



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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Christine Berthet
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November 25, 2015

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

Vicki Been
Commissioner
Department of Housing Preservation & Development
100 Gold Street 10038

Re: **Mandatory Inclusionary Housing**
NI60051ZRY (zoning text amendment)

Dear Chair Weisbrod and Commissioner Been,

At its full board meeting on November 4th, 2015, Manhattan Community Board 4 (MCB4) reviewed the application by the New York City Department of City Planning (the "Applicant") for the proposed Citywide Zoning Text Amendment to create a Mandatory Inclusionary Housing Program (MIH).

The Board by a vote of 39 in favor, 0 opposed, 0 abstentions and 0 present but not eligible **recommended to approve with conditions** the proposed text amendment.

Background—MCB4 Affordable Housing Preservation & Production

Manhattan Community Board 4 has been an affordable housing advocate for decades. From the 1970's when the City was plagued by disinvestment and abandonment, through gentrification and tenant displacement in the 1980's and 1990's, and the major rezoning actions and luxury rental and condo development of the early 2000's, MCB4 has always sought flexibility and creativity from the City government and the private sector to develop and preserve affordable housing.

In 2015, MCB4 developed an Affordable Housing Plan for Manhattan Community District 4, with the goal of fostering the development and preservation of 10,966 units of affordable

housing. The plan is a living document that guides its efforts to support affordable housing.

MCB4 believes that Economic Integration is the only way to help keep Chelsea, Hudson Yards, and Clinton/Hell's Kitchen the thriving neighborhoods they are today. The Board will work to ensure that any changes to Zoning Regulation establish the requirements, standards, and support necessary for developing the housing that is crucial to maintaining our diversity.

Application

The application is for a proposed city-wide text amendment that would apply to any new residential development, enlargement or conversion that requires rezoning. At the point of such a rezoning action, MIH will be mapped over the rezoned underlying zoning. (It will not apply to any development not subject to these actions.) In the proposed Zoning text amendment, The City of New York would make the provision of permanently affordable housing a requirement in any development that falls under these parameters.

Elements of the Application

Applicability

- The zoning text amendment would apply to any new residential development, enlargement, or conversion that requires a rezoning.
- The requirement will also apply to neighborhoods that undergo large-scale rezonings.

Income bands

- The City Planning Commission, along with the City Council will have the discretion to apply one of three affordable housing options to a development.
- Option One requires developers to provide *at least 25% of their total residential floor area to households at an average of 60% of the Area Median Income* (AMI).
- Option Two requires developers to provide *at least 30% of their total residential floor area to households at an average of 80% AMI*.
- Option Three, called the Workforce Option, requires developers to provide *at least 30% of the residential floor area as housing for households of an average 120% AMI*.
- All options mandate that no affordable unit exceed 130% AMI.

Affordable Housing Fund

- For developments that are *between 10 and 25 units, or 12,500 to 25,000 square feet*, the developer must make a payment to an affordable housing fund (in lieu of constructing affordable apartments).
- The payment will be calculated by multiplying the number of affordable units required of the development by a factor that is based on the cost of providing an affordable unit in the particular community where the market rate development will be constructed.
- The funds will be used for construction, rehabilitation, preservation and other affordable housing purposes as defined by HPD guidelines.
- The funds will be used for projects within the same community district or within a half mile radius of the market rate development.
- If the payment cannot be spent within the number of years set forth in HPD guidelines, the funds would become available for use in a broader area.

Economic Integration--Affordable Housing Apartment Distribution Within a Building

- Affordable Apartment distribution will be decreased from 65% of the floors of building to 50% of the floor
- Affordable Apartment distribution (at the decreased 50%) will not apply to condominium and co-op developments when affordable units are rentals
- Equal apartment distribution will not be required for senior or supportive housing units, given the need for social service program requirements

Economic Integration--Equality in Apartment Finishes and Appliances--for Market Rate and Affordable Housing Residents

- MIH is silent on this matter and contains no proposed zoning text.

Economic Integration--Equal Access to Building Amenities--for Market Rate and Affordable Housing Residents

- MIH is silent on this matter and contains no proposed zoning text.

Location of Affordable Units

- Units can be located in the same building as the development, in a separate building on the same zoning lot as the market rate development, or on a separate zoning lot within the same community district or within a half mile of the market rate development.
- Units that are built as part of off-site developments not on the same zoning lot will not be eligible for a 421-a real estate tax abatement.

Unit Sizes—Changes in Standards

- The minimum unit sizes would be as follows: 400 square feet of floor area for a zero-bedroom unit; 575 square feet of floor area for a one-bedroom unit; 775 square feet of floor area for a two-bedroom unit; 950 square feet of floor area for a three-bedroom unit.
- When the average floor area of an apartment of a particular apartment size (studio, one-bedroom, etc.) is smaller than the minimum unit size requirement, the smaller floor area standard would apply.
- The bedroom mix of the affordable units will have to either match the market rate units or have at least 50% of units that are two bedrooms or more, with 75% or more being one bedroom or more.

Public Review and Comment by Community Boards

- MIH removes the required 45-day public comment and review period for Community Boards. This zoning provision has been in the Voluntary Inclusionary Housing program since 1987.

BSA Special Permit

- There will be a hardship exemption under which developers can go before the Board of Standards and Appeals to modify their affordable housing requirements.

Additional Programs

- Developments may be able to meet their affordable housing requirements if they offer a homeownership option, similar to the one currently available under the Voluntary Inclusionary Housing program
- There would be no preservation option, whereby bonus floor area can be used to meet affordable housing requirements
- Developers whose affordable units are supportive housing could locate those units in a building separate from the market rate units
- A tenant who has lived in a site that is to be demolished for an MIH development may live in one of the affordable units provided by the development, even if their household income exceeds the qualifications set by the program.

Regulatory Agreement

- The regulatory agreement between the developer and HPD would contain an MIH application, which would be a standardized form that would be required for all MIH sites that would specify compliance with the MIH guidelines
- The developer must submit a copy of the MIH application to the local Community Board
- HPD will provide a list of pre-qualified monitoring agents who can oversee compliance with the MIH regulatory agreement.

HPD/MIH Program Guidelines

- Distribution requirements can be changed in situations where a development has too few units to meet the requirements.
- The method used by which HPD measures the square footage of affordable units will be changed so that it conforms to the method used by the Department of Buildings.

MCB4 Proposed Actions and Recommendations

Applicability

MCB4 supports the applicability of the proposed text amendment, which will entail any new residential development, enlargement, or any conversion that requires a rezoning.

Affordable Housing Income Band--Proposed Options

MCB4 supports:

- Option One, under which developers are required to provide ***at least 25% of their total residential floor area to households at an average of 60% AMI.***
- Option Two, under which developers are required to provide ***at least 30% of their total residential floor area to households at an average of 80% AMI.***

MCB4 supports with conditions:

- Option Three, the Workforce Option, under which developers are required to provide ***at***

least 30% of the residential floor area as housing for households of an average 120% AMI (with no households earning more than 130% AMI).

This option is currently proposed to be excluded in CD’s 1-8 in Manhattan.

MCB4 requests the Workforce Option be available in MCB4. Manhattan and its Westside have been historically and should continue to be economically integrated communities. The Workforce Option targets households (from 1 to 4 persons) with annual household incomes ranging from \$36,300 to \$112,190. This income group includes firefighters, civil servants, and persons working in service, health and hospitality industries.

Since 2006 in MCB4, the Voluntary Inclusionary Housing Program (VIH) has produced 2,571 units of affordable housing, of which 93.7% are 60% AMI or below¹. The rest of the units are as follows:

AMI	Number of Units	Percent of Total Units	Income Range (for 1 – 4 persons)
40%	187	7.3%	\$24,200-\$34,520
50%	1,574	61.2%	\$30,250 - \$43,150
60%	647	25.2%	\$36,300 - \$51,780
80%	64	2.5%	\$48,350-\$69,050
100%	27	1.1%	\$60,500 - \$86,300
130%	27	1.1%	\$78,650-\$112,200
165%	47	1.8%	\$99,850-\$142,400
>165%	8	0.3%	\$99,900 and above

Total: 2,571

Affordable housing in MCD4 should be available to a range of incomes to include all New Yorkers. **Economic Integration should be the goal, not economic segregation.** Manhattan should not be economically stratified for the very wealthy and lowest income only. Therefore the Workforce Option, which permits a broader range of incomes, must be available in MCB4.

Given the strong real estate market in Manhattan, it is financially feasible for a market rate development to support a greater percentage of affordable housing. **Therefore MCB4 recommends that the Workforce Option requirement for Manhattan be 30% or more².**

Further MCB4 request that, in projects with multiple affordability bands, no gaps in affordability are permitted, such affordability gaps restrict access to broad range of New Yorkers.

Local Affordable Housing Fund-- Payment in Lieu Contributions for Developments less than 12,500 square feet

¹ See Appendix attached (list of VIH buildings forthcoming)

² Given the new 421A requirement for 25% affordability @ 80% AMI or below, for projects using this option and 421A, the Workforce Component will be effectively an 5% increment of such housing

For developments that are *between 10 and 25 units, or 12,500 to 25,000 square feet*, the developer can make a payment to an affordable housing fund (in lieu of construction affordable apartments).

MCB4 supports contribution to a Local Affordable Housing Fund provided that:

- ***The Contribution Standard should be based on current actual costs for constructing housing in that Community District***
- ***Proposed zoning text must include an annual review of the contribution formula and standard.***
- ***Use of the Local Affordable Housing Fund should be determined by HPD in consultation with the local Community Board and Councilmember and Borough President.***

Economic Integration-- Affordable Housing Apartment Distribution within a Building

The proposed MIH zoning proposes:

- Allowing Supportive or Senior Housing to be clustered in a portion of a building
- Decreasing the requirement for distribution of the affordable housing from 65% to 50% of the floors in a building
- Waiving the requirement for distribution of the affordable housing in Condo buildings with affordable rental units

MCB4 supports:

- ***Allowing Supportive or Senior Housing to be clustered in a portion of a building.*** Such housing often has specific social services or programmatic needs (such as activity rooms, health care facilities and/or social service offices). Therefore the need to cluster such affordable units benefits the residents of those apartments and required to better meet their needs.

MCB4 cannot support:

- ***Decreasing the requirement for distribution of the affordable housing from 65% to 50% of the floors of a building***

Since 2007, MCB4 has reviewed 26 Inclusionary Housing applications, containing 3,516 affordable units. In its direct experience in reviewing Inclusionary Housing applications in the Voluntary Inclusionary Housing Program (VIH), ***MCB4 has requested, and developers have agreed, to affordable apartment distribution 67% to 100% of the floors.***

Inclusionary Housing in MCB4—Inclusionary Apartment Distribution within Buildings

Project	Address	Year	Required Distribution	Distribution Agreement
Caledonia	450 West 17th Street	2006	65%	65%
TF Cornerstone	455 West 37th Street	2007	65%	65%
Clinton Housing	505 West 51st Street	2007	100%	100%
Douglaston Development	316 11th Avenue	2007	65%	65%
Emerald Green	310-328 West 38th Street	2007	65%	100%
River Place II	600 West 42nd Street	2007	65%	65%
Atlantic Development	303 10th Avenue	2008	65%	65%
TF Cornerstone	505 West 37th Street	2008	65%	65%
Avalon Bay	525 West 28th Street	2009	65%	100%
Tower 37 LLC	350 West 37th Street	2009	65%	73%
Crystal Green	330 West 39th Street	2010	65%	72%
Gotham West	550 West 45th Street	2011	65%	80%
Mercedes House	770 11th Avenue	2011	65%	100%
Lalezarian	515 West 28th Street	2012	65%	80%
Related Companies	500 West 30th Street	2012	65%	85%
Arker Companies Development	424 West 55th Street	2013	100%	100%
DHA Capital	546 West 44th Street	2013	65%	71%
Extell Development	551 10th Avenue	2013	65%	80%
Moinian	605 West 42nd Street	2013	65%	67%
Iliad Development	509 West 38th Street	2014	65%	84%
Elad	505 West 43rd	2014	65%	60% ¹
Manhattan West	401 West 31st Street	2014	65%	69%
Taconic/Ritterman	525 West 52nd Street	2014	65%	83%
TF Cornerstone	606 West 57th Street	2014	65%	85%
Site 7	540 West 53rd	2014	100%	100%
Lalezarian	515 West 36th Street	2015	65%	79%

Average 83.4%

1 –number of inclusionary units too low to meet 65% distribution requirement

The development community is properly focused on maximizing return on investment. More Market Rate units on higher floor bring higher per square foot rents or higher per square foot purchase prices.

The City of New York, through it Department of Housing Preservation and Development and City Planning Commission, should focus on maximizing social investment. The MIH proposal should foster not only affordable housing but also Economic Integration, truly integrating all income groups within a building.

The higher floors and increased floor area will only exist due to the proposed Mandatory Inclusionary Zoning. **Higher income New Yorkers' apartments should not sit on the shoulders of Lower Income households.**

MCB4 requests the affordable housing distribution requirement be increased from 50% to 80% of all floors within a building.

Segregating and or relegating affordable units to lower floors creates, not a Poor Door, but a Poor Floor.

MCB4 cannot support:

- *Waiving the requirement for distribution of the affordable housing in Condo or Co-op buildings with affordable rental units*

In the VIH Program, affordable units are required to be integrated on 65% of the floors of the development.

In its MIH presentation to MCB4, HPD stated the reason for waiving the requirement for Economic Integration for Co-ops and Condos which contain affordable housing rental units was that they presented difficulties in management and operation.

MCB4 rejects this rationale as unfounded in longstanding real estate practice and operation. Since the 1960's, thousands of buildings throughout the City of New York have been converted from rental housing to home ownership in the form of Coops or Condominiums. In nearly every instance, rent stabilized or rent controlled renters have continued to live side by side with new owners (either prior tenants or new buyers). The majority of such buildings has been and continues to be successfully managed by the private sector. Managing a mixed building of market rate condos or coops and affordable rental housing is the same circumstance.

MCB4 requests that the affordable housing distribution remain as a requirement for Co-op and Condominiums buildings and the distribution requirement be 80% of all floors within a building.

Segregating affordable units onto lower floors creates, not a Poor Door, but a Poor Floor, and in the case of Coops or Condos, creates the impression that the City of New York values homeowners over renters.

Furthermore, MCB4 is both surprised and distressed that this proposal is silent with regards to access to amenities, finishes, and appliances for affordable units. These issues must be addressed in order to ensure that the residents of these affordable units do not become the victims of stigmatization. The need to set standard requirements for affordable units has become clear to MCB4, which in its years of evaluating applications, has seen an overwhelming number of developers who have sought to create separate standards for affordable units. This has been the key issue in the Community Board's reviews of these applications.

Economic Integration--Equality in Apartment Finishes and Appliances--for Market Rate and Affordable Housing Residents

Economic Integration demands equality in apartment finishes (flooring, tile, countertops, plumbing and lighting fixtures) and appliances. Such finishes should be the same in all market rate and affordable units. The goal of Economic Integration is ensuring that tenants or owners in the same building live in the same standard of housing. *Creating a separate but not equal apartment finish standards leads to stigmatization.*

All residents should be in the same housing; some apartments just rent or sell for less. The quality of the apartments should not be secondary; the affordable housing residents must not be treated as second class citizens. Their lower income housing creates the financial benefit of the additional height and or bulk directly resultant from MIH, and in turn increases the return for the investment of the private sector. Additionally, MCB4 recommends that this standard also apply to the current Voluntary Inclusionary Housing Program (VIH). MCB4, in its n review of 26 VIH applications has achieved the following:

Inclusionary Housing in MCB4—Equality in Apartment Finishes

Project	Address	Floors	Countertops	Cabinets	Appliances	Paint	Wall Tile	Doors/ Hardware	Baths	In unit washer/dryer
Caledonia	450 West 17th Street	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
TF Cornerstone	455 West 37th Street	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Clinton Housing	505 West 51st Street	S	S	S	S	S	S	S	S	S
Douglaston	316 11th Avenue	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Emerald Green	310-328 West 38th Street	S	S	S	S	S	S	S	S	S
River Place II	600 West 42nd Street	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Atlantic Development	303 10th Avenue	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
TF Cornerstone	505 West 37th Street	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Avalon Bay	525 West 28th Street	S	S	S	S	S	S	S	S	S
Tower 37 LLC	350 W. 37th Street	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Crystal Green	330 West 39th Street	S	S	S	S	S	S	S	S	S
Gotham West	550 West 45th Street	(2)								
Mercedes House	770 11th Avenue	S	S	S	S	S	S	S	S	S
Lalezarian	515 West 28th Street	(3)								S
Related Companies	500 West 30th Street	(1)	(1)	S	(1)	(1)	(1)	S	S	S
Arker Companies	424 West 55th Street	(4)								
DHA Capital	546 West 44th Street	D	D	D	(1)	(1)	(1)	(1)	(1)	S
Extell Development	551 10th Avenue	D	S	S	S	S	(1)	(1)	D	S
Moinian	605 West 42nd Street	S	D	S	D	S	S	(1)	(1)	S
Iliad Development	509 West 38th Street	(5)								S
Elad	505 West 43rd	S	S	S	S	S	S	S	S	S
Manhattan West	401 West 31st Street	S	D	S	D	S	S	(1)	(1)	S
Taconic/Ritterman	525 West 52nd Street	S	S	S	S	S	S	S	S	(1)
TF Cornerstone	606 West 57th Street	D	D	S	D	(1)	(1)	(1)	(1)	S
Site 7	540 West 53rd	S	S	S	S	S	S	S	S	S
Lalezarian	515 West 36th Street	S	S	(1)	S	(1)	(1)	(1)	S	S

S – Same; D – Different

- (1) Information not available
- (2) "Same as the finishes in the moderate- and middle-income units"
- (3) Quality not less than hardwood, porcelain, stone or ceramic
- (4) Oak strip wood flooring, ceramic tile, and wood cabinets

Given its record in achieving a better degree of Equality of Apartment Finishes and Appliances, *MCB4 requests the proposed MIH Zoning Text be amended to include requirements for MIH developments for the same level of Apartment Finishes for Market Rate and Affordable Apartments. Such Equality in Apartment Finishes and Appliances should also be met if Affordable Apartments are built off site.*³

MCB4 also requests post-construction compliance inspections be made by HPD to ensure that Apartment Finishes and Appliances are equal for Market Rate and Affordable Apartments.

Additionally, MCB4 would like to point out that in many new multifamily developments use a fan blower to supply heat to a unit. Fan blowers use electrical power, and in some cases have created a cost burden on affordable housing tenants, forcing them to choose between heat and an unaffordable electric bill. MCB4 has received multiple complaints from Inclusionary Housing tenants are unable to meet utility costs to keep heat running in winter. *MCB4 requests HPD to take the utility cost of fan blowers in account in its calculation of utility allowances for affordable housing tenants.*

Economic Integration--Equal Access to Building Amenities--for Market Rate and Affordable Housing Residents

Economic Integration also demands equal access to building wide amenities such as:

- children's playrooms and outdoor playrooms
- outdoor patios
- roof decks
- party rooms and kitchens
- libraries and game lounges
- storage lockers
- screening rooms
- bike rooms
- gyms

Access to such building wide amenities (except in the case of gyms which require a separate paid membership) should be equally accessible to all market rate and affordable apartment residents. The goal of Economic Integration is ensuring that tenants or owners in the same building are able to enjoy and mix socially in the building-wide amenities. **Restricting or limiting use of building-wide amenities creates two classes of residents through the Zoning Resolution and bakes in income inequality leading to stigmatization.**

MCB4 in review of 26 VIH applications has achieved the following:

³ Affordable developments built with monies from the Affordable Housing Fund will have no direct nexus with the market rate project contributing to the Fund, therefore this requirement would not apply to units using these funds.

Inclusionary Housing in MCB4—Equal Access to Building Amenities

Project	Roof deck	Gym	Amenity Lounge	Bike Parking	Playroom
Caledonia	(1)	(1)	(1)	(1)	(1)
TF Cornerstone	(1)	(1)	(1)	(1)	(1)
Clinton Housing	Yes	(1)	Yes	(1)	(1)
Douglaston Development	(1)	(1)	(1)	(1)	(1)
Emerald Green	(1)	(1)	(1)	(1)	(1)
River Place II	(1)	(1)	(1)	(1)	(1)
Atlantic Development	(1)	(1)	(1)	(1)	(1)
TF Cornerstone	(1)	(1)	(1)	(1)	(1)
Avalon Bay	(2)	(2)	(2)	(2)	(2)
Tower 37 LLC	(1)	(1)	(1)	(1)	(1)
Crystal Green	(1)	Yes	Yes	(1)	(1)
Gotham West	(1)	Yes	Yes	(1)	Yes
Mercedes House	(1)	(1)	(1)	(1)	(1)
Lalezarian	Yes	Discounted	(1)	(1)	(1)
Related Companies	Yes	Discounted	(1)	(1)	(1)
Arker Companies	(1)	(1)	(1)	(1)	(1)
DHA Capital	Yes	Discounted	Yes	Fee	(1)
Extell Development	Discounted	Discounted	Discounted	Discounted	Discounted
Moinian	Discounted	Discounted	Discounted	Discounted	Discounted
Iliad Development	Yes	Yes	Yes	Yes	Yes
Elad	Yes	Yes	Yes	Yes	Yes
Manhattan West	(3)	(3)	(3)	(3)	(3)
Taconic/Ritterman	(4)	(4)	(4)	(4)	(4)
TF Cornerstone	Yes	Yes	Yes	(1)	(1)
Site 7	Yes	Yes	(1)	(1)	Yes
Lalezarian	Yes	Lower fee	Yes	Yes	(1)

(1) Information not available

(2) “Affordable rates”

(3) "All of these amenity spaces will either be free and open to all residents of the building or will be available to the low-income tenants of the building"

(4) “Free or reduced fee”

Given the record in achieving a better degree of Equal Access to Building Wide Amenities, *MCB4 requests the proposed MIH Zoning Text be amended to include requirements for MIH developments to provide Equal Access to Building Wide Amenities for Market Rate and Affordable Apartments.*⁴

⁴ For gym facilities, open to all tenants, discounted rates affordable to Inclusionary tenants would apply. However, for gyms that require a separate paid membership This requirement would not apply.

Location of Affordable Units

MCB4 supports with conditions establishing options that allow developers to place affordable housing units in the same development as the market rate units, in a separate building on the same zoning lot as the market rate development, on a separate zoning lot within the same Community District, or within a half mile of the market rate development only for Supportive or Senior Housing. Additionally, eliminating affordable units built on off-site developments from the 421-a program ensures that developers will not receive unwarranted financial benefits.

Unit Sizes—Changes in Standards

MCB4 supports the proposed unit size minimums, and the built-in flexibility that would allow developments with market-rate units that are of smaller size to provide corresponding affordable units that are also equal in size. Additionally, maintaining equality in bedroom mix is important. The requirement that at least 50% of units be two bedrooms or more (with at least 75% being one bedroom or more) will make these affordable units open to a wider range of households in our community.

Public Review and Comment by Community Boards

MCB4 requests proposed MIH zoning text be amended to retain the VIH provisions⁵ for the 45 day public comment and review by Community Boards

MCB4 has reviewed 26 Inclusionary Housing Plans since 2007, the greatest number of any in the any Community District in the city. That review process is integral for public information and ensuring developer compliance. Maintaining the 45 day Community Board Public Comment Period for MIH applications as it exists in VIH ensures the public and local Community Board can provide meaningful comment. MCB4's work in Inclusionary Housing review has provided significant improvements in economic integration with improved affordable housing distribution, equality in apartment finishes, and equal access to building wide amenities for affordable housing tenants.

Reducing the requirement to notification, with no 45 day public review and comment period, reduces transparency for neighborhoods and their Community Boards, promoting development at the cost of public involvement.

BSA Special Permit

MCB4 supports having a procedure in place for developers who face unusual challenges to meeting the affordable housing requirements. The Board expects that such requirements will be justifiably modified to give developers allowances while still holding them responsible to the affordable housing goals of the proposed amendment.

Additional Programs

MCB4 supports the consideration of other programs with regards to affordable units provided under MIH. Such consideration allows multiple programs, like the homeownership option, and MIH requirements to work in harmony. The community Board also supports eliminating the preservation option and enabling supportive housing units, whose residents have a range of special needs, to be placed in a separate building from the contributing development.

⁵ New York City Zoning Resolution – Inclusionary Housing Section 23-961, d (3)

Furthermore, MCB4 is in agreement with the support of grandfathered tenants in the proposed amendment. Protecting existing tenants through grandfathering is key to protecting the long-term resident and character of our community.

Regulatory Agreements

MCB4 supports including a standardized application as part of the MIH process, as well as the monitoring of the affordable units to ensure that developers comply with the MIH regulatory agreement.

HPD/MIH Program Guidelines

MCB4 supports the flexibility that the proposed text would provide for developments with too few units to meet distribution requirements. Furthermore, it applauds the proposal to standardize square footage calculations across both HPD and DOB.

MIH Requirements Waiver for Infrastructure or Transit Improvements

MCB4 cannot support waiver of MIH requirements for infrastructure or transit improvements Until 1990 the CSD contained zoning text for density bonus options—either the provision of public open space or affordable housing. While the open space option was used by the development community, the affordable housing option was never used. After the deletion of the open space option in 1990, Inclusionary Housing began to be built or preserved in the CSD. **When less costly or simpler bonus options exist, simpler than the provision of affordable housing, the development community will choose the economic path of least resistance,** and essentially buy out one time capital improvements, as opposed to the initial capital investment coupled with long social investment that affordable housing requires.

Other considerations

Increased funding is needed for DOB/HPD enforcement to penalize owners who neglect affordable housing. Stronger regulations for buildings with occupied units undergoing renovations or re-construction are needed. In September 2015, the City Council introduced a series of local laws that place greater scrutiny on owners who repeatedly approach tenants with buyout offers and labels such actions as harassment of tenants. Currently, the City Council is considering a bill that would also classify illegal apartment conversions as harassment. In order to be properly enforced, the City will need funding to HPD and DOB to provide adequate staff capacity to respond to these abuses.

Conclusion

The proposed MIH zoning text is a serious effort to extend the provision of Inclusionary Housing to rezoned areas throughout the entire City of New York. However, it contains serious flaws. As with the ZQA proposed zoning, it is a one-size-fits-all approach for a complex city made up of diverse neighborhoods and districts, each with different and fine-grained needs. MIH makes the assumption that all communities' affordable housing needs are the same.

The need for lowest income housing in parts of Bedford Stuyvesant or Mott Haven is matched by the needs for moderate and middle income housing on the Upper West Side or Clinton/Hell's Kitchen. These needs are not competing but complementary. The city is simply not one

demographic group, neighborhoods must be able to ensure MIH serves the long term residents of each neighborhood, not some abstract citywide ideal.

MCB4 finds it especially disturbing that DCP and HPD believe only Manhattan below 110th Street on the West side and 96th Street on the East side, in Community Boards 1 through 8, is not an appropriate area for Workforce Housing, for families and individuals earning between \$76,440 and \$93,240. Manhattan has always had the City's greatest income inequality—we have 5th Avenue and Double 5th (that is 10th Avenue), sprawling apartments with Central Park views and walk ups with Lincoln Tunnel traffic views. But Manhattan has tens of thousands of moderate income residents who deserve increased opportunities to remain in their neighborhoods as was accomplished by the Mitchell Lama rental and cooperative programs in the 1960's. MIH should not create greater income inequality in affordable housing.

While many of elements of MIH address and improve on deficiencies in procedure and policy in VIH, the lack of focus on Economic Integration is most disturbing. MIH not only lessens affordable apartment distribution requirements from 65% of the floors to 50% but eliminates the requirement entirely for coops and condos. Further is silent on Equality in Apartment Finishes and Appliances--for Market Rate and Affordable Housing Residents and Equal Access to Building Amenities. Such a citywide proposal must acknowledge the Economic Integration is a central value to creating healthy mixed income communities. Poor doors are not only physical, but a state of mind. As long as zoning text and program regulation, permit two classed of apartments, there will be two classes of tenants. **The point of Inclusionary Housing is to include, not exclude onto lower floor, with cheaper floors and countertops and limited or no access to building amenities. The statement of how the City values Inclusionary Housing is made by its actions, MIH's reduction of Economic Integration or silence on Apartment Finishes and Access to Amenities speaks volumes by such an omission.**

MCB4 looks forward to continuing discussions with both the Department of City Planning and the Department of Housing Preservation and Development in order to ensure that the proposed Mandatory Inclusionary Housing program adequately addresses the needs of Manhattan Community District 4.

Sincerely,



Christine Berthet
Board Chair



Jean-Daniel Noland, Co-Chair
Clinton/Hell's Kitchen Land Use Committee



Betty Mackintosh, Co-Chair
Chelsea Land Use Committee



Lee Compton, Co-Chair
Chelsea Land Use Committee



Joe Restuccia, Co-Chair
Housing, Health & Human Services Committee

[Signed 11/25/2015]
Barbara Davis, Co-Chair
Housing, Health and Human Services Committee

cc: J. Nadler, U.S. Congress
B. Hoylman, State Senator
A. Espaillat, State Senator
D. Gottfried, State Assemblymember
L. Rosenthal, State Assemblymember
C. Johnson, City Councilmember
H. Rosenthal, City Councilmember
V. Been, HPD
L. Carroll, HPD
D. Hernandez, HPD
E. Hsu-Chen, DCP
F. Ruchala, DCP
K. Grebowiec-Hall, DCP