**NYC Affordable Housing Policy Memo**

**TO:              NYC Mayor Bill de Blasio**

**CC:               NYS Governor Andrew M. Cuomo**

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**DATE:          December 3, 2020**

**Executive Summary**

While the COVID-19 crisis has made New York City’s housing unaffordability crisis more apparent than ever before, even before the pandemic New York rents were becoming increasingly unaffordable, and creating not only greater housing insecurity but also greater financial insecurity more broadly. Pre-pandemic, 47% of New Yorkers were rent-burdened, paying over 30% of income towards rent. Of these rent-burdened New Yorkers, half were severely rent burdened, paying over 50% of income towards rent. New York has indeed made efforts to supply affordable housing, for example through tax incentives for developers to designate a portion of units to affordable housing programs. However, many of these programs are ineffective at helping low- to very low-income earners access affordable and stable housing; rather they target moderate-income earners who could often afford to rent on the private market anyway. In addition, the City is not constructing enough new affordable units to meet the increasing demand, in part due to restrictive zoning laws preventing such developments. Examples of such restrictions include “single family home zoning,” which limits detached houses to occupation by only one single family, and industrial business zoning, which was created in 2006 to retain the city’s high-paying manufacturing jobs and restrict residential development in those areas.

In this memo we will lay out the contours of the housing unaffordability problem that NYC faces, and will propose three solutions that will help mitigate that unaffordability crisis, and, in light of the COVID-19 pandemic, a last and most urgent one: 1) Reform the 421-a tax abatement program and adjust renter eligibility requirements for the affordable housing lottery; 2) Abolish single-family zoning; 3) Redraw industrial business zones and; 4) Implement eviction-cliff prevention measures including extending the eviction moratorium, expanding the Right to Counsel program to all New Yorkers facing eviction, and easing eligibility restrictions for the Rent Relief Program so more people get the help they need and the state doesn’t risk forfeiting $60 million in funding back to the federal government on December 30.

**Problem: NYC Housing is Unaffordable**

Scope of the Problem

It’s expensive to rent in the United States. Housing as a percentage of overall household expenses increased by 30% between 2000 and 2017, and the US Department of Housing and Urban Development (HUD) estimates that nearly half of all renters are rent-burdened, meaning that housing expenses account for 30% or more of that household’s income. The increasing cost of housing has trickle down effects that manifest in a variety of ways such as greater financial insecurity, lack of residual income, aggravated levels of homelessness, and the disparate impact of the COVID-19 crisis, each of which impact the poorest among us the most.

The affordable housing crisis is especially acute in New York City, where, while the city-wide median income has only increased from $60,179 in 2000 to $64,854 in 2018, an increase of 8%[[1]](#footnote-1), city-wide median rent has increased from $1,075 in 2000 to $1,467 in 2018, a whopping increase of nearly 40%[[2]](#footnote-2). According to the most recent Furman Center Report, citywide data indicate that 28.1% of New York City is considered “severely rent-burdened,” meaning that they pay more than 50% of their income towards rent, and another 34% of New York City renters were “rent-burdened”, meaning that they pay more than 30% of their income towards rent. While these rates are inexcusably high as it is, even the rent-burdened benchmark is insufficient at capturing the true extent of the financial challenges people across the country are facing, especially in high cost of living places like New York City.

Misleading Metrics

Using a percentage based metric illustrates only one aspect of the problem because the dollar value of a household’s remaining 70% after paying 30% towards rent varies greatly depending on their income[[3]](#footnote-3). For example, someone making minimum wage might not be labeled as rent burdened if they only put 29% of their income towards rent, but that does not necessarily mean that they are in a stable financial position. As New York’s cost of living rises while wages remain stagnant, families are struggling to stay afloat even before paying rent, regardless of whether that payment falls above or below 30% of their income.

Using yet another misleading metric, affordable housing policies often set eligibility thresholds according to Area Median Income (AMI), which is the median income of all residents in a municipal area. In cities like New York City, with the fifth highest income inequality in the United States[[4]](#footnote-4), the 2020 AMI of $79,000 for an individual and $102,400 for a family of three[[5]](#footnote-5) often places affordable housing units beyond the reach of what low and even middle income families can afford. The disparity grows more striking when used in combination with tax incentives like the 421-A tax abatement, which mandates that a portion of the units be affordable to individuals making 130% AMI, or $103,480. To put it into even starker terms, 1 out of every 4 recently built “affordable” units aren’t affordable to individuals making less than six figures!

Scarcity of Affordable Units

Regardless of which metric is used, they all suggest a sheer scarcity of affordable units. While demand for affordable housing is skyrocketing, the mismatch between that demand and the actual construction of new affordable housing units, made extremely difficult under the city’s restrictive zoning laws, inflates the price of all housing. Nearly 80% of New York City’s lots are already developed at or near their maximum zoning capacity[[6]](#footnote-6). The lots that are available are often located in high income communities, where residents can prevent the development of affordable housing by influencing their legislators to implement haphazard codes and pass “down-zonings” to limit any such development. Instead of building in neighborhoods where the higher market rate apartments can subsidize more deeply affordable apartments, developers end up building less affordable units in lower income neighborhoods that lack those same resources. Especially pernicious in a city as large as New York City is a set of regulations that limits buildings to occupation by only one single family in a detached house, with hefty minimum lot sizes. This type of zoning is referred to as “single family home zoning.” Fully 15% of New York City’s residential land remains zoned for detached single-family homes, including 25% of Queens, home to 2.4 million people, and 22% of Staten Island. The end result is a complex web of policies and market forces that exclude and disproportionately impact low and extremely low-income renters.

COVID-19 Eviction Cliff

The advent of the COVID-19 pandemic has exacerbated NYC’s affordable housing crisis. In July 2020 the city’s unemployment rate shot up to 20%, a statistic not seen since the Great Depression[[7]](#footnote-7), making it difficult for hundreds of thousands of New Yorkers to pay their rent. Households that lose their sole earner will face irreparable financial hardship and possible eviction, and those that lose one of multiple earners will experience a massive increase in cost of housing as a fraction of total household income. In other words, COVID-19 has increased the effective cost of housing. While state and local governments have taken some steps to reduce these costs and prevent pandemic derived evictions, we believe that further action is necessary.

In April 2020, New York state passed the Tenant Safe Harbor act, which guaranteed that no New Yorker who had suffered financially from the COVID-19 pandemic could be evicted for nonpayment of rent untilJanuary 1st, 2021[[8]](#footnote-8). This deadline is fast upon us, but additional eviction protections are nowhere in sight. The imminent onslaught of evictions will not only kick people out of their homes; it will make future housing less affordable. Families evicted from rent-stabilized units, especially those with “preferential rents,” or discounts on the rent for that apartment as long as they continue occupying that apartment, will be unlikely to find a unit of comparable value, and households with a history of eviction often have trouble finding landlords who will rent to them, increasing demand, and therefore rent, for a limited number of units[[9]](#footnote-9). Furthermore, current rent stabilization rules allow landlords to charge market rate rent in rent-stabilized buildings after eviction. Rent-stabilized units comprise 45 percent of New York City’s entire housing stock[[10]](#footnote-10), so a surge of COVID-19 caused evictions will likely worsen overall housing affordability in NYC. Therefore, the New York City government must do what it can to extend the existing eviction moratorium.

For many families, this moratorium has delayed, but not prevented, eventual eviction. Households are still responsible for repaying all back rent when the moratorium ends, an impossible task for those who suffered elongated bouts of unemployment due to the pandemic. The current labor market contraction caused by COVID-19 will undoubtedly outlast the 39 weeks of unemployment insurance provided by the federal government’s CARES Act. Furthermore, the eviction moratorium does nothing to prevent landlords from suing tenants for nonpayment in civil or small claims court. Such cases force tenants to devote time and money towards their defense instead of pursuing gainful employment. To prevent an imminent mass eviction crisis, and its subsequent effects on NYC’s affordable housing market, your office must do what it can to provide direct financial assistance to tenants.

Daunting though the task may be, there is hope for resolving the affordable housing shortage in New York City. We can only do so, however, by leveraging research and implementing a multi-pronged empirically guided public policy platform which keeps in mind the reality that “affordable housing” is a complex multifaceted issue. By implementing a combination of the following options below, New York City can make housing affordable again and minimize the number of evictions, which will inevitably set off a chain of beneficial outcomes that will bolster the public’s overall financial well-being.

**Proposed Solutions**

1. Reform the 421-a tax abatement

Since the 1970s, New York City’s affordable housing plan has included the incentivization of new private development through tax abatements, whereby developers forgo property tax payments for some period of time in exchange for building new affordable housing. These abatements are expensive: in 2019 alone, NYC spent $1.6 billion dollars funding the 421-a program[[11]](#footnote-11). They are also extremely valuable to developers. A 2019 report found that, on average, property taxes accounted for nearly 30% of operating expenses among rent-stabilized buildings[[12]](#footnote-12). Therefore, the abatements should only be granted when they clearly decrease the price of housing for New Yorkers. Money recuperated in property taxes could then be spent on providing housing more directly, perhaps through increased funding for Section 8, a program that has proved successful in NYC[[13]](#footnote-13) but has not accepted any new applicants since 2008[[14]](#footnote-14).

Specifically, New York could improve the efficiency of the 421-a program by requiring that developers produce more affordable housing to receive the benefit. Developers can receive the benefit under multiple criteria, but the most generous of these is Option C, which requires that developers set aside at least 30% of new units to be affordable at the 130% AMI level. However, as mentioned previously, 130% of AMI in NYC for an individual is over $100,000! At this AMI level, state tax policy is subsidizing the development of near market rate apartments, a waste of government resources. Therefore, we recommend that state legislators remove Option C from the 421-a tax credit and adjust their usage of the Area Median Income metric when defining developers’ obligations to build affordable units. The city should consider calculating median income using more localized areas, establishing fixed income thresholds that increase with inflation, or using a “residual income” metric which takes into consideration the dollar amount an individual or household would have left over *after* paying rent rather than looking exclusively at the rent/income ratio[[15]](#footnote-15).

We also suggest that New York repeal its 2017 amendment to 421-a, which guaranteed a minimum wage of $60/hr in Manhattan and $45/hr in the outer boroughs to construction workers in exchange for more generous tax abatements to developers from the city. NYU’s Furman Center estimates that this amendment costs the city $5M in lost tax revenue for each new moderately sized high rise built[[16]](#footnote-16). Ensuring the adequate compensation of construction workers is admirable, but not at the expense of the city’s affordable housing stock. The tax revenue forgone to guarantee these wages would be better spent on subsidizing housing directly, which helps most New Yorkers, not on guaranteeing higher wages in the construction industry, which helps relatively few New Yorkers.

The 421-a tax incentive is under the purview of state legislators, but there are still actions your office can take to pursue reform. In particular, we recommend that your office partner with state legislators, especially those representing districts in NYC, to draft and advocate for more equitable property tax policies. We are aware that this circuitous route to reform can consume city resources without a guarantee of legislative success, but we believe the opportunity to recuperate billions of dollars in lost tax revenue more than justifies the risk.

While 421-a reform would reduce ineffective affordable housing spending and increase access to affordable units for low-income families who cannot afford market rates, it would not reduce the cost of housing. Therefore, we recommend that the city government also consider changes to its zoning policies, specifically the abolition of single family zoning and the residential rezoning of some of the city’s industrial business zones. When coupled with the city’s Mandatory Inclusionary Housing policy, which requires that between 10% and 30% of any new housing developed through the rezoning process be affordable at 80% AMI or less, changes in zoning policy may produce a significant increase in affordable housing stock.

1. Abolish single-family zoning

One commonly proposed solution to the affordable housing crisis in New York City is to produce more housing by abolishing single family zoning (SFZ), which would allow for increased density by allowing smaller, more affordable duplexes and triplexes in neighborhoods which have historically been inaccessible to lower and lower-middle income tenants, under the “supply and demand” premise that as housing supply increases, the cost of housing will decrease[[17]](#footnote-17). Abolishing SFZ is also a policy option with precedence in other metropolitan areas with affordable housing shortages. The city of Minneapolis, as part of its “Minneapolis 2040” plan to address the city’s affordable housing shortage, abolished SFZ on December 7, 2018[[18]](#footnote-18). The entire state of Oregon banned SFZ for cities with a population of over 15,000 in July of 2019[[19]](#footnote-19). The City of Durham, North Carolina, approved similar legislation in September of 2019 as part of its “Expanded Housing Choices” plan[[20]](#footnote-20). The City of Seattle was considering its own ban on SFZ in February of 2020[[21]](#footnote-21).

Concerns that abolishing SFZ would lead to the demolition and subsequent “manhattanization” of single-family neighborhoods in urban centers is an unfortunate misrepresentation of how zoning laws work. Abolishing SFZ isn’t abolishing the kind of home, it’s abolishing the restriction on anything bigger. Single family homes can and will still proliferate in New York City[[22]](#footnote-22). Abolishing SFZ would allow for the development of two or three family homes, increasing the opportunities for lower income families to move into neighborhoods that would have been inaccessible to them prior, and may even alleviate the pressure to build taller in urban centers.

It should, however, be kept in mind that abolishing SFZ is no panacea for the affordable housing crisis in New York City, and, as a policy option, several considerations should be kept in mind. First, since the legislative successes in other cities and states are relatively recent, there has not been sufficient time to analyze, in a real world setting, the impact of abolishing SFZ on affordable housing production. Second, while 15% of New York City residential zoning is SFZ, cities and states that have abolished SFZ have much larger percentages, some of which get as high as 70-80% of residential lots, and therefore may not be a perfect comparison[[23]](#footnote-23). Third, if a direct correlation is proven between abolishing SFZ and increased housing production, other measures may need to be taken to assure that the new housing is actually affordable, especially to lower income tenants. This is a common problem in New York City’s “affordable housing” program, where, due to the use of arbitrary metrics, “affordable apartments” are often built that are only affordable to six figure earners.

As a policy option, abolishing SFZ in New York City is fiscally cheap, as it only involves legislation increasing what builders have the right to construct, and could go a long way towards reducing the shortage of affordable housing, but it comes with some caveats, such as those laid out in the last paragraph. It is suggested that if implemented, this policy be implemented as but one part of a policy platform, not as the solution itself.

1. Redraw Industrial Business Zones (IBZs)

In addition to the abolition of single family zoning, allowing residential development in select areas of NYC’s 21 Industrial Business Zones (IBZs) could help alleviate the city’s affordable housing crisis. The IBZs were created in 2006 to retain the city’s high-paying manufacturing jobs, which is an important policy outcome that should not be sacrificed for the sake of affordable housing. However, while the character of New York City neighborhoods have changed in the last 14 years, the IBZs have not. Some IBZs, particularly the North Brooklyn IBZ and the northwest area of the Brooklyn Navy Yard IBZ, are located in neighborhoods that now command high rent and could likely support residential buildings with 20% of units affordable at the 60% AMI level[[24]](#footnote-24). Therefore, we believe that adjusting existing IBZ boundaries would increase NYC’s affordable housing supply. Furthermore, we are confident that the city could adjust these boundaries with minimal impact on the city’s vital manufacturing sector.

If the city permitted greater density at the center of IBZs, where tall buildings have little impact on quality of life, the fringes of NYC’s IBZs could support new residential development. This change would not affect NYC’s core manufacturing sector because, while the outskirts of IBZs are in theory zoned for M-1 development (light-manufacturing use), in practice they are occupied by commercial businesses, which do not offer the high paying jobs envisioned by the IBZ program. In fact, a 2019 study found that nearly a third of NYC’s IBZ businesses are actually commercial in nature[[25]](#footnote-25), which suggests that some IBZ land could be converted to other uses without impacting existing manufacturers. Unfortunately, the city has shown little interest in rezoning any portion of IBZ land for residential use. In 2018, NYC’s Department of City Planning (DCP) released a report detailing zoning changes to North Brooklyn’s IBZ that did not consider residential rezoning[[26]](#footnote-26). While the plan’s focus on strengthening manufacturing jobs is admirable, its exclusion of residential use is a serious oversight.

While rezoning has incredible potential to create new affordable housing, such efforts are useless if the housing is not in fact affordable. To guarantee that new units created in the zoning process are accessible to low income New Yorkers, we must ensure that definitions of affordability reflect the challenges that renters in our increasingly unequal society face.

1. COVID-19 focused comprehensive funding and Court reform

The most important but minimal required step that New York needs to take in order to preempt the oncoming surge in eviction cases is to extend the eviction moratorium, which is currently set to end after December 31, 2020, for the duration of the COVID-19 emergency. The same set of guidelines should apply to the extended moratorium, focusing on renters who can show financial hardship due to the COVID-19 pandemic. This can be done in two ways: the State Legislature can pass another Tenant Safe Harbor Act, or the Governor can issue another Executive Order extending the eviction moratorium at hand as he has done before.

However, an extension of the moratorium on its own would be insufficient. The current moratorium does not prevent landlords from filing holdovers regardless of why the tenant was not paying rent, and does not stop tenants from leaving if they are unaware of their rights. It is incumbent upon the City of New York to ensure that the letter of the law is upheld in the courts by making sure that tenants have adequate resources to defend against unlawful evictions. In order to do so, we recommend that the city expand its Right to Counsel program, which provides free legal representation in housing court subject to geographic and income restrictions, to all New Yorkers. This expansion would ensure that the eviction moratorium is enforced in practice, and would protect tenants from unlawful intimidation from landlords due to nonpayment. The program has historically proven successful in fighting unlawful eviction: zip codes with access to the program experienced an 11 percent decrease in their eviction rate between 2017 and 2018, and 84 percent of tenants represented through Right To Counsel retained their housing after receiving an eviction notice[[27]](#footnote-27). Despite the high cost of legal representation, an expanded Right To Counsel program would pay for itself. A 2016 policy analysis found that program expansion would save NYC $320 million annually by reducing demand for eviction related social services, such as emergency housing[[28]](#footnote-28).

Even with an extended eviction moratorium and an expanded right to counsel in housing court, many New Yorkers who have lost income due to the COVID-19 pandemic will not be able to afford back rent and will likely lose their housing when the moratorium ends. Therefore, the city must assist tenants through direct rent relief. One immediate method to provide assistance would be to convince New York state to lower its CARES Act Rental Relief eligibility requirements. In early Summer 2020, New York state apportioned $100 million of its federal COVID-19 relief funding towards rent relief but only $40 million of those funds have been distributed as of December 1, 2020[[29]](#footnote-29). New York state is legally required to spend these funds by December 30, 2020 and risks forfeiting them if it cannot do so. Despite this urgency, New York state has restricted access to rent relief funds through excessive eligibility requirements. Currently, a household must spend more than 30% of its income on housing and earn less than 80 percent AMI before and after the onset of COVID-19[[30]](#footnote-30). This rule prohibits many middle-class families who have been thrown into newfound financial hardship from accessing a public benefit that could allow them to keep their home. It also prevents most New Yorkers who receive CARES Act federal unemployment insurance, which provides income at near the 80% AMI level, from receiving the benefit, even though most recipients of unemployment insurance will stop receiving it in the coming year. We acknowledge that the distribution of CARES Act rent relief funds is the responsibility of New York state government and therefore our recommendation - and urgent plea - is that your offices mount as much pressure as possible on our state officials to vote on, and pass, these measures immediately.

**Preferred Solution**

Under most circumstances you would have the luxury of choosing medium term solutions such as one of the first three options which we laid out. Each of those options, on their own, would lessen the severity of New York City’s affordable housing crisis. That being said, the immediacy of the looming eviction crisis demands a short term solution. A recent study cited by the Community Service Society noted that the equivalent of more than 900,000 renters had little to no confidence in paying next month’s rent[[31]](#footnote-31). The eviction of such a large number of tenants would eliminate more affordable units than any of our other three policies would produce. Therefore, we recommend that NYC expand its Right To Counsel program to all New Yorkers and pressure state legislatures to extend the existing eviction moratorium and make it easier to receive CARES Act rent relief funds. We believe that these steps will have the broadest positive impact on the greatest number of tenants.

We would be remiss to not acknowledge the extreme burden that an extended eviction moratorium would place on property owners, especially small property owners who are already having difficulties paying mortgages and property tax bills due to lost rent. There are some options that can be considered to assist smaller property owners. At the very least, the state should extend its foreclosure moratorium to be at least as long as its eviction moratorium. In all likelihood, even this protection would not shield property owners from some loss of income. Nevertheless, the net benefits of our recommended policy proposal outweighs its costs. Studies from the Coalition for the Homeless have shown that the City currently spends $73,000 per year to shelter a family, and $38,000 per year to shelter an adult[[32]](#footnote-32). If even a fraction of the 900,000 New Yorkers at risk of eviction find themselves without a home, the city’s emergency housing resources would be completely exhausted. Our “COVID-19 focused comprehensive funding and Court reform” policy would not only prevent rents for affordable rent-stabilized units from becoming market rate, it would also reduce immediate material hardship and conserve New York City’s constrained COVID-19 response budget. We ask that you consider this proposal seriously.

**Conclusion**

In this brief we have presented four options that, if enacted, would increase the number of affordable apartments in NYC. However, our recommendations are somewhat tailored: they are specifically targeted at increasing the amount of housing available for those relatively wealthy enough to be ineligible for public housing assistance, yet too poor to find adequate housing in the private market as it stands. In order to tackle the problem of affordable housing more holistically, your office cannot limit itself to the options presented here. It should continue to devise bold solutions that embrace city government’s capacity to bring about positive change. What we have presented here today are evidence-based policies that will improve the state of housing in NYC. Though some may require substantial political will and take years to implement in full, nevertheless we believe these policies have potential for outsized impact, especially when used in combination with additional proposals, and should be considered seriously.

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