

TESTIMONY OF THE REAL ESTATE BOARD OF NEW YORK BEFORE THE ASSEMBLY STANDING COMMITTEE ON HOUSING AND THE ASSEMBLY STANDING COMMITTEE ON CITIES REGARDING AFFORDABLE HOUSING DEVELOPMENT

November 25, 2019

The Real Estate Board of New York (REBNY) is the City's leading real estate trade association representing commercial, residential, and institutional property owners, builders, managers, investors, brokers, salespeople, and other organizations and individuals active in New York City real estate. REBNY strongly supports policies that expand the local economy, grow and improve the City's housing stock, and create greater opportunities for New Yorkers. Thank you for the opportunity to provide our perspective regarding the Assembly interest in affordable housing development.

Simply put, New York City — like most growing cities in the country — is facing an affordable housing crisis due to an inadequate supply of housing. Between 2005 and 2016 the city added over a half a million people and since the end of the 2008 recession, added over 858,000 jobs. During that same period, only 125,000 housing units were constructed — representing 0.15 units per job added. With the city's population on track to reach over 9 million residents by 2040, an additional 400,000 units are needed to meet demand. To put that in perspective, that is more than double the amount of housing units in Staten Island today.

New York City is a city of renters. Of the approximately 3.2 million units of housing in New York City, 68% are rental units. With 50% of households rent burdened, the city's most pressing need is rental housing production. The failure to keep pace over the last decade with the housing needs of our existing population, coupled with increased demand from strong job growth, is the primary driver of the affordable housing crisis and a major contributor to homelessness rates not seen since the Great Depression.

To address the affordability landscape in New York we must abandon the notion that one policy tool can solve the affordability crisis. Aggressive measures are required to allow for and encourage the construction of housing in every sector of the market so that new and current residents have access to opportunity. These challenges include zoning and land use regulations and the City's real property tax system that is misaligned with the goals of developing affordable housing. REBNY greatly appreciates the Assembly taking the time to consider these concerns and will discuss further challenges limiting supply and thoughts on legislative solutions the Assembly can pursue.

Zoning and Land Use Regulations

Per "City NIMBY's" by Vicki Been in the Vol. 33:2 of the *Journal of Land Use and Environmental Law*, "the imposition of more stringent land use controls leads to lower supply

and higher prices” of housing, and the housing supply is further constrained when those controls instituted by local opposition are accounted for. This was a sentiment echoed in the Obama Administration’s Housing Development Toolkit: “The accumulation of these barriers has reduced the ability of many housing markets to respond to growing demand.” Regulation and government uncertainty have as big an impact on the ability to construct housing as the lack of land itself. Thus, land use policies that institute height caps, limit density, and delays public review are counterproductive to affordable housing development.

Higher density zoning is necessary when land is scarce. Twenty years ago, New York City was 302.6 square miles with a population under 8 million. Today it is still 302.6 square miles and rapidly approaching a million more people. Taller buildings are how housing growth can be accommodated in land constrained geographies. In 2017, buildings over 13 stories accounted for five percent of new buildings, but almost half of new housing units. One percent of new buildings are 40 or more stories, yet these buildings account for 22 percent of new units—including thousands of affordable units.

A supply-side solution that merits serious consideration is raising the floor area ratio (FAR) cap in the State’s Multiple Dwelling Law. Originally implemented in Albany in 1961, the cap mandates that a residential building cannot have 12 times more square footage than the lot on which it is built. This antiquated regulation greatly reduces the ability of the city to create more housing. The Regional Plan Association (RPA) made a clear and convincing argument to unlock the potential to create more affordable housing by triggering Mandatory Inclusionary Housing. A 2016 analysis of NYC Department of Buildings data demonstrated that specific projects across the five boroughs could have offered more affordable apartments to the residents who need them were it not for the cap. There is simply no reason to limit the production of affordable housing units. Finally, raising the cap would not weaken the public land-use process through which new projects are scrutinized, nor would it nullify the studies of the potential impact of a new development in a certain neighborhood. All it would mean is that New York City has more control to determine appropriate areas to increase affordable housing production in future land use actions.

Another topical area that has been studied is the excessive designation of landmarked districts. Landmarks designation curtails housing production—especially affordable housing. The rate of landmarking – particularly the creation of historic districts that contain hundreds or in some case thousands of properties – has dramatically increased.

An analysis completed by REBNY in 2015 found that housing production – and especially affordable housing production – is markedly lower on landmarked districts than in similar – but non-landmarked areas. Of the thousand or so housing units constructed on landmarked properties across the city, less than 1% were designated for affordable housing. As a comparison, the overall ratio of affordable housing constructed in the non-landmarked properties throughout the City during this period was 17%. With some neighborhoods in Manhattan approximately 70% landmarked, and others in Brooklyn more than 25% landmarked, large swaths of the City have effectively prohibited the development of affordable housing. Further, a demographical analysis shows that that the population in

landmarked districts is significantly less diverse in terms of racial and ethnic makeup than the rest of Manhattan, Brooklyn, or New York City as a whole. Preliminary analysis from the City's *Where We Live* initiative to "Affirmatively Further Fair Housing" echo these findings. Residents of landmarked areas have much higher household incomes and as the percentage of landmarked properties in a census tract increases, the population density is lower, the percentage of rental units is smaller, and households have fewer members.

Landmarking is an important tool in preserving a community's history, and that benefit is recognized and valued. However, its value should be balanced against other public policy goals of this city. Within the context of affordable housing development, consideration should be given to establishing a moratorium on historic districts in higher income neighborhoods located adjacent to mass transit.

Other policies that should be studied further as to their impact on production and to access to affordable housing is the designation of single-family zoning adjacent to transit hubs and the City's use of community preference for its affordable housing lottery system.

Real Property Tax Inequities

The City's real property tax system is arguably the most inequitable system in the country and does not align with policy goals to promote rental housing. Since 2009, property taxes have more than doubled and have become a nearly unsustainable burden on rental housing, with many multifamily rental housing developments now paying more than 30 percent of their gross revenue to taxes. Aside from macroeconomic factors related to population growth and land scarcity, the City's property tax system is arguably the most substantial driver of rent growth and housing costs.

While fundamental changes are still necessary to correct the inequitable property tax system, as-of-right tax exemption programs are necessary if anything is to be done to boost the supply of rental housing. The Affordable New York (421-a) program is the most effective tax benefit program to address our housing supply deficit at scale. In addition to rising property tax burdens, construction costs have also increased substantially over the past decade. A 2015 analysis concluded that it costs approximately \$750,000 to construct a 1,000 square foot apartment. The 421-a program is effective because it cross subsidizes market rate and affordable housing units to provide thousands of affordable housing units in geographies where land and construction costs are exceedingly high. The program also represents the only meaningful tool to implement economic integration in high income neighborhoods.

Over half of the City's Housing New York projects have been built using the 421-a benefit.

CONCLUSION

What is required today is a holistic approach that is unapologetic in pursuing opportunities for housing growth in this city and the state that is fair, equitable, and environmentally sound. Concurrently, we must utilize an assortment of policies and tools to ensure households'

ability to access that housing. Thoughtful land use and tax policies that promote housing development must work in tandem to address the complex causes of our affordable housing crisis. An amalgamation of public policies and government regulations, along with economic and social factors over decades have brought us to the circumstances we are faced with today, and policies that address all these issues will be necessary to get us out.

CONTACT:

Paimaan Lodhi
Senior Vice President, Policy and Planning
Real Estate Board of New York (REBNY)
(212) 616-5200
plodhi@rebny.com