



**Testimony of the New York City Department of Housing Preservation and Development to
the New York City Council Committee on Housing and Buildings**

Introductions 601, 607, and 722

April 10, 2018

Good afternoon Chair Cornegy, Speaker Johnson, and members of the Housing and Buildings Committee. My name is Matt Murphy and I am the Deputy Commissioner for Policy and Strategy for the New York City Department of Housing Preservation and Development (HPD). I am joined today by Leila Bozorg, Deputy Commissioner for Neighborhood Strategies, and Molly Park, Deputy Commissioner for Development. Thank you for the invitation to testify on the topic of fair housing and on the three bills presented today: Introduction 601, which would require the submission of and reporting on an affordable housing plan to the council, Introduction 607, which would require that the City's affordable housing plan must affirmatively further fair housing, and Introduction 722, which would require HPD to annually report on expiring affordable housing units.

As Mayor de Blasio shared at his State of the City address earlier this year, we are working to make New York City the "fairest big city in America." Fair housing is critical to this vision. We know that New York City is a city of opportunity, but this opportunity is not shared equally by all New Yorkers due to historical and contemporary injustices, which includes the legacy of housing discrimination and segregation. Where New Yorkers live impacts their access to jobs, economic opportunity, education, safety, public transit, health outcomes, and other important opportunities, which is why it's critical that our affordable housing investments work to foster inclusive communities, promote fair housing choice, and increase access to opportunity for all New Yorkers.

Tomorrow marks the 50-year anniversary of the passage of the Fair Housing Act. On April 11, 1968, the Federal government passed the legislation as a part of the Civil Rights Act of 1964. The Fair Housing Act, among other reforms, outlawed housing discrimination and required municipalities to take actions to affirmatively further fair housing.

The 1968 Fair Housing Act protects people against discrimination when they are renting, buying, or securing financing for any housing based on seven protected classes: race, color,

national origin, religion, sex, disability, and the presence of children. This federal law is strengthened by the New York State Human Rights Law and New York City Human Rights Law, which include additional protected classes like source of income, age, sexual orientation, and military status. Every five years, the U.S. Department of Housing and Urban Development (HUD) requires municipalities and regions under this obligation to conduct and publish an Analysis of Impediments (AI) to assess the remaining impediments to fair housing choice.

In 2015, President Obama's administration updated guidance on obligations to affirmatively further fair housing, known as the "AFFH" Final Rule. The AFFH rule addresses a historic absence of regulatory guidance on fair housing by clarifying and strengthening the obligation to affirmatively further fair housing. According to this rule, AFFH means "taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected class characteristics." In addition, these new guidelines required jurisdictions receiving federal funds to conduct an expanded evaluation, the Assessment of Fair Housing (AFH), in order to continue to receive federal funding.

The 2015 AFFH rule outlines a "balanced approach" to clarify how jurisdictions can take meaningful actions to promote fair housing. A balanced approach means that cities pursue what are called "mobility" and "place-based strategies." Mobility strategies include "increasing the availability of affordable housing, including mixed-income housing, in areas of opportunity, such as through targeted siting, new construction, and the removal of existing regulatory barriers." Place-based strategies include "building rehabilitation as a part of a concerted community revitalization effort, new construction of mixed income housing, and coordinated investments in housing, schools, transit, healthcare, and other amenities to increase access to opportunity." On the ground, this balanced approach means creating and preserving affordable housing in areas with good schools, public transportation, and access to other community assets, and ensuring that neighborhoods long neglected by the private market, such as Brownsville or Far Rockaway, get the public investments and opportunities they need to thrive. Under Housing New York, the City is committed to pursuing both of these strategies to expand housing choice.

Earlier this year, HUD, under President Trump, delayed implementation of the required Assessment of Fair Housing. The due date was pushed back five years for most jurisdictions, meaning that New York City's Assessment of Fair Housing, which was previously due in 2019, would now not be required until 2024, and our 2019 analysis would revert back to the suggestions HUD made in guidance from 1996.

We believe that delaying the implementation of the AFH undermines an important tool to keep cities accountable to addressing decades of discrimination. Regardless of delays at the national level, the City of New York remains committed to a data-driven, collaborative fair housing planning process – and we have formalized this process into an initiative we call *Where We Live NYC*, which will address the same issues and content as the AFH and culminate in a final, public report. Through this process, we will also deepen our analysis to focus on fair housing challenges relevant to New York as a high cost city.

As the City of New York, we take seriously our obligation to affirmatively further fair housing. We are working to combat individual housing discrimination and we are ensuring our housing and community development investments are creating greater access to opportunity and housing choice.

Building on this work, we see *Where We Live NYC* as a critical step in furthering fair housing. *Where We Live NYC* represents a comprehensive fair housing planning process to study, understand, and address patterns of residential segregation and concentrated poverty in our neighborhoods, and how these patterns impact New Yorkers' access to opportunity – including jobs, education, safety, public transit, and positive health outcomes. *Where We Live NYC* will include extensive community participation throughout all aspects of the process, as well as data and policy analysis that will culminate with the release of a public report in the Fall of 2019. The report will include measurable goals and strategies that are designed to foster inclusive communities, promote fair housing choice, and increase access to opportunity for all New Yorkers.

These goals and strategies will consider all existing and new policies related to the allocation of housing resources and other investments. *Where We Live NYC* is a unique opportunity for us to zoom out from discussing individual developments and land use actions, with the ultimate purpose of promoting fair housing and equitable access to opportunity for all New Yorkers.

HPD will be leading a robust and inclusive engagement process to collect meaningful input from stakeholders, including community organizations and neighborhood residents, to inform this effort. We want to better understand how fair housing issues play out in the lives of New Yorkers, with a focus on seeking out populations protected by fair housing law, as well as populations, communities, and neighborhoods that historically have been left out of government decision-making.

We've divided the engagement process into three key phases. We start with Learn, which sets the groundwork for the *Where We Live NYC* planning process. It is an opportunity for the members of our Stakeholder Group—representing a broad spectrum of experts, including community-based organizations, research organizations, and community development professionals—to respond to initial data, discuss existing conditions, and identify and prioritize factors that contribute to fair housing issues in our city. The Learn Phase will take place throughout this spring and summer. Next, we have Create, which is an opportunity for stakeholders to share ideas for policy solutions, based on the information we will collect and the contributing factors that were prioritized in the Learn Phase. The Create Phase will take place this fall. In 2019, we will transition to Finalize, which will be our chance to provide feedback on how public and stakeholder input was used to set final policy goals.

To be clear, the City does not have pre-determined outcomes for this process. We will be working with our partners to examine and understand priority issues and policies, and develop goals and strategies to implement moving forward. All of us at HPD look forward to having

meaningful and candid conversations with our partners, including all of you, throughout this process, and working together to make our city stronger, fairer, and more equitable.

Now I will turn to the legislation, beginning with Introduction 607, and I want to thank Council Member Richards, the primary sponsor of this legislation. HPD supports Intro 607. As I have testified to, HPD is obligated to affirmatively further fair housing, and this will help hold us to this commitment. The changes under the current Presidential administration show that the federal government is likely working to dismantle key provisions of the Fair Housing Act. Therefore it is critical that cities such as ours uphold our goals and realize our vision, and the vision of the civil rights leaders of the 1960s. I want to thank the City Council for stepping up and showing the federal government that New York City will always be a place where housing discrimination is taken seriously, and where our attempts to combat it and to further fair housing are significant and meaningful.

I will now speak to Introduction 601, which would require the submission of and reporting on an affordable housing plan to the council. I want to thank Speaker Johnson, the primary sponsor of this legislation. HPD supports transparency around our affordable housing plan, Housing New York, and we support the intent of this bill to do just that. We are tremendously proud of the work we have done over the past four years to build and preserve more homes with deeper levels of affordability. Every quarter, HPD reports information about our production, both preservation and new construction, to ensure that the public has access to information about the work that we do. We include in this dataset information about location, income level, planned tax incentives, and numbers of units, among other data points. HPD also puts yearly city-wide targets for project starts and completions in the Mayor's Management Report, which reflect trends that we anticipate when it comes to housing production. We look forward to working with the Council on language to ensure that any reporting we do is meaningful, feasible, and protects the confidentiality of the vulnerable populations in our supportive housing.

Finally, I will turn to Introduction 722, also sponsored by Speaker Johnson, which would require HPD to annually report on affordable housing units subject to regulatory agreements or other affordability agreements that are expiring within two and a half years after the audit date. HPD supports the intent of this bill with regards to tracking regulatory agreements, with particular attention to those agreements that are nearing the end of their terms of affordability. Throughout HPD's existence, there has not been a centralized database to track specific data from regulatory agreements and other documents with affordability requirements—such as the year of expiration. All such documents are housed on ACRIS, the Department of Finance's database of recorded documents, but that portal is limited in terms of search capabilities, sorting, and other technological functions. Further, the complex and varied nature of the regulatory agreements reached throughout the past few decades make such standardization an extremely difficult task. For example you may see a new construction project with:

- A 15-year HOME written agreement;

- Low Income Housing Tax Credits, which have a 30-year compliance period;
- Two 40-year mortgages, one with HPD and one with the Housing Development Corporation;
- A 75-year ground lease with NYCHA; and
- 20% of the units as permanently affordable

These financing tools rely on different lengths of time by rule and purpose. Given the complexity, the amount of time and staff needed to conduct a review of the type required in the legislation is extensive.

For the past few years, HPD has engaged in planning to upgrade many of our data tracking systems, including plans to equip our systems with the kind of capabilities envisioned by Introduction 722. This particular plan has three prongs: standardization, modernization, and recapture.

1. First I will discuss standardization. HPD has historically used, and continues to use, a variety of regulatory documents for affordable housing each of which may take different forms and may overlap in a single project. This makes tracking data points like expiration dates very difficult. While we need a certain degree of flexibility for drafting regulatory documents for each project, HPD is currently reviewing the various documents we use to identify ways to make common data points more standardized.
2. Next, I will discuss modernization. Regulatory agreements touch several divisions within HPD, including Development, Legal, Construction Monitoring, Marketing, and Asset Management. In the past several years, HPD has worked to secure funding to integrate the departments' respective data systems and house shared data in a centralized repository to allow us to better track projects through their full lifecycles.
3. Finally, HPD is in the midst of the first stages of an extensive recapture process. HPD's Asset Management Division has begun a process to research historic regulatory agreements and other documents, an effort that requires significant additional resources, including staff members with specific training to research and extract data for each project.

Separately, HPD is concerned that the disclosure requirements linked to expiring regulatory agreements and plans for their preservation could lead to speculation by predatory developers. HPD works extensively with the projects in our portfolio to preserve their affordability for the long term—beyond initial terms of affordability. We conduct active outreach to older projects, work with those in need of financial assistance, and engage in other aspects of strategic preservation that help us keep as much housing affordable as possible. HPD would like to work with the Council to ensure that we are preserving affordable housing in a manner that does not encourage speculation.

As you can see, HPD has invested significant time and resources over the past couple of years to addressing the historic problems with tracking regulatory information. We are committed to standardizing and modernizing our system for the future, while ensuring that we recapture the information that may have been overlooked in the past. We look forward to working with you towards expanding on our plan to take HPD's regulatory tracking system into the 21st century.

Thank you again for the opportunity to testify on these bills. I look forward to answering any questions you may have at this time.



Written Testimony Submitted to the New York City Council Committee on Housing and Buildings by Chanera Pierce, Policy Coordinator of the Fair Housing Justice Center (FHJC)

April 10, 2018

The Fair Housing Justice Center (FHJC), a regional civil rights organization based in New York City, strongly supports passage of Local Law - Intro No. 607 as written and supports passage of Local Law – Intro No. 601 with some modifications. In our view, the passage and implementation of these laws, with some minor changes, could, over time, enable New York City to gradually reduce residential racial segregation, decrease poverty concentration, and expand affordable housing opportunities throughout the City for populations whose housing choices have historically been limited. The enactment of these local laws would also establish a process that could aid the City to fulfill its duty to comply with the federal Fair Housing Act by affirmatively furthering fair housing.

We are just one day away from commemorating the 50th Anniversary of the federal Fair Housing Act. That historic piece of legislation, passed by Congress and signed into law one week after the assassination of Rev. Dr. Martin Luther King, Jr., prohibited housing discrimination throughout our nation. It also included a key provision that required the U.S. Department of Housing and Urban Development (HUD) and all recipients of federal funds to implement all housing and community development activities in a manner that affirmatively furthers fair housing. Congress included that provision in recognition of the significant role that government had played in creating the rigid patterns of residential racial segregation that are still conspicuous in most of our metropolitan regions. Going forward, local and state governments would need to ensure that future housing programs and community development activities are designed to reduce residential racial segregation and expand housing opportunities for populations whose housing choices had been severely constrained by discrimination and the apartheid policies of the past.

Reflecting on the past five decades, it is clear that fair housing laws have never been vigorously enforced and the “affirmatively furthering” requirement has been largely ignored by the federal government as well as by recipients of federal funds. Worse yet, we are witnessing, at the federal level, outrageous actions that can only be described as “regressively retreating” from fair housing. The shameful rescinding of the “Assessment of Fair Housing” rule promulgated in 2015 by the Obama administration signals an unwillingness by the current administration to implement one of the most basic and important provisions of this civil rights law.

In view of developments at the federal level, we heartily support Intro No. 607 because it is consistent with the spirit and letter of the federal Fair Housing Act and would hold New York City accountable to affirmatively further fair housing. Place matters and government should do what it can to ensure that everyone has an opportunity to acquire a home or apartment in any neighborhood in the City without regard to race, religion, national origin or any of the protected characteristics under local, state, or federal fair housing laws. Likewise, government must make a concerted effort to ensure that every neighborhood becomes a neighborhood of opportunity, free from discrimination.

But, Intro No. 607 only has meaning and value if the City's Fair Affordable Housing Plan, Intro. No. 601, also captures and reports data in a manner that enables policy-makers to readily assess whether any facet of the plan is, in any neighborhood tabulation area, reducing or perpetuating residential racial segregation, reducing or increasing poverty concentration, and expanding or constraining housing choice. In our view, a Fair Affordable Housing Plan would need to include, for each neighborhood tabulation area, data on other factors such as the race, national origin, income levels, and age of existing residents as well as the number of existing affordable housing units and publicly subsidized housing units in the area, including public housing units and the number of households with Section 8 subsidies or other rental subsidies. Additional information on schools, neighborhood amenities, recreational facilities, and other resources may be quite helpful in assessing whether specific areas are the best locations for creating additional affordable housing. For historically disadvantaged areas, is there a comprehensive revitalization plan in place which includes economic development in the form of commercial improvements, job-creating initiatives, and evidence of private and public investment. The report also needs to include data on any land-use, zoning, and/or regulatory barriers to creating or preserving affordable housing beyond those factors already listed in the proposed legislation. If this additional data is included as part of the plan that is mandated by this legislation, we would fully support the legislation.

One additional comment, we note in Intro No. 601 that Section 26-2103 requires that the Mayor meet with various community representatives and notably absent from that list are "fair housing and civil rights organizations." Because we possess specialized knowledge about housing discrimination and existing barriers to housing choice, we respectfully request that you include us on this list.

Thank you very much.

The mission of the Fair Housing Justice Center (FHJC) is to eliminate housing discrimination; promote policies and programs that foster open, accessible, and inclusive communities; and strengthen the enforcement of fair housing laws. The FHJC provides counseling on fair housing rights, investigative assistance including testing, and referrals to administrative agencies and cooperating attorneys. The FHJC operates one of the largest and most effective fair housing testing programs in the nation. FHJC's program employs over 160 testers, mostly professional actors, who have been trained to participate in housing discrimination investigations. These investigations are coordinated by a highly skilled team of investigators who utilize state of the art technology. Over the past decade, FHJC investigations have led to successful legal challenges that have opened more than 60,000 units of housing to previously excluded populations, changed the way many housing providers do business, and resulted in a total monetary recovery of over \$30 million. Information about the FHJC can be found at www.fairhousingjustice.org.

Fair Housing Justice Center – 30-30 Northern Blvd., Ste. 302, Long Island City, NY 11101 – 212 400-8201

New York City Council - Committee on Housing and Buildings
Testimony regarding Intro 607-2018
Banana Kelly Community Improvement Association
Wanda Swinney, Tahicia Fredericks, Harold DeRienzo and Gregory Jost

April 10, 2018

Esteemed members of the New York City Council Committee on Housing and Buildings,

On behalf of Banana Kelly Community Improvement Association, a forty year old organization dedicated to community controlled neighborhood improvement in the South Bronx, the four of us stand here before you today to both thank you for your commitment to fair housing, and to raise some concerns regarding the language of the proposed legislation, Intro 607.

My name is Gregory Jost and in addition to being the Director of Organizing at Banana Kelly, I am a community researcher and scholar who focuses on how redlining has defined the history of the Bronx and all of our nation's cities and regions. When the Federal Government first got intensively involved in the housing market during the New Deal, surveyors assigned levels of risk to neighborhoods based primarily on the race and ethnicity of the people who lived there, using terms such as "Detrimental Influences: Negro and Porto Rican Infiltration."¹

Redlining transformed the explicitly racist language of the Jim Crow era into relentless and pervasive structural racism, collapsing race and place in a way that would create the hyper-segregated neighborhoods we still are dealing with today. Yet, as the historian Craig Steven Wilder writes about segregated Brooklyn, "that isolation was only the lubricant for oppression. Racial concentration set the foundation for a broader social agenda that put the black population at the mercy of their white co-citizens."² This white domination manifested not only in unequal policing and education, but also through serial displacement on unprecedented levels as seen in Slum Clearance and Urban Renewal during the 1950s and 60s, followed by Benign Neglect and Planned Shrinkage during the 1970s and 80s.

It was against this backdrop of displacement, exploitation and devastation that historically redlined people, primarily Black and Puerto Rican, came together to save their buildings, blocks and neighborhoods through community control, collective ownership and sweat equity. Residents on Kelly Street in the Bronx and in

¹ For more information please visit the *Undesign the Redline* exhibit at Andrew Freeman Home, 1125 Grand Concourse in the Bronx.

² Wilder, Craig Steven. *A Covenant with Color: Race and Social Power in Brooklyn*. New York: Columbia University Press, 2000. Page 177.

similar neighborhoods across the City and country have been battling overwhelming forces for decades, building community, restoring social fabric, and fighting both disinvestment and displacement.

Today, in a climate of speculation and gentrification across the city, we fear the vagueness of the language in *Intro 607*, specifically requiring that any affordable housing plan developed by the city include certain types of actions that "address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity..." While we understand this language comes from HUD, we believe that left as is, this bill can readily be interpreted to allow or even encourage integration through gentrification, and assumes that communities of color will only become places of opportunity by a significant increase in the presence of white people. We reject this premise as well as the understanding of segregation as the root cause of the disparities you are seeking to address.

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My name is Harold DeRienzo and I am the President of Banana Kelly Community Improvement Association in the Bronx. I also applaud the City Council for taking up this fair Housing issue but urge Councilmembers to take a step back and make sure that whatever is done legislatively is well thought out, inclusive, comprehensive, and not capable of doing more harm than good.

Upon passage, the Fair Housing Act was a long overdue and critically important piece of civil rights legislation. And in most of America, and closer to home, in the suburban areas surrounding New York City, the legislation is as important and relevant now as it was in 1968. But in certain areas, particularly urban gentrifying areas of the city, the Fair Housing Act has worked, and has the potential to continue to work, against the very people it is supposed to help.

The language in *Intro 607* focuses on neighborhoods like the South Bronx. That is appropriate but it should take into account historical patterns of segregation within historically redlined areas for the purpose of restorative justice. In other words, any community preferences should target public subsidies to those populations groups historically deprived of mobility choice and opportunities for multi-generational wealth-building. Furthermore, it should focus on the work that needs to happen in wealthier, whiter parts of the City and region, for that matter.

Language in any fair housing plan needs to acknowledge the specific and pervasive history of segregation and racism in this country and in this city and distinguish between

the responsibility assigned to neighborhoods that have benefited from this history and those that have suffered.

Historically redlined and disenfranchised people should not be threatened with displacement by actively seeking to integrate them on someone else's terms based upon a Fair Housing Act that, in the context of gentrification in formerly redlined neighborhoods, hurts the very people the Fair Housing Act was designed to help, and promotes, intentionally or inadvertently, the further disenfranchisement of our most vulnerable citizens, citizens who in spite of prevailing trends and public policy, persevered through the worst of times to rebuild the very neighborhoods that they are now being told need to be integrated.

At Banana Kelly we have fought for decades to gain community control over both process and resources. Any fair housing plan should include language that ensures that these values of inclusion, choice (particularly the choice of opportunity to retain home and community) and local control are explicitly protected for people against whom both publicly and privately promoted discrimination has been a pattern that cannot be casually addressed, but must be explicitly addressed in any legislative action purporting to support Fair Housing.

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My name is Tahica Fredericks and I am Board Member and Resident Council leader at Banana Kelly. I am originally from Bedford Stuyvesant and our last stop before being pushed out was Fort Greene, where my husband and I raised our children. I have to say the language of the *Intro 607* gives me great concern. This is Bed- Stuy and Fort Greene all over again.

It is legislation like this that causes working families like my own to seek housing elsewhere, finding none and leaving no other option other than the shelters, while still working, paying our taxes and sending our children to college.

After 2 years, we obtained housing with the help of Banana Kelly. We're in our home one year and the same patterns I witness in Brooklyn has reared its ugly head in the Bronx.

Whether you believe we know this or not, it is impossible to create and build personal wealth without stability. It is the Instability that produces and maintains poverty. I can only speak for my own family when I say, we are not interested in being uprooted and displaced by farce ideologies of "improving" the neighborhoods of black and brown people.

There is no way opportunities can be created by just integrating our neighborhoods. Let's call this what it is, gentrification.

When the subject of certain affordable housing programs are allowed into our communities, the pacification is to toss a few – and I mean a FEW – apartments in the new developments. We refer to these crumbs as the "Poor Doors". We could live in them, but certain services and amenities are off limits. Is this considered fair because it's affordable?

In the 1950's and 60's, when Brooklyn neighborhoods were tossed over the shoulders of the white families that left like trash, we considered them treasures and made them, called them home. This decisions to return has greatly impacted the living situations of many hard-working families like mine.

I implore you to reconsider again the language of the legislation.

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My name is Wanda Swinney and I am a Board Member and Resident Council leader at Banana Kelly.

We have been working for decades to collectively own and control not just our buildings but the land too. We have fought too long and hard for our neighborhoods to not be at the table when their future is being decided.

Please look to the work we do as a mutual housing association and community land trusts as a model for creating opportunity. Invest in us and the opportunities we can create for ourselves.

I'm tired of what gets pushed upon us black communities and people with racially demoralizing propagandas trying to subdue us. There are no more robotic mindsets here. Stop trying to mislead us to believe we've become our own worst enemies and therefore we need whites to govern over our lives. It's a psychological warfare designed to make black communities compliant with white dominance over our lives. It is a covert system of control.

You all may have good intentions with this bill, but it isn't clear to us what you are trying to accomplish with it. We ask you to be both explicit and specific and what you want to do, and make sure you figure this out with us.

Thank you.

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TESTIMONY OF BARIKA WILLIAMS BEFORE
THE NEW YORK CITY COUNCIL COMMITTEE ON HOUSING AND BUILDINGS
CONCERNING FAIR HOUSING.

April 10, 2018

Good Afternoon. Thank you Speaker Johnson, Chair Cornegy and the members of the Committee on Housing and Buildings for the opportunity to testify on Fair Housing Laws.

My name is Barika Williams and I am the Deputy Director of the Association for Neighborhood and Housing Development (ANHD). ANHD's mission is to advance equitable, flourishing neighborhoods for all New Yorkers. A coalition of over 100 community-based affordable housing and equitable economic development organizations in all five boroughs of New York City, ANHD works at the intersection of community organizing, policy, advocacy, and capacity-building. Our members have developed over 100,000 units of affordable housing in the past 25 years alone, and directly operate over 30,000 affordable units.

ANHD believes that the entire housing industry, all housing and land use policies and programs, and all city policies and programs must affirmatively further fair housing and have a responsibility to address the structural racism and oppression that permeate our housing and neighborhoods.

If we are to address this structural racism and oppression, we must confront the difficult historical and ongoing truths about housing and neighborhoods. **Our neighborhoods were built on explicitly racist and xenophobic policies by Government, banks, and the housing industry, trapping marginalized residents into certain areas and excluding them from others.**

While a robust affordable housing plan and investment is a part of addressing this legacy, it should be mistaken for a pathway to affirmatively further fair housing. New York City needs both.

We applaud the Speaker Johnson, Chair Cornegy and the City Council for commemorating the 50-year anniversary of the Fair Housing Act by introducing a series of bills intended to ensure that New York City affirmatively furthers fair housing. As we commemorate this historic 50-year anniversary, ANHD will continue to work with the New York City Council and the de Blasio Administration to advance fair housing efforts.

ANHD also applaud HPD Commissioner Maria Torres-Springer and the de Blasio Administration's decision to proceed with its Assessment of Fair Housing despite Trump and HUD's decision to suspend the requirement that jurisdictions comply with the Affirmatively Furthering Fair Housing rule until well after 2020. The Trump Administration's abrupt and neglectful step back from the federal Fair Housing Act won under the Civil Rights Movement will damage our communities and our city.

Historically, New York City has not prioritized affirmatively ensuring fair housing for all New Yorkers. An alarming news article, titled *'I Put in White Tenants': The Grim, Racist (and Likely Illegal) Methods of One Brooklyn Landlord* by DW Gibson was published in May 2015. It outlined the discriminatory practices of one Brooklyn landlord who stated, "if there's a black tenant in the house—in every building we have, I put in white tenants." Following this article, the City did not announce any new public education campaign, landlord outreach, or investigation by the City into these practices. It illustrates a deeply distressing lack of action and resources from the City to address this type of discriminatory behavior against NYC residents.

We believe that NYC's fair housing agenda must increase investment in high-poverty and historically impacted neighborhoods, guarantee housing protections and rights, fight racial discrimination in the housing market, and increase access to neighborhoods with quality jobs, schools, and other essentials. In our communities and



neighborhoods, we see and confront a number of fair housing challenges. ANHD believes that NYC's fair housing efforts should and must be prevent the following issues:

- **DISPLACEMENT:** The displacement of residents, and/ or disparate impact on those households in a protected class, from a neighborhood, community, rezoning or developments' primary and/or secondary impact area. We strongly maintain that the displacement of certain populations or housing stock is a fair housing issue.
- **DEEP AFFORDABILITY:** The need for **deeply affordable** housing units that serve low- and moderate-income households and the disparate impact of not preserving, creating and providing deep affordability units for those households on protected class(es). The need for deep affordability units in high income and predominantly white neighborhoods in NYC.
 - Over 55% of NYC's communities of color are Extremely Low-Income (ELI) and Very Low-Income (VLI). Nearly 75% of NYC's communities of color are Low-Income and below.
- **REZONINGS & LAND USE ACTIONS:** The selection and location of areas proposed for **rezoning**, and their disparate impact on any protected class. The criteria and process for how areas are selected. The methodology and process for calculating **land use impacts** and outcomes and their historical and potential impact on various protected class(es). The methodology and process for **community engagement** in land use, development, policy changes and the incorporation and adoptions of community input, feedback and plans.
- **SEGREGATION:** Overcoming the persistent and ongoing **patterns of segregation** and barriers to housing and neighborhood choice. The level of **investment and resources** provided to our racial and ethnic communities and the conditions and stipulations placed on those resources, with consideration of historical policies and patterns of disinvestment
- **DISCRIMINATION:** **Discrimination** of residents in accessing and renting units housing units based on race, ethnicity, religion, family size, etc. Discrimination of residents in accessing and renting units based on source of income including vouchers, child support, public benefits, etc. Mortgage discrimination and insurance discrimination for those seeking to purchase a home. Discrimination in the assessment and or selection of new members for coops and or residential housing boards. Discrimination when **financing** the purchase, construction, improvement, repair, or maintenance of housing by banks and/or financial institutions.
- **HARASSMENT:** Landlord harassment designed to drive out tenants in order to raise rents and bring in different populations, directed at or disproportionately impacting protected classes. Using immigration proceedings, police proceedings, or child services as a form of threat, harassment, or removal of a household.
- **STEERING & MARKETING:** The **steering** by brokers and/or realtor towards or away from housing options or neighborhoods. The selective use of people of color or only non-people of color for the **marketing** of housing units to or away from a protected class, and the use of code words, such as "exclusive" neighborhood, in the text of advertisements.
- **BUILDING CONDITIONS:** The location and/or relocation of households to **severely overcrowded or substandard housing** including public housing and homeless shelters, especially given the share of seniors, disabled, and people of color in this housing stock. The geographic distribution of homeless shelters and the impact of homeless units on the permanent housing stock.

ANHD respectfully recommends the following additions and/ or changes to the proposed NYC Council bills, (1) Int 0601-2018 (2) Int 0607-2018 and (3) Int 0722-2018.

1. We ask that the City Council introduce legislation or expand Int. 0601-2018 that **further fair housing in all aspects and types of housing and actors; it should not be limited to affordable housing development.** The City's obligation to affirmatively further fair housing covers all housing actors, funding,



and policies that impact a protected class -individual, community, or neighborhood. (For example, assessing the impact of luxury housing or land-use on housing segregation and access to opportunity of protected classes.)

2. We ask that the City Council **introduce and/or expand the legislation to ensure the fair housing rights of additional protected classes** including religion, age, source of income, etc. (For example aggressively preventing source of income or religious discrimination?)
3. We ask that the City Council **require an assessment of how the City's overarching housing market and housing plan are disproportionately impacting protected classes.** (For example, what is the impact of luxury housing units on seniors/racial or ethnic groups/family size/etc?)
4. We ask that the City Council **require an assessment of how the current housing market, including all market-rate, affordable and land use based housing plans, policies, and programs, impact historically disenfranchised people and those who historically and currently face explicit and implicit discrimination.** (For example, land use-actions taken and/or resources allocated in areas previously that were previously segregated via redlining. Or the granting of CRA eligible mortgages is historically segregated areas?)
5. We applaud the City Council's Int. 722-2018 to audit expiring affordable units. We strongly urge that Council **modify the bill to require the reporting of expiring tax credit units prior to Year 15 and prior to Year 5** (the sixteenth calendar year and the sixth year that commences after the due date of such report). Being notified 2 years prior to expiration is too late. As ANHD and our members know, given current affordable housing programs, the most impactful timing for preserving the affordability of expiring units is prior to Year 15 and Year 5.

ANHD has and will continue to fight against the deeply entrenched structural segregation, economic inequality, discrimination and oppression in our communities and in housing. We will continue to affirmatively further fair housing in all New York City neighborhoods.

**Testimony of Veronica Cook, Legal Services NYC
Civil Rights Justice Initiative
On Intro Nos. 601 & 607**



Good afternoon City Council Members and esteemed colleagues,

My name is Veronica Cook, and I am a staff attorney in the Civil Rights Justice Initiative at Legal Services NYC and a member of LSSA 2320, a unit of the National Organization of Legal Services Workers, Local 2320 of the United Auto Workers (UAW). I'm here today with my colleague, Marika Dias, the Director of Legal Services NYC's Tenant's Rights Coalition. I would like to thank the New York City Council, Speaker Johnson, the Committee on Housing and Buildings, and Chairperson Cornegy for inviting us to comment on these two proposed bills designed to address affordable housing and racial segregation in New York City.

Legal Services NYC, or LSNYC, is the largest legal services organization in the country. LSNYC works to challenge systemic injustice, fights poverty, and seeks racial, social, and economic justice for low income New Yorkers. Our staff members assist more 80,00 low-income New Yorkers each year and, along with other legal services providers in the City, Legal Services NYC is at the forefront of the fight to prevent evictions, preserve affordable housing, and ensure that our clients' apartments are safe and they are not subject to harassment in their homes.

LSSA 2320 is a wall-to-wall union that represents the secretaries, paralegals, receptionists, process servers, social workers, attorneys and other non-management employees of LSNYC and Mobilization for Justice (MFJ). Not only do our members work on behalf of low-income New Yorkers, we are ourselves an extremely diverse group of people in terms of race, ethnicity, gender, sexual orientation, abilities, and economic background, among other

characteristics. Thus, our members experience the sometimes difficult realities of the New York City housing market not only in our roles as advocates, but also as New Yorkers trying to maintain our own housing stability in rapidly changing neighborhoods.

LSNYC and LSSA 2320 are thrilled that Speaker Johnson and Council Members Richards and Lander, among others, have proposed Intro 601 which would require the City to develop a fair affordable housing plan, and Intro 607, which would require any such plan to take steps to affirmatively address historic patterns of racial segregation and create fair housing opportunity. In 2015, the U.S. Department of Housing and Urban Development passed a final rule regarding the federal Fair Housing Act's requirement that recipients of federal housing funds take steps to "affirmatively further fair housing." 24 C.F.R. § 5.150. The federal government, however, has delayed the implementation of that rule. Therefore, we sincerely applaud the sponsors of Intros 607 and 601 on this effort to make New York City a beacon of fair housing choice and opportunity in America.

LSNYC also has had the opportunity to have several conversations with the City Department of Housing Preservation and Development about its plan to conduct a thorough assessment of fair housing in New York City. We commend HPD for continuing to prioritize those plans even in the absence of an immediate federal mandate to do so.

Yet, the codification of the affirmatively furthering rule and HPD's efforts to assess the state of fair housing in New York City – while an excellent first step – are only the first step in the fight for fair and equitable housing opportunity for low-income New Yorkers. Presently, Intro 607 places heavy emphasis on "overcoming patterns of segregation" and creating "truly integrated and balanced living patterns." While the bill does include language regarding the importance of

creating areas of opportunity where none exist, it is essential to provide additional context to emphasize here that ~~racial~~ integration should not be the only priority of the City's housing plans.

Thus, to the extent that the language of Intro 607 tracks the language of HUD's final rule, we believe it would be helpful for Intro 607 to include more of the specific language HUD included, which will help ensure that City planners do not define existing communities of color solely in terms of their racial or ethnic composition, but instead view those communities holistically, with the needs, values, and contributions of their current residents taken into consideration as part of the fair housing process.

HUD acknowledged, in response to comments on the affirmatively furthering fair housing rule, that there is nothing inherently negative about racially- and ethnically-concentrated neighborhoods. In this context, HUD recognized the need for both place-based strategies that seek to spur economic development, increase access to resources, and preserve affordable housing in racially-isolated neighborhoods, *as well as* efforts to increase access to housing in existing areas of economic opportunity. Both elements are necessary if a jurisdiction truly wishes to fulfill its obligations under the Fair Housing Act.

Accordingly, HUD added specific language to its final rule to clarify that to meet its obligation to affirmatively further fair housing, a recipient of HUD funding may engage in activities such as "removing barriers to the development of [affordable housing] in areas of high opportunity" and "targeted investment in neighborhood revitalization or stabilization; preservation or rehabilitation of existing affordable housing; promoting greater housing choice within or outside of areas of concentrated poverty and greater access to areas of high opportunity; and improving community assets such as quality schools, employment, and transportation." 24 C.F.R. § 5.150. HUD recognized that people like our clients will benefit not only from economic development

that attracts more diverse residents to their communities, but from real efforts to preserve affordable housing in their neighborhoods and initiatives that provide them with access to better quality food, transportation, health care, and employment opportunities. It would benefit our clients, the members of LSSA 2320, and, indeed, all New Yorkers, to include these components in any fair housing laws the City passes.

Such additions are particularly important in light of the City's ambitious rezoning plans, which are currently underway. We at LSNYC do not want our clients to become collateral damage to the City's well-intentioned fair housing plans, and such an outcome is not in line with the purposes of the Fair Housing Act. Rezoning decisions, and the gentrification that often accompanies them, can quickly increase integration in neighborhoods that have historically been occupied by people of color. However, that immediate integration is often followed by the displacement of the long-term residents of those communities, who may be forced to relocate to other racially- and ethnically-isolated neighborhoods, sometimes with less access to resources and services than the neighborhoods they left behind. We hope that City planners will take these considerations into account as they work to achieve fair and equitable housing opportunity for all New Yorkers.

For these reasons, we believe it would benefit LSNYC's client population and all New Yorkers, regardless of income, if the Council incorporates language similar to that in HUD's final rule into Intro 607.

Thank you to the City Council for this opportunity to testify about these important issues.

**Testimony of Marika Dias, Director of the Tenant's Rights Coalition at
Legal Services NYC, on Intro Nos. 601 & 607**



I am the Director of Legal Services NYC's Tenant Rights Coalition work, which encompasses our work under the city's Anti-Harassment and Tenant Protection Program focused on neighborhoods facing rezoning. To do this work we have teams of attorneys and advocates based in each of the affected neighborhoods, working in close partnership with grassroots tenant organizing groups, many of whom are responding to the impact of rezoning and gentrification. Through this targeted anti-displacement work, not to mention our decades of tenant advocacy, we have seen the impact of gentrification and city housing policies on working class communities of color across the city.

We are concerned about our city's use of targeted upzonings to create so-called affordable housing and we, therefore, welcome these bills as an opportunity to advance fair housing protections at the city level. At a time when fair housing is under attack nationally, it is commendable that the Council is moving forward to fill gaps in fair housing policy and address the legacy of segregation in the City. What is most significant about this bill and about the concept of affirmatively furthering fair housing is that it requires the City to fully consider the context of the historical patterns of segregation, including unequal access to resources in neighborhoods throughout the City. This bill is a step in helping us to address the twin challenges of attacking segregation while battling our current unprecedented affordable housing crisis.

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To achieve fair housing in our city, and to achieve housing justice, we cannot take an ahistorical or color-blind approach. We cannot ignore the racialized continuum of exclusionary zoning policies, redlining, urban renewal, Moses-type city infrastructure planning, racist zoning of “incompatible uses,” white flight and blockbusting. We cannot ignore withdrawal of city investment from neighborhoods of color during the fiscal crisis of the 70s, housing abandonment by landlords during that same time, predatory lending in the 90s, and gentrification spanning recent decades.

It is part of this same racialized continuum that upzoning is then presented as the key policy solution to affordable housing creation. Under the Bloomberg administration, when about a third of New York City was rezoned, most upzonings were in low-income communities of color – a 2010 Furman Center study of 76 rezonings in a 4-year period found that most tended to be located in census tracts with greater concentrations of Black and Latinx residents, and most were in areas where average incomes were well below the city’s median income. At the same time, downzonings and contextual zonings protected largely white neighborhoods from high-density development. Our current administration’s affordable housing plan is also part of this racialized continuum, with the centerpiece of the affordable housing plan involving upzonings of working class communities of color.

Although it is challenging to evaluate the extent of displacement caused by upzoning, it is fairly well established that upzoning at least exacerbates gentrification and displacement, and likely causes re-segregation because of the affordability levels of the new housing created. For example, after the Williamsburg-Greenpoint upzonings, those neighborhoods saw an overall population increase of 38%, with a 73% increase in the number of White residents contrasted with 18% decrease in the number of Latinx residents. Similarly, in the 13 years after the Central

Harlem rezoning, the neighborhood saw an 18% increase in population, with a 455% increase in the White population and a 5% decrease in the Black population. Our own Anti-Harassment and Tenant Protection legal services program was created by the city to prevent displacement specifically in neighborhoods facing rezoning, which would indicate that the city considered increased displacement pressures a likely consequence of its own rezoning actions.

Without a careful affordable housing plan, re-segregation becomes a particular risk because the affordable housing created by private developers simply isn't affordable to the majority of existing residents. For example, the Bronx Coalition for a Community Vision examined the potential creation of affordable housing along the newly-rezoned Jerome Avenue corridor. While approximately 49% of residents have incomes under 30% of AMI, through Mandatory Inclusionary Housing (MIH) that rezoning will create no housing affordable to almost half the current population. Or under the new HPD termsheet, if about half of the developers take advantage of increased HPD subsidies, approximately 200 units of housing affordable to those 49% of residents will be created.

It is for all of these reasons that we believe Intros. 601 and 607 are so important and have the potential to advance fair housing protections in our city, especially with certain clarifying and strengthening modifications.

As my colleague Ms. Cook mentioned, to the extent that Intro. 607 tracks the language defining 'affirmatively furthering fair housing' in 54 CFR 5.152, incorporating additional components from HUD's 2015 Rule that would make this legislation more effective at addressing issues of racialized displacement and potential re-segregation. Clarifying text from the HUD rule indicates that affirmatively furthering fair housing involves a place-based, balanced approach. This potentially includes protecting people from gentrification, stabilizing

working class communities of color by investing in those communities, while also building affordable housing across the whole city, including in more affluent neighborhoods that have historically benefited from city investment, so as to increase opportunities for geographic mobility and integration overall.

Beyond what is currently required in both Intro. 601 and Intro. 607, this legislation could also be an opportunity to create greater accountability for affordable housing plans and improve our ability to evaluate the creation and preservation of affordable housing more broadly. This would enable the city to better course-correct when a particular method for creating affordable housing is actually triggering displacement or is not creating the intended affordable housing. To those ends, it would benefit our clients and the City as a whole if the bill could also do the following:

- a) Require the administration to report on the extent to which the affordable housing plans proposed are compliant with the Fair Housing Act, in particular regarding disparate impact;
- b) Require the administration to truly evaluate the potential for direct and indirect displacement as a result of its affordable housing plan, as well as actual displacement triggered by past rezoning actions. This evaluation would go beyond the cursory and flawed framework provided for in the CEQR Technical Manual, which inevitably leads to implausible findings of no or little indirect displacement;
- c) Require the administration to report on the preservation of the city's public housing stock. This could include reporting on evictions of NYCHA tenants (including permanent exclusions which are also functionally evictions of some residents), building conditions, health hazards to tenants, and alienation of land from NYCHA projects;
- d) Require the administration to report on the preservation of all rent regulated housing in the city, including how many units have been lost and what plans are in place to minimize that loss of affordable housing; and
- e) Require the city to report on the progress of Mandatory Inclusionary Housing (MIH), in particular on, how many units have actually been created, where are they, and what levels of affordability do they provide? This would include creating a mechanism to track the creation of these units, which HPD does not appear to have in place yet.

We believe that these requirements would supplement the work HPD has already begun as part of its assessment of fair housing in the City. We believe that these additions would make Intros. 601 and 607 much stronger legislative tools for advancing housing justice across our city, and we thank you for the opportunity to give feedback on these important bills.



FOR THE RECORD

**Testimony of Edward Ubiera
Director of Policy
LISC NYC**

**New York City Council
Committee on Housing & Buildings**

**Fair Housing
Proposed Int. No. 0601-2018
Proposed Int. No. 0607-2018**

April 10, 2018

Thank you Chair Cornegy and members of the Committee on Housing & Buildings for convening today's hearing on the matters of Proposed Int. No. 0601 and Int. No. 0607, each with stated goals of affirmatively furthering fair housing. I am submitting this written testimony on behalf of LISC NYC.

About LISC

LISC is a national nonprofit community development financial institution (CDFI) supporting local champions of equitable development with financing, capacity building, and technical assistance. For almost 40 years, we've been on the ground building affordable housing and improving communities in collaboration with mission-driven organizations, government partners, and corporate leaders. Since our founding in 1979, we've helped to rebuild neighborhoods across New York City by investing over \$2 billion in capital, resulting in over 40,000 units of affordable housing and over 2 million square feet of retail and community space. In 2017 alone, we supported our local partners in preserving and developing roughly 1,500 units of affordable housing.

Current Federal Commitment & Resources Furthering Fair Housing Are Unclear

Residential racial segregation in New York City remains stubbornly high reflecting consistent bias in the rental marketplace, past exclusionary practices like redlining, and current market conditions impacting housing affordability and access. In 2015, LISC applauded the federal Department of Housing and Urban Development (HUD) when it promulgated the Affirmatively Furthering Fair Housing (AFFH) final rule fulfilling an unmet mandate of the Fair Housing Act of 1968. As this committee is aware, earlier this year HUD announced an extended deadline to all local government consolidated plan program participants to be in compliance with the AFFH rule until after 2020. We remain deeply concerned with this delay in HUD's implementation of the fair housing

rule because it is critical to ensuring that all communities have a path forward and the tools necessary to overturn patterns of historic segregation.

LISC Supports Local Efforts That Further Fair Housing

With the “Housing New York 2.0” plan, the “New York Works” plan, and the “Mandatory Inclusionary Housing” (MIH) program, Mayor de Blasio has taken great strides in charting a path towards a more inclusive city. We applaud Mayor de Blasio for his decision to proceed with a comprehensive fair housing engagement and assessment process similarly modeled to the processes promulgated in HUD’s AFFH final rule called, “Where We Live NYC.” LISC NYC expects to fully participate in the “Where We Live NYC” process.

LISC NYC has also joined the “Statewide Source of Income Coalition” alongside Enterprise Community Partners, the New York Housing Conference, and the Fair Housing Justice Center in support of amending the New York State Human Rights Law to extend legal protections to households using sources other than employment to cover housing costs, including Housing Choice Vouchers (Section 8), Social Security, unemployment insurance, and spousal support. The Coalition supports an amendment that would outlaw all income discrimination except in cases where a two-family home is owner-occupied.

Proposed Int. No 0601 and Int. No 0607 Seek To Strengthen Fair Housing Efforts

We thank the City Council for thinking critically on local strategies to promote fair housing. In our view, the current bills under consideration complement local fair housing efforts by seeking to codify best practices with respect to concurrently promoting affordable housing preservation/development and affirmatively furthering fair housing.

We are in general agreement with many of the provisions in Proposed Int. No. 0601 which establishes a new municipal requirement obligating the Mayor, in partnership with both private and public stakeholders, to develop and submit annually to the City Council a citywide affordable housing plan that details: (1) housing demand across the low - and moderate-income spectrum; (2) municipal efforts underway to satisfy this housing demand; and (3) challenges in the marketplace to fulfilling this demand including federal aid, the price of land, and maintenance costs necessary to operate subsidized housing. We are aware that Int. No. 0601 will require very detailed neighborhood tabulations of units created and preserved. We encourage the City Council to work closely with the Department of Housing Preservation & Development (HPD) and the Department of City Planning (DCP) to determine the feasibility and fiscal impact of these new reporting requirements.

We support Proposed Int. No. 0607, which requires municipal affordable housing plans to take meaningful actions to overcome patterns of historic segregation and address disparities in housing needs and in access to opportunity. We believe this new requirement establishes a clear and ongoing local policy framework for creating inclusive communities.

Affirmatively Furthering Fair Housing Requires A “Both/And” Approach

LISC NYC believes that only a balanced approach to fair housing will ultimately be successful in overcoming patterns of historic segregation and improving access by all households to the homes and neighborhoods of their choosing. Implementation of Proposed Int. No. 0601 and Int. No. 0607 should be guided by a balanced strategy rooted in both community led reinvestment in racially and ethnically concentrated areas of poverty and in increasing mobility to higher-income, less segregated areas (the “both/and” approach).

There are multiple strategies that can be taken to implement the “both/and” approach. Successful reinvestment strategies in areas marked by concentrated poverty and segregation reflect comprehensive community based planning; multi-stakeholder, community level decision making; and preservation/development of affordable housing alongside critical neighborhood infrastructure like schools, daycare, open spaces, and commercial/industrial facilities. Strategies for enhancing the economic mobility of low-income households include the construction of new affordable housing in high-opportunity areas; sustained and effective enforcement of rules guarding against source of income discrimination in the rental marketplace; workforce development coupled with credit counseling and financial literacy; and improved access and affordability to mass transit.

Finally, and in our view, a strategy that cuts across the “both/and” approach is increasing the amount of real estate owned and stewarded by mission-driven organizations. Whether in distressed communities or in high-opportunity neighborhoods, mission-driven developers use business strategies that mandate permanent affordability and accessibility in all their real estate work including affordable housing, manufacturing facilities, commercial spaces, and arts spaces. This equitable real estate strategy creates a virtuous cycle of sustainable, community wealth that benefits all stakeholders.

LISC NYC remains committed to a comprehensive approach to community development and will continue to work with local partners, including the City Council, to help catalyze opportunity in our neighborhoods.

Thank you for the opportunity to testify.

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COMMUNITY DEVELOPMENT PROJECT

Testimony of Adrien A. Weibgen to the New York City Council Committee on Housing and Buildings

April 10, 2018

Thank you for the opportunity to testify today. My name is Adrien Weibgen; I am an attorney in the Equitable Neighborhoods practice of the Community Development Project (CDP). CDP works with local coalitions to foster responsible, equitable development and 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.” We work together with our clients to ensure that residents in historically under-resourced areas have stable housing they can afford, places where they can connect and organize, jobs to make a good living, and other opportunities that allow people to thrive.

Int 601: In relation to requiring the development of a fair affordable housing plan, and Int 607: In relation to requiring that city affordable housing plans address historic patterns of racial segregation

CDP thanks the members of this Committee for introducing legislation designed to ensure that New York City addresses fair housing issues as it creates and preserves affordable housing throughout the City. In the context of a federal government that has sought to undercut the Fair Housing Act at every turn, we are glad to see that the de Blasio administration has stood firm in deciding to proceed with New York City’s Assessment of Fair Housing, and that the Council seeks to be an active partner in efforts to affirmatively further fair housing. This process will require facing ugly truths; too many communities have weathered and continue to face severe fair housing challenges, including diminished access to affordable housing, quality schools, employment opportunities, and transportation. City policies past and present play a significant role in creating this landscape of inequality. But as James Baldwin teaches us, “nothing can be changed until it is faced,” and CDP and its partners are eager to work with HPD and the Council face the City’s fair housing challenges head-on.

That said, we are concerned that the bills proposed today draw the scope of concern too narrowly. The Department of Housing and Urban Development (HUD)’s Affirmatively Furthering Fair Housing Rule urges recipients of federal funding to explore a broad range of strategies to remedy fair housing challenges¹, including both place-based and mobility strategies.

¹ Per 24 CFR 5.150, “A program participant’s strategies and actions must affirmatively further fair housing and may include various activities, such as developing affordable housing, and removing barriers to the development of such housing, in areas of high opportunity; strategically enhancing access to opportunity, including through: Targeted investment in neighborhood revitalization or stabilization;

Place-based strategies encompass investments in racially and ethnically concentrated areas of poverty that seek to stabilize and revitalize such neighborhoods, remedying the generational impacts of historic divestment and segregation. In contrast, mobility strategies aim to increase the access of members of protected groups to existing areas of high opportunity, removing barriers to individuals who wish to live in neighborhoods that were formerly off-limits. Although HUD has made clear that “the duty to affirmatively further fair housing does not dictate or preclude particular investments or strategies as a matter of law,”² HUD describes as a “balanced approach” one that employs both place-based and mobility strategies. This may include “transforming RCAPs/ECAPs [racially or ethnically concentrated areas of poverty] by addressing the combined effects of segregation coupled with poverty, increasing integration, and increasing access to opportunity, such as high-performing schools, transportation, and jobs.”³

There is no one-size-fits all approach to affirmatively furthering fair housing. Seeking to remedy generations of discrimination in both private action and public policy is no easy task, and there will be no quick fix. This is especially true in our City, where a sudden influx of investment in underserved neighborhoods can increase the risk of displacement of long-time residents of color – especially when such investments are paired with massive upzonings to create housing beyond the reach of most current residents. Stabilizing communities and addressing the challenges caused by gentrification and displacement are key parts of the fair housing puzzle, and ones that the City cannot afford to ignore. That is why the HUD rule makes clear that the City must consider and adopt a wide array of strategies to remedy inequalities that have too long gone unaddressed, and why CDP and its partners are excited to engage in the WhereWeLiveNYC process.

Before the City’s Assessment of Fair Housing process unfolds, we urge the Council not to narrow the scope by focusing only on the creation and preservation of affordable housing. Though this is a key part of the City’s duty to affirmatively further fair housing – and one that CDP of course supports – it is not sufficient to meet the City’s fair housing obligations, or reflective of the balanced approach that the fair housing inquiry requires. Rather than suggest that it is, CDP urges the Council to revise this legislation at the conclusion of the WhereWeLiveNYC process so that it can better and more specifically address the many strategies we hope will emerge from that process, and track indicators reflective of the goals created in collaboration with the diverse stakeholders whom the City’s fair housing plans will impact.

Intro 722: In relation to an audit of expiring affordable housing units

As committee members know, the Community Development Project and many of our frontline community partners are part of a Community Land Trust (CLT) Initiative designed to facilitate permanent affordability and protect government investment in housing. We are extremely

preservation or rehabilitation of existing affordable housing; promoting greater housing choice within or outside of areas of concentrated poverty and greater access to areas of high opportunity; and improving community assets such as quality schools, employment, and transportation.”

² Affirmatively Furthering Fair Housing, 80 Fed. Reg. at 42272-01.

³ Id.

heartened to see Intro 722. A detailed annual audit of regulated housing units due to become market rate because of expiring programs and agreements is a key piece of the partnerships between CLTs and the city. It will immediately aid in setting priorities for our CLT partners. We echo the suggestion of our housing development partners who are members of the Association for Neighborhood and Housing Development that the Committee modify the bill before passing it to require the reporting of expiring tax credit units prior to Year 15 and prior to Year 5 (the sixteenth calendar year and the sixth year that commences after the due date of such report). Being notified 2 years prior to expiration is too late. Given current affordable housing programs, the most impactful timing for preserving the affordability of expiring units is prior to Year 15 and Year 5.

For further information, contact:

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**Testimony of the New York City Community Land Initiative (NYCCLI)
To the Housing and Buildings Committee
New York City Council**

April 10, 2018

The New York City Community Land Initiative (NYCCLI) appreciates the opportunity to testify about Intro 722. NYCCLI is an alliance of community, base-building, affordable housing, and economic justice groups, as well as long-standing and emerging community land trusts (CLTs) across NYC. Our alliance advocates for CLTs as a mechanism to support the creation and preservation of deeply and permanently affordable, community-controlled housing and other critical community needs.

We thank Council Speaker Johnson and Council Members Constantinides and Cornegy for introducing Intro 722, which would require the Department of Housing Preservation and Development (HPD) to report annually on expiring affordable housing units, by income levels, in neighborhoods across the City. **NYCCLI strongly supports this legislation, which will shine a critical spotlight on the issue of expiring affordable housing subsidies citywide.**

NYCCLI represents community-based groups working to develop CLTs and permanently affordable housing in communities across the City, many of which are experiencing the debilitating effects of expiring housing affordability. NYCCLI members include emerging CLTs in neighborhoods like East Harlem where, according to a 2012 Regional Plan Association study, over 2,600 units of affordable housing are set to expire between 2010 and 2020, with an additional 5,000 units set to expire by 2030. Passage of Intro 722 will help the City and organizations like ours better understand the scope of expiring subsidy -- and propose solutions to preserve units at risk of being lost.

NYCCLI additionally urges the City to prevent the expiration of affordable housing subsidies by investing in and supporting the CLT model citywide. All publicly subsidized affordable housing faces a perennial problem: subsidy expiration, which puts housing affordability in jeopardy every 15 to 30 years. CLTs provide a legal and organizational framework that preserve affordable housing in perpetuity. By placing land under the stewardship of a community-led land trust, the city creates an essential backstop against speculation and privatization of affordable housing assets. The longstanding Cooper Square CLT, for example, has created and preserved housing affordable to households earning 26.5% - 36% Area Median Income (AMI) on Manhattan's Lower East Side.

Additionally, we know that early awareness and planning is essential to effective preservation, and echo the recommendations of ANHD and other advocates that the legislation include audits prior to year 15 and year 5 for expiring tax credit deals. Without an “early warning” system in place, HPD and New York’s mission-driven developers will be hard pressed to respond to the threat of expiring tax credit subsidy with a robust preservation program in place.

The past year has seen record investment by NYC in the CLT model, but we know that for the model to succeed at the scale required by NYC’s affordable housing crisis, more support is necessary. By investing in CLTs – including through preference in asset disposition to CLTs or through prioritization of capital subsidies to projects on CLTs – our City can step away from short-term subsidy programs and begin to stabilize neighborhoods plagued by gentrification and displacement.

Thank you again for the opportunity to testify. We look forward to continued dialogue and partnership to expand the CLT model and its benefits for New Yorkers and their neighborhoods. For more information or questions, please contact Jenny Akchin at Picture the Homeless (646-314-6423, jenny@picturethehomeless.org), or Susan Shin at New Economy Project (212-680-5100, susan@neweconomynyc.org).



**Testimony to the
New York City Council
Committee on Housing and Buildings
Submitted by the Supportive Housing Network of New York
April 10, 2018**

On behalf of the Supportive Housing Network of New York, we are grateful for the opportunity to submit written testimony on Intro. 601.

The Supportive Housing Network of New York is a membership organization representing approximately 200 nonprofit developers and operators of supportive housing statewide, as well as other professionals who contribute to the advancement of this important model. Supportive housing is permanent affordable housing with embedded social services for vulnerable individuals and families, people who are homeless and living with disabilities and/or other barriers to maintaining stable housing. There are thousands experiencing mental illness, substance use disorders, and HIV/AIDS, who rely on supportive housing. At the same time, thousands more languish on waiting lists or on the street, until more units of supportive housing become available. We are extremely grateful for the City's commitment to build 15,000 new units of supportive housing over the next 15 years. We look forward to working with the Council and our agency partners to execute this plan.

The Network applauds the efforts of the Council to enforce Fair Housing law where HUD has abdicated its responsibility under the current Administration. Nevertheless, we do have reservations about provisions of Intro. 601 related to supportive housing.

Intro. 601 specifically requires that the City report on the number of supportive housing units expected to be created each year in each neighborhood tabulation area. This is without a doubt important information for the City to provide. However, we feel strongly that it should not be reported in the context of a Fair Housing Plan, but rather in a more comprehensive report on the City's supportive housing initiative in order to give proper context and dimension to the data. For the purpose of the Fair Housing Plan, supportive housing units need not be disaggregated from Extremely Low Income (ELI) and Very Low Income (VLI) affordable housing units. Supportive housing provides deeply, permanently affordable units in addition to units for those with special needs. Our providers aim to integrate their residences into neighborhoods and meld special needs and low-income tenants into a cohesive community. Therefore, considering supportive units as ELI or VLI units and tracking the creation and development of the units as such will still achieve the Council's goal of affirmatively furthering fair housing throughout the City.

We are also concerned that Intro. 601 may unintentionally increase the difficulty of siting and developing supportive housing in a time when New York City is in dire need of new units to help curb

chronic homelessness. One of the biggest obstacles to developing new supportive housing is finding adequate and attainable sites. Despite the staggering need for supportive housing and the evidence of its effectiveness, when there is a developable site available, providers often find that the community is apprehensive about supportive housing in their neighborhood. Since Intro. 601 requires yearly reporting on new developments, regardless of the specific stage of each project, developers may not first get the opportunity to go out into a community and work with residents and councilmembers to plan a project that is reflective of both the community and provider's needs, before such a report is made public. Siting should continue to be a collaborative process with our communities, and not just a published list that tells communities what is to come in their neighborhood.

Again, we applaud the Council's efforts to make urban planning in New York City fairer and more transparent, especially as our Federal government steps back from this responsibility. The Network asks that Intro. 601 be amended such that supportive housing is not reported separately from ELI/VLI, without sufficient dimension and context in the Plan, and to ensure neighborhood planning continues as a collaborative process with communities. We invite all members of the Council to continue to work with us and with your communities to help our city meet the critical need for supportive housing in New York, while ensuring we develop as equitably as possible.

Respectfully submitted by:

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New York, NY 10018
646-619-9642
rsauer@shnny.org*

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 601/607 Res. No. _____

in favor in opposition

Date: 4-10-2018

(PLEASE PRINT)

Name: Chanera Pierce

Address: 30-30 Northern Blvd Suite 302

I represent: Fair Housing Justice Center

Address: 7

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 601.607 Res. No. _____

in favor in opposition

Date: 4/10/2018

(PLEASE PRINT)

Name: ADRIEN A. WEIBGEN

Address: 123 William St 16th Fl

I represent: COMMUNITY DEVELOPMENT PROJECT at

Address: the Urban Justice Center (see address above)

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 601 & 607 Res. No. _____

in favor in opposition

Date: 4/10/18

(PLEASE PRINT)

Name: MARIKA DIAS

Address: 40 NORTH ST, SUITE 606, NEW YORK, NY 10013

I represent: LEGAL SERVICES NYC

Address: 40 NORTH ST.

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. 607 & 601 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: VERONICA COOK

Address: 40 NORTH ST, CH. GE, NEW YORK, NY 10013

I represent: LEGAL SERVICES NYC & LSEA 2320

Address: 40 NORTH ST

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 0607-2018 Res. No. _____

in favor in opposition

Date: 4/10/18

(PLEASE PRINT)

Name: ALBERT SCOTT

Address: 59 PENN. AVE, BROOKLYN NY 11207

I represent: COALITION FOR COMMUNITY ADVANCEMENT / THE

Address: EAST NEW YORK

**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: 4/14/18

(PLEASE PRINT)

Name: BRO PAUL T. MURPHY

Address: 2137 PITKIN BLVD NY 11207

I represent: ENY Coal. for Comm Adv

Address: EAST NEW YORK

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: 4/10/18

(PLEASE PRINT)

Name: BARIKA WILLIAMS

Address: _____

I represent: ANHD

Address: 50 BROAD ST #1402

**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: 4/10/18

(PLEASE PRINT)

Name: Molly Park (D3A)

Address: 100 Gold

I represent: HPD

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: 4/10/18

(PLEASE PRINT)

Name: Matthew Murphy

Address: 100 Gold

I represent: HPD

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: 4/10/18

(PLEASE PRINT)

Name: Leila Bozorg

Address: 100 Gold

I represent: HRD

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: 4/10/18

(PLEASE PRINT)

Name: Towaki Kamatsy

Address: _____

I represent: Self

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 607 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Ward Swinney

Address: _____

I represent: Self and Barbara Kelly Esq.

Address: 863 Prospect Ave Bronx NY 10456

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. 607 Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Tabica S. Fredericks
Address: 783 Beck Street, Bronx
I represent: SELF/Banana Kelly
Address: 863 Prospect Ave, Bronx

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 607 Res. No. _____
 in favor in opposition

Date: 10/18

(PLEASE PRINT)

Name: Harry DeRienzo
Address: 863 Prospect Ave Bx / 751 Kelly St
I represent: Banana Kelly
Address: 863 Prospect Ave Bx

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 607 Res. No. _____
 in favor in opposition as written

Date: 4/10/18

(PLEASE PRINT)

Name: Gregory Tost
Address: 3224 Grand Concourse B41 Bronx NY
I represent: Banana Kelly Community Improvement
Address: 863 Prospect Ave Bronx NY