



## COMMUNITY DEVELOPMENT PROJECT

### **Testimony of Paula Segal to the 2018 City Charter Revision Commission**

*September 17, 2018*

Commissioners,

My name is Paula Segal; I am a senior staff attorney in the Equitable Neighborhoods practice of the Community Development Project (CDP). CDP works with local coalitions to foster responsible, equitable development and help make sure that people of color, immigrants, and other low-income residents who have built our city are not pushed out in the name of “progress.” We work together with our clients to ensure that residents in historically under-resourced areas have stable housing they can afford, places where they can connect and organize, jobs to make a good living, and other opportunities that allow people to thrive.

We are extremely excited to collaborate with this Commission on a thorough review of the City Charter, which is long overdue in the land use context.

We encourage you to examine the following areas closely and are happy to provide background or expertise on any of them. This list echoes what we have heard from our clients and partners: Northwest Bronx Community and Clergy Coalition and the Mary Mitchell Family and Youth Center in the Bronx, St Nicks Alliance and FUREE in Brooklyn and GOLES: Good Ole Lower East Side in Manhattan, CAAAV: Organizing Asian Communities in Manhattan and Queens, among others:

#### **Ensure that more land is subject to approval through the City’s Uniform Land Use Review Procedure (ULURP) process.**

1. A change to Section 197-c(a) of the Charter, which currently enumerates 11 specific categories of actions that require ULURP, to add the disposition of New York City Housing Authority (NYCHA) land to this list would ensure that all NYCHA residents and their elected representatives have a say in new private development on public housing authority land.

CDP has been working with residents at Wyckoff Gardens, LaGuardia Houses, and Cooper Park Houses – three of the sites where NYCHA and Housing Preservation and Development intend to allow private developers to construct half-market rate and half below-market housing under the NextGen Neighborhoods program. The program is an ambitious one; NYCHA and HPD anticipate that the City will eventually seek to build between 30 and 40 of these 50/50 buildings, and an additional 50-60 fully affordable buildings on NYCHA land across the City, generating over 10,000 units of housing on

public land with rare opportunity for public review. Our clients have voiced many concerns with this program, most prominently that it will bring incredible burdens to NYCHA residents with very little benefit to them. Many of the issues are problems with the program's design and beyond the scope of charter reform. But one key concern can and should be addressed in the charter: *all infill developments on NYCHA land should be subject to public review under the ULURP process.*

Today, residents of campuses that would need to be rezoned to permit construction and other New Yorkers concerned about how public land is used to resolve housing scarcity are given an opportunity to voice their concerns within the ULURP, but this chance is denied where no rezoning is required. No rezoning is required on a vast majority of NYCHA campuses and so meaningful public review does not take place. Imperfect though it is, the ULURP process creates transparency around proposed projects and allows for open discussion of concerns and potential solutions before projects move forward.

2. Eliminate the Urban Development Action Area Program (UDAAP), which now allows some public land to go to private developers without full public review through ULURP. When a property goes through UDAAP, meaningful opportunities for public input are not provided. The program was designed at a time when a surplus of public land was itself considered a dangerous "blight" on the city and any transfer to private ownership for housing development considered an improvement. Times have changed and this streamlined program no longer serves any purpose that supports community self-determination.

**Streamline the ULURP process and create greater transparency.**

3. Unify the process of public land disposition. Prohibit City agencies and the Economic Development Corporation from holding land they are not using in an inventory separate from the general City inventory managed by the Department of Citywide Administrative Services. This will ensure uniform treatment across public land dispositions and make public participation in the disposition of our most valuable assets more likely.
4. Limit how long a ULURP approval can be used after it is obtained to two years or the term of the City Council that approved it, whichever is longer.
5. Add timelines and disclosure requirements to the pre-ULURP process, including disclosure of all Department of City Planning pre application meetings with developers or other agencies, so that community members can know what is planned before it's too late for their input to be meaningful in developing proposals. ULURP only provides a mechanism for review before the public by elected and appointed government actors, not for public participation in creating proposals. Equitable development requires a meaningful opportunity to participate in the making of the City, not just a clear view of the actors who are actually making decisions.

**Leverage the City’s oversight and disposition powers to ensure greater and more long-term public benefit.**

6. Require the City to track and enforce all deed restrictions and remainder interests it holds for the public benefit. The City does not have staff to enforce such restrictions now; the Department of Citywide Administrative services does have staff to respond to requests from property owners to lift these restrictions. Given that the “permanence” of permanently affordable housing this administration is financing to tackle our homelessness and affordability crises is premised on the effectiveness of remainder interests that the City plans to hold on private properties that contain “permanently affordable” units, a tracking and enforcement mechanism – and staff to use it – is crucial missing piece of infrastructure..
7. Prioritize community control and permanent affordability for all sold and leased city property, particularly by mandating disposition of public land to community land trusts and similar stewardship entities to ensure stable, long-term benefit from public land.
8. Alter the baseline requirement that city owned property must be leased or sold to the highest bidder. Instead, make public benefit the mandate and the sale to the highest bidder an exception of last resort.

**Reform the tax lien sale process to protect existing community spaces and create new opportunities for the production of deeply affordable housing on vacant land.**

9. Add a provision to the City Charter prohibiting the City from selling any liens on properties owned by charity organizations that have had property tax exemptions within the last five years, are in the process of appealing an exemption denial or those that have filed applications that the Department is in the process of reviewing. Such a provision is key to ensuring community institutions (gardens, churches, mosques, community centers) are not lost due to administrative hurdles created by the Department of Finance and/or the Department of Environmental Protection.
10. Prohibit lien sales on privately owned vacant buildings and lots with arrears which only work to facilitate their transfer to speculative new owners. Instead, the agencies can implement a rapid timeline for transferring these properties to non-profit developers and community land trusts, leveraging the existing Third Party Transfer program and other existing mechanisms.

**Strengthen rights and protections for low-income renters and small businesses.**

11. Enshrine a Right to Housing in the City Charter. This would go a critical step further than the “right to shelter” guaranteed in the New York State (NYS) Constitution. In practice, the right to shelter has had both positive and negative ramifications for our city, setting up both an essential safety net for thousands of New Yorkers and a self-perpetuating crisis. As housing costs have risen citywide, the requirement to provide shelter without an

accompanying requirement to provide housing for those in need, has resulted in a system serving over 32,000 households and roughly 60,000 people. In spite of this crisis, the city has created very few new units of housing each year for the past four years for households of the lowest incomes. According to the most recent Housing New York data, only 5,441 new units of housing for people of extremely low income have been constructed since 2014--an average of 1,361 units per year. During this time, the average daily shelter census increased by roughly 2,000 households per year. The public cost of this system is over \$1.8 billion dollars in city, state, and federal funding, over \$1 billion of which comes directly from city taxpayers. *See* FY2018 DHS Expense Budget, February 2018. This spending amounts to just over half of the total capital spending on housing each year and many times more what is spent on the provision of housing for households of extremely low income.

While renters who earn below \$20,000 make up roughly  $\frac{1}{5}$  of the city's population, the city's current median rents are well above what a typical household of extremely low-income can afford. The waitlists for public housing have over 250,000 names; the waiting list for section 8 has over 140,000 names. The competition for a single unit of "affordable" housing through NYC housing lotteries can be tens of thousands of households. The impact of this disparity in legal obligation reveals itself in ballooning city expenditures on shelter.

By failing to provide a right to housing, we ensure the perpetuation of a shelter system that destabilizes families, disrupts jobs and education, and exacerbates medical and mental health issues. We place those most vulnerable in positions that decrease their stability, in effect undermining the very goals of the NYS Constitution.

12. Create a financial disincentive for warehousing residential and commercial units, for example by creating a vacant property registry with a progressive registration fee.
13. Create a requirement that all new development approvals be done in light of climate change and its resulting sea level rise.
14. Create a requirement that the true impact of speculation on rent stabilized, rent-controlled, and existing subsidized housing be considered before any rezoning is permitted. For these purposes, the City must acknowledge the reality – ignored in the City Environmental Quality Review (CEQR) manual – that tenants with legal protections are vulnerable to displacement from rapidly gentrifying areas.
15. Require that mitigations for developments, re-zonings, and other land use actions found to have adverse impacts not only be disclosed as CEQR requires now, but fully funded, implemented, and enforced via binding legal mechanisms.
16. Add processes to protect commercial tenants to the Charter to protect the small businesses and cultural institutions are the life blood of the City.

**Make sure that community planning is genuinely participatory, equitable, and well-supported by data and technical assistance.**

17. Require consistent neighborhood profile data collection that will permit residents and City agencies to evaluate the impacts of land use actions in the long term; tracking demographic and market shifts in the wake of rezoning and/or redevelopment will allow us to clearly understand the relationships between private and public actions and changes we see in our neighborhoods.
  
18. Require Fair Share distribution of all new facilities and housing so that all neighborhoods equally benefit from new facilities and housing, and are equally burdened by the infrastructure that supports the entire City.

We look forward to working together to put proposals before the voters of New York City in November 2019 that increase community power in the planning process and advance the equitable distribution of City resources, facilities and new development.

**For further information, contact:**

Paula Z. Segal, Esq.  
Staff Attorney, Equitable Neighborhoods Practice  
Community Development Project  
123 William St, 16<sup>th</sup> Floor, New York, NY 10038  
<http://cdp-ny.org/cdp-equitable-neighborhoods>  
psegal@urbanjustice.org  
Tel. 646-459-3067

**Attachment:**

Inclusive City: Strategies to achieve more equitable and predictable land use in New York City <http://library.rpa.org/pdf/Inclusive-City-NYC.pdf>