providing a crucial measure of stability and housing security for families across our state.

HPD's 2022 Housing and Vacancy Survey found that 42.9% of New York City's rental stock is private and non-regulated, meaning that 937,000 households are currently subject to arbitrary rent increases and lease terminations. According to analysis by the Community Service Society, 1.6 million renter households statewide are currently vulnerable to no-fault evictions and would be eligible for good cause protections.

The current lack of regulation in many rental units undermines thousands of New Yorkers' ability to assert their rights to repairs or against harassment. All tenants have rights to a safe and habitable home. But many endure a lack of heat, mold, disrepair, and harassment because they fear – for good reason – that if they demand better conditions and assert their rights, their landlord will retaliate by not renewing their lease or imposing an impossible rent hike. Good cause legislation will keep those tenants safely in their homes while guaranteeing protections that existing laws should offer them.

Again, we appreciate the Council's decision to have this hearing and urge the Council to consider passing these legislations to get us closer to the housing we need in New York City.

Thank you for the opportunity to testify. If you have any questions or for more information, please contact Will Depoo at will.d@anhd.org.

Testimony to the New York City Council Committee on Housing and Buildings

February 23, 2023

Good afternoon, Committee Chair Sanchez and members of the Housing Committee. My name is Rachel Goodfriend, co-founder with Allyson Martinez, of Brooklyn Level Up. BKLVLUP was born out of grassroots Community Board organizing efforts in East Flatbush. We organized the 'We Shall Not Be Moved' campaign to educate residents about displacement and land use policies. It became clear that we needed to work on multiple fronts in order to secure our community's future.

Our Little Caribbean community is battling cultural erasure and many low-income residents are losing their homes due to quality of life issues brought on by speculative development. Our community, a historical hub for Black homeowners and entrepreneurs, has seen a significant spike in development in the last 5 years. Rent prices are climbing and more than a quarter of renters are severely rent burdened.

The number of Black homeowners in NYC dropped by 10% from 2002 to 2008, and another 3% by 2017. This inequity affects not only residents but also commercial corridors, where BIPOC-owned small businesses face increasing rents and closure with devastating social effects.

The BKLVLUP Community Land Trust is one powerful tool we can use to combat displacement by integrating grassroots organizing into effective community development of affordable homes, commercial, and communal spaces. The BKLVLUP CLT works to secure affordable places for New Yorkers to live and thrive and we involve our neighbors in every step of the process. The BKLVLUP CLT pairs powerful grassroots organizing with the power of real estate business acumen to ensure real results in the form of equitable real estate development and community ownership.

BKLVLUP is a member of the New York City Community Land Initiative (NYCCLI) alongside almost 20 other CLTs organizing for deeply-affordable social housing, commercial and community spaces, and other needs in low income Black and brown neighborhoods across the five boroughs. Thank you for introducing important legislation to support equitable neighborhood development in our City.

I am proud to testify in support of the Community Land Act, an urgently-needed set of bills that will give CLTs and other nonprofits tools to bring land and housing into permanently affordable community control. The bills including the Community Opportunity to Purchase Act (Intro. 196), Public Land for Public Good (Intro. 637), and Resolution 38 in support of the NYS Tenant Opportunity to Purchase Act, will help level

the playing field for organizations like ours to access properties for community stewardship.

NYC must take bold action to address our city's affordability crisis, combat displacement, and advance racial equity in housing and land use. Collective land ownership through CLTs is one of the most effective ways to achieve these public policy objectives. **CLTs are community development vehicles that help solve for the disconnect** between grassroots organizing and achieving needed Real Estate investments. There is a strong coalition of grassroots CLTs in NYC but acquiring land for community stewardship remains a challenge. The proposed legislation would support CLT property acquisitions and allow us to actually move projects forward for the good of our communities.

Passage of the Community Land Act will help our organizations take land off the speculative market and provide the deeply affordable housing and other resources our communities need.

To improve the current bill, we recommend that the Council:

- As part of COPA (Intro 196) Add a right of first refusal for qualified nonprofits: As currently drafted, the bill does not provide qualified entities a clear right of first refusal, i.e. the right to buy on the same terms as a competing offer, which is standard in other Community and Tenant Opportunity to Purchase policies.
- And Include Vacant Property: We urge the City Council also to expand the definition of "Residential Property" subject to COPA to include vacant property zoned for residential buildings with three or more units.
- As part of "Public Land for Public Good (Intro 637) Expand the entities that will qualify as a bona fide bidder to include joint ventures where a nonprofit has at least 51% of ownership
- And create a new definition of a Community Land Trust in the NYC admin code that recognizes that CLTs do work beyond housing. This can be done in this bill or through a separate piece of legislation. NYCCLI is happy to share a new CLT definition with the Committee.

Also, we join with NYCCLI coalition partners in calling for important changes to be made to the NYC Land Bank bill (Int. 714), before offering our support. These changes include adding green infrastructure in IBZs, community facilities, retail, commercial or other community uses as uses for which the land bank can transfer land automatically, as

long as the transfer is to a CLT, CLT working with a developer, CDC or other nonprofit; prioritizing CLTs and nonprofits in *all* land bank dispositions (not just for affordable housing); prioritizing *permanent* affordability in all housing dispositions; and ensuring CLT representation on the land bank's governing board.

We also look forward to working with the Council on a replacement system for municipal debt collection, the final component of the Community Land Act. As a majority of this Council has agreed, our new system must 1) put public debt collection back in the hands of the City instead of private agents, 2) prevent displacement of homeowners and tenants, 3) promote long term affordability through CLTs and partnerships with trusted non-profit developers, and 4) create a pathway for productive use for vacant lots and unoccupied buildings.

Thank you again for the opportunity to testify.

Testimony to the New York City Council Committee on Housing and Buildings

February 23, 2023

Good afternoon, Committee Chair Sanchez and members of the Housing Committee. My name is Rachel Webster and I am the Board President of Brooklyn Level Up. BKLVLUP was born out of grassroots Community Board organizing efforts in East Flatbush. We organized the 'We Shall Not Be Moved' campaign to educate residents about displacement and land use policies. It became clear that we needed to work on multiple fronts in order to secure our community's future.

Our Little Caribbean community is battling cultural erasure and many low-income residents are losing their homes due to quality of life issues brought on by speculative development. Our community, a historical hub for Black homeowners and entrepreneurs, has seen a significant spike in development in the last 5 years. Rent prices are climbing and more than a quarter of renters are severely rent burdened.

The BKLVLUP Community Land Trust is one powerful tool we can use to combat displacement by integrating grassroots organizing into effective community development of affordable homes, commercial, and communal spaces. The BKLVLUP CLT works to secure affordable places for New Yorkers to live and thrive and we involve our neighbors in every step of the process. The BKLVLUP CLT pairs powerful grassroots organizing with the power of real estate business acumen to ensure real results in the form of equitable real estate development and community ownership.

BKLVLUP is a member of the New York City Community Land Initiative (NYCCLI) alongside almost 20 other CLTs organizing for deeply-affordable social housing, commercial and community spaces, and other needs in low income Black and brown neighborhoods across the five boroughs. Thank you for introducing important legislation to support equitable neighborhood development in our City.

I am proud to testify in support of the Community Land Act, an urgently-needed set of bills that will give CLTs and other nonprofits tools to bring land and housing into permanently affordable community control. The Community Land Act includes the Community Opportunity to Purchase Act (Intro. 196), Public Land for Public Good (Intro. 637), and Resolution 38 in support of the NYS Tenant Opportunity to Purchase Act. These bills will help level the playing field for organizations like ours to meet our communities' housing and economic development needs.

We urge the Committee and City Council to pass:

COPA (Int 196) to give qualified nonprofits the first right to purchase multifamily buildings when a landlord decides to sell. Modeled on successful legislation implemented in Washington, D.C., and San Francisco, COPA would help curb speculation and expand the supply of permanently-affordable, community-controlled housing.

To improve the current bill, we recommend that the Council:

- Add a right of first refusal for qualified nonprofits: As currently drafted, the bill does not provide qualified entities a clear right of first refusal, i.e. the right to buy on the same terms as a competing offer, which is standard in other Community and Tenant Opportunity to Purchase policies.
- Include Vacant Property: We urge the City Council also to expand the definition of “Residential Property” subject to COPA to include vacant property zoned for residential buildings with three or more units.

Resolution 38, calling on the NYS legislature and Governor Hochul to enact the Tenant Opportunity to Purchase Act, which would extend Opportunity to Purchase rights directly to tenants, and apply the regulation to a greater universe of buildings. By giving tenants the first right to collectively purchase their buildings when a landlord sells, or to partner with a mission-driven developer to acquire the property, TOPA would dramatically increase community-controlled housing in NYC and give tenants a voice in determining the fate of their own homes.

Public Land for Public Good Act (Int 637), which would require NYC to prioritize CLTs and nonprofit developers when disposing of City-owned land, to ensure public land is used for permanently-affordable housing and other public benefits. Currently, most City-owned land goes to for-profit developers, contributing to market-rate development and displacement in low-income Black and Brown communities. Public Land for Public Good will make sure we are prioritizing deep, permanent affordability and community wealth building.

To improve the current bill, we recommend that the Council:

- Expand the entities that will qualify as a bona fide bidder to include joint ventures where a nonprofit has at least 51% of ownership
- Create a new definition of a Community Land Trust in the NYC admin code that recognizes that CLTs do work beyond housing. This can be done in this bill or through a separate piece of legislation. NYCCLI is happy to share a new CLT definition with the Committee.

We join with NYCCLI coalition partners in calling for important changes to be made to the NYC Land Bank bill (Int. 714), before offering our support. These changes include adding green infrastructure in IBZs, community facilities, retail, commercial or other community uses as uses for which the land bank can transfer land automatically, as long as the transfer is to a CLT, CLT working with a developer, CDC or other nonprofit; prioritizing CLTs and nonprofits in *all* land bank dispositions (not just for affordable housing); prioritizing *permanent* affordability in all housing dispositions; and ensuring CLT representation on the land bank's governing board. These changes will help ensure the land bank serves as a strong partner to CLTs and other social housing providers. NYCCLI has provided detailed suggestions to bill sponsors, and we look forward to supporting a strong next version of the bill.

We also look forward to working with the Council on a replacement system for municipal debt collection, the final component of the Community Land Act. As a majority of this Council has agreed, our new system must 1) re-municipalize public debt collection, 2) prevent displacement of homeowners and tenants, 3) promote long term affordability through CLTs and partnerships with trusted non-profit developers, and 4) create a pathway for productive use for vacant lots and unoccupied buildings.

Thank you again for the opportunity to testify.

**Testimony to the New York City Council
Committee on Housing and Buildings**

February 23, 2023

Good afternoon, Committee Chair Sanchez and members of the Housing Committee. Thank you for holding today's hearing and for the opportunity to testify. My name is Noelle Meyers-Powell and I am the Community Partnerships Director at the Brownsville Partnership.

I am submitting this testimony in support of the Community Land Act, an urgently-needed set of bills that will give CLTs and other nonprofits tools to bring land and housing into permanently affordable community control. NYC must take bold action to address our city's affordability crisis, combat displacement, and advance racial equity in housing and land use in neighborhoods like Brownsville shaped by decades of systematic disinvestment. Collective land ownership through CLTs is one of the most effective ways to achieve these public policy objectives. The Community Land Act includes the Community Opportunity to Purchase Act (Int. 196), Public Land for Public Good (Int. 637), and Resolution 38 in support of the NYS Tenant Opportunity to Purchase Act. These bills will help level the playing field for organizations like ours to meet our communities' housing and economic development needs.

The Brownsville Partnership is working with residents to implement the Brownsville Community Land Trust (BVCLT) as the centerpiece of racially and economically equitable development planning for the neighborhood of Brownsville Brooklyn.

We want to share with you the power of prioritizing public lands for public good. Over the past year, the Brownsville Partnership with its partners advanced progress on two comprehensive redevelopments with significant affordable housing, community, and cultural infrastructure in addition to programs for households impacted by the criminal justice system. The Rise, a supportive housing project with a rooftop garden and a community facility, broke ground in October 2022. Through an agreement, the building will be transferred to the BVCLT at the end of its financial tax credit period (15 years) and the BVCLT will play a role in ongoing governance and stewardship once the building is complete in 2024. Our second site is part of four sites, the Livonia 4 that received our Mayoral ULURP approval just this month. Livonia C2 will have eighty units of family housing and a storefront community facility and is slated to be the first project under stewardship of the BVCLT.

Both of these sites are public land - The Rise is a Vital Brooklyn site - State of NY. The Livonia 4 projects are on city owned land. As a result of resident participation and leadership through the blueprint known as the Brownsville Plan, the city sites were prioritized for affordable housing, resident workforce opportunities, healthy food options, recreation space for youth, community gardens and more.

The Community Land Act ensures that these high impact transformations of public lands into community-owned affordable housing and assets are not the exception or the result of protracted, costly and complex negotiation. Rather, the Community Land Act is the tool that our city has

been missing needed to strengthen and expand social housing and equitable neighborhood development.

The Brownsville Partnership is a member of the New York City Community Land Initiative (NYCCLI), an alliance of grassroots, affordable housing, environmental and economic justice organizations working to promote community land trusts (CLTs) and neighborhood-led development. NYCCLI members include close to 20 CLTs organizing for deeply-affordable social housing, commercial and community spaces, and other needs in low income Black and brown neighborhoods across the five boroughs.

The City Council has made important investments in CLTs, including ours, in recent years – helping us to build staff and internal capacity, educate and organize community members, develop grassroots leaders, and bring innovative projects, like the Rise and Livonia C2, to fruition. Passage of the Community Land Act will help our organizations take land off the speculative market and provide the deeply affordable housing and other resources our communities need.

We urge the Committee and City Council to pass:

COPA (Int 196) to give qualified nonprofits the first right to purchase multifamily buildings when a landlord decides to sell. Modeled on successful legislation implemented in Washington, D.C., and San Francisco, COPA would help curb speculation and expand the supply of permanently-affordable, community-controlled housing.

To improve the current bill, we recommend that the Council:

- *Add a clear right of first refusal for qualified nonprofits: As currently drafted, the bill does not provide qualified entities a clear right of first refusal, i.e. the right to buy on the same terms as a competing offer, which is standard in other Community and Tenant Opportunity to Purchase policies.*
- **Include Vacant Property:** We urge the City Council also to expand the definition of “Residential Property” subject to COPA to include vacant property zoned for residential buildings with three or more units.

Resolution 38, calling on the NYS legislature and Governor Hochul to enact the Tenant Opportunity to Purchase Act, which would extend Opportunity to Purchase rights directly to tenants, and apply the regulation to a greater universe of buildings. By giving tenants the first right to collectively purchase their buildings when a landlord sells, or to partner with a mission-driven developer to acquire the property, TOPA would dramatically increase community-controlled housing in NYC and give tenants a voice in determining the fate of their own homes.

Public Land for Public Good Act (Int 637), which would require NYC to prioritize CLTs and nonprofit developers when disposing of City-owned land, to ensure public land is used for permanently-affordable housing and other public benefits. Currently, most City-owned land goes

to for-profit developers, contributing to market-rate development and displacement in low-income Black and Brown communities. Public Land for Public Good will make sure we are prioritizing deep, permanent affordability and community wealth building.

To improve the current bill, we recommend that the Council:

- Expand the entities that will qualify as a bona fide bidder to include joint ventures where a nonprofit has at least 51% of ownership
- Create a new definition of a Community Land Trust in the NYC admin code that recognizes that CLTs do work beyond housing. This can be done in this bill or through a separate piece of legislation. NYCCLI is happy to share a new CLT definition with the Committee.

We join with NYCCLI coalition partners in calling for important changes to be made to the NYC Land Bank bill (Int. 714), before offering our support. These changes include adding green infrastructure in IBZs, community facilities, retail, commercial or other community uses as uses for which the land bank can transfer land automatically, as long as the transfer is to a CLT, CLT working with a developer, CDC or other nonprofit; prioritizing CLTs and nonprofits in *all* land bank dispositions (not just for affordable housing); prioritizing *permanent* affordability in all housing dispositions; and ensuring CLT representation on the land bank's governing board. These changes will help ensure the land bank serves as a strong partner to CLTs and other social housing providers. NYCCLI has provided detailed suggestions to bill sponsors, and we look forward to supporting a strong next version of the bill.

We also look forward to working with the Council on a replacement system for municipal debt collection, the final component of the Community Land Act. As a majority of this Council has agreed, our new system must 1) re-municipalize public debt collection, 2) prevent displacement of homeowners and tenants, 3) promote long term affordability through CLTs and partnerships with trusted non-profit developers, and 4) create a pathway for productive use for vacant lots and unoccupied buildings.

We thank the Committee for holding today's hearing and for introducing this bold legislation.



February 21st, 2023

Pierina Sanchez, Chair
NYC Council Committee on Housing and Buildings

RE: COPA Bill and Community Lands Act

Dear Chair Sanchez:

I am writing this letter on behalf of the Council of Community Housing Organizations in San Francisco. For over 40 years, we have played a leading role in innovating affordable housing strategies and advancing groundbreaking policies to expand affordability, prevent displacement, and stabilize local communities. Together, our 22 member organizations have been responsible for over 30,000 new or preserved affordable homes, winning nearly \$6.5 billion in dedicated funds for affordable housing, creating thousands of jobs, and helping to foster healthy and equitable communities.

In 2019, San Francisco passed a Community Opportunity to Purchase Act policy after five years of implementing a pilot Small Sites Acquisition program. This policy established a tool to level the playing field for mission-driven community based organizations to preserve the homes of existing vulnerable tenants. Subsequently in 2020, we brought to the voters a revenue measure, Proposition I, to develop a source of revenue to further finance preservation efforts. This trio of interventions has helped to build up our preservation toolbox and implement a program that is turning back gentrification, one building at a time. It has enabled local communities, in partnership with community development organizations and the public sector to counteract a long term trend of losing our affordable housing stock of rent stabilized housing.

To date, San Francisco's Acquisition and Preservation programs have deployed more than \$186.1 million in funding to preserve 47 projects with 37 commercial spaces, and 519 residential units.¹ These acquisition programs were created to protect long term affordable housing in properties throughout San Francisco that are particularly vulnerable to market pressure and resulting property sales, increased evictions and rising tenant rents. Acquired properties are

1

<https://sf.gov/sites/default/files/2022-06/MOHCD%20Annual%20Progress%20Report%20FY2020-2021.pdf>

converted to permanent affordable housing with rents at an average of 80% AMI, and available to families earning up to 120% AMI.

We still have a long way to go to build up the community development capacity and shore up the needed resources to fully implement preservation efforts and we are in the process of exploring needed reforms, such as how just cause, affordability provisions, and priority of investments, are determined in order to stabilize communities facing extreme displacement pressures. But the tool has caught on and, and there is a current effort in the California legislature to move the Community Anti Displacement Program, a \$500 million fund, to finance preservation efforts across the state.

We are excited to learn about the Community Lands Act and COPA policy under consideration in New York City and urge you to establish a strong collaborative effort from the get-go, and put in place the trio of legislative, funding, and community capacity to ensure long term sustainability. Should you have any questions, feel free to contact me at charlie@sfic-409.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Charlie Sciammas", with a large, stylized flourish at the end.

Charlie Sciammas
Policy Director

February 23, 2023

New York City Council

250 Broadway, New York, NY 10007

Dear Councilmembers,

As the Director of the National Land Bank Network, hosted by the Center for Community Progress, I respectfully submit testimony in support of the proposed legislation creating the New York City Land Bank ([NYC Land Bank \(int 714\)](#)). The Center for Community Progress is a national nonprofit that helps communities transform vacant spaces into vibrant places. Since 2010, our team of national experts has provided communities with the policies, tools, and resources they need to address the full cycle of property revitalization.

While unable to comment on the specific details of the legislation, and not knowing how well-integrated the proposed land bank will be with the City's approach to delinquent property tax collection and enforcement—a key element that will determine the effectiveness of the land bank—I submit this letter in support of land banks *in general* and where appropriate as a powerful community development tool to address vacant, abandoned, and deteriorated properties in an equitable manner that supports local priorities.

Land banks are public authorities focused on the conversion of vacant, abandoned, and deteriorated (VAD) properties into productive uses that align with communitywide goals. Since 2010, more than 250 land banks have been launched across the United States to acquire, maintain, and steward these properties to productive uses that meet local goals, such as equitable development, inclusive neighborhoods, and resilient communities. Land banks have helped transform neighborhoods in places that face widespread vacancy stemming from economic changes, natural disasters, and other events.

A new report released this month that the Center for Community Progress prepared in partnership with the New York Land Bank Association includes the following:

- a. “As of October 2022, there are 26 land banks of incredible diversity serving more than 70% of the state's population outside of New York City. Since 2013, these community development entities have acquired **5,205 problem properties**, attracted and catalyzed investments of approximately **\$480,000,000** in urban, rural, and suburban neighborhoods, returned

\$134,219,946 in assessed value to the tax rolls, and generated **\$56,000,000** in sales proceeds, which were rolled back into land bank interventions or shared back with local and county governments to support other public services.”

As the report outlines and as we’ve seen across the country, well-designed land banks in communities with some level of vacancy and abandonment, can achieve multiple goals, such as building stronger and safer neighborhoods; expanding the production of affordable housing, remediating and activating contaminated sites; advancing racial equity and community resiliency, and supporting workforce development goals. Land banks are amazing tools to help communities deal with large numbers of VAD properties, fragmented inventories, property with little market value, and restrictive public property disposition requirements. While land banks often play integral roles in community strategies to address affordability, their power comes from interrupting the inequities that result from weaker real estate markets. Our experience has shown that the utility of a land bank declines as the housing market strengthens. And a land bank’s ability to achieve its goals are seriously compromised by the practice of selling tax liens, which can narrow or even eliminate the pipeline of properties a land bank might acquire and steward to uses that meet community goals.

In all communities exploring land banking, we encourage local leaders and advocates not to generate unrealistic expectations about how this land bank can “solve” any housing crisis. In the context of this specific bill, we encourage local leaders to take advantage of the flexibility of this tool, and design it with a laser-focus on the unique needs of the community it is to serve. Given the significant crisis around housing affordability in NYC and other large, metro areas with strong real estate markets, we encourage local officials to ensure those most impacted and the entities working to advance housing justice are centered in both the design and implementation of the land bank.

We have been a strong partner and resource to the New York Land Bank Association for nearly ten years, and we commend City leaders, advocates, and neighborhood champions for recognizing the need to reimagine the status quo to better serve the housing needs of the residents in your great city.

Sincerely,

Brian Larkin
Director, National Land Bank Network
Center for Community Progress
blarkin@communityprogress.org



February 23, 2023

New York City Council
Committee on Housing and Buildings

Testimony of the Community Housing Improvement Program re: Intros 196 and 714

This testimony is submitted by the Community Housing Improvement Program, also known as CHIP. We represent small and mid-sized rent-stabilized housing providers in New York City. Thank you to Councilmember Sanchez for her focus on these important issues. We also thank Council Members Rivera and Brewer for sponsoring Intros 196 and 714, respectively.

We support the intent of these bills to increase the amount of affordable housing that is available to low, very low, and extremely low income households. However, the practical impacts of these bills, and the mechanics of how they work, need to be considered further. Creating additional opportunities for not-for-profit housing providers to acquire property is an important step. But any legislation must also attempt to limit distortions in the market pricing and the flow of transactions.

Another important piece of the puzzle for increasing opportunity for affordable housing providers is financing. These entities can be in a stronger position to purchase properties by providing them with capital. We believe the bigger obstacle to non-profit housing providers is obtaining the capital and financing to compete in the market place with private entities. The legislation does nothing to address this fundamental issue.

We also think the council should look to other jurisdictions that have implemented first opportunity to purchase laws and land banks as case studies to determine what worked and what did not. Washington D.C. has had similar legislation in place since 1980, but studies suggest that the program was not functional until a funding source was created that would permit current residents to exercise the rights to purchase. In addition to financing issues, the time frame in Intro 196 for the first opportunity to purchase is too long. Shortening that period would be a first step in bringing this legislation into something that can work in practice. A shorter period would still allow tenants the first opportunity to purchase without further harming distressed building owners or their tenants, or deterring sales activity from which the city receives substantial revenue. We also believe that the law should not have any effect on current listings and should only apply to listings posted after the effective date.

CHIP supports programs and policies that will improve housing in the city. We look forward to working with the sponsors and other council members to ensure this legislation does not have unintended negative consequences and can be practically implemented. Thank you.

**New York City Council
Committee on Housing and Buildings Hearing
Thursday, February 23, 2023**

Testimony submitted on behalf of the Community Preservation Corporation

The Community Preservation Corporation (CPC) is a nonprofit affordable housing and community revitalization company that was formed in the early 1970s to help New York City and State restore and rebuild communities that had been devastated by deterioration and abandonment. Today, CPC uses its unique expertise in housing finance and public policy to expand access to housing and drive down the costs of affordable housing production, advance diversity and equity within the affordable housing development industry, and address the effects of climate change in our communities through the financing of sustainable housing. Since our founding, CPC has invested over \$14 billion to finance the creation and preservation of more than 225,000 units of housing through our lending and investing platforms. We are proud of our almost-50 year track record of working with a diverse cross section of developers across New York City and State, from national for-profit and not-for-profit companies to mom-and-pop landlords developing their first rental unit.

Today's Committee on Housing and Buildings Hearing considers numerous pieces of legislation that would negatively impact the housing and buildings landscape in New York City. On behalf of the Community Preservation Corporation, we oppose the following pieces of proposed legislation:

Introduction 0196-2022: Councilmember Rivera's legislation on first opportunity to purchase would hinder affordable housing preservation by adding a time-intensive and complex process onto residential property transactions. The legislation proposes oversight by HPD, an immense and unrealistic undertaking for an agency that is already overburdened and under capacity.

Introduction 0932-2023: Councilmember Brewer's legislation to establish a citywide land bank is unnecessary as there are already existing entities in New York City that could take on these activities in partnership with the city. The Council should take advantage of existing organizational infrastructure rather than create new and redundant entities.

Introduction 0932-2023: Councilmember Nurse's legislation calling for a feasibility study of establishing a social housing agency is unnecessary and would only serve to divert attention away from improving the efficiency, capacity, and impact of existing housing agencies.

Introduction 0637-2022: Councilmember Restler's legislation concerning the disposition of real property of the city to not-for-profit entities is the kind of exclusionary public policy that the city is trying

to get rid of, not do more of. We urge the City Council to oppose Intro 637 and instead explore alternative requirements for the disposition of public land that increase opportunities for emerging developers.

This remainder of this testimony will focus specifically on Introduction 0637-2022.

In 2020, CPC launched ACCESS, a \$40 million new initiative funded by CPC to further our deep commitment to providing capital to underserved communities. ACCESS was created with the explicit goal of empowering Black Indigenous People of Color (BIPOC) developers by providing funding, education, and other resources to build their capacity to compete in the real estate industry, while intentionally investing in projects that bring high quality housing to communities of color. Under ACCESS, CPC provides flexible debt and equity capital, technical assistance, recoverable grants, and other resources to BIPOC real estate developers. Through ACCESS, we utilize CPC's existing connections with customers, partners, and stakeholders to address racial inequities impacting the physical, social, and economic infrastructure of communities.

In support of ACCESS, CPC assembled an Advisory Council of leading industry professionals to support this important work. The Advisory Council, the vast majority of whom are BIPOC developers themselves, has undertaken research to better understand the roadblocks that emerging BIPOC developers face as they break into real estate development. Through the ACCESS Advisory Council, we have heard many concerns about the negative impacts of well-intended legislation that hinder emerging BIPOC developers from succeeding in New York City. Introduction 0637-2022, introduced by City Councilor Restler, would require city land dispositions for affordable housing or for any other public purpose to prioritize not-for-profit developers and community land trusts. While this legislation could succeed in preventing large corporate entities from obtaining city land for cheap, it stands to disempower emerging developers, especially BIPOC individuals who have historically faced exclusion from the real estate industry, and would pit them against established nonprofit entities against whom they cannot compete. This

discriminatory legislation would continue the cycle of exclusion of BIPOC developers from New York City's real estate development industry.

To make meaningful progress towards closing the racial capital gap and increasing BIPOC developer capacity and activity, we urge the City Council to oppose Intro 0637-2022 and instead develop a process for "the disposition of land for affordable housing or any other public use or purpose" that prioritizes development teams led by emerging BIPOC developers. Many not-for-profit developers already have the capacity and qualifications to compete for market-rate land and competitive projects, whereas often emerging BIPOC developers without a foothold in this market do not. While we recognize, applaud, and encourage the work of our not-for-profit partners, the City Council should prioritize deploying public land dispositions for affordable housing or other public purposes to a higher purpose – to build the capacity, opportunity, and wealth of emerging BIPOC developers seeking to break into and succeed in New York City's real estate industry.

Thank you to the New York City Council’s Committee on Housing and Buildings for holding this hearing on social housing. Our names are Samuel Stein and Oksana Mironova and we are senior policy analysts at the Community Service Society of New York (CSS), a leading nonprofit that promotes economic opportunity for all New Yorkers. CSS uses research, advocacy, and direct services to champion a more equitable city and state. We are also a member of the New York City Community Land Initiative and the Right to a Roof coalition.

What is social housing?

We define social housing models as those that strive to achieve permanent affordability, social equality, and democratic resident control. These goals are reflected, to varying degrees, in existing U.S. affordable housing programs, including public housing, nonprofit-managed rentals, and privately-run, limited-equity cooperatives on land stewarded by community land trusts. But these existing programs don’t all live up to the three main social housing goals equally. Just how “social” each model is depends less on ownership structures than on how well it shields the housing from market pressures, promotes racial and economic integration, and allows for robust resident governance.

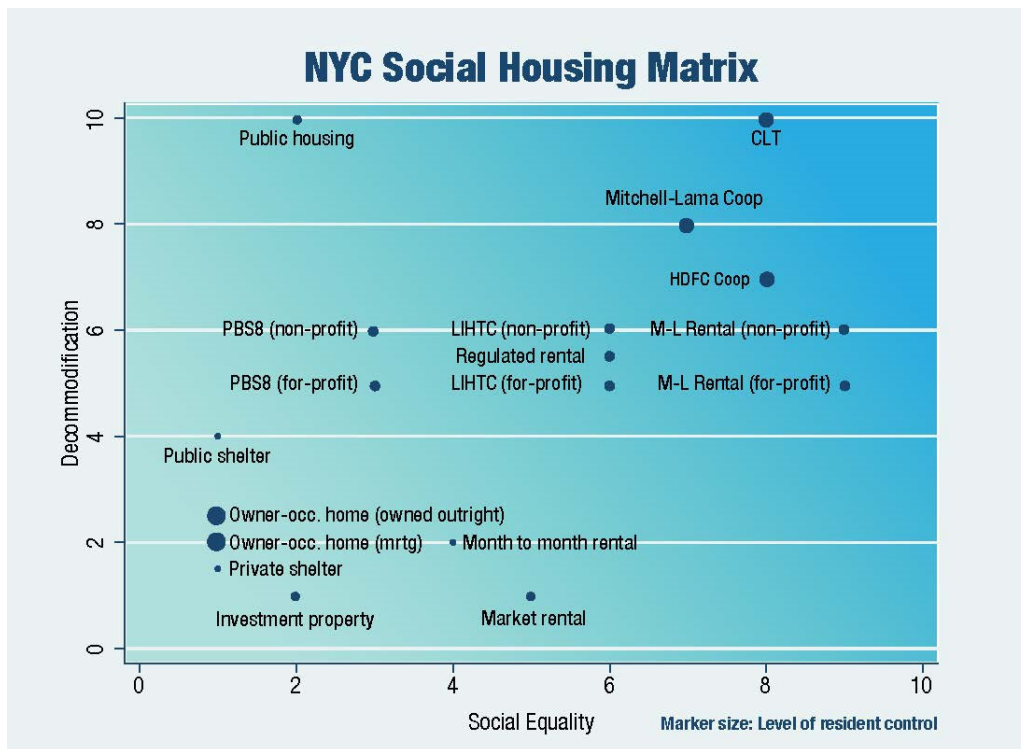
The first key goal of social housing policy is to create “housing in the public interest,” or, to redefine housing as a public good, like mass transit, libraries, or schools. Functionally, this means that the public and/or nonprofit sector assume stewardship responsibilities over the housing in perpetuity. While guaranteeing a level of affordability is central to social housing, it also insulates housing from market pressures. Through a commitment to permanent affordability, owners do not face either the financial incentive to raise rents and sale prices or the financial need to do so, to borrow money for repairs. This also reduces the financial risk of property ownership and the potential for property speculation, which is driven by investors using projections of quickly increasing rent rolls and/or underlying property values to take on risky debt.

The second goal is social equality through the reduction of segregation by race and income, and the diminished impact of policies that bestow privileges on different members of the public based on tenure (ranking homeowners above renters and the unhoused). According to the Homes Guarantee platform, “social housing is based on the fundamental principle that everyone—no matter their income, background, or their conformity to social or legal norms—has the right to a home.” In Nordic countries social housing models often employ a “universalist” approach, providing housing for people across income levels, not just those poorly served by the private market. Accessibility, including Americans with Disabilities Act (ADA) modifications and wraparound supportive services, are a key component of ensuring social housing is truly available to everyone.

The third and perhaps most ambitious goal of social housing is democratic resident control. Real control means that residents can and do meaningfully participate in building governance. This is only possible if residents have very strong rights and the resources to organize, formulate their policy preferences, and use their rights effectively.

New York’s existing social housing stock

New York City and New York State already support a plethora of social housing models, including rentals (public housing, Mutual Housing Associations, Mitchell Lama rentals), limited-equity cooperatives (HDFC coops, Mitchell-Lama coops, Resident Owned Communities) and alternative forms of land tenure (Community Land Trusts). There are concrete differences between for-profit and social housing building operations. A private landlord seeking quick and lucrative profits will generally maximize debt leverage, minimize expenses, and attempt to increase rental income at every opportunity. A social housing operator aims to only take on debt when necessary, reinvest revenues back into the building to ensure good housing quality, and keep rents within the bounds of affordability agreements. Whereas our status quo model of housing has produced deep racial inequality, persistent homelessness and widespread precarity, social housing models aim to achieve exactly the opposite: racial equity, abundant affordability and self-determination.



Despite these distinctions, existing social housing models are far from perfect; there have been significant challenges in keeping this housing permanently affordable and in operating the properties in line with the ideals laid out above. Any serious social housing strategy must acknowledge those failures on their own terms, while recognizing the effect of the past several decades of fiscal austerity. As in so many other arenas, local, state, and federal austerity set social housing up for failure, leading to both its physical degradation and a hollowing of the expertise and democratic institutions required to successfully create and operate it.

Austerity also winnowed the public's faith in the government as a reliably positive actor in the provision of housing. And while public funding for social housing has been slashed over the preceding decades, public subsidies and support for countless models of for-profit housing have proliferated, from state tax breaks for luxury construction (like 421-a and 485-a) to federal subsidies for single-family home mortgages (like the home mortgage interest deduction, or Freddie Mac and Fannie Mae backed financing). For most of the 20th century, our city, state and federal governments supported suburban homeowners and urban landlords, while claiming poverty when it came to funding public and social housing alternatives.

Meanwhile, the federal government – along with banks, conservative think tanks, and other aligned organizations periodically presented private homeownership (and sometimes landlordism) to low-income people of color living in cities as the primary pathway to economic growth and stability. These positive outcomes, however, were never guaranteed. In fact, programs that promised entry into private homeownership for low-income people – and for African American first-time homeowners in particular – often relied on households taking on unsustainable debts or accessing poor quality homes, subjecting them first to dangerous conditions and then to foreclosure. Historian Keeanga-Yamahtta Taylor calls this process “predatory inclusion” for the ways it weaponized homeownership into yet another tool of racial discrimination.

The challenge for social housing advocates, then, is to buck these historical trends of austerity and predation and offer instead models of housing that not only promise but deliver on the ideals of decommodification, deep affordability, and democracy. This is a tall order, and one that will be achieved through a host of policies, actions and approaches. Thus, we present here a set of pathways rather than a single silver bullet.

Pathways to social housing

This past fall, the Community Service Society released a major new report, authored by Oksana Mironova, Samuel Stein, Celeste Hornbach and Jacob Udell, entitled *Pathways to Social Housing in New York: 20 Policies to Shift from Private Profit to Public Good*. In the report, we attempt to chart out a landscape of policies that would help promote social housing in our city and state,

and, for each policy, offer clear information about what branch and level of government could be responsible, what kind of budget it would require, how it connects to the other policies, and how we might think about its impacts. We are very happy to see that the bills under consideration today are each named as major pathways to social housing in our report. The following are excerpts from the *Pathways to Social Housing* report that shed light on the merits of the types of bills under consideration.

Community Opportunity to Purchase Act/Tenant Opportunity to Purchase Act

One way to stop the predatory cycle of real estate speculation that plagues neighborhoods and buildings is to give tenants, public agencies and nonprofits a chance to intervene in building sales and offer them incentives to create social housing. New York State and City are currently considering legislation that would create a state Tenant Opportunity to Purchase Act (TOPA) program and a municipal Community Opportunity to Purchase Act (COPA) program. As currently written, COPA would give pre-approved nonprofit organizations and community land trusts a first shot at buying any rental building in New York City. TOPA would give tenants the right to make the first offer and the right of first refusal, or to assign their rights to a pre-approved nonprofit organization or public housing authority, if their landlord decides to sell their building. COPA would be a stronger and more effective law if it too were designed as a full right of first refusal for tenant- and non-profit purchasers.

Where such laws exist, they were usually implemented in response to rapidly changing market dynamics. For example, Washington DC's law gave tenants more control over their housing during a period of rampant disinvestment in the 1980s, while Berlin's law extended tenant protections during a period of aggressive and speculative investment in the 2010s. Just a couple of years ago, San Francisco implemented COPA as an anti-gentrification measure. DC's law supported the conversion of 4,400 rental units in 99 buildings in gentrifying neighborhoods into limited equity cooperatives, stabilizing buildings primarily occupied by low- income tenants of color. Berlin uses its right of first refusal (Vorkaufsrecht) law in neighborhoods with high displacement pressure to purchase properties directly, protecting over 9,500 units between 2017 and 2021. Today, Boston, Somerville, Minneapolis, Berkeley, and Oakland are pursuing various versions of right of first refusal laws.

Right of first refusal laws are built on several pillars:

- **Neighborhood Stabilization:** gives tenants the ability to safely stay in their homes instead of being subject to displacement or neglect when a building is sold.
- **Permanent Affordability:** enshrines the legal rights of tenants and mission-driven nonprofits to acquire buildings that are for sale in order to convert them into permanently affordable social housing.

- **Community Wealth:** gives residents the ability to collectively exercise agency over the future ownership model of their housing and the opportunity to own the building in common or empower a community-based actor (like a CLT or trusted nonprofit) to take ownership.
- **Resident Control:** gives tenants more control where they live, regardless of a sale or foreclosure. TOPA laws strengthen the impact of housing court lawsuits, rent strikes, and other tools organized tenants use to enforce their rights. By complicating landlords' ability to "walk away from the table" (i.e., sell the building), TOPA laws enhance tenants' ability to collectively bargain with their landlords around repairs and rent increases.

Introducing this new right in New York State will alter the real estate industry's calculations and disincentivize business strategies based on buying a building, working to quickly raise the income through cutting services or raising rents, then immediately flipping the building for a profit. COPA and TOPA could also insert reasonable price setting into the equation: by giving tenants the right to an appraisal, they will have a new organizing tool to challenge some of the most predatory transactions.

Public Land for the Public Good

The most direct way for municipalities to convert buildings into social housing is to use public property, particularly the vacant, abandoned, tax-delinquent, or otherwise distressed lots and buildings over which local governments have jurisdiction. Employing this distressed stock towards the creation of social housing, however, requires a major shift away from long-standing practices on two fronts. First, municipalities and public agencies must stop passing publicly-owned property to private actors. Second, they must return to the bold use of tools like municipal foreclosure, and even eminent domain, to acquire and transfer private housing under poor stewardship to social housing entities

Today, the predominant policy goal in public property disposition is to return them to the tax rolls, providing the economic justification for transferring properties to private actors at extremely discounted prices. An analysis by the Association for Neighborhood Housing and Development, for instance, found that between 2014 and 2018, 75 percent of New York City's vacant public land dispositions went to for-profit entities — sometimes for just \$1 per parcel.

Passing the Public Land in Public Hands bill would go a long way toward ensuring that we have solid ground on which to build new social housing across the city.

Abolish the Tax Lien Sale

In cases of publicly-owned, occupied residential buildings, there is a similarly long pattern of transfers to private actors. In the 1970s and 1980s, following the devastation of landlord abandonment and mass municipal foreclosures, tenants and nonprofit groups used persistent organizing and sweat equity to get the city to transfer buildings into their control, creating a major wave of social housing conversions. The New York City Housing Authority also frequently took ownership of distressed land and housing, temporarily transferring the ownership to private entities for redevelopment, then regaining title after construction and ultimately operating the buildings as public housing. At the same time, however, city agencies transferred thousands of similar properties to for-profit private actors, which was later understood to lead to far inferior outcomes for tenants, as compared to social housing transfers.

During the Giuliani mayoralty, New York City took a step backward, moving away from municipal foreclosure and toward a system of selling municipal liens to a trust operated by a private and unaccountable third-party entity. This system squandered any leverage New York City had to convert residential properties into forms of social housing, leaving behind tenants in physically distressed and tax delinquent rental housing, while putting undue pressure on low-income homeowners of color. While this particular kind of bulk tax lien sales do not exist outside of New York City, upstate municipalities also commonly sell off publicly-owned housing to private investors, usually through opaque and undemocratic land banks.

In place of the prevailing attitude, we need public agencies to resume using municipal foreclosure to intervene in distressed housing, while also learning from the mistakes of the past. This would both hold predatory and negligent landlords accountable, and allow for more properties to be transferred to responsible owners via a social housing entity. Specifically, we must abolish the tax lien sale in New York City — the epitome of bad policy that prioritizes private investors over homeowners and tenants — and move away from selling tax foreclosed housing to private investors throughout New York State. In place of these approaches, we should establish a new process for public tax collection, in rem foreclosure, and disposition to Community Land Trusts (CLT) and other forms of collective, cooperative, and/or public ownership.

The goals of such a program would be to: 1) re-municipalize public debt collection; 2) prevent displacement, either of owner-occupiers or tenants; and 3) promote long-term affordability through community ownership and social housing.⁹ The vehicles to reach these goals would be different for struggling owner-occupiers than for delinquent absentee landlords. For owner-occupied homes where the owner has fallen behind on taxes, municipalities should first pursue a repayment program. If the homeowner is unable to repay their debts, a CLT would work to assume ownership of the land, while preserving the dweller's ownership of the home with equity restrictions at resale. For rental housing, cities should pursue in rem foreclosure, transferring the building to a preservation-minded owner (such as the building's residents, a local nonprofit developer, a CLT, or a land bank), and either maintaining public ownership of the land or transferring it to a CLT.

Importantly, this new approach should include the careful use of eminent domain, when other tools are inadequate. Historically, eminent domain has been used both as a tool for public and cooperative housing construction, and for racist land grabs and harmful infrastructure siting.¹⁰ Today it is mostly used to create large-scale private facilities like sports stadiums, private university expansions, and pharmaceutical facilities. Eminent domain can be reconceived as a means for social housing conversions in buildings where owners have put their tenants' wellbeing at risk in pursuit of profit. In such cases, the owners would be compensated for the value of their property, and the state would take ownership of occupied housing and transfer its operations to a social housing provider.

Land Bank

Land banks are a tool designed to take over and rehabilitate tax-delinquent, abandoned, and other distressed properties. They were first developed in St. Louis as part of the Civil Rights movement in response to the devastating effects of redlining. Most land banks in New York State are located in relatively low-cost urban and rural markets such as Syracuse, Buffalo, Oswego county, and the Finger Lakes region. In New York City, Neighborhood Restore, a nonprofit that works closely with the City's housing agency and was created to help the City avoid taking direct title of distressed properties and vacant land, essentially plays the role of a land bank.

New York State's existing land banks are structurally restrained from playing a role in the creation of social housing: they are dramatically underfunded, not always granted automatic rights to assume title, and founded on a set of principles that do not prioritize the disposition of land or properties to tenants, public housing authorities, or not-for-profit actors.

Across the State of New York, each land bank transfer to a private investor represents a lost opportunity to create social housing. To give one example: in a municipality in the Capital District, a resident was prepared to purchase her home where she had lived as a tenant for over a decade, and which had gone through foreclosure and was temporarily owned by the land bank. The prospective homeowner had an operating subsidy, was in the process of securing financing for the purchase price, and had support from a local community group and land trust. Despite these factors, the land bank was uninterested in waiting just a few months in order to sell to the tenant and instead disposed of the home to a for-profit purchaser.

This system does not have to work this way. Single family homes controlled by land banks could be placed on a CLT, which would provide new homeowners with support with finding low-cost financing and making necessary repairs. The CLT would act as a long-term steward, providing residents with ongoing support and ensuring affordability in perpetuity. This structure could

also work for multifamily buildings, where residents are well-organized and prepared to take collective ownership or choose a responsible nonprofit steward for their building.

Social Housing Development Authority

New social housing entities must also be created, funded, and supported. These entities, including new organizations, coalitions, and public agencies, are needed to create the infrastructure that makes social housing possible. These entities organize and intervene in distressed housing, create democratic and accountable ownership structures, and work with governments and land banks to take title to housing.

A growing social housing ecosystem can both expand existing social housing entities (like housing nonprofits) and pursue larger goals, like rebuilding housing capacity and expertise lost over the last 50 years of austerity. Social housing infrastructure includes:

- New or Reformed Public Agencies:
 - Public Housing Authorities (PHAs) have been underfunded for almost half a century, and, as a result, have seen the physical decline of their portfolios and/or been fully or partially privatized. In municipalities outside of New York City, particularly in rural and suburban areas, PHAs are often the only organizations with expertise in developing and managing affordable housing. Federal, state and local funding must be put toward capital and operating budget gaps in public housing, to rehabilitate existing buildings and rebuild popular trust in public models, so that PHAs can grow by developing new public housing.
- Financing and Acquisition entities, which, in the longer-term, will issue bonds, disburse funds, and act as intermediate owners. One such idea is for a federal Social Housing Development Authority. Drawing on this federal model, a New York State Social Housing Development Authority could operate similarly to a statewide land bank, but with the express purpose of supporting and expanding social housing. It would acquire vacant land and, with long-term ground leases, contract for the development of new social housing, including supportive housing for formerly homeless people. Alternatively, a Social Housing Development Authority could intervene in the market to purchase tenant-occupied housing, finance renovations, then transfer the ownership or management of the building to either the tenants or an approved public or nonprofit provider.
- Community Development Corporations (CDCs) are currently the primary holders of the technical expertise needed to develop and expand social housing. In New York City, many CDCs created during prior housing crises developed the lion-share of New York City's affordable housing. Today, CDCs are often shut out of larger development deals, and need added capacity to take the lead on large projects and new housing models. They can also partner with and advise on the development of new social housing entities.

- Community Development Financial Institutions (CDFIs) can play an intermediary role between private capital and social housing, taking on some of the lending risk, helping social housing entities develop a financing strategy, and, where appropriate, providing individual loans to purchase homes in limited-equity projects. Many of these functions could also be filled by municipal public banks.
- Community Land Trusts (CLTs) can provide long-term stewardship and accommodate various types of social housing structures, including mutual housing associations, limited-equity co-ops, regulated rentals, and more. Further, if properly funded, long-term governance structures of CLTs have the potential to solve for issues that have arisen in prior iterations of social housing in the US, by allowing for more democratic decision-making and by providing more long-term housing management and operations support.
- Local advocacy organizations and coalitions can push for funding and laws on the local and state levels that are crucial for the social housing entities they represent.

Housing Access Voucher Program

Long term social housing stewardship requires ongoing operating subsidies to pay for regular maintenance, labor costs, services for residents, and — in some cases — taxes and debt service. This is particularly true in developments where rents are set low enough to make the housing affordable to extremely low-income households and the collective rental income does not cover the cost of operations.

Operating subsidies can come in many different forms, including project-based vouchers (where the money is attached to a particular building or unit, as in Project-Based Section 8) and tenant-based vouchers (where the money is attached to a particular resident, as in federal Housing Choice Vouchers, New York City's CityFHEPS voucher, or the proposed New York State Housing Access Voucher Program). They can also be effectively combined with capital subsidies, like direct grants or low-interest loans for socially-beneficial building improvements (such as green energy retrofits); tax breaks (including full exemptions and partial abatements); or mortgage write-downs (in which the government pays part of the upfront costs) to minimize future debt obligations.

Operating subsidies are agnostic: they are simply ways the government pays to maintain housing. They can be used to subsidize luxury developers and boost landlord profits (and today they frequently are), but they can also be used to make not-for-profit housing more deeply affordable and sustainable, while covering the real costs of housing operations. Social housing operating subsidies should be:

- Generous enough to cover the real costs of building operations and upkeep, including both physical maintenance and, in the case of supportive housing, social services;
- Structured to ensure housing access for people experiencing homelessness, and people whose incomes otherwise make housing precarious;

- As easy as possible to use and access, with minimal administrative burdens, exclusions or barriers to entry.

Good Cause

Nearly half of New York State’s tenants do not have the fundamental right to a lease renewal. This includes almost 784,000 tenants in New York City.

Providing tenants across the state with the universal right to a renewal lease, the monthly rent of which would be capped at a reasonable maximum increase, would go a long way toward expanding the opportunity for social housing conversions. This right — which is generally referred to as Good Cause Eviction Protection, or the Right to Remain — fundamentally shifts the balance of power between tenant and landlord. Without it, landlords can, in essence, evict a tenant at the end of their lease term, simply by denying them a new lease, or by offering one at an unaffordable rent level. This power imbalance makes organizing in any rental housing without good cause eviction protection nearly impossible, because of the looming threat of landlord retribution.

A statewide Good Cause law would work with existing tenant protections to create the conditions for tenants to organize in their buildings, to limit speculation in rental buildings not covered by HSTPA, making it easier for tenant unions, localities, and nonprofits to pursue social housing conversions. Despite significant grassroots support, New York State legislators failed to pass statewide Good Cause Eviction Protection in 2022.

Conclusion

The bills under consideration today could all act as pathways to social housing in New York City – by preserving public land for the public good, by offering communities the opportunity to purchase and steward multi-family housing, by creating a public entity to hold land and property and facilitate social housing conversions, by strengthening tenants’ rights, and by expanding funding sources for low-income housing. There is much more work to be done to grow New York’s social housing sector, but the bills under consideration today are strong steps down that pathway.

Testimony of the Committee to Preserve Cadman Towers
for the City Council Hearing on Social Housing
Hearing Date: February 23, 2023

The Committee to Preserve Cadman Towers (CPCT) formed in the late 1990's to stop privatization efforts at Cadman Towers. We successfully fought off many attempts over the following decades to take Cadman out of the **not-for-profit** Mitchell-Lama Program and become a market-rate coop. Over the past decade we have also been fighting efforts at Cadman Towers to take us out of the Mitchell-Lama (ML) Program through semi-privatization – often referred to as ‘2 to 11’ - since the plan would be to dissolve as a non-profit, Article II ML and reconstitute as a for-profit HDFC, Article XI cooperative.¹

Cadman Towers is a 421-unit ML cooperative in Brooklyn. What we have seen at Cadman was repeated over the years at many other ML coops across the City and State. The privatizers take over the Boards of Directors at the coop and, with all the powers and resources of the corporation at their disposal, they work to make a profit off our social housing by destroying it.

The Committee to Preserve Cadman Towers and other pro Mitchell-Lama advocates from around the City and State believe that we are blessed with the gift of affordable home ownership and that it is our job to be good stewards of this gift by stopping efforts **to ‘pull up the ladder from behind us.’** CPCT members include founders and board members of *Cooperators United for Mitchell-Lama* (cu4ml) and of *Mitchell-Lama United* (MLU) and actively worked with AM Linda Rosenthal to pass the Mitchell-Lama Reform Act of 2022. This law protects ML coops from privatization by increasing the votes needed to dissolve as a ML and works to assure democracy and transparency in ML coops. A copy of the summary of the law is attached. We mention all of this because we hope that you will appreciate all of the time and effort pro-ML

¹ The New York State Private Housing Finance Law (PHFL) contains the regulations and description of different types of housing. Article II (2) of the law contains provisions about the Mitchell-Lama (ML) Program and Article XI (11) of the law has provisions about Housing Development Fund Corporations (HDFC) housing.

advocates have expended to protect this valuable housing and to ask for your help in preserving ML cooperatives both for those who are current shareholders and for those who come after us.

After all these efforts and years of fighting privatization, a few staff from the Housing Development Corporation, HPD and the Attorney Generals office, **without any input from ML advocates**, came up with the (terrible) idea to commodify ML coops. According to the ‘compromise’ developers, the purpose of semi-privatization was to offer a compromise to those seeking privatization verses those seeking to maintain ML as decommmodified housing affordable to moderate-income, working-class New Yorkers. Privatizers would get a smaller profit than they would have with full privatization and the city agencies and politicians could still claim that the housing was “affordable” – albeit to people with much higher incomes.

Nobody seemed to like this compromise. Privatizers, if they thought they had a chance to go fully private, were not interested in the compromise. Mitchell-Lama advocates wanted to stay **not-for-profit** and to keep this housing as affordable as possible. In fact, it was only AFTER privatization was defeated at Cadman Towers that the privatizers moved forward with the push for at least some profit with semi-privatization.

CPCT was able to defeat privatization at Cadman Towers when a vote to spend more money on a privatization plan was defeated and we refinanced our mortgages with HDC with a provision that we could not privatize for 35 years. Why a ‘safe’ cooperative (where privatization was no longer possible) is, with encouragement from HPD, being offered the compromise that was supposedly invented to stop privatization is beyond our comprehension.

The Cadman Towers Board is now rationalizing abandoning Mitchell-Lama and going semi-private as a way to pay for needed capital repairs in our almost 50-year-old development. Were this true, and not a smokescreen for the desire for profit – then departing shareholders or their heirs (usually their heirs since most turnover at ML coops occurs when a shareholder has died) would not be making a profit when they leave.

CPCT appreciates the opportunity to speak with you about our ML and about decommodified social housing. We ask that you not only develop more social housing using this brilliantly designed ML model, **but that you take an active role in preserving the ML cooperative housing that already exists by denying Shelter Rent tax exemption to any ML cooperative that converts to an HDFC.** By doing this you can easily correct this bad public policy.

There are those who say that shareholders at Cadman have the right to decide whether or not they want to adopt this bad public policy and walk away with a profit while denying the benefits of affordable housing to the next generation of working-class New Yorkers. As public policy makers and as legislators, we believe it is your job to reject bad, misguided public policy even if this means that the privatizers will be unhappy with you. Sure, Cadman shareholders have the right to take a vote to make money after years of subsidies. However, the taxpayers of New York should not have to continue subsidizing housing that is no longer affordable to working-class New Yorkers. This is not a comment on HDFC housing that has converted dilapidated rental housing into limited-equity cooperatives – but rather a request to protect **not-for-profit, decommodified, ML housing.**

Thank you for your time and attention to these important matters. We look forward to working with you to protect the social housing we have and to building more.

Sincerely,

Committee to Preserve Cadman Towers Steering Committee Members including:

Justine Ambrose
Mary Foutz
Christine Fowley
Jerald Isseks
Sharon Torres

p.s. We are attaching for your review a copy of the CPCT's flyer (The Gentrification of Cadman Towers) to illustrate how this conversion would eliminate Cadman as affordable to working-class New Yorkers. Although a bit outdated (distributed in 2022), we are also attaching the Mitchell-Lama United 'white paper' that more fully explains the beauty of the ML cooperative model and the threats to our housing, and a City Limits article written by one of CPCT members.

MITCHELL-LAMA UNITED

Legislative and Policy Recommendations for Mitchell-Lama Housing

Mitchell-Lama United is supporting the following bills:

BILL #A00621 / S2741	Raising threshold on vote to privatize / semi-privatize
BILL #A00620	Governance: fair voting procedures
BILL #A00622	Governance: enhances Board transparency
BILL #A05420	Pandemic moratorium on privatization / semi-privatization
BILL #A02058	No privatization before Shelter Rent subsidy expiration
BILL #A01836 / S493	75% transfer fee upon privatization paid to city or state to be used to fund affordable housing
BILL #A04491 / S05812	Creation of Mitchell-Lama ombudsman's office

Mitchell-Lama was intended to stay affordable for New York's working families forever:

"The Legislature never intended to convert the developments to private ownership. They were designed as something the public enterprise could handle and something that would continue. In hindsight, we should have looked at what would happen in the future. Frankly, we didn't give it much thought."

*– MacNeill Mitchell
to the NY Times / 1986*

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Who we are

Mitchell-Lama United (MLU) is a coalition of New York’s three pro-Mitchell-Lama (ML) advocacy groups. **The Brooklyn Mitchell-Lama Task Force, Cooperators United for Mitchell-Lama,** and **The Mitchell-Lama Residents Coalition** have joined together to advocate for legislation and policies that will protect and preserve current Mitchell-Lama cooperative and rental developments and for an initiative to build more housing using the Mitchell-Lama model of not-for-profit, shared-equity cooperative and for-limited-profit rental developments.

As Mitchell-Lama shareholders (co-op owners) and tenants (and former tenants) of ML rental developments, we know what a precious gift it is to have affordable housing. **Mitchell-Lama United** is an all-volunteer, grassroots organization, whose members have developed extensive expertise on what makes the Mitchell-Lama program an excellent model for affordable housing and on what must be done to protect it. We have fought very hard, over too many years, to preserve this housing—both for ourselves and for future generations of low-, moderate-, and middle-income New Yorkers.

We have been frustrated by the lack of legislative response to protect our developments from ‘buy-out’/privatization. Everyone seems to agree that the Mitchell-Lama program is great—but many don’t seem to understand why. The Mitchell-Lama not-for-profit model is, in a way, the **‘public option’** of affordable housing. Mitchell-Lama developments work BECAUSE they are NOT-FOR-PROFIT—and by design specifically not real estate entities whose goal is to turn a profit.

Understanding how Mitchell-Lama works will inform the policy and legislative initiatives necessary to protect and preserve this housing gem. To this end, Mitchell-Lama United has developed this policy ‘white paper’ that describes the history of the program, the differences and similarities between ML cooperatives and rentals, and the legislative and policy steps that must be taken to protect all ML developments.

Introduction

This paper, *Legislative and Policy Recommendations for Mitchell-Lama Housing*, was researched and written before the pandemic made inescapable the devastating inequities experienced by lower income, working-class people, and especially by communities of color. Foremost among these injustices is the severe lack of stable, deeply affordable housing. The pandemic has not only revealed but exacerbated these conditions—housing instability is at record levels, only temporarily and incompletely addressed by government measures. The Mitchell-Lama program is a phenomenally successful model of not-for-profit, stable, social housing. Our recommendations stand, and the need for the legislative and policy solutions outlined herein are more sharply relevant today.

We've had many successes but too many losses in beating back the efforts to privatize our developments. Of the original Mitchell-Lama developments (69,673 units of ML rentals and 69,755 units of ML co-ops), we have lost over 65% of the rentals and slightly less than 10% of the co-ops.

We know that one of the underpinnings of a viable New York is affordable housing, which is an essential foundation for stable, thriving, diverse neighborhoods. Today, just as when Mitchell-Lama housing was first conceived in the aftermath of the Great Depression and World War II, there is an acute shortage of decent, affordable housing. This threatens the very character of New York City and State as a diverse place of opportunity, as a center of innovation and creativity, and as a destination city/state founded on a hard-working and talented population and a vibrant middle class.

It is terrible public policy and just plain wrong to permit the destruction of what's left of the Mitchell-Lama housing developments so that a lucky few who have already benefited can make a windfall profit. Those who live in ML cooperative housing—created and supported over decades by tax dollars—have no right to deny the benefits they have enjoyed to the next generation of moderate-income New Yorkers. Owners of ML rental housing have also had huge infusions of taxpayer dollars to support the public good of having affordable rental housing and do not deserve additional profit.

As our housing crisis continues to worsen, Mitchell-Lama United advocates for stopping any further ML rental or ML cooperative from privatizing, and for good governance in all ML developments. The mechanisms and policies to do this are often different for co-ops than for the rentals. Therefore, we address ML co-op structure, history, and issues separately from those of ML rentals. Some of our policy and legislative recommendations will apply to both co-ops and rentals, others only to ML cooperatives, and some only to ML rentals.

Policy and legislative recommendations in brief

For Mitchell-Lama co-ops

- 1 Protect ML cooperative developments from privatization by passing **BILL #A00621 / S2741**. This bill raises the votes needed for any step in the process of dissolution and reconstitution of a ML co-op to 80%, requires a special assessment for funding privatization efforts (instead of taking funds allocated to the operating budget of the co-op), and requires a 5-year moratorium after any no vote on privatization or semi-privatization.
- 2 Assure fair voting procedures by passing Assembly **BILL #A00620** which bans proxy voting in ML co-ops and establishes other fair voting procedures.
- 3 Assure good governance in ML cooperative developments with the passage of Assembly **BILL #A00622** which mandates cooperative board transparency in operations and enhances democracy in ML cooperatives.
- 4 Pass Assembly **BILL #A02058** that postpones privatization of ML cooperatives until they are no longer eligible for their main government subsidy — an exemption from paying regular property taxes while instead paying ‘Shelter Rent.’
- 5 Assure that mortgage loans are available for the purchase of apartments in ML cooperatives by requiring HPD and HCR to

implement Section 31-b of Article II of the PHFL that makes such loans available and by requiring ML cooperatives to allow mortgages.

- 6 Rescind Section 3-14(i)(15) of the NYC HPD rules that allows ML cooperatives to withdraw from the ML program and reconstitute as much less affordable Article XI co-ops (known as ‘2 to 11’ conversions and/or as ‘semi-privatization’).
- 7 Provide low- or no-interest loans to ML developments for infrastructure maintenance and capital repairs. Enhance and expand the NYC Housing Development Corporation’s ML Reinvestment Program and expand the program to cover State Mitchell-Lama developments, and/or create a similar program for State developments. Explore other funding streams for building maintenance and repair which would allow ML developments to stay affordable to the moderate-income New Yorkers for whom they were intended.

For both co-ops and rentals

- 8 Enact a moratorium on privatization and semi-privatization during and after the pandemic by passing **BILL #A05420**. This bill ensures that permanent decisions about the future of co-ops and rentals are not made in the middle of the COVID-19 pandemic.

- 9 Assure that NYS taxpayers’ contribution to ML developments are recaptured by passage of **#A01836 / S493** which charges a privatizing ML co-op or rental a 75% transfer fee on the profits.
- 10 Develop 5% vacancy rule similar to rent stabilization that allows for privatization of ML developments only when there is a 5% or greater NYC apartment vacancy rate.
- 11 Support a bill such as **#A04491 / S05812** to create an independent ML ombudsman’s office, which would have mechanisms for tenant or shareholder complaints related to Boards or to the agencies. For rentals, include specific provisions for this office to provide review and oversight of rent increases and an appeal process for overcharges.
- 12 Construct more affordable housing using the successful NOT-FOR-PROFIT Mitchell-Lama model.

For Mitchell-Lama rentals

- 13 Develop legislation to assure that tenants in ML rental buildings that privatize are eligible for rent stabilization regardless of the date that the development was built.
- 14 Develop legislation that allows tenants in ML rental buildings that are being sold to be given the option to purchase, and assistance in converting to a ML cooperative.

Understanding the Mitchell-Lama model of cooperative housing

■ How Mitchell-Lama cooperatives work

Often called the best of New York State’s affordable housing programs, Mitchell-Lama cooperatives are **NOT-FOR-PROFIT**. ML shareholders sell their apartments for what they put into them, without making a profit and without the risk of taking any loss.

Intended as a place to live and not as real estate speculation, the design of ML cooperatives is particularly brilliant for long-term, sustainable, affordable housing ownership for diverse communities. Better, we would argue, than even the ‘limited-profit’ models, ML cooperatives maintain affordability over generations because costs are kept low when no one makes a profit which would increase costs with each sale. This allows the next family on the waiting list to own an apartment affordable to moderate-income New Yorkers.

In a ML co-op, an eligible purchaser (based on income and family size) pays:

- the ‘limited-equity’ price (based on the actual cost of paid-in capital) to purchase the apartment’s shares in the housing corporation
- the amortization (money paid by previous owner each month toward the building mortgages)
- any assessments paid by the previous owner
- ‘double equity’ in some developments—the extra equity is dedicated to funding building repairs

Other benefits that ML cooperators enjoy include the ability to easily move within the development as their family composition changes—for example, moving from a one-bedroom to a two-bedroom when a child is born, or to a three-bedroom when more children are born or when an aging parent moves in—then back to a smaller apartment when the children are off on their own and the cooperator wants to save money by downsizing in their retirement. To assure compliance with the public purpose of the ML program, oversight of ML co-ops is provided either through supervision by the State HCR or the City HPD and with extensive rules that spell out occupancy standards, income ranges, succession rights, etc. Depending upon eligibility, ML residents may apply to either the Senior Citizen Rent Increase Exemption (SCRIE) or the Disability Rent Increase Exemption (DRIE) program to help them remain in their apartments in an affordable manner.

A lottery process for, and government supervision of the waiting lists assures a level of diversity and non-discrimination in these developments that make them some of the most integrated in the nation. These diverse, affordable communities are exceptionally stable, with the vast majority of apartment turnovers occurring when the shareholder dies. When the owner leaves, they (or their heirs) get their money back from the next purchaser—no more, no less— including:

- the original limited-equity they paid
- amortization—the money they have been paying toward the building mortgages
- any assessments they paid
- those who paid double equity also get this back

Initial purchase prices remain well below market rate (a one-bedroom costs about \$30,000–\$50,000) and maintenance costs are also kept low by the structure of these not-for-profit cooperatives.

- First, since the initial purchase price is low, most buyers do not need to take a mortgage and, therefore, have more affordable monthly charges.¹
- Second, ML developments are exempted from regular real estate taxes and instead pay Shelter Rent—about 15–20% of regular taxes. This is the main government subsidy of both ML co-ops and rentals.
- Third, many developments have far below market rate mortgage and repair loan deals with government entities.
- Fourth, shareholders who are “over-income” in any given year are not required to leave, but instead pay a surcharge for that year. This surcharge income goes to operating costs and helps keep monthly charges low.

The specific not-for-profit design and the government supports of tax exemption and beneficial loans are the reasons that Mitchell-Lama cooperatives have rightly been called the most affordable of the affordable housing programs.

Monthly charges to shareholders are based on the operating budget of the cooperative and not, like many other so-called affordable housing programs, on the flawed formula of paying 30% of gross income for housing.

¹As time has passed the initial cost to purchase an apartment has risen as more and more of the building mortgage(s) have been paid. Some City ML co-ops have also initiated a “first sales/double equity” fee—charging incoming shareholders twice the initial equity and twice the amortization. Today, many called from the waiting lists have a hard time coming up with the cash needed to purchase, and need to have mortgage loans available to them. For this reason, one of the policy recommendations of MLU is to make mortgage loans easily assessable.

A note on the flawed 30% of gross income measure for affordable housing

As far as we can tell, there was never any study that resulted in the conclusion that “30% of gross income for housing = affordable.” In fact, all indications are that this is a flawed and harmful formula. The first reference to a percentage of income for housing affordability seems to be in the National Housing Act—passed in 1937—when a ceiling of 25% was considered the maximum rent for a tenant. Again, this percentage was a ceiling and not a floor—so rents could

(and should) be lower—but not higher. The Reagan administration raised the percentage to 30%—not because it made any sense in terms defining affordability—but rather as a government cost cutting measure.

While better than paying, say, 50% of income for housing, this “30% of gross income equals affordable” formula just simply does not work for low-, moderate- and middle-income New Yorkers. A single person making under about \$50,000 or so in NYC simply would

not have enough to cover all their other costs when they pay 30% of gross income for housing. This policy is even more damaging to families with children who would need much higher incomes before they could afford to pay the 30% for housing. For this reason, Mitchell-Lama co-ops that do not use this flawed formula are more affordable than other so-called affordable housing. For a fuller discussion see: <https://shelterforce.org/2017/04/25/math-doesnt-add/>

■ Understanding the privatization and semi-privatization process

To go private, a Mitchell-Lama cooperative must:

- Pay off any government sponsored mortgages (called the ‘buy-out’) — often taking on much more expensive debt service costs
- Start paying regular real estate taxes — greatly increasing operating costs
- Give up surcharge income — reducing income
- Pay, often hundreds of thousands of dollars (in one development the cost was in the millions), to facilitate the votes for, and develop the offering plan for privatization
- Return capital reserve funds to NYC (in City supervised buildings)

The step-by-step process to privatize

- Holding a vote for a ‘feasibility study’ on privatization. Since those who favor privatization push for these studies, they have consistently been biased toward privatization. In a few instances, the professionals hired to conduct these studies have been chastised for their pro-privatization bias and forced to send statements correcting their bias to shareholders. Unfortunately, in these instances, the damage from the misinformation has already been done and is hard to correct.
- Holding a vote to fund the development of the Offering Plan/Red Herring.
- When drafted, the Offering Plan draft, called the Red Herring, is reviewed by the Attorney General’s office and, often after many required revisions, ‘accepted for filing’ when it adequately spells out the risks of privatization. At that point it becomes the Black Book/Final Offering Plan.
- Voting on the Black Book/Final Offering Plan.
- Dissolve the Mitchell-Lama cooperative and reconstitute as a market rate co-op.

Semi-privatization

City supervised ML co-ops have been offered the option of dissolving as not-for-profit Mitchell-Lama cooperatives and reconstituting as limited-profit HDFC (Housing Development Fund Corporation) cooperatives. Inserted into an HPD rule change *without an opportunity for public comment*, Section 3-14(i)(15) allows ML cooperatives to withdraw from the ML program and reconstitute as much more expensive Article XI co-ops. This is called the ‘2 to 11’ or ‘semi-privatization’ option. Note, once again, that the not-for-profit model of Mitchell-Lama keeps purchase prices lower as no one makes a profit with each apartment turn-over. In a ‘2 to 11’ conversion, current ML shareholders would make an undeserved profit when they sell, and, as limited-profit HDFC co-ops, the prices continue to escalate with every turn-over.

Originally proposed as a ‘compromise,’ this plan would make this housing unaffordable to many for whom ML was intended — those workers of moderate income. For example, a recent ‘2 to 11’ offer to a Manhattan co-op (Rosalie Manning) would raise the purchase price of a 3-bedroom from \$62,764 to \$617,000. Assuming a good mortgage deal, the maintenance costs would go from \$1,120 to about \$4,100 per month.

So, who would this apartment now be affordable to? Not the social worker’s family with two children making \$62,000 per year — who would be able to purchase it as a Mitchell-Lama. Under Article XI, the family would now need an income of about \$164,000 — way beyond the reach of the typical Mitchell-Lama families of nurses, firefighters, bus drivers, teachers, social workers, etc. Adding insult to injury, at Rosalie Manning, pro-Mitchell-Lama shareholders organized when their Board began talking

about going private. Not only did they defeat efforts to pursue privatization, but they became a strong majority on the Board—but still, HPD is offering/(pushing?) a ‘2 to 11’ conversion package on them.

Why the City continues to push ‘2 to 11’ conversion in buildings **not** under threat of privatization is beyond comprehension. What we have seen, over and over again, is that those who are interested in privatization are pursuing maximum profits and not at all interested in this ‘compromise’—leaving the pursuit of ‘2 to 11’ only in co-ops that have defeated privatization or in which there is not sufficient interest in mounting a privatization campaign.

HPD’s lack of ability to admit that this ‘2 to 11’ program for ML co-ops¹ was a mistake could leave the moderate-income New Yorker, once again, without viable housing options. Caught in the middle, moderate-income families are above income for most ‘affordable’ housing which focuses on those of lower incomes, but cannot afford HDFC housing or other so-called ‘affordable’ housing aimed at those of much higher incomes. The Mitchell-Lama program was specifically intended for this ‘caught in the middle’ group and must be preserved.

HPD must adhere to the mission of preserving ML co-ops and stop looking to make them less affordable HDFC co-ops. This unnecessary bad public policy is counter to the original intent of the Mitchell-Lama program.

The step-by-step process to semi-privatize

- Voting to spend money to develop a Proxy Statement—an abbreviated ‘offering plan.’
- The Proxy Statement is reviewed by the Attorney General’s office.
- Voting on the Proxy Statement to dissolve as a Mitchell-Lama and reconstitute as an HDFC.

All in all, leaving the Mitchell-Lama program and going to market rate usually doubles operating costs and increases the initial purchase price exponentially. Semi-privatization (2 to 11) also greatly increases initial purchase price costs.

The myth of the magic ‘flip-tax’

Proponents of privatization mislead moderate-income shareholders, who cannot afford the monthly charge increases when government subsidies are lost, with the claim that ‘flip-taxes’—paid by departing shareholders—will cover these increases. However, it is well known that flip taxes are highly speculative:

- They are dependent on turnover rate and the price of apartments, so they may not materialize, leaving those who cannot afford dramatic increases, in deep financial trouble.
- They should never be counted on as part of an operating budget.
- Turnover rates are often exaggerated in privatization plans and do not sufficiently address the fact that if not enough families move out, *each and every year*, costs for the remaining shareholders will rise.
- Flip tax income will necessarily decrease each year, since the ML privatization plans call for flip taxes only on the first sale: in a few years, market-rate expenses will likely outpace any income from flip taxes and those who stay will be out of luck as their costs escalate—especially seniors and others with limited incomes.

¹It is especially important to note that we are not talking about ML rentals here. We **strongly** support efforts to convert Article II rentals (ML rentals) to Article XI (HDFC co-ops)—see recommendations for ML rentals for more information.

■ The privatization option: a mistake with damaging consequences

The mistake

Under current provisions of the PHFL, shareholders in cooperatives organized under Article II, can vote to withdraw from the Mitchell-Lama program at the expiration of any restrictive covenants or 20 years, whichever is greater. The effect of such privatization is to withdraw these cooperative units from New York's affordable housing supply in order to provide an unjustified windfall profit to current shareholders.

If privatization occurs, current shareholder/residents of modest incomes who want to continue to live in their homes will not be able to afford the increases to their maintenance charges due to the development's loss of its ML tax exemption and other benefits of the program. This will be of particular concern to seniors living on modest incomes and for disabled shareholders, who would no longer be eligible for SCRIE or DRIE.

The original Mitchell-Lama legislation did not include a provision for 'privatization' (aka 'buy-out'), and had the intent to provide affordable housing in perpetuity for generations of moderate-income New Yorkers. An error was made when the cooperatives were included in amendments to the law meant to provide additional incentives for ML rental developers.

No risk and no investment expectations in ML co-ops

Current shareholders were neither the developers nor sponsors of these cooperatives, and unlike the original developers of the co-ops, who long ago sold their interest in the corporations and received their limited profit, they took no risk by purchasing their shares. Quite the opposite: they have received decades of benefits. Current shareholders 'stake' in ML co-ops is having an affordable place to live. They voluntarily relinquished any expectation of 'return on investment' in exchange for the extremely low purchase price and the security of an affordable place to live in the community in which they work. They entered into no contract with the State or City giving them a right to make windfall profits by depriving other low- and moderate-income New Yorkers of the opportunity for affordable home ownership. They have never had an unconditional expectation that they could privatize for two reasons: first, since there is no contractual relationship with the State or City, the legislature has always had the ability to tighten restrictions on privatization, and, second, privatization currently requires a super-majority affirmative vote of two-thirds of all dwelling units, which legislators thought at the time would never occur. The two-third percentage is too low, however, for reasons explained below, and should be raised on all votes to 80% as is proposed in Bill A00621/S2741.

Likewise, ML shareholders have no legitimate investment expectations, other than as investors in a project whose purpose, according to the "Additional policy and purposes" of Article II (§11-A) of the PHFL, was to improve the quality of urban life by making possible "cooperative action by tenants who are persons or families of low income to acquire ownership of their dwellings and to operate them on a nonprofit basis . . ." (emphasis added). If current shareholders have any third-party beneficiary interest, it is an interest in housing that is affordable, not in windfall profits accruing on privatization.

Failing the other stakeholders

The current law allocates all the monetary gains of privatization to one very small class of people—the current shareholder residents—and fails to take into account other stakeholders' rights and interests. While it is true that current shareholders have made an investment in the co-op through

the purchase of their shares, the State and City of New York have made far larger financial contributions through the provision of cheap land, reduced rate mortgages and tax breaks. These financial contributions (made possible in the final analysis by all of New York's taxpayers and citizens) were made to promote a public purpose: the provision of affordable housing to working families.

The taxpayers' 'stake' in ML co-ops is a vibrant participatory economy made possible by the availability of affordable housing that allows city/state workers to live in and circulate their tax dollars among businesses, established and emerging in the neighborhoods where developments are located. 'Affordable' means there is money left over after housing costs to promote small business development.

When privatization occurs, the public interest is undermined and the public's investment is also 'privatized' to the economic benefit of those parties who are destroying this valuable program.

This point is most dramatically illustrated by considering those New Yorkers who are already on the waiting lists for a Mitchell-Lama apartment. They are also stakeholders. They often wait decades for their chance to purchase one of these apartments. Privatization means their wait was for naught. New Yorkers who would love to gain a spot on the waiting lists for ML cooperatives are also stakeholders. Many enter online or send in their postcards every time a waiting list opens, but are not chosen from the thousands and thousands who apply for the limited number of spots on the list.

Pursuit of privatization breeds corruption and disharmony in ML co-ops

Mitchell-Lama cooperatives become destabilized battlegrounds when privatization is put on the table. Since ML cooperative developments are governed by an elected Board of Directors, the first step toward privatization is often when those seeking to privatize take over the majority on the Board. The problems that arise are many and include dissemination of inaccurate and misleading information and promises about privatization, hiding of information favorable to staying in the ML program (like refinancing packages or repair loan offers), warehousing of apartments, and moving forward on votes about privatization under false pretenses. Many of the battles in these developments have gotten ugly, turning neighbors against each other.

Residents who oppose privatization find little recourse through the supervising agencies charged with monitoring these developments. Business Corporation Law gives corporate boards wide latitude in managing the affairs of the corporation and HPD and HCR routinely ignore resident grievances and take no or minimal steps to correct Board and management malfeasance. For this reason among others, MLU strongly supports the creation of an independent Ombudsman's office for MLs.

■ Other issues and concerns in ML cooperative developments

Stopping the privatization and semi-privatization of Mitchell-Lama co-ops is the first priority of Mitchell-Lama United, but there are other issues that need to be addressed to keep these developments affordable and well-operated.

The threat of growing costs to purchase a ML apartment

Initial ML shareholders purchased their apartments for a few thousand dollars. Over the years they have paid amortization (funds each month toward paying off the building mortgages) and, in some buildings, assessments for repairs. When a shareholder leaves, they get back the original equity, the amortization, and the equity assessments from the next incoming shareholder. In some buildings, a 'double equity' assessment is made on the incoming shareholder, with the 'double' part going to

building repair funds. This ‘First Sales Capital Assessment’ program was developed and promoted by HPD and has been implemented in some City ML buildings.

Instead of being able to purchase a ML co-op for about \$3,000–\$25,000, new shareholders now pay about \$30,000–\$80,000 or more in buildings with ‘double equity.’

This initial purchase price will continue to rise as shareholders pay down their building mortgages. It is increasingly difficult for incoming moderate-income New Yorkers to come up with the funds needed for the all-cash purchase. Families are stuck when they cannot get a mortgage or secured loan for these higher purchase prices. The mortgage problem stems from a number of factors. First, banks are unwilling to offer mortgage loans for amounts they consider to be small, and when they cannot take ownership of the apartment if there is a default. Second, credit unions at times offer mortgage loans, but the application process is much longer than the turn-around time demanded by the co-ops when a family is called from the waiting list. Third, loan programs developed by organizations such as the Urban Homesteading Assistance Board are getting little traction in ML buildings, seemingly because Boards/management companies are unwilling to do the work setting up the necessary procedures for making these loans available to purchasers. Fourth, HPD now has a mechanism in place to allow for mortgage loans; however, they have not been made widely available and no similar procedure is in place in HCR buildings. Fifth, personal loans are theoretically available, but in reality they are often too expensive and/or difficult to obtain. Therefore, many who finally get called from the waiting list—who do not come from wealthy families or have other economic connections—have to decline the apartment because they cannot come up with the cash.

Section 31(b) of Article II (Mitchell-Lama) of the Private Housing Finance Law (PHFL) mandates the City and State to generate regulations that would allow a purchaser of a ML apartment to get a mortgage or loan using their apartment as collateral. HPD and HCR must generate these rules so that moderate-income families being called from the waiting list for an apartment will be able to afford it.

The threat of costs for repair needs in aging buildings

ML cooperative developments were constructed in the 1960’s and 70’s and are now in need of capital repairs and improvements. These threaten the affordability of the housing. Repair needs and the resulting capital needs assessments and/or maintenance increases pose a grave threat to the affordability of ML co-ops—not only for the incoming shareholders but also for the current residents. A way to fund repairs is needed for the survival of the affordability of this housing. One solution would be to expand low or no costs loans and/or grants programs. Also, there have been discussions of granting complete tax relief to HDFC coops to help maintain their affordability. If such relief were available to HDFCs, we might also consider this for MLs by allowing property tax funds to be diverted to pay for repairs. A concerted effort is needed to study ways to accomplish needed repairs while maintaining both the affordable initial purchase price and maintenance.

Concerns about the cost of repairs in the aging ML developments have sometimes been the impetus for talk of privatization or conversion to Article XI co-ops. Funding big repair jobs can be a challenge to the budgets of the lower income shareholders, and those interested in privatizing use this to sell people on the idea that flip taxes can be used to pay for repairs so that current residents do not have to pay anything. Of course, the numbers don’t add up when, upon privatization, any collected flip taxes will be needed to offset higher taxes and debt service costs and to replace the lost surcharge income. These plans also give more than half of the increased prices/profit to the departing shareholder or their heirs—destroying this affordable housing to give a windfall profit to those who do not deserve it.

A better plan was implemented in 2004 when the Mayor announced an incentive program to encourage both ML rentals and co-ops to stay in the ML program. Refinancing with highly favorable terms and grants for capital repairs were offered if the development agreed to stay in the program for a minimum of 15 years. Repair loans were also made available for those who stayed in the program for the life of the loan. In 2019, the City offered a second round of refinancing and loans. The State supervised Mitchell-Lama developments need a similar incentive program to stay in Mitchell-Lama.

One problem that arises is when a privatizing-favoring Board of Directors does not share the information and option of refinancing with the shareholders. Legislation to assure that these offers directly reach the shareholders is proposed in Bill A00622.

Problems with supervising agencies: NYC HPD and NYS HCR

Mitchell-Lama developments are supervised by either the City or State housing agencies. Too often, when shareholders (or tenants in ML rentals) bring concerns about corruption or malfeasance in their developments to the agencies, the issues go unaddressed or inadequately addressed. Some of the issues include:

- Board financial mismanagement or malfeasance
- Failure by Boards to follow by-laws of the development
- Undemocratic voting practices including insufficient notice of voting, ending voting earlier than stated, or holding votes offsite
- Threats and intimidation related to voting, especially related to collection of proxies for voting
- Warehousing of apartments
- Lack of primary residence enforcement
- Waitlist corruption—both external and internal lists
- Denial of use of community rooms and other common areas to pro-Mitchell-Lama shareholders
- Harassment of shareholders who speak out against privatization

Understanding the Mitchell-Lama model of for-limited-profit rental housing

Sadly, we have lost more than half (65%) of our Mitchell-Lama rental stock. Mitchell-Lama United's legislative and policy recommendations work to address three areas related to Mitchell-Lama rental housing. First, we must protect the remaining ML rentals from 'buy-out.' Second, we must protect current ML rental tenants from threats of rising costs and from problems with supervision of the developments by HPD and HCR. Finally, we must continue to look for ways to help tenants in former Mitchell-Lama rentals.

The issues facing Mitchell-Lama rental tenants differ from ML co-op shareholders in one obvious way. The rentals are owned by an investor/developer who has the power to determine the future of the building without reference to the needs or wants of the residents. If an owner decides to leave the ML program, the residents are not part of that decision. Mitchell-Lama tenants, fearing for the loss of their homes, must step up and organize and expend time and money to gain as much protection as possible when their homes are being sold out from underneath them. When organized they can try to get a seat at the table with those who will determine their future—they can raise money to hire legal teams to determine if the owner is following the rules or even if the owner is entitled to leave the program.

The 1955 Mitchell-Lama legislation created both not-for-profit cooperative housing and for-limited-profit rental housing for low-, moderate-, and middle-income New Yorkers. Developers/owners of ML rental housing got:

- Extremely low-cost, and in some cases no-cost, land on which to build
- Mortgages with extremely favorable terms and low interest
- Ownership of a rental development with investment of only, at first, 10% of TDC (total development costs). Most rental buildings were developed after amendments to the rules that allowed for investment of only 5% of TDC
- Guaranteed return of 6% on their investment (later increased to 7½%)
- An exemption from paying regular property taxes, instead paying Shelter Rent

In addition, a number of ML rentals (and some co-ops) subsidize their mortgage through the HUD 236 Program which reduces the mortgage rate and debt service costs and assists lower income tenants/families by lowering rents. Under this program, in some developments, some of the apartments are set aside for those below the poverty rate—specifically for fixed/very low-income seniors, disabled, unemployed or severely under-employed.

As with ML co-ops, ML rentals are supervised by either the City (HPD) or State (HCR). Rents under ML are limited, based on the landlord's ability to cover their expenses—including costs for repairs and maintenance of the property. Under good government supervision that assures accuracy in the landlord's report of costs, this provision protects the tenants from unconscionable rent increases. All such increases must be approved by the supervising agency. The tenants have the right to review the increase request and to obtain the back-up financial detail. Upon request, the supervising agency will pay up to \$5000 for the tenants' accountant to review the books.

While this government oversight and regulation may look good on paper, it has, too often, not worked out in practice. Good government oversight involves adequately staffed and funded government agencies whose interest is in protecting tenant's rights. Mitchell-Lama tenants have, unfortunately, often found a pro-landlord bias — leading to problems with rent increases and problems when landlords seek to go private/buy-out of Mitchell-Lama. An independent Mitchell-Lama Ombudsman's Office or other form of agency oversight is recommended to correct these problems.

The 'buy-out' problem

The problem for ML tenants and shareholders occurred in 1957 when the rules were changed to lower the TDC contribution, and a provision to 'buy-out' of the ML program was enacted. Under this amendment, leaving the ML program and going to market-rate was allowed in a minimum of 20 years — sometimes more depending on other provisions in the original development contracts. Apparently, the claim back then was that only ML cooperatives were being built and that the 'buy-out' provision would spur on the development of rentals. Looking back, the validity of this claim seems dubious, particularly since there is some evidence that Governor Rockefeller pushed the 'buy-out' option as an ideological change from a non-profit to a for-profit model.

We believe that the option to 'buy-out' was a mistake that needs to be fixed to protect any further privatization of Mitchell-Lama rentals and cooperatives. Certainly, as mentioned in the discussion of the co-ops, even if there was a need to sweeten an already great deal for ML rental developers, the co-ops should never have been included in this buy-out provision.

An additional factor affecting Mitchell-Lama rental developments occurred in the mid-1980's when Reagan's tax "reforms" negatively impacted ML rental owners who lost some benefits for maintaining this housing as affordable. Some analysts believe that losing these federal protections around the same time that some of the buildings became eligible for "buy-out" substantially fueled the desire of some landlords to go private.

To go private (go to market rate) both rentals and co-ops needed to 'buy-out' of the ML program by paying off any government sponsored mortgages and, then, by paying regular property taxes.

In the category of 'no good deed goes unpunished' the value that the moderate-income ML tenants added to the communities in which they lived exponentially increased the real estate value for the owner. Mitchell-Lama buildings were often built in 'marginal' areas. The presence of these substantial buildings and their stable, diverse, working populations enhanced their neighborhoods and encouraged market rate housing development in the surrounding community. Thus, the community that ML tenants created led to increased property values for their neighbors and an increased tax base for the government — making 'buy-out' more attractive to the owners. This only adds to the frustration and injustice when ML developments privatize and force out those who made the community desirable.

In addition, the Mitchell-Lama rental portfolio was of enormous value to the City in the financial crisis of the mid-1970's. When NYC was on the brink of bankruptcy, the City sold \$500 million plus of its ML mortgages to the federal government. HUD became the holder of these mortgages and NYC got a badly needed infusion of cash.

The first Mitchell-Lama rental 'buy-out' occurred in September 1984 when the 240-unit Ridgmont Park in Rochester left the ML program. Others followed, with the large percentage of losses occurring in the late 1990's and early 2000's. Many different factors went into how much protection a ML tenant had when the building left the ML program.

In buildings that were ‘substantially completed’ by January 1, 1974, the former ML tenants were put into the rent stabilization system when their building privatized—offering some protections against unconscionable increases in rent.

In buildings completed after that date, the tenants were out of luck, and did not have such protection. Owners of those buildings were free to go directly to market rate rents. Tenants and their community leaders mobilized to try to protect those tenants/households from the devastation of massive rent increases resulting from the buyout/privatization. In some buildings, the income-qualified tenants were able to secure Section 8 Enhanced Vouchers. Tenants in buildings which were not eligible for Section 8 Enhanced Vouchers could negotiate for Landlord Assistance Program (LAP) agreements. Each of these agreements were individualized, depending on circumstances unique to each building—making the tenant protections better for some than for others. All in all, those in post-1974 buildings had a much harder time when their affordable housing was destroyed.

One crucial piece of legislation Mitchell-Lama United supports is to assure that rent stabilization is automatic for all tenants in ML rental building that privatize—regardless of construction date.

Another piece of legislation that Mitchell-Lama United would like to see developed is to give tenants the option to purchase their development when an owner is looking to sell. Under this type of legislation, tenants would be given the option to purchase the building and change it into a Mitchell-Lama not-for-profit cooperative or to an HDFC/for limited-profit co-op. At least one rental building did this by changing to an HDFC. Assistance with appropriate financing would be needed for this recommended legislation.

Special problems related to federally subsidized mortgages in the HUD 236 program.

There is a general misconception that ML buildings that buy out of the program are the only buildings that need to be protected from market rents. Some ML rental buildings with HUD-subsidized mortgages that are still in the program were converted to market rate rents through a problem with ‘decoupling’ of mortgages.

Although all of the intricacies of this issue are beyond the scope of this White Paper, many ML rental developments have problems related to ‘decoupling’ from HUD when the owner is refinancing the development’s mortgages. Some ML rental owners took advantage of the 2004 Mitchell-Lama Mortgage Restructuring Program (now called the ML Reinvestment Program) offered to City supervised ML developments by the HDC (NYC Housing Development Corporation). This offer allowed ML rentals and co-ops to refinance their mortgages at very favorable terms and get a grant for repairs when they committed to remain in the ML program for at least 15 years. A second round of refinancing was offered in 2019. Problems arose in rental buildings that took this offer and also decided to ‘decouple’ the HUD mortgage subsidy to a new mortgage. A series of loopholes with the HUD decoupling rent structure led ML owners to believe they could now charge market rate rents. When they did, the tenants were devastated and subject to huge rent increases when they were not eligible for Section 8 Enhanced Vouchers (like those offered to privatized building tenants). Ironically, from the tenants’ perspective, they would have been better off if their pre-1974 owner came out of the ML program so that they would have been protected by rent stabilization.

One problem faced by the rentals was that the Mitchell-Lama program did not provide a method to recapitalize the buildings. When the 236 ‘decoupling’ was used as a solution, the ‘higher-income’

(higher in comparison to others in the building but not ‘higher-income’ in reality) tenants in the developments saw significantly increased rents. Unlike tenants in developments under buy-out, these tenants had increased rents without any avenue for input or redress. This type of solution should not be used in the future. Mitchell-Lama United supports retaining ML residents in place under all circumstances. Better solutions could be leaving the program and converting to either ML or HDFC co-ops with protections build in for current tenants and income restrictions for any incoming residents. We are also open to other solutions which both protect current residents and maintain affordability in ML complexes.

Problems with supervising agencies and ML rentals

One of the problems for tenants in ML rentals is that the supervising agencies are supposed to assure tenants’ rights but too often do not respond adequately. Additionally, some tenants’ rights that apply to tenants in non-ML buildings do not apply to ML tenants. Many tenants believe that the agencies favor the landlords and have been frustrated when the only recourse is to take the agency to court with an Article 78 hearing that seems to inevitably favor the agency.

An example of this is the ability of non-ML tenants to go to the Rent Administrator to verify if their rents and/or rent increases are legal. The Rent Administrator can find that the tenant is due a rent reversal and/or refund without the tenant having to go to court. ML tenants often receive an increase that was ‘calculated’ and, in our experience, often inflated by the owner—and then not verified and often ‘rubber stamped’ by the agency. The only option for the ML tenant to challenge this is to spend the time and money to go to court. This creates the need for a more accessible process to provide oversight of the agencies and the landlords.

There is a need for a third party/independent entity to become part of the rent increase process in ML rental developments—before the increases are approved by the supervising agency and by HUD for final approval in those developments insured by HUD or that have a HUD mortgage subsidy. There is also a need for a rent increase opposition hearing/conference/mediation process apart from the agencies so that tenants/Tenants Associations can challenge agency-approved rent increases.

Another problem in both ML rentals and cooperatives has been mismanagement by the developments’ hired management agencies. Mismanagement in co-ops often occurs in collaboration with corrupt Boards, but co-op shareholders have some power to vote in a better Board with the possibility of retaining a better management company. ML tenants, on the other hand, can be frustrated when the property is being neglected and mismanaged—their sole option for change is to get the often-uninterested supervising agency involved.

Recommendations for ML rentals

Some of Mitchell-Lama United’s legislative and policy recommendations affect both co-ops and rentals. These include support for A01836/S493 that charges a transfer fee when a development privatizes, a bill in development that would not allow privatization until there is a 5% vacancy rate in NYC, and efforts to build more ML developments. A bill that would affect both co-ops and rentals that could significantly correct the many problems outlined, above, is to develop an independent Mitchell-Lama Ombudsman’s Office. Problems with lack of supervising agency oversight of rental properties, lack of appropriate mechanisms to challenge unfair rent increases, lack of transparency of operation and budgets, lack of appropriate responses to complaints could all come under the purview

of the Ombudsman's Office. If such an office is not created soon, then other mechanisms—perhaps through the City or State Comptroller's, or the Attorney General's Office must be put in place to ensure that ML tenants are not subject to unfair and exorbitant rent increases.

Legislative and policy recommendations that affect only ML rentals include developing legislation that assures that rent stabilization protections are available to all tenants in ML rentals upon the landlord's decision to leave the ML program—instead of only in pre-1974 buildings. Also, we would like to see legislation developed that gives ML tenants the option to purchase their building when a landlord decides to leave the program—and that gives the tenants assistance in converting to either a ML co-op or HDFC building.

Legislative and policy fixes for Mitchell-Lamas

■ For co-ops

1) Bill A00621/S2741

This bill has three provisions to make privatization of ML cooperatives harder under the theory that legislators might be reluctant to vote for an all-out ban on privatization. Privatization would still be possible, but only in cases where an overwhelming super-majority supported it—and was willing to pay for it. The three provisions are:

- It raises the vote needed for every step of the privatization or semi-privatization ('2 to 11') process from 2/3rd to 80%.
- It requires that any money spent in pursuit of privatization not be taken from the operating revenue of the co-op, but rather from a special assessment approved by at least 80% of the apartments.
- It requires a 5-year moratorium on the pursuit of privatization or semi-privatization after there has been a 'no' vote.

Justification

This bill recognizes that the ML shareholders who seek an undeserved windfall profit are not the only stakeholders in ML developments. New York State taxpayers, those on the developments waiting lists, and those who want to try to get on a waiting list should also have their interests considered as well. Raising the votes to 80% brings them in line with all other similar votes on cooperative conversion—for example for the conversion of City-owned and/or privately owned and City-assisted rental properties to limited-equity HDFCs.

Requiring a special assessment for any monies spent pursuing privatization acknowledges that Mitchell-Lama funds intended for the operation and maintenance of cooperatives should not be used to systematically destroy the Mitchell-Lama program.

Finally, requiring a 5-year moratorium after a no vote assures that those intent on privatizing can't keep disrupting the life of the community, year after year. It gives some time for peace and healing in the community before it can be disrupted again by efforts to destroy the affordability of the development for profit.

2) Assembly Bill A00620

This bill seeks to correct problems with fair and confidential voting procedures in ML cooperatives. The voting problems in co-ops have arisen because when Article II of PHFL is silent on an issue, the Business Corporation Law (BCL) governs. However the BCL is often not a good fit for a housing corporation in which the shareholders all live in the development. This bill will specify provisions for fair and confidential voting procedures for ML co-ops. It:

- eliminates proxy voting, which has been particularly problematic in developments considering privatization, and has also contributed to entrenched Boards who manifest other corrupt practices. Unlike in a standard corporation where shareholders are scattered and voting by proxy is necessary, every ML shareholder is required to have their apartment be their primary residence, and voting is often only a few floors away by elevator.

- places a ceiling on any restrictions for Board candidacy so candidates are not kept off the Board by unduly restrictive eligibility requirements.

3) Assembly Bill A00622

The BCL also gives Boards broad powers and wide latitude in carrying out the management of their corporations. But in a cooperative housing development, shareholders—who are also cooperators and neighbors—deserve adequate information and transparency of Board operations to ensure their developments—*their homes*—are protected and well-run. Therefore, this bill will:

- provide for a minimum number of Board meetings per year
- require that Board meetings be open to residents except for specific triggers for confidential matters
- require a record of Board member votes to be publicly disclosed so that shareholders may determine whether that Board member represents their interests and merits their vote and support in an election for the Board of Directors
- provide that important communications from agencies such as refinancing packages be made available to all shareholders
- insert the language of Real Property Law 230 into the Mitchell-Lama Law to ensure cooperators have the right to organize and are protected against retaliation for doing so

4) Assembly Bill A02058

This bill recognizes that the affordable housing crisis has only gotten worse and that there is a need to protect the remaining Mitchell-Lama co-ops. It is not an outright ban on privatization but rather postpones this option until the co-op is no longer eligible for its main subsidy—the exemption from paying regular property tax.

This bill only covers ML co-ops—but a similar bill could be introduced to cover the remaining ML rentals.

5) Require the availability of mortgage loans for ML cooperatives

While Section 31-b of Article II of the PHFL allows purchasers of ML co-ops to get low-interest mortgage/secured loans, HPD and HCR have not generated the procedures/rules necessary to make this a standard operating practice. Individual co-ops seem to also be reluctant to work with lenders to make mortgage loans available. Policy and procedures need to be put into place that mandate that mortgage loans are an option for purchasers.

6) Rescind the HPD Rule that allows conversion of ML co-ops to less affordable HDFC co-ops

Section 3-14(i)(15) of NYC HPD rules allows ML cooperatives to withdraw from the program and reconstitute as much less affordable HDFC co-ops—giving an undeserved profit to the departing shareholders or their heirs. Mitchell-Lama cooperatives should remain not-for-profit.

This rule was intended as a compromise on privatization but it is time to admit that it has not worked for that purpose. Unfortunately, it is being repurposed as a way to pay for building repairs with the idea that the higher costs would be split between the departing shareholder and the building. The much higher costs to the incoming shareholder will make the costs unaffordable to those for whom Mitchell-Lama was intended and will increase and increase with each sale.

7) Plan for affordable ways to accomplish repairs to aging ML buildings

A concerted effort needs to be made to study all options to keep the developments affordable while accomplishing repair needs. Costs go up for the current shareholders each time there is an assessment and/or maintenance increase to cover capital projects, and, of course, this also can dramatically increase the costs for new purchasers of the apartments. With each escalation in cost, more and more of the families for whom Mitchell-Lama was intended — those of low- or moderate incomes- are excluded. Some ideas are to create more low- or no-cost loan programs, grants for repairs, reduction of taxes, and raising of the cap on surcharges.

One very helpful program in this regard was the 2004 NYC Housing Development Corporation (HDC) Mitchell-Lama Refunding Program. HDC offered packages to restructure and refinance the buildings mortgages keeping debt service costs down, gave a grant for repairs, and often wrapped a repair loan into the package. It also included a 15 year ‘lock-in’ to the ML program (could not go private). In 2019, when the 15 years expired for some of the buildings, HDC began a second round of packages to help with debt service costs and repairs. Many co-ops and rentals took advantage of these advantageous packages.

Two problems related to these refinancing offers are that no comparable package was offered to State supervised developments and that Boards intent on privatizing often rejected these highly advantageous packages in order to continue their pursuit of privatization — sometimes hiding the offers from shareholders.

■ For both co-ops and rentals

8) Pass Assembly Bill #A05420 (Pandemic Moratorium bill)

Privatization efforts have continued unabated during the pandemic. But the risks involved in privatizing are *entirely* unknown, given the devastating economic damage wrought by the pandemic. It is therefore impossible to prepare an offering plan that adequately discloses the risks of privatization. The housing market is unstable and will be wholly unpredictable for years to come. Homelessness and the risk of eviction have risen to unprecedented levels. Millions of workers are unemployed, under-employed, or face possible future layoffs.

ML residents ought to be able to turn their full attention to the extraordinary and unprecedented demands of the current public health and economic crisis. They should not be forced to carry the additional burden of worrying about possible displacement from their homes. It is absurd to spend scarce operating funds and time and energy on the long and expensive privatization process in the middle of a worldwide disaster.

This bill ensures these privatization and semi-privatization expenditures and activities cease during the state disaster emergency declared in response to the COVID-19 outbreak and includes a two-year period thereafter as well, while the economic environment stabilizes after the health crisis abates.

9) Pass A01836/S493

This bill would recapture some of the taxpayer’s expenses for the Mitchell-Lama program by charging a 75% transfer fee on the profits from the sale when a development goes to market rate. The money raised would go to the city to fund affordable housing.

10) Bill to delay privatization until there is a 5% apartment vacancy rate

This bill is currently in development. Similar to rules related to rent stabilization, we are proposing the development of a bill that recognizes the lack of available housing. Privatization would be prohibited unless there was at least a citywide 5% apartment vacancy rate.

11) Pass bill A04491 which creates an independent Ombudsman's Office for Mitchell-Lama developments

Create an independent Ombudsman Office for Mitchell-Lama developments to correct some of the problems related to the supervising agencies (HPD and HCR) and to assure the best operations in these developments. The office would be charged with providing information and training for ML co-op Boards, shareholders, and renters, and would establish and operate a mechanism for the receipt and adjudication of ML residents' grievances against landlords, co-op Boards, and the supervising agencies.

12) Construct more affordable housing using the successful not-for-profit Mitchell-Lama model

Generally speaking, and a bit over-simplified, there are basically two approaches to providing basic services to citizens—the FDR/New Deal model and the Reagan model. The FDR model—sometimes referred to as the 'public option'—posits that taxes should pay for robust government services to assure a basic standard of living for all citizens. The Reagan model posits that government is the problem and should get out of the way of business and the market.

The Mitchell-Lama program—especially Mitchell-Lama cooperative housing—is the public option of affordable housing programs. We would argue that it is the more cost effective and desirable model in that it does not subsidize the profits of real estate developers, but, instead, gives the benefit directly to the moderate-income citizen.

It is past time to go back to using this model for developing needed affordable housing in New York, although this time perhaps the focus should be on not-for-profit models, without the for-limited-profit component. More discussion is needed about what would work best for future development.

■ For rentals

Two important pieces of legislation that need to be developed to protect the Mitchell-Lama rentals are outlined below.

13) Legislation to assure that tenants in ML buildings that leave the program are given protections of rent stabilization.

One of the problems that arose when ML rentals were leaving the program in droves is that rent stabilization was only offered to tenants in buildings that were substantially constructed by January 1, 1974. Tenants in buildings constructed in 1974 and after were often left unprotected. We would like to generate legislation that protects post-1974 building tenants.

14) Allow ML tenants the option to purchase their buildings

The idea of finding ways for ML tenants to purchase their buildings and become ML or HDFC cooperatives is a good one. Legislation and policy needs to be generated to make this option available.

A brief history of the Mitchell-Lama program

Inspired by the successful union-built cooperative housing and the limited dividend co-ops pioneered by the United Housing Foundation and with the work of Abraham Kazan, Robert Moses, The Rockefeller Foundation, I.D. Robbins, Citizens Housing and Planning Council, City Club of New York, Mayor Wagner, and Warren Moscow—the Mitchell-Lama program was signed into law in 1955.

Based on and influenced by the Rochdale Principles of Cooperation, Mitchell-Lama housing came about during a time when government—city, state and federal—believed government had a responsibility to invest in its cities and its citizens. Legislators recognized that substandard housing with crowded, unsafe, unsanitary conditions, and the shortage of decent housing contributed to the breakdown of communities and the deterioration of urban living, making urban areas undesirable places to live, work, and raise families. Unwilling to let this happen in New York, they enacted this Limited Profit Housing Companies Law, (which later became Article II of the Private Housing Finance Law), to encourage developers to construct housing for people of low, moderate, and middle income, understanding that such an investment would allow communities to grow and flourish, thereby expanding social and economic opportunity.

The Limited Profit Housing Companies Law had, among many others, three features that made possible such housing:

- State/municipality loans were issued at very low interest rates for very long terms. In the economics of housing, one of the biggest costs is the mortgage. Rates, sometimes as low as 1%, and terms, sometimes as long as 35 or 40 years, can result in greatly reduced charges to shareholders.
- Municipalities granted tax abatements which originally ranged from 40% to 100%. Abatements later became standardized across the State in the form of the “Shelter Rent” tax formula, which sets real estate taxes at 10% of the co-op’s operating expenses (less heat and utilities). This saves the co-op anywhere between and 75% and 85% on their tax bill.
- Many projects were built on federally subsidized urban renewal land, further reducing the costs to the owner.

The Rochdale Principles

Open Membership. A co-op does not discriminate. Anyone can join.

Democratic Control. The co-op is owned and operated by its members. Each member gets one vote (unlike publicly-traded companies in which those who buy the most shares get the most votes).

Limited Return on Capital. A co-op is not intended to be a money-making enterprise for its members. Members may thus be paid only a “limited” amount of interest on any money they invest.

Surplus Belongs to Members. Since the members are the owners, they receive any profit the co-op makes. In many co-ops the profits are reinvested into the business rather than being returned to the members.

Honest Business Practices. Cooperatives deal openly, honestly, and honorably with their members and the general public.

Ultimate aim is to advance the Common Good. The ultimate aim of all cooperatives should be to aid in the participatory definition and the advancement of the common good.

Education. Co-ops are expected to educate their members, officers, and employees and of the general public in the principles and techniques of cooperation, both economic and democratic.

Cooperation among Cooperatives. Co-ops should actively cooperate in every practical way with other cooperatives.

Mitchell-Lama was intended to last forever as affordable housing—there was **NO BUY-OUT PROVISION IN THE ORIGINAL LAW.**

From 1955 to 1962 the ML program developed 74 buildings with 11,906 units. All these buildings were cooperatives and most had union or not-for-profit sponsors. All in all, the ML program created 69,673 units of rental housing and 69,755 units of cooperative housing.

The big mistake happened when Nelson Rockefeller replaced Governor Averell Harriman and pushed through an amendment to the ML program designed to further incentivize private developers to build more ML rentals. These changes included:

- Lowering the amount of equity a developer needed to put into a project from 10% to 5% of the total development costs.
- Allowing the option to ‘buy-out’ of the program/‘go private’ after a number of years.

Perhaps, at that time, there might have been a valid argument to offer further incentives for the development of ML limited-profit rentals—although the incentives were already good. But co-ops were being built without a problem and there was no need for further incentives for the development of cooperatives. **This ‘Buy-Out’ provision should never have included Mitchell-Lama co-ops!**

In 1986, MacNeill Mitchell told the New York Times that the:

“Legislature never intended to convert the developments to private ownership. They were designed as something the public enterprise could handle and something that would continue. In hindsight, we should have looked at what would happen in the future. Frankly, we didn’t give it much thought.”

This legislative error to allow for the option to ‘buy-out’ of the program has led to the loss of:

- 45,841 Mitchell-Lama rental units—over 65%
- 6,479 Mitchell-Lama cooperative units—less than 10%

Mitchell-Lama United has come together to work with legislators and policy makers to correct the legislative error that led to the loss of Mitchell-Lama housing. Our policy and legislative objectives are to prevent any further loss of this housing, to make sure developments are well-run and maintained, and to work to build more developments using the non-profit Mitchell-Lama model.

The Gentrification of Cadman Towers

Gentrification is the process of changing the character of a neighborhood through the influx of more affluent residents... Gentrification often shifts a neighborhood's racial or ethnic composition and average household income by developing new, more expensive housing... —Wikipedia

The semi-privatization plan currently under consideration at Cadman Towers — the ‘2 to 11’ idea to convert from a not-for-profit Mitchell-Lama (ML) to a for-limited-profit Housing Development Fund Corporation (HDFC) — is, essentially, a **gentrification plan**. Most of the people on our waiting list who are currently eligible to buy at Cadman as a Mitchell-Lama will no longer have enough income to purchase at Cadman as an HDFC.

How did this happen?

‘2 to 11’ was initially proposed as a ‘compromise’ between privatization and the not-for-profit ML model, to allow shareholders to get “some” profit. Although privatization was defeated at Cadman and a compromise was therefore unnecessary, the Cadman Board was allowed to continue to pursue this conversion.

Proponents of ‘2 to 11’ now claim that the goal was always to help fund repairs. They now also deemphasize that departing shareholders (or their heirs) leave with a profit.

After enjoying years of government subsidies, this profit-taking has multiple negative consequences. First and foremost is that we are no longer affordable to the very people for whom we are intended, those that have always populated our community — the moderate-income working New Yorkers. Second, it takes money away from the development and our needs by giving an undeserved profit to departing shareholders (or their heirs). Finally, it allows HPD/government to pass the buck on their responsibility to preserve affordable

housing — making it the responsibility of individual developments to come up with an affordability plan instead of finding a global solution to the housing crisis. To add insult to injury, the amount of money raised for repairs by this plan is likely to be far less than claimed in the draft proxy statement.

Problems in Getting a Mortgage

To understand the gentrification data it is first necessary to examine the mortgage problems faced by purchasers of HDFCs.

Let’s use the example of a family of three moving into a two-bedroom apartment — say a mom and two kids or two parents and a child. **Because traditional banks do not give mortgages to HDFCs**, to other limited-equity co-ops like Penn South, or to Mitchell-Lamas, our family of three will have to take a 15-year mortgage at about 5% interest from either a credit union or the lending program at the Urban Homesteading Assistance Board (UHAB)* that was established to deal with the HDFC mortgage problem. Only 15-year loans are offered by these lenders, not the 30-year loans that would be available from a traditional bank.

UHAB loans *could* be available to purchasers at Cadman right now as a Mitchell-Lama, but the board, although informed of this option, has declined to arrange to make these available to incoming shareholders.

*The UHAB loans are now at around a 5% interest rate but the rates are increasing. They require 20% down for Mitchell-Lama loans and 10% down for HDFC loans. (Information on UHAB loans: <https://www.uhab.org/our-work/homeownership/get-a-loan>)

Gentrification by the Numbers

Let’s look at the numbers to explore the myth that an HDFC Cadman will still be ‘affordable.’ Here’s a chart that shows the numbers for a sale of a two-bedroom at Cadman to our three-person family example. As a Mitchell-Lama the apartment would cost about \$60,000 and as an HDFC it would be about \$236,000.

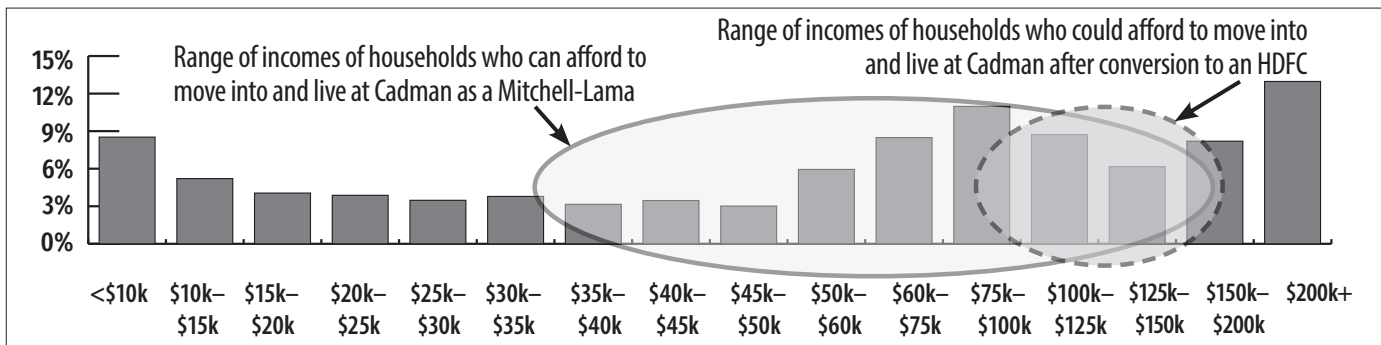
	Sales Price	Down Payment at 20% for ML and 10% for HDFC	Mortgage principle	Monthly mortgage costs	Monthly costs of maintenance and utilities	Total monthly costs	Minimum annual income needed at 30% of gross income
ML Cadman	\$60,000	\$12,000	\$48,000	\$380	\$1,350	\$1,730	\$69,200
HDFC Cadman	\$236,000	\$23,600	\$212,400	\$1,680	\$1,350	\$3,300	\$121,200

Assumptions:

- 1) Both ML and HDFC buyers will take a mortgage from UHAB at 20% down for Mitchell-Lama and 10% down for HDFC with 5% interest for 15 years.
- 2) Although flawed, we use the calculation that affordable housing is anything that is below 30% of gross income.

continued on back →

Distribution of household income in NYC / ML vs HDFC range of affordability



Source: Household income data from American Community Survey 2020 (<https://data.census.gov/cedsci/table?q=household%20income&g=16000000US3651000&d=ACS%205-Year%20Estimates%20Subject%20Tables&tid=ACST5Y2020.S1901>); Range of incomes data derived from a comparison of prices of Cadman Towers ML versus projected sales prices at Cadman Towers HDFC, with an affordability cap of 125% for ML, and 130% for HDFC, using the standard for affordability of under 30% of gross income.

Cutting out lower & moderate income households

While the draft Proxy Statement was deficient and did not give us all of the numbers that we need for a full analysis, what we see for all size households and apartments is that there is a MUCH WIDER range of people who are able to afford at Mitchell-Lama Cadman — those with incomes from about \$34,000 to about \$161,000. At an HDFC Cadman the range is from about \$81,000 to about \$168,000. *Of course, those with incomes above these ranges could afford Cadman, but the ML program caps income at 125% of Area Median Income (AMI)** and HDFC Cadman would be capped at 130% of AMI.*

Everyone of more moderate income is cut out when Cadman gentrifies. In addition, what we would see at an HDFC Cadman is what is already a problem with other HDFC buildings — the apartments will mainly sell to ‘asset wealthy, but income moderate’ New Yorkers. The article, *Bargains with a But* from the NY Times from 2014 explains this phenomenon (*see top sidebar*).

And, this more recent article from Bloomberg (*see bottom sidebar*) about HDFCs indicates that as an HDFC Cadman would be gentrified when only ‘trust fund kids’ and wealthy retirees could meet the dual requirements of income under 130% of AMI, but still being able to afford the monthly costs.

Being the first to try ‘2 to 11’ is likely to bring unintended negative consequences. For example, other HDFCs do not use AMI percentages in the way that is proposed for Cadman. With this unusual formulation, which we’ll discuss more in a future flyer, we may see that buyers at an HDFC Cadman may actually lose money on their investment, when, after a few years, apartment prices may have to drop to stay under the 130% of AMI affordability limit.

When the deficient draft Proxy Statement is finally corrected and we see the way that this plan gentrifies but does not solve our problems, we believe we’ll see that staying in Mitchell-Lama is still our best option.

**For a better understanding of Area Median Income (AMI) and its use in housing programs see: <https://www1.nyc.gov/site/hpd/services-and-information/do-you-qualify.page>

from *Bargains with a But*, NYTimes, 2014

“...In this extremely tight real estate market, when practically any listing is snapped up instantly, why are some of the city’s most affordable apartments struggling to find buyers? It’s because they belong to a small and quirky breed of co-op that requires buyers to meet income caps, yet have significant assets on hand — a tall order for most.”

“It’s a Catch-22, since they can’t earn more than a certain amount, but cannot qualify for financing at that income unless they make a massive down payment...”

<http://www.nytimes.com/2014/06/29/realestate/affordable-new-york-apartments-with-a-catch.html?emc=eta>

from *New York’s Real Estate Tax Breaks Are Now a Rich-Kid Loophole*, Bloomberg, 2021

“...In short, because of inadequate rules, poor design, and decades of lax oversight, these low-income tax subsidies are being scooped up by the well-to-do. “They’re just gaming the system,” says Penny Gurstain, an expert on affordable housing who directs the Housing Research Collaborative at the University of British Columbia. “This is now just being used as a playground for the rich.”

“... If the system is left unchanged, it isn’t hard to envision a future in which gentrification fans out across more and more neighborhoods and their HDFC cooperatives. Hardly a surprising outcome in New York real estate, where the logic of the market wins more often than not. At least there’s a consolation prize: tidy nest eggs for exiting owners, as their homes and city are cleared for the affluent.”

<https://www.bloomberg.com/graphics/2021-nyc-taxes-hdfc-coops/>



OPINION: NY'S MITCHELL-LAMA HOUSING SHOULD BE PRESERVED, NOT DISMANTLED

REPRINTED WITH PERMISSION FROM CITY LIMITS

AUTHOR: [Jerald Isseks](#) | DATE: July 29, 2022

ACCESSIBLE ONLINE AT: <https://citylimits.org/2022/07/29/opinion-nys-mitchell-lama-housing-should-be-preserved-not-dismantled/#>

Since I moved in at Cadman Towers with my partner two years ago, I have felt exceptionally lucky to benefit from the uniquely affordable arrangement that is the New York State Mitchell-Lama program. Subsidized by the city and state in the form of generous tax abatements and public financing opportunities, Mitchell-Lama housing was created so that families with modest earnings could afford to put down roots in the city, and so that prices would not lurch upward every time a unit turned over.

So it was alarming when, in December of 2021, our board of directors formally submitted a plan to take our building out of the Mitchell-Lama program. The process, known as “Article 2 to Article 11 conversion” in housing law parlance, would reconstitute our public, subsidized housing complex as a much more expensive, semi-private HDFC co-op. This threat of semi-privatization has raised the concern of Mitchell-Lama coalitions across the city. Advocates of affordable housing who have long fought to protect one of New York City’s signature low- and middle-income housing programs now worry that other Mitchell-Lama boards will follow Cadman’s lead in attempting to dismantle this important public good.

Most saliently, 2-to-11 conversion at Cadman Towers would entail a spike in sales prices. Outgoing shareholders could sell their units for four or five times the initial equity they invested, and pocket half of the sale. A two-bedroom unit at Cadman that currently costs \$60,000, for example, would go for about \$300,000—still a steal compared to stratospheric market rates in our neighborhood, but now out of reach for the majority of New Yorkers. Those who had been waiting for years for a Mitchell-Lama unit would be left in limbo, since the city-run, external waiting list of prospective residents would be discarded. Outgoing shareholders would bypass the previously regulated sales procedure, and find their own buyers on the market.

Dissolving our building’s Mitchell-Lama status would be a small but significant injustice in an already deeply

unequal city. Shareholders who have long benefited from the program would be autonomously divesting some of the city's affordable housing stock, and profiting from the conversion. As the saying goes, we would be "pulling the ladder up from behind us."

As the veteran activists in my building's pro-Mitchell-Lama organizing committee—the Committee to Preserve Cadman Towers (CPCT), of which I am a member—have informed me, the present conversion effort is only the latest of many attempts by some Mitchell-Lama residents to marketize their own housing, not just at Cadman Towers but in buildings all across the city. Most recently, in 2012, cooperators voted down a bid to privatize Cadman Towers (as opposed to retaining a resale cap for each unit, as the current plan would do). Some 10 percent of NYC's Mitchell-Lama co-ops have already undergone privatization; more than half of Mitchell-Lama rental apartments in the city have also gone down this road.

Residents of buildings like ours often justify the privatization of public housing by citing the rising costs of repairs, and our diminishing financial support from the government. Indeed, when I talk with my neighbors about why we should vote down the proposal, and instead work to hold our elected officials responsible for adequately funding social housing programs like Mitchell-Lama, many shareholders respond by attacking such a notion as naïve and illusory. Among Cadman residents, the impression that the government has irrevocably abandoned its side of the bargain is pervasive; it has led them to dismiss the values of equity, inclusion and affordability on which Mitchell-Lama was developed.

Ironically, 2-to-11 conversion would merely enable government to further abdicate its responsibility for funding a public asset. We would be moving the onus of investment onto wealthier, private individuals; as follows, Cadman's units would become more exclusive, its management less regulated—a microcosm of the broader landscape of gentrification in Brooklyn.

Legislators who are intent on preserving and expanding truly affordable housing must discontinue the 2-to-11 conversion option altogether in order to protect Mitchell-Lama housing from becoming yet another victim of gentrification. Moreover, lawmakers would do well to build upon the Mitchell-Lama Reform Bill signed into state law in December of 2021. The bill made it more difficult for Mitchell-Lama buildings to privatize, and tightened transparency rules for boards seeking semi-privatization, like ours. Rather than devising escape hatches out of one of New York's signature affordable housing programs, our government should be providing more funding and support for its preservation.

Likewise, if shareholders at Cadman Towers and elsewhere were serious about wanting to maintain housing that low- and moderate-income New Yorkers can afford, they would clamor for our local and state government to redouble its investment in Mitchell-Lama housing, rather than trying to dissolve the program from within.

The Mitchell-Lama Law has been amended to expand protections for ML cooperators...

On March 18, 2022, Governor Kathy Hochul signed the Mitchell-Lama Reform Bill of 2021 into law.

This law amends the existing Mitchell-Lama Law (Private Housing Finance Law, Article 2) by significantly expanding cooperator rights and spelling out mandatory standards for the democratic functioning of boards of directors. These are some highlights of the new law.

For the full text of the Mitchell-Lama Law, visit: <https://www.nysenate.gov/legislation/laws/PVH/A2>

Good governance

A Mitchell-Lama board of directors must:

- Hold at least four meetings per year. If the co-op's bylaws specify more than four meetings, the board must adhere to the bylaws requirements.
- All board meetings, including all board discussion and board voting must be open for OBSERVATION by all shareholders unless an executive session (board members only) is triggered (*see next bullet*).
- A board may hold executive sessions ONLY for the purpose of discussing the following FOUR matters:
 - confidential personnel issues
 - confidential issues affecting individual cooperators
 - legal advice from the board's counsel
 - contract negotiations
- Maintain a record of votes on all resolutions, including the vote of each director, and post this record on a website accessible by all cooperators. This record may redact business transacted in executive session.
- Promptly post on a website accessible to shareholders all communications with the supervising agency relating to refinancing; any deficiency letters from the attorney general, and subsequent drafts of red herrings or draft proxy statements in response to deficiency letters; and any offers of financing from any agencies.

Voting

(in board elections & privatization votes)

- Voting must be in-person or by absentee ballot (proxy voting is prohibited).
- Absentee voting must be by secret ballot, and must be conducted by a third party, using standard double envelope methods.

Dissolution

Procedure to dissolve (privatize) a Mitchell-Lama cooperative

- The commissioning of any feasibility study (the first step toward privatization) must be authorized by a two-thirds vote of dwelling units. All feasibility studies must be funded by a special assessment of shareholders, approved in the same vote, by the same percentage.
- Any vote to authorize and fund an offering plan (red herring—the second step in privatization) must be approved by 80 percent of dwelling units. All red herrings must be funded by a special assessment of shareholders, approved in the same vote, by the same percentage.
- Any vote to approve an offering plan (final step in privatization) must be by 80 percent of dwelling units.
- If any of the three privatization votes fails, no new vote may be held for five years.

Shareholders' right to organize

Rights of shareholder groups

- The housing company may not interfere in any way with the right of shareholders to form or participate in groups for the protection of their rights.
- These shareholder groups may meet in the community room without paying a fee.

Rights of shareholders

- The housing company shall not harass, punish, penalize, diminish, or withhold any right, benefit or privilege of a shareholder for exercising the above rights.



Testimony

Cooperators United for Mitchell-Lama
(CU4ML)
Adele Niederman, President
West 90th Street
New York, NY 10024
aniederman@aol.com

February 23, 2023

City Council Committee on Housing and Buildings
Hearing on Social Housing
February 23, 2023 at 1 PM
testimony@council.nyc.gov

Dear City Council Committee on Housing and Buildings:

Cooperators United for Mitchell-Lama supports the legislation before the committee today as a good beginning on additional solutions for our housing crisis.

- We endorse efforts to allow and encourage not for profits to make an offer to purchase their residential building as stated in Intro. No. 196.
- We support contemporary methods of finding sites for new housing outlined in both Intro. No. 637 and Intro. No. 714.
- We endorse Res. 38 to mandate owners to consider an offer from their tenants for purchase of the building.

CU4ML applauds efforts to build new, deeply affordable, not for profit housing. Our future success as a city will depend on our ability to safely house our residents.

CU4ML is a grassroots, volunteer organization advocating for Mitchell-Lama cooperatives. We represent 64,000 apartments in 85 developments across four boroughs of New York City. Mitchell-Lama cooperatives are stable anchors in our communities welcoming new young, families as many continue to age in place.

‘Decommodified Housing’ is a foundation principle of Social Housing and an integral part of the legislation before you today. Decommodified housing is not a part of the speculative real estate market, and is not bought or sold for a profit. While many will focus on decommodified rental housing, we want to stress the successful and well-designed, not-for-profit home ownership model that is Mitchell-Lama cooperative housing.

We want to notify the Housing Committee of serious efforts to semi-privatize Cadman Towers, a Brooklyn Mitchell-Lama cooperative, by converting it to an Article XI HDFC. The sponsors of this conversion will be approaching the Council for an extension of the 'shelter rent tax' (provides the subsidy to Mitchell-Lama developments by way of a real estate tax abatement) to a new, semi-private HDFC. Converting an abandoned, dilapidated rental property into an HDFC cooperative is a successful method of preserving necessary housing. Converting a deeply affordable ML cooperative into a less affordable HDFC is poor public policy resulting in a tragic loss of deeply affordable units.

After decades of battle and expenditure of a great amount of operating funds, pro Mitchell-Lama shareholders at Cadman Towers defeated privatization. Unfortunately, privatizers, with the blessing and encouragement of HPD, then turned to semi-privatization as a way to profit after years of subsidy. The article XI conversion is called a compromise and has only been introduced in those ML cooperatives that defeated privatization. This rule change, which occurred without an opportunity for public comment, and inserted into the Mitchell-Lama rules (Section 3-14(i)(15), allows ML cooperatives to withdraw under much easier procedures than privatization and reconstitute as a much less affordable HDFC. In the new HDFC, shareholders would be allowed an undeserved profit when they sell thus favoring individual profit over the well being of the community with loss of affordable housing units.

We urge the Council to reject this request when it appears.

Thank you for providing a forum and we look forward to speaking with you again. Stay safe and best wishes to your families.

Sincerely,
Adele Niederman
President, CU4ML

My name is Brianna and I'm a board member of the east new york community land trust. And I am in support of the Community Land Act.

The East New York CLT formed during the pandemic in 2020 in order to take control of the vacant and blighted city owned lots in east New York and find a solution to the affordable housing crisis that's *on our terms* and put a Stop to the rampant speculation we've seen over the last decade.

The ENY CLT is organizing to gain control of these lots because we need to be forward thinking about land development in our neighborhoods. CLT's are found to be highly effective at capturing and maintaining affordable housing subsidies and will ensure that development will take place according to community needs, not profit motives. These bills are the bare minimum to ensure that our CLTs can thrive.

We need more housing and this is the way to do it. CLTs need all the help they can get in the face of a rampant and aggressive private market that has ravaged and displaced so many. Market solutions haven't been working and our city can decide to change that. Our black neighbors are fleeing the city in large part because of housing unaffordability. As Brad Lander said earlier- 9 percent in the last two decades- a reverse great migration . (that is unacceptable!)

It's imperative that we fund and prioritize new and creative solutions that protect **us** and prevent displacement. We've heard from MWBEs about the bill - but we should be more concerned

about the black and brown neighbors that are displaced by the crisis of gentrification that MWBEs alone are not equipped to address. At the end of the day- they are for profit entities that must answer to a bottom line. Importantly these bills won't exclude these businesses from being awarded public sites but prioritize CLTs and non-profits- methods we know are more effective at maintaining affordability in perpetuity.

We need to pass the COPA and the Resolution for the State to pass TOPA to give CLTs a fighting chance to acquire private sites. We need to pass the Public Land for Public Good Act to ensure that our valuable public resources are democratically owned and developed and deployed to address public needs.



East New York Community Land Trust
2966 Fulton St., Brooklyn, NY 11208
staff@eastnewyorkclt.org
(646) 335-5973

February 23, 2023

Dear Housing and Buildings Committee members,

My name is Hannah Anousheh and I am the Campaigns Director for the East New York Community Land Trust (ENYCLT), a member of the New York City Community Land Initiative (NYCCLI).

The ENYCLT is a grassroots community land trust made up of East New York and Brownsville residents who came together at the beginning of the pandemic to form the ENYCLT in order to take proactive action to protect their community from rampant speculation that has been reaching emergency levels. ENYCLT members joined a movement to protect our community from displacement and achieve self-determination through democratic, community control over land.

In 2015, HPD released the NCP-NIHOP Request for Qualifications (RFQ) for developers to apply to acquire scattered vacant lots and build affordable housing on them. Through this process, HPD quietly awarded over 40 vacant lots in Brooklyn Community board 5 - Cypress Hills and East New York to various developers without genuine community input about which developers would be selected and what they would build. These 40 lots represent most of the last remaining small and medium size lots in ENY, and they would have been perfect for community ownership. Ten of these lots were awarded to PM Architecture and Rajoy Management, two for-profit developers. One of the lots is directly next to the home of Ms. Cooks, one of ENYCLT's members. It had been vacant and trash filled for decades. We held cleanups there and advocated for the lot to be transferred to ENYCLT but we were told that it was too late. The developer already was awarded the lot and would be building rental housing. The residents on the block were never once informed about these plans or asked for their input. We fundamentally don't believe that for-profit developers alone (even if they are MWBEs) can meet the needs of low income black and brown communities like East New York. They have and will continue to prioritize their profit margins over tenants. We don't trust them to make repairs and offer the deep affordability residents of East New York need over the longterm without the added layer of community accountability, oversight and stewardship that a CLT provides.

The story I shared is not unique and we are fed up. We're asking for a real transformation in the way HPD, EDC and other agencies treat our precious public resource, the land.

If these sites had gone to ENYCLT, we would have organized residents all around the lots and developed plans that meet our collective needs. We would work with a mission-driven developer to build permanently and deeply affordable housing if that's what residents want and we would steward the land in perpetuity. Additionally, the building's residents would become ENYCLT members and elect members to our board of our directors ensuring that they have decision making power.



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That is why it is critical that this City Council passes the public land disposition bill giving priority to CLTs and mission-driven non-profit developers.

I also want to advocate for the Community Opportunity to Purchase Act. Increasingly, buildings across NYC are being sold to corporate landlords that are trying to milk as much profit out of buildings without making any repairs and pushing out tenants along the way. This city council needs to do everything it can to prevent this from happening and COPA legislation is one important strategy. It will give mission driven developers in partnership with tenant associations a fighting chance to buy buildings when they go up for sale.

I also want to advocate for the land bank bill. If its board is set up to be accountable to local communities it will be a powerful tool to allow the city to acquire private land before it's sold to speculators. It could also acquire tax distressed properties.

Finally, Deputy Commissioner Darga had mentioned the loan acquisition fund as being open to MWBEs and Non profit developers only. The issue that we've come across with the loan acquisition fund is that it will only lend for rental projects not homeownership. In East New York, many of the private sites are perfect for homeownership projects so we can't get the financing we need even when we do find a site that's not overpriced.

Thank you,

Hannah Anousheh

Hannah Anousheh
Campaigns Director
East New York Community Land Trust

www.eastnewyorkclt.org
www.facebook.com/ENYCLT
twitter.com/EastNewYorkCLT

From: Castillo, Daniela <dcastillo@elpuente.us>
Sent: Sunday, February 26, 2023 5:04 PM
To: Testimony
Subject: [EXTERNAL] El Puente Comment on Community Land Act

Sunday, February 26, 2023

El Puente strongly supports and advocates for the passing of the package of bills within the Community Land Act, specifically The Community Opportunity to Purchase Act (Int. 196) and Public Land for Public Good Act (Int. 637). We call for policy actions that would bolster much of the incredible work taking place in the city towards cementing true affordability in perpetuity, uplifting collective use and ownership, and putting the residents and organizations that live in this city and steward the land first, before profit.

El Puente is a 40 year-old community human rights institution that promotes leadership for peace and justice through community leadership centers and schools in North Brooklyn (Southside Williamsburg and Bushwick) and Puerto Rico. Through merging advocacy, arts & cultural programming, youth organizing, citizen science initiatives and coalition-building, we work towards racial, environmental and social justice, within our local context and beyond. In the neighborhood of Los Sures, we represent a historic environmental justice community where collective battles against imposed harmful infrastructural projects (incinerator, Radiac, Brooklyn-Queens Expressway) have been championed by community members and diverse coalitions. Due to inequitable urban planning and decades of disinvestment, we continue advocating for measures for community well-being and thriving, through our community development hub of the Green Light District. Through an intersectional, holistic approach, we focus on issues of Environmental Justice, Digital Justice/Connectivity, Health & Wellness, Defining Community Safety, Arts & Culture, Education, and of course, Housing/Affordable Living.

From the contexts of the Southside and Bushwick to Puerto Rico, we have witnessed how rampant speculative development and disastrous rezonings have signaled a prioritization of profit-driven developers over long standing communities, and the consequential impacts of displacement and gentrification have been deeply felt. We recognize how a housing crisis that existed well before the pandemic has been exacerbated within and following this public health crisis.

There is a rich tradition of collective ownership models being historically formed by Black farmers and heralded by BIPOC communities both in urban and rural contexts to this day. Neighborhood organizations and local groups, like El Puente with our two community gardens, know best how to collectively tend to land and maintain community use and benefit. In Puerto Rico, we know Community Land Trust models offer holistic examples and strategies for communal tending and

maintenance of land. The solutions have been developed and offered to us by long-time organizers in this realm, and it's time the city pursued them and implemented policies to uplift them. We are in solidarity with long term partners, Los Sures, land trusts, non-profits, and many of the tenant associations and solidarity economy groups across the city who have advocated and call for the passage of these incredibly important bills.

We call for the passage of The Community Opportunity to Purchase Act (Int. 196) and Public Land for Public Good Act (Int. 637) bills and herald these moves towards ensuring community ownership, usage and benefit of land.

--

Daniela Castillo
Green Light District
Manager

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**TESTIMONY FROM GENESIS COMPANIES PRESIDENT & CEO KARIM HUTSON
TO THE NEW YORK CITY COUNCIL COMMITTEE ON HOUSING & BUILDINGS
REGARDING INT. 0637-2022 (DISPOSITION OF REAL PROPERTY OF THE CITY)**

THURSDAY, FEBRUARY 23, 2023

Thank you, Chair Sanchez, members of the Committee on Housing and Buildings, and other distinguished members of the City Council for the opportunity to submit testimony regarding Intro 0637 today.

My name is Karim Hutson, and I am President and CEO of Genesis Companies, a full-service real estate firm specializing in financing, developing and operating affordable housing projects in New York City and beyond; a firm I founded in 2004.

I am here today to express my opposition to Intro 0637, the proposed legislation to dispose of city-owned land exclusively to not-for-profit organizations. If passed, it will further exclude and undermine Black and Latino -owned firms from participation in the real estate industry. This is an industry that has historically been and continues to be controlled by and primarily benefits white- owned and/or white-controlled firms (whether non-profit or for-profit). This needs to change. We have all made strides toward inclusion. Let's not set the clock backwards now!

I grew up in Harlem and the Bronx in the 80s. I experienced many of the perils that face black and Latino residents today. I grew up playing football on the concrete streets of the Bronx right next to the Cross Bronx expressway. Around me, buildings were in shambles and we were

victims of that. Asthma, infestation, crumbling physical surroundings and no indoor air quality. This was the impetus for me, fresh out of Harvard Business School, to leave a career in Private Equity and Banking, to reinvest in the communities that I grew up in. I figured a young black kid who had lived in it, would have a more heartfelt intent to do better for our community, for New York City Communities.

Nearly 20 years later, Genesis remains committed to turning around some of the toughest and most problematic buildings in the City. If you know anything about how this all works, Black Developers don't get the shiny stuff...the nice museum projects...we get the stuff that strengthens (strains?)your back and makes you hold (hang?)your head. We've seen really bad, and we commit every day to making some good. Pushing the ball forward and strengthening Black and Latino communities through sensible, safe and green affordable housing and housing programs that looks to empower residents that want to empower themselves.

And we are still there. Living. Working.. In the same streets where my grandmother lived past 90. I'm now in Harlem where I reside with my wife Luz Elenia Gandulla-Hutson and my two brilliant and very personable young daughters.

Moreover, Genesis and other of my Black and Latino executives hire an outsized portion of other black and Latino controlled firms. We've created a nexus of prosperity for minority families. Genesis, on its own, has a staff of approximately 50 professionals. Over 95% of them are black and Latino. Living in this city. Black women comprise 60% of our executive staff. We are 100% black-owned. Two former employees have left to start or lead other firms.

We rely on public-private partnerships to grow our firm and to feed our employees, and their families,. In partnership with the City over the last twenty years, we have gone from owning,

managing, constructing and (l) 0 New York City homes, to preserving and developing over 2,200 units of affordable housing. This bill would deprive the affordable housing communities of the unique perspective, benefits and experience that developers of color contribute in this landscape.. It would cut us off at our knees.

5

The Law Would Punish Qualified Black- And Brown-Owned Firms

Genesis was recently named a partner alongside Lemor Development Group to bring much needed, and overdue repairs and improvements to NYCHA residents. It marked the first time NYCHA has selected a 100 percent Black-owned team on a PACT program that benefits residents who are primarily Black and Latino. We need more of this. For generations, most affordable housing resources have typically been allocated to a homogenous pool of firms and organizations, often with no Black or Brown ownership or leadership. That disparity will not change under Intro 0637, given the sole criteria of tax status.

Instead, this legislation would only create an imposing new obstacle for minority-owned firms seeking to do business with the City, further denying minority-owned firms their already limited access to economic opportunity and communities of color their critical participation.

To be sure, nonprofit and community-based organizations are essential partners to residents and firms like ours. Genesis' deep relationships with more than 20 grassroots community groups across the region have allowed us to expand beyond the property line and give back to residents and neighbors through meaningful, impact-driven programs. That's also why agencies, including HPD and NYCHA, already successfully encourage firms like Genesis to

work with nonprofits on housing projects throughout the City, allowing the nonprofits and Genesis to lean on their strengths.

Conclusion

Now more than ever, New York City must ensure that minority-owned businesses can directly participate in how we invest and grow economic opportunities in our communities. Intro 0637 will unfairly preclude developers of color from participating in urgent projects addressing our city's housing shortage. We urge the City Council to oppose the proposed legislation and instead help Black- and Latino-owned firms access the vital neighborhood projects that result in hiring and training more black and Latino professional and providing quality, safe and affordable housing.

Thank you again, Chair Sanchez and esteemed members of the City Council. I am happy to answer any questions you may have.

JV CONSTRUCTION & CONSULTING, LLC



TO: New York City Council Committee on Housing and Buildings

Hearing on Public Bill (Intro No. 637)

23rd February, 2023

City Hall Chambers

New York, New York

Presented by:

JOVANA VILLANUEVA

On Behalf Of:

JV CONSTRUCTION & CONSULTING, LLC.

A Real Estate Development Corporation, a For-Profit Developer

TO: Honorable Members of the New York City Council Committee on Housing and Buildings.

Dear Members,

We appreciate the opportunity to submit this written testimony to the City Council Committee on behalf of JV Construction & Consulting LLC (our “Organization”) and dozens of development partners and numerous clients.

We are writing to you today to express our strong opposition to the Intro 637 bill (the “Bill”) being proposed by the Council. It is our considered opinion that legislation of this nature would do more harm than good to the already disadvantaged for-profit developers, including M/WBEs in the good city of New York. This opinion has been formed on the backdrop of publicly available information and historical statistics which have been set out in detail in the ensuing paragraphs to this testimony statement. The Bill would have a significant impact on our Organization, clients, and the wider community. We are committed to creating affordable housing and economic opportunities for all New Yorkers, including underserved communities and marginalized groups. We have worked tirelessly to build relationships with the City and its agencies, and the Bill would jeopardize our ability to continue serving the community.

Our Organization and development partners have a proven track record of success in developing affordable housing and community projects in New York City. Having worked with Minority, Women & Black Owned Enterprises (M/WBEs) on numerous occasions, and their expertise and collaboration has been critical to our success. This Bill however creates more harm than good to M/WBEs, who are often already underrepresented and underfunded, and create a more competitive and less equitable environment for all developers. As members of the business community in New York City, we believe that everyone should have equal access to opportunities, regardless of race, status or ethnicity. The Bill, however, seeks to exclude minority-owned businesses and for-profit developers like ourselves from being considered for property allocation, making it difficult for them to carry on their businesses.

Empirical Research:

There is ample evidence to support the position that the Bill would harm for-profit developers. The City's own data shows that for-profit developers have historically faced significant barriers to entry and opportunities in the development industry. Furthermore, studies have shown that they often have lower access to capital, technical assistance, and networks, making it difficult for them to compete with larger and more established developers. Discrimination against all for-profit developers will only exacerbate these inequities. As concerned stakeholders in the development of affordable housing in New York City, we strongly advocate the withdrawal of the Bill, as it will have severe negative impacts on the production of affordable housing units. Please see below a summary of key trends relevant to the subject matter which form the basis for our opinion expressed above.

1. The City Mayor's Management Report has already shown a 45% decrease in affordable housing production in 2022 compared to the previous year, and limiting the number of companies eligible to apply for RFPs on City-owned land will only worsen this trend. Excluding for-profit developers from participating in these partnerships will not only reduce the volume of affordable housing development but also hurt tenants who are in dire need of access to affordable housing. Moreover, partnerships between not-for-profits and for-profits have been essential in managing the increasing construction costs in the City. For-profit companies bring their financial capacity and risk tolerance, while not-for-profits contribute social services provision. It is crucial that all parties are allowed to contribute their strengths to the

development of affordable housing in the City, and excluding companies based on their tax status will only hamper the progress made so far. The City's housing crisis demands that we work together and utilize all available resources.

2. For-profit developers play a crucial role in the growth and development of New York City. They bring in significant investment and generate employment opportunities for local residents. By limiting their ability to operate, the Bill would discourage investors from investing in the city, resulting in a decrease in economic activity. While we understand that the Bill aims to prioritize affordable housing, it fails to recognize that affordable housing projects often require funding from for-profit developers. Without their investment, affordable housing projects may not be able to proceed.
3. The bill's relevance is misguided and unnecessary as the city already has measures in place to ensure permanent affordability on Request for Proposal (RFP) sites. Since 2017, the Department of Housing Preservation and Development (HPD) has implemented a "remainder interest" policy that guarantees the preservation of affordable housing on RFP sites. Furthermore, HPD has already enforced a policy that limits the involvement of for-profit developers in RFPs for City-owned sites. This policy prohibits for-profit companies, other than Minority and Women-owned Business Enterprises (MWBEs), from responding to RFPs unless there is at least 25% ownership by not-for-profit organizations or MWBE companies. Therefore, the Bill is a redundant solution in search of a non-existent problem. As advocates for fairness and equality in the development industry, we oppose the Bill directly aimed at restricting for-profit developers in New York City thereby reducing their economic relevance. The Bill is severely flawed as it discriminates against MWBEs, which are inherently for-profit companies. By disallowing MWBEs from applying for Request for Proposal (RFP) sites, the Bill would hinder the growth of these businesses and limit their ability to contribute to the affordable housing market. Furthermore, partnerships between MWBEs and larger for-profit developers on RFP sites allow for greater development opportunities, leading to more buildings being constructed and more jobs created. By restricting for-profit developers, the Bill would limit these partnerships and further harm MWBEs, and by extension, the good people of New York.
4. This legislation is also clearly racially motivated and discriminatory. By excluding minority-owned businesses and for-profit enterprises, the bill perpetuates the cycle of inequality and economic disparities that many minorities face in New York City. It is inconsistent with the values that our city has long upheld - that everyone deserves an equal opportunity to succeed, regardless of their background. This bill would make it harder for minority-owned businesses and for-profit enterprises to grow and thrive in New York City. These businesses already face significant challenges in obtaining funding and resources, and this Bill would only add to those challenges. It would also make it more difficult for these businesses to create jobs and contribute to the economy of our great city. The bill seems to target a particular sector in the community and would inadvertently create new obstacles for Black entrepreneurs and innovators to do business with the City, ultimately deepening the racial disparity that city leaders hope to address. Not-for-profit organizations have largely been able to work on development projects in recent years thanks to joint ventures with for-profit developers, many of which are non-minority-owned firms. While disparity studies have demonstrated the disadvantages faced by

minority-owned businesses, there is little evidence to suggest that not-for-profits are similarly disadvantaged.

5. Lastly, the Bill would limit the construction of new developments, resulting in a decrease in housing availability. With the city's growing population, it is essential to encourage the construction of new housing to keep up with the demand. In fact, the New York City Comptroller's Office has revealed that 84% of MWBEs do not have access to city spending, making it clear that these businesses need more support, NOT LESS. Unfortunately, this Bill would only perpetuate the institutional denial of economic opportunity to for-profit developers and MWBEs. The Bill also goes against the City's Uniform Land Use Review Procedure (ULURP) process, which is a critical component of New York City's land use regulatory framework. This process allows for community input and involvement in the decision-making process for land use actions. However, the Bill would effectively take power away from the community, community boards, borough presidents, the City Council, and the Mayor by mandating specific requirements for RFP sites. Furthermore, the Bill contravenes specific provisions of the New York City Charter. For instance, it would limit the Mayor's authority to negotiate and execute contracts with developers for city-owned properties. The Bill would also override existing policies and procedures that have been put in place to promote equitable and inclusive development. By doing so, it could potentially create new barriers for minority-owned businesses and not-for-profit organizations that have historically faced challenges in the development industry. Moreover, the Bill would bypass the traditional ULURP process, which allows for public input and scrutiny, and would instead mandate specific requirements for RFP sites. This would limit the transparency and accountability of the development process, potentially leading to greater inequities and fewer opportunities for community involvement.

Important Questions for the Council Regarding the Purported Bill.

Here are a list of questions we have for the committee around the effect and impact of the Bill:

- a. What specific problems or concerns prompted the drafting of this Bill targeting for-profit developers in New York City?
- b. What data or evidence supports the need for this bill, and how does it address the identified issues?
- c. How will the Bill impact the development industry in New York City, particularly in terms of affordable housing initiatives?
- d. What measures will be put in place to ensure that not-for-profit organizations have the capacity to meet the demands of development projects?
- e. Will the Bill disproportionately affect minority-owned businesses or create additional barriers for them to participate in the industry?
- f. What steps will be taken to prevent the creation of further disparities in the industry as a result of this Bill?
- g. Are there alternative solutions that have been considered or implemented that may be more effective in addressing the issues the Bill aims to address?
- h. How will the success of the Bill be measured, and what are the expected outcomes?
- i. What input was sought from stakeholders, including for-profit developers, not-for-profit organizations, and community members, when drafting this Bill?
How will the Bill be enforced, and what penalties will be imposed for violations?

Solutions & Recommendations

Overall, the Bill appears to undermine the City's existing land use regulatory framework and democratic processes. It is discriminatory and harmful. We expect the Committee to work to promote economic and social justice by supporting policies that provide equal opportunities to all businesses, regardless of race or ethnicity. It is our collective responsibility to create an environment where everyone can succeed, and this bill does the opposite. It is essential that any proposed changes to this framework are made in a manner that allows for meaningful community input and involvement, and that they are consistent with the City's Charter and other relevant regulations.

There are several solutions and recommendations that can help address the above concerns raised by the Bill, while still ensuring that the interests of for-profit developers and other relevant stakeholders are adequately considered. These include:

- a. Engaging with stakeholders: To ensure that the needs and concerns of for-profit developers are adequately considered, it is important to engage with them and other stakeholders in a meaningful and transparent manner. This includes working with community organizations, business associations, and industry groups to identify solutions that address the concerns of all parties.
- b. Strengthening the ULURP process: Instead of bypassing the ULURP process, efforts can be made to strengthen it and make it more effective in addressing community concerns. This could involve providing greater opportunities for community input and involvement, establishing clearer standards for evaluating development proposals, and creating greater accountability mechanisms for developers.
- c. Encouraging equitable development: In order to promote equitable development, it is important to ensure that not-for-profit organizations and minority-owned businesses have access to the resources and opportunities they need to participate in the development industry. This could involve providing financial and technical assistance to these organizations, creating incentives for developers to partner with not-for-profits, and establishing clear requirements for developers to meet equity and diversity goals.
- d. Creating an inclusive task force: The creation of a task force made up of a diverse group of stakeholders, including for-profit developers, not-for-profit organizations, community members, other relevant stakeholders and elected officials, can help to identify solutions that address the concerns raised by the Bill. The task force can be charged with examining the existing land use regulatory framework and making recommendations for how it can be improved to better meet the needs of all stakeholders.

While the above list may not be exhaustive, it is of paramount importance that the Committee takes a collaborative and inclusive approach to addressing the concerns raised by the Bill. By working together, stakeholders can identify solutions that promote equitable development while still ensuring that the interests of for-profit developers are adequately considered. We understand the need for transparency and fairness in the disposal of real property, and we support efforts to ensure that the process is inclusive and equitable. The Bill however goes too far in discriminating against for-profit developers, including M/WBEs. It is recommended that the City develops a more nuanced and comprehensive approach to the disposal of real property that takes into account the unique needs and strengths of all developers.

CLOSING REMARKS:

We believe that the City can achieve its goals of transparency and fairness without resorting to discriminatory policies and developing solutions which create more conflict for the community. We stand ready to work with the City to develop a more equitable and inclusive approach that supports all developers and serves the best interests of the community.

Limiting for-profit developers will not address the issue of racial disparity in the industry. Rather, it will only serve to harm the very businesses that are already at a disadvantage. The existing policies implemented by HPD already ensure permanent affordability on RFP sites and limit the involvement of for-profit developers in City-owned sites, so there is no need for further restrictions.

Let us work towards a more inclusive and sustainable approach that will benefit all New Yorkers by prioritizing more effective and sustainable solutions that address the issue of affordable housing in New York City without unfairly targeting for-profit developers.

Thank you for considering our concerns.

Sincerely,

Jovana Villanueva

JV Construction & Consulting LLC

New York City Council Committee on Housing and Buildings

February 23rd, 2023

RE: Testimony on Intro 637 and 714

To the members of the New York City Council Committee on Housing and Buildings, thank you for the opportunity to submit testimony on Intro 637 and Intro 714. My name is Alexandra Hanson and I am the principal of Kreder Hanson Enterprises LLC (KHE), a woman-owned affordable housing consulting firm committed to community centered development. Over the past 12 years, I have worked in affordable housing policy, development and construction before founding KHE in 2022.

I have been blessed with the opportunity to work with many different affordable housing developers during my career. One of the things that I have learned is that whether an organization is a good steward of affordable housing cannot be boiled down to their IRS tax status. The Council's goal of supporting non-profit affordable housing developers is laudable, but I strongly disagree with the mechanisms being contemplated to achieve that goal in Intros 637 and 714.

Regarding Intro 637, there is already a requirement that either a non-profit or an MWBE have a minimum 25% interest in any development team responding to an HPD RFP. This minimum 25% must be a real economic interest, ensuring that these non-profits and MWBEs participate meaningfully in the economics of the project. The forming of RFP teams allows the team members to bring their different strengths to the table and learn from each other. In addition, RFPs have been an important way that MWBEs – required to be for-profit companies - have been able to get a foothold in New York City and grow their businesses. If the concern is that the buildings being developed remain affordable in perpetuity, New York City already has protections for permanent affordability on RFP sites through a remainder interest, which was instituted by HPD in 2017. Similarly, Intro 714 would deny MWBEs the opportunity to secure properties through the City. It would remove both Council and community oversight from the disposition process as properties would no longer have to go through ULURP.

At a time when New York City continues to face a severe shortage of affordable housing, the focus should be on expanding the pool of qualified, committed affordable housing developers regardless of IRS tax status. I agree with the Council's goal of supporting non-profit affordable housing developers, but excluding qualified for-profit firms, including MWBEs, is a deeply problematic way to do it. Track record and demonstrated commitment to affordable housing stewardship should be the metrics by which the City evaluates qualified firms, not IRS tax status. I encourage the Committee Members to explore other alternatives, such as expanding access to capital and technical assistance, that would support non-profits without excluding other qualified firms.

Thank you again for the opportunity to testify today and for your consideration.



February 24, 2023

FROM: Valerie White, Senior Executive Director – LISC NY

RE: *New York City Council Proposal 0637*

I am Valerie White, Senior Executive Director at the Local Initiative Support Corporation, New York State (LISC NY). LISC is a national nonprofit that raises and invests capital in traditionally disinvested communities to support marginalized population. LISC was founded 42 years, beginning its work right in the South Bronx to support the rebuild of affordable housing for a community that was sorely in need of development. I am submitting testimony in opposition of Int-0637. I would like to thank Chairperson Sanchez, and the members of the City Council Housing and Buildings Committee for considering my testimony.

As a female African American nonprofit institutional leader who has been in the affordable housing industry for over 30 years, I want to commend the City Council for taking steps to consider broad legislation to address the severe housing crisis in our City. As I have seen through my experience, the legislative bodies must act courageously to take these well-intended approaches a necessary step further. At LISC NY, we see through our work that for bills to affect real change, they must include a direct precept encouraging and embracing BIPOC-owned developers.

In relation to Int 0637, we stand with the concept of prioritizing BIPOC developers, along with nonprofit developers, when the city disposes land for affordable housing and other public uses. As is well known, BIPOC developers have been severely underrepresented in the gaining opportunity and capital to build real estate and infrastructure in New York City. It is also well know that BIPOC firms are more likely to hire BIPOC candidates—which leads to opportunity for steady employment and career ascension. Reparative programming to address the systemic gaps to opportunity and, in turn, wealth attainment for the BIPOC community must be key. For this concept, there is a precedent for enacting this directed elevation of BIPOC development in New York City’s Acquisition Fund - the \$210 million public-private affordable housing loan fund limited financing of projects led by a MWBE or nonprofit developers just a few years ago. Further, the administration’s \$26 Billion capital commitment to MWBE over the next few years, and Executive Order 26 to eliminate bias and underutilization further supports the need to address systemic barriers to entry for BIPOC developers. Adding BIPOC developers to Int 0637 will further the goal of equity for underutilized groups in the NYC real estate and affordable housing space.

This critical addition to Int 0-637 will work directly to promote the inclusionary and equitable environment necessary for BIPOC developers to have access to opportune development projects in New York City. At LISC NY, our mission-driven effort is based on these same principles, seen through our significant investment in and the sustained successes of programs such as our Developers of Color Program, which provides capacity building and capital to BIPOC developers so that they can grow their ability to obtain and complete larger government contracts: and with Financial Opportunity Center workforce development program will provide training and enhancement to provide a pipeline of highly-capable candidates in labor and skills trades.

We are hopeful that the Committee will consider this addition to Int-0637 and submit the bill, rightfully adjusted, will support all arms of the government working in concert - elevating other citywide initiatives, and swiftly addressing and positively affecting the longstanding inequities in New York.



MITCHELL-LAMA RESIDENTS COALITION, INC.

P.O. Box 20414 Park West Station

New York, New York 10025

Voice-mail: 212-465-2619 Website: www.mitchell-lama.org

Testimony submitted to the New York City Council Committee on Housing and Buildings Hearing on Social Housing, February 23, 2023

The Mitchell-Lama Residents Coalition (MLRC) was formed in 1972 to promote the interests of Mitchell-Lama residents, both shareholders and tenants, and their developments. Over the years, we have watched many of our rental developments leave the program and we have added the protection of former Mitchell-Lama residents to our mission.

MLRC is very grateful to the New York City Council for holding these hearings which shine a light on a pressing need for housing controlled and owned by its residents or the public on a non-profit basis. The need for permanent affordable housing in New York City continues to constrain our future as a city.

New York is very fortunate in having created several forms of social housing over the last 100 years or more. Mitchell-Lama housing was the largest and most successful of these forms. But there are other limited-dividend sets of developments as well. The Mitchell-Lama co-operatives around the boroughs provide tens of thousands of units of social housing for lower-middle and middle-class New Yorkers who form the backbone of our work force. These residents are teachers, nurses, civil servants, union members. They are raising families in our city and then retiring securely.

The entire Mitchell-Lama community welcomes these hearings and your engagement in extending permanent, affordable home ownership in New York. We want to emphasize that co-operatives are democratically controlled by their residents and thus represent direct participation in the decision-making process for these developments. If we could have permanent Mitchell-Lama or Mitchell-Lama-like rental developments as well, we would have a much stronger housing stock. Hopefully, these hearings will create ideas to protect and promote permanent affordable rental stock which is sorely needed.

The Mitchell-Lama Residents Coalition has as its mission to work and organize for the preservation and future expansion of the Mitchell-Lama housing program (both co-op and rental), as well as all other affordable housing programs and to identify, clarify, and solve common concerns of current and former Mitchell-Lama residents working with elected officials and government agencies at all levels. We are proud members of the umbrella, grassroots advocacy group Mitchell-Lama United.

We are the only Mitchell-Lama group representing both Co-ops and Rental buildings in Albany, Buffalo, New York City (all five boroughs), Rochester, Syracuse and Westchester County. For decades we have worked with the federal department of Housing and Urban Development (HUD); New York State Department of Housing and Community Renewal (DHCR); and New York City Department of Housing Preservation and Development (HPD) as well as local advocacy groups.

Respectfully submitted,
Katy Bordonaro
Corresponding Secretary

TESTIMONY TO CITY COUNCIL COMMITTEE ON HOUSING AND BUILDINGS

FROM WARREN HARDING

STEERING COMMITTEE CHAIR, MITCHELL-LAMA UNITED

FEBRUARY 23, 2023

I wish to thank the City Council Committee on Housing and Buildings for holding this hearing on Social Housing and providing your constituents with the opportunity to submit testimony supporting this legislation. My name is Warren Harding, and I am a lifelong resident of Brooklyn. I have a personal interest in this legislation as I am a beneficiary of one of the best models of social housing in terms of affordability, which is the Mitchell-Lama program. In 1963, my parents purchased their co-op apartment at St. James Towers located in Brooklyn's Clinton Hill neighborhood, and I now occupy and own that same apartment as a result of succession. I witnessed the advantage of democratic control in social housing as my father was elected Vice President and subsequently President of the co-op's Board of Directors, and I now carry on that tradition by serving my third term on the board and most recently became Board Secretary.

But I want to focus this testimony on how the need for social housing is more critical than ever. The ever-rising cost of living, particularly following a pandemic that has permanently transformed all our lives, necessitates a housing strategy that enables low- and middle-income New Yorkers to live in a clean and affordable environment, and where they have a vested interest in their living conditions. Social housing best provides that opportunity with its basic three-pronged objective of deep affordability, democratic control, and decommodification. Many of us providing testimony today have organized around this cause resulting in several affordable housing organizations. One of these groups is Mitchell-Lama United (MLU), which comprises a partnership of three Mitchell-Lama advocacy groups: Brooklyn Mitchell-Lama Task Force, Cooperators United for Mitchell-Lama and the Mitchell-Lama Residents Coalition. This umbrella organization advocates preserving and protecting Mitchell-Lama co-op and rental developments through the legislative process. The MLU Steering Committee which I chair comprises a dedicated and hard-working group of Mitchell-Lama residents who live in either a co-op or rental development. Since this group was formed three years ago, our major accomplishment was working with our state legislators to pass and the Governor to sign the Mitchell-Lama Reform Bill of 2021, which better ensures affordability and strengthens democratic control within our developments. Mitchell-Lama United's other activities and achievements include:

- Creating a white paper, "Legislative and Policy Recommendations for Mitchell-Lama Housing;"
- Obtaining a resolution from the Brooklyn Borough Board to prioritize the development of new Mitchell-Lama developments to the greatest extent possible;

- Presenting a City Council briefing on Protecting and Preserving the Mitchell-Lama Housing Program.

Realizing that social housing takes many forms, we at Mitchell-Lama United are privileged to become part of the greater social housing movement and joining forces with other advocacy organizations to share our ideas and knowledge as well as learn from others to continue to build this momentum towards a solid social housing agenda. Therefore, we strongly support the bills presented in this hearing that will advance social housing in New York City.

Thank you,

Warren Harding, Steering Committee Chair
Mitchell-Lama United

**Testimony by Salvatore D’Avola, Executive Director
Neighborhood Restore Housing Development Fund Corporation**

**Intro.714 - Creation of a Land Bank
New York City Council Housing and Buildings Committee**

February 23, 2023

Good afternoon, my name is Salvatore D’Avola and I am the executive director of Neighborhood Restore Housing Development Fund Corporation (“Neighborhood Restore”). I’d like to thank Chairperson Sanchez and members of the City Council’s Housing and Buildings committee for allowing me to submit my testimony.

Neighborhood Restore and its affiliate non-profit entities work closely with the New York City Department of Housing Preservation and Development (“HPD”) on developing housing programs that seek to transition physically and financially distressed properties into affordable community assets. Since 1999, Neighborhood Restore has successfully created and preserved 11,900 units of affordable housing in 1,831 properties throughout New York City. As the interim owner and steward of properties earmarked for revitalization, Neighborhood Restore acts, in many respects, as the City’s land bank. The types of properties and methods of acquisition, management, stabilization, and disposition vary from program to program, but the goal is the same - to preserve and create affordable housing opportunities that enrich New York City and its residents.

Neighborhood Restore has the unique experience of administering a myriad of programs that seek to address the needs for a variety of property types and circumstances that range from vacant land to zombie homes to multi-family occupied buildings. Created at the behest of HPD, with the support of the Local Initiatives Support Corporation (“LISC”) and Enterprise Community Partners, Inc. (“Enterprise”), Neighborhood Restore administers the Third-Party Transfer (“TPT”) Program, a tax enforcement and anti-abandonment program that transfers tax-delinquent properties from neglectful landlords to responsible new owners. By working closely with HPD and community-based non-profit and MWBE partners, Neighborhood Restore develops and ensures the maintenance of safe, affordable housing and oversees the stabilization, management and rehabilitation planning of distressed properties in order to preserve and create affordable housing opportunities for low-income New Yorkers.

Over the past 25 years, HPD has continued to seek out Neighborhood Restore’s expertise and assistance in addressing housing and neighborhood stabilization issues. Most of that assistance has been through the acquisition and stabilization of properties earmarked for intervention and assistance by the City, much like a land bank. At the height of the financial crisis of 2008, Neighborhood Restore began acquiring one- to three-family bank-owned (“REO”) homes, leveraging federal, state and city subsidies to secure private financing for the acquisition, rehabilitation, and sale of over 250 homes to

first-time homebuyers. By focusing its efforts on the neighborhoods that were hardest hit by the crisis, Neighborhood Restore was able to address the destabilizing effects of foreclosure and provide new affordable homeownership opportunities to low- and moderate-income New Yorkers. That work continues today as Neighborhood Restore continues to acquire, renovate, and re-sell vacant and abandoned zombie homes as affordable homeownership.

When Superstorm Sandy struck New York City in 2012, the destruction it caused to many of our water-adjacent communities was unprecedented. Through the City's Build-it-Back Program, affected homeowners were offered the opportunity to have their homes rebuilt resiliently or sell them for their pre-storm value. Acting on the City's behalf, Neighborhood Restore acquired 129 properties from storm-affected homeowners in Brooklyn, Queens, and Staten Island. Neighborhood Restore demolished the damaged homes, maintained the properties, and worked with the City on disposition strategies. Many of the sites were in active wetlands and will remain as open space to provide flood mitigation; others will be developed into parks, and some will be rebuilt as resilient affordable housing. Again, Neighborhood Restore stepped in and acted as a land bank, providing the City and its community representatives the time needed to plan for the future use of these properties.

Another example of the City's utilization of our non-profit involved addressing the ever-challenging homeless crisis by acquiring 42 buildings from private owners who were using apartments as emergency shelters for homeless families. Through HPD's Cluster Housing Conversion Program, Neighborhood Restore collaborates with HPD, the Department of Homeless Services ("DHS") and community-based social service and affordable housing providers to convert the buildings' use to permanent housing for formerly homeless families. The buildings' hazardous conditions are addressed, residents are offered rent-stabilized leases (along with rental assistance vouchers) and they are rehabilitated to ensure safe, decent and affordable housing in perpetuity.

Finally, Neighborhood Restore and its affiliates continue to be engaged with the City through its involvement in the Affordable Neighborhood Cooperative Program ("ANCP"), transforming distressed properties into tenant-owned low-income cooperatives and the Community Restoration Fund Program that seeks to assist homeowners with severely delinquent mortgages avoid foreclosure and displacement from their homes.

Since 1999, Neighborhood Restore has been called upon time and again to assist the City with fulfilling its mission of developing and preserving affordable housing in New York City. Acquiring land and buildings for a public purpose is a core criterion of a land bank. Neighborhood Restore has acted in that manner for 25 years, however with a clear plan for the properties acquired and the necessary funding and commitment from the City. Additionally, as a mission-driven non-profit with an independent board of directors that includes government representation, we are transparent about our work and nimble enough to shift our resources to assist the City in addressing a crisis or need. For these reasons, we do not believe the creation of land bank in New York City is necessary at this time.

I thank you for your time. I am happy to answer any questions.

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**TESTIMONY OF NEW DESTINY HOUSING
TO THE NEW YORK CITY COUNCIL COMMITTEE ON HOUSING AND BUILDINGS**

Gabriela Sandoval Requena, Director of Policy and Communications

February 23, 2023

Thank you, Chair Sanchez and members of the City Council Housing and Buildings Committee for holding this hearing on social housing and the opportunity to submit written testimony.

Founded in 1994, New Destiny is a New York City-based nonprofit committed to ending the cycle of violence for low-income families and individuals experiencing homelessness and domestic violence. We build and manage supportive, affordable housing and through our rapid rehousing program, HousingLink, we connect survivors with safe, permanent housing. New Destiny also advocates for housing resources for domestic violence survivors and their families. We invite you to read our [2022 NYC Policy Priorities](#).

New Destiny is a co-convenor of the [Family Homelessness Coalition \(FHC\)](#), a broad group of organizations and impacted advocates committed to tackling homelessness among families in our city, and a member of the [Association for Neighborhood & Housing Development \(ANHD\)](#).

DOMESTIC VIOLENCE AND FAMILY HOMELESSNESS

Domestic violence has been the number one driver of family homelessness in New York City for far too long.ⁱ In 2021, more than 10,000 New Yorkers entered the Human Resources Administration (HRA) domestic violence shelter system, 95% of them were in families with minors,ⁱⁱ while 39% of families who entered the separate Department of Homeless Services (DHS) shelter system identified domestic violence as the primary reason for their homelessness.ⁱⁱⁱ With so few housing resources, once in shelter, survivors are far more likely to remain in shelter rather than to move to an apartment. Fifty three percent of survivors with minors that left HRA domestic violence shelter in 2021 moved to another shelter instead of permanent housing. **That is more than 1 in 2 families that left shelter for shelter.**

The dearth of affordable housing only exacerbates the plight of survivors as they strive to re-gain stability. Across New York State, there is no county or locality where a renter earning minimum wage can afford a one-bedroom apartment.^{iv} Over the past three years, the median rent for a one-bedroom apartment has risen 20% to \$3,267 in New York City, and in Manhattan it surpassed \$5,000 in June of 2022.^v Our city leaders must ensure that all New Yorkers, especially survivors of domestic violence and other vulnerable populations, are housed. We can achieve this by building and sustaining deeply affordable housing.

New Destiny commends New York City Council and the Housing and Buildings Committee for holding this hearing on social housing. **We support a social housing vision that prioritizes deeply affordable housing, and we support the intent of Introductions 196, 637, and 714, and Resolution 344.**

INTRO 196

New Destiny supports Introduction 196. Mission-driven non-profit developers and community land trusts should have the first opportunity to buy apartment buildings when they are up for sale. Rents are skyrocketing, and many tenants are unable to pay, putting them at risk of housing insecurity. Non-profit

developers, such as New Destiny, and community land trusts (CLTs) purpose are to keep the buildings affordable and tenants in their homes.

The Community Opportunity to Purchase Act (COPA) creates a right of first offer for a list of pre-qualified developers, including primarily non-profits, MWBEs, as well as those using a CLT ownership structure, when landlords decide to sell their buildings. We cannot continue the cycle of buildings being sold from one for-profit developer to another where tenants continue to live in unsafe and unhealthy living conditions, and experience displacement when rents skyrocket. We need to ensure buildings for sale go to those that do not see housing as a way to profit, but as a human right

INTRO 637

New Destiny supports Introduction 637. City owned land should transfer to the stewards of the community - mission-driven non-profit developers and community land trusts. This would ensure public land is used for the public benefit such as deeply affordable housing.

Historically, the city has favored for-profit developers over mission-driven non-profits, even for developments on public land, where the city had control of the outcome. We are dealing with a housing and homelessness crisis; we cannot continue this legacy. The city must require publicly owned sites to be developed as 100% permanently affordable housing that reaches those with the most need, by mission-driven, not-for-profit and/or community-controlled developers and community land trusts (CLTs) with space for community facilities.

INTRO 714

New Destiny supports Introduction 714, which would establish a land bank for New York City that would be tasked with acquiring, warehousing, and transferring real property to develop, rehabilitate and preserve affordable housing.

As rents continue to increase in New York City, making it unaffordable for everyday New Yorkers, many are left to choose between essential needs, such as food or their health, and paying rent. There are many buildings in New York City that are in horrible conditions, making it unsafe and unhealthy for the tenants residing in them. We need those buildings in the hands of mission-driven non-profit developers and CLTs who have the capacity to rehabilitate those buildings and who will keep them deeply affordable.

Reso 344

New Destiny strongly supports Resolution 344. Enacting and funding the Housing Access Voucher Program (HAVP) (S568A/A4021) would put New York on a pathway to ending the homelessness crisis in our state.

We need immediate solutions to address our housing and homelessness crises. COVID relief and protections have expired, while the need has only gotten greater. We need flexible rental assistance that will meet today's crisis. HAVP does this by offering immediate rental assistance to New Yorkers, helping them access permanent housing or from losing it in the first place. Funding HAVP at \$250 million would help an estimated 50,000 people avoid homelessness.

Survivors in our city are in dire need of additional housing resources and the Council and Adams administration have opportunities to mitigate the double trauma of abuse and homelessness.

Thank you for the opportunity to submit written testimony. New Destiny looks forward to working with the Council and the administration to advance these initiatives.

We welcome any questions you may have.

Gabriela Sandoval Requena

Director of Policy and Communications at New Destiny Housing

gsrequena@newdestinyhousing.org

ⁱ Silkowski, A. (2019). Housing Survivors: How New York City Can Increase Housing Stability for Survivors of Domestic Violence. New York, NY: Comptroller Bureau of Policy and Research Bureau of Budget. Retrieved from: https://comptroller.nyc.gov/wp-content/uploads/documents/Housing_Survivors_102119.pdf

ⁱⁱ NYC Department of Social Services (2022). 2021 Annual Report on Exits from NYC Domestic Violence Shelters.

ⁱⁱⁱ NYC Department of Homeless Services Shelter Eligibility Data.

^{iv} Aurand, A., Clarke, M., Emmanuel, D., Foley, E., Rafi, I., & Yentel, D. (2022). Out of Reach: The High Cost of Housing. National Low Income Housing Coalition. <https://nlihc.org/oor>

^v Brand, D., Faye, M., Mariam, Q., Lozano-Velez, M., Rahman, N., Soto, T., & Jimenez, J. (2022, September 13). It's Not Just Manhattan: Rents Are Still Rising Across NYC. City Limits. <https://citylimits.org/2022/09/13/its-not-just-manhattan-rents-are-still-rising-across-nyc/>



**Testimony to the New York City Council
Committee on Housing and Buildings**

February 23, 2023

Good afternoon, Chair Sanchez and members of the Committee. Thank you for holding today's important hearing and for the opportunity to testify. My name is Akilah Browne and I am a board member of New Economy Project, a citywide economic justice organization. Our mission is to build an economy that works for all, based on cooperation, equity, social and racial justice, and ecological sustainability. For almost 30 years, we have worked closely with community groups across New York to address inequities in our financial system and economy, and to promote cooperative, community-led development in historically-redlined Black and brown neighborhoods.

New Economy Project has helped foster the growth of CLTs in New York City over the past decade, as co-founders and co-conveners of the NYC Community Land Initiative coalition, to address root causes of our city's affordability crisis and advance racial equity in housing and land use. CLTs are community-governed nonprofits that own and steward land and ensure it is used for affordable housing and other critical needs. CLTs are a flexible, proven model to enforce long-term housing affordability and protect public subsidy in affordable housing and other neighborhood development. NYCCLI members include close to 20 emerging and established CLTs organizing for permanently-affordable social housing, commercial and community space, and other infrastructure in low income neighborhoods of color across the five boroughs.

We thank the Committee for holding today's important hearing and for its staunch support of CLTs and other social housing models. Today, I am testifying in support of the Community Land Act bill package, which includes the Community Opportunity to Purchase Act (Int. 196), Public Land for Public Good (Int. 637), and Resolution 38 in support of the NYS Tenant Opportunity to Purchase Act. My testimony includes recommendations to strengthen Int. 196 and Int. 637 before passage. A strong Community Land Act will give CLTs and other nonprofits new tools to bring land and housing into permanently-affordable community ownership – shielding them from predatory development, preventing displacement of low-income New Yorkers, and building collective wealth in Black and brown communities.

Strong partnerships, technical assistance, and access to capital will be key to ensuring the Community Land Act's success. We urge the City Council and administration to work with

nonprofits, community development financial institutions, state agencies, for-profit developers including MWBEs, and other stakeholders to develop and expand appropriate funding streams and technical support for CLTs and other nonprofits, to expand the supply of social housing and other needed development.

The Community Land Act is urgently needed to address our City's worsening affordability crisis. Upwards of 79,000 people live in shelters or on the streets,¹ while roughly one-third of NYC residents are severely rent-burdened, paying more than half their incomes on rent.² Between 2017 and 2021, New York City lost almost 100,000 units that had rented for less than \$1,500 per month, while it added 107,000 units that rent for at least \$2,300 per month.³

NYC's increasingly consolidated real estate market has exacerbated the crisis. Over 50% of HPD-registered landlords own 20 buildings or more and a quarter have over 60 buildings in their portfolio.⁴ Large landlords raise rents and evict at higher rates than smaller property owners, accelerating displacement and racial inequity.⁵ It's no surprise that half of NYC renters are rent-burdened, and that working class New Yorkers, particularly Black New Yorkers, are being forced out of the city in unprecedented numbers.⁶

City policies have further exacerbated these trends, by resourcing the privatization of housing and the commodification of public land. Even though we know that nonprofits consistently build more deeply-affordable housing and maintain affordability over longer terms,⁷ 75% of housing projects on City-owned land and 80% of City subsidy dollars go to for-profit developers. A recent analysis found that 35% of all new construction units developed by nonprofits were extremely low-income units—compared to just 18% of new units developed by for-profits.⁸

NYC must chart a new course that ensures safe, dignified and affordable housing for all. Collective land ownership through CLTs is one of the most effective ways to decommodify housing, advance social and racial equity, and ensure democratic resident control.⁹ The City Council has made important investments in CLTs in recent years, helping expand or catalyze new CLTs in the South and Northwest Bronx, Harlem, East New York, Lower East Side, Western Queens, and beyond. The Community Land Act will build on this progress – giving CLTs and other mission-driven nonprofits vital new tools to take land out of the speculative market, for good.

¹ Right to a Roof Coalition, *Right to a Roof: Demands for an Integrated Housing Plan to End Homelessness and Promote Racial Equity*, <https://anhd.org/report/right-roof> (Feb. 9, 2021).

² 2021 New York City Housing and Vacancy Survey, *Selected Initial Findings* (May 16, 2022).

³ Id.

⁴ Rabiyah, Sam "Examining the Myth of the 'Mom-and-Pop' Landlord", 2020

⁵ Id.

⁶ <https://www.nytimes.com/2023/01/31/nyregion/black-residents-nyc.html>

⁷ Sosa-Kalter, Stephanie. *The For-Profitization of Affordable Housing Development and the de Blasio Plan*, Association for Neighborhood & Housing Development (Oct. 17, 2017), <https://anhd.org/report/profitization-affordable-housing-development-and-de-blasio-plan>.

⁸ Sosa-Kalter, Stephanie. "Maximizing the Value of New York City-Financed Affordable Housing." Association for Neighborhood & Housing Development (October 2019).

⁹ Community Service Society, *Pathways to Social Housing in New York: 20 policies to shift from private profit to public good* (Nov. 2022)

We urge the Committee and Council to:

- Strengthen and pass COPA (Introduction 196), giving qualified nonprofits a first opportunity to purchase multifamily buildings when a landlord decides to sell. Int. 196 is modeled on successful legislation implemented in Washington, D.C., and San Francisco, which has produced thousands of affordable units of social housing. However, other Opportunity to Purchase policies include an explicit right of first refusal for nonprofits that is currently missing in Int. 196. We urge the Council to strengthen COPA by:
 - Adding a right of first refusal for qualified nonprofits, to ensure that a nonprofit has the right to purchase on the same terms as a competing offer; and
 - Expanding the definition of “Residential Property” covered by COPA to include vacant property zoned for residential buildings with three or more units.

We also urge the City to help develop dedicated, nimble funding streams to give CLTs and other qualified entities a meaningful opportunity to purchase within the timeframes provided by COPA and reach affordability levels that their neighborhoods need.

- Strengthen and pass the Public Land for Public Good Act (Introduction 637), requiring NYC to prioritize CLTs and nonprofit developers when disposing of City-owned land. The City has effectively prioritized for-profit developers in recent decades, contributing to market-rate development, extraction of public subsidies over time, and displacement pressures in low-income Black and Brown communities. Int. 637 will help ensure that public land is used for permanently-affordable social housing and other public benefits. To improve the bill, we recommend amendments to:
 - Explicitly permit joint ventures where a CLT or other nonprofit has a majority ownership stake to qualify as bona fide nonprofit bidders, to encourage collaboration in a way that maximizes public good while leveraging varied expertise; and
 - Incorporate a new definition of a “community land trust” in the NYC administrative code, through Int. 637 or a separate bill, that reflects CLTs’ work on non-housing development
- Pass Resolution 38, calling on the NYS legislature and Governor Hochul to enact the Tenant Opportunity to Purchase Act (TOPA) giving tenants the first right to collectively purchase their buildings when a landlord sells. TOPA would give tenants a say in the future of their buildings and support conversions to permanently-affordable social housing.

A final component of the Community Land Act platform is the implementation of a new public system to collect on property tax and other municipal debts. We applaud the City Council for putting an end to the notorious tax lien sale – which served to destabilize and extract wealth from Black and brown homeowners and communities, for decades – and look forward to working with you on a replacement system that prevents displacement of homeowners and tenants, promotes long-term affordability through CLTs and other nonprofits, and brings vacant and unoccupied property into productive use.

New Economy Project joins with NYCCLI coalition partners in calling for important changes to the NYC Land Bank bill (Int. 714), before offering our support. We have provided detailed suggestions to bill sponsors to strengthen the proposed land bank's governance structure and ensure that land bank dispositions prioritize social housing and community-led economic development. These changes include prioritizing CLTs and nonprofits in *all* land bank dispositions (not just for affordable housing); prioritizing *permanent* affordability in all housing dispositions; and ensuring CLT representation on the land bank's governing board. We look forward to supporting a strong next version of the bill.

Finally, we support Int. 932 requiring New York City to study the feasibility of establishing a social housing agency, and urge the City Council to pass Resolutions 344 and 506 calling on New York State to establish a housing access voucher program and prohibit evictions without good cause.

The urgency of New York's affordability crisis requires bold new solutions – including the resourcing of community-driven solutions like CLTs. Enactment of the Community Land Act would represent a momentous step forward in the fight for housing and racial justice, and we look forward to working with this Committee and Council to secure its passage this session.

Thank you again for the opportunity to testify.



**Testimony to the New York City Council
Committee on Housing and Buildings**

February 23, 2023

Good afternoon, Committee Chair Sanchez and members of the Housing Committee. Thank you for holding today's hearing and for the opportunity to testify on behalf of the New York City Community Land Initiative (NYCCLI), a broad coalition that has supported the growth of community land trusts (CLTs) and neighborhood-led development across the five boroughs. My name is Elise Goldin and I am a campaign organizer at New Economy Project, which co-founded and convenes NYCCLI.

Founded ten years ago, NYCCLI grew out of longstanding work by Picture the Homeless, New Economy Project, housing researchers, and activists and organizers around the city to address root causes of housing insecurity, displacement, and homelessness. CLTs are community- and resident-controlled nonprofit organizations that own land and, through a ground lease, set conditions for the use of the land. CLTs are widely recognized as one of the most effective ways to enforce the permanent affordability of housing, facilitate democratic planning and neighborhood development, and build collective community wealth. With close to 20 CLTs in existence or in formation in historically-redlined Black and brown neighborhoods, we have managed to put CLTs on the public agenda. Now, they need real support.

NYCCLI is pleased to testify today in support of the Community Land Act, a bold legislative package that will give CLTs and other nonprofits tools to acquire land for permanently affordable social housing, affordable commercial and community spaces, and other critical needs. We urge the Committee and Council to pass the Community Opportunity to Purchase Act, or COPA (Int. 196), Public Land for Public Good (Int. 637), and Resolution 38 in support of the NYS Tenant Opportunity to Purchase Act, or TOPA.

The Community Land Act enjoys broad support among community groups and New Yorkers, hundreds of which have turned out at Town Halls and community meetings and contacted Council Members to express their support for the proposed legislation. I am attaching to my testimony a letter – signed by more than 100 grassroots, base-building, faith-based, affordable housing, environmental justice and legal services organizations across the city – calling on the City Council and Mayor Adams to enact these urgently-needed bills.

The Community Land Act will help level the playing field for CLTs and other organizations to meet their communities' housing and economic development needs. As this committee knows,

nonprofits are more likely than for-profits to build affordable housing, take on complex projects, and maintain affordability over the long-term or in perpetuity.¹ A recent analysis found that 35% of the total new construction units developed by nonprofit developers were extremely low-income units, compared to just 18% of new units developed by for-profit developers, for example. Yet 75% of housing projects on city-owned land and 80% of city subsidy dollars are awarded to for-profit developers.² This imbalance represents missed opportunities for the City to use precious public resources to serve New Yorkers in greatest need – and to guard against the extraction of public subsidy over time.

CLTs in New York City are squarely focused on providing deeply-affordable housing, preventing displacement, and advancing racial equity in housing and land use. The City Council has made important investments in CLTs and other nonprofits in recent years, helping to build citywide capacity, strong grassroots leadership, and successful partnerships among CLTs and nonprofit developers. Cooper Square CLT, East Harlem El Barrio CLT and Interboro CLT have recently acquired properties, and several other CLT projects are in the pipeline. Mayor Eric Adams and City Council Speaker Adrienne Adams have named CLTs as a key strategy in their housing plans. The time is ripe for bold policy change to support the growth of this vital movement.

We urge the City Council to pass:

- 1) Community Opportunity to Purchase Act (COPA, Int 196), which gives qualified nonprofits a first opportunity to make an offer to purchase multifamily buildings when a landlord decides to sell. We urge the Council to strengthen COPA by adding an explicit right of first refusal for nonprofits, as provided by Opportunity to Purchase policies adopted in San Francisco and Washington, D.C., for example, and to expand the definition of “residential property” subject to COPA to include vacant property zoned for residential buildings with three or more units. We further urge the Council to work with our coalition and other nonprofit affordable housing providers, community development financial institutions, and City and State agencies to expand technical assistance and financing available to CLTs and other nonprofits in making COPA purchases. We are excited to support the successful implementation of COPA to curb speculative sales and expand the supply of permanently-affordable, community-controlled housing.
- 2) Public Land for Public Good (Int 637), which would require NYC to prioritize CLTs and nonprofit developers when disposing of City-owned land, to ensure that public land is used for permanently-affordable housing and other community needs. We urge the Council to strengthen the bill by expanding the entities that qualify as a bona fide bidder to include joint ventures where a nonprofit has a majority ownership stake, to allow for partnerships with MWBEs and other for-profit developers; and by adding a new definition of a “community land trust” in the NYC administrative code that appropriately

¹ Sam Stein, Community Service Society, *Assessing De Blasio's Housing Legacy: Why Hasn't the "Most Ambitious Affordable Housing Program" Produced a More Affordable City?*, 12-15 (Feb. 2021).

² Stephanie Sosa-Kalter, *The For-Profitization of Affordable Housing Development and the de Blasio Plan*, Association for Neighborhood & Housing Development (Oct. 17, 2017).

reflects CLTs' role in housing and other land use. NYCCLI has drafted such a definition and would be pleased to share it with the Committee.

- 3) Resolution 38, calling on the NYS legislature and Governor Hochul to enact the Tenant Opportunity to Purchase Act. TOPA would extend Opportunity to Purchase rights directly to tenants and apply the regulation to a greater universe of buildings. By giving tenants the first right to collectively purchase their buildings when a landlord sells, or to partner with a mission-driven developer to acquire the property, TOPA would dramatically increase community-controlled housing in NYC and give tenants a voice in determining the fate of their own homes.

NYCCLI looks forward to working with the Council to implement an equitable new system for collecting on property tax and water arrears, and to ensure the permanent abolition of the tax lien sale – the final component of the Community Land Act. As a majority of this Council has agreed, our new system must re-municipalize public debt collection; prevent displacement of homeowners and tenants; promote long-term affordability through CLTs and partnerships with trusted non-profit developers; and create pathways for productive use for vacant lots and unoccupied buildings.

Finally, NYCCLI calls for important changes to be made to Int. 714, establishing a New York City land bank, before offering our support, to ensure the land bank serves as a strong partner to CLTs and other social housing providers. Specifically, the legislation must ensure CLT representation on the land bank's board of directors; prioritize CLTs and nonprofits in *all* land bank dispositions, not just for affordable housing; and prioritize *permanent* affordability in all housing dispositions. We also call for the addition of "green infrastructure in IBZs, community facilities, retail, commercial or other community uses" as uses for which the land bank can transfer land automatically, as long as the transfer is to a CLT, a developer working with a CLT, or a CDC or other nonprofit. NYCCLI has provided detailed suggestions to bill sponsors, and we look forward to supporting a strong next version of the bill.

The City and State have set ambitious goals to build thousands of more housing units in NYC but little detail has been provided on how we will create the deeply affordable housing our neighbors need. We must expand community-controlled social housing if we are going to put an end to the speculation and extractive real estate practices at the heart of the housing crisis. We need the Community Land Act to make this possible.

Thank you again for holding today's important hearing and for the opportunity to testify.

JOINT LETTER IN SUPPORT OF THE COMMUNITY LAND ACT

February 23, 2023

Dear NYC Council Members and Mayor Adams,

The undersigned organizations call on you to enact the **Community Land Act** -- an urgently-needed set of bills that give community land trusts (CLTs) and other nonprofits tools to develop and preserve **permanently-affordable housing, community and commercial space, and other neighborhood assets**. By taking land off the speculative market, [CLTs](#) protect public investment in affordable housing and maintain affordability over generations.

Together, these measures address root causes of our city's affordability crisis, combat displacement of low-income New Yorkers, and build collective wealth in Black and brown communities.

The [Community Land Act](#) includes:

- **Community Opportunity to Purchase Act (Intro 196)** – giving CLTs and other qualified nonprofits a first chance to buy multifamily residential buildings when a landlord sells. Modeled on successful legislation in other cities, COPA helps level the playing field for CLTs to acquire, develop and preserve permanently-affordable housing.
- **Public Land for Public Good (Intro 637)** – prioritizing CLTs and not-for-profit developers when the City disposes of public land. The bill will help ensure that vacant and underutilized public land is used to provide permanently-affordable housing and meet other critical needs.
- **Tenant Opportunity to Purchase Resolution (Reso 38)** – calling on New York State to pass legislation giving tenants a first right to collectively buy their buildings when a landlord sells. Like COPA, TOPA would help bring housing into permanently-affordable tenant and community control.
- **Permanently abolishing and replacing NYC's tax lien sale** – which has fueled speculation and displacement in BIPOC communities. NYC should replace the lien sale with an equitable system that engages CLTs to preserve affordable housing and keep New Yorkers in their homes.

The City must act to reverse the tide of displacement in Black and Brown communities and ensure affordable, dignified housing for all New Yorkers. Nearly [one-third](#) of New York City tenants are severely rent-burdened, and the population of unhoused New Yorkers has [skyrocketed](#). Speculative landlords, meanwhile, are reportedly warehousing over [60,000](#) vacant rent-stabilized apartments. Majority-Black neighborhoods are bracing for another [onslaught of foreclosures](#) that strip families of wealth and housing stability, fueling racial inequality.

The Community Land Act brings land and housing into community control -- shielding them from predatory markets, supporting neighborhood-led development, and increasing the supply of permanently-affordable [social housing](#).

We urge you to pass the full Community Land Act legislative package this session.

Signed,

89th Street Tenants Unidos Association
AD—WO - Val Alen Institute
Affordable Housing is For All
A. Philip Randolph Square Neighborhood Alliance
Art Against Displacement
Asian Americans for Equality
Association for Neighborhood and Housing Development (ANHD)
Astoria Not for Sale
Bailey's Cafe
Biotech Without Borders
Black Trans Media
Bronx Community Land Trust
Brooklyn Cooperative Federal Credit Union
Brooklyn Level Up
Brownsville Partnership
Carroll Gardens Association
Catholic Migration Services
Center for Family Life in Sunset Park
Center for New York City Neighborhoods
Chhaya CDC
The Chocolate Factory Theater
Churches United for Fair Housing
Community Allies
Community and Worker Ownership Project at CUNY School of Labor and Urban Studies
Community Resource Exchange
Community Service Society of New York
Community Solutions
Community Voices Heard
Cooper Square Committee
Cooperative Economics Alliance of NYC
Cooper Square Community Land Trust
Cooper Square Mutual Housing Association II, HDFC
Crown Heights Tenant Union
Custom Collaborative
CUNY School of Law Community & Economic Development Clinic
DSA Queens Housing Working Group
East Harlem/El Barrio Community Land Trust
East New York Community Land Trust
East New York 4 Gardens
East River Park Action

El Puente de Williamsburg
Flatbush Tenant Coalition
The Flatbush Workshop for Design
For the Many
Goddard Riverside
Green Map System
Grow Brownsville
GrowHouse NYC
Hester Street
Housing Court Answers
Housing Justice for All
Housing Organizers for People Empowerment of East Brooklyn (HOPE)
Housing Rights Initiative
Housing Rights Project at CUNY Law
Housing Works
IMPACCT Brooklyn
Inclusiv
Southside United HDFC- Los Sures
LEAPS (Limited Equity and Affordability at Penn South)
Lower East Side People's Federal Credit Union
Malikah
Mothers on the Move / Madres en Movimiento
Mott Haven Port Morris Community Land Stewards
Neighborhood Housing Services of Brooklyn CDC, Inc.
New Destiny Housing Corp.
New Economy Project
New Immigrant Community Empowerment
New York City Community Land Initiative
NYC Youth Sports Podcast Show Inc.
New Yorkers for Culture & Arts
NY Muslim Organizing Collective
North Star Fund
Northern Manhattan Community Land Trust
Northwest Bronx Community and Clergy Coalition
Not One More Block
NYC Arts in Education Roundtable
NYC HDFC
Parsons Housing Justice Lab
Picture the Homeless
Pratt Center for Community Development
Q Gardens Community Farm
ReAL Edgemere Community Land Trust
Right to Counsel NYC Coalition
Riverside Edgecombe Neighborhood Association
South Bronx Unite
Stabilizing NYC
St. Nicks Alliance
STooPS Art & Community

Street Vendor Project, Urban Justice Center
The Supportive Housing Network of New York
TakeBackNYC
TakeRoot Justice
Tenants Political Action Committee
Theatre of the Oppressed NYC
The Mothership NYC
This Land is Ours Community Land Trust
Urban Homesteading Assistance Board
United Neighbors Organization
Universe City
Urban Justice Center - Safety Net Project
Village Preservation
WE ACT for Environmental Justice
We Are Not Afraid Community Resource Center
We Stay/Nos Quedamos
Western Queens Community Land Trust
Woodside on the Move
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September 20, 2022

New York City Council
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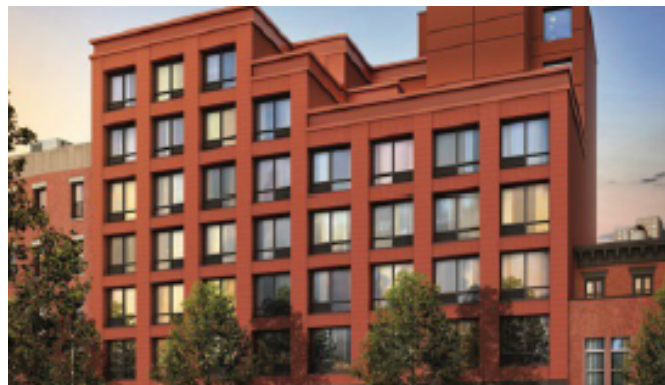
Delivered Via Email to District33@council.nyc.gov
Cc: SpeakerAdams@council.nyc.gov

Re: Int. 20637-2022 Disposition of Real Property of the City

Dear Council Member Restler,

The New York Real Estate Chamber (NYREC) is a BIPOC-focused chamber of commerce and the leading advocacy group of diverse developers in the city and state of New York. We write to you with strong opposition to the proposed legislation to dispose of city-owned land exclusively to not-for-profit organizations (Int. 0637-2022). If passed and enacted in its current form, the bill will result in deeper disenfranchisement of Black- and Brown-owned businesses, diminishing their access to economic opportunities within New York City.

In recent decades, Black and Brown for-profit developers have been instrumental partners with underserved communities, building high-quality affordable housing and investing in neighborhoods across New York City. By limiting access to city-owned land in such a significant and profound manner, the City risks eliminating opportunities for Black and Brown developers to continue making a difference in our very own communities. The majority of Black and Brown developers in the region have built their careers and relationships working in the affordable housing sector with agencies including the New York City Department of Housing Preservation and Development (HPD) and Housing Development Corporation (HDC). Roughly 80% of real estate projects developed by NYREC members are affordable housing projects. Our members collectively own approximately 20,000 affordable housing units. Below are just a few examples of affordable housing projects developed by NYREC members:



Lemor Development Group, Balton Commons was financed through HPD's Neighborhood Construction Program (NCP) and includes four tiers of affordability with rents affordable to households earning 30% of AMI, 40% of AMI, 60% of AMI and 90% of AMI.²

¹ <https://www.nyrechamber.com/about>



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CB Emmanuel, Alabama Avenue. Supportive Housing and Multifamily Units. HPDShLP/ 9% LIHTC³



Thorobird Companies, "The Grand" is one of New York City's first new-construction projects to combine dedicated supportive, affordable and middle-income housing under the same roof.⁴

Black for-profit developers have proven our capabilities. We have the capacity, resources, and expertise to build and maintain safe, environmentally sound affordable housing on city-owned land. MBE developers also hire more diverse staff while also hiring other MBE businesses. If the goal of this legislation to ensure Black and Brown communities receive the quality affordable housing they deserve, City Council and City Hall must not devalue the MBE developers who have a demonstrated track record of building affordable housing while hiring predominately Black and Brown employees as well as other MBE firms.

The proposed legislation would significantly reverse the progress that the city is beginning to make with diversifying how it operates with private partners. This bill is contrary to what we know and what we are working to correct, in that, the city has to diversify the developers it works with, as well as, how it allocates public dollars and economic opportunity to the constituents in this city. Just during the first three months of the COVID pandemic, New York City spent \$3.4 billion dollars on an emergency basis with less than 1% of that being spent with Black-owned businesses, A recent City & State report shared that New York City awarded only 3.8% of contract money to MWBE firms in 2021.

² <https://lemordev.com/projects-balton-commons>

³ <https://www.cbemmanuel.com/alabama-avenue-apartments>

⁴ <https://thorobird.com/featured-work/the-grand>



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While there are various disparity studies demonstrating how minority-owned businesses are a frequently disadvantaged group, there is little evidence that not-for-profits are similarly disadvantaged. The New York City Comptroller's Office also revealed that 84% of MWBE's "do not have access to city spending."⁵ Unfortunately, this legislation would only create new obstacles for Black entrepreneurs and innovators to do business with the City. The need for this legislation remains questionable as it does not fix the single problem, but rather doubles down on the shameful behavior of institutionally denying MBE's access to economic opportunity.

In the late 1990s, HPD's Neighborhood Entrepreneur's Program (NEP) was the first real attempt by the City of New York to diversify how it does business and be more inclusive of developers of color. However, the lion's share of city resources and economic development efforts continued to go to a select few white developers while Black developers have been excluded, as the chart below from Pincus Media indicates⁶.



Notably, the City of New York's work with not-for-profit organizations on development projects in recent years has largely been possible thanks to joint ventures that the organizations enter with for-profit developers that are often non-minority owned firms, deepening the racial disparity leaders hope to address.

The New York Real Estate Chamber strongly urges the City Council to reject this proposed legislation. Our board of Directors and organization members would appreciate scheduling a meeting to further discuss the implications of the bill.

Thank you,

Craig Livingston, Chairman

⁵ <https://www.cityandstateny.com/politics/2022/03/nyc-awarded-less-4-contracts-minority-and-women-owned-business/363155>

⁶ <https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:5fcd648-ec65-3139-ad3c-e261cf52fe89>

The New York City
Council Committee on
Housing and Buildings

Re: T2023-2919 Oversight - Social Housing; Int 0196-2022; Int 0637-2022; Int 0714-2022; Res 0038-2022; Res 0344-2022; Res 0506-2023

Pierina Ana Sanchez,
Chair
February 23, 2023

Written Testimony

Note: This testimony reflects
the position of Pratt Center for
Community Development and
not necessarily Pratt Institute

Chair Sanchez and members of the Committee on Housing and Buildings, thank you for the opportunity to submit testimony in support of several important bills to advance community land stewardship and housing affordability. I am Sylvia Morse, Policy Program Manager at the Pratt Center for Community Development, which conducts research and technical assistance in collaboration with community-based organizations on land use and housing policy in New York City.

We urge this Committee and the City Council to pass the bills under consideration that would advance Community Land Trusts (CLTs) and deeply affordable, democratic housing, including **Public Land for Public Good (Intro 637)**, the **Community Opportunity to Purchase Act (COPA) (Intro 196)** and the **Resolution in support of the Tenant Opportunity to Purchase Act (TOPA) (Res 0038)**. We also urge this body to pass the resolutions in **support of Good Cause (Res 0506-2023)** and the **Housing Access Voucher Program (HAVP) (Res 0344-2022)** to strengthen tenant protections and provide funding for low-income housing. Taken together, these policies would help address speculation on multifamily housing that drives up rents, create and preserve deeply affordable housing, reduce displacement, and strengthen the rights and power of tenants in their homes and communities.

City Council can help address the housing affordability crisis by advancing community-controlled housing through **Public Land for Public Good (Intro 637)**, the **Community Opportunity to Purchase Act (COPA) (Intro 196)** and the **Resolution in support of the Tenant Opportunity to Purchase Act (TOPA) (Res 0038)**. As a result of community organizing and advocacy for policies in support of community land stewardship, New York City has seen the number of active CLTs grow in the past ten years from one to more than 20. New York City has begun to recognize CLTs as a proven model to create and maintain permanent affordability for low- and moderate-income housing. As of 2022, HPD had committed resources to 1,000 homes on four CLT in the form of tax exemptions, direct funding for rehabilitation and construction, and land dispositions. Yet the majority of CLTs are still advocating for city-owned land, and land costs are a chief barrier to CLTs creating housing affordable to low-income people. New York City should follow best practice of successful local CLT programs across the U.S., which are dependent on municipal and state policies that create a pipeline of no- or low-cost land made accessible to CLTs,¹ and create opportunities for tenants and CLTs to acquire privately-owned apartment buildings for collective good and long-term affordability.

City-owned land is currently scarce and is increasingly valuable amidst rising land and housing costs.² As of 2022, for instance, HPD had disposed of nearly all (99.5%) of properties obtained via in rem foreclosure since 1994.³ The city's remaining land resources—and any new land it acquires—should be maximized for public benefit, yet the majority of requests for proposals for housing development are granted to for-profit entities.⁴ Passing Public Land for Public Good (Intro 637) would protect city land subsidies by prioritizing them to housing nonprofits and CLTs, which guarantee permanent affordability.

The city can also help CLTs access land by establishing the Community Opportunity to Purchase Act (COPA) (Intro 196), which would give CLTs and other housing nonprofits the first opportunity to submit offers for apartment buildings up for sale. COPA will be most impactful if implemented in tandem with the statewide Tenant Opportunity to Purchase Act (Res 0038), through which

¹ [Community Land Trusts: A Guide for Local Governments](#), National League of Cities, 2021

² NYC Comptroller, [Building An Affordable Future: The Promise of a New York City Land Bank, 2016](#); ANHD, [The For-Profitization of Affordable Housing Development and the de Blasio Plan, 2017](#); Stein, Mironova, [Public Land Revisited: Municipalization and Privatization in Newark and New York City](#), 2018

³ [Rent Guidelines Board, Housing Supply Report 2022](#), p. 12

⁴ ANHD, [Maximizing the Public Value of New York City-Financed Affordable Housing](#), 2019

tenants could partner with CLTs and mission-driven nonprofits to preserve and create affordable housing. Such laws have been successfully enacted in Washington, D.C., San Francisco, CA, and Montgomery County and Prince George's County, MD, and many more jurisdictions grant rights of first refusal to nonprofits for housing created with public funds or affordability restrictions.⁵

We urge City Council to pass these bills to help CLTs, nonprofits, and tenants access land resources in order to provide permanently, deeply affordable housing across the city.

We strongly support the resolutions in support of Good Cause (Res 0506-2023) and the Housing Access Voucher Program (Res 0344-2022) in order to strengthen tenants' rights and provide funding for vulnerable low-income tenants to access housing.

Amidst New York City's ever-worsening housing affordability crisis, in which less than 1% of apartments renting for less than \$1,500 a month are vacant, homelessness is at an all-time high, evictions are growing, and tenants across neighborhoods and incomes are facing a rent-gouging emergency, the city and state must take bold action to protect tenants and expand housing affordability. Good Cause, which would strengthen the right to a lease renewal without unreasonable rent increases statewide, would expand tenant protections for renter households across New York City including 25% in the Bronx, 34% in Brooklyn, 42% in Manhattan, 43% in Staten Island, and 45% in Queens, according to Pratt Center's 2022 analysis in collaboration with Community Service Society of New York.⁶ The Good Cause can also help curb speculation on rental building, alongside rent stabilization and other affordable housing programs.

The Housing Access Voucher Program (HAVP), which would establish a statewide rental subsidy program for low-income New Yorkers who are homeless, facing eviction, or at risk of losing their housing because of domestic violence or hazardous living conditions, would provide much-needed resources for those who face the greatest barriers to accessing housing, including undocumented people, people with no income, and people with felony convictions. HAVP can work in tandem with new and existing housing affordability programs to help finance low-income housing.

We appreciate the Committee on Housing and Buildings holding this hearing to discuss new strategies to address the urgent housing crisis facing our city, including expanding community-controlled, deeply affordable housing, strengthening tenant rights, and ensuring funding to house the most vulnerable tenants.

For more information, contact

Sylvia Morse
smorse@prattcenter.net

⁵ [Peter Damrosch, "Public Rights of First Refusal." 2020](#)

⁶ Pratt Center for Community Development, Community Service Society of New York, [The Right to Remain](#), 2022



**Testimony to the New York City Council
Committee on Housing and Buildings
Submitted by the Supportive Housing Network of New York
February 23, 2023**

Hello, Chairpersons and members of the New York City Council. My name is Joelle Ballam-Schwan and I am the Associate Director of Engagement and Communications at the Supportive Housing Network of New York. We are here to show support for the Community Land Act, specifically Community Opportunity to Purchase Act (Intro 196) and Public Land for Public Good (Intro 637), and speak to how they would help further the production and expansion of desperately needed supportive housing in New York City.

The Supportive Housing Network of New York is a membership organization representing over 200 nonprofits who develop, own and operate 58,000 supportive housing units statewide, 38,000 of which are in New York City. Supportive housing is deeply affordable housing with embedded social services for people who have experienced homelessness and who have the greatest barriers to achieving housing stability: people living with a mental health diagnoses, substance users or those in recovery, youth aging out of foster care, people exiting the criminal legal system, survivors of domestic violence, and others.

Supportive housing is a key solution to addressing New York City's homelessness crisis, but available affordable land for developing it is extremely scarce. New York City's current supportive housing commitment, NYC 15/15, launched in 2015 committed to creating 15,000 units of supportive housing over the following 15 years. One of the greatest challenges to continuing this pipeline, however, is identifying affordable and appropriate sites. Both COPA and Public Land for Public good would help nonprofits acquire buildings and land to continue this crucial pipeline of supportive housing.

NYC 15/15 envisioned 7,500 congregate units — single-site residences which typically feature 60% of units for supportive tenants and 40% for low-income individuals and families — and 7,500 scattered site units — apartments rented from existing stock in the community in which the nonprofit provides mobile services. The scattered-site model has come with many challenges that pose a danger to the completion of the City's greatly needed program: the budgets for rents continue to be well below the current Fair Market Rent (FMR) and finding available apartments for the program has proven difficult. And, those that can be rented are often far from transit, not accessible and/or need maintenance work. The social service rates are also far below rates for single site residences even though services in a scattered site setting are more labor intensive than in congregate. As a result, we are now six years into NYC 15/15 and only 17% of scattered site units have been allocated versus 70% of congregate units.

In order to meet our target for NYC 15/15 we need to start thinking creatively right now. There are approximately 6,000 unawarded scattered site units that could be utilized more efficiently, which includes creating more congregate supportive housing. This will mean an even greater need for sites and land. COPA and Public Land for Public Good would assist in making this possible, as well as help keep supportive housing in the hands of mission driven nonprofits where it belongs. As mission-driven

landlords, nonprofits protect the long-term affordability and quality operation of supportive housing. Nonprofits also are mission driven to keep tenants from returning to homelessness. They're also more likely to create deeper affordability and extend affordability beyond the original regulatory period. Not only are nonprofits providing important public value in the long term, but their developer fees are reinvested directly into the community and their mission. By prioritizing nonprofits, the city will continue its longstanding virtuous cycle of nonprofit development and ownership. Empowering nonprofits to develop builds their capacity to build again, and again, thereby continuing to reinvest back into the communities they serve.

The City should also consider reallocating some of the funding for NYC 15/15 scattered site for preservation. Many of the older supportive housing stock is in a state of utter disrepair. And, if we don't preserve the units we currently have while creating new ones, we will be playing a continuous and never-ending game of catch-up.

Additionally, New York City needs an all-hands-on-deck approach right now to addressing our affordable housing and homelessness crises, and needs to identify city-owned land in every district and borough across the City. This is why the Network is also advocating to require the administration to publicize a list of vacant and underdeveloped properties under all city agency jurisdictions that are viable for development. Once identified, this land should then, under Public Land for Public Good, be prioritized for nonprofits.

Furthermore, the concept of prioritizing nonprofits for public land or under-developed sites, is not new. Under the Koch administration in the eighties, old SRO stock was prioritized for affordable and supportive housing by selling these vacant buildings to nonprofits for one dollar. This helped attract supportive housing to a new group of nonprofit housing developers who purchased and renovated buildings around the city that had been abandoned. This policy was a major factor in the growth of supportive housing in NYC.

Thank you to the Council and the Committee on Housing and Buildings and for hearing us and for recognizing the need and value of prioritizing nonprofits for available residential sites and public land. Thank you again.

TAKEROOT JUSTICE

Testimony to the New York City Council

Committee on Housing and Buildings

Oversight Hearing: Social Housing

February 23, 2023

Good afternoon, Committee Chair Sanchez and members of the Housing Committee. Thank you for holding today's hearing and for the opportunity to testify. My name is Paula Segal, and I am speaking today as Senior Staff Attorney in the Equitable Neighborhoods practice of TakeRoot Justice. TakeRoot works with grassroots groups, neighborhood organizations and community coalitions to help 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."

TakeRoot is a member of the New York City Community Land Initiative (NYCCLI), an alliance of grassroots, affordable housing, environmental and economic justice organizations working to promote community land trusts (CLTs) and neighborhood-led development. NYCCLI members include close to 20 CLTs organizing for deeply-affordable social housing, commercial and community spaces, and other needs in low income Black and brown neighborhoods across the five boroughs. We at TakeRoot support this growing movement for affordable community-controlled housing, commercial and community spaces through legal services to CLT members of the initiative and other groups exploring the CLT model. We provide everything from education on orientation and incorporation, to transactional representation in negotiating ground leases and joint venture agreements.

We thank the Committee for holding today's hearing and for introducing bold legislation to strengthen and expand social housing and equitable neighborhood development, including the legislative components of the Community Land Act, on which I will comment today:

the Community Opportunity to Purchase Act (Int. 196), Public Land for Public Good (Int. 637), and Resolution 38 in support of the NYS Tenant Opportunity to Purchase Act. These bills will help level the playing field for organizations like our clients to meet NYC communities' housing and economic development needs.

NYC must take bold action to address our city's affordability crisis, combat displacement, and advance racial equity in housing and land use. Collective land ownership through CLTs is one of the most effective ways to achieve these public policy objectives. We see clearly in our work that the tripartite nonprofit structure of CLT governance creates durable permanent stewardship



infrastructure with internal checks and balances designed to foreclose opportunities for self-dealing and to expand opportunities for community participation over time.

We are thrilled to be working with this Council and our partners to build social housing infrastructure for NYC through the CLT model. Passage of the Community Land Act will help our organizations take land off the speculative market and provide the deeply affordable housing and other resources our communities need, building on the investments in CLTs the City Council has made through the City Council Initiative.

We urge the Committee and City Council to:

Strengthen and pass COPA (Int 196) to give qualified nonprofits the first right to purchase multifamily buildings when a landlord decides to sell. Modeled on successful legislation implemented in Washington, D.C., and San Francisco, COPA would help curb speculation and expand the supply of permanently-affordable, community-controlled housing.

To improve the current bill, we recommend that the Council:

- Add a clear right of first refusal for qualified nonprofits: As currently drafted, the bill does not provide qualified entities a clear right of first refusal, i.e. the right to buy on the same terms as a competing offer, which is standard in other Community and Tenant Opportunity to Purchase policies.
- Include Vacant Property: We urge the City Council also to expand the definition of “Residential Property” subject to COPA to include vacant property zoned for residential buildings with three or more units.

Pass Resolution 38, calling on the NYS legislature and Governor Hochul to enact the Tenant Opportunity to Purchase Act, a State bill that would extend Opportunity to Purchase rights directly to tenants, and apply the regulation to a greater universe of buildings. By giving tenants the first right to collectively purchase their buildings when a landlord sells, or to partner with a mission-driven developer to acquire the property, TOPA would dramatically increase community-controlled housing in NYC and give tenants a voice in determining the fate of their own homes.

Strengthen and Pass the Public Land for Public Good Act (Int 637), which would require NYC to prioritize CLTs and nonprofit developers when disposing of City-owned land, to ensure public land is used for permanently-affordable housing and other public benefits. Currently, most City-owned land goes to for-profit developers, contributing to market-rate development and displacement in low-income Black and Brown communities. Public Land for Public Good will make sure we are prioritizing deep, permanent affordability and community wealth building.

To improve the current bill, we recommend that the Council:

- Expand the entities that will qualify as a bona fide bidder to include joint ventures where a nonprofit has at least 51% nonprofit ownership to qualify as a bona fide nonprofit bidder



- Create a new definition of a Community Land Trust in the NYC admin code that recognizes that CLTs do work beyond housing. This can be done in this bill or through a separate piece of legislation. NYCCLI is happy to share a new CLT definition with the Committee.

We join with NYCCLI coalition partners in calling for important changes to be made to the NYC Land Bank bill (Int. 714), before offering our support. These changes include adding green infrastructure in IBZs, community facilities, retail, commercial or other community uses as uses for which the land bank can transfer land automatically, as long as the transfer is to a CLT, CLT working with a developer, CDC or other nonprofit; prioritizing CLTs and nonprofits in *all* land bank dispositions (not just those for affordable housing); prioritizing *permanent* affordability in all dispositions; and ensuring CLT representation on the land bank's governing board. These changes will help ensure the land bank serves as a strong partner to CLTs and other social housing providers. NYCCLI has provided detailed suggestions to bill sponsors, and we look forward to supporting a strong next version of the bill.

We also look forward to working with the Council on a replacement system for municipal debt collection, the final component of the Community Land Act. As a majority of this Council has agreed, our new system must 1) re-municipalize public debt collection, 2) prevent displacement of homeowners and tenants, 3) promote long term affordability through CLTs and partnerships with trusted non-profit developers, and 4) create a pathway for productive use for vacant lots and unoccupied buildings.

Thank you again for the opportunity to testify.

You can contact us at:

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This Land Is Ours CLT, Inc.

61 East 4th Street, 1E

New York, NY 10003- (212) 228-8210

February 23, 2023

Good afternoon Committee Chair Sanchez and Members of the Housing Committee. My name is Valerio Orselli, and I am the Project Director of This Land Is Ours Community Land Trust. I am a founding member of the Cooper Square CLT, currently the largest and most successful CLT in NYC.

This Land is Ours Community Land Trust, incorporated in 2020, is one of the newest CLTs formed in New York City. We are made up of housing activists and area residents committed to the development of permanently and deeply affordable housing and community uses.

Our organizational structure allows us to pursue the housing needs of working-class/ poor communities, and communities of color. We seek to acquire underutilized properties, troubled HDFC's and public land to create housing, and prevent displacement.

I am here to express our fullest support for the pending legislative initiatives; Intro 196 (COPA), Intro 637 (Public Land for the Public Good), and City Council

Resolution 38 in support of TOPA subsumed into the Community Land Act. We also wish to give our fullest support to Intro 714, which calls for the creation of a NYC Community Land Bank.

Through our organizing efforts, with a lot of help from Council Member Rivera, we also won a commitment from the City to redevelop the NYPD parking lot on East 5th Street for seventy low-income senior apartments. We are now working to win a commitment to redevelop the underutilized NYCHA parking lot on East 6th Street for 50 apartments for families and a community center.

If the two sites are disposed of through the current RFP process, we will not be able to compete with for-profit developers. To bring these projects to fruition we need the City Council to pass Public Land for the Public Good, prioritizing disposition of public properties to Community Land Trusts.

Developable private land in Manhattan or other boroughs is scarce and expensive. We are looking at underutilized public land to develop affordable housing and other community services, a process that will take years. That is why we also need a Land Bank for New York City that can take in underutilized parking lots, public libraries or other public properties. The Source Center for an Urban Future, for example, has identified some ten potential library/affordable housing co-development sites in four boroughs that could generate 772 units of new housing.

We seek to decommodify public land to help create more housing and public amenities, with the CLT playing a stewardship role by retaining ownership of the land to ensure permanent affordability. We urge the City Council to dedicate Public Land to the Public Good and to Land Bank the land until it can be properly utilized.

Vote YES on the Community Land Act.

New York City Council Committee on Housing and Buildings Thorobird Companies Testimony

February 20th, 2021

Intro 637 and Intro 714 are a blatant disregard of the black development community and to the black people within affordable housing to whom we have dedicated our lives to serve. Black communities have been plagued by a general disregard for human in this country and in this very city. Indeed, our communities are more underthought than underinvested. I, like many other MBE firms like mine, made a conscious decision to focus on affordable because the people living in affordable housing look like me, and having grown up in a low-income community, no one took the time to think about us. Studies show that over 70% of affordable housing residents are not just minorities, but African Americans.

It widely known that The New York Real Estate Chamber is the preeminent trade association dedicated to the benefit of black and brown real estate professionals and the communities that we serve. NYREC has been pivotal in the creation of important legislation within our industry, such as:

- New York Executive Law Article 15-A. We hosted a press conference with the 400 Foundation to speak about the New York Executive Law Article 15-A to promote employment and business opportunities on state contracts for minorities and women
- Prioritization of State M/WBE projects. Met with HCR/HFA to commitment from HCR to fund a minimum number of units of housing to be developed by NYREC members
- Prioritization of State M/WBE funding. We worked with the New York City Acquisition fund to establish a prioritization to MWBE firms such that those firms received similar terms as the nonprofit community
- HPD Guarantee Fund. We worked with HPD to advocate for and to advise on the establishment of a guarantee fund to assist in helping MWBE firms to focus on innovation within our communities instead of struggling to compete due to the wealth factor

It is clear that NYREC is a respected and critical partner in the creation of policy affecting MWBE firms, yet no one contacted NYREC about this legislation.

In addition, this legislation would severely harm my current pipeline of affordable housing production, including projects to be accomplished on city-owned land. These are projects for which my emerging MBE firm has invested substantial predevelopment capital.

I find there to be no ethical or fundamental basis for it and for that reason, I vehemently oppose Intro 637 and Intro 714.

Type A Projects

58 Reade Street, No.4
New York, NY 10007

The New York City Council
Committee on Housing and Buildings
Hearing Date: 2.23.2023
Re: Int. No. 637

Testimony Provided by: Ann Tirschwell, Type A Projects LLC

My name is Annie Tirschwell.

I am the co-founder and principal of a women-owned affordable and supportive housing development firm called Type A Projects.

My partner and I started Type A Projects after building over 1,000,000 square feet of community schools in NYC with a nonprofit development firm that I co-founded and ran for over a decade called Civic Builders.

We started Type A Projects to bring the development skills we had honed in one of the toughest real estate markets in the country to bear on the intractable problems of affordable housing and homelessness. We also wanted to offer our particular brand of deep community engagement and dedication to design excellence to the pursuit of developing very high-quality housing for our low-income and unstably housed fellow New Yorkers.

We started Type A as a WBE and not a nonprofit with the express purpose of helping to make the delivery of affordable housing in NYC more equitable. We support the City's current Equitable Ownership Requirement which acknowledges that Minority-and Women-Owned Businesses (as well as non-profits) need a stake in neighborhood development to ensure that our city's growth is inclusive.

MWBEs typically have deep roots in the communities we seek to work in. Ensuring that our firms have an ownership stake in the affordable housing arena is critical for the creation of a more equitable city. When enacted, the Equitable Ownership Requirement specifically empowered entrepreneurs of color and women to construct and operate affordable housing projects within their own communities, allowing for the creation of new jobs and economic growth across the city.

When we started Type A, you could count on one hand the number of affordable housing development firms owned and run by women. That number has slowly but steadily climbed over the last 10 years, thanks in large part to sustained efforts made by NYC agencies including NYC EDC and HPD, both of which have prioritized building MWBE firms' capacity in recognition of our unique and important contributions to solving the housing crisis. This progress must not stop if we want our city's neighborhoods to reflect those that live and work in them and to bring all available resources to combat our current housing crisis.

Type A Projects was given our first opportunity to develop an affordable building after participating in HPD's MWBE Capacity Building workshop series and winning an MWBE Capacity Building RFP. The result is an award-winning 115-unit affordable building that is home to over 120 low-income seniors with a nonprofit geriatric mental health clinic on the ground floor in Council Member Salamanca's district in the Bronx.

Subsequently, Type A was able to expand our business by joint venturing on a response to an NYC EDC RFEI that required a minimum of 25% participation by an "Emerging Developer" for a large public site in Council Member Ayala's district. Later this year, we will finish construction at this site – called Bronx Point -- on 542 units of permanently affordable, mixed-income rental apartments including over 80 units for formerly homeless tenants, community services including Pre-K run by our nonprofit partner BronxWorks and the future home of the Universal Hip Hop museum.

This is our particular brand of community development and without the public sites to build upon, we would not have been able to overcome the barriers to entry in what is arguably the most competitive real estate market in the country. We urge the City Council to consider the importance of women and minority voices and our unique contributions to helping solve the housing crisis and end homelessness in NYC. We urge you to support Women and Minority Owned Businesses and vote no on Intro 637.

I will close with a quote of **Council Member Francisco Moya also in support of the City's 2020 Equitable Ownership Requirement**. "If we are truly to level the playing field for women- and minority-owned businesses to build wealth, we need to ensure that they are included and reflected in the work that advances our communities.

Thank you.

**UHAB Testimony to the New York City Council
Committee on Housing and Buildings**

February 23, 2023

Good afternoon, Committee Chair Sanchez and members of the Housing Committee. Thank you for holding today's hearing and for the opportunity to testify. My name is Arielle Hersh and I am the Assistant Director of Co-op Development and Policy at UHAB.

Founded in 1973, UHAB empowers low- to moderate-income residents to take control of their housing and enhance communities by creating strong tenant associations and lasting affordable co-ops. We create affordable housing, support affordable co-ops, and build power among New York City's low-income tenants and cooperative homeowners. We are the only citywide nonprofit with decades of experience focused on resident-controlled housing. UHAB is also a founding member of Interboro CLT, the city's only citywide community land trust.

UHAB is a member of the New York City Community Land Initiative (NYCCLI), an alliance of grassroots, affordable housing, environmental and economic justice organizations working to promote community land trusts (CLTs) and neighborhood-led development. NYCCLI members include close to 20 CLTs organizing for deeply-affordable social housing, commercial and community spaces, and other needs in low income Black and brown neighborhoods across the five boroughs. We thank the Committee for holding today's hearing and for introducing bold legislation to strengthen and expand social housing and equitable neighborhood development.

I am excited to testify today in support of the Community Land Act, an urgently-needed set of bills that will give CLTs and nonprofits tools to bring land and housing into permanently affordable community control. The Community Land Act includes the Community Opportunity to Purchase Act (Int. 196), Public Land for Public Good (Int. 637), and Resolution 38 in support of the NYS Tenant Opportunity to Purchase Act (TOPA). These bills will help create new pipelines for affordable housing in New York City that prioritize tenant control, community ownership, and permanent affordability.

Since 2002, UHAB has developed 57 HDFC co-ops and 10 rentals, totaling 102 buildings and 1,873 units with a combined total development cost of over \$240 million. We develop with the sole goal of resident control, although some buildings' residents make a democratic decision to become affordable rentals owned by a nonprofit. We provide training, marketing, and consulting services for groups interested in community ownership in and outside of New York City. We worked with the City of New York to develop the Tenant Interim Lease (TIL) program in 1978, which allowed hundreds of distressed rentals to become limited-equity co-ops. We've always had a close working relationship with the City and played a role not only in co-op conversion processes, but in the programs that structure and finance these conversions.

Almost all the buildings UHAB works with go through some form of city ownership, such as TIL (now ANCP) and the Third Party Transfer Program (TPT). However, there are a dwindling number of buildings in

city ownership—either in the current ANCP pipeline, or new distressed rental buildings going through city foreclosure. HPD has created new programs to encourage the development of HDFC co-ops through Open Door and Neighborhood Pillars, which UHAB applauds. However, these programs are insufficient to address the scope of privately-owned buildings in deteriorating condition where tenants are fighting for livable conditions.

We know low-income communities of color in NYC’s multifamily housing are still suffering from subpar and unaffordable housing driven by speculative real estate practices. Profit-maximizing tactics that include evictions, delaying repairs, and debt leveraging—tactics have enormous health, social, and financial consequences for tenants. Landlords’ unscrupulous practices leave the housing market vulnerable to shocks like COVID-19, and ties low income families’ homes to ever riskier and more extractive processes.

It’s currently very difficult for tenants to break this speculative cycle through conversion to community ownership. For decades, HDFC and Mitchell-Lama limited-equity cooperatives have allowed some 85,000 families to build equity and create community wealth. However, demand for these affordable homes far outweighs supply, and few new tenant-owned cooperatives have been created recently due to a lack of institutional knowledge, financing, and legal pathways for conversion. Even where tenants are organized and motivated to take control of their housing, they have no practical means to permanently stop the cycle of predatory speculation. Even the most unscrupulous landlords know to pay their property taxes, which keeps the city from intervening and allows rampant speculation and disinvestment to continue.

UHAB recently made headlines with the purchase of 700 East 134 St in the Bronx, the first TOPA-styled tenant purchase with financing outside of any City program, which will go on to become an HDFC co-op. Since the New York Times article was published, 44 groups of tenants have reached out about organizing to transform their buildings into affordable co-ops. The vast majority are longtime tenants fighting to preserve their neighborhoods amidst rampant speculation and gentrification. UHAB is invested in building power among tenants fighting for control over their homes, but has limited resources. For meaningful change, we need the City’s action to intervene and support tenants to pull buildings off the market and permanently stabilize them as deeply affordable housing.

We see TOPA and COPA as complementary programs that mesh with HPD’s existing network of preservation programs for distressed multifamily buildings. Where the city currently has no mechanisms to encourage a negligent landlord to transfer ownership to a more responsible owner outside of City foreclosure, TOPA and COPA would create pathways to stability, comprehensive repairs, and permanent affordability. To that end, UHAB also encourages HPD to increase transparency around the status of Neighborhood Pillars and bring the program back online for new qualified sponsors, as well as share information with CLTs and nonprofit affordable housing developers about how to access acquisition funding through the New York Acquisition Fund (NYCAF).

NYC must take bold action to address our city’s affordability crisis, combat displacement, and advance racial equity in housing and land use. Collective ownership through HDFC co-ops and the full spectrum of

social housing possibilities including public housing, Mutual Housing Associations (MHAs) and CLTs, are some of the most effective ways to achieve these public policy objectives. Passage of the Community Land Act will help our organizations take land off the speculative market and provide the deeply affordable housing and other resources our communities desperately need.

We encourage the Committee and City Council to pass:

COPA (Int 196), to give qualified nonprofits the first right to purchase multifamily buildings when a landlord decides to sell. Modeled on successful legislation implemented in Washington, D.C., and San Francisco, COPA would help curb speculation and expand the supply of permanently-affordable, community-controlled housing.

To improve the current bill, we recommend that the Council:

- Add a clear right of first refusal for qualified nonprofits: As currently drafted, the bill does not provide qualified entities a clear right of first refusal, i.e. the right to buy on the same terms as a competing offer, which is standard in other Community and Tenant Opportunity to Purchase policies.
- Include Vacant Property: We urge the City Council also to expand the definition of “Residential Property” subject to COPA to include vacant property zoned for residential buildings with three or more units.
- Explore funding opportunities, including partnership with existing HPD programs like the NYC Acquisition Fund (NYCAF), which operates very similarly to Washington, DC’s Affordable Housing Preservation Fund and is the basis for the current TOPA budget proposal at the State level.

Resolution 38, calling on the NYS legislature and Governor Hochul to enact the Tenant Opportunity to Purchase Act, which would extend Opportunity to Purchase rights directly to tenants, and apply the regulation to a greater universe of buildings. By giving tenants the first right to collectively purchase their buildings when a landlord sells, or to partner with a mission-driven developer to acquire the property, TOPA would dramatically increase community-controlled housing in NYC and give tenants a voice in determining the fate of their own homes.

The current budget request for TOPA is a \$250 million a year commitment for 4 years. With those funds, we believe New York State can convert over 6,800 units of housing to permanently affordable social housing controlled by their residents and removed from the speculative market. Of those yearly funds:

- \$222.5 million would be used the fund the TOPA Acquisition Fund to assist with the acquisition of TOPA buildings, pulling them off the speculative market and bridging with existing lending programs at the state and local levels, modeled on Washington, DC’s Affordable Housing Preservation Fund and the NYC Acquisition Fund (NYCAF)
- \$7.5 million would be allocated to New York State Homes and Community Renewal (NYS HCR) to assist with staffing and overhead
- \$7.5 million would be allocated to New York City Department of Housing Preservation and Development (HPD) to assist with staffing and overhead

- \$5 million would be assigned to set up the Fund and provide support for the fund manager
- \$7.5 million would be allocated to support training, organizing, and technical assistance to support residents in the process of completing TOPA conversion

Public Land for Public Good Act (Int 637), which would require NYC to prioritize CLTs and nonprofit developers when disposing of City-owned land, to ensure public land is used for permanently-affordable housing and other public benefits. Currently, most City-owned land goes to for-profit developers, contributing to market-rate development and displacement in low-income Black and Brown communities. Public Land for Public Good will make sure we are prioritizing deep, permanent affordability and community wealth building.

To improve the current bill, we recommend that the Council:

- Expand the entities that will qualify as a bona fide bidder to include joint ventures where a nonprofit has at least 51% of ownership
- Create a new definition of a Community Land Trust in the NYC admin code that recognizes that CLTs do work beyond housing. This can be done in this bill or through a separate piece of legislation. NYCCLI is happy to share a new CLT definition with the Committee.

Resolution 344, calling on the State to pass A3701B/S.32804B establishing a housing access voucher program.

Resolution 506, calling on the State to pass A.5573/S.3082 prohibiting eviction without good cause.

We join with NYCCLI coalition partners in calling for important changes to be made to the NYC Land Bank bill (Int. 714), before offering our support. These changes include adding green infrastructure in IBZs, community facilities, retail, commercial or other community uses as uses for which the land bank can transfer land automatically, as long as the transfer is to a CLT, CLT working with a developer, CDC or other nonprofit; prioritizing CLTs and nonprofits in all land bank dispositions (not just for affordable housing); prioritizing permanent affordability in all housing dispositions; and ensuring CLT representation on the land bank's governing board. These changes will help ensure the land bank serves as a strong partner to CLTs and other social housing providers. NYCCLI has provided detailed suggestions to bill sponsors, and we look forward to supporting a strong next version of the bill.

We also look forward to working with the Council on a replacement system for municipal debt collection, the final component of the Community Land Act. As a majority of this Council has agreed, our new system must 1) re-municipalize public debt collection, 2) prevent displacement of homeowners and tenants, 3) promote long term affordability through CLTs and partnerships with trusted non-profit developers, and 4) create a pathway for productive use for vacant lots and unoccupied buildings.

Thank you again for the opportunity to testify.



February 23, 2023

Founders

Vernice Miller-Travis
Peggy M. Shepard
Chuck Sutton

Testimony of WE ACT for Environmental Justice

To the New York City Council Committee on Housing and Buildings

Board of Directors

Chair

Jeff Jones

Regarding Social Housing

To Committee Chair Pierina Ana Sanchez and Committee on Housing and Buildings:

Secretary

Nancy E. Anderson,
Ph.D.

WE ACT for Environmental Justice, an organization based in Harlem, has been fighting environmental racism at the city, state, and federal levels for more than 30 years. WE ACT's theory of change is centered on a power-building model that empowers environmental justice communities to organize for the change they need.

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Phillip Morrow
Dart Westphal

WE ACT urges all City Councilmembers to co-sponsor and pass the following bills and resolutions:

- **Int 0196-2022** – Giving qualified entities a first opportunity to purchase and an opportunity to submit an offer to purchase certain residential buildings when offered for sale.
- **Int 0637-2022** – Disposition of real property of the city.
- **Int 0714-2022** – Creating a land bank.
- **Res 0038-2022** – Mandating that any owner intending to sell a multi-unit residential dwelling, must first make a fairly appraised offer of sale to the tenants within the residence before making any sale offers to third parties.
- **Res 0506-2023** - In relation to prohibiting eviction without good cause.

Executive Director

Peggy M. Shepard

WE ACT has been working for decades in communities that have been plagued with housing issues like mold, lead, asbestos, pests. Concerns over health implications as a result of deferred maintenance are eclipsed only by fear of displacement as prices in Northern Manhattan continue to soar. New York City is experiencing an [exodus of Black families](#) due to a combination of poor housing quality and bloated rents. Nowhere is this crisis felt more acutely than [Northern Manhattan](#). WE ACT has a legitimate fear that the neighbors we fight for, and who fight for us, will not be able to reap the benefits of our shared advocacy.

In addition, WE ACT is actively working to decarbonize New York City's residential buildings, which are responsible for [70 percent](#) of the city's



greenhouse gas emissions. In order to decarbonize equitably, and ensure that low-income renters receive the benefits they need, we must deal with the issue of the [“split incentive”](#), a market-failure whereby neither the property owner nor the property occupant has a financial incentive to invest in energy efficiency and electrification upgrades. The property owner typically does not live in the building or pay the cost of utilities and therefore has little incentive to make capital investments that will reduce utility costs. Building owners that do invest in their properties are likely to pass costs onto tenants through rent increases. Conversely, the occupant lacks a financial incentive to make energy upgrades to a property that they do not own, as oftentimes even cost-effective energy efficiency improvements would not pay for themselves during a one or two year lease.

WE ACT supports legislation that increases homeownership in low-income communities as a strategy to make decarbonization more viable citywide. This is particularly important in communities of color where [homeownership is disproportionately low](#) compared to whiter neighborhoods. Ownership gives residents control to address health and safety issues caused by deferred maintenance as well as energy efficiency and electrification upgrades. It also enables residents to participate more fully in city, state and federal decarbonization programs that subsidize the cost of these upgrades.

The **Community Land Act** is an urgently-needed set of bills that give community land trusts (CLTs) and other nonprofits tools to develop and preserve **permanently-affordable housing, community and commercial space, and other neighborhood assets, including green space and green infrastructure**. By taking land off the speculative market, [CLTs](#) protect public investment in affordable housing, maintain affordability over generations, and increase homeownership opportunities for low to middle income households. Together, these measures address root causes of our city's affordability crisis, combat displacement of low-income New Yorkers, and build collective wealth in Black and brown communities. WE ACT supports the following legislation in The Community Land Act:

Community Opportunity to Purchase Act (COPA) (Intro 196) gives CLTs and other qualified nonprofits a first chance to buy multifamily residential buildings (with three or more units) when a landlord sells. Modeled on successful legislation in [other cities](#), COPA would curb speculation and level the playing field for nonprofits to expand the supply of permanently-affordable, community- and tenant-controlled housing.

We see two important ways to strengthen this legislation:

- **Add a Right of First Refusal:** As currently drafted, the bill does not give nonprofits a right of first refusal (i.e. the right to match a competing offer *and* require the seller to accept). An owner could



only sell to a third party after the nonprofit refuses to buy on the same terms offered by the third party.

- **Include Vacant Properties:** Expand the definition of Residential Property subject to COPA to include vacant property zoned for 3+ unit buildings (as San Francisco's COPA legislation [does](#)).

Public Land for Public Good (Intro 637) prioritizes CLTs and not-for-profit developers when the City disposes of public land. The bill will help ensure that vacant and underutilized public land is used to provide permanently-affordable housing, community space and green space. The City has been subsidizing private profits with awards of public land and favorable financing for decades. A review of public land dispositions between July 2014 and June 2018, revealed that the City awarded [75% of RFPs](#) to develop public land to for-profit developers.

We see two important ways to strengthen this legislation:

- **CLT Definition:** Since the bill applies to more than housing, create a new definition for Community Land Trusts in the NYC admin code that recognizes that CLTs that do work beyond housing, including green space and green infrastructure. This can be done in this bill or through a separate piece of legislation. Councilmember Nurse has pending legislation providing a new definition of CLTs.
- **Leave Room for Joint Ventures (including WMBEs):** Include language that allows joint venture proposals with a minimum of 51% nonprofit ownership to qualify as a prioritized nonprofit bidder.

Tenant Opportunity to Purchase Resolution (Reso 38) is calling on the New York State legislature to pass and the Governor to sign the Tenant Opportunity to Purchase Act (A.3353 / S.221): a state bill sponsored by Senator Myrie and Assembly Member Mitaynes. This legislation gives tenants a first right to collectively buy their buildings when a landlord sells. Like COPA, TOPA would help bring housing into permanently-affordable tenant and community control, and help expand homeownership opportunities in Black and Brown communities. Washington D.C was the first municipality to implement TOPA legislation and a [report in 2013](#) found that 1,400 affordable housing units were preserved thanks to the legislation.

TOPA would help address housing conditions that are harming New Yorker's health. Tenants across the state are living in unsafe or filthy living conditions because landlords often ignore repairs as they plan to sell the property to the highest bidder. Even without a building going on sale, TOPA



would help tenants fight for safer living conditions by ending the incentive for landlords to hold properties in disrepair to sell them off.

Not included in the Community Land Act, but still important legislation that WE ACT supports is **NYC Land Bank (Intro 714)**, which would establish the nonprofit NYC Land Corp to hold and dispose of city land, with a priority on affordable housing, manufacturing/industry if in an IBZ, FRESH food store, green space, public space; other uses only if approved through a public review process. The legislation prioritizes CLTs, community housing development organizations, or nonprofit organizations when disposing of land for affordable housing. Land banks are a [proven method](#) to help revitalize vacant land for the public good.

We see a few important ways to strengthen this legislation:

- Outline the specific ways the land bank could receive property, including after tax foreclosure or public land that City agencies have failed to activate.
- Add green infrastructure in IBZs, community facilities, retail, commercial or other community uses as uses for which the land bank can transfer land automatically, as long as the transfer is to a CLT, CLT working with a developer, or other nonprofit
- Prioritize CLTs and other nonprofits for *all* dispositions, not just affordable housing
- Include dispositions to CLTs working with developers as priority dispositions (e.g. joint ventures where the CLT or nonprofit has a majority ownership stake of the project or another formulation)
- Limit disposition to entities other than CLTs/nonprofits only if approved through public review

WE ACT also supports the **Good Cause Eviction Resolution (Res 0506-2023)** which calls for the New York State legislature to pass A.5573/S.3082 and prohibit eviction without good cause. Without robust tenant protections, unregulated renters are vulnerable to rent hikes and displacement, especially as we call for more investments in building decarbonization and improved living conditions. Any alterations to a housing unit, including toxic remediation, weatherization, electrical upgrades, appliance swaps etc., should not be a justification for a rent increase that will displace low-income tenants, especially if that funding is subsidized by a public program. To ensure that all renters are protected throughout this energy transition, we must pass good cause eviction expeditiously.

These critical pieces of legislation can help New York City simultaneously meet its climate goals while addressing the dire affordability crisis that is driving Black and Brown families from their homes. Nearly [one-third](#) of New York City tenants are severely rent-burdened, and thousands more are living



in dire conditions due to landlord neglect. The population of unhoused New Yorkers has [skyrocketed](#), meanwhile speculative landlords are reportedly warehousing over [60,000](#) vacant rent-stabilized apartments. Majority-Black neighborhoods are bracing for another [onslaught of foreclosures](#) that strip families of wealth and housing stability, fueling racial inequality.

The Community Land Act brings land and housing into community control -- shielding them from predatory markets, supporting neighborhood-led development, improving access to green space and resiliency measures, and increasing the supply of permanently-affordable [social housing](#).

Annie Carforo

Climate Justice Campaigns Manager

WE ACT for Environmental Justice

| annie@weact.org

Testimony – Community Land Act
Prof. Laura Wolf-Powers
February 24, 2023

To the Housing and Buildings Committee:

Thank you for holding a hearing yesterday on the Community Land Act. While I was unable to attend and testify in person due to my teaching responsibilities at Hunter College, CUNY, I wanted to submit written testimony in support of this important legislation. The Community Land Act (CLA) is an urgently-needed set of bills that will give CLTs and other nonprofits tools to bring land and housing into permanently affordable community control. The Community Land Act includes the Community Opportunity to Purchase Act (Int. 196), Public Land for Public Good (Int. 637), and Resolution 38 in support of the NYS Tenant Opportunity to Purchase Act.

As a steering committee member of the **Western Queens Community Land Trust**, I am persuaded that the CLA will help level the playing field for organizations like ours to meet NYC communities' housing and economic development needs. Throughout Western Queens, market-rate development and investor-ownership of housing and commercial property are squeezing longtime residents, displacing working artists, and making rent for small businesses all but unaffordable. The Western Queens CLT was founded to offer priority access for low-income residents to deeply and permanently affordable housing, community, and commercial spaces and to strengthen the local economy by providing affordable working spaces to local artists and business owners. Community ownership of land is a central route to these goals, and as a New York City Community Land Initiative (NYCCLI), WCQLT is working to help make these opportunities real across the city. The City Council has made important investments in CLTs, including ours, in recent years – helping us to build staff and internal capacity, educate and organize community members, develop grassroots leaders, and connect with key partners, including (in the Western Queens case) non-profit developer partners. Passage of the Community Land Act will help our organization go further to take land off the speculative market and provide the deeply affordable housing and other resources our communities need.

I know there is concern on the part of some in the affordable housing industry and in city government that the proposed legislation would both take away flexibility from the city and not necessarily advance its stated goals of establishing long-term affordable housing. I disagree with this position and believe that giving nonprofits and CLTs the right of first refusal on city-owned land will result in greater affordability as well as greater community participation and self-determination (to support this claim, I refer you to [this article](#) which I published some years ago analyzing the city's community based housing movement). Additionally, I believe that the provisions of the legislation offer as many if not more options for M/WBEs and community leaders of color to benefit from the disposition of city land holdings. In short, non-profit developers, working in partnership with CLTs, can make a significant contribution to meeting the challenges of the housing crisis in New York City. **The Community Land Act will provide important scaffolding on which this work can take place.**

I particularly look forward to working with the Council on a replacement system for municipal debt collection, the final component of the Community Land Act. As a majority of this Council has agreed, our new system must 1) re-municipalize public debt collection, 2) prevent displacement of homeowners and tenants, 3) promote long term affordability through CLTs and partnerships with trusted non-profit developers, and 4) create a pathway for productive use for vacant lots and unoccupied buildings.

Thank you again for the opportunity to submit this testimony.





2/23/2023 New York City Council Hearing Intro 637

Good Afternoon Councilmembers,

My name is Andrea Kretchmer and I'm an affordable and supportive housing developer. My company, Xenolith Partners, is a woman-owned business, certified as a WBE in New York City and New York State.

I stand strongly opposed to Intro 637, which would require that the city, in disposing of its own land, prioritize non-profit developers.

Xenolith Partners has developed more than 700 units of affordable and supportive housing in the City of New York and has another 200+ units under construction and in our pipeline. All of our affordable projects include a supportive housing component: that is housing for seniors, formerly homeless and formerly incarcerated individuals and families. For survivors of domestic violence and persons living with HIV/AIDS. At our developments we provide supportive services, workforce development, and health and wellness programming. Our buildings are designed to maximum sustainability and energy-efficiency standards. FOUR of our developments are built on city-owned land, awarded to us through a Request for Proposals, and EVERY SINGLE ONE OF THEM includes a non-profit partner. These are community-based organizations that may or may not have development expertise of their own. But they COULD NOT, WOULD NOT get them built without us.

New York City has, over the past 10 years, committed to fostering the growth of MWBE developers. With its Building Capacity courses and Building Opportunity Initiative, HPD has sought to address the disparities in MWBE participation in affordable housing development. Dozens of small firms like mine have developed thousands of affordable and supportive apartments, adding to New York's desperately needed supply.

Tax status is a red herring. Public records show that CEO's of three of the top non-profit affordable housing developers were salaried between half and one million dollars: One earned \$821,345, another earned \$503,000 and another earned \$816,000 in total compensation, an increase in their salary of more \$300,000 in just five years. I don't begrudge them that income: they work hard and work well. But please don't be fooled by an organization's tax status.

My company is run by women and driven by mission. RFPs are the rare level playing field. HPD requires that EVERY TEAM include 25% participation by MWBE and/or non-profit developers. In some cases, like in mine, that participation is 50%, 60%, 70% or more. Don't discriminate against MWBE developers and please don't waste the progress that we've already made.

Thank you.

**1201 Broadway, Suite 305
New York, NY 10001
917-747-8396
andrea@xenolithpartners.com**

Re: Community Land Act Testimony

February 20, 2023

My name is Boris Santos and I am a member of the **East New York Community Land Trust (ENYCLT)**. I am submitting testimony to express our organizational support of the following pieces of legislation, some of which make up the Community Land Act (CLA):

- Intro 196 – Community Opportunity to Purchase Act (COPA)
- Intro 637 – Public Land for Public Good
- Intro 714 – Land Bank
- Intro 932 – Feasibility study of Social Housing Development Agency

The ENYCLT formed and incorporated mainly to fight and eliminate speculative housing practices in Community Districts 5 and 16 of Brooklyn. Our members believe in permanently housing low- and moderate-income New Yorkers while maintaining all land where development occurs as permanently affordable and collectively stewarded.

The Problem

Since officially forming well over two years ago, our members have realized the difficult task that goes into removing housing and land from the private market (or of targeting public land for development). The fact of the matter is that no matter what, as it relates to acquisition and development, any entity that is seeking to purchase land must have upfront capital to be able to do so. The City and State government only provide reimbursement funds to entities for affordable housing creation. In other words, we at the ENYCLT agree with the recently published article by Council Member Nurse in [City Limits](#), that our governments “rely on failed capitalist strategies when developing more housing”.

The Solution

And that is what brings us to submitting testimony in support of the pieces of legislation stated above. We must have alternatives to the neoliberal-centered practices of how our governments currently develop housing. We must help CLTs acquire land; we must allow for tenants and other non-profits to acquire private land first, especially in a time when vacant land is dwindling; we must allow a centralized land bank (something that other jurisdiction in our state are familiar with and have been since the passage of the New York State Land Bank Act) to acquire and dispose of land to CLTs and non-profits. These are viable alternatives that the legislations we support accomplish. We therefore urge the City Council to pass these measures immediately.

Thursday, Feb 23, 2023

New York City Council Hearing on Housing and Buildings

Thank you Chair Sanchez and committee members for your focus on providing affordable, equitable and stable housing for all New Yorkers.

My name is Danielle Mowery. I'm a housing advocate and I also consult with nonprofits. Today's brief comments represent my own views.

On a recent project, I partnered with the Civic Engagement Commission and League of Women Voters to hold Citywide Participatory Budget workshops in Manhattan. In the over 20 workshops I held in Oct/Nov, one topic was prevalent in all: Housing.

It was especially an issue in the 11 workshops I did with NYC public high school students and CUNY students at several colleges.

Clearly, housing is an issue too large for a PB budget to tackle effectively - but the concerns of the students were so pressing that I returned to do a separate workshop for them on housing.

Here is the main takeaway I'd like to share with the committee: The students I encountered do not think they can stay in the city they call home. There is no where for them to go. Some are watching their families struggle with increased rent, working additional jobs to make ends meet. Some are in college, but unable to move out on their own. Some are so concerned about housing they are thinking to interrupt their studies so they can work and save up for rent.

Many said they would have to leave the city.

This is the future we are currently building for our Gen Z kids - a New York they can't afford to call home.

Part of the housing workshop included quotes - some from the 1930s, some from today. Not only did students realize housing has been an issue for a long time, they also saw that another crisis, the Great Depression, motivated elected officials to create solutions. And, not surprisingly, as people who's young lives have been shaped by COVID, they understood today also represents a moment of crisis.

I'm not providing detailed policy comments on the individual proposed legislation and resolutions - I'll leave that to others better-versed to do so. I will say I support them all. Collectively, they will weave a stronger fabric that can be used to make housing for all a reality. Will that fabric need mending? Probably. Will it need ongoing maintenance and clear enforcements? Yes.

Most importantly, do these actions represent another historic shift in how we think of housing, how we approach creating it - and how we provide an attainable future for our city's youngest adults. Without housing, these kids can't even imagine building their future here - and I don't think that's a future any of us want.

So I commend the committee on making legislation like this a priority. Protecting tenants, providing more support, looking at the resources the city already has, creating opportunities for tenants to become owners - all of this is needed to shift the crisis of housing to one of a generational opportunity for innovation and change.

Selected quotes used in housing workshop:

1930s:

...the distribution of our national income has not been entirely equitable and that partially subsidized housing, like free schools, free roads and free parks, is the next step that we must take to forge a new order.

US Senator John Wagner, April 1936

prior to the passing of the transformative Housing Act of 1937

The fundamental premise about housing has undergone a tremendous change. It has become a public utility. The right to live in a decent dwelling has taken its place among the national rights, such as water, sanitation, fire and police protection. The solution has nothing to do with the real estate industry. The old real estate industry is largely responsible for the bad conditions of cities and the existence of a housing problem.

Catherine Bauer, Author

Modern Housing, 1936

Recent quotes:

Access to affordable housing is a fundamental right -
Senator Chuck Schumer (April 2022)

Experiencing homelessness is not a moral failure of individuals, but a structural failing on the part of a country that has long refused to make safe and affordable housing a priority. The crisis of housing instability is human-created but that means that we can fix it - and we must
US Rep Pramila Jayapal (WA) June 2021 on reintroducing "Housing as a Human Right" Act
with Rep. Grace Meng (NY)

Good afternoon Housing Committee. My name is Debra Ack, a member of the ENYCLT and a 30+ year resident of East New York, Bklyn. Thank you for giving me the opportunity to testify on behalf of my community ENY. We ENY'ers are extremely overwhelmed with the high-end developers coming into our neighborhood and developing what is not needed, not affordable, or displaces our community residents. CLT's have for a long time across this nation proven that they can be instrumental in developing our community and stewarding the land. Lets bring NYC into the 21st century.

PUBLIC LAND FOR PUBLIC GOOD (INT 637)

This bill will prioritize CLTs and nonprofit developers when disposing of City-owned land, to ensure public land is used for permanently-affordable housing and other public benefits.

Why Do We Need This Bill?

The bill ensures that public land - a precious public resource - is not privatized for profit, but is put to use for the greater good of the communities they are apart of. Stop the Public Land Giveaway. Public land dispositions between July 2014 and June 2018, revealed that the City awarded 75% of RFPs to develop public land to for-profit developers without any regard to the neighborhood. CLTs and Nonprofits, lead mission driven development without displacement. Unlike private developers, these entities are more accountable to the needs of the community.

How Does the Bill Improve Affordable Housing in NYC?

The bill will allow for underutilized distressed/vacant public land to be activated by CLTs and nonprofits to produce permanently and deeply-affordable housing, as well as community, commercial, and green space for public use.

COMMUNITY OPPORTUNITY TO PURCHASE ACT (INT 196)

What Does COPA Do?

COPA gives CLTs and Mission-Driven Developers the first right to purchase multifamily buildings when a landlord decides to sell. It prioritizes CLTs and

nonprofit housing developers and gives them a fair chance at acquiring properties to build and preserve deeply affordable housing.

How Does COPA Improve Affordable Housing in NYC?

COPA would prevent speculative developers from buying multifamily buildings, raising rents, and displacing tenants.

Tenant Opportunity to Purchase Act (Res 0038)

Res. 38 calls on the NYS legislature to pass and the Governor to sign the Tenant Opportunity to Purchase Act (A.3353 / S.221): a state bill sponsored by Senator Myrie and Assembly Member Mitaynes.

What does TOPA Do?

TOPA gives tenants the first opportunity to purchase rental buildings when a landlord decides to sell. CLTs and qualified nonprofits would have the second right to purchase. TOPA would reduce housing speculation and would help tenants fight for better conditions in the buildings they currently live in by reducing the incentives for landlords to keep buildings in disrepair in order to sell them off to the highest buyer.

About 79,000 people in New York live in shelters or on the streets, and that figure is only rising. Still thousands more are living in unsafe and overcrowded conditions and face homelessness. Nonprofit developers are more likely than for-profits to build affordable housing, take on complex projects, and maintain affordability over the long-term or in perpetuity. Unlike for-profit developers, nonprofit developers most often keep revenue in the community, and are more likely to build more deeply affordable housing.

The City Council has made important investments in CLTs, including ours, in recent years – helping us to build staff and internal capacity, educate and organize community members, develop grassroots leaders. Passage of the Community Land Act will help our organizations take land off the speculative market and provide the deeply affordable housing our communities need.

**Testimony to the New York City Council
Committee on Housing and Buildings**

February 26, 2023

Hi, I'm Hayoung Jeong, a member of East New York Community Land Trust (ENYCLT). ENYCLT is a member of the New York City Community Land Initiative (NYCCLI), an alliance of grassroots, affordable housing, environmental and economic justice organizations working to promote community land trusts (CLTs) and neighborhood-led development.

I am excited to testify in support of the Community Land Act, an urgently-needed set of bills that will give CLTs and other nonprofits tools to bring land and housing into permanently affordable community control. The Community Land Act includes the Community Opportunity to Purchase Act (Int. 196), Public Land for Public Good (Int. 637), and Resolution 38 in support of the NYS Tenant Opportunity to Purchase Act. These bills will help prevent the displacement of tenants and stabilize neighborhoods targeted by speculative market forces and also begin to redress the historical injustice that public policies have produced in the first place. As HPD mentioned during their testimony on this hearing, most of the publicly owned, vacant, or underutilized land today is from the fiscal crisis of the 1970s. The vacancy and local policy on the privatization of these lots have disproportionately harmed Black and Brown communities by prioritizing market-led policy approaches to public land privatizations. The market-led redevelopment of these lots has catalyzed gentrification in the last affordable neighborhoods (the Bronx and East New York) in the city. Under-development of the remaining vacant lots has harmed the surrounding neighborhood through the city's neglect of the maintenance and reliance on the market for its redevelopment. By prioritizing grassroots initiatives like CLTs and other mission-driven nonprofits for public land disposition, the city can start to redress historical injustice by empowering them to redevelop for community-determined uses. Thank you again for the opportunity to testify.

Testimony before the NYC Council Hearing on Social Housing Feb 23, 2022.

Thank you for this opportunity for the public to submit testimony and for your initiatives and resolutions that take steps toward more social housing in NYC.

Speaking on INT 196 and Res 38 and also in general, NYC can contribute to the solution of its housing problem by supporting renters in multi-family apartment buildings to become collective owners of their buildings. The housing problem impacts the lower income and poorest New Yorkers. The Council must focus its support and resources on conversion of as much housing for these New Yorkers as possible to social housing. The aim should be for housing that is permanently Deeply Affordable, Democratically Controlled and Decommodified. There is one model of such housing already successfully functioning in NYC, the Mitchell-Lama co-op program.

Deep co-op affordability has two components, buy-in cost and monthly costs. The Mitchell-Lama co-ops have both components. Any model that lets shareholders sell their apartments for a profit cannot be classified as deeply affordable nor as Decommodified and therefore not really social housing. In enacting local laws that make possible and practical low and moderate income renters becoming owners of their multifamily buildings, the aim should be that they are helped to become true social housing which means Mitchell-Lama co-ops

It is not only necessary for the Council to require that the low and moderate income renters in a multifamily apartment building have the first right of purchase, they need programs in place that give them the legal basis to become a Mitchell-Lama co-op and that provide financing they can afford to make the purchase.

As well as supporting the creation of new social housing, the council should oppose New Yorkers losing their social housing. There is a co-op conversion being offered to Mitchell-Lama co-ops by the HPD, that does just that. If a Mitchell-Lama co-op were to convert to an HFDC co-op, it would lose the deep affordable buy-in component of affordability. Cooperators in my Mitchell-Lama co-op, RNA House, originally paid about \$4000 for their shares. Over 57 years the buy-in cost has gone up to \$40,000. If RNA House were converted to an HDFC co-op, the buy-in price would immediately be almost 8 times that up to \$300,000. Deep affordability would be lost. The Council can prevent that by not granting an HDFC RNA House or any co-op that converted from the Mitchell-Lama program to become an HDFC co-op shelter rent formula tax exemption. Re-commodifying social housing should be opposed in all ways possible.

Thank you for your attention to my and all testimony from the public.

Jay Hauben,
RNA House cooperator and Board member

**New York City Council
Committee on Housing and Buildings
Kirk Goodrich Testimony
February 23, 2023**

Intro 637 and Intro 714 – As a Black Developer and career affordable housing advocate and professional, I am writing to express my strong opposition to these Bills.

As one of many Black and Brown developers of affordable housing who have built our businesses through the New York City Housing Preservation and Development (HPD) and New York City Housing Development Corporation (HDC) programs, I read these Bills with dismay and disappointment. In the fields of real estate development and ownership, the traditional paths through multi-generational family wealth and business relationships have been closed to us. Advancing our careers and businesses in a slow and steady manner over decades through the affordable housing world has been the only way many of us could achieve ownership of meaningful real estate assets. Today, we are calling for you to either completely withdraw or significantly modify the legislation to make it consistent with the HPD Equitable Ownership Requirement¹, which many of us have pushed for. Your legislation as drafted would disenfranchise Black, Brown and women led for profit development companies and relegate people of color to being merely tenants and clients of nonprofit organizations within the affordable housing world. As Black and Brown folks in 2023, we see ourselves as much more than that.

Even though affordable housing in predominantly Black and Brown New York City neighborhoods has been a robust business for many decades, developers of color were largely left out of the opportunities but for a brief period in the late 90s and early 2000s as part of the Neighborhood Entrepreneur’s Program (NEP), under the leadership of former HPD Commissioner Richard Roberts. When that program ended, ensuing HPD Commissioners, including Rafael Cestero and Mathew Wambua, continued to do business with developers of color in an effort to enhance diversity. Around 2013, HPD Commissioner Wambua formalized the agency’s efforts to provide minority and women business enterprises (MWBES) ownership interests in HPD Projects. From that point on, we have steadily built our profile and businesses. The work of former HPD Commissioner Louise Carroll, former Deputy Mayor J. Phillip Thompson, former Deputy Mayor Vicki Been as well as others has brought us even more gains. We feel positive about the progress that has been made and during a time where issues of racial equity and justice have grabbed a national spotlight pursuing legislation that cuts Black and Brown developers out in the fashion proposed seems tone deaf and regressive.

However, the larger question we have as developers and owners of affordable housing is whether performance matters to you? For decades, for profit firms have developed and

¹ https://www1.nyc.gov/site/hpd/news/050-20/mayor-de-blasio-taskforce-racial-equity-inclusion-new-requirement-give?utm_source=BenchmarkEmail&utm_campaign=MWBE_Email_Copy&utm_medium=email#/0

owned affordable housing both in New York City and nationally. The provisions around affordability, including the duration and extent of the rent restrictions, are all governed by federal legislation tied to our funding and the regulatory agreements we sign at finance closing, which are recorded documents. So any affordability restrictions you want can be drafted into regulatory agreements and recorded for nonprofits and for profits alike. As a result, presenting this issue as the rationale for eliminating for profit ownership of affordable housing on city-owned sites makes little sense.

Furthermore, the idea that for profit developers are bad actors more often than nonprofit developers is not borne out by facts. We would welcome a comparison of for profit and nonprofit owned properties with HPD / HDC funding across a wide range of performance variables so that the issue can be put to bed once and for all. These variables should include whether buildings get built on time and on budget; whether the buildings get leased up on time; whether the ongoing maintenance and repair is handled properly and in a timely fashion; and whether the properties remain in compliance on affordability matters including rental to income eligible households. There are many academic and policy organizations who can conduct this work. We think such a study would prove that for profit owned affordable housing is on average at least as well run and often better built and operated than properties wholly-owned by nonprofits.

If performance really does matter, what obligation does this City Council have as elected officials to ensure that working class and poor households have the absolute best owners with the strongest track records building and operating these buildings? As Black and Brown developers we have been told forever that we lack capacity to develop and own affordable housing. Majority White firms who do a good job were presented as examples. Now that we have achieved the ability to build and operate high quality housing for people in need, we are being told that we have to be nonprofits. Once again, the rules are being changed once we enter the field of play. Either performance matters or it doesn't. Either building and operating high quality affordable housing for the benefit of people in need matters or it doesn't. Either creating opportunities and a path to build wealth for disenfranchised black and brown folks matters or it doesn't. The biggest challenge we have as Black and Brown developers is understanding the rules of the business world and part of the reason it's so difficult is because those rules seem to change once we get our opportunity. It's disappointing that elected officials who take pride in their progressive credentials would propose legislation which does not support participation of women and people of color as developers and owners of affordable housing on city-owned land. Nor does this legislation recognize or reward performance. It simply attempts to deliver affordable housing on city-owned land to nonprofit developers in a way which eliminates competition based on critical performance measures.

From: Mary A Wade <mary.wade@nyu.edu>
Sent: Sunday, February 26, 2023 11:35 PM
To: Testimony
Subject: [EXTERNAL] Testimony on Social Housing

Clark Street,
Sx
Brooklyn, NY 11201
February 26,
2023

Dear City Council,

Thank you for the opportunity to submit testimony to the Committee on Housing and Buildings.

I have lived in New York City for 49 years. For all but 22 years, I lived in rental apartments. I had been living in a dark studio for 14½ years when I learned that there was a Mitchell-Lama (ML), Cadman Towers, with an open list three blocks from where I resided. I applied and was fortunate to be selected for the waiting list. My number on the list was 312 out of 400. After 12½ years of waiting for my turn, I moved into a one bedroom with a lot of light. I felt like a new person.

Wanting to know more about life in a Mitchell-Lama, I attended my first Board of Directors meeting. I was disappointed with the way members of the Board talked to shareholders. They were rude, argumentative, and dismissive. Upon leaving the meeting, I heard other shareholders complaining about the Board with similar comments. I quickly learned that there was a group of women who met on a regular basis to discuss building issues. I joined this group.

After attending several meetings with the women's group, I learned that a previous Board had tried to take the buildings private, out of the Mitchell-Lama program, but determined that it was not viable. To that end, there were shareholders living in other places waiting for the buildings to go private, while their ML apartments sat empty. The focus of the women's group was to preserve Cadman Towers as a Mitchell-Lama.

About two years later, our Board formed a feasibility study committee to try again to take our Mitchell-Lama private. While this was happening, our community of shareholders became more polarized. People did not talk to each other; privateers gave dirty looks to non-privateers. I often wondered if I fell on the street at the feet of a privateer if that person would help me up.

After more time passed, the Board determined that privatization was feasible and submitted a red herring to the State Attorney General's Office. Letters and resubmissions went back and forth between the Board and the AG's office for many months because the Board was not transparent in outlining the risks to shareholders of taking our ML private. Eventually, the Board had to ask for more money to continue the red herring review because all the money allotted for the process was spent. Shareholders voted to deny the Board more money. This meant the end of **this** attempt to take Cadman Towers out of the ML program. Needless to say, those of us who fought to stay in the program were very happy.

Our happiness did not last long as a few staff from the Housing Development Corporation and HPD devised a plan to offer a compromise to those seeking privatization. This semi-privatization plan would give privatizers a smaller profit than they would have with full privatization. The plan, converting from an Article II to an Article XI (from a ML to a HDFC), was offered to the Board of Cadman Towers first.

For the last decade, our women's group, the Committee to Preserve Cadman Towers, has been fighting the efforts by the Board to convert from an Article II to XI. Cadman Towers is the only ML considering this plan.

It is difficult to understand why HPD would offer such a plan. Its mission is to help New Yorkers find an affordable home and to promote diversity in the city's neighborhoods. After careful analysis by real estate experts of Schedule A in the Cadman Towers Proxy Statement for the Plan of Reconstitution, it was determined that "Article XI" is neither affordable to people on the current Cadman Towers waiting list nor will it keep our buildings diverse. It will, instead, lead to gentrification.

Our Committee keeps fighting this conversion, but we are thwarted at every turn. We have made FOIL requests, but we get no responses. There is supposed to be a regulatory agreement with the proxy statement, but a member of the Brooklyn Borough President's staff told us that HPD will not provide one until after an affirmative vote to convert to an Article XI has happened at Cadman Towers. This would mean that the Attorney General's Office would not have the opportunity to vet it for risks to Cadman's shareholders. Seeing as how the AG's representative who has been reviewing the proxy statement has issued six deficiency letters in 14 months with risks that the Board has not explained, I doubt that there will be no risks in the Regulatory Agreement.

I am grateful for my Mitchell-Lama apartment because I would not have been able to afford anything else in New York City, but it has not been pleasant living in it. As long as the Cadman Towers Board keeps trying to privatize, there will be no peace here. I would appreciate any assistance you can offer, such as denying Shelter Rent tax exemption to any ML cooperative that converts to an HDFC. As a ML, we have received tax abatements for years, why should NYC taxpayers give money to those who would make a profit from the sale of their apartments?

Thank you for your time,

Mary Wade

Testimony of Richard Heitler before the City Council Hearing on Social Housing
February 23, 2023

Thank you for this opportunity to present testimony relating to a number of bills designed to advance social housing initiatives in New York City. This is a subject – social housing in general, but in particular shared equity cooperatives – near and dear to my heart and that has occupied both my personal and professional life for more than four decades.

My name is Richard Heitler and I have been living in a Mitchell-Lama coop, Village East Towers, since 1975 and where I currently serve as Board President. I am also a founding member of Cooperators United for Mitchell-Lama (CU4ML) and a member of the Mitchell-Lama United Steering Committee. Professionally, I have also worked with the Urban Homesteading Assistance Board (UHAB) in both staff and board capacities for more than two decades helping to create and sustain Article XI HDFC cooperatives.

We are here this afternoon because many of the concepts, principles and ideas that undergird social housing have once again captured the attention and imagination of activists, advocates, and political leaders – and this for me is a source of great satisfaction and a reason for newly-felt optimism. I say “once again” because this is not the first time that shared equity cooperatives has been an “idea in good currency” among housing experts. I would like to use my testimony to highlight some of the successes we have previously experienced and lessons we have learned from earlier efforts to create social housing – particularly the Mitchell-Lama program, which will take us all the way back to 1955. Does a program developed in the mid-20th century have

any relevance to our current, much more complicated and sophisticated 21st century situation? I believe the answer is a resounding “yes.”

It has been a joy and a privilege for me to attend both convenings of “Housing as a Public Good” hosted by Comptroller Brad Lander -- and attended by many Council Members and their staffs along with activists, community leaders, and community-based housing organizations -- covering the spectrum of social housing possibilities from Public Housing, to Community Land Trusts, to not-for-profit owned rentals, to shared equity cooperatives. This convening has achieved consensus on three basic principles that define and unit the social housing movement – the “3 D”s:

- Deep Affordability
- Democratic Control
- Decommodification

The existing New York program that best embodies all three of these principles is, surprisingly (or perhaps not surprisingly?), Mitchell-Lama cooperative housing.

Let’s start with Deep Affordability. As evidence, I would refer you to the HPD website, where the announcements of Mitchell-Lama lotteries are displayed.

<https://a806-housingconnect.nyc.gov/nyclottery/lottery.html#ml-current-projects>

There you will find a notice for a currently open lottery at Ruppert House, a small Mitchell-Lama cooperative located in the Yorkville neighborhood of Manhattan.

According to that notice:

- The purchase price of a 3-bedroom apartment is \$32,413.
- Monthly maintenance charges vary from \$797 to \$935.

This is indeed “deep affordability,” especially in a borough where median monthly rents for a 2-bedroom apartment recently hit \$4,920, and even rent stabilized rents for new tenants hit \$2,324. (The median rent stabilized rent for existing tenants in around \$1509.)

But what I want to emphasize is the section of the lottery notice that shows the “band of affordability”, which goes from \$31,880 to \$206,875. This broad range (from 30% AMI to 125% AMI) explains one of the other very positive features of Mitchell-Lama cooperatives – their extraordinary diversity along every criterion: class, occupation, race, national origin, age.

It also explains why CU4ML and MLU oppose II to XI conversions (that is, the conversion of Mitchell-Lama cooperatives organized under article II of PHFL to HDFC cooperatives organized under article XI of the PHFL). Colleagues and fellow advocates will be giving more detailed testimony on this issue this afternoon. I just want to say that one major problem with II to XI conversion is that it drastically shrinks the band of affordability. In 2019, Rosalie Manning became the first Mitchell-Lama coop (and there have only been two to date) to receive a full financial proposal from HPD & HDC for a II to XI conversion. They rejected it in part because it would have priced out most of the families on their waiting list. The analysis we did on that 2019 underwriting showed that, instead of being affordable to everyone from 30% to 125% AMI as a Mitchell-Lama, the article XI coop would have limited affordability to households between 115% to 165% of AMI. Proponents of II to XI conversions argue that “It’s all affordable housing.” We disagree. Not all affordable units are equally affordable. Deeper affordability is what proponents of social housing seek to advance.

Secondly, let's consider the principle of Democratic Control. When working well, as they often do, Mitchell-Lama cooperatives are models of small grass-roots democracies. Shareholders elect board members in free and open annual elections. And those boards are empowered to make decisions about budget, priorities, house rules, and selection and oversight of professionals such as managers, lawyers, and accountants, etc.

However, the advocate community is the first to acknowledge that not all boards are functioning in a democratic manner. That is why we supported and lobbied for the "sunshine provisions" in the recent Mitchell-Lama reform amendment passed by the State legislature and signed by the Governor last year. The laws mandate open board meetings, circulation of meeting minutes, and greater transparency in the sharing of information about the coop's operations. We are grateful to so many progressive legislators – led by Linda Rosenthal and Brian Kavanagh, but supported by so many others, including people in this room today. I am particularly proud that all of the elected representatives of Village East Towers – Brad Hoylman, Harvey Epstein and Carlina Rivers – supported this legislation.

Last but not least, let's talk about Decommodification. Mitchell-Lama cooperatives embody this principle more closely than any other New York program. We go beyond the notion of "limited equity." There is simply no speculative appreciation on capital at all. Resale prices are governed by a formula which allows the selling shareholder to "get back what they paid in" which includes the return of their original equity payment, plus contributions to mortgage principal, plus payments on capital assessments (if any).

In other words, the system allows for “return *of* equity” rather than “return *on* equity”, and that is decommodification in its purest form.

We support this system because it is fair. It’s what keeps Mitchell-Lama cooperatives affordable to the next generation of purchasers. And we believe that when shareholders agree to forego asset appreciation, it justifies the shelter rent tax abatement that they receive. It is fair that Mitchell-Lamas are taxed as not-for-profit entities. But it would not be fair to grant the same tax break to sellers if that Mitchell-Lama coop converted to an Article II HDFC cooperatives, and allowed shareholders to walk away with six-figure windfall profits when they sell and leave. Again, others will speak more about the II to XI conversion issue. I just want to make this one point, especially here to members of the City Council, because you have the power to put an end to this flawed policy of II to XI conversions simply by declining to approve this unjustified tax break for Article XIs,

Now, let us return to the big picture and talk about how the Mitchell-Lama experience informs the development of the social housing policies in New York City and the legislation that you are considering.

Let’s start with some interesting facts about the scope and scale of the Mitchell-Lama cooperative community. Over 150,000 units of housing were built in New York City through the Mitchell-Lama program over a period of approximately 20 years (1955-1975). Half were coops, and half were rentals.

- In over 65% of the rentals (45,841 units), the landlord has opted to exit the program, which has made many of these units no longer affordable to working families.

- But less than 10% of the co-ops (6,479 units) have gone private.

This makes the Mitchell-Lama coop community the largest single cohort of shared-equity cooperative housing in the USA. And it has some interesting implications for policy makers.

1. The Form of Ownership Matters

If the goal is affordability in the long term – and for many of us who are advocates of social long-term means perpetuity – then shared-equity cooperatives and not-for-profit owned rentals are the better choices. For-profit organizations can play important roles in developing, building, and managing social housing. But their role as owners should be limited.

2. Documentation Matters

It's also worth noting that Mitchell-Lama coops were not always the largest cohort of shared-equity cooperatives in the USA. Over 200,000 units were built with funding made available through the federal government's Section 213 mortgage financing program starting around 1950. That financing was very favorable, with 40-year terms covering up to 98% of the cost of development. Yet most of those units are no longer shared-equity coops, because all the affordability and governance requirements were contained in the loan documents, and when those loans were paid off, those terms and requirements also ended. By contrast, in Mitchell-Lama cooperatives, the provisions providing for continued affordability, fair housing and democratic governance and written into the coop's foundation documents (articles of incorporation, by-laws, proprietary leases, etc.) as well as a body of regulations calling for continued

governmental oversight. This history should be taken into account as we move forward to define a new generation of social housing programs.

3. Government Oversight and Continued Engagement is Vital

Continued engagement by State and City Housing agencies is one of the key factors accounting for the success and stability of the Mitchell-Lama program. It's an important part of the whole idea of "shared-equity" under which the current resident-shareholders clearly have an equity stake in the co-op, but that equity only exists in the context of the general public's interest in affordable housing. There is a considerable public interest – and public investment -- in the coops in which we are fortunate to reside. Government agents – both appointed and elected – are the legitimate guardians of this public interest in the common good. The lesson here is that, when thinking about creating and sustaining social housing, the role of government needs to be clearly defined as part of the program design.

4. Preservation of Existing Mitchell-Lamas Needs to be a High Priority

New York City is fortunate in that it already possesses a large number of housing cooperatives that, as I have attempted to show, embody the principles of social housing that we are seeking to advance. To build a larger, stronger, and more vibrant social housing community, we first need to preserve what we already have. Most Mitchell-Lamas are more than 50-years-old and will need to find a way to finance major capital upgrades and investments. The New York State Housing Finance Agency has developed an excellent program (up to \$40,000 per unit, at 0.5% interest for 30 years). The City needs to develop something comparable.

TOPA

The bill calling for Tenant Opportunity to Purchase is a great bill. We believe that it should be made clear that it applies to Mitchell-Lama rentals as well. If an owner decides that he wants to sell, the property should first be offered to the tenants, through a structure that gives them as much time and support as they need to purchase the property and become a *Mitchell-Lama* cooperative (and not, for reasons that should now be obvious, as an Article XI HDFC). The tenants will need legal and organizing assistance. And they will need financing for the purchase of the property. This financing should be offered on the same terms that made Mitchell-Lama successful originally – 5% equity and 95% favorably financed debt.

5. Land Banks and Community Land Trusts

The bills proposing the creation of a Land Bank and supporting Community Land Trusts are both excellent bills. If passed, they would make more land available for the development of social housing.

Our comments are directed more to the back end – to disposition rather than acquisition. What kinds of developments should be built on this land? How should they be financed, owned and governed? We believe that the Mitchell-Lama experience offers some valuable guidance to those working to answer these questions

Thank you.

This series of bills will begin the journey to eventually decomodify all land and housing. While it still keeps one foot in the clutches of capitalism, it is a start. There is no where in this city where anyone making under \$75,000 can find a one-bedroom apartment and survive. In addition to that, New York City Housing Preservation and Development's housing lottery, Housing Connect has very little truly affordable housing available on its site. For example Lincoln at Bankside in Mott Haven starts their unaffordable housing at a salary of \$86,572 and a monthly rent of \$2,525 with just 19 units. While 1010 Pacific Street begins at \$56,983 and a monthly rent of \$1,576 with only 4 units available at that salary. The only answer is to make all land community controlled and all housing public. Not social housing, because that implies you're still dealing with the private market. You simply cannot have property rights on stolen land. If you really believe housing is a human right, the very least you can do is pass the Community Land Act.

Robert Thibault
New York City
February 24, 2023

**Testimony to the City Council Committee on Housing and Buildings
February 23, 2023**

Dear Chair Sanchez and Committee members,

Thank you for the opportunity to provide testimony on the Community Land Act. I am writing in strong support of Intro 637, Intro 196, and Resolution 0038.

I'm a resident of East New York, where my husband and I purchased a home in 2017, after working in this community for over a decade. I am proud and grateful that the East New York Community Land Trust exists. The East New York CLT is a clear example of one of the legacies of decades-long disinvestment – this neglect, while harmful, at the same time created a community full of initiative, creativity, and a strong sense of stewardship. We need laws that put community land in community hands by supporting residents and mission-driven nonprofits that are deeply invested in this community to take ownership of land and properties for community benefit. Unfortunately, the hyper speculation that is currently impacting East New York undermines our community's self-determination, and threatens to make one of the last affordable neighborhoods in New York City prohibitively expensive for the working class people who have built and sustained this community.

Our experience looking for a home, and in the years we have lived in East New York, illustrate the need for change. We started looking for homes in East New York in 2014. Over the next couple of years, we closely monitored listings, and looked at or inquired about dozens of homes in the area. Almost every one of these properties had been flipped. It was devastating to see - over and over again - properties where we knew families (both owners and tenants) had recently lost their home and a speculator was about to turn a huge profit. Real estate agents repeatedly tried to convince us that we should feel comfortable paying exorbitant prices for these homes based on the idea that we could command exorbitant rents. They suggested in 2015 that we could get \$2,400 for a three bedroom apartment - a price we would never charge to tenants, and which would clearly put such an apartment out of the reach of most New Yorkers. From what I've seen so far, the people buying these homes in the neighborhood once they're renovated are increasingly investors (and absentee landlords).

Intro 637, Intro 196, and Resolution 0038 are important first steps for our city to give CLTs and non-profits a fair chance to acquire land and property for uses that will actually benefit our communities. There is simply no reason our city must or should continue to let unchecked speculation extract wealth from our communities. We moved to East New York because we love the people and institutions that make up this community. Our Council has an opportunity to support their leadership and self-determination, rather than enriching private developers. It should be an easy choice. I urge you to support and pass these important pieces of legislation.

Sincerely,

Sarita Daftary
daftarysarita@gmail.com

From: Wendy Brawer <web@greenmap.org>
Sent: Friday, February 24, 2023 2:03 PM
To: Testimony
Subject: [EXTERNAL] CLT - please pass Community Land Trust policy

Hello Councilmembers

So many young people do not know of community land trusts and how they empower people to get engaged with community betterment. That is one reason to vote for them - give people hope and a channel for participation.

There are far too many incentives for commercial developers and not enough for bottom up, yet the bottom up return so much more!

I took part in notifying small nonprofits about the Lien Sales a few years ago, and helped them protect their spaces. It's counter intuitive, to say the least. We can do better.

I stand with the citywide coalition that is calling on the City of New York to abolish the predatory tax lien sale and develop an alternative system of tax collection and property disposition that promotes neighborhood stability and equity, through community land trusts (CLTs) and other strategies.

Please join me. Thank you,

Wendy Brawer, Lower East Side resident

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. Community Card Act Res. No. _____

in favor in opposition

Date: 2/23/23

(PLEASE PRINT)

Name: Ahileah Browne

Address: _____

I represent: New Economy Project

Address: NY, NY 10001

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 637 Res. No. 38

in favor in opposition

Date: 2/23/2023

(PLEASE PRINT)

Name: Ramona Herrera

Address: NJ 08558

I represent: Western Queens Community Land Trust

Address: _____

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: 2/23/23

(PLEASE PRINT)

Name: Brad Lander

Address: _____

I represent: NYC Comptroller's Office

Address: 1 Centre St, Suite 530, NY, NY 10007

**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: 2/23/23

Name: Danielle Maren (PLEASE PRINT)

Address: _____

I represent: self

Address: Brooklyn NY

**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: _____

Name: ALBERT L. SCOTT (PLEASE PRINT) 512

Address: 59 PENN. AVE

I represent: ENYCLT

Address: _____

**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: _____

Name: WILL DEPOD (PLEASE PRINT)

Address: BROOKLYN

I represent: ANAD

Address: 50 BROAD ST Suite 1402

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 111 Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Samuel Stein

Address: 10036

I represent: COMMUNITY SERVICE SOCIETY

Address: 633 3rd Ave

**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: Valerio Orselli

Address: 2nd ave.

I represent: TLIO

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. CLA Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Athena Bernkopf

Address: _____

I represent: East Harlem/El Barrio CLT

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. _____

in favor in opposition

Date: 2/23/25

(PLEASE PRINT)

Name: Richard Heitler

Address: NYC, NY 10009

I represent: CU4ML, MLU

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. Landact Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Valerio Orselli

Address: NYC 10007

I represent: This Land is Ours CLT

Address: E 4th St, NY 10007

**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: Phyllis Gray

Address: _____

I represent: Jamie Towers Housing

Address: Olmstead Ave

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. 196 637 Res. No. 38, 344, 306

in favor in opposition

Date: 2/23/23

(PLEASE PRINT)

Name: Arnelle Iersh

Address: 11216

I represent: UHAB

Address: 120 Wall St, 20th Fl, 10005

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 637, 196, Res. No. 0038

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Brianna Soley

Address: 11226

I represent: ENY CLT,

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 637/196 Res. No. 0038

in favor in opposition

Date: 2/23/2023

(PLEASE PRINT)

Name: Debra ACK

Address: Essex St.

I represent: East New York CLT

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 637 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Colin Kent Daqqett

Address: _____ BK NY 11221

I represent: St Nicks Alliance

Address: 2 Kingsland Ave BK NY 11211

**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: 2/23/2023

(PLEASE PRINT)

Name: Mychal Johnson

Address: _____

I represent: South Bronx Unite

Address: _____

**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: Janet Gutierrez

Address: Richmond Hill NY 11418

I represent: Janet Gutierrez

Address: Richmond Hill NY

11418

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. 196,637, 714,932 Res. No. _____

in favor in opposition

Date: 2/23/23

(PLEASE PRINT)

Name: Boris Santos

Address: Saratoga Ave

I represent: SWY CLT

Address: _____

**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: Alexis Foote

Address: Shore Front Parkway

I represent: The REAL Edgemere
CLT

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

[]

I intend to appear and speak on Int. No. 196,637 Res. No. 38

in favor in opposition

Date: 2/23/23

(PLEASE PRINT)

Name: Rachel Brown

Address: Astoria NY

I represent: Western Queens Community Land Trust

Address: _____



**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. Public Land Res. No. Land Bank

in favor in opposition

Date: _____

Name: Hannah Anousheh (PLEASE PRINT)

Address: Fulton St BK 11208

I represent: East New York CLT

Address: Fulton St BK 11208

**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: _____

Name: Deputy Commissioner Kim Darga (PLEASE PRINT)

Address: _____

I represent: _____

Address: _____

**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: _____

Name: Assistant Commissioner Lucy Jaffe (PLEASE PRINT)

Address: _____

I represent: _____

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. _____

in favor in opposition

Date: _____

Name: Tito (PLEASE PRINT) DELGADO

Address: East 4th St

I represent: This land is our land

Address: E. 4th St

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. all Res. No. _____

in favor in opposition

Date: 2/23/23

Name: Elise Goldin (PLEASE PRINT)

Address: Westbury Ct., Brooklyn

I represent: New York City Community Land Initiative

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. all Res. No. _____

in favor in opposition

Date: 2/23/2023

Name: Paula Segal (PLEASE PRINT)

Address: 11693

I represent: Take Root Justice

Address: 16038

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. 637 Res. No. _____

in favor in opposition

Date: 2/23/23

(PLEASE PRINT)

Name: Judith Ballam-Schwartz

Address: Englewood Ave, 212

I represent: The Supportive Housing Network of NY

Address: 247 W 37 St, NYC

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 0637 Res. No. _____

in favor in opposition

Date: 2/23/23

(PLEASE PRINT)

Name: Karim Hutson

Address: _____

I represent: Myself

Address: 5th Avenue

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 344/506

in favor in opposition

Date: 2/23/23

(PLEASE PRINT)

Name: ELLEN DAVIDSON

Address: 799 WATER ST

I represent: The Legal Aid Society

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. 0637 Res. No. _____

in favor in opposition

Date: 2/23/23

(PLEASE PRINT)

Name: Karim Hutson

Address: 745 5th Avenue

I represent: Gross Companies LLC

Address: _____

**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: 2/23/2023

(PLEASE PRINT)

Name: Ryan Monell

Address: _____

I represent: REBU

Address: 570 Lexington Ave, NY 10022

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 637 Res. No. _____

in favor in opposition

Date: 2/23

(PLEASE PRINT)

Name: Juan Barahona

Address: 6 Ave BK

I represent: SMS Development

Address: 11

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. 637 Res. No. _____

in favor in opposition

Date: 2/23/23

Name: KIRK GOODRICH (PLEASE PRINT)

Address: New York Ave 11203

I represent: Myself

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. 637 Res. No. _____

in favor in opposition

Date: 23 FEB 23

Name: Andrea Kretchmer (PLEASE PRINT)

Address: Riverside Drive

I represent: Xenolith Partners

Address: 1201 Bway

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. 637 Res. No. _____

in favor in opposition

Date: 2/23/23

(PLEASE PRINT)

Name: Ann Tirschwell

Address: 58 Reade St NYC 10007

I represent: Type A projects

Address: 58 Reade St NYC 10007

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. 637 Res. No. _____

in favor in opposition

Date: 23 Feb 2023

(PLEASE PRINT)

Name: Jolie Milstein

Address: 253 W 34th St, New York, NY

I represent: NYSAFAH

Address: same

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