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Gale A. Brewer, Borough President

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Vicki Been, Commissioner
Department of Housing Preservation and Development
100 Gold Street
New York, NY 10038

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

Commissioner Been and Chair Weisbrod:

I understand that the Department of Housing Preservation and Development (HPD) recently approved the Inclusionary Housing project at 40 Riverside Boulevard despite the fact that the project completely segregates and even contains separate entrances for low income tenants and wealthy condominium owners. While I believe this outcome is deeply troubling I understand that the City must follow the current law and rules that are in place, and cannot disapprove a project solely because it is distasteful. I write to you today, therefore, to discuss necessary changes to the Inclusionary Housing rules to prevent developments like 40 Riverside Boulevard in the future and to request the opportunity to be involved in improving the City's Inclusionary Housing program. We must all work together to make sure that the laws and rules we devise are guided by the basic values of diversity and inclusion. We cannot allow any new program to build new units at the cost of creating second-class residents in mixed-income buildings. I know that the current City Administration shares these values.

The Inclusionary Housing program was designed to provide for the creation of affordable apartments in eligible areas by generating a floor area bonus which can be used in a "compensated development" (the building receiving the bonus) in close proximity. Compensated developments could also be within the same building as the generating-site, in which case unit distribution rules would apply ensuring inclusiveness within the building. However, the current zoning text also contains a provision, currently being exploited by developers at 40 Riverside Boulevard, permitting creation of a generating-site within a segment of the overall building. In such instance there is complete separation of the market-rate units from the affordable apartments. The distribution requirements found elsewhere in the text do not apply, and separate entrances and addresses are not only permitted—they are required. **The zoning text must be rewritten so as to remove this option completely.** One option would be to require special distribution requirements when generating-sites are on the same zoning lot as compensated developments. This would apply regardless of whether there are multiple buildings or building segments in the development.

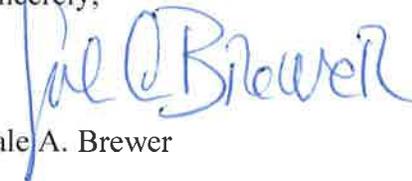
It is my understanding that HPD and the Department of City Planning are currently working on changes to the Inclusionary Housing program. In the newly-designed program the City must eliminate this two-door option. In addition, ambitious expansion of this program is necessary in order for the City to fully address its affordable housing crisis. First, the new program should include the mandatory provision of affordable units in any new construction. The creation of luxury housing has an impact of reducing the affordability of neighboring developments by increasing land values and changing the retail landscape of a neighborhood. The City should require that developers mitigate this affordability impact through either the provision of affordable units or a contribution to an affordable housing development fund.

In addition to a citywide Inclusionary Housing requirement, the City should adjust the existing Inclusionary Housing bonus mechanism to create additional units. The program currently allows a development to be enlarged 1.25 square feet for every square foot of affordable housing provided, regardless of the value to the developer of that bonus. Whereas the value of the bonus floor area can be much higher in some places than others, the amount of affordable housing stays the same. The program should be adjusted to require larger contributions of affordable housing, or smaller floor area bonuses, in areas with higher land values. Furthermore, the program requires the same amount of affordable housing to be created regardless of whether the development is receiving other forms of subsidy. The program should be fine-tuned such that it can work on its own, without tax subsidies, and has more ambitious requirements when otherwise subsidized.

In 2009, the Inclusionary Housing program was expanded to allow home ownership affordable units. Affordable home ownership apartments help ensure long-term neighborhood diversity, but only if they truly stay affordable in perpetuity. The Inclusionary Housing text has provisions regulating fee increases and resale values to keep these units affordable, but I have seen too many affordable units go market rate despite such provisions. In reviewing the program we must ensure that these protections are ironclad to make sure that future generations of New Yorkers have access to these apartments.

These are but a few ways that the Inclusionary Housing program could be improved to ensure diverse, equitable neighborhoods in New York. Changes to the program will take time, both to carefully craft it and to approve it through ULURP. In the meantime, HPD should explore a change to the rules governing the application of the Inclusionary Housing zoning text. A rule change could add requirements for the location of entrances and quality of units in any two-door building developed while the zoning text is being adjusted. I thank you both for taking on the task of the dire need for affordable housing in the city and again request to work in partnership with you as you re-write the text of the Inclusionary Housing program.

Sincerely,



Gale A. Brewer