



November 17, 2015

Carl Weisbrod, Chair  
City Planning Commission  
22 Reade Street  
New York, NY 10007

**Re: Zoning for Quality and Affordability (ZQA) and Mandatory Inclusionary Housing (MIH)  
Text Amendment**

Dear Chair Weisbrod:

We write in regard to the proposed citywide text amendments currently under public review known as Zoning for Quality and Affordability (ZQA) and Mandatory Inclusionary Housing (MIH). If approved, these text amendments have the ability to drastically reshape how housing, particularly affordable housing, is constructed in New York City. Therefore, while these text amendments mark an impressive amount of effort from the Department of City Planning (DCP) and the Department of Housing Preservation and Development (HPD) to address Mayor de Blasio's goal of creating or preserving 200,000 units of affordable housing in NYC, we need to ensure that they also make sense for our communities. These text amendments must include language, provisions and programs that address the needs and desires of all of our neighborhoods.

We previously wrote to you, in a letter dated March 25, 2015, to highlight our concerns with the ZQA text at scoping. At the time, the text reflected a desire to encourage housing construction of all kinds, without tying significant changes in the bulk rules to the true goal: construction of affordable housing. We raised our concerns regarding teardowns, across the board changes to our contextual districts and disregard for community or neighborhood character or uniqueness. Of significant concern at the time, in addition to the need to improve outreach and communication, was that the underlying zoning programs for creating affordable housing were flawed. Therefore, any additional incentives for development should be weighed against these concerns.

1) ZONING FOR QUALITY AND AFFORDABILITY

We are encouraged that two of the main points in our March letter were effectively addressed. We appreciate the administration's efforts in Manhattan to improve communication and transparency with the Community Boards on the intent and content of ZQA, including the advance availability of annotated zoning text to increase informal review opportunities. We were also encouraged to see improvements to the language of ZQA to reflect the principal goal of constructing affordable housing, a goal we adamantly support. The text also adopts many positive streetscape elements from the special enhanced commercial corridor district text, further addressing our concern regarding the quality of the new spaces we will see.

For the first time in the Zoning Resolution (other than the exceptions seen in a limited number of special districts today) the ZQA text will establish a cap on the number of floors in each zoning district to preserve “good” floor to ceiling heights. While we continue to have concerns regarding height increases, we acknowledge that by tying a five-foot height increase across all zoning districts to a defined minimum ground floor height along with a maximum number of stories for a district, the risk of teardowns as it relates to this piece of the text, would be minimal. We also appreciate that the scope of the text was constrained to its principal goal. The text clearly states that any significant increases in bulk and height will only be tied to the provision of affordable housing.

However, not all of our prior concerns were addressed, and now that the full text is available, specific new details or components raise additional concerns and questions.

- If the goal of the text is to encourage construction of new residential units, then we must acknowledge some of the adverse impacts that typically accompany any new construction in Manhattan. Therefore, stated plainly as a necessary element in achieving this goal must be efforts to **fight displacement and secure anti-harassment protections.**
- The provision of additional floor area for facilities that cater to our senior population and allow them to age in place is laudable. However, it is our understanding that the increase in floor area awarded to a developer is permanent and will add to the size of buildings. It is also our understanding that such increased building size will outlast the use-limiting financing that enables it to be used as senior housing. We need to hear more about how **additional permanent bulk that is created for non-purpose built residences such as independent living will be kept affordable in perpetuity.**
- The Sliver Law, which was established as a way to protect midblocks from out-of-scale development, will no longer apply under ZQA when affordable housing is part of a project. **We must protect the applicability of the Sliver Law as a tool to protect neighborhood context.**
- The new text re-organizes sections of the Zoning Resolution under which the Voluntary Inclusionary Housing program is detailed. However, it does not address any of our prior concerns with the program, detailed in a series of letters to DCP and HPD in 2014 and 2015. In addition, we now have similar concerns with the R10 program. If our communities are being asked to make concessions that affect context for affordable housing then the qualifying programs (Voluntary and R10), that may result in as much as 25% height increases must be improved so that they actually produce the affordable housing they should. **Changes in the Voluntary and R10 programs must be considered, and at a minimum a written commitment to do so with an expedited time frame is expected. Please see item 3 below for details on these changes.**
- Many of our communities are concerned about the impact new density may have on the local schools, public transportation and other infrastructure elements. We ask that your office and your respective sister agency reach out to individual community boards to investigate these concerns

and decide if capital improvements are needed to absorb any new residential capacity in these neighborhoods

## 2) MANDATORY INCLUSIONARY HOUSING PROGRAM

MIH appears to be a thoughtful program to drive the construction of affordable housing in Manhattan. The applicability to areas undergoing neighborhood studies that will result in an increase in residential density (upzoned areas) is clear and the need is justified in the context of our affordable housing crisis. We are pleased that in addition to applying to upzoned areas, MIH will apply to areas that are part of a special permit application where significant new housing will be built. This is a smart way to create additional affordable housing opportunities in Manhattan neighborhoods that see a disproportionate number of these land use actions. However, while the program goal is laudable, and we believe that all development in Manhattan should include affordable units, the text for this future use of MIH leaves a number of unanswered questions regarding:

- **Anti-harassment requirements:** We need protections for existing residents in areas targeted for construction with provisions similar to those in the Clinton Special District, to apply to all MIH areas.
- **On-Site, Separate Building:** We are concerned about language in MIH that allows for the housing of affordable units in a separate building on the same lot as it may replace the concept of “poor door” with “poor building.” The goal of affordable construction needs to be integrated buildings and diversity in our neighborhoods.
- **AMI options:** affordable housing produced under MIH must be affordable to those living in the community and surrounding communities. Currently, the affordability options that MIH makes available are too limited. They fall short of options that require tiers that address the need for apartments that are affordable to families representing the lowest and middle income tiers of families in our respective communities, and while based on averages, potentially will not result in the unit counts we need. Therefore, the options must be expanded to give Manhattan’s diverse communities a real choice in deciding what is affordable for their neighbors.
  - The workforce option should be available in all community districts regardless of whether a development will be eligible to qualify for 421-a benefits. If the goal is a universally applied program, it makes no sense to preclude an option for part of a borough.
  - In many neighborhoods where the current intent is to allow the workforce option, the units at 120% or 130% of AMI will be more expensive than market rents in the area.
  - The options with the deepest levels of affordability do not cover a range that is acceptable to neighborhoods with the greatest need for the deepest levels of

affordability. We proposed adding a fourth affordability option of 20% of units at 40% average AMI to cover the lowest AMI bands.

- **Applicability triggers:** the special permit option in MIH should be expanded, strengthening the threshold for the provision of affordable housing. The current qualifying condition (“substantial new residential density”) is not well defined and so is left open to interpretation by the City Planning Commission. The text should establish minimum thresholds for consideration, as is done elsewhere in the text.
- **Payment-in-lieu Option and Housing Fund:** The 12,500 square footage threshold required for the “payment in lieu of” (PIL) option that allows developers to pay into a local housing fund is too high and does not reflect accurate or realistic zoning calculations we have seen. The number should be lowered to 10,000 square feet and the text clarified to reflect, especially given the larger new construction unit sizes in our communities, that the threshold is the lesser of the square footage or unit count.
- The housing funds that are created by the PIL option are given a general framework in the text, and will need to be articulated by HPD. The zoning text should set a new standard for housing development monies by enshrining specific frameworks for governance, transparency, and strategy for use of the PIL funds, thus eliminating the possibility that future administrations may have different priorities and can unilaterally change the nature of such funds.
- Specifically, we believe that any money generated by a community should be spent in that community. Given that the funds could be used for preservation of units, there should be no sunset clause that allows those funds to be used elsewhere. Further, HPD should report on the strategy and usage of each fund to the relevant Community Board and elected officials. All funds generated through the PIL option must supplement, not replace, other city capital dollars for affordable housing.
- **Community process** - Referral of all MIH applications in the future should serve an important good government goal of ensuring transparency, compliance with the originally agreed upon AMI option, and an opportunity for communities to weigh in on current bedroom count needs as that may have changed since the adoption of an upzoning that applied the MIH program. However, the zoning text needs to reflect these explicit goals so that all parties have predictability and clarity regarding their roles. Part of that predictability includes how much time the Community Board has to review the documents, and an acknowledgement that those concerns will be taken under advisement and that HPD will not act before their review timeframe is completed. These are the concerns we raised with the Voluntary program referral requirement, and were told would be fixed here. **The text must be amended.**

Finally, the **Board of Standards and Appeals (BSA) loophole must be tightened** so that it will only be used in the presence of real hardship and not as the path of least resistance for developers who do not wish to build affordable housing. This could be achieved by adding specificity as to what might be considered “unique conditions” under which developers could seek BSA approval.

### 3) CHANGES TO CURRENT PROGRAMS

Neither ZQA nor MIH address the crucial fixes that must be made to affordable housing development programs that are already on the books. The **Voluntary Inclusionary Housing Program and the R10 Program** remain untouched. While MIH eliminates the **two-door loophole** for on-site housing that is included in the same building, two-door buildings or physically attached buildings with separate buildings systems may still be built under the old rules that still exist in neighborhoods across the borough.

Other fixes that were previously requested but not included in these text amendments concern:

- **Loose off-site provisions.**
- **Requiring that a greater percentage of square footage is set aside for affordable units** in strong markets where the extra bonus FAR value is lopsided in the developer's favor.
- **Double dipping** with 421-a. While this practice may continue, we should be getting additional units of affordable housing or a deeper level of affordability when this occurs.
- **Inconsistent community review requirements.** Community review is critical in ensuring transparency, affordability and adherence to agree upon AMI options. The text should establish these principles.

We thank you for your past consideration of our recommendations and we look forward to discussion of these concerns. We know that your commitment to improving the text will continue as we all strive to protect and increase affordable housing for all New Yorkers.

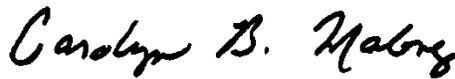
Sincerely,



Gale A. Brewer



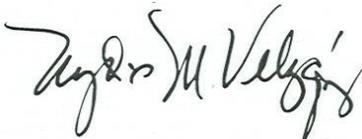
Congressman Charles Rangel  
13<sup>th</sup> Congressional District (NY)



Congresswoman Carolyn Maloney  
12<sup>th</sup> Congressional District (NY)



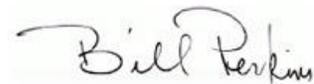
Congressman Jerrold Nadler  
10<sup>th</sup> Congressional District (NY)



Congresswoman Nydia Velazquez  
7<sup>th</sup> Congressional District (NY)



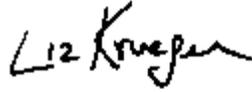
NYS Senator Adriano Espaillat  
31<sup>st</sup> Senate District



NYS Senator Bill Perkins  
30<sup>th</sup> Senate District



NYS Senator Jose Serrano  
29<sup>th</sup> Senate District



NYS Senator Liz Krueger  
28<sup>th</sup> Senate District



NYS Senator Brad Hoylman  
27<sup>th</sup> Senate District



NYS Senator Daniel Squadron  
26<sup>th</sup> Senate District



Assembly Member Rebecca Seawright  
76<sup>th</sup> District



Assembly Member Dick Gottfried  
75<sup>th</sup> District



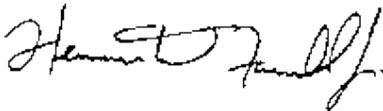
Assembly Member Brian Kavanagh  
74<sup>th</sup> District



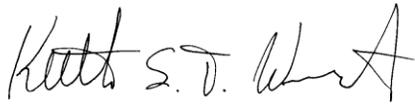
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73<sup>rd</sup> District



Assembly Member Guillermo Linares  
72<sup>nd</sup> District



Assembly Member Herman D. Farrell  
71<sup>st</sup> District



Assembly Member Keith Wright  
70<sup>th</sup> District



Assembly Member Daniel O'Donnell  
69<sup>th</sup> District



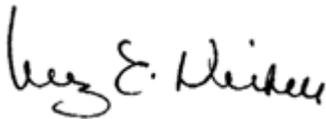
Assembly Member Robert Rodriguez  
68<sup>th</sup> District



Assembly Member Linda Rosenthal  
67<sup>th</sup> District



Assembly Member Deborah Glick  
66<sup>th</sup> District



Council Member Inez Dickens  
9<sup>th</sup> District



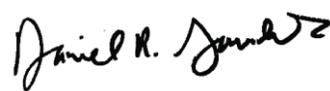
Council Member Mark Levine  
7<sup>th</sup> District



Council Member Helen Rosenthal  
6<sup>th</sup> District



Council Member Ben Kallos  
5<sup>th</sup> District



Council Member Daniel R. Garodnick  
4<sup>th</sup> District



Council Member Rosie Mendez  
2<sup>nd</sup> District



Council Member Corey Johnson  
3<sup>rd</sup> District

CC: Mayor Bill de Blasio  
Anthony Shorris, First Deputy Mayor  
Alicia Glen, Deputy Mayor for Housing and Economic Development  
Vicki Been, Commissioner, Department of Housing Preservation and Development  
Manhattan Community Board 1  
Manhattan Community Board 2  
Manhattan Community Board 3  
Manhattan Community Board 4  
Manhattan Community Board 5  
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