



30-30 Northern Blvd., Suite 302, Long Island City, NY 11101
p: (212) 400 - 8201 | f: (212) 400 - 8203
www.fairhousingjustice.org

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NYC Department of City Planning
Mr. Dan Garodnick, Director
22 Reade Street
New York, NY 10007-1216

Dear Department of City Planning Officials and Director Garodnick,

On behalf of the Fair Housing Justice Center (FHJC), we write to offer preliminary comments on the City of Yes Housing Opportunity (City of Yes) initiative that Mayor Adams announced. We have reviewed the annotated draft text and illustrated guide connected to this initiative and we agree, as mentioned in Commissioner Garodnick's introduction, that segregation is a housing barrier in the City. As such, any changes to zoning must include the goal of reducing residential segregation. Beyond the consistent inclusion of this goal, we urge the City to conduct a thorough fair housing analysis of its housing plan. We understand the opportunities for public comment will occur in the Spring of 2024 and we look forward to participating in that process. In the meantime, we wanted to voice our concern that all elements of this new initiative need to be designed and implemented in a manner that complies with the City's legal obligation to affirmatively further fair housing.

Introduction

The FHJC is a nonprofit civil rights organization committed to eradicating housing discrimination. For 19 years, the FHJC has advocated for policies and programs that foster more open, accessible, and inclusive communities. Our organization's litigation and investigative practices have strengthened the enforcement of fair housing laws, which have opened thousands of units for New York City residents and ultimately changed the policies and practices of private housing providers and City agencies. Additionally, we have consistently advocated for the City to implement all housing programs and policies—including those aimed at increasing the supply of affordable housing—to reduce racial and economic segregation of our neighborhoods and schools and ensure that New Yorkers who face the greatest housing insecurity have equal access to housing opportunities in all City neighborhoods.

Affirmatively Furthering Fair Housing

As a recipient of funds from the Department of Housing and Urban Development (HUD) and New York State, the City has an obligation to affirmatively further fair housing (AFFH). To meet

these mandates, the City must take affirmative steps to ameliorate the long-standing history of government action (including action by the City) that created the persistent patterns of residential racial segregation, social and economic segregation, and inaccessible and disinvested communities. Such actions should increase fair housing choice and decrease disparities in access to opportunity.

To create a truly inclusive society, we must ensure that every individual, regardless of their protected characteristics—be it race, familial status, disability, source of income, religion, gender expression or identity, or any other factor—has access to healthy, safe, and thriving communities. NYC will not begin to eliminate the disparate outcomes of racial residential segregation until it ensures that communities fully receive integral investments into land use and housing development plans which will free communities from barriers that restrict choice based on protected characteristics. For example, Brooklyn, the most populated borough,¹ is home to communities of color and low-income neighborhoods that lack access to safe and affordable housing. Residents of these areas are often deprived of quality education, healthcare, transportation, fresh air, recreational spaces, and employment opportunities² that pay livable wages, all of which are necessary to achieving viable residential conditions. For example, residents of Brownsville, a predominantly Black neighborhood, have a life expectancy of 76, whereas those living in Park Slope and Carroll Gardens, predominantly white neighborhoods, have a life expectancy of 82.9 years.³ The Department of City Planning and all decision-makers involved in this process must prioritize fairness in the City's housing development plans to meet the needs of New Yorkers.

Fair Housing Concerns

The City of Yes zoning reform proposal details seven action items the government will undertake to increase housing production, most of which aim to address exclusionary zoning policies. Restrictive zoning laws have historically maintained racial homogeneity and excluded certain ethnic groups from specific neighborhoods. While explicit racial zoning was declared unconstitutional, exclusionary zoning persisted in more subtle ways, contributing to housing inequality and perpetuating racial and economic segregation. Across the City, the disparities in affordable housing production persist in areas such as central Brooklyn, the Bronx, northern Manhattan, and Southeast Queens where affordable units continue to be built,⁴ while leaders in other neighborhoods persistently resist new affordable housing. As the only fair housing organization in the City, the FHJC has conducted numerous systemic testing investigations and used litigation to address the continued resistance to diverse housing options and illegal housing discrimination across the City. Thus, we understand that the City must vigorously enforce a requirement that each community contributes more housing units for the strategy of “more housing in every neighborhood” to become a reality.

¹ [New York City: Research and History: The Five Boroughs](#)

² [The Comprehensive Plan for Brooklyn A Vision for a Healthier, More Equitable Borough 2023](#)

³ [NYC Community Health Profiles](#)

⁴ [NYHC 2023 NYC Housing Tracker Report](#)

It is crucial to address the fact that zoning codes have constrained housing opportunities, prevented the construction of new homes, increased housing costs, and perpetuated segregation based on protected characteristics such as familial status, race, source of income, and disability. The City of Yes illustrated guide highlights the plan's six key goals. We advocate adding "remedying residential racial segregation" as an additional key goal. City officials should use a fair housing and equity lens when addressing the shortage and wildly uneven distribution of affordable housing in City neighborhoods.

The following are some of our preliminary concerns and questions that we urge you to consider:

1. It is well known that there is not an equitable distribution of affordable housing in New York City. Some neighborhoods have historically resisted efforts to accept affordable housing. What tools, resources, and strategies does the City plan to employ to ensure that these areas will no longer be able to evade their responsibility for accepting affordable housing? Our concern is that, without a coherent strategy and new approach, City of Yes will end up taking the "path of least resistance" again by concentrating more affordable housing primarily in low-income neighborhoods of color. Going down that well-traveled path would have dire consequences by (a) reducing housing opportunities and locational choices available to those who historically have had their housing choices severely restricted with little or no access to well-resourced areas, and (b) perpetuating existing patterns of racial and economic segregation in New York City neighborhoods. **How does the City plan to overcome strong resistance by well-resourced and amenity-rich neighborhoods that refuse to accept their fair share of affordable housing under the City of Yes?**
2. As the City prepares to relax zoning requirements to allow for the development of more affordable housing units, what steps will the City take to ensure that these housing units will be accessible to those with mobility impairments? Our organization has devoted significant resources over the past two decades to investigating and bringing enforcement actions against many of the largest developers in New York City over their non-compliance with local, state, and federal accessibility requirements. Many of these costly lawsuits could have been averted had the City been more proactive in monitoring the construction of new rental housing developments for compliance with accessibility requirements. New Yorkers with disabilities have tremendous challenges finding housing that is both affordable and accessible. The City needs to outline the proactive steps it plans to take to make certain that these new housing opportunities are accessible. **What is the City prepared to do to ensure that the affordable housing opportunities that result from the City of Yes are accessible to individuals with disabilities?**
3. There are more rental subsidy programs in New York City than any other City in the nation. Despite the passage of strong source of income protections in the City of New York in 2008 and the State of New York in 2019, the City has done very little to enforce these fair housing laws even though source of income discrimination is still pervasive, particularly in neighborhoods that have historically fought the inclusion of any affordable housing. Can the City provide any assurance that housing units produced under this

initiative (units with rents that fall within rent payments standards for rental subsidy programs) will be available to rental subsidy holders on a non-discriminatory basis? In return for relaxing zoning requirements to produce more housing, what measures will the City take to prevent housing providers from illegally excluding subsidy and voucher holders from new housing opportunities? **What is the City planning to do to ensure that the housing opportunities that result from the City of Yes are made available to tenants with housing subsidies?**

4. The City has not yet revealed which income brackets will be made available for individuals and families with City housing vouchers for the new housing options. In 2022, the City produced 48% fewer affordable housing units than in the previous five years.⁵ The cost of living is unbearable for an increasing number of City residents as rents are at all-time highs. This, coupled with inflation and wage stagnation, leaves many households with no choice but to use most of their income on housing alone. To address this growing hardship, a group of housing advocates are urging the City to ensure that a certain percentage of housing units will be reserved for very low-to moderate-income New York households. This would be a good starting point to ensure affordable housing options will be available for those who need it the most. For instance, will cost savings from a housing provider electing not to provide parking translate into deeper subsidies for some units that will benefit very low-income households? The City should consider additional questions such as, what is the plan to achieve a mix of incomes within individual housing developments and to counter the inclination of too many housing developers to accept only the highest income bands permitted in any new affordable housing? **What incentives will the City offer or what requirements will the City impose to ensure that a significant portion of the resulting affordable housing opportunities reach and benefit very low-income households who currently experience the greatest housing insecurity in New York City?**

Conclusion

The FHJC eagerly awaits the full text from the City in anticipation of public review and comment this Spring. We encourage the Department of Planning to seek out input from the FHJC and other fair housing experts to ensure that City of Yes will be as effective as possible in mitigating NYC's housing crisis while also advancing fair housing.

When the City discloses the full text for City of Yes, we hope to see strong fair housing provisions included that say "Yes" to more affordable housing opportunities, while emphatically saying "No" to more racial and economic segregation in residential neighborhoods and schools, "No" to the construction of more inaccessible housing, and "Yes" to more affordable housing that is actually affordable for residents utilizing City vouchers and that reaches those experiencing the greatest housing insecurity. Otherwise, City of Yes runs the risk of merely affirming the status quo, which perpetuates residential racial segregation and contributes to

⁵ Ibid.(4)

greater inequality and housing instability in contravention of the City's duty to affirmatively further fair housing.

Thank you in advance for your consideration and time. We look forward to hearing more about the City of Yes full text to become available and hope to see our concerns addressed.

Sincerely,

Britny McKenzie, Policy Manager
bmckenzie@fairhousingjustice.org