



OFFICE OF THE PRESIDENT  
BOROUGH OF MANHATTAN  
THE CITY OF NEW YORK

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Gale A. Brewer, Borough President

February 10, 2015

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

Dear Chair Weisbrod:

I wanted to take some time to write in regard to the affordable housing text amendment my staff was briefed on January 14, 2015. It is my understanding a lot of work has been put into cleaning up the zoning text to facilitate more housing construction and better design. However, as was stated in the meeting, and previously in letters dated August 1<sup>st</sup> and October 31<sup>st</sup> sent to Commissioner Been and you, and again in person in a meeting on September 23<sup>rd</sup>, I feel strongly that portions of the voluntary Inclusionary Housing program zoning text require revisions. This text, absent a borough-wide rezoning, will continue to impact portions of 10 out of 12 Community Districts in the Borough of Manhattan.

There has been much discussion in recent weeks about the upcoming introduction of the Mandatory Inclusionary Housing program. While I agree that any property granted an upzoning should be mandated to provide affordable housing, **I have consistently advocated for a true mandatory affordable housing program that would apply city-wide, as every unit of luxury housing has an adverse effect on the affordability of neighborhoods.** The Mandatory Inclusionary Housing program as proposed would principally affect East Harlem in Manhattan, as outlined in the Mayor's State of the City address. While this neighborhood is certainly an appropriate location for affordable housing, no details have been provided on this rezoning to me or Community Board 11. Furthermore, no new units would result from a major rezoning for years after the rezoning, which could itself take over a year to enact. **In the meantime, the existing Inclusionary Housing program will continue to result in new units throughout Manhattan, so this program must be fixed in the short term.**

The following **changes should be made** to the existing, voluntary Inclusionary Housing program to **ensure maximum public benefit and equity**:

- First, the City must remove the option to build income-segregated, or "two-door," buildings.
- Second, the program should be modified to require higher proportions of affordable units in neighborhoods where the floor area bonus is more valuable.
- Third, in order to get the most affordable housing in exchange for the provision of floor area, the program should also be altered to prevent "double-dipping" with other valuable

subsidies like the 421-a tax abatement. If developers are to use more than one subsidy, they should be required to provide additional housing.

- Finally, the zoning program should be amended to strengthen provisions ensuring that home ownership units remain affordable in perpetuity as intended.

Additionally, I have repeatedly asked HPD to adjust the agency rules for referring affordable housing plans to Community Boards to ensure true input. These plans are sent by developers, but typically not with sufficient time for a Community Board to hear the application, and with little or no guidance from HPD about what specifically can be weighed in on. I believe that this process could be strengthened by adjusting HPD policies, but this could also be included as part of an affordable housing text amendment. Since this referral process is mandated by the zoning, the text could be altered to provide more time for Community Board review, to clarify what elements of the plan should be presented to communities, and to make consistent the process for referral.

**My staff and I were told at our meeting in September that no city-wide affordable housing text amendments were proposed, despite explicit and public promises over the summer to fix the two-door loophole.** Therefore, I was pleased to see this text amendment did begin to look at the voluntary Inclusionary Housing text. However, my staff and I were again disappointed to see that the previously raised concerns were not yet addressed. **I am hopeful that there is still time and resources to take into account changes which will address my principle areas of concern,** and I would be happy to work with you and your staff to achieve this goal. Department of City Planning staff will be presenting the proposal for an affordable housing text amendment to the Manhattan Borough Board on February 19<sup>th</sup>. I look forward to discussing these issues with Manhattan's Community Board Chairs and City Council Members at that time.

Sincerely,



Gale A. Brewer

CC:

Vicki Been, Department of Housing Preservation and Development

Encl:

Letter to Vicki Been and Carl Weisbrod, dated August 1, 2014

Letter to Vicki Been and Carl Weisbrod, dated October 31, 2014



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Gale A. Brewer, Borough President

August 1, 2014

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,

A handwritten signature in dark ink, appearing to read "Gale A. Brewer". The signature is fluid and cursive, with the first name "Gale" being more prominent and the last name "Brewer" following in a similar style. The signature is written over the word "Sincerely," and the printed name "Gale A. Brewer" is located directly beneath it.

Gale A. Brewer



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Gale A. Brewer, Borough President

October 31, 2014

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:

Thank you for meeting with me and my staff on September 23rd to discuss my concerns with the Inclusionary Housing program and how it had been used at 40 Riverside Boulevard. The meeting was a good opportunity for my office to hear about how the administration is planning to implement a new mandatory component of the program as a part of any new rezoning. We were distressed to hear at the meeting, however, that the administration is not, at the same time, working to make changes to the existing voluntary Inclusionary Housing program which is utilized throughout much of Manhattan.

As you know, in a letter to you both, dated August 1<sup>st</sup>, I requested that the city remove the option to build income-segregated buildings from the Inclusionary Housing zoning text. In addition, the letter outlined other necessary changes to the program. Rather than a mandatory Inclusionary Housing program tied only to upzonings, I requested that the City institute a program that applies citywide, as every unit of luxury housing has an adverse impact on the affordability of neighborhoods. I also requested that the program be modified to require higher proportions of affordable units in neighborhoods where the floor area bonus is more valuable and to prevent "double-dipping" with other valuable subsidies like the 421-a tax abatement. And finally, the letter requested that the zoning program be amended to strengthen provisions ensuring that home ownership units remain affordable in perpetuity as intended.

At our meeting last month, you and your staff indicated that the number one priority as it pertains to Inclusionary Housing is the creation of a mandatory program to be applied to future rezoned areas, and that any changes to the current voluntary program would have to wait until after this new program is enacted. I believe that to have an effective housing policy the necessary modifications to the current Inclusionary Housing program must be made along with the creation of the mandatory program. Currently, there are no neighborhood-wide rezonings in Manhattan in environmental review, which means that any affordable units produced as a result of a large

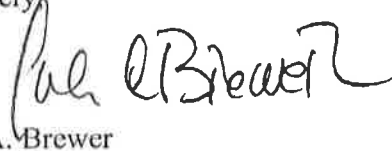
rezoning where this program would apply is over two years away. In the meantime, the existing voluntary program applies in 10 out of 12 Manhattan Community Districts, and there are projects in the pipeline throughout the Borough that plan to take advantage of the current voluntary program. Steps must be taken now to ensure that these projects not only meet the standards of social integration and community benefit that I know Mayor de Blasio and I both want to achieve, but also provide affordable housing commensurate with the benefits given to developers.

Public opinion and the fear of negative publicity are not sufficient to prevent developers from using options like the two-door policy, which are enshrined in law. The best way to guarantee the public that such practices are no longer an option is to remove the two-door option from the voluntary Inclusionary Housing program.

In regards to tying affordability requirements to the strength of the local real-estate market I was heartened to hear that the administration agrees with this approach. If the necessary research is being done at this time to include this in the new mandatory program, it is also the perfect time to go back and include this type of targeting in the voluntary program as well. At the meeting we discussed the relationship between Inclusionary Housing and 421-a. At the time, you both mentioned looking at the tax subsidy program to see how it could be changed. 421-a is a state program, however. If Inclusionary Housing and 421-a should not be used together, we have the power to make that change through the zoning resolution. There is no need to wait for the state legislature to act on our behalf.

I hope that the administration will reevaluate its decision to wait on making changes to the voluntary Inclusionary Housing program. I am committed to ending the ability of developers to build affordable housing in segmented buildings with separate entrances. I further do not wish to leave the majority of Manhattan subject to the current one-size-fits all, voluntary Inclusionary program so I will continue to work toward change in the program. I work closely with all Manhattan Community Boards, and I will be meeting with them on this important issue. I know that this administration shares my commitment to not only building large numbers of new affordable units, but to ensuring that those units are built at the best value to the public and in the most equitable way possible.

Sincerely,

A handwritten signature in dark ink, appearing to read "Gale A. Brewer". The signature is fluid and cursive, with the first name "Gale" being more prominent.

Gale A. Brewer

cc:

Alicia Glen, Deputy Mayor for Housing and Economic Development