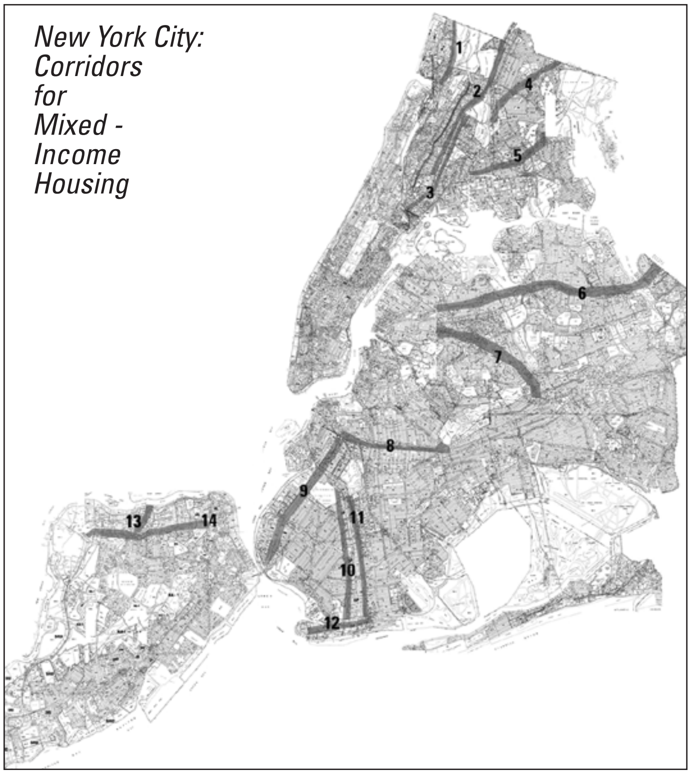
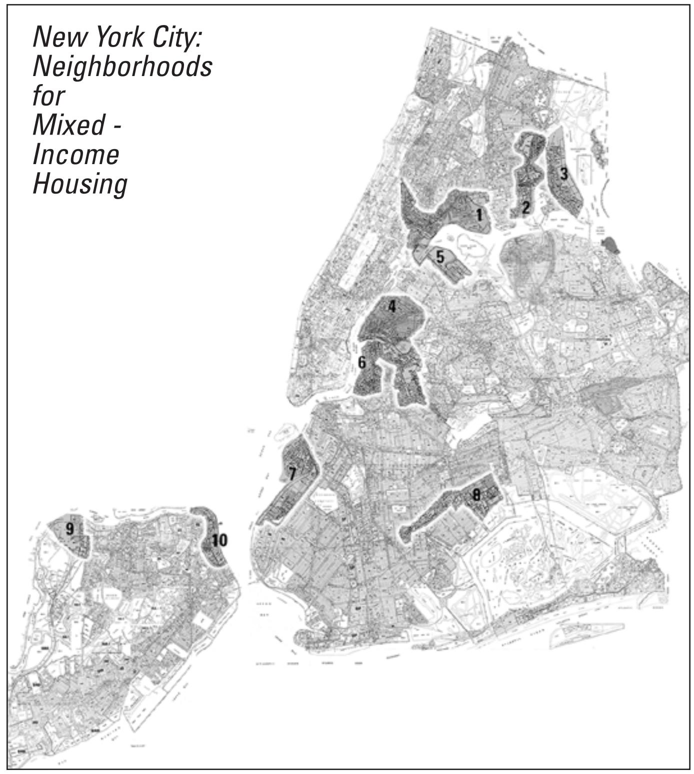
Affordable Housing in New York City

Definitions/Options





A Publication of the
Steven L. Newman Real Estate Institute
Division of Applied Research & Public Planning
October 2005

Affordable Housing In New York City

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About the Newman Real Estate Institute

Metropolitan New York's real estate assets are among its most significant. Investing in, developing, financing or managing them are key components in the economic prosperity of the City and its region, and decisions about them have enormous consequences for all who live and work in New York. These are the concerns of the Steven L. Newman Real Estate Institute.

The Institute was established to achieve three basic goals:

1. To provide a training ground for the next generation of New York real estate professionals to enter industry or government with sophisticated analytical abilities, creative skills, and historical perspective;
2. To enable the current generation of real estate executives to acquire new technical, managerial and strategic planning skills necessary to operate within a constantly evolving investment, financing, and development environment; and,
3. To effectively influence the quality of the built environment in New York through focused discussion of real estate concerns from both private and public sector perspectives.

The Institute pursues this ambitious agenda through a variety of programs in undergraduate, executive and public education; through applied research on key real estate concerns for both private business and city and state government leading to smarter, better informed industry and government decision-making; and through invitation-only events that increase the exchange of ideas between industry and government and reach out to all of New York's citizens. The Newman Institute serves as a resource for both current practitioners and the New York metropolitan region's next generation of real estate professionals and, increasingly, for the New York civic community.

The work of the Institute is divided into four components:

1. Professional Education, including an innovative and cost-effective Certificate Program for those entering the real estate community, as well as continuing education;
2. Research/Consulting focusing on major current real estate concerns of the New York metropolitan region;
3. Conferences and Seminars bringing together the most forward-thinking real estate, government, nonprofit and design professionals to discuss vital metropolitan development and real estate issues;
4. Publications/Exhibitions/Internet Resources exploring the critical issues facing New York and its neighborhoods. Publications include the noteworthy "Properties" and the inaugural exhibition of the Pergolis Urban Gallery, Midtown West: New York's Future, opened to great acclaim in June 2004.

The Institute marks a turning point in the ways in which New York's real estate businesses and regulatory agencies will be examined. The Institute's Board of Advisors and its founding Corporate Members include some of the most important, forward-thinking real estate professionals in New York.

The Institute was founded at Baruch College, a leading senior college within the City University of New York and home to the renowned Zicklin School of Business and a newly established School of Public Affairs. The Baruch Business School is consistently ranked among the top twenty full- and part-time business programs in the nation and graduates of Baruch hold top business and government leadership positions in New York. City University is the largest urban public university in the nation and a significant force in its own right for analysis and discussion of a wide variety of New York-focused public issues.

The Division of Applied Research and Public Planning

The NREI Research Division proposes to further explore the key issues where the concerns of the real estate industry intersect with broader issues of public policy in New York City in ways that will create new intellectual capital for the City's real estate industry and public policy makers. The Research Division will do so by promoting new and creative intersections among the academic and student resources of Baruch and CUNY, the various components of the real estate industry, and New York's planning, environmental, design and financial communities.

Two underlying themes will characterize all the Newman efforts in the future. First, a focus on what will solve problems, by working at a scale large enough to address the problem and create a genuine solution. And second, a commitment to dispassionate factual analysis, in support of policy and design creativity.

Over the next year, the Institute expects to continue its exploration of the appropriate focus and scale for affordable housing, to explore the relation of transportation and other infrastructure to real estate and neighborhood development, to look at critical questions regarding New York's future office-building market and to examine downtown manhattan in a comprehensive manner. In each of these areas, the Institute hopes to break new ground, not from a narrow advocate's perspective, but from a broad, unbiased commitment to what will best serve the New York City of the future.

Preface

The term “affordable housing”—full of ambiguity and imprecision—immediately raises all the thorny issues: What does “affordable” mean exactly? What are its implications for both private sector performance and public urban policy? Who is responsible for the provision of “affordable housing”? Is it a private good or a public right? What are the economic parameters of those who qualify—or benefit? Who foots the bill in the end?

The Steven L. Newman Real Estate Institute, under contract to the Office of the Public Advocate of the City of New York, during the academic year 2005 developed a series of discussion points and provisional answers to some of these questions. With strong leadership in this matter from the Public Advocate, and with the additional support of the New York City Council, a five-volume document was created by the Institute. The report was completed by the Institute’s Division of Applied Research and Public Planning. In consort with a distinguished team of experienced analysts and participants in New York City’s housing community, one of the most comprehensive studies of “affordable housing” issues in New York in recent years was completed.

In her charge to the research team, the Public Advocate, Betsy Gotbaum, instructed that no traditional assumptions go unreviewed nor “accepted wisdom” go unquestioned. The result of her leadership is this report, whose scope is revealed in the adjoining Table of Contents which includes a summary of the first three volumes in Part I of this publication.

In addition to the report, The Institute commissioned a series of scholarly framing papers to provide a context to the technical issues within the study itself, as well as further comments on associated housing issues in New York City that the study may have dealt with in less depth.

In Part 2, twin background papers are especially important in this regard, and they intentionally form a frame for the technical debate. The papers are the work of Professor James Stockard, Director of the Loeb Fellows Program at Harvard University’s School of Design—and a long-standing professional in the area of low income housing in Boston and Cambridge; and the other by Peter Salins, provost of the State University of New York and a central international authority on public urban policy, a widely published expert on issues of municipal budgets, programs and programmatic policies between public and private initiatives. In effect these two essays are arguments around the question, “Who is responsible for the provision of affordable housing”?

Finally in Part 3, members of the City University’s Urban Consortium, which is housed with the Newman Real Estate Institute and directed by Ellen Posner, former architecture critic of the Wall Street Journal, provide a series of further comments on a selection of issues raised in the body of the report itself.

For further information about the copies of the report, please contact John Maher, Associate Director for Administration, at the Institute.

1: Affordable Housing in New York City: Report to the New York City Public Advocate

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Affordable Housing in New York City: Five Volume Covers

Report to the New York City Public Advocate: Affordable Housing in New York City
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The Context of Affordable Housing in New York City

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Report to the New York City Public Advocate: Affordable Housing in New York City
Part Two:
Inclusionary and Related Zoning Approaches to Affordable Housing: A Reference Manual

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Report to the New York City Public Advocate: Affordable Housing in New York City
Part Three:
New York City Affordable Housing: Policy Options

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Report to the New York City Public Advocate: Affordable Housing in New York City
Part Four:
New York City Affordable Housing Atlas

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Report to the New York City Public Advocate: Affordable Housing in New York City
Part Five:
Affordable Housing Compendium: New York City & National Affordable Housing Programs

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Affordable Housing in New York City Report Summary

The Affordable Housing in New York City Report was prepared by the Steven L. Newman Real Estate Institute of Baruch College under assignment to the Public Advocate of the City of New York, and on behalf of the City Council. This Report consists of five volumes which together enumerate descriptively and quantitatively the state of New York City's affordable housing, historic problematics of housing support programs, policy considerations currently in play, and thus provides recommendations as to how need can be met through innovative production, financing and incentive mechanisms.

Part One of the Report exposes the gap between the demand for and supply of affordable housing in New York City. It presents the trends, dimension and basic reasons for the affordable housing crisis, and an inventory of programs now available to produce affordable housing.

Part Two of the Report presents the key elements and trade-offs associated with inclusionary zoning and related zoning options to promote new housing development, and particularly affordable housing development, in New York City.

Part Three of the Report provides recommendations not only on the inclusionary and related zoning options, but also presentation of an ambitious concept to vastly expand affordable housing production.

Part Four of the Report is a new atlas of the City of New York, showing by census tract the availability of land for redevelopment. This is a joint effort of the Newman Institute and the Center for Advanced Research of Spatial Information of Hunter College.

Part Five of the Report is a compendium presenting the affordable housing programs of jurisdictions from across the nation.

The following outlines the key components in greater detail.

Volume One: The Context of Affordable Housing in New York City

The gap between demand and supply

Volume One on demand indicated that there were three basic types of affordable housing demand that were applicable to those households for which housing should be provided. The latter are households below 135 percent of median income ($62,100) in New York City. By this definition, these households are income-eligible to receive affordable housing. The first consists of those households that are currently paying too much of their income for housing. For renters this is more than 35 percent of annual income; for owners it is more than 40 percent of annual income. These are sound housing units whose only limitation is that those who occupy them are paying excessive housing costs relative to income. This is not an insignificant number, however. It involves over 1 million housing units, or almost one-third of New York City's housing stock.

The meliorative response to this issue is creating a housing cost write-down paid directly to a landlord for rental housing, or to an owner for ownership housing. A secondary strategy is the initiation of a large middle-income housing program to produce significant numbers of new affordable units within the overall market response of largely expensive units. The program would be of the scale of the Mitchell-Lama housing efforts of the late-1950s and the 1960s.

The second component of affordable housing demand comprises those who are income-eligible and live in deteriorated housing. This typically involves those below 135 percent of median income who live in units that: (1) do not have a complete bathroom; (2) do not have a complete kitchen or who share a kitchen; or (3) are overcrowded housing, i.e., house more than one person per room. If the unit was built before 1940, only one of these conditions plus the age of the structure need be present to signal it as deteriorated; if the unit was built in 1940 or after, two of the above conditions need to be present to signal it as deteriorated. This category of need comprises 165,000 units, or about 5 percent of New York City's total housing stock. It is about 7 percent of the low- and moderate-income housing stock. This category of affordable housing need can be potentially responded to by establishing a grant pool from which owners of low- or moderate-income deteriorated structures would apply for funds. These funds could come from an increase in building permit charges for improvements (additions, alterations or repairs) to existing residential structures in the city.

The third component of affordable housing demand is those who will form households in the future below 135 percent of income for whom the market will not provide affordable housing. This amounts to about 80,000 households of the 105,000 that will grow over the period 2005 to 2010, or about 76 percent. The magnitude of this type of affordable housing need is the smallest of all but the ratio of low- and moderate-income households (80,000) to middle- or higher-income households (105,000 minus 80,000, or 25,000) is over 3 to 1. This means that, theoretically, only 25,000 new middle- and upper-income households will be available for a market supply of about 115,000 (including vacancy) new housing units. Almost all of these new market units will be built for middle- and upper-income families (95,000 units). In reality, 70,000 households that occupy existing market housing in New York City will trade up to these units with their vacated units becoming available for market-level housing at somewhat lower costs.

Purpose

This portion of the affordable housing study displays affordable housing demand by the approximately 60 community districts in New York City. These comprise three (Staten Island) to eighteen (Brooklyn) community districts per borough. Affordable housing demand will be shown for these components of boroughs by its three main dimensions: cost burden, rehabilitation, and new construction (future) affordable housing need. In addition, linkages to potential funding sources will be proposed and these funding sources will be tapped to determine the amount of affordable housing need that can potentially be provided. This exercise enables a look at a relative impact of meliorative strategies: (1) inclusionary zoning and a new, large moderate-income housing program to address new construction need; (2) tapping residential improvement building permit fees to address rehabilitation need; and (3) using a portion of the New York City Real Estate Transfer Tax to address cost burden affordable housing need. It should be realized that the affordable housing situation in New York City is protracted and it has taken at least 20 years of relatively good economic times (post-1985) to create this situation. No strategy, no matter how inventive nor how aggressive, can materially affect the scope of affordable housing need in the five boroughs over a 5-year projection period. It is almost accepted that affordable housing need is pervasive and significant throughout New York City, and strategies to combat it will have only relatively minor short-run effects.

Conclusions and Recommendations

This portion of the Report Three sought to examine the various types of affordable housing needs as they exist at the borough level and below. Cost-burdened, rehabilitation, and new construction affordable housing need were scrutinized in terms of their magnitude in community districts throughout New York City. The gross numbers of affordable housing need were given specific locations. In addition, various types of revenue and ameliorative strategies were viewed to respond to affordable housing need. Using an increase (20 percent) in the Real Property Transfer Tax to address cost burden; an increase in residential building permit charges (25 percent) to address rehabilitation need; and inclusionary zoning where it is applicable (at a rate of 10 percent) to address new construction need, the three demand components of affordable housing need were responded to by supply. The findings below are the results of these investigations.

Affordable housing need

1. Cost burden affects New York City residents (except for those living in Staten Island) relatively evenly (in terms of share of the population) at 41 to 45 percent of those who are income-eligible. In Staten Island, 37 percent of those who are income eligible are cost-burdened. This means that there are somewhat compensating effects in the cost of the local housing stock for the significant differences that are found between median incomes (2004$) in Manhattan ($52,500+) and median incomes in Brooklyn ($36,700). Median housing cost (2004 dollars) in Manhattan is $1,035 monthly to occupy housing; median housing cost in Brooklyn is $872 monthly to occupy housing.

2. Rehabilitation affordable housing need is relatively evenly distributed in select locations of each of the boroughs except Staten Island. Staten

Island's percentage distribution of the stock occupied by income-qualified households is one-quarter to one-third that of the other boroughs.

3. In terms of absolute numbers, more new construction affordable housing need would be required in Queens and in The Bronx and somewhat less in Manhattan, Brooklyn, and Staten Island. Relatively, as a share of existing income-qualified units, Staten Island has significant (two to three times the other boroughs') new construction affordable housing need.

Mitigating affordable housing need

1. The New York City Real Property Transfer Tax (which is between 1 and 1.5 percent of value depending upon class of property), if increased by 20 percent annually, would yield subsidies that would allow approximately 80,000 units annually to no longer be cost-burdened. This is only 8 percent of total cost-burdened affordable housing need and leaves more than 1 million units still cost-burdened. Nonetheless, this begins to make a dent in addressing cost-burdened housing need throughout the city.

2. Rehabilitation funds are generated by moderate-, middle-, and upper-income households living in units that are not deteriorated, seeking to improve their properties. A 25-percent increase in the building permit fee for these purposes is dedicated to pay for deteriorated units occupied by low- and moderate-income families. The modeling done in this exercise allows more units to be rehabilitated in an area where substantial numbers of nondeteriorated units exist and they are of high value. Clearly, more units are able to be rehabilitated in community districts in Manhattan and Brooklyn than is the case for Queens and The Bronx. If building permit fees are tapped for this purpose, the fund could be a citywide fund to allow monies generated from more-affluent boroughs to assist in paying for the rehabilitation needs found in the poorer boroughs.

3. Inclusionary zoning as a portion of the new market housing stock coming on-stream potentially can produce about 8,500 new affordable housing units. These will be distributed mostly in Manhattan (1,235 units), followed by Brooklyn (1,785 units), Staten Island (1,565 units), Queens (1,533 units), and The Bronx (1,407 units). These are new units added to the stock of housing specifically for households of low and moderate income.

It is clear that affordable housing need in New York is large. The revenues to address such need, if they can be found, are relatively small. This means that only a small fraction of any category of affordable housing need can be addressed with revenue streams or public policies that appear to be related to affordable housing delivery (inclusionary zoning). Even if New York City is successful in using a portion of the Real Property Transfer Tax to ease cost burden, a portion of building permit fees to address rehabilitation need, and inclusionary zoning to address new construction affordable housing need, significant amounts (> 90 percent) of affordable housing need remains. A large-scale housing program similar to the Mitchell-Lama housing program must be added. If this is done and only one-third of the units that were built under the Mitchell-Lama program were built, together with the inclusionary component, 50 percent of future affordable need could be addressed. Obviously, this leaves only 10 percent of cost-burdened housing need addressed and 15 percent of rehabilitation need addressed, but the future need response would be significant. This is the direction in which New York City should go in the future.

Affordable housing demand versus affordable housing supply

	Col. 1	Col. 2	Col. 3	Col. 4
Community District	PUMA Area	Ratio of Real Estate Transfer Tax Supported Cost Burden (Supply) to Actual Cost Burdened Units (Demand) (2005)	Ratio of Building Permit Fee Charges to Rehabilitate Units (Supply) to Units that Require Rehabilitation (Demand)	Ratio of New Housing Construction for the Period 2005 to 2010 (Supply) to Total Future Demand 2005 to 2010 (Demand)
Manhattan				
1&2	3810	1.66	2.66	3.67
3	3809	0.85	0.53	1.32
4&5	3807	1.31	2.17	3.12
6	3808	1.37	3.76	1.01
7	3806	2.35	3.34	1.67
8	3805	2.31	7.26	1.32
9	3802	0.83	0.59	0.71
10	3803	0.62	0.68	2.05
11	3804	0.84	0.69	1.16
12	3801	0.64	0.32	0.29
Manhattan Total		**1.34**	**1.5**	**1.47**
Brooklyn				
1	4001	0.73	0.43	1.67
2	4004	1.57	1.85	1.29
3	4003	0.53	0.48	3.46
4	4002	0.49	0.31	3.25
5	4008	0.52	0.44	1.47
6	4005	1.91	1.87	4.45
7	4012	0.84	0.36	1.31
8	4006	0.72	0.73	1.49
9	4011	0.62	0.61	0.58
10	4013	1.34	0.99	0.99
11	4017	0.82	0.65	1.04
12	4014	0.91	0.51	3.27
13	4018	0.73	0.81	0.65
14	4015	0.99	0.54	0.63
15	4016	1.17	0.87	0.99
16	4007	0.48	0.59	2.28
17	4010	0.63	0.64	0.55
18	4009	1.04	3.32	1.26
Brooklyn Total		**0.86**	**0.71**	**1.45**

Notes:

Col. 1 U.S. Census geographic areas encompassing at least 100,000 population and established to coincide with community district locations.

Col. 2 Ratio of cost-burdened affordable housing units delivered to cost-burdened affordable housing units required, if there was a 1 to 1 parity between the scale of units required and scale of units delivered. (Required units and delivered units are actually scaled to delivered units.)

Col. 3 Ratio of rehabilitation affordable housing units required if there was 1-to-1 parity between the scale of units required and units delivered. (Required units and delivered units are actually scaled to delivered units.)

Affordable housing demand versus affordable housing supply (Continued)

	Col. 1	Col. 2	Col. 3	Col. 4
Community District	PUMA Area	Ratio of Real Estate Transfer Tax Supported Cost Burden (Supply) to Actual Cost Burdened Units (Demand) (2005)	Ratio of Building Permit Fee Charges to Rehabilitate Units (Supply) to Units that Require Rehabilitation (Demand)	Ratio of New Housing Construction for the Period 2005 to 2010 (Supply) to Total Future Demand 2005 to 2010 (Demand)
Queens				
1	4101	0.87	0.82	0.54
2	4109	0.89	0.55	0.85
3	4102	0.74	0.49	0.62
4	4107	0.68	0.63	0.76
5	4110	1.1	1.04	0.27
6	4108	1.19	2.73	0.32
7	4103	1.22	1.63	0.51
8	4106	1.4	1.73	0.29
9	4111	0.79	0.59	0.28
10	4113	1.03	0.89	0.35
11	4104	1.63	9.54	0.48
12	4112	0.73	1	0.87
13	4105	1.33	2.45	0.37
14	4114	1.09	1.7	0.6
Queens Total		**1.02**	**1.09**	**0.51**
Bronx				
1&2	3710	0.48	0.37	1.44
3&6	3705	0.44	0.56	2.13
4	3708	0.45	0.25	1.38
5	3707	0.41	0.34	1.21
7	3706	0.5	0.37	0.26
8	3701	1.13	1.12	0.22
9	3709	0.58	0.82	0.38
10	3703	1.32	2.96	0.46
11	3704	0.82	1.02	0.51
12	3702	0.7	1.34	0.63
Bronx Total		**0.63**	**0.64**	**0.85**
Staten Island				
1	3903	1.37	1.87	0.98
2	3902	1.8	10.35	0.98
3	3901	2.18	14.93	2.21
Staten Island Total		**1.75**	**4.44**	**1.39**
City Total		**1**	**1**	**1**

Notes (continued):

Col. 4 Ratio of new construction affordable housing units delivered to new construction affordable housing units required, if there was a 1-to-1 parity between the scale of units required and scale of units delivered. (Required units and delivered units are scaled to delivered units.)

Source: Rutgers University, Center for Urban Policy Research, 2005.

Volume 2: Inclusionary and Related Zoning Approaches

Inclusionary housing programs

During the past several years a number of large cities have adopted or explored inclusionary zoning, joining a larger number of suburban jurisdictions that pioneered the technique. Those cities include San Francisco, Boston, Denver, Chicago, San Diego and Washington, D.C. With its rezoning of the Far West Side of Manhattan and the Williamsburg/Greenpoint area of Brooklyn, the City of New York is also in the process of expanding its previously circumscribed inclusionary housing program.

The impetus for adopting, expanding or exploring inclusionary zoning is similar in all of those cities: the need to cope with skyrocketing housing costs at the same time federal support for housing is shrinking. Policy makers, as well as housing advocates, see inclusionary zoning as an opportunity to leverage rising land and housing values to satisfy a growing shortage of affordable housing, especially for middle- and moderate-income working households who are necessary to the smooth functioning of municipal government and the metropolitan economy. It is not coincidental that virtually all of the cities adopting or considering inclusionary zoning are "hot market" cities in which real estate values have soared; cities such as Philadelphia, Detroit and St. Louis, which are struggling to retain their middle- and upper-middle classes, have not seriously considered inclusionary zoning.

For cities considering an inclusionary zoning program, the critical decision is whether the program is voluntary, offering a menu of incentives to encourage developers to set-aside a portion of their projects for below market lease or sale, or mandatory, requiring developers to do the same with or without cost offsets. Proponents of a mandatory program for New York often point to those other cities, most of which have adopted some form of mandatory program, as evidence that voluntary programs are ineffective. Such evidence is misleading for a number of reasons. San Francisco, for example, recently codified a mandatory program, whereas it had previously pursued a non-statutory planning policy of inclusion. The new requirements, however, do not impose perpetual affordability on the inclusionary units and the 200 percent of area median income (AMI) income targets allow significant cost recovery, if not profits, on the affordable units. Furthermore, San Francisco and Boston allow developers to pay an in lieu fee to satisfy their inclusionary requirements, making it a de facto impact fee that can be paid in cash or in kind. Most importantly, those cities, much like suburban areas that have adopted mandatory inclusionary programs, do not have as-of-right zoning regimes. In effect, most or all housing development projects must pass through a public review process, where the line between a voluntary and a mandatory requirement is easily blurred. In such a zoning environment, developers may well prefer the predictability of a codified program compared to the uncertainty of a voluntary one.

The careful financial analysis of inclusionary scenarios performed by the research team for Volume Two of the Affordable Housing Study suggested that the percentage of units that can be set aside under either a mandatory or voluntary program, without risking disruption to the housing development industry, is fairly low. For example, a 10 percent mandatory set-aside requirement in a generic R6 project without a compensating density bonus would depress land values by nearly 60 percent. With a land impact of that degree, inclusionary requirements of 10 percent or more could lead to a shift in land supply towards commercial or industrial uses, negatively impacting market-rate housing production. Overall, the simulations suggested that a mandatory program without density bonuses would have to have a relatively low set-aside percentage and would be viable only in the strongest market areas of the city. This means that the impact of the program would be relatively limited, producing on the order of several hundred units per year of affordable housing.

According to the research team's simulations, even a density bonus of 20 percent, coupled with a 10 percent set-aside, would generally depress land values for rental housing and would be only marginally more attractive for condominium development. Nevertheless, the greater densities might somewhat expand the geographic area of market viability for new housing development, thereby expanding overall housing production. A voluntary program should therefore be seen primarily as a means of stimulating market-rate housing production through greater density, and only secondly as an affordable housing program. A voluntary inclusionary housing program should consequently be preferred in New York City, because it offers the opportunity to stimulate overall housing construction, in contrast to a mandatory program which risks curtailing it. In either case, however, the expectations for the program should be modest.

One could also argue, although somewhat more subjectively, that a voluntary approach is more consistent with New York's as-of-right zoning and development culture. New York City has often, through various financial and regulatory incentives, encouraged the development industry to participate in publicly beneficial endeavors. Given that a mandatory program appears to offer no significant advantages over a voluntary approach, it seems politically sensible to place inclusionary zoning within the context of public-private partnership, rather than public-private coercion.

Another issue deserving careful consideration is how affordable set-asides are to be satisfied. The very notion of "inclusionary" zoning suggests that market-rate and affordable units should be intermingled, promoting racial and economic integration of communities. These are highly desirable goals. However, we need to recognize that suburban subdivisions and high-rise housing towers represent entirely different housing contexts. It seems that in New York's dense environment, community-level inclusion, rather than building-level inclusion, should be considered an acceptable policy objective. This also conforms to the legal and contractual difficulties of incorporating subsidized tenants into the structure of private condominium corporations.

Summary

There are two underlying concepts for the inclusionary housing policy recommendations:

- An emphasis on primarily voluntary programs that respond to market forces.
- Programs that offer flexibility so that developers have a menu of options.

Voluntary program

A voluntary program avoids issues of legal sustainability, lets the developer determine whether the incentives work, and has no dampening effect on the overall housing market.

The basic formula for a voluntary program is a density increase in return for providing affordable units. Most programs in New York State and elsewhere aim at providing a proportion (such as 10 to 20 percent) of a development's total units as affordable to moderate and in some cases even middle-class households, with a corresponding bonus in gross floor area (such as 10 to 20 percent) for providing the affordable units. In New York City, our tests showed that such incentives would prove inadequate without subsidies in most outer-borough markets; though the economics in Manhattan and other prime markets should prove more favorable. Regardless of market context, in order to make the gross square footage bonus work in New York City, height setback and parking requirements would generally need adjustments.

The only instances when a possible mandatory component should be considered are in the case of a rezoning and variances, where there is an argument for recapturing part of increased land values. Both voluntary and mandatory inclusionary zoning could work well in concert with affordable housing funding and incentive programs. Each case would need specific analysis.

Flexibility

A second major concept of an affordable program is flexibility. The most successful programs would be those that allow each developer to choose from a menu of options. These include:

- Target market: The people served should range in income from 50 percent of the median income of New York to as high as 135 percent. This way, both federal and state subsidy programs are accommodated, and a wide range of people is served. For New York City, these programs use an average median income (AMI) of $62,800 for a family of four.
- Geographic location: Developers should be able to choose whether to provide the affordable units within the building ("on-site"), within a defined community ("off-site"), or making payments to a housing fund ("opt-out"). The obligation could rise in each instance, providing an incentive for economic and social integration in connection with new development.
- Tenure: Incentives should apply to both rental and ownership or a mix of both. The affordable housing obligations should be for as long a period as

practical.
- Unit mix: While affordable units should be indistinguishable from market rate units, there can be some flexibility on distribution throughout a building.
- Design: Broad use of the incentive bonus requires relaxation of particular bulk, envelope and parking requirements. A menu of options needs to be provided to reflect the wide variety of site configurations and housing building types. This would require significant modeling to see which zoning controls are best relaxed in which districts.

It is the belief of the Newman Institute that these recommendations can provide a solid basis for expanding New York City's existing inclusionary housing program (now limited to a high density residential district R-10 only found in Manhattan) to other residential multi-family districts in Manhattan and the other boroughs. To be effective, such incentives should be available to the development community in as many multi-family districts as possible.

Background

Basic considerations

1. Although financial analysis informs the design of an inclusionary zoning program, it cannot be the final determinant as to the perfect combination of mandates and incentives. Market and financing conditions vary from site to site and from time to time, so no set formula will be optimal for every situation. Ultimately, public officials must make an informed political judgment that may vary by condition and change over time, and work well under most but not all situations.

2. The most successful inclusionary housing programs will employ generous annualized profit rates. Housing developers must quickly recover their capital or they will not long be housing developers. Generous profit rates better assure that the program will be applied in a wider number of settings and conditions.

3. A number of large cities have adopted or are considering inclusionary housing programs, including Boston, Chicago, Denver, Los Angeles, San Francisco and Washington, D.C. Earlier precedents are more often from suburban jurisdictions, especially including many in New Jersey, where there is extensive case law and precedent. Since 1987, New York City has had a limited, optional inclusionary zoning program, applicable in R10 zoning districts, only.

4. The Department of City Planning (DCP) advocates employing zoning to regulate use and density, and placing the cost of providing affordable housing on the public generally (through tax incentives or housing subsidies), rather than on developer exactions or incentives. DCP points out that the City's subsidized housing programs are targeted at a range of income groups, while inclusionary housing programs in other municipalities have generally benefited middle-income families above others. Recently, DCP has endorsed compromises combining inclusionary housing incentives with public subsidies.

Incentives or mandates

5. The Volume Two analysis of a generously sized hypothetical site indicates that a bonus program could not generally work without relaxation of other zoning constraints, in particular on-site parking requirements. (Interestingly, underground and structured parking proved viable on sites large enough for efficient layouts, in locations where there is market support for garage fees.)

6. Developers point out that for zoning (and financial) incentives to work in concert with as-of-right zoning regime, they would have to be significant, timely and predictable. The Institute's Part Two analysis of a Quality Housing mid-rise in a lucrative outer-borough setting shows that an incentive ratio of one more market rate unit for every one affordable unit provides far too little incentive in and of itself.

7. Economic theory suggests that the added cost of mandatory inclusionary housing (without a bonus) will eventually lead to lower land values, as developers back into lower purchase prices for land ("residual land value"). In the short term, the marketplace will be disrupted, as alternative uses appear more competitive, developers who already own sites realize lower revenues than anticipated, and landowners hold out for their earlier, higher expectations as to land value. In our financial analysis of a Quality Housing mid-rise in a lucrative

outer-borough setting, a set-aside as low as 10 percent reduced land value by a substantial amount (more than 50 percent for rentals). That suggests that non-residential uses of property will become more attractive and that such a mandate will have an adverse effect on housing creation.

8. Affordable housing mandates (i.e., without incentives) would be added issues that could confound developers venturing into new market settings and building on waterfront and formerly industrial sites. New market settings require higher profits to offset greater risks. Waterfront sites involve higher costs for required public amenities and infrastructure. Industrial and many commercial (e.g., gas station) sites have premium and unpredictable expenses for environmental remediation. There are existing and proposed City, State and federal funding programs for infrastructure and brownfield costs. But without sufficient and predictable offsets, these compounding costs are not incremental—i.e., easily absorbed within the anticipated range of construction costs. They are structural and thus effect the developer's assessment of land value and risk.

Opt-out and off-site provisions

9. Opt-out provisions allow the developer to pay into an affordable housing fund in lieu of providing the required units directly. It is, in effect, a "linkage fee" that raises money for local housing programs. Off-site provisions allow the developer to build the affordable housing units on another (usually lower-cost) site within a set geographic range.

10. Opt-out and off-site provisions offer flexibility to developers. The entire property can be built for market-rate housing, allowing the developer to realize a greater value on their primary development site. The complication of providing affordable units in an ownership project is avoided. The opt-out option is especially appealing by virtue of its transactional simplicity. However, for project financing to be improved, the cost to the developer for opt-out and off-site must be less than or comparable to the total cost of development for the affordable units.

11. The opt-out and off-site options also provide the ability to promote small developments, infill housing, housing rehab, and other programs where federal and State sources are not easily employed. The opt-out option could provide added revenue for affordable housing programs. The off-site provisions would lead to more joint ventures involving not-for-profit housing developers.

12. The optimal geographic constraints for the opt-out and off-site options hinges on the relative importance of providing the maximum number of units (which argues for the widest possible geographic range to reach less expensive sites), or of offsetting local gentrification and promoting economic and racial integration (which argues for a smaller geographic range shaped by community board or neighborhood boundaries). This concern could be addressed by increasing the obligation under off-site and opt-out options. Other technical, but potentially surmountable issues involve safeguards that the opt-out fee remains current; that the off-site option is in fact carried out; and that these fees do not simply disappear within the City's overall budget.

Rental programs, ownership programs, permanently affordable housing, flexible income targeting

13. Most jurisdictions that have inclusionary zoning programs apply them to both rental and ownership developments. Affordability is usually defined as rents not exceeding 30 percent of a household's gross income. Income eligibility is determined by municipal policy goals, but generally range from 50 to 200 percent of area median income (AMI), with 80 percent and 100 percent of AMI most common. In New York City, the AMI is presently $62,800 for a family of four.

14. Inclusionary housing programs that treat rentals and condominiums equally will likely tip the housing market further toward condominiums, according to our financial analysis. Counterweights will prove tricky and pose trade-offs. The market is now singularly favorable to condominiums; yet, the reverse has often been the case. Many developers may prefer the simplicity of condo development; others are interested solely in rental housing due to their financing sources. It is often easier to market rental projects in new market areas. Rental programs are better suited than ownership programs for reaching lower-income households. Ownership programs provide low- and moderate-income

households an opportunity to obtain the equity appreciation of homeownership, if the affordability of units is not mandated for an extended time. Home ownership has also been found to be associated with other neighborhood and family benefits.

15. The duration of affordability also involves tradeoffs. Some argue that since the housing development (with its extra density) is permanent, so should the affordability mandate. On the other hand, permanent affordability may dampen the enthusiasm of rental developers (who would look askew at a permanent obligation), and also affordable homebuyers (since they, too, would not realize increases in value from the turnover of affordable units).

16. "Flexible targeting" involves a menu of options where the higher the income for the targeted population, the greater the obligation for the development. Flexible targeting is especially useful in developments involving financial funding sources that have their own income eligibility requirements. (For example, NewHOP targets households earning no more than 165 percent of AMI; while the federal tax-exempt bond program targets households earning no more than 50 percent of AMI.)

Parking, height and bulk controls

17. Zoning is a restrictive regulation. If more housing is wanted, it is necessary to relax the restrictions. Different observers and communities will have different preferences for relaxing parking, height, setback or open space requirements. This is an especially important consideration if a bonus approach is used to promote inclusionary housing (though it also relates to housing production in general). The ability of sites to accommodate FAR bonuses as large as 20 percent differs from district to district and from site to site. An expanded voluntary inclusionary program would require significant additional research and modeling to see which other zoning controls are best relaxed in which districts.

18. Parking requirements represent an underappreciated zoning constraint. They limit the ability of development to realize the full FAR of their sites; often create less efficient building layouts; and in certain circumstances even count as floor area. The Zoning Resolution decreases the amount of parking required as permitted density increases, with parking being altogether optional in Manhattan below 96th Street. Parking requirements are reduced for small zoning lots in R6 districts, housing for the elderly, Quality Housing development, and government-assisted housing. Thus, there is precedent for reducing the parking requirement for inclusionary housing units. This would, however, add to the inconvenience of neighborhood residents as an increased number of residents join in the search for on-street parking.

19. The underground parking alternative is very expensive (typically $30,000 per space), as well as inefficient on smaller sites. Underground parking might itself require incentives in areas outside Manhattan, where the market rate for rental of parking spaces is not as lucrative. Less expensive above-ground solutions pose design challenges: lower-floor layout inefficiencies; blank streetwalls; and less or worse open space for residents. Design guidelines can be used to offset these problems.

20. Shared parking could be promoted where there is a mix of uses. Offsite parking locations could be made more flexible. Shared and off-site parking might be combined on the same site. After all, one-third of the city's car owners do not use their vehicle for commuting purposes. Offsite parking raises concerns about shifting the environmental and visual impacts of parking from one area to another. Design and planning guidelines can be used to offset this problem.

21. Easing setback requirements or adding height can create additional floor area and units. Other municipalities have different means of achieving their setback and open space objectives; but none to our knowledge have explicitly eased such requirements in connection with affordable housing. Relaxing height restrictions is a more common tool for encouraging affordable housing. In New York City, potential ways to relax height range from allowing floor area in attics in lower density districts, to easing sky exposure planes, to simply allowing additional floors—which can increase project revenue by creating more units with views. The benefit of the incentive must be weighed against community impact and community con-

cerns, about creating structures that do not conform to the local context.

Recommendations

Basic concepts

Maximum flexibility: The most successful programs (in terms of minimizing negative market impacts and maximizing affordable housing production) would be those that allow each developer to choose from a menu of options for the inclusionary zoning incentives and obligations that make the most sense for them on each occasion.

Voluntary regimen: The outcomes of a mandatory program are unpredictable, and so is the outcome of any legal challenge. Sufficient incentives should be employed to make inclusionary housing the norm rather, as it has been, the exception.

Area rezoning: Each area rezoning is unique (particularly in terms of the change in land values) and thus deserves an independent assessment of the likely trade-offs associated with inclusionary housing. This logically leads to area-specific inclusionary zoning regimes, to be weighed and adopted on a case-by-case basis. This regime might include mandatory inclusionary zoning, in addition to or instead of voluntary (i.e., bonus-related) inclusionary housing, where significant increases in property values more than offset the impact of inclusionary housing mandates on residual land value.

Variances and site rezoning: Site-specific actions would be negotiated, also with the possibility of mandatory inclusionary obligations. Either or both the Department of City Planning (DCP) and Department of Housing Preservation and Development (HPD) should be the City's designee for such negotiations.

Bulk, height, parking and other requirements: These should be selectively relaxed – both to provide incentives and to accommodate the additional affordable housing units. The alterations should be in the order of modest changes that preserve the overall intent of Quality Housing, contextual and related zoning/planning objectives.

Elements of a flexible regimen

Financial analysis: The numeric figures employed below are the least defined element of the recommendations. These figures need more financial testing to calibrate them to the city's extraordinarily varied market and physical conditions. DCP and HPD should agree on the benchmarks to be employed. These benchmarks would vary somewhat by borough and zoning district within each borough, as a surrogate for different market conditions.

Density incentives: From a zoning perspective, the most universal incentive would have to do with increased floor area and thus larger or more units. (The Institute used 20 percent as a point of departure.) Floor area was preferred to unit count, so as to provide the developer with added flexibility with regard to unit mixing.

Inclusionary target: A modest goal should be set—modest enough to allow all sorts of developers to take an interest in inclusionary affordable housing, including—with regard to larger projects—stepping up the target to the 20 percent standard used in connection with federal tax-exempt financing. (The Institute used 10 percent as a point of departure.)

Social/economic integration: One of the benefits of inclusionary housing has to do with social/economic integration within a development or neighborhood; but we viewed this benefit as secondary to the avowed purpose of increasing affordable housing production. The inclusionary targets that trigger the incentives could be tied to geography. (The Institute considered using a sliding scale of these multipliers: 1.0 for on-site, 1.1 for off-site within the same community board or neighborhood, 1.2 for off-site beyond this range, and—as discussed later—1.3 for opt-out. Applying multipliers like these to an on-site obligation of 10 percent for a 100-unit development would yield obligations of 10 units for on-site, 11 units for local off-site, 12 units for off-site beyond this range, and 13 units for opt-out.)

Unit mixing and location: In those cases involving on-site provision of affordable units, the team preferred the approach used by most municipalities with inclusionary housing regulations: that the affordable units be indistinguishable in location and from the outside from the market-rate units, but that they need not be equally distributed within the development. As with the use of floor area instead of unit counts, the intention is to provide developers with added flexibility.

Opt-out: Many developers—especially those with smaller projects—will find the transactional efforts associated with on-site and off-site provision of affordable units daunting. The opt-out provision would allow them to contribute to a City fund for affordable housing renovation, production and refinancing. (As noted, the Institute toyed with a multiplier of 1.3 times the development cost—excluding site acquisition/preparation—of the on-site obligation.)

Income targets: Another sliding scale should be employed to provide flexibility as to the targeted populations. This is especially useful given the wide variety of market and demographic conditions in the city. (The Institute considered multipliers ranging from 0.5 for households earning 50 percent of area median income (AMI), to 1.5 for households earning 135 percent of AMI. Applying multipliers like these to an obligation of 10 percent for a 100-unit development would yield obligations of 5 units at 50 percent of AMI or 15 units at 135 percent of AMI.).

Tenure: Developers could employ ownership, rental or mixed models (e.g., affordable rental units within market-rate condominium developments, mutual housing, etc.). The affordable housing obligation should be enforced for a long period and should be gradually eased for ownership. (For affordable rental units, the Institute considered toying with 50 years, consistent with some federal tax incentive programs. For ownership units, the Institute considered starting at 15 years—consistent with Partnership Housing; this could then be reduced at 5 percent a year for 20 years—consistent with some City tax incentive programs; this would then mean deregulation of the affordable ownership unit at 35 years.)

Bulk, height and parking

Lower- density districts: The Institute tested a 20 percent bonus in R4 Predominantly Built-up districts, where relaxation of envelope controls (height and sloping plane) and parking requirements would allow

Current financing programs and resources in support of inclusionary zoning

Affordable housing in New York City is predominantly developed with the support of existing incentive-based mechanisms provided by City and State agencies. These include direct (monetary) subsidies, land subsidies, low-interest and bond financing, and tax credits/abatements. Oftentimes, individual developers utilize multiple modes of such support. Therefore, it is certain that future developers of sites under inclusionary zoning parameters will, too, look to support mechanisms to supplement the bonus provided under an inclusionary regime, be it voluntary or mandatory. Thus, the question at hand is which programs, and to what extent, can support an inclusionary regime.

At the outset, it is important to identify structures that cannot be applied to an inclusionary regime. Direct and land subsidy programs as provided by the New York City Housing Authority (NYCHA) and the Department of Housing Preservation and Development (HPD) are not compatible with inclusionary zoning. Such programs include Partnership New Homes, HomeWorks, Nehemiah, Neighborhood Entrepreneurs and Neighborhood Redevelopment. These programs all had specific goals (i.e., develop vacant city-owned land, dispose of partially occupied city-owned buildings, etc.) that have been accomplished and the programs have either expired or will be phased out in the near future. Very little City-owned land remains so neither are land subsidies very practical for this purpose. The New York State Division of Housing and Community Renewal (DHCR) operates subsidy programs as well: the Neighborhood Preservation Associates Program only provides small operating subsidies for nonprofits, while the State Legislative Item Program issues grants sporadically and cannot be relied upon.

Certain financing programs are not employable with an inclusionary housing bonus because their targets are far too specific. HPD has three such programs: Supportive Housing Loan, whereby funds are provided only for projects housing very low-income and indigent individuals with special needs; Senior Citizens Home Assistance, which is limited to houses in which the owner-occupant is a senior citizen; and the Home Improvement Program, which is only available to owner-occupied properties. It would be very difficult for a developer to satisfy the objectives of these programs and provide affordable units for the inclusionary bonus, while at the same time turning a profit.

On the other hand, there are numerous financing programs that clearly complement inclusionary bonuses. HPD's Participation Loan Program is used to substantially rehabilitate existing privately owned buildings.

The Small Building Loan Program is designed for occupied small buildings. The Neighborhood Homes Program is for the disposition of 1- to 3-family houses owned by the City and would thus be useful for inclusionary to the extent that it can contextually fill out bulk. The State Housing Finance Agency's (HFA) Affordable Housing Program has ongoing funding. While it is available only for home ownership, it could be still used for inclusionary.

The HFA, the City's Housing and Development Corporation (HDC) and the Community Preservation Corporation (CPC) all provide low-interest and bond financing options. HFA's and HDC's funds supporting these efforts could be used for any economically viable purpose. The funds are lent by bondholders and thereby need to provide economic return to the bondholders. Moreover, use of the funds is limited to rental housing. CPC's funds are private and derived from financial institutions. As such, they are very flexible and could be used for whatever purpose the banks propose. The banks do require return of capital and yield on funds. DHCR's loan programs (i.e., Housing Trust Fund, Homes for Working Families Initiative, Housing Development Fund, and Senior Housing Initiative) could be used for inclusionary but all have limitations in as much as they have been devised to achieve limited programmatic goals. Also, resources for these programs are limited.

Certain tax credit programs can also be used to support development under an inclusionary regime. HPD's 421-A program has a specific inclusionary component already (i.e., Manhattan properties must include 20 percent affordable units to be awarded this credit). 421-B, which is available only to 1- to 3- family houses, and 421-G, which is for conversions of commercial buildings in lower Manhattan, have limited applicability. 420-A is available only to nonprofits who operate housing for charitable purposes. 420-C is available to nonprofit controlled housing companies or partnerships that operate predominantly low-income housing; these could be used in an inclusionary regime. J-51 is an as-of-right abatement related to upgrading physical plant of existing building, nonetheless could be applied to an inclusionary development. Article XI is an abatement whereby a discretionary action is taken by the Council and could be used in an inclusionary regime.

HFA's Low-Income Housing Credits could be used in an inclusionary regime but tenants' household incomes would have to be at or below 60 percent of area median income (AMI), approximately $37,000. Similar limits apply to DHCR's New York State Home Program. This is a Federal program administered by DHCR. Funds are restricted to 50 percent AMI on rentals and 80 percent AMI on home ownership. The funds are administratively cumbersome to use, require Davis-Bacon wage rates, which together increase overall cost of projects.

Legal basis for inclusionary zoning

The New York City Zoning Resolution permits the use of Inclusionary Housing as a bonus – i.e., as a choice offered to a developer in exchange for additional density. The Zoning Resolution does not, however, mandate affordable housing. The focus of zoning historically is on use, bulk, and parking, not socioeconomic engineering.

The first Inclusionary Housing provision was adopted by the City Planning Commission in 1987 and applied only to the highest density (R10) residential districts. Under these regulations, which are still in effect, the maximum floor area ratio (FAR) could be increased from 10 to 12 through the provision of affordable housing meeting the specifications set forth in the Zoning Resolution. The use of this bonus is voluntary.

The program specifications, although non-discretionary, are not simple. Found in Section 23-90 of the Zoning Resolution, they include provisions regulating floor area compensation, types of affordable housing, standards for affordable units, tenant selection, rent levels, income verification, permits and certificates of occupancy, insurance and duration of the obligation. All of these requirements must be incorporated into a "lower income housing plan" which must be approved by the Department of Housing Preservation and Development. HPD, in turn, is authorized to adopt additional guidelines for lower income housing plans. It takes an expert developer and expert consultants to successfully utilize this program.

At the time of adoption, the Commission was asked by some commentators to make the program mandatory. This was rejected by the Commission, which stated that the "proposed program is optional rather than mandatory in order to test its feasibility, and develop a basis for evaluation of the effectiveness of the regulations. If the program were mandatory, and few projects were built, it would be impossible to know whether the causes were external to Inclusionary Housing, or whether the Program was so onerous or cumbersome that it limited incentive to build." (N850487ZRY(A), April 1, 1987, Cal. No. 42).

Consistent with the priorities of the current administration, and in response to a growing housing need, the City Planning Commission has recently renewed its focus on Inclusionary Housing by incorporating an expanded bonus mechanism into the recently enacted Special Hudson Yards District and proposing expanded bonus mechanisms in rezoning actions currently undergoing review for Greenpoint-Williamsburg and West Chelsea. As part of the new Inclusionary Housing proposals, lower density residential districts would be eligible for the bonus in connection with zoning amendments that increased the allowable residential density, thereby widening the geographic scope of the program. However, the program would remain voluntary.

As in 1987, some commentators have called for a more aggressive approach through mandating, as opposed to permitting, Inclusionary Housing. The rationale for this approach, simply stated, is that when rezoning significantly increases the value of land, a portion of that value should be dedicated to affordable housing.

This raises two questions: will mandatory Inclusionary Housing pass judicial scrutiny; and is mandatory Inclusionary Housing good zoning and public policy? These issues are discussed below.

Summary and conclusion

Inclusionary Housing should remain voluntary, with expanded opportunities for use by developers in a voluntary context, for example in conjunction with zoning amendments that create additional FAR. The availability of as-of-right density bonuses for Inclusionary Housing, on a voluntary basis, is consistent with the historical use of this program as a zoning tool. Mandating Inclusionary Housing raises complex legal and policy issues and is not recommended at this time.

Volume Three: New York City Affordable Housing Policy Options

Market-driven approach for private sites

The rezoning of commercial corridors and manufacturing districts for enhanced residential development.

From the Institute's perspective, land is at the heart of the issue of affordable housing production, the most important constraint. "Solving" the land availability/land acquisition issue is, in the Institute's opinion, the single most important focus for increasing affordable housing in New York City.

This approach seeks to develop a completely private-market-focused solution. In this respect, it presents the only "structural" solution to the long-term, consistent development of affordable housing in New York. It focuses on a rezoning of selected corridors and manufacturing districts in New York City for substantial zoning increases, and seeks to create a path for a near-complete development of affordable housing alongside market housing within these new zones.

A variety of ancillary issues, including the question of how much density is appropriate and what are the structures of community support for additional density that would be required, are also approached in Volume Three.

Overview

The market-driven strategy organizes an approach to increasing, on a systematic long-term basis, the production of affordable housing in New York City through private-market residential production. Other than maintaining tax abatement on affordable residential units as exemplified by the J-51 or 421-A programs, there are no public subsidies or public dollars introduced into the model. Acquisition and financing are accomplished at private market levels and through private market institutions. To accomplish this, the strategy proposes a significant shift in zoning for a select group of commercial corridors and manufacturing zones in various parts of the City, in effect releasing a large amount of currently underdeveloped and poorly classified land for both market and affordable residential development purposes.

The technical structure of this strategy is described in this section, including (1) recommendations with regard to the rezoning of these corridors and districts; (2) an analysis of the potential housing yield resulting from this approach and its relation to the need/demand profile depicted in Volume One of this report; (3) a review of a series of model proformas illustrating the potential profitability of such deals to market developers; and (4) a depiction of the density consequences of the proposed zoning changes to a series of typical commercial corridors and manufacturing districts and their neighborhoods.

The conclusion at the end of this section presents the recommended implementation program.

Assumptions

This strategy proceeds from two core assumptions:

1. There will be no large sums of public dollars in the near or foreseeable future of New York City to fuel the development costs of affordable housing;
2. The cost of land, as opposed to all other costs, is the most significant impediment to the development of affordable housing in New York City. In this regard, the current zoning resolution is the most significant constraint on the development of more affordable housing in New York City .

A new regulatory framework for the New York City housing market

Building on these two assumptions, the strategy concludes:

- The most significant quantitative component of affordable housing development in New York City must be related to and extracted from private market initiatives;
- The current zoning resolution inhibits a free housing market in New York City by constraining the development for residential purposes, both market and affordable, of a very significant number of units in specific locations throughout the city;
- Through changes to the zoning resolution sufficient incentives, even with concomitant mandatory affordable housing requirements, can be built into the regulatory framework
- A newly structured housing development market that will result in significant numbers of new affordable housing units in New York, sufficient over a ten-year period to meet the projected demand of 80,000 units of affordable housing established in this report as the base requirement for the 2005 to 2015 period.

The creation of a new housing market, responsive to sufficient private market incentives, is the most important priority in establishing a new context for housing production in New York City. These incentives involve sufficient deregulation of the zoning regulations affecting the development of certain sites throughout the city so as to provide a strong incentive for significant new levels of housing production to be achieved. Within this framework, it is the issue of land availability, and the distortion of the land markets in New York City that the burden of the current zoning resolution imposes that affect the production of housing most severely, and that greatly inhibit the creation of housing affordable to the bulk of the middle-income populations of the city.

Caveat: A tentative model

Because of the complexity of the involved development variables—especially actual land valuations across the various corridors and districts of the city and the community impacts as a result of the increases in density and changes in use--the model presented here is tentative in terms of its quantification and conclusions. As presented in this section, at this stage of its development it serves to indicate the potential of this proposal, to initiate discussion and debate in regard to its overall merits and drawbacks, and to prepare the groundwork for extensive modeling of its quantitative and urban consequences within the aegis of alternative strategies and the future of the city. The Institute is currently in discussion with a group of New York City foundations for support for this ongoing analysis during the coming year, and the preparation of a final proposal, with complete geographic and economic analysis and documentation.

The Newman Real Estate Institute argues that this strategy, as proposed below and as modified in consort with subsequent analysis and refinement, can significantly alter the pace and quantity of affordable residential development in the City without being dependent upon public subsidy interventions or special government finance programs.

Planning principles

The market-driven strategy grounds itself in the following planning principles:

- the development of new affordable housing must stem from a structural change to the housing development process within New York City and the regulation of the supply of land in New York City;

- new affordable housing program strategies must be market-driven without resort to or dependence upon significant public subsidies or special finance programs; (Tax abatement programs similar to the current J-51 or 421-A programs are incorporated into the economic model in this strategy);
- the cost of land, as opposed to construction costs, is the single most critical factor inhibiting the development of affordable housing in New York City;
- that the zoning resolution and the current regulatory structure inhibit a free or a sufficiently-free housing development market in New York City;
- that a new structure for affordable housing development regulation can only emerge from a residential development structure that will enable a more profitable development of market housing to occur;
- this more free market will, in itself, introduce certain development activity which will free the structure of the existing housing development markets in New York City;
- that in addition to this, a new regulatory framework within the zoning resolution can be adopted that enables a significant amount of affordable housing to be developed in consort with market-rate housing;
- the basis of this new approach is to increase the allowable development area significantly and to introduce the requirement of the co-terminus development of on-site affordable units within the new project structures;
- that this approach, grounded in a mixed-income housing model, is also beneficial to areas of economic and social integration throughout the city.

Technical principles

This strategy is built around the following four technical premises and objectives:

1: Rezoning for market-driven incentives:

The rezoning proposed in the market-driven strategy shall allow for substantial density increases over existing commercial and manufacturing zoning densities. The rezoning will allow an individual site owner/developer to exercise the rezoning option for residential development at the new level of density on the basis of the developer's agreement to build a mixed-income, 70 percent market: 30 percent affordable development. The owner may also elect to remain within the current structure and level of the existing zoning. The level of rezoning is intended to create sufficient market incentive for the private developers to act vigorously to supply both increased market housing and affordable housing production beyond that which current inclusionary proposals can yield. The definition and distribution of this 30 percent requirement and schedules of unit yield, developer profit and physical consequences of new densities based on the 70/30 percent division between market / affordable units is presented below.

2: Increasing land availability throughout the City:

This market-driven strategy proposes an extensive analysis of geographic areas of the City--especially Brooklyn, the Bronx, Queens, and Staten Island—which can become the focus of new housing development, including affordable housing and the availability of development sites within these geographic domains. Commercial corridors and manufacturing districts, as described below, become the focus for rezoning and increased residential development;

3: Financing through private-market structures:

Development must proceed upon the assumption that private market-driven acquisition, standard acquisition financing rates, average project construction costs, and standard construction financing rates will prevail. In effect the subsidization of the affordable units is internally driven within each project, in effect a transfer of some portion of profit from the market incentive/bonus to the development of the affordable units;

4: Yielding a significant number of affordable units:

The scope of the program shall be able to address effectively the level of current need/demand established in Volume One of this report as the basis of new construction requirements for affordable housing. This demand is approximately 8,000 affordable housing units per year, across a ten-year time frame.

Mixed income development

The market-driven strategy also grounds itself in the proven acceptance of mixed-income development for

New York City. This is not the context for either restatement or new analysis of patterns of economic or social segregation that have evolved in New York City--as in other American cities and suburbs. The core structure of This strategy is to enable the success of mixed-income development to emerge as an important component of the tools for building affordable housing throughout New York City.

Mixed-income development has found acceptance in New York City in the unlikeliest of realms: the upper end of the rental housing market in Manhattan. Since the introduction of the 80/20 percent formulas and its subsidy corollaries over 25 years ago, a large number of Manhattan rental buildings have been developed without endangering the stability or economic success of these projects. This strategy builds on this success and seeks to extend it to geographic arenas and development categories across New York City, not as a strategy of redistribution, but as a pragmatic development approach which enables market housing development to be linked to sufficient density incentives for the building of market units when affordable units are provided as well within a "break-even" context.

Further, a critical component of this strategy is that no off-site options for the development of the affordable housing are allowed. In order for the developer to receive the benefit of the substantial increases in density proposed here, the affordable units must be built on-site, in an integral fashion with the market units. This is not an issue of ethics or morality but one of land efficacy: so-called "on-site" mixed-income housing focuses the economic incentives and energy of a development on the development site itself, as opposed to creating the often impossible requirement of "finding" some other recipient site for the development of the affordable units--a near-impossible task for most developers within New York City.

Land

The market-driven strategy emerges from the recognition that the vast majority of sites available for residential development in New York City are under private ownership. (Volume Four of this Study, the Affordable Housing Atlas, has plotted those sites that are yet in public ownership and their distribution throughout the City.) This report on affordable housing options for New York City has placed the issue of land costs at the heart of the problem of creating affordable housing in New York. Land is the highest single component of development costs in New York and the most volatile, even in comparison with construction costs or financing costs or the costs of the approval and regulatory process. The core of this strategy therefore addresses the issue of land costs and land acquisition for affordable housing across the City.

Viewed as a commodity at least within the context of the development process, land costs are tied directly to both perceptions and realities of land availability. The assumption is often made that New York City as a whole is near its saturation point in terms of "available land." Affordable housing, as one competing use among many but one use which from an economic framework is least able to absorb the land costs, is most vulnerable among all development uses to both the perception and the realities of scarce land availability and high land costs.

Land availability in New York City is from a public perception focus often thought of in terms of the actual physical ground area of specific sites spread across the land terrain of New York. Land availability, in fact, is much more critically influenced by the New York City Zoning Resolution. The use regulations and density limits that the Zoning Resolution imposes are the most critical factors in the New York City land market in determining price and availability. Whatever one's position in regard to the necessity-for-fairness or the inhibitor-of-economic-efficiency of zoning in general or the New York City Zoning Resolution in particular, its centrality to the problem of land availability for affordable housing is beyond denial.

The effect of regulatory structures that no longer affect development or geographic conditions is to act as a severe development control over efficient, market-oriented development, with no clear public benefit in return. In fact, it is the underlying contention of this proposal that these land-use regulations, in their effect on inhibiting suitable land for development for residential purposes, have contributed significantly to the inhibition of housing supply and the consequent high prices of housing, either rental or ownership, in New York City. Further, it is the contention of this proposal that these land-use regulations and the consequent impacts of curtailed housing production capabilities that contribute to the high cost of housing more than other factors--including building code regulations and construction costs--and are thus responsible for a greatly inhibited free-market development of housing in New York City, that would otherwise be able to build more housing, at more affordable levels, for a wider New York City market.

Rezoning

The core of the market-driven strategy calls for the structured rezoning of selected geographic areas in New York City. This rezoning involves three principal elements: The identification of the appropriate zones throughout the City; the determination of the newly appropriate land uses; and the designation of the new density limits. These elements are described here:

Rezoning for residential land uses

This strategy proposes a substantial restructuring of a group of commercial corridors and manufacturing districts in Brooklyn, the Bronx, Queens and Staten Island.

The origin of the zoning/land-use categories of commercial and manufacturing go back to the earliest formulations of land-use regulation in New York City. These controls had two principal land-use goals: the segregation of commercial and manufacturing uses from residential ones, and a limitation on the size of the commercial or manufacturing structures.

Yet manufacturing uses as classically conceived--places of hard-materials transformation, usually in the context of heat-focused materials processes or large-machinery materials-transformation--with noise, contaminant by-products and residues, and complex raw-materials-receiving and finished-product-distribution systems--are increasingly the exceptional style of manufacturing activity in New York City rather than the norm. Many manufacturing districts in New York City have become remnant neighborhoods of vacant or greatly underutilized structures.

Commercial corridors throughout many of New York's boroughs also display the evidence of established zoning use-categories that no longer match current economic development opportunity. The restrictive, segregating approach to land-uses organized in the zoning resolutions of 50 and 75 years ago have yielded under-built and underutilized commercial corridors, often directly adjacent to higher-density residential neighborhoods. The quest for companionable uses for these corridor sites has long been a zoning game played out by the New York development community.

In the end however, there has been a general reluctance to propose fundamental zoning change for new uses along these corridors. In consequence, although each corridor has its own characteristics, they share together a sporadic build-out pattern and a proliferation of antiquated commercial structures or one-story taxpayer-style temporary structures. And, although residential development at the designated commercial-zone FAR is often permitted, since it is an exceptional use the consistency of a strong residential corridor (with accessory commercial uses on the ground floor, for instance) does not emerge as the development pattern. All of this potential land bordering stable residential districts is lost to residential development as a consequence of the commercial corridor zone.

Rezoning for residential density

The second inhibiting issue is the limited current density levels permitted in these commercial corridors and within these manufacturing districts. This section attempts to quantify the potential yield to housing production which shifts in the density patterns within these specific geographic districts could yield in New York City. We have modeled, both economically and physically, the density increases at five levels of FAR increment above an average base density of 2 FAR: 3 FAR, 4 FAR, 5 FAR, 6 FAR and 7 FAR plus 1 FAR of commercial for each of these five categories.

The geography of the rezoning

The changes are focused on selected commercial corridors and manufacturing districts described in this report

The designated commercial corridors (see map)

The geographic locus of this proposal is a group of currently zoned commercial corridors and manufacturing districts in Brooklyn, the Bronx, Queens, and Staten Island. These corridors are depicted in the Atlas in sections three and four, and their development potential is summarized below. The rationale for the selection of these particular corridors includes:

- the contrast in use and level of build-out between these corridors or districts and their surrounding residential neighborhoods;

- the presence of strong public transportation resources;
- the wide-width of the corridors;
- the diversity of existing uses along these corridors, including the proliferation of one-story and two-story structures, in contrast to the solidity of the residential blocks that sit “behind” the corridors;
- background presence of residential districts behind the corridors;
- the proven desirability of these overall neighborhoods for residential purposes.

The designated manufacturing districts (see map)
The rezoning for residential development of a group, or portions of a group of manufacturing districts in these same boroughs.

The terms of the restructuring
The purpose of the rezoning is simple: to enable residential uses at an appropriate density to be assigned to each corridor. Different corridors may have different FAR levels assigned to them, and segments of a corridor may be different than neighboring segments along the same corridor, given the current context of both the corridor and its directly proximate neighborhoods. This report, at this point, makes no determination as to what levels of zoning change are appropriate, but it provides a set of models at various land valuation levels to provide a relatively full portrait of the development scope and consequences along the corridors and within the districts.

Within this proposed rezoning, the goal is to provide enough market incentive for the market itself--the private development market including developers and their financing institutions to feel that there is enough reward to justify the risks of mixed-income housing within these emerging conditions. A range of returns tied to the different density levels between 3.0 and 7.0 FAR is depicted for these corridor conditions.

The proposed changes in zoning use and density are voluntary. An existing owner/developer may decide to retain the existing commercial designation and simply do nothing. The existing zoning would be retained if the owners of the site wished to develop the site as a full commercial project under the current zoning density and land-use regulatory structures, including its development as residential development under current zoning terms; the ownership of the site would have the full right to sell the site at whatever the market determined its value to be under the terms of the rezoning; the rezoning privileges are carried with the land.

If, however, the determination is to engage the proposed new zoning opportunity and develop for residential purposes, the owner/developer must provide for a mix of affordable and market residential units at the proportionate mix between affordable and market designated below, and for the income levels depicted. Certain further incentives may be applied along these corridors or districts to encourage or to direct specific planning goals--open space, community facilities, schools, etc.

The base for the increased density
The increase in density is expressed as a multiple of the existing corridor or district FAR densities. The precise multiple for each corridor can be governed by a consideration of a number of variables:

- the existing base FAR of the existing zoning: the higher the existing base FAR is, the higher the multiple that is allowed;
- the existing character and age of structures on the sites along corridor stretches: the more intensely commercial or industrial an area, the higher the multiple that is allowed;
- the width of the roadway of the corridor: the wider the corridor width, the average residential density of the adjacent blocks and neighborhoods: the higher these densities and base FARs, the higher the multiple that is permitted;
- the proximity to mass transit: the more varied the kinds of extent of existing mass transit, the higher the multiple that is permitted;
- the proximity to existing parks, potential parks or other recreational facilities: the more of these types of amenities that are proximate to the corridor, the higher the multiple that may be permitted.

At least two approaches may be used for creating the appropriate new FAR and for providing for a corresponding mix between affordable and market residences:

Model 1: Designated development ratios:

- Designated ratios are assigned by restructured zoning resolution at density levels of between 3.0

and 7.0, with an additional designated FAR ratio for commercial space. This is the model selected in this report for further economic and physical analysis. In this model, 30 percent of the units would be required to be built as affordable units within three tiers.

~or~

Model 2: Development ratios proportionately increasing a current base:

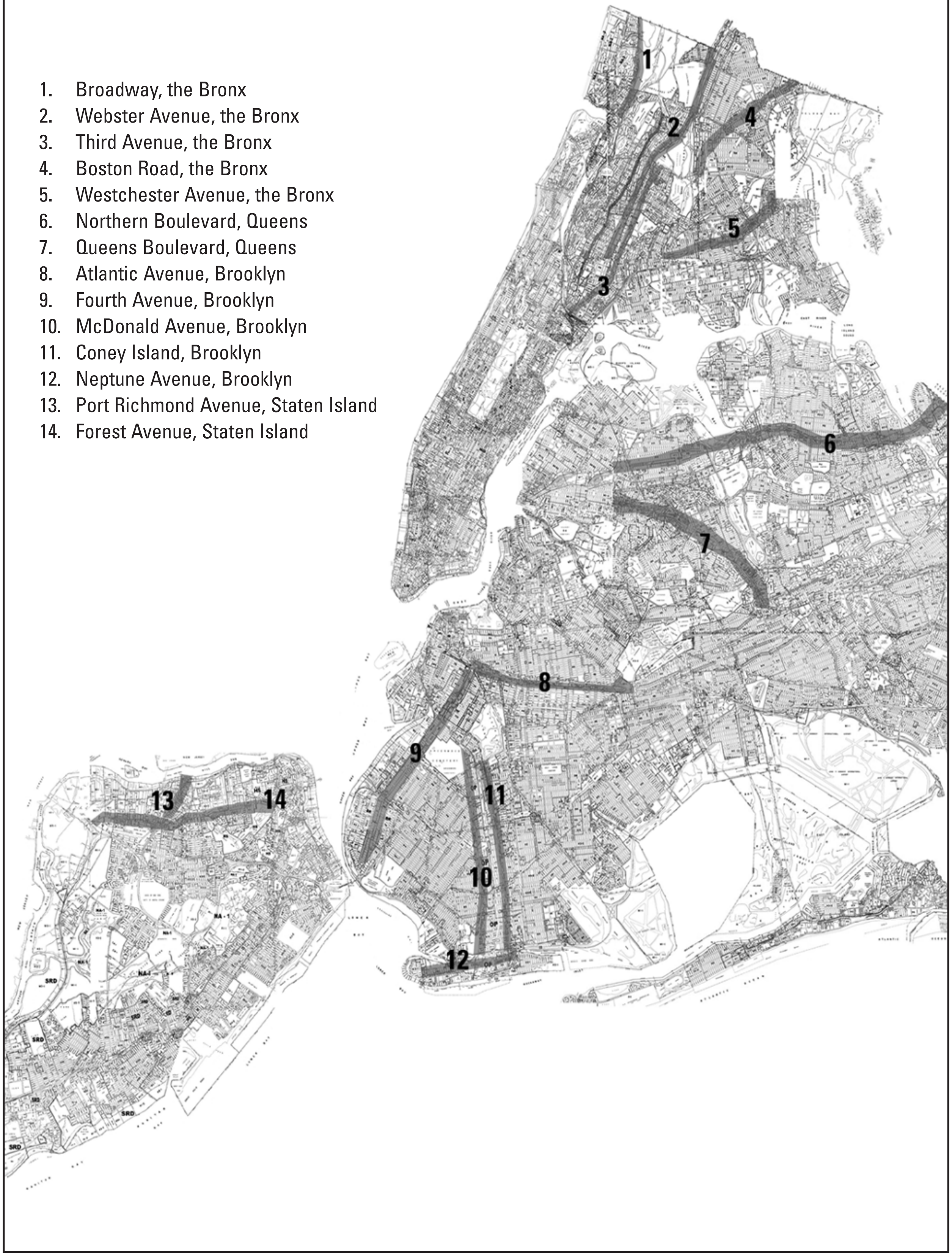
- From an existing base FAR of between 2.0 and 3.0 (which constitutes the base FAR for many commercial sites within these corridors and districts), the new zoning allowances shall be decided upon by the owner/developer as follows:
  - for a density increase ratio of 2 (as an example: twice at an FAR of 4.0), 20 percent of the new developable zoning area must be dedicated for affordable units, in the distribution pattern described below;
  - for a density increase ratio of 2.75 (twice at an FAR of 5.0), 25 percent of the new developable zoning area must be dedicated for affordable units, in the distribution pattern described below;
  - for a density increase ratio of 3.5 (twice at an FAR of 6.0), 30 percent of the new developable zoning area must be dedicated for affordable units, in the distribution pattern described below;
- The selection of the desired density increase shall be the choice of the developer; but the purpose of the structure is to provide for the greatest density incentive at the highest development level.

Summary

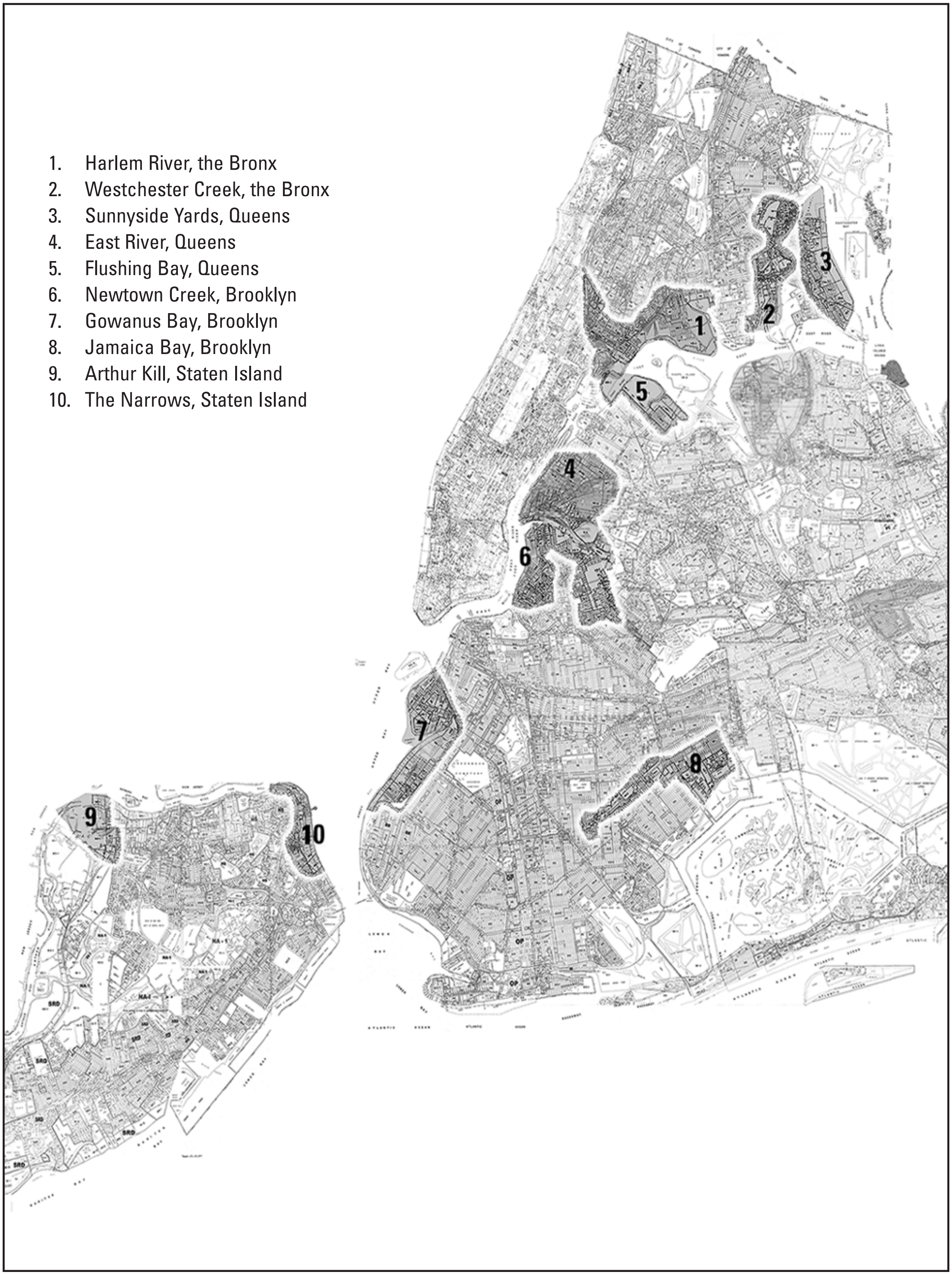
The rezoning would provide powerful market incentives for the private market to act intensively, while at the same time requiring that a sizeable amount of affordable housing be produced simultaneously with new market housing. These corridors and districts present one of the greatest sources of land reservoirs and potential land availability within the city.

Selected commercial corridors: Citywide map

1. Broadway, the Bronx
2. Webster Avenue, the Bronx
3. Third Avenue, the Bronx
4. Boston Road, the Bronx
5. Westchester Avenue, the Bronx
6. Northern Boulevard, Queens
7. Queens Boulevard, Queens
8. Atlantic Avenue, Brooklyn
9. Fourth Avenue, Brooklyn
10. McDonald Avenue, Brooklyn
11. Coney Island, Brooklyn
12. Neptune Avenue, Brooklyn
13. Port Richmond Avenue, Staten Island
14. Forest Avenue, Staten Island



Selected manufacturing districts: Citywide map



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2: Who's Responsible?: Two Views

New York City's Permanent Housing Crisis Can Government End It?

Peter D. Salins

I have been writing about New York City housing issues now for over thirty years, and throughout this period there has been an unrelenting consensus among the city's residents and civic leadership – spanning the ideological and partisan spectrums – that the city is suffering from a "housing crisis." In response, a wide variety of organizations, individuals and interest groups – and I am among them—have offered a plethora of proposals to solve the crisis or reduce its severity. As it happens, many of these recommendations have actually been followed, a staggering mix of housing programs have actually been implemented and, most significantly, many billions (yes, billions) of government housing dollars have actually been spent. But the presumed "crisis" persists. To take just one contemporary manifestation, in February of this year, an organized protest of at least 5,000 housing advocates assembled at City Hall, to demand once again that the city (meaning its government) solve the housing crisis. And representatives of Mayor Bloomberg's administration dutifully responded that it surely would, giving as evidence of the mayor's good intentions, his plan to build 65,000 new low income apartments.

But, if after all these decades of housing activism—an activism more intense than in any other jurisdiction of the United States, and after all these billions of dollars of housing expenditure—again, a level of local effort unrivaled in any other American city – New York's housing crisis apparently still persists, maybe we should thoughtfully reanalyze its root causes and radically rethink its possible remedies. What is striking is not only that the city's housing crisis has persisted, but that it has persisted even while so many of New York City's other urgent civic problems have been significantly ameliorated. The city's crime rate is not only at a near all-time low, but it is below that of 193 other, smaller, American cities. Its life expectancy and other health indicators exceed the national average. Its unemployment rate is lower than that of most large American cities, and only barely above the national average (despite the trauma of September 11, 2001 and the effects of a deep national recession). Even the city's long-troubled public schools appear to be improving. And as a kind of summary indicator, it should be noted that New York is the only large American city east of the Rockies and north of the Mason-Dixon Line to have grown in population since 1960. The city's former image of dysfunctionality and sleaze has been replaced by one of vitality, glamour and yes, even wholesomeness. It is in this context of such apparent municipal competence, operating in a place where market and governmental agents seem to be able to generate an environment of safety, efficiency, and urban amenity, that it is especially hard to understand why housing should remain the great exception.

That is the burden of this essay, in which I propose to clarify the nature of the apparent housing crisis, getting at its functional and perceptual roots, and to offer some alternative ways of characterizing the city's housing problems and solving them.

Defining the Problem

One reason New York's housing crisis never goes away is that its definition is elusive. For crime we have a few simple metrics: the population-adjusted rates of homicides and of all serious crimes. In the health arena we have infant mortality rates, life expectancy and mortality and morbidity rates for key diseases. Even though the city's education problems are far from solved, if and when conditions improve, we have a small number of highly specific indicators that will tell us the pace and extent of improvement. But in the case of housing, we can drown in data from a wide variety of sources—perhaps most notably from the city-commissioned triennial Housing and Vacancy Survey—and still not find a few simple metrics to tell us the true extent of the "housing crisis." Put in its simplest terms, from the perspective of an existing or prospective New York City household—and from that of objective critics (including me)—the city's housing is *too scarce, too expensive and of inferior quality*. But not only are there no succinct indicators of any of these variables – only indirect and inferential ones, but the housing market is too disjointed, both with respect to demand and supply, to reveal the true extent of hardship visited on households overall.

The generic difficulty of succinctly measuring housing conditions, in any city, is compounded in New York because its housing market is uniquely segmented. It is fashionable to characterize New York City's problems generally—including housing—as related to a dichotomy of privilege: the "two cities" paradigm advanced by many politicians and other municipal critics, with one "city" presumably belonging to an affluent minority, and the other to a poorly served majority. To the extent that one would want to apply such a dichotomy to New York's housing market, the "two cities" should be distinguished not by socioeconomic class but by whether—through luck or circumstance (like longevity of residence)—its members are "vested" or not in apartments or homes that are better or cheaper than market dynamics would normally determine. Specifically, the vested are residents of the large stock (347,000 units) of subsidized housing with its waiting lists and variety of distinct income and other eligibility requirements, and the even larger stock (1,073,000) of rent-regulated apartments. The unvested are all the other rental households not so favored. While New Yorkers have come to take this state of affairs for granted, this kind of vested/unvested distinction is not only absent in all other consumer markets, it is absent in virtually every other American housing market. Looking at the vesting phenomenon more closely, there are further enormous variations in housing privilege to be found among the vested – in most cases only weakly correlated with price or salient household characteristics like family size. In the universe of subsidized housing, developments vary widely in the quality of neighborhood, apartment condition, safety and amenity – all of these characteristics unrelated to rent levels, which vary only by income. In the universe of rent-regulated housing the same can be said, with the additional perverse variable of apartment size thrown in. Thus an affluent, middle-aged, single white woman might occupy a large apartment in a prime Manhattan neighborhood for a lower rent than a working class couple with two children in a modest neighborhood of Brooklyn or Queens.

It is impossible to understand the dimensions of New York's housing "crisis" without taking this vested/unvested dimension into account – for two reasons. From the perspective of economic analysis, the rigidities of the vested part of the stock, accounting for over 44 percent of all housing units and 70 percent of all rentals, imposes a gigantic distortion on the normal supply/demand dynamics upon which all efficient consumer markets function. We can only speculate as to the beneficial equilibrating effects on the major housing variables (construction rates, maintenance quality, length of tenure and, of course, price) that removing these rigidities might have. And, from the perspective of the individual household, we have to recognize that the presumed ills of the city's housing market are visited primarily on (or at least only acknowledged by) the pool of "unvested" households. In other words, not all 3.21 million New York City households—regardless of income—are equally impacted by the city's "housing crisis." Many families, especially those that have lived in the city for a long time, might be doing quite well, while newcomers, both rich and poor, are the ones who have to cope with suboptimal housing scarcity, cost or quality.

The Philosophical Debate

I commented earlier on the apparent discrepancy between the city's successful tackling of many other public problem areas and its floundering in housing. Beneath this discrepancy is a much deeper philosophical/ideological disagreement among New Yorkers as to whether housing should be seen as a public policy concern at all—especially at the municipal level. Further on in this essay, I will discuss some of the fundamental causes of New York's inferior housing conditions, but I will note here that many of these conditions are the consequence of government (both municipal and state) policies; and, most certainly, the creation of vested and unvested classes of households is entirely an artifact of government. Behind the half-century and longer politics that created these policies lie a few elemental assumptions; assumptions that are now hard-wired in the collective New York City public consciousness, but that are widely rejected by the general public outside the city and most emphatically spurned by virtually all academic economists.

Put simply, these assumptions (or maybe one grand assumption with several subsidiary corollaries), posit that housing generally—unlike clothing or entertainment, say—is not a consumer good, but a public good (like schools or police protection). Therefore, connecting the dots, it is futile or callous to depend on the marketplace for its provision. In its softest expression, perhaps by members of the city's mainstream civic leadership, this view states that underlying market factors make the construction and maintenance of housing in New York ruinously expensive for all but the most affluent classes; therefore government must step in to underwrite the difference between market-generated housing costs and what most families can afford. In its more extreme articulation, voiced by the large and politically influential cohort of housing and community activists, this view demands a large and growing role for government in the actual development and management of most housing (except for the very well-to-do), and the regulation of rents on *all* rental housing (even for the very well-to-do).

It is this broadly shared civic conviction that has driven almost all city housing policy decisions since the Roosevelt era, and continues to do so even in the highly sensible Bloomberg administration today. The generic label that ties the various strands of advocacy and policy together are two firmly intertwined notions: that there is such a thing as "affordable" housing (complemented by its evil twin, "unaffordable" housing), and—most critically—that only government can assure its provision. Disregarding the ideological dimensions of this debate, economists and other serious policy analysts have a problem with both components of this paradigm. The concept of "affordability" is elusive because, while one can set a plausible parameter (like percent of household income) for what a typical household should pay for housing, there is no way one can objectively determine the location, size and amenity level (beyond being in acceptable condition) of the dwelling it has a right to occupy. Do all individuals or families that prefer to live in Manhattan have a right to find "affordable" housing there? Do all older couples or widows whose children have left the nest have a right to indefinitely occupy their large apartments at below-market rents? Do all resident adult members of established, appropriately housed, families have a right to move into their own inexpensive apartments? I ask these rhetorical questions because, if the common-sense answer to them is *no*, then at least some significant portion of "unaffordability" immediately disappears. And if we ended the large-scale vesting of households in "affordable" housing (resulting from an implicit belief that the answer to my rhetorical questions should be *yes*), another, even larger, increment of unaffordability would vanish.

Even more troubling, however, is the other key component behind the "housing as public good" assumption: that government action to lower the price of housing – meaning government subsidies or price controls - are the only effective means for delivering affordable housing (however defined). The belief that only government intervention can make housing more "affordable," i.e., cheaper, itself confuses two entirely distinct economic issues. One is whether, and why, the market cost of housing (in a specific geographic area) might exceed household ability to pay, and what can be done about it. The other, widely assumed but poorly justified, issue is whether—and to what extent—the government has an obligation to underwrite the difference between the intrinsic cost of any particular dwelling and the presumed housing purchasing power of a particular household wishing to occupy that dwelling.

Causes of Housing "Unaffordability"

Further complicating the question of whether government, at any level, has an obligation to make housing affordable, are the underlying reasons why housing is—or is presumed to be—un-affordable. The cost of occupying any dwelling (what economists call the "bundle" of housing costs) can be distributed among three factors: the cost of the structure, the cost of the site, and the cost of maintaining the structure and site. Each of these three factors can be further divided into two conceptual categories: its "natural" cost and an "induced" surcharge imposed by various government policies. In the case of structure costs, the natural cost at the point of development or rehabilitation consists of labor, materials, and the impact of certain contextual factors – all of which tend to be fairly uniform across the metropolitan area and beyond, while the surcharge is induced by various government regulations, the most significant being the municipal construction code. In New York City this code is supplemented by other regulations such as the recently adopted lead abatement requirements. With respect to site costs, the natural component is the cost of land in a particular location – which varies by distance from Midtown Manhattan and access to major transportation hubs (meaning it can be quite inexpensive in the outer parts of the boroughs), while the induced component reflects the impact of zoning and other land use restrictions. And regarding maintenance of structure and site, the natural component is also based on current prices of labor (primarily) materials (again, fairly uniform across the region and beyond), and utilities, while the largest government-induced costs are property taxation and water/sewer fees.

Given this framework, one can actually discern two radically different approaches to government intervention on behalf of housing affordability. Virtually all advocates of affordable housing favor direct government intervention, whether through public development and/or ownership, various subsidy mechanisms, or price controls. But another approach might be to sharply curtail the sundry government-induced costs. In the world of housing advocacy, however, the only circumstances under which reducing government-induced costs may be considered are as a component of a subsidized affordable housing initiative. Therefore, the question of government's proper role in advancing affordable housing hinges on understanding the crucial distinction between government as subsidizer/price controller and government as cost reducer. Which of these approaches is favored makes an enormous difference with respect to the actual availability of affordable housing for the mass of New York households. All programmatic manifestations of government as subsidizer/price controller, because of inevitable accompanying income eligibility requirements, will serve to increase the vested/unvested distinctions among households. Policies tied to government as cost reducer can make housing cheaper for all New Yorkers.

This distinction lies at the heart of the disagreement among designers and critics of housing policy as to whether or not affordable housing in New York City can be sustained without housing subsidies or rent regulations. A good portion of what most observers of the housing market assume to be inevitable components of the bundle of housing costs are actually artifacts of the government itself. None of these artifacts are entirely unreasonable; no municipality can be without building and zoning codes, or property taxes. But in New York City their impact on housing costs and, therefore, prices is clearly greater than elsewhere. I am not prepared to argue that the entire apparent discrepancy between affordable and unaffordable housing in New York can be blamed on excessive regulation or taxation, but some component can.

Another key determinant of housing costs in New York is more directly related to the normal market dynamics of supply and demand. Even if every other factor noted above remained in place, housing prices in the city might fall if housing supply greatly exceeded demand. There was a period in the 1970s when that was the case. Because of the precipitous (nearly 10 percent) decline in population between 1970 and 1980 following the robust housing construction rates of the 1960s, by the mid-1970s housing supply so exceeded demand that real housing prices actually fell. And, in the weakest of the city's housing markets, there was widespread abandonment. Since 1980 however, large scale immigration and other factors caused New York's population to grow again, while new housing construction fell to historically anemic levels. I, for one, enthusiastically applaud the reversal of the city's post-1970 population decline, and credit it with triggering the upward spiral of New York's social and economic regeneration, a phenomenon powerfully reinforced by a period of muscular and effective municipal government. Somewhat perversely, however, the combination of sustained population increase and stagnant housing construction – on top of the city's high development costs – has virtually assured that unvested New Yorkers would face a housing market of scarcity, high prices and inferior quality.

While New York's demographic revival is both natural and desirable, the failure of housing development to keep up with it is neither. Given the city's long history of housing construction responding to increased demand – usually by building for the middle of the market – the current mismatch, and its causes, needs to be explained. There are several plausible hypotheses. The most frequently cited is the impact of government-induced policies that thwart development and raise its cost to levels that exceed market demand. As a result, only the hardiest developers want to enter the market, and then mainly to build for the most affluent tier of new demand in Manhattan. Another theory—advanced by this author—is that a large proportion of the most likely candidates to buy or rent new housing are too comfortably ensconced in below-market rent-stabilized apartments that they are unwilling to trade for better but more expensive new homes. That leaves prospective developers only the option of building for unvested rich or poor households. But there is a third possible hypothesis, one which has been emerging too slowly to be clearly apparent. Supply may indeed be responding to demand, but with a long time lag. The reasons for the lag may be related to the cost factors cited earlier, but it may also be a reflection of lingering skepticism on the part of developers regarding the strength of the new demand and the durability of the demographic turnaround. But even if housing supply is now slowly catching up with demand, New York is still decades away from enjoying the plentiful, affordable, and high quality housing market of its dreams.

Some Important Distinctions

To frame the issues surrounding housing affordability and quality in New York in a more meaningful way, one must place the city's housing in its larger spatial and social context, and draw some key distinctions. The first is the distinction between quality dwellings and quality neighborhoods. While most households are clearly very concerned with the rent and characteristics of their own dwellings, they are equally, if not more, concerned with the quality and amenity of their neighborhoods. While housing and neighborhood quality are often correlated, they are not identical. For many years during the 1970s and 80s, large swatches of the city had become virtually uninhabitable, what with widespread abandonment, decaying public infrastructure (parks, roads, street lighting, schools), and most notoriously, astronomically high levels of crime. Just think back to the years when decals with shades and flowerpots were pasted to the windows of abandoned apartment houses along the expressways of the Bronx; when the physical and social chaos of *Fort Apache* epitomized New York for moviegoers across the nation; when annual homicide numbers (under 600 today) exceeded 2000; when most subway trains were blanketed with graffiti. While many of New York's communities today still suffer from physical blight and unacceptable crime rates, no one can deny the remarkable neighborhood transformation taking place across the city, especially in some of its formerly most abject precincts.

This transformation has not been a matter of luck or accident. It is the result of several mutually reinforcing factors. The most important trigger has been the city's demographic turnaround (alluded to above), as the impact of the post-1965 changes in national immigration law brought the largest wave of immigrants to New York since the turn of the last century. The very demographic forces that have exacerbated housing scarcity and price have also filled the city's neighborhoods—especially some of its worst—with new families who, despite their low incomes and unfamiliarity with New York city life, are determined to turn former slums into viable dwellings and vibrant, wholesome communities. The new demographics happened to coincide with the emergence of various municipal housing revitalization initiatives that supported the efforts of a number of aggressively creative development organizations dedicated to the construction and rehabilitation of low and moderate income housing. Among the most prominent of these are the Community Preservation Corporation, a nonprofit mortgage lender and development entity working in partnership with the city's banks (fulfilling their commitments under the Community Reinvestment Act), and the New York City Housing Partnership, an arm of the New York City Partnership, the city's leading business/civic economic development advocacy group. Completing this picture, the Giuliani administration (1993-2001) contributed importantly to the transformation in two key ways; by selling off the tens of thousands of tax-foreclosed housing units that were the most prominent physical mementos of the era of mass housing abandonment, and by drastically reducing crime rates, most dramatically in the poorest areas.

The importance of this remarkable improvement in neighborhood quality across the city cannot be overstated. For most New Yorkers, regardless of income, the increased livability of their own communities trumps virtually all other aspects of their physical environment – a fact documented in recent "quality of life" surveys (for example, a 1999 Columbia University School of Social Work study indicated that 71 percent of New York families rate their neighborhood "good" or "excellent,"up from 66 percent just two years earlier; and much additional neighborhood progress has been made since 1999). At the same time, we must recognize that under current circumstances, there is an inevitable tension between neighborhood revitalization and cheap and abundant housing. Why? Because the same intense pressure of increased housing demand that makes it hard for middle and low-income families to find inexpensive, decent apartments, also pushes them into formerly neglected sections of the city, where they now contribute to their reoccupation and redevelopment. Can New York City have both good neighborhoods and affordable housing simultaneously? Perhaps, but only under a set of highly specific conditions, which will be set forth later in this essay.

Another key distinction is between the "raw" quality of a dwelling as it is initially transmitted and the quality of the dwelling after improvements are made by its resident household. There is a tendency to assume that all improvements, and all serious maintenance, are the responsibility of the landlord (for rental units), or developer/previous owner in the case of owner-occupied dwellings. In fact, it has always been the case that the actual condition of housing everywhere is as much a reflection of the effort and values of its current occupants as it is of its current or former owners. This is an important distinction because it has an enormous bearing on the issue of affordability. One significant way that housing costs can be reduced – indeed, are being reduced all the time – is through "sweat equity." Sweat equity can mean as much as making major home improvements undertaken and financed by occupants (without any rent or price concessions), or as little as keeping a home clean and well tended (including painting, minor repairs, grounds maintenance, etc.). Although the lion's share of neighborhood and dwelling upgrading visible in New York today may be the result of organized development efforts, a large, invisible component is the result of residents' own efforts. I believe that we cannot have a truly thorough review of the ways that the city's housing can be made more affordable without addressing the possibility of increasing the amount of housing sweat equity by some substantial factor.

Finally, I would like to make some distinctions with respect to affordability; essentially following up on some of the issues posed earlier with respect to the definition of affordability. One distinction that needs to be made concerns the notion of the rent/income ratio as the only valid criterion of affordability. A high rent (or imputed rent for owner-occupied units) to income ratio might be quite acceptable and not be taken as evidence of a housing crisis under several circumstances. In the case of owned units in today's hyper-expensive housing market, clearly some portion of housing expense represents an asset investment calculation, with high current housing costs offset by anticipated capital gains. Even if current housing prices turn out to be inflated and, therefore, these anticipated gains do not materialize, this does not negate the point that home buyers agree to higher than normal carrying costs in hopes of future investment returns. For less affluent renters, the offset to high rent-income ratios are the savings inherent in key components of New York's municipal infrastructure. The most important of these is transportation. Indeed, in the traditional economics-of-housing models, housing and transportation are often treated as "joint goods," with the assumption that as transportation costs (for recurrent daily trips) diminish, dwelling costs must rise. In the context of New York, the near universal access to inexpensive mass transit, as well as a more comprehensive suite of social services than are available in New York's suburbs or other cities, constitutes an implicit rent offset. The problem, of course, is translating these conceptual adjustments into an imputed rent/income ratio that could be documented and tracked.

Objectives and Implementation of an Enlightened New York City Housing Policy

Given the foregoing analysis, I suggest that any housing policy for New York City should be grounded in the following three axioms. First, only the private sector can build enough housing to end the city's housing crisis. Second, housing is a private good and must be developed with a strong regard for the preferences of housing consumers and the financial imperatives of housing developers. Third, while all New Yorkers are entitled to find, somewhere within the five boroughs and at reasonable cost, the variety and quality of homes available to other Americans, this does not guarantee them the right to live wherever they want within the city, or the right to a home larger than they need.

Based on these axioms, what should be the specific objectives of an enlightened housing policy for New York City? And how much of such a policy agenda might require specific actions by the city or state governments? First and foremost, policy should be directed to dramatically increasing the rate of new housing development. What should the target rate be? Deriving the answer from both historical antecedents in New York City (as recently as the 1960s, housing production ran between 30,000 to 45,000 dwellings a year), and conclusions I draw from my "housing gap" studies, I would suggest aiming for an annual pace of 35,000 to 40,000 dwellings, sustained for at least a decade.

Furthermore, while all new housing development is welcome, regardless of its market distribution, it would be most desirable to have the lion's share of this stock to consist of new or substantially rehabilitated, unsubsidized, units targeted to the middle of the market (roughly, households with incomes between $40,000 and $125,000, that comprise half the entire city housing market), rather than to its higher or lower margins. Middle income households not only comprise the largest market segment, they are the ones that have been most neglected in the current housing environment of luxury construction for the affluent and subsidized development for the poor and near poor. More reasons to work for the greatest increment of development in the middle sector: Its spatial distribution can be more geographically expansive, taking advantage of the largest tracts of undeveloped (or lightly developed) land in Staten Island and the outer edges of Brooklyn, Queens and the Bronx, because middle income households are less dependent on mass transportation. Its cost—assuming that a large component of this development would consist of the kind of low to moderate density light frame construction preferred by many middle income families—would be considerably cheaper than the kind of high density construction characterizing much luxury and subsidized development. Its sustainable "shelf life" is greater than even the kind of superior subsidized housing being built in recent decades, and usually comparable to most luxury projects. Finally, middle market housing is not only less expensive to maintain through its occupants' sweat equity, it is more likely to be so maintained.

That said, what needs to be done to usher in a new era of high volume *unsubsidized* middle income development? I would begin with a thorough overhaul of the city's zoning map and development review process. The achievement of such a reform will also probably necessitate a relaxation of the city's environmental review procedures (CEQR) that align them more closely with those of New York State (SEQR). I am not advocating a wholesale abandonment of reasonable zoning and development review regulations; only their redesign to make it easier, faster and more predictable for private developers to build new one, two and three family homes, and two- to three-story garden apartment complexes across the five boroughs.

Local opposition to any changes in zoning and development review procedures is apt to be quite fierce, motivated by an array of fears regarding undesirable neighborhood change. While some of this potential opposition might be characterized as "NIMBYism," local fears should not be dismissed outright, or considered mere political obstacles that city officials are loathe to confront. The city's planners and political leaders must be sensitive to the basis of these fears, and attempt to allay them substantively without negating the nature or pace of reform. Where I would suggest the greatest sensitivity be applied is with respect to the scale and design of new developments. Local communities have a right to protect the appearance and quality-of-life of their neighborhoods, and may understandably be disturbed by new structures that tower over their homes or are blatantly out of character, by inappropriately sited commercial facilities, or poorly planned or excessive new traffic. Thus, the city might reasonably accompany a change in zoning and development review rules that will result in a higher density, or a greater variety of residential structures, with sensible height limitations and more stringent design standards. Such new standards, however, should be precise, unambiguous, and as-of-right (meaning they would not require interpretation or adjudication by a review board or process). It should be noted that not all zoning or development review reform would affect existing residential areas. Much of the city's inappropriate zoning is in its industrial districts, where opposition to reform usually comes from existing firms or the city's "economic development" advocates. Since New York is wildly overzoned for industrial uses, much of this opposition can be dismissed, and there does need to be sensitivity to inappropriate land use juxtapositions, as well as remediation of residual environmental impacts.

Other Policy Components

The cost and rate of new housing development is also affected by a number of other factors that could be ameliorated by changes in municipal (or state) policies. One of the ripest and most obvious targets is the much (and correctly) maligned municipal construction code. The Bloomberg administration in 2004 proposed replacing large sections of the current code with the International Building Code (IBC) operational in 44 states and every other municipality in the tri-state region. However, this reform proposal is currently stalled in the City Council and elsewhere, largely because of opposition from the building trades unions. I would strongly urge the administration to press forward on this initiative as quickly as possible, to end this municipal anachronism which makes housing construction in New York between 20 to 50 percent more expensive per square foot than anywhere else.

A more significant and costly undertaking is for New York City – to the extent that it is prepared to "invest" in affordable housing – to transfer its efforts in this domain from subsidizing dwellings or projects to building or rebuilding critical increments of the municipal infrastructure. Some sizable share of new development is retarded by the inability or unwillingness of developers to pay for the new infrastructure of roads and utilities required to open up undeveloped tracts in the boroughs, or to remediate brownfields. Historically, preparing land for development has been primarily a municipality's––not a developer's––responsibility, with the costs paid for by municipal borrowing and repaid through subsequent property tax collections. Next to zoning and development review reform, no municipal activity would so accelerate the construction of new, non-luxury housing as large-scale, publicly financed housing site preparation (as has recently been done on a limited basis to expedite new moderate income development in the Arverne area of the Rockaways). Such new ventures in infrastructure development need not be limited to new roads, utilities and brownfield remediation, but might also encompass rebuilding and upgrading of existing roads and – most beneficially – parks.

Finally, to the extent that New York's housing policy moves from a philosophical commitment of dwelling and household-specific subsidies to one of facilitating large-scale, unsubsidized new development, the city should consider abandoning decades-old requirements that make cross-subsidization of below-market dwellings a condition for approval of new private developments.

Conclusion

Essentially, what I am arguing for in this essay is for New York City to rejoin virtually every other American urban community in facilitating the increased availability of good quality and affordable (by the standards of the current overheated national housing market) homes—without direct municipal subsidies or imposed cross-subsidization—by making it much easier and more profitable for the private housing development sector to do the job.

As in other U.S. cities and most New York suburbs, this does not mean abandoning sensible development regulations and standards, just a reasonable regard for the housing preferences of New York's households, the financial imperatives of New York's builders, and the future amenity and appearance of New York's neighborhoods. That is the way, once and for all, to end New York's perpetual "housing crisis."

The Affordable Housing Imperative for America's Cities: Can Government Solve It?

James Stockard

I have been asked to write about what might be called the affordable housing imperative. Why is it that we should be concerned about the affordability of our citizen's homes? Or should we? After all, nobody does research or writes policy papers about automobile or TV affordability, though those ubiquitous commodities are owned by far more people than are homes. Stretching the question even further, why should some people advocate for a right to decent, affordable housing? After all, we live in a capitalist society where the market place is supposed to price goods appropriately for the full range of consumers. In the TV case, for example, we have fancy TVs for $8,000 and we have simple TVs for $50. Presumably, different TV producers have settled on different portions of the market for various models they make and have priced them profitably in response to the demand from those particular segments of the market. Nobody talks about a right to an affordable TV, at least in part because the market has produced an affordable TV of reasonable quality for virtually every consumer who wants one.

But housing is different. Indeed, many people (led by Sheila Crowley of the National Low Income Housing Coalition, Conrad Egan of the National Housing Conference, the late, highly respected Cushing Dolbeare, and the bipartisan Millennial Housing Commission) advocate for increases in the stock of affordable housing, while a significant number (Peter Salins, Howard Husock, the Heritage Foundation) take the opposite position. In this paper, I want to discuss one aspect of this debate—the soft side, if you will. Before I make this argument, let me first state clearly that there are a large number of statistical, economic, logical, political and policy reasons for supporting a wide array of affordable housing programs. To begin with, the overwhelming majority of affordable housing initiatives that have been put in place by the federal, state or local governments over the years have been very successful. At their very best (the Section 8 leased housing program is a particularly good example), they are invisible. Hundreds of thousands of households live successfully in privately owned rental properties alongside others of considerably more means. The program is good for the residents, good for the landlords, and good for the local economy. It is not the cheapest affordable housing program available, but its cost is modest compared to other alternatives for housing people of modest means. Increasingly, even if they are not invisible, developments containing affordable rental units are among the nicest properties in their neighborhoods. HOPE VI developments and properties supported by the Low Income Housing Tax Credit are good examples. A recent study by the Center for Real Estate at MIT found that mixed income, multi-family rental housing developments had either no effect or a very slight positive effect on the prices of surrounding single family home prices.[1] And, increasingly, we are developing homeownership, cooperative and affordable assisted living programs that are providing an even wider range of successful affordable housing programs. Like Head Start, we know these programs work for many, many people. The only question is why we don't make them entitlements, rather than lotteries where only a few can "win."

Secondly, it is well documented that the public subsidy provided to a low or moderate income household for a single apartment or home is substantially less than any of the alternatives available for those without homes – shelters, hospital and nursing home beds, foster children placements, mental health facilities and jails.[2] So we could, as a nation, save money by having a broader affordable housing policy.

But further, and this is critical, in most parts of the country it is simply not possible to produce a housing unit that can be afforded by the full range of the households in that place. This is why the TV analogy doesn't really work. The components that go into a TV set and the labor, advertising, distribution and sales costs are such that manufacturers can make a TV that everybody can afford. We cannot make a house that everybody can afford. Period. If a developer pays fair market price for land, fair wages for labor, fair costs for materials, complies with zoning and other regulations on the site, pays appropriate taxes and makes a reasonable (not greedy) profit, the cost that must be passed on to the consumer is simply too high for about 20% of our population to afford. So the market really can't solve this problem. For those unfamiliar with this data I suggest the publications of the Joint Center for Housing Studies (especially the annual State of the Nation's Housing reports), the National Housing

Conference, the Brookings Institution and the Urban Institute. *Meeting the Nation's Housing Needs – the Report of the Bipartisan Millennial Housing Commission* also documents our housing situation effectively. Other references are listed in the notes to this introduction.

I find these quantitative and logical arguments highly compelling. But I have been asked to write about an entirely other set of reasons for advocating a full range of affordability programs and even for a right to decent, affordable housing (as called for in the Universal Declaration of Human Rights[3] of the United Nations as early as 1948). The arguments I am about to make do not find their immediate support in census statistics or development pro formas or political trade-off arguments, though I will mention some of those in passing. They come, if you will pardon some grandiose language, from my own ideas about what I believe it means to be an American in the 21st century. I am pleased to be asked to write such a paper for this important study about housing in New York. Arguably (and this from a Bostonian), America is at its best in New York City. This is the city that has welcomed wave after wave of new immigrants to our shores and has, in spite of many bad incidents, generally helped those people to join the mainstream of American life. This is the most tolerant city in our nation. In the spirit of our fundamental concept of individual freedoms, New Yorkers live comfortably (most of the time) with the widest diversity of lifestyles of any place in the nation and perhaps the world. This is a city that knows both how to celebrate and how to mourn, and how to do each with the abandon and the dignity that they deserve. If there is a city prepared to think seriously about the rights of our citizens to adequate housing in the American urban context, I believe New York is that city.

So why do I argue that we should guarantee every American a decent home at a price his or her household can afford? There are many reasons. The simplest is because we should do it. But it is also true that it's in our self-interest to do so, and we can afford it. We also need to do it in part with public funding because the private market can't serve all our households without those subsidies. Finally we ought to take this policy stance because the arguments against it are so unresponsive to our fellow citizens and so unworthy of Americans, and because the alternative is intolerable.

Because we should. . .

We should do everything in our power as a society to assure that every American has decent housing at an affordable price in an appropriate location first of all because it is simply the right way to behave in a civil society, particularly one as wealthy as ours.

Let me begin with a very common expression of our responsibilities to our fellow citizens. The so-called "Golden Rule" is most famously stated in Christian texts. But the idea of "treating others as we would like to be treated" appears in various forms in nearly every form of religious writing, most self-improvement texts, many "How to Succeed in Business" books and throughout philosophical and public policy writing. I think it is not an exaggeration to say this is a principle with which an overwhelming majority of people in this nation would agree. And so the question is, if we were without adequate housing or the resources to procure it, how would we want our fellow citizens to deal with us? I think it's reasonable to say we'd like some help. The help might come in many different ways, depending on both our own situation and that of our fellow citizens. But, in nearly every case, we certainly would not like to be told that our lack of housing was exclusively our fault, or that the "market will take care of you." We would probably like to have people listen to our story and see if we didn't "deserve" some help. And in the worst case, that we had made some poor decisions that had led to our condition, and we might like a little understanding and at least a temporary helping hand to get back on our feet. We would probably get a little angry on hearing any of the standard responses from those who seem comfortable as citizens of a very wealthy nation that cannot reasonably house at least 20% of its people (or an even higher total of 28 million households, according to the Millennial Housing Commission).[4] If that is how we might feel, then the "Golden Rule" principle suggests we need to find a positive response for those among us who pay far too high a proportion of their income for housing, or who live in overcrowded conditions or who put up with very substandard housing or who must live many miles away from reasonable work opportunities.

Another widely held principle of human interaction is that those of us who are able to do so have a responsibility to care for those among us who are not able to take care of themselves for some reason. One element of this care is surely shelter. An overwhelming number of those with inadequate shelter in our society are people who even the most hardened capitalist among us would agree are "worthy" of our care. They are children, not yet able to take responsibility for their own housing. They are senior citizens, no longer able to bear the cost of adequate housing, particularly if they need social or health services in addition to basic housing. They are our fellow citizens with mental or physical disabilities who do not have the earning capacity to compete in the housing market. They are single parents escaping from abusive relationships who are temporarily without the capacity to earn enough to pay for both child care and decent housing. Who among us wants to tell these people they should "work harder" or "uproot your children, leave your friendship networks, quit your job and move to where you can afford the housing"?

Clearly it is true that some of the people who do not have decent homes are in that situation because they have made some poor choices in their lives. This reality demands some more complex questions. Which of us has not made a poor choice at some point in our lives? For those of us with access to more means, we have usually been able to avoid the more serious consequences of those poor choices. Who among us is willing to say that if you are poor and make a bad choice, you ought to be condemned to pay half or more of your monthly income to live in overcrowded or dangerously inadequate housing, while if you are part of the middle or upper class and make the same poor choice, there should be no consequences? Not I. I do not argue that we are our "brother's keeper." But I do believe, and I am convinced most Americans share this belief, that we all want to be part of a civil society. If so, we owe each other certain things. Some are codified in the Constitution. But others are just as vital—civility, a basic level of trust, a genuine concern for the general welfare, and a generous spirit. It is the unique genius of the American culture at its best that it is able to make room for great individuality and broad caring for one another at the same time.

Another argument for assuring affordable housing for everybody in our nation is the simple question of justice. There is not likely an American living today whose parents, or grandparents, or uncles or some other family member did not receive a subsidy or helping hand of some kind in securing their housing. It may have been assistance from an employer, or from a church or a fraternal organization of some kind, or even a friendly banker who stretched out the terms of a mortgage more than most bankers would. But even more likely is that it was assistance from the government (that means us taxpayers)—directly in the form of income tax subsidies, or guaranteed and secondary market-facilitated mortgages, or indirectly in the form of highways to open up new land for development, or grants for infrastructure construction to reduce local taxes. Those homes, with values enhanced primarily by public actions, are often the basis of our own wealth in this generation. Why, if our ancestors received all this help in building the wealth we enjoy, should the children of others be denied similar assistance?

Related to justice is the question of fairness. As many others have cited, we spend far more money as a nation to subsidize homeownership for middle- and upper-income families than we do for families who are poor and part of the working class. The 2002 figures show an annual federal income tax forgiveness of approximately $120 billion for homeowners who are wealthy enough to make it worth their while to itemize their deductions (note that lower income homeowners do not get to take advantage of this subsidy, making it a particularly clearly targeted tax break for the wealthier among us). The total annual direct subsidy for affordable housing programs in the nation is approximately $34 billion.[5] Of course, the income tax benefits serve many more people, and it is an entitlement, not a limited subsidy, so it stands to reason it would be larger. But, using some rough estimates, it's not hard to calculate that if you live in a home valued at more than $250,000, you get a larger annual subsidy from the public than an individual resident in a typical public housing unit. I am not among those advocates who disparage the homeownership tax deductions. I think it's a reasonable program that has helped many Americans achieve their dreams and build wealth. But I am interested in fairness. Why should we be interested, as a civil society, in providing a larger housing subsidy on an annual basis to a wealthy family living in a million dollar mansion than we provide to a single parent working two jobs to pay for housing and day care for two children, or to an aging grandparent whose corporate pension went bankrupt, or a new immigrant family hoping to participate in the American dream in the way our families did one, or two, or ten generations ago? That's not the American housing policy I want to support. The National Association of Realtors, hardly a bleeding heart liberal organization, says "Housing costs are dividing America into two nations – one of 'housing haves' and one of 'housing have-nots' who must scale down their expectations and make lifestyle sacrifices to afford adequate shelter."[6]

It is true that viewing decent affordable housing as a right would be a new step in national policy. But that is our history. As we have become wiser, more understanding and wealthier as a society, we have expanded the rights of our citizens. There was a time in our nation's history when we thought it was a bad idea to allow women to vote. There was a time when we thought slavery was a reasonable idea. There was a time when there was no right to a free public education for the first 12 years of school. There was a time when Social Security did not exist. I wonder where those who say today that the "market will take care of it" would have stood on each of these issues as leaders with an expansive view of a civil society sought to broaden the rights and opportunities of all our citizens. Perhaps they would have argued in those earlier times that "corporations will take care of education if they need it for their workers" or that "families will take care of their senior members" or that "allowing women to vote, since most of them are not educated, could lead to serious negative consequences for our society." This may be another moment in our history where we must decide to imagine a better future for our society and act to bring that future into reality. Capitalism has worked rather well for our nation in many respects, but surely one of the responsibilities that comes with the benefits of such a system is the obligation to make sure everybody benefits at some basic level from the wealth the system creates. We need to keep lifting that level as we move forward.

Because it's in our self-interest . . .

But suppose you don't like the "Golden Rule" arguments. Suppose you feel, and many take this position quite consistently and philosophically, that a society works best if everybody acts in their self-interest. The argument here is that self-interest will include taking some actions that you don't really like, but they will act in your long-term interest. "Don't spit into the wind," for example.

If this is your line of reasoning, then you should be a significant supporter of subsidized housing programs. For it is clear, both from data and from common sense, that the better housed the population in your community, the happier you will be. You will pay lower taxes, breathe cleaner air, be better served by the public employees in your town and enjoy a healthier economy. Let me explain.

Everybody has to live somewhere. Two thirds of Americans own a home of some kind. Most of us in that category benefit from the previously mentioned housing subsidy accorded to homeowners through savings on our income taxes. About 15% or so of us have adequate incomes to comfortably afford decent rental quarters and choose that tenure for various reasons. Another 5 % of us benefit from the direct or indirect income-restricted subsidies attached to the homes we live in or to our households. Others (including some owners) struggle to compete in the market place with no subsidies, but manage to survive somehow. But what of the rest of the population? The very young whose families cannot care for them (often because they can find no adequate and affordable housing) move to foster care situations—with human service subsidies from us taxpayers. The young adults who are in college typically cannot afford housing in their university communities and live in dormitories—with interest rate subsidies from us taxpayers. Senior citizens who did not have the good fortune (many times through no fault of their own) to have enough resources in retirement to pay for their own homes live in nursing homes or assisted living complexes – with Medicare or Medicaid subsidies from us taxpayers. Those with a physical, mental or emotional disability, who typically cannot (again, usually through no fault of their own) afford to compete in the marketplace must either gain entry into one of the inadequate number of facilities designed and subsidized for them, or they must live in institutions of one sort or another—with disability subsidies from us taxpayers. And a few of our troubled citizens who commit crimes (not a few in order to find the resources to pay for housing) end up in jails—with criminal justice subsidies from us taxpayers. And the level of these subsidies? As indicated in an earlier footnote, every single one of these other options is more expensive than providing simple housing subsidies. Most of us understand the concept of spending in one area of our personal budget in order to save more in another. We bite the bullet and put new double glazed windows in our houses because we know that our utility bill will go down and in a few years we will have more than paid ourselves back for the investment. We tighten our belts and pay for that extra education because we anticipate that it will pay off in higher salaries down the road. Why can we not understand that increasing the housing budget will pay us back as a society with reduced costs in many other areas of our budget?

At this same scale, we tend to forget that the housing industry is a tremendous economic stimulus for our nation. By its very nature, housing is one of the best examples of the multiplier effect of public dollars. It is an industry where profits are generated at every imaginable location within the process. Every house that is built includes in its final price payroll and/or profit for the land seller, a team of architects, engineers and other designers, developers, general contractors, subcontractors, materials manufacturers and suppliers, equipment renters, truckers, lawyers, lenders, local and international insurance companies, marketing specialists and sales agents to name only some of the actors. If the home is for rent, it further stimulates the property management and maintenance industries. And whether for rent or for sale, the house is a continuing source of capital for the insurance, real estate, maintenance, security, rehabilitation, and lending industries. The National Housing Conference estimates that the construction of 100 units of multifamily housing generates $5.3 million in new income to local businesses and workers in the first year of construction and $2.2 million every year thereafter. The development creates 112 jobs in the local community during the first year of construction and 47 jobs every year thereafter. And it generates $630,000 in additional local taxes and fees in the first year of construction and nearly $400,000 every year thereafter.[7] All of these beneficiaries of the residential development process are private, profit-making sectors of our society (or the governments of our local communities). The subsidies that stimulate the construction of these homes are typically a small fraction of the money that flows into these industries. And even when it is a large portion of the cost of the home, the money barely touches the hands of the resident or the developer until it is paid out into one of these corporate enterprises that are the backbone of our economy, and that many of us work for. How can this be a bad thing? "Self-interest" would seem to suggest that any time the marketplace cannot satisfy a particular housing need, we should add a few resources to fill that need, because those resources will flow right back into the economy, and perhaps even into our own pockets.

One of the most disturbing aspects of the mismatch between housing costs in many communities in America and the people who work in that community is our failure to accommodate the public servants that give our communities many of their best qualities. In an overwhelming number of places in this nation, school teachers, police and fire officers and public works employees, especially at the beginning of their careers, cannot afford to live in the communities they serve. This creates several problems. First, it may diminish the quality of service. When fire and police officers live several towns away, they cannot respond as rapidly as they could in emergencies if they lived where they worked. When teachers must commute for an (often frustrating) hour before they get to the classroom, it's unlikely they teach as well as if they could walk to work. This disconnect also fails to breed loyalty in public servants. And it may keep the community from getting the best people. New employees will not come if they cannot afford the housing and existing employees may be continually on the lookout for a job closer to the home they can afford. Of course, a community can always pay higher and higher salaries so employees can afford the housing, but that is a decision that shows up in the tax bill for each of us. Finally, I do not care for the message it sends when those who work for me in my town cannot live here. What does it say about me if I am willing to tolerate a community where the teachers who nurture my children, and the police and fire officers who protect me and the public works officers who keep my community clean can't afford to live next door? I am aware that many communities make this statement implicitly, if not directly. Any city or town that severely limits or eliminates land zoned for multifamily residential uses is taking this position. If such communities face each of the other arguments I have made here and say "We don't care. It's more important to us to exclude 'those kinds of people (renters? new teachers? young police officers?)' than to respond positively to these issues of the environment, efficiency, and equity." then I simply would respond that I would not choose to be a part of such a community. Thankfully, New York City has never even approached such a stance.

On the two coasts and in other large cities, we have begun to hear from the private business sector that housing costs in this nation are thwarting their opportunities to grow and be competitive. In many of our cities, industries of all sizes are finding they cannot recruit the best new employees and they cannot keep their old ones. The biggest single reason is housing costs. It is not a coincidence that Massachusetts, with some of the best jobs in the nation, but even higher housing costs, was the only state to lose population last year. To be a complete community, any place needs a wide range of housing types and costs. It has become clear after two hundred years, and particularly over the last half dozen decades, that our housing industry in this nation is simply unable to produce a product that is affordable to about 20% of our population. This means that many companies must move to an alternate location where the balance between wages and housing costs is more reasonable. Increasingly, this even includes moving certain operations or entire companies outside the US. And, of course, if we are paying attention to self-interest, there is always the chance that this company is the one we work for, or the one our child was hoping to work for. Or the one that is the major customer for the goods we make. Is this a price we want to pay for continuing to insist that "the market will take care of the housing issue"?

There is yet another element to the self-interest argument. Even the most diehard opponent of public subsidies generally agrees that public education is a good investment. Many may quarrel with how that money is being spent, but there is broad agreement that an entitlement to a free public education is a critical building block of our society. We also know that there are situations beyond the control of the schools that keep some kids from taking full advantage of the learning opportunities that exist there. One of the most debilitating of these is the problem of children who must move constantly and change schools several times within any school year. This is a common pattern among those who cannot afford decent housing. The solutions for a family with no access to subsidies are three—live in very substandard housing, crowd in with family or friends, or pay too much for your housing. Each of these is a temporary solution. For the most part, any particular solution only lasts for several months. Then the family must move to a new place. In a school year, this may mean moving three times. Three different schools, three different sets of teachers, three different sets of friends. The odds are clearly stacked against these children. Is it any wonder they do poorly in school, eventually drop out in many cases, and sometimes turn to less desirable sources for the stability and sense of belonging that young people need? Wouldn't it be in our best interests as a community to assure that we don't add residential instability to the list of problems with which children in poorer families must deal? Wouldn't it be more likely that many of these kids would make their way through the system and end up as contributing members of society if they at least had a permanent address in the midst of what might become a community for them? A few housing subsidies seem a small price to pay for those better outcomes.

Finally, we are becoming increasingly aware of the environmental element to the balanced housing idea. If more people can live in the community where they work, there is less need to drive. This means fewer cars on the street, cleaner air, fewer parking hassles, fewer accidents, and a generally healthier population. And even if we already live here, the added residents in the community may make it more reasonable to create public transit solutions that can relieve our own need to drive everywhere.

In sum, from either a charitable or a self-interested point of view, a full range of affordable housing options seems like something we should all fight for together.

Because we can . . .

America is the wealthiest nation on the earth. It is nothing short of shameful that there are citizens of our country who cannot afford to live in a decent home. If we were a poor and struggling nation, fighting every day to make sure our population had enough to eat, or that it had clean water, or that it was safe from marauding enemies, then I might be able to understand that we would have to wait a few years and make do with temporary housing. But that is not our status. There is no question that we have the money to make this happen. And I would be happy to discuss a wide range of ways to make it happen. I am among those who prefer incentives to tightly regulated and rigid programs. But I will not listen to arguments that "in these tight budget times" we cannot afford to assure that all our citizens have decent shelter at a price they can afford. That statement is simply false. It's worse than false. It's disingenuous. What we mean is "we don't want to help." We mean "we'd rather have a few more dollars in our own pockets than assure good affordable housing" or "we'd rather have more atomic submarines than affordable housing" or "we'd rather provide subsidies to tobacco farmers than affordable housing" or whatever other budget alternatives you want to speak of. I'm sure there are responsible people who would take each of those positions. As a citizenry, we have a range of priorities. But that is where the debate should center – not on whether we can "afford" decent housing. The dollars in our budget are not fixed. They are what we choose them to be, and the choices we make are just that – choices. Early last year the President asked the congress for $87 billion for the war in Iraq, and they approved the request. That is almost entirely new money. Regardless of your position on that particular expenditure, it is an example of the fact that we can find the money for something that is important enough to us. I believe affordable housing is one of those things. Doubling the direct housing assistance budget would cost only $30 billion. We can find the money if we want to. And those who don't want to spend some of our collective wealth on housing for those of modest means should be willing to stand up and say that, instead of hiding behind the "we can't afford it" excuse.

Further, we have an excellent housing delivery system in this country that does a very good job of providing what the market demands. It can build a very wide variety of housing types, in virtually any location at a reasonably high quality level. The only reason it does not serve the lower 20% of the population is that poorer households cannot produce what economists refer to as "effective" demand. So we need to add some subsidies in order to unleash the effective housing delivery system we have so it can serve all our people.

And, by the way, there is a small but very skillful and dedicated nonprofit industry tucked inside the housing system that exists solely to provide homes for households of modest means. They accomplish remarkable things even now in the context of a complex and regulation-ridden maze of housing markets. Imagine what they could accomplish with incentives aimed at them. They could move to scale, attract even more talented staff and begin to generate some of the efficiencies of scale the for-profit sector has used to build housing so effectively. But you can't get blood out of a stone. And you can't build a housing unit and rent it for $250 per month in the Boston area without subsidies, no matter what magic you use.

I visited Israel in 1968 and had a conversation with the Secretary of Housing for the then-20-year-old nation that I have never forgotten. By observation and some reading, I was aware that Israel had built three generations of housing for its new population in those two decades. That seemed remarkable to me. Many of those new residents had literally waded ashore with no more resources than the clothes on their backs. I was a young city planner in those days, still naive in the ways of housing finance and construction. I was anxious to learn what clever and innovative fiscal and technical systems they had used to accomplish this feat. "How did you do it?" I asked. His answer was puzzling at first and I thought he had misunderstood me. Then I realized that it was I who had misunderstood at a very fundamental level. He had looked me in the eye with a puzzled but very determined expression and said, simply "We had to, didn't we?" How I long for such an attitude in this wealthy and privileged nation of ours.

Because the private market can't do it . . .

One of the most passionate arguments from people who do not believe our public policy needs to deal with affordable housing is that "the marketplace will take care of it." Though this argument is, indeed, passionate, it is simply wrong. It ignores the facts, it ignores history, and it displays a remarkable lack of understanding of the ways in which housing markets operate on the ground in real cities and real neighborhoods.

First, there is the problem of actual costs. Our American housing industry, as diverse and resourceful as it is, simply cannot produce a decent house for a cost that some portion of our citizens can afford. The theory of the free market, as understood by this lay economist, is that when there is enough demand for some product at a price that makes it worthwhile for a producer to make that product, the product will be made and sold for that price. If the demand is insufficient, then the good will not be produced. But there are limits to the basic theory. If we go back to the TV example we began with, we can see these limits. Lots of people would like to have an even more inexpensive TV. But there is a minimum cost to make a TV, even a very basic one. It does not matter how many of us join together to demand TVs for $10, the TV industry will not make them for us, because it cannot. Getting the materials out of the ground (or wherever) and paying the workers (or maintaining the robots) to put them together and getting them to us consumers and making a profit simply cannot be accomplished for $10. So the "demand" of the marketplace is not simply a matter of the numbers of people who want something. A sufficient number of those consumers must be able to pay enough for the good to make it worth their while for somebody in the industry to produce such a good. A sizeable demand may even cause someone to find innovative ways to make the product for less than anybody has been able to make it before. But there is a limit. I'm not sure what it is for TVs, but it's well above $10. And for a house or apartment, this limit is well above what about 20% of our population can reasonably pay. Add it up – land, architects and engineers, money, fees and permits, labor, materials, insurance, taxes, marketing, brokerage fees and all the other incidentals. It is simply too much for lower income residents to afford, whether in rental or ownership form. It's vitally important to note that this conclusion is in no way an indictment of the people in our housing industry. I can't imagine any reason why they would not respond to this market if they could. After all, it would represent 20% more sales or rentals. But, in a capitalist system where people earn their living through profits, and where housing is made up of so many actors, each of whom must make a profit in order to continue to provide for their own families, it is simply not possible to make homes for everybody. It's not that they are the cruel caricatures that appear in "The Perils of Pauline." It's not that they won't do it or that they don't care. They simply can't do it. Of course, there are some shysters in the housing industry, as there are in every industry. There are people who gouge, and there are people who try to produce an inferior product for the price they charge. But I am willing to stipulate that is a very small part of the industry. And we have some other ways of dealing with them, including the market itself, when it is working at its best. The bigger problem is the structure of the system that simply will not allow the creation of a product our cities all need—decent affordable housing for people of modest means.

History demonstrates this is not a new condition. The private housing market has never responded very well to the lower income family or individual. For example, as many opponents of affordable housing point out, we are probably in better condition now than we have ever been on this count. In the 1940 census, 45% of dwelling units did not have complete indoor plumbing, and that number is almost too low to measure anymore. "Dilapidated" units are a fraction of their former numbers. Indeed, our housing delivery system has attended to many of the physical issues of inadequate private low cost housing (slums) over time—primarily through building and housing codes. It must be said, however, that the housing industry has had a mixed record on these codes. Leaders in the field have helped to develop some of them, while at the same time, some rank and file members of the developers and owners groups have also fought them and their implementation in many locales. It is unlikely the market would have produced these codes on its own. Regulations have been a necessary part of the process and, of course, markets are not supposed to need regulation. So the housing industry has never responded on its own to the needs of lower income residents, and I see no reason why they should start doing it now. As noted above, I don't think they can do it, even if they were unanimous in wanting to do it. But there is no history to make one believe they would do it if they could.

Finally, there is the most recent, and remarkably naive, argument from those who oppose affordable housing programs. They assert that the only reason the market has failed to deliver this low cost product is because it is constrained by a wide range of regulations and if "we" just remove those regulations, then the industry will take care of everything. It is as if these advocates thought that the meddling regulations they so despise were written on some set of tablets and handed down from some higher power. The regulations (zoning ordinances, subdivision regulations, minimum lot size restrictions, conservation rules, historical preservation restrictions, etc.) are a part of the housing industry because some set of actors in each community thinks they are important. Nobody thought them up in the middle of the night just to make things more difficult for developers. There is little question that each of them adds to the cost of producing a dwelling unit. Some of them provoke little disagreement – who among us wants to argue in favor of the money we could save by eliminating the lead paint regulations? Others create large debates, and evoke passion on both sides. The developers would love to eliminate the Davis-Bacon wage laws, but organized labor, one of the staunchest supporters of housing legislation in our legislative bodies, believes that paying working people decent wages is among the most basic of American values. Still other regulations – large-lot zoning or minimum square footage codes — are arguably racist or "classist" in their effect, and perhaps in their intent. But even these latter have been put in place by people who feel strongly about their right to shape their community. And regardless of how the rest of us may feel about those anti-growth regulations or others that impede the construction of lower cost housing units, they are a real part of the market. Market advocates who say we don't need subsidy programs because an unconstrained market will solve the problem are either naïve in the extreme or shockingly disingenuous. As long as our society leans so strongly toward local control, it appears those local citizens will make regulations to stop developers from building multifamily structures and other homes that serve lower income citizens. That is the market. It's not an aberration that will go away in a few years, or will crumble in the face of a single strong and articulate advocate.

In theory, there are three ways to deal with this situation. One is to mandate the removal of these code restrictions from above. Only three or four states have undertaken this strategy, and only Massachusetts can demonstrate real success. And the statutes that sustain this control from above (through a state power to override local zoning) are annually under attack in the legislature from local communities. As a nation, we are not comfortable with this sort of regulation from above and there is certainly no reason to believe this is the path to solving our affordable housing problem in other than a few selected cities and states. The second strategy is to offer incentives to the cities and towns to remove the restrictions in the codes. Most of us would see this as the best strategy, including myself. Again, in Massachusetts, there is a movement to try this. The Commonwealth Housing Coalition has put forward a proposal that would actually pay towns to change their zoning to permit multifamily structures, a first step toward more affordable housing. The state would pay the towns for each new unit permitted, and then pay them again when the units were actually built. Finally, the state would cover the additional school costs for children living in the newly permitted units. The state legislature has passed a bill that would implement the first two payments under this proposal, and they are studying the third component. So this new incentive program seems to have a chance of becoming reality. With great discretion left to the local communities to plan where and how they would like to see affordable housing built in their city or town, this plan makes a great deal of sense to me. I see only two problems. First, it is a subsidy. It is "messing with the market." Of course, that's not actually a problem for me, since I don't think the market is perfect. But for the strict proponents of an unconstrained marketplace, I fear this would not be acceptable. And second, it is an indirect and more general subsidy. It will, in the long run, cost more money and take more time to accomplish the goal in this way. I would support such a program, but in order to make progress at the rate we need to, it would take very large commitments of money. And, lest the point not be clear, this is a state program. What about those with serious housing needs in the other 49 states?

Finally, the third theoretical way of dealing with the imperfect market is to subsidize individual housing developments, or citizens of modest means. But that's where we started. And, of course, it's where I think we need to be. Subsidies, in some form or another, need to be inserted into the system in order to help it complete its work. Let me just point out that the vaunted market system is continually receiving subsidies in most, if not all, of its other components. Most advocates of the free market had no problem supporting federally guaranteed loans for the Chrysler Corporation when it was failing the market test. We continue to pay farmers and tobacco growers and any number of other members of the agricultural industry to not produce goods in order to keep the price artificially high so that other producers can make an adequate profit. Many free market boosters have no problem with high tariffs that will protect our steel or other industries from international competition (I always thought competition was what the marketplace was supposed to be about – bring it on and let the best company win). And on and on. It's a bit of a puzzle. Why are subsidies all right in some parts of the market, but not in others? I fear the answer. And I will comment on it below. For now, I'll chalk it up to inconsistency.

I propose a small contest. Let the market advocates pick five communities of different sizes across the nation. Let them have five years to get all the "constraints" on the market removed. If at the end of the five years, affordable housing units are being built at a pace that will meet the need in those communities in the next five years, I will yield and stop talking about the failures of the free market system. And if they can't meet that test, they will join me in a passionate and sustained fight to get our Congress and whatever administration is in the White House to appropriate the level of funding that is necessary to assist our market-based housing industry to meet all the needs of the nation's citizens. Sadly, there is no question in my mind that I will win this "contest."

No, the marketplace is not going to produce the decent homes that can be afforded by the lower income families and individuals of our nation. It never has, and there is no indication that it will ever be able to. In large part, I don't believe it can, given the structure of our housing delivery system and the market that is at its core. So we must fix it, for all the reasons addressed above.

Because the arguments against this program are so unresponsive and unworthy of Americans…

There is a litany of excuses for why we shouldn't have programs to assure affordable housing. Each one is more inaccurate and more mean-spirited than the last.

For starters, these arguments typically get the facts wrong. They use misleading data. They use old data. They use selective data. They cite vacant public housing units as a sign that demand has been satisfied without discovering why those units are vacant (woefully inadequate capital repair funding) and without mentioning waiting lists (typically twice the number of units in the local portfolio). They tout the small numbers of dilapidated units and units without plumbing in the private stock and say that the "need" has been met without looking at questions of overcrowding and, most importantly, cost. These arguments are guilty of what theological scholars call "proof texting." That is, if you have a theological point you want to make, and you look hard enough, you can always find a piece of scripture, often taken out of context, that appears to support your point. Among theologians, "proof texting" is an approach unworthy of even scant discussion. The same should be true in the housing field. Looking for the one or two pieces of data, ignoring context, and using them to support a point you have decided you want to believe is intellectually irresponsible.

Other arguments continue to proclaim that the market will take care of the problem. See the section above for a response to misguided reasoning.

Another strategy of opponents of housing programs is to divert attention from the real issues by arguing that the public sector is incompetent to run these programs. The government is always easy to blame. Most folks will rally around such an argument without examining it. But it is beside the point. Only one substantial housing program in our history – the public housing program – has placed public agencies in the direct development and management business. All other programs have turned to the private sector, either nonprofit or for-profit. And the public housing program has opened up considerably in the last decade. Nearly all of the new public housing Hope VI developments across the country are joint ventures led by private, for-profit developers. And virtually all of them are managed by private sector property managers. An increasing number of public housing agencies are contracting with private entities to manage their properties. Even at its worst, the public housing program was far more maligned than it deserved. President George H. W. Bush's Commission on Severely Distressed Public Housing found that only 6% of the 10,000 public housing sites across the nation were significantly troubled. Let's suppose that was a generous estimate. Let's double the number. Call it 12%. Suppose every program, public or private, that was less than 88% effective were cancelled. I suspect that some public programs people like a lot (road and bridge maintenance, police and fire protection) might get cancelled, and that the increase in bankruptcies for private sector businesses might increase a great deal.

The largest housing production program in the nation at the present time, the Low Income Housing Tax Credit, is administered not by HUD but by the IRS (another public agency). Its primary users are for-profit developers. And its recent renewal and extension was avidly supported by a wide range of developers, including many of the largest for-profit actors in the industry. And the investors, mostly Fortune 500 companies, were unanimous in their support, as well. There is no question that there have been weaknesses in the public administration of housing programs, but we have increasingly learned how to fix those weaknesses. To say that we should not have housing subsidy programs because the government will run them poorly is to badly miss the point of the discussion, to misunderstand the current situation and to (consciously?) divert attention from the real issues at hand. If a particular public agency is performing poorly, it should be disciplined, or reformed. If a particular program is overregulated, it should be modified. The public sector is not some "other" dimension over which we have no control. Even more basically, I have no brief that affordable housing programs must be run by the public sector. If the most effective way to run these programs is to provide incentives to private entities, for-profit or nonprofit, so be it. The goal of affordable housing programs is not the support of particular public agencies or programs. It is the provision of decent housing for all our citizens at the most effective cost possible. Claiming the public sector will mess things up is neither relevant nor responsive to the question at hand—how to keep the promise made in the 1948 Housing Act: "a decent home in a suitable living environment for every American."

A particular case of this spurious argument about the public sector is to be hopelessly out of date about the current nature of housing programs. For example, anti-housers often like to lament the scurrilous subsidies that permit families to live in godforsaken highrise buildings. No federal dollars have been allowed for such housing since 1971. We learned that lesson, but the opponents of housing subsidies see it as an easy target, so they keep it alive. People like to complain about "Section 8 neighborhoods" where a large number of apartments are rented to households holding Section 8 Vouchers. Yet the regulations and guidelines of the program explicitly state that such concentrations should not be allowed to occur. The reason they do occur in a few isolated situations is that private sector landlords in some neighborhoods practice (illegal) discrimination against Section 8 voucherholders. This means such families and individuals have little choice other than to cluster in those locations where they can use their certificate. Could Housing Authorities stop this by setting limits on the number of certificates they allow in a particular neighborhood? In theory, yes. But in practice, that means condemning a number of households to being unable to find housing with their voucher and having to return to their overcrowded or overpriced unit (where the landlord will not participate in the Section 8 program). Voucher-holders, advocates for low income residents, housing authorities and most reasonable citizens agree that where overconcentration of Section 8 voucher holders occurs, it is unfortunate, but an unavoidable consequence of the way the private rental market works, not the way the program works.

Another beside-the-point argument is that citizens don't want to pay for the costs of affordable housing subsidies. This argument suffers from several flaws. First, it's not at all clear that taxpayers won't support such programs when they are asked about them explicitly. For example, in a poll conducted among 1,000 residents in the Chicago metropolitan area, 83% of the respondents said they strongly (59%) or somewhat (24%) agreed that we should put more tax dollars into providing affordable homes and apartments for moderate and low-income people because decent housing is a basic human right.[8] In the last several years, taxpayers in San Francisco and Seattle, just to name two larger cities, have passed large tax levies or increases specifically for the purpose of funding affordable housing. In Massachusetts, where the legislature allowed cities and towns to increase taxes for the purposes of funding affordable housing, open space acquisition and historic preservation (with 10% of the money mandated for each of the three uses and 70% available to be divided at the community's discretion among the three), 40 communities passed the legislation immediately and 35 more have adopted it in the three years since passage. In the first year of the program (known as the Community Preservation Act), a number of communities used the 70% in discretionary funds for open space preservation. But others in the first round and nearly all of the communities that have passed the Act in later years have emphasized affordable housing in their use of the funds.

Second, "taxpayers" are almost never asked this question at the national level (which is where the substantial subsidies that are required for this effort should come from) and rarely at even the state or local level. How would we know what the taxpayers feel about this sort of spending? In one poll of 1,952 people across the nation in 2001, 75% actually said they did favor spending more for housing for poor people.[9] What is really going on with this argument is that anti-housing advocates are extrapolating from the success of anti-tax legislation in a few states to an assumption about how people "must" feel regarding particular issues such as affordable housing. Do these same advocates argue that people are opposed to paying for fire protection or schools, or the U.S. military which are, after all, subsidized 100% and are paid for with the same tax revenues that they assert people do not want to spend? I think not. (And, by the way, if we had no income tax subsidy for homeowners, would this same group argue that the population would reject such an expensive—$120 billion dollars—program if it were proposed today?)

Yet another argument, an even more unworthy one, is that poor people who have a housing problem are a very small portion of the population. In many cases they make this argument after undercounting the number of such people substantially. In other cases, they just argue that 20% is a small fraction to be concerned about and our system works pretty well if it takes care of 80% of the people, so that's about as good as we can do—"No system can be perfect," they argue. How can this be an acceptable argument? How can we agree to the notion that some of our citizens should live in intolerable conditions or pay so much for their housing that they cannot afford to feed their families well or clothe them, or provide for health care or buy a few books for their homes? And besides, if it's really such a small number, that should mean it won't cost that much to do it? What is stopping us?

Finally, and most embarrassingly, many of those who argue against subsidies for people of modest means spice their positions with language that demonizes the poor. They refer to those who need subsidies as "single-parent households," "substance abusers," "dependent families," "non-contributors" or worse. Some of these descriptions are factually accurate, but used in a demeaning way. When a woman leaves an abusive marriage for the sake of her children's and her own safety, she has created a single-parent household. Should we deny her and her family the help they might need to get back on their feet? When a mother of three dies of breast cancer her husband is now the head of a single-parent household. Is this a family to whom we should say "the market will take care of you" when the father must choose between decent housing and day-care costs? Let's be crystal clear. twenty-seven percent of the people in this nation with critical housing needs are senior citizens. They have made their contributions to our society and for a wide variety of reasons, mostly out of their control, they cannot afford decent housing. Another 32% of those who suffer from inadequate affordable housing are children under the age of 18. How can we justify telling them, through their parents, that they have to live in poor conditions? They have done nothing to "deserve" this fate, even if you believe that you need to "earn" the right to decent housing in America. Twenty-two percent are moderate- income working families, who simply do not earn enough to pay for the housing costs of a decent home in their community. Twenty-one percent of those with critical housing needs are marginally employed—in part-time or in minimum wage jobs. They are trying to make it, but just cannot earn enough to afford decent housing. A significant fraction of those with critical housing needs are people with mental or physical disabilities. They certainly did not choose these life conditions. They were born with them. What does it say about our society if we respond to such citizens with a callous "we can't afford it"? And what of the others? The 30% who presumably have landed in a position where they cannot afford decent housing as a result of poor choices they have made in life. As noted above, who are we to condemn them to all of the difficulties that arise when housing problems dominate your family life? Nobody is suggesting that those who need help with their housing costs should end up in mansions. I only suggest they are entitled to have a roof over their heads, heat in their homes, enough room to provide the privacy and shared space any family needs, and enough quality in the building to assure that it will not fall apart on them. How can we deny that to our seniors, our youth, our disabled, or even to our poor decision makers? The America I want to be a part of would make none of those statements. And those who suggest that anybody who needs help with their housing must have caused the problem himself or herself demean their own thinking processes more than the people of whom they speak.

The alternative is intolerable

If we do not provide the housing subsidies that will secure decent homes for all our citizens, we must face the reality of what we are allowing to happen. We must take full responsibility for the society we are creating. It means we are condemning nearly 20% of our population, the substantial majority of whom are elderly, children, mentally ill, disabled or otherwise "blameless" even in the eyes of the harshest critics, to live in places we would not consider living ourselves, or to pay a fraction of their income for a home that clearly compromises their ability to pay for other vital elements of a healthy family life. It means we accept the notion that some portion of our population will be homeless. Homelessness should be a matter of shame for all of us. Rather than a failure of an individual, homelessness represents a failure of our civil society and our ability to respond to those of our community who are struggling. It means we are willing to forfeit some part of our claim to be a world leader. How can we claim to be a leader among nations when, with all our wealth and all our conspicuous consumption, we cannot find a way to provide enough decent housing for all our people?

In the final analysis, I believe one of the most profoundly moral statements ever made about the public arena carries no reference to any religious faith at all. It was Hubert Humphrey who said: "The moral test of Government is how that Government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life, the sick, the needy and the handicapped." If we continue with our current housing policies, history will judge our Government and our society to have failed. I do not believe most Americans want to be so judged and I believe they will do what is necessary to be found to be a great society if only they are pointed in that direction by their leaders. To argue otherwise is to argue for failure.

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[1] Pollakowski, Henry O., David Ritchay and Zoe Weinrobe, *Effects of Mixed-income, Multi-family Rental Housing Developments on Single-family Housing Values*. MIT Center for Real Estate, April 2005.

[2] See, for example, a 1995 study by Almost Home, a New York City group. This showed the annual public subsidy for a public housing or Section 8 unit to be between $6,000 and $8,000 while public subsidies for a permanent home for a homeless person plus necessary services cost $12,500, a shelter cot costs $20,000, maintaining a person in prison costs $60,000 and a public psychiatric bed costs $113,000.

[3] See Fact Sheet No. 21, *The Human Right to Adequate Housing*, Office of the High Commissioner for Human Rights, The United Nations.

[4] *Meeting Our Nation's Housing Needs: Report of the Bipartisan Millennial Housing Commission*, 2002, Washington, page 2.

[5] ibid, Table 8, page 101

[6] Cathy Whatley, president of the National Association of Realtors, as quoted in the press release "Coalition urges congress to take specific action to alleviate the nation's affordable housing shortage." 2/10/03, Washington, DC.

[7] The National Housing Conference, Statistics Fact Sheet in press release "Coalition urges Congress to take specific action to alleviate the nation's worsening affordable housing crisis." 2/10/03, Washington, DC.

[8] The Campaign for Affordable Housing, 2004, "What we know about public attitudes and affordable housing: A review of existing public opinion research", San Francisco, page 45 Graph 28.

[9] ibid, page 25, graph 14.

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About the CUNY Urban Consortium

The City University Urban Consortium, based at the Newman Institute, under the direction of Ellen Posner, the former architecture critic for the Wall Street Journal, brings scholars in various disciplines throughout the City University of New York as well as their colleagues from other universities, together for continuing interdisciplinary dialogue about urban issues – which results in public programs and publications sponsored by the Newman Institute.

Consortium members represent a range of disciplines including: economics, architecture, urban design, planning, transportation/urban systems, anthropology, sociology, government, logistics and criminal justice. They work together to look at urban issues in ways that are particularly complex and revealing since they do cross disciplines. And this core group has worked with colleagues from Yale, Harvard, Princeton, Rutgers, and the University of Massachusetts at Amherst, the University of Chicago, and UCLA as well as with planners from Paris, London, Los Angeles, Beijing and Shanghai.

Consortium members were invited to sit in at the initial meeting that launched the Newman Institute's Affordable Housing Study. They later met together to discuss approaches and were then invited to bring their attention to the issues that were being explored so that they could comment from the point of view of their own disciplines. Included here are papers from Consortium members on the history of the idea that housing should be affordable ranging from the government's role to debates and policies and to thoughts about home ownership in our own city.

The Struggle for Decent Affordable Housing: Debates, Plans and Policies

Stanley Moses

This paper deals with the historical evolution of the commitment of society and government to adequate housing and how this commitment has evolved since its initial development during the Great Depression of the 1930s. The paper traces the history of early discussions of the "right to housing" during the New Deal period and after the end of World War II when there was an active interest in the development of an economic and social bill of rights. It compares this with attempts to develop such rights on the part of international organizations and in different constitutions of nations of the world. The creation of an intellectual framework for consideration of rights as a central aspect in the determination of social policy is considered. Arguments for and against the creation of a right to housing are considered. The evolution of housing policy as it shifts from concerns with slums, public housing and supply policies to concerns with demand policies and affordability has dominated events of recent years. Attention is given to the variety of housing policy tools and policies that have been developed in response to different perceptions of housing need and "crisis." Consideration is given to New York City as a case study of the variety of policy tools developed over the last 70 years, with special attention given to Mayor Bloomberg's "New Housing Marketplace Plan" and the "Report to the New York City Public Advocate: Affordable Housing in New York City" from the Steven L. Newman Real Estate Institute at Baruch College.

The Right to Housing

The right to housing, one of the original nine rights proposed by President Roosevelt in his economic and social bill of rights in 1944, is no longer at the center of political debate and has declined in political support in comparison with the struggle for other entitlements such as social security, medical care and education. Nevertheless, housing remains a major focus of societal concern and public policy, of government—national, state and local, drawing great attention and financial support—and a source of intense political conflict as different groups and interests seek to advance their agendas.

The question of a right to housing was debated by Chester Hartman and Peter Salins. In an issue of *Housing Policy Debate* (Volume 9, Issue 2, 1998), Hartman asserts the desirability of such a right in "The Case for a Right to Housing,"[1] while Salins responds with spirited opposition in an article entitled "Comment on Chester Hartman's 'The Case for a Right to Housing': Housing is a Right? Wrong!"[2] Hartman calls for the guarantee to "everyone of a right to decent, affordable housing," a goal that has been often stated in previous housing legislation but is still far from being achieved. He cites a 1985 document from U.S. Catholic bishops that asserts that "the rights to life, food, clothing, shelter, rest and medical care…. are absolutely basic to the protection of human dignity…. These economic rights are as essential to human dignity as are the political and civil freedoms granted in the Bill of Rights of the U.S. Constitution." He bases his argument on the explicit recognition of this right in many documents, such as the Universal Declaration on Human Rights, the International Covenant on Economic, Social and Cultural Rights and various other documents that refer to specific groups and their needs, such as children, women and the disabled.

While Hartman cites the precedent of the right to housing as established in human rights texts and national constitutions, he admits that advocacy of such a right has not been accepted by U.S. policy. In fact, most recently, at the 1996 United Nations Conference on Human Settlements, the U.S. State Department resisted attempts to garner U.S. support for such a right, instead asserting that it "must make clear for the record that the U.S. does not recognize the international right to housing," instead settling for a weaker assertion of "full and progressive (as opposed to prompt) realization of that right in the context of other international documents."

While U.S. policy has not adopted a full commitment to a housing right, it has instituted a variety of policy interventions that have created more housing for different needs. The language of legislation has stated these goals in terms such as low rent, public housing, decent home, suitable environment and slum clearance and, most recently, the concept of affordability. But achievement of the goals of housing legislation has been hampered by the restrictive nature of the commitment to goals, the lack of a legislated entitlement, and the resistance of the Congress to appropriating monies needed to achieve these entitlements. Currently, progress in achieving housing goals is stymied by an "affordability crisis" that exists despite great progress being made in the past.

Housing policy has shifted in concept, formulation and program development since the 1949 Housing Act, but there is no established right, both as a goal and in terms of the policies developed. Hartman acknowledges the creation of a variety of measures that have afforded more opportunity and housing, such as antidiscrimination measures, public housing programs, Section 8 housing vouchers, increased mortgage financing through the Community Reinvestment Act, and homeowners' income tax deductions. But he cites a figure of one third of American households as being ill housed and believes that current efforts to improve housing will lead to results far short of what is needed. Therefore, he advocates the creation of an entitlement and right to housing.

Salins completely rejects the above arguments in his response, "Comment on Chester Hartman's "The Case for a Right to Housing: Housing is a Right? Wrong!" Salins argues "the creation of such a right is both politically and fiscally unfeasible" but even if practicable would be "a terrible idea." He believes that the housing market can function well for all but 5% of the population. Even if society possessed the means to implement a right to housing it would be undesirable because government intervention would undermine what he considers to be the outstanding accomplishments of the U.S. housing market.

Salins decries the past effects of government housing policy and faults it for abetting pernicious effects of class and race discrimination, destabilizing inner city neighborhoods, and encouraging undesirable actions by local governments and private developers who benefit from existing housing policies. At the same time, he argues that these policies have undermined the development of a free market for housing and often hurt the very people who were supposed to be the beneficiaries. In denouncing the goal of a right as being undesirable and unnecessary, Salins calls for eliminating those housing policies that interfere with the free market for housing, such as rent regulation, municipal zoning codes and building regulations.

The arguments of Hartman and Salins are directly opposed to each other, leading to very different planning and policy proposals. While they focus on the single issue of government housing policy, their orientation stems from a fundamental disagreement on rights, entitlements and the functioning of a welfare state economy. Their arguments also have implications for other areas of social policy, such as employment, health and education. Hartman concentrates on the right to housing because he believes it to be "the central setting for so much of one's personal and family life as well as the locus of mobility opportunities, access to community resources, and societal status." Salins opposes the focus on housing as undermining the effective functioning of the housing market while also causing undesirable behavioral changes in the recipients of housing aid.

Housing As Not So Important; Only One of Many Needs

In a similar vein, James Carr, in his article "Comment on Chester Hartman's 'The Case for a Right to Housing': The Right to Poverty with a Roof—A Response to Hartman," argues against this emphasis on housing, asserting that housing "addresses the symptoms and not the cause."[3] Rather, he states "government should focus on enforcing existing individual rights and creating opportunities where feasible and possible so as to aid every American to achieve his or her full or productive potential as a human being." Carr argues that housing is the "wrong right" and instead calls for avoiding the Band-Aid goal of "poverty with a roof" by focusing on efforts to provide equal access to transportation, education and employment, which will in the long run create more opportunities for economic and social mobility and lead to improved housing.

Carr's criticism of the focus on housing is at least partially a result of disenchantment with the historical record of government support of social housing programs, especially low income, government-owned-and-managed projects. Much of the optimism and social idealism of the early "housers" stemmed from their belief that the battle against slum housing would eliminate the worst aspects of poverty, crime, violence and unsanitary conditions that existed in industrial cities. The housers believed that eradication of slums was the central task of their generation. For them, the task was relatively simple—destroy the slums and create decent and sanitary housing for poor persons.

Housing was the key issue that it was necessary to address in order to improve the quality of life of the great mass of newly urbanized Americans—the displaced rural population and the newly arrived immigrants crowding the cities. Their observations led them to the belief that nothing short of massive public construction and enlargement of the housing supply could achieve such goals, a belief reinforced by the realities of the Great Depression of the 1930s.

The Attack on the Welfare State

At this period in American history, however, we are witness to the disenchantment with and erosion of the dreams of the early housing reformers. Public housing projects are thought of as centers and breeders of crime, violence and drug addiction, also viewed by some critics as being "market distorting and dependency inducing," not meriting the support of society and public policy. This change in the climate of opinion has resulted in the fact that at this time no new public housing projects are being built.

The provision of housing, previously viewed as the basic necessity and requirement of life, is now viewed as not sufficiently responsive to the major needs and problems of the poor and society. Consequently, we have in the last 30 years seen a shift from supply-oriented measures that focus on large scale public housing construction to a number of demand-oriented initiatives that are meant to stimulate some "affordable" housing for people with low incomes. This has led to national and local laws and new initiatives that include antidiscrimination measures related to sellers, renters and the practices of mortgage lenders, the implementation of housing codes designed to eliminate substandard housing, and the creation of housing subsidy programs that will be available to people with low and moderate incomes. This has also resulted in the creation of assistance programs, such as Section 8, creating opportunity for tenants to be charged no more than a fixed percentage of their income, a subsidy based on the concept of "affordability" that results in tenants being dispersed rather than concentrated in public housing projects.

History moves us forward, creating its own dynamics of ascendancy and decline as different ideas conflict and vie for recognition and dominance. Certainly, in the immediate postwar period following the New Deal era of the Great Depression, the idea of an economic bill of rights gained great support. However, the successive half-century of experience in the planning and implementation of different entitlements has tarnished the vision of the rights society and undermined its hold on the popular political imagination. This is evidenced by developments in both the courts and the legislatures at national and local levels.

A prime, more recent example is the 1996 law, the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," which removed the guarantee of an entitlement to public assistance. Also, the U.S. Supreme Court in San Antonio School District v. Rodriguez in 1973 rejected the existence of a federal constitutional right to education, asserting that such a right, if there is one, exists only at the state level. The goal of a right to employment, which was a central part of the legislative struggle for the Employment Act of 1946 and the Humphrey-Hawkins Full Employment and Balanced Growth Act of 1979, was only passed after the elimination of the rights guarantees of the earlier bills. These three issues, public assistance, education, and employment, reflect the changing climate of opinion that has in the last 30 years affected arguments for rights guarantees, a trend that also has important consequences for housing.

The Special Case of Housing; Why Housing Is Different

The case of housing, however, presents a more complex and unclear rendering of events that is reflected in the 60 years of evolution of housing policy since the end of World War II. Housing policy, at the national, state and local levels of governmental policy and administration, mirrors the achievements of fragile coalitions that advocate different housing policies reflecting the interests of owners, renters, developers, nonprofit groups, political leaders, the disadvantaged, and the broader general public. The support of different solutions to the goal of "a decent home and a suitable living environment for every American family," as stated in the Housing Act of 1949, is an example of policy development in flux, accommodating to changing needs and the realities of political power. Hence the shift from supply- to demand-oriented policies, from public housing to affordability, from the battle against the evils of slum housing to the struggle for decent and sanitary housing, from the notion of public ownership of housing to providing subsidies for the deserving poor, from a specialized concern with housing to the goal of community development.

These shifts in emphasis have occurred separate and apart from the usual alliances of politics, with support of housing policies that provide for and satisfy different needs and interests. Money, profits, the building of housing, the revival of communities, and the enhancement of political fortunes— these are all part of the mix and amalgam that has emerged at the current time. And there is support for "affordable housing" as a general goal and part of the political mobilization of support to get things done. This is far from a universal right, but nevertheless a step forward in the struggle for an increase in government support of housing.

In contrast to most arguments for and against the welfare state, rights and entitlements, the history of housing policy reflects very different outcomes. This is because of the complexity of political forces that have struggled for a governmental commitment to housing interventions and policies in a manner that does not conform to the usual conservative-liberal or market-interventionist debates relating to the role of government. There is a general understanding of the fact that housing is unique in that it involves a great portion of the wealth and assets of the nation, that the availability of adequate housing and a decent environment affects the well-being of society in a fundamental manner, that housing is a major factor in stimulating economic growth, and that the availability of housing has a major influence on jobs, community health and family stability. Furthermore, there is also general agreement that the free market and the housing industry will fail, without government intervention and support, to achieve desirable goals of adequacy for large numbers of the population.

This consensus, while its focus has shifted and changed since its inception in the 1930s, has led to continual governmental intervention in a variety of manners to affect housing policy, including measures such as grants, subsidies, direct payments, special tax code measures allowing for the creation of tax expenditures, and the creation of a specialized housing finance system that increases access to mortgage loans. Specific policies resulting from these policy interventions have been altered and modified over time. New policies have been created as a reaction to changing needs and interests and the new realities that have confronted planning and policy. But the basic commitment has remained firm, as have the fundamental goals and practices—to increase the supply and quality of housing available to the large number of Americans who would not otherwise be satisfied by the housing market.

There is no commitment to a "right" to housing, however the various interests of the society—capital, labor, federal, state and local government, nonprofits and church groups, the banking industry, and finally the consumer—have all been part of the consensus that argues for and supports interventionist housing policies, stated in the 1949 Housing Act as a national goal of the "implementation as soon as feasible of a decent home and suitable living environment for every American family." The questions remain: what kinds of policies for whom? Who will get what, when and how?

The Bloomberg Plan; The New Housing Marketplace

The proposal by Mayor Bloomberg in December 2002, "The New Housing Marketplace," includes a system of zoning that will result in the creation of new land suitable for residential building, and the enhancement of existing public subsidies to meet the needs for affordable housing in New York City. The New Ventures Incentives Program (New VIP) is designed to provide financing tools for development in areas that have been rezoned. Direct financial subsidies, tax incentives, and zoning bonuses will be enhanced and packaged with proposed revisions of zoning and building codes.

The plan asserts the idea that "government can play a pivotal role by reducing the risk to private and nonprofit sectors in the development of new housing through strategic investment of its funds and resources...." The two primary areas for government activity are "regulating private activities through land use controls," and the provision of "financial incentives to strengthen the private marketplace by subsidizing homeownership through federal tax benefits, providing local tax incentives to encourage rehabilitation, and new construction and low cost financing for targeted income groups." In order to develop additional sites for construction, land use changes will facilitate the conversion of land, density limits will be changed, and old industrial sites will be cleaned and converted to residential purposes.

The goal of this plan, projected to cost $3 billion, is to create 65,500 housing units for people of low, moderate and middle incomes over the next five years and to provide city-owned land for construction of over 7,000 units of housing. Since the city's ownership of in rem housing stock has been greatly reduced, the implementation of this plan will require zoning and building code that will create new land for residential development. Inclusionary zoning will be a major part of this effort. Funding for implementation has been provided for the next five years, and initial efforts are under way.

The Newman Report on Affordable Housing

We now turn our attention to a new report on affordable housing prepared by the Steven L. Newman Real Estate Institute, "Report to the New York City Public Advocate: Affordable Housing in New York City." This report incorporates different tools and policies and recommends a number of new additions. The goal of the report is to increase the supply of affordable housing that is available. The conclusions and recommendations of the report are as follows:

1. It is not a shortage of land that restricts efforts to build more housing, both of the market based and affordable sort, but rather the existence of archaic regulations that restrict the ability to build what is needed.
2. A major revision of the zoning laws is necessary in order to create more potential sites for housing construction, by converting land from manufacturing and other uses to residential purposes and also by increasing the density levels in existing sites.
3. Develop new guidelines involving inclusionary zoning programs that will encourage the construction of more affordable housing.
4. Increase federal and state loan and tax credit programs that will lead to more new housing and also preservation.
5. It is necessary to repeal or modify those regulations that contribute to comparatively high labor costs, land costs, and the cost of housing in general.
6. It is necessary to relate quantities of new affordable housing to the variety of different housing needs at the local neighborhood level, requiring greater attention to economic development, education, transportation, infrastructure and other community needs.
7. And finally, it advocates the creation of a large scale program to create a supply of publicly built affordable housing, such as was done by the Mitchell-Lama program in the 1950s.

The recommendations of the Newman Report call for a combination of supply- and demand-oriented measures and more innovative techniques of inclusionary zoning. This reflects the experiences of the last 50 years of housing policy, bringing together in one package a variety of new land-use and design tools. Certainly, this does not represent a right or guarantee to affordable housing as proposed by some. The vagaries of life and history have combined to create an amalgam of policies and programs representing a variety of interests that expect to benefit from these proposals. And perhaps this is the essential message of housing policy in the United States, similar to that of many other welfare state programs. Ideologies become blurred as different groups pursue their interests and are forced to accommodate to changing pressures and power. And the eventual forms of enactment reflect the accommodations and compromises that are continually being made.

This program is introduced at a time of greater optimism and confidence about the future of the city, a confidence arising from the fact that the essential elements for the development of successful housing policy are in place: a growing economy, expanding employment, an increasing population that is creating demand for more housing and a robust housing market. But the dynamism and unpredictability of life in the city makes it more than likely that the "crisis" of housing will always be with us in some way, reflecting the realities and difficulties of life in this largest and densest settlement of the nation, a city that is forever changing and surprising. However, if these measures are adopted both the supply and demand for housing will be increased and some of the worst aspects of the current "housing crisis" can be mitigated. It depends on the commitment of society and government to the goals of adequate affordable housing for all.

The Newman Report

The variety of measures advocated in the Newman Report represents a significant step towards improving housing for the people of the city. The Report reflects the realities of the difficulties in compromising and mediating the more extreme views represented by rights and market advocates. In fact, it combines elements of both approaches, while probably dissatisfying many partisans of both views.

Housing policies of the last fifty years have spawned a new generation of "housers" who, schooled in the complexities of the subject, have created a tool box of techniques that work in a variety of ways to achieve their goals— as to both the quantity and quality of housing, at prices more affordable than they would otherwise be. The "otherwise" remains the outstanding question. Would a fully market approach lead to better outcomes? In theory it might. But, in practice and realistically it is hard to imagine a political resolution that would overcome the great number of obstacles that stand in the way of a free housing market.

Existing practices reflect values and the power of a great accumulation of vested interests that have developed over time. Zoning and land use, municipal regulations and building codes, unions and wage rates, developers and profits, governance and politics, money, money and money, and not least, the conflicting cultural and social values of different class and racial interests—all combine and conspire to resist the creation of a "free market" for housing. Let those who advocate the position of the market or the right demonstrate that such interests are manageable through the political process and that either alternative is achievable in the manner they espouse.

It is unlikely that there will be in the near future a right to housing or a free market. Meanwhile, the development of housing policies over the last half-century has been put in place, reflecting incremental adaptations to the limitations of the possible and a general commitment to the goal of making housing conditions better. Far from the enactment of a right, but nevertheless there is some consensus around policies that reflect the economic and political realities of our time. And the Newman Report represents another step along the way in the struggle for shelter in this most challenging of all American cities.

[1] "Housing Policy Debate," Fannie Mae Foundation, volume 9, issue 2, 1998, pp. 223-247.

[2] "Housing Policy Debate," Fannie Mae Foundation, volume 9, issue 2, 1998, pp. 259-267.

[3] "Housing Policy Debate," Fannie Mae Foundation, volume 9, issue 2, 1998, pp. 247-259.

A Critique of the Concept of "Affordability"

Isabel Cuervo and Setha Low

This paper challenges the centrality of the notion of affordability in housing discourse. Through an overview of the housing literature, legislative acts, and government-related texts, we question the concept's use as the normative solution to the "housing problem," that is, the inability to provide adequate housing for low income families and individuals. This critical analysis focuses on three questions:

1. How is the concept of affordability currently defined?
2. When did affordability emerge as the dominant discourse for discussing low cost housing?
3. Why does the affordability discourse dominate housing policy as opposed to a discourse of entitlement or housing rights?

The Definition of Affordability

According to the U.S. Department of Housing and Urban Development (HUD), affordability is defined as "a household [that] pay[s] no more than 30 percent of its annual income on housing," up from 25% in 1981 (Howenstine, 1993). This fixed standard has been criticized for being unrealistic, yet the income-to-rent ratio has become the simplest way by which to measure housing adequacy.

Stone (1993) argues that the income-to-rent definition of affordability addresses housing only in terms of household income and the cost of the shelter, such that affordability is nothing more than a "measure of this quest to secure the housing we need and desire with the resources we have or can obtain" (Stone, 1993:1). And while he agrees that at one level, affordability links the well-being of people and mechanisms of housing provision in monetary terms, at a deeper level it also "expresses the relationship between the social and economic system and the quest for satisfaction of basic human needs that is not merely monetary" (Stone, 1993:6). This deeper sense of personal and social satisfaction is often confounded with the ability to pay for housing costs. Thus the consumer's willingness to pay a certain amount is actually based on his/her "perception of value for money," (Malpass, 1993:87) in conjunction with the constraints of market forces. The relationship between the subjectivity of the consumer and the economics of market forces must be considered when discussing affordability, complicating the income-to-housing ratio definition.

The ambiguity of affordability has resulted in problems when the concept is translated into housing policy. Hulchanski (1995) found six uses of the term "affordability" in the housing literature: 1) as a description of household expenditures; 2) as an analysis of trends and comparison of different household types; 3) as the administration of public housing by defining eligibility criteria and subsidy levels in rent-geared-to-income housing; 4) as a definition of housing need for public policy purposes; 5) as a prediction of the ability of a household to pay the rent or mortgage; and 6) as part of the selection criteria in the decision to rent or provide a mortgage. In other words, the term is defined to suit its application, and in this way has become an easy way to frame low cost housing issues. For example, in a review of programs that addresses the needs of the urban poor in several parts of the world, Mitlin defines the concept of "affordable" as "[a situation in which] even the poorest can participate in a substantive manner either through subsidy, immediate payments or credit" (2001:509), yet what is taken for granted in this international context is that housing is initially conceived of as unaffordable.

Housing has two important dimensions: its materiality as shelter and real estate, and its social importance as a spatial locus of personal and familial life where access to social and economic structural opportunities begins, and where privacy and security are located (Hartman, 1975 in Hartman, 1998; Stone, 1993). Despite the social implications of the importance of housing as a foundation for civic life, it is only its real estate value that necessitates a large portion of one's income. While housing's role in providing a stable family life, citizenship, security, privacy and opportunity is undisputed, the framing of housing policy in terms of affordability has been developed rhetorically based only on its value as a material (and exchangeable) good.

Further, a fixed standard cannot cover what the impact of the income-to-rent ratio, household size, and non-shelter costs is on low income households as compared to higher income ones (Feins & Lane, 1981; Stone, 1993; Malpass, 1993; Hartman, in press). Howenstine (1993) explains that the implementation of this superficial "reasonableness" was a response to a political crisis in the late seventies and early eighties that would have otherwise increased federal housing subsidies. A short-term cost-effective method of measuring *severe cost burden*—paying over 50% of one's income toward shelter expenses—therefore became the norm. The alternative "market-basket" approach determined affordability based on a household's non-shelter costs, and then calculated the remainder for a housing payment. However, low income households still remain shortchanged, with nearly one third of American households moderately cost burdened (over 30% rent:income) and 13% severely cost burdened (over 50% rent income) (Joint Center for Housing Studies 2004).

The Discourse of Affordability

The question remains as to why housing should be *affordable* in the first place. One reason the discursive use of affordability became so prevalent is that it provides a privatized notion of housing linked to the domestic sphere. Saegert and Clark (in press) illustrate how housing policies hinder and institutionalize women's disadvantaged position in obtaining adequate housing. They criticize the ideal of household privacy as a part of a distinctively American cultural ethos that leads to an ideological opposition to a right to housing as well as other public goods and services. "Public policies are developed around an ethic and discourse based on individual rights and the reliance on the market for basic requirements of life" (Saegert and Clark, in press), rather than on a collective or community-based ethos. Contemporary social services that focus on a "private space" conception of house and household provide solutions only within the private sector, and ultimately become the responsibility of the individual. This cultural perspective frames many of our assumptions about housing and its affordability, and is embedded in a discourse that is difficult to deconstruct, much less change.

Secondly, as a consequence of housing's commodified nature, private market-based interests define and drive acceptable notions of affordability. Malpass argues that the nature of the housing problem has changed because housing is a commodity:

> First, it means that consumers' access to suitable housing is determined by their ability to pay, rather than their construction skills; price and affordability replace physical strength and skill as key determinants of housing consumption. Second, it means that producers and consumers are now different groups, with different interests and perspectives. (Malpass 1993:69)

Thus, while the production of housing as a commodity potentially could solve the basic shelter problem, the separation of producers' and consumers' interests also created the new problem of affordability.

The concept of affordability reflects still another conflict — the tension between the labor market and the housing market — in that wages are always in competition with price setting by the housing industry (Stone, 1993). The individual consumer is faced with the difficulty of earning enough to rent or buy a suitable place to live. Moreover, Malpass (1993) argues that issues such as affordability and homelessness only become problematic when they reach levels that call into question the effectiveness of the economic system in place. This line of reasoning would explain why affordability is such a hot topic given rising real estate prices and decreasing livable wages, resulting in an enormous increase in the number of homeless people and home-sharing among nonrelatives. Current housing problems are a direct result of flawed financial structures, government and private market practices, and the housing system itself that "reflects and undergirds the extreme and growing class and race divisions that characterize the society as a whole" (Hartman, in press).

Affordability as the Dominant Housing Discourse

The concept of affordability in the U.S. housing discourse became widespread in the 1980s at the same time that there was a shift from public to private and market-based provision of social services. But the emergence of the notion of affordability can be traced to the Housing Act of 1934 passed by the legislature "to relieve unemployment and stimulate the release of private credit in the hands of banks and lending institutions for home repairs and construction" (HUD website). Although the 1934 act enabled access to better housing, the act also liberalized mortgage institution practices, the ramifications of which can still be felt today. The legislative fueling of the private housing market, widening income inequality, discriminatory mortgage practices, overdependence on debt and capital markets to finance housing, and public policies all served to focus on the notion of affordability as the proper solution to the housing problem (Hartman, in press).

The Housing Act of 1949 further consolidated private and market-based solutions to low-income housing shortages. It established a precedent that a decent home and suitable living environment was a national goal in the postwar context of slum clearance. As Hartman (1998) notes, the word *affordable* is not actually in the lexicon of the act, rather it focuses on the improvement of substandard housing conditions and the recognition of the lack of decent places to live. The improvement of living conditions was not the main impetus for the establishment of the congressional act, however; rather the 1949 act outlined how private enterprise could play a greater role in housing provision. Three of the five major points were to promote private housing development:

> The policy to be followed in attaining the national housing objective established shall be: 1) private enterprise shall be encouraged to serve as large a part of the total need as it can; 2) governmental assistance shall be utilized where feasible to enable private enterprise to serve more of the total need…; 4) governmental assistance to eliminate substandard and other inadequate housing… and to provide adequate housing for urban and rural non-farm families with incomes so low that they are not being decently housed in new or existing housing shall be extended to those localities which estimate their own needs and demonstrate that these needs are not being met through reliance solely on private enterprise… (excerpt from U.S. 1949 Housing Code).

Although financing housing remained under the auspices of government assistance, the role of private enterprise is dramatically expanded.

The Housing and Urban Redevelopment Act of 1968 added to this emphasis on private housing development (Achtenberg, 1989) by calling for the construction of 26 million new housing units (six were to be subsidized), in which the role of private and capital markets were the main financial sources. The Kaiser Committee, spearheaded by the industrialist Edgar Kaiser, laid the foundation for the 1968 act:

> The nation has been slow to realize that private industry in many cases is an efficient vehicle for achieving social goals…. One of the basic lessons of the history of the Federal housing programs seems to be that the programs that work best—such as the FHA mortgage insurance programs—are those that channel the forces of existing economic institutions into productive areas. This approach has proved to be better than… starting afresh outside the prevailing market system (President's Committee on Urban Housing 1968: 54, in Achtenberg 1989: 231).

The successive Housing Acts of 1934, 1949, and 1968 laid the foundation for the dominance of affordability in housing policy rhetoric. As Hartman (in press) notes that the term itself is nowhere to be found in the 1949 text, it established the economic and political conditions for housing to become commodified, whereupon the market, labor, and industry increased prices high enough for housing to become unaffordable. Echoing Malpass and Stone, Hartman argues that the for-profit housing industry and increasing profit margins reduce affordability, and at the same time increase the need for more affordable government-sponsored programs.

Some policy makers refute the need for a nationwide initiative to build more decent housing units, citing a balance between the number of households, the number of housing units, the percentage of substandard units, and the average rental vacancy (Howenstine, 1993). HUD held a conference in 1980 in which it was declared that it is merely a problem of income and not of market phenomena:

> "This is not to suggest that there are no serious problems facing the rental market. The proportion of tenants who are poor and disadvantaged has increased…. For this part of the market the problem appears to be one of insufficient income not of market failure in the rental housing market" (HUD: 30).

Thus the market is again seen as the solution, which is the same sentiment that established the concept of affordability as the national housing discourse.

It is in the National Affordable Housing Act of 1990 where the word *affordable* is actually spelled out in public governmental discourse. The 1990 Act established that: "Congress affirms the national goal that every American family be able to *afford* a decent home in a suitable environment" (emphasis added).[1] Furthermore, "the objective of national housing policy shall be to reaffirm the long-established national commitment to decent, safe, and sanitary housing for every American by strengthening a nationwide partnership of public and private institutions able..." (ibid).

Concluding Note

This exploration of the concept of affordability is preliminary, meant to set the stage for an in-depth inquiry. What has been established is that the term developed its current meaning over time, starting well before the Reagan economic restructuring era. Each housing act successively repositioned the financing and provision of low-income housing from publicly funded sources to the private banking and home construction sectors. With this transition from public to private development of low-income housing, the discourse of affordability of housing became all the more central, while at the same time discussions of the right to housing were increasingly marginalized and excluded from housing policy decisions. There is also evidence that the housing industry and those with related economic and political interests played an active role in convincing government officials, as well as planners and developers, of the necessity of providing low income housing privately, and that the use of the discourse of affordability reinforced this argument.

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Supporting Affordable Home Ownership: Or Should New York Be More Like the Rest of the Country?

Barry Hersh

New York has always been a renters' town, a city with far more apartments than single-family structures. Up until the 1970s even the wealthy often rented their Fifth Avenue apartments. Politically, New York City has had the most comprehensive, and complex, set of rent controls in the entire country that protects the overwhelming majority of voters—renters. New York City has also been a leader in utilizing rental housing subsidies; by far the largest public housing authority, and a high percentage use of subsidies from all levels of government, including city and state as well as federal, on rentals.

As the legal mechanisms of cooperatives and condominiums that allow apartment dwellers to own their homes has become more accepted by lenders and the market since the 1970s, the percentage of homeowners has grown in New York. Yet even today New York City has an estimated ownership rate of 33%, up from 30.19% in 2000 and 28.69% in 1990, which continues to rise gradually. Yet this is still less than half the national average of 66.19% of American families that own their residences and is projected to increase to 70% over the next four years. While other major cities also have below average ownership—Los Angeles, a rate of 48.2%, Chicago, 56.5%, Washington, DC, 62.4% — New York still is the lowest. (All figures from the United States Census Bureau, 2004.)

New York's affordable housing programs have focused on rental subsidy, with only a modest proportion aimed at home ownership. As indicated in Volume 1 of this study,[1] roughly 80% of all available subsidies in New York are still aimed at renters, rather than owners. In effect, New York's use of subsidies has reinforced the historic pattern of rentals, even though the market has moved toward ownership.

The consequences of this disparity are enormous and growing. The home mortgage deduction from personal income tax is the largest, and is rapidly becoming the only, substantial federal subsidy for housing. By having only a third (rather than the two-thirds national rate) of its over one million residential units owned and therefore eligible for the mortgage deduction, New Yorkers are receiving far less, as much as $2.6 billion less annually, than it would at the national home ownership rate, even including adjustments because New York homes are more expensive and have higher mortgage values than the rest of the country.

As an example, a homeowner paying off a 30-year mortgage of $180,000 at 5.75% annual interest would, assuming a 35% bracket, be entitled to a $3,750 income tax deduction, plus another $2,000 for local real estate taxes, and possibly more as these deductions allow an itemized rather than a standard deduction. A renter with the same income would pay $5,750 more in income tax.

While the renter receives no tax benefit, the owner of a rental building does receive significant tax benefits, primarily depreciation of the building. While not as generous as before the 1987 tax code changes, the depreciation is still sufficiently significant so that many building owners pay no income tax. Of course, government or nonprofit owners of rental units do not benefit from depreciation or other tax deductions.

The most popular current federal housing support intended to benefit tenants is the Low Income Housing Tax Credit, which provides additional tax benefits to the owners who provide affordable units. These lucrative tax credits are often sold to finance the project, as described in Volume 1. In effect, the disproportionately high number of rentals in New York and the most popular subsidy program, Low Income Housing Tax Credits, both result in tax benefits for landlords.

Rather than focusing upon subsidies for homeowners, as outlined in Volume 1, New York has been aggressive in the use of other types of federal supports — for public housing, Section 8, tax credits and multi-family mortgage guarantees, which brought housing moneys into New York City. With the possible exception of Low Income Housing Tax Credits, these housing subsidies are lacking in political support, are being reduced and possibly may be all but eliminated over the next four years.

New York City could benefit if it were to become more like the rest of the United States, by focusing more of its housing efforts, including federal resources funneled through the city or state, to support home ownership. New York could dramatically increase the federal support from the deduction received for mortgages, and transfer the write-off for real estate taxes to homeowners from developers. In effect, greater use of home ownership programs would magnify the benefits to the recipients and the City.

Long before President Bush spoke of the "ownership society" the values of home ownership had been established. Owning one's home is the American dream, even without the white picket fence. In addition to providing stability, a sense of security, of commitment by the owner, home ownership has been by far the greatest wealth generator for average Americans, including New Yorkers. Organizations ranging from the United States Department of Housing and Urban Development to the National Association of Realtors have researched and extolled the benefits of home ownership. Academic studies, such as the "Cost and Benefits of Home Ownership" by Sharon Van Zandt of the Center for Urban and Regional Studies at the University of North Carolina, have substantiated the advantages across ethnic, regional and even immigrant population lines. Despite ownership levels of half the national level (and especially given market price increases over the last five years), owning a home has provided great benefits to many New Yorkers and their neighborhoods.

The argument for home ownership in New York has become even stronger given the success of recent home ownership programs. Nehemiah Homes in East New York, Brooklyn, sponsored by a coalition of churches, and Charlotte Street redevelopment in the South Bronx are two examples of successful home ownership programs that have significantly contributed to the revitalization of ravaged (and formerly primarily rental) communities.

Recent years have shown an increase in housing production in New York City, up to 20,000 units. A 2004 Department of City Planning review indicated that half of these new units were smaller projects, often 1–4 family developments, eligible for advantageous homeowner financing. A New York Times survey of Williamsburg showed scattered, mainly smaller developments, while the more glamorous (and controversial) large scale waterfront projects are yet to come. Small scale home ownership projects have proven to be key early components of neighborhood revitalization. That home ownership is an excellent predictor of neighborhood stability has been strongly established, including by a Fannie Mae Foundation study by Louis Rohe and Leslie Stewart (vol. 7, issue 1, 1999) that reviewed the strength of home ownership for neighborhood stability over time.

As noted in Volume 1 of the study, the New York City Partnership Homes program has built more than 10,000 units, mostly for sale to owners. This program limits the resale by the initial owner on a sliding scale so that no "windfall" is available immediately and the full benefit is not received until fifteen years of ownership. The most successful nongovernmental housing program in the United States, Habitat for Humanity, has built over 150 homes (mostly two-family or multi-family condominiums) in New York City, using city-owned or donated sites. Habitat requires a down payment (sometimes as low as $500) and "sweat equity" (300 hours of work in constructing the house) by the new homeowner. Policies on resale are set by affiliated chapters, often imposing a second mortgage that is waived when ownership has extended a specified time.

There are real arguments for the traditional rental programs and against focusing support upon home ownership. Clearly, home ownership programs are not viable for those with very low incomes, including recent immigrants. Home ownership normally requires at least some down payment, and the ability to cover both operating costs and (even reduced) mortgage payments. Overly leveraged home ownership, as has occurred in some FHA urban programs, became a scandal driven by those earning excessive fees. To reach very low income families, the home would have to be all but given away, reducing the economic and psychological buy-in that is a major quality of ownership, and increasing the risk of foreclosure. Nor is home ownership the best option for seniors who do not want or need to tie up assets in property, and senior housing is one of the strongest and most successful categories of rental subsidy programs.

It is substantially more costly on a per-unit basis to subsidize ownership than rental, with particularly greater budget impact in the year when provided. Home ownership subsidies are effectively front-end loaded—the subsidy is most often provided when the home is purchased. Even some forms of mortgage guarantee and/or subsidy are essentially bought at closing. Rental and tax credit financing programs spread the cost of the subsidy over many years. In terms of an annual budget, it can cost twice as much to put an eligible family into their own home rather than into the same subsidized rental unit.

If an annual mortgage subsidy is provided, it can also extend the time over which the benefit is paid for—but then reduces the potential mortgage tax benefit. In comparison, rental subsidies are most often provided on a yearly basis, and annual federal subsidies are provided for both public housing and the Section 8 program. The long-term cost of these rental programs and any comparison to home ownership programs depends upon the extent and the time period in which subsidies are provided.

Another significant concern throughout this study is whether it is possible to provide ongoing affordability. As noted above, most ownership programs limit resale for a period of time to prevent "windfall" appreciation, but few provide a strong, enforceable provision that maintains the affordability for the second and third owners. Some early cooperatives did require that units be resold back to the co-op with little or no appreciation, but even these have sometimes been modified by pressure from owners to allow market sales. The home-ownership approach, while it does expand the total housing stock, has limited ability to address the continued need for affordable housing.

Rental programs such as Section 8, which have a specific term, face the same issue, as do inclusionary zoning efforts. Only rental programs that include public ownership (i.e., public housing) or nonprofit ownership can even attempt to promise long-term continuation of benefits to future generations of housing needy New Yorkers. In reality, even these projects have significant numbers of very long-term residents, so the turnover benefit to help new low-income families is relatively small.

These same phenomena, continued long-term benefits for the lucky initial residents with little for new residents, has also impacted Mitchell-Lama, the newer inclusionary zoning programs such as the 80/20 program, as well as rent control and rent stabilization. Developer/owners of rental programs, such as Mitchell-Lama, have provided significant numbers of affordable units — but the developer/owners reap the financial rewards of ownership. As the generally 30-year requirements tied to the initial subsidized mortgages expire, residents try to use rent stabilization laws and political clout to wrest a share of those rewards from the developer/owners. The developer/owners, or the initial residents, will receive the financial benefits, so any subsidy benefit for new residents has been lost.

The reality may be that New York has not found a truly successful model, rental or ownership, that provides continuing, long-term, affordable housing to meet the ever ongoing demand. New York could and should continue, as it always has, to provide a level of protection for the most needy (housing for the homeless programs), for the very low income, for seniors and for new immigrants. New York is also a place where people, especially young people, are "on the move," and buying and selling a home is, or at least used to be, too slow and cumbersome as well as expensive in terms of transaction costs. Yet would it not make sense now to make maximum use of the major federal support available and the booming residential real estate market, to help build New York's neighborhoods, and provide the most meaningful benefits to the recipients by putting more resources into ownership programs? This would mean that the new efforts to provide affordable housing, inclusionary zoning, tax credit projects, be aimed more toward ownership and less towards rental. Most of the programs described in Volume 1 of this study work for ownership as well as rental, albeit at a higher per-unit cost. While a lower number of units would be provided each year, the result would be a growing middle class, better use of available federal funds, better neighborhoods and a New York that in at least one sense, that of home ownership, would be more like the rest of the United States.

[1] Steven L. Newman Real Estate Institute, Division of Applied Research and Planning. Report to the New York City Public Advocate: Affordable Housing in New York City, 2004. Part One: Context of Affordable Housing in New York City.

An Analysis of Data Collected Under the Home Mortgage Disclosure Act: New York City, 2000–2003

William J. Milczarski, PhD

Community revitalization cannot occur without an adequate supply of capital so that households can purchase homes. In addition to the direct asset-building benefits that home ownership confers, it also provides households with a stake in the community. When people own homes, they not only take pride in their own property, but also in the entire community.

Unfortunately, many people find home ownership an unattainable goal. Over the past several years research on the mortgage lending industry has revealed patterns of discrimination. This discrimination is usually based on a mortgage applicant's race, or on the racial and income characteristics of the neighborhood where an applicant wishes to purchase a home. A federal law, the Community Reinvestment Act (CRA), states that banks have an affirmative obligation to meet the credit needs of their local communities, including low and moderate income neighborhoods.

Another law, the Home Mortgage Disclosure Act (HMDA), requires lenders to disclose information regarding the number of applications received, the race and income of applicants, the location of the property for which the loan was sought, and whether or not the application was approved or denied. The data are also collected for home improvement loan applications and applications for refinancings. Nationally, scores of studies were done through the 1990s that relied on HMDA data.[1] Many of these used the data to determine if lending institutions discriminate on the basis of race in approving or denying applications. Others used the data to determine if the institutions discriminate against particular neighborhoods, the phenomenon known as redlining. Also, when used in conjunction with tract level census data, the HMDA data can reveal what kinds of neighborhoods experienced an infusion of credit and what kinds of neighborhoods have experienced a shortage of credit.

A detailed analysis of the HMDA data has not been done for New York City for the past several years. As mentioned above, the HMDA data includes information on the amount applied for and the applicant's household income. When some assumptions are made regarding mortgage rates and other mortgage terms, one can draw some tentative conclusions about applicants' abilities to enter the home ownership market. More specifically, those applications that are denied can be extensively analyzed. Questions such as, "What is the race breakdown of households that are denied a loan?" or "Are certain neighborhoods experiencing a disproportionate number of denials?" can be answered. In addition, some of the Federal regulatory agencies require lending institutions to state the reason why an application was denied. An analysis of these reasons can also be helpful in understanding why some households are prevented from becoming homeowners.

The Database

There were 1,259,012 loan applications in the HMDA database for the five boroughs for the years 2000–2003. The data are submitted by regulated financial institutions to the Federal Financial Institutions Examination Council (FFIEC), which reviews the data. Using a variety of criteria, the FFIEC "flags" cases with validity and/or quality edits. Of the 1.2 million plus cases in New York City for 2000–03, 293,842 cases (23.3%) were flagged. This leaves 965,170 for analysis.

Regulated financial institutions submit data for all applications they receive for new mortgages, home improvement loans and refinancings. They also report data for loans they purchase from other institutions. Since these purchases don't bear directly on this research, they were also deleted from the database. When these 195,470 loan purchases are deleted, 769,700 cases remain for analysis.

Of interest in this research are applications for owner-occupied, 1- to 4-unit structures. When applications for non-owner-occupied structures and/or applications for structures with 5+ units are deleted, the number of cases for analysis becomes 714,608. This is the final number of cases used for the analysis in this paper. Table 1 shows this total broken down by borough and year.

Lending Performance by Race

Since the HMDA data in its present form became widely available in the early 1990s one of its main uses has been to see whether or not there are disparate results in approving or denying loan applications based on applicants' race. In the data, there are eight categories of race. They are:

- American Indian or Alaskan Native
- Asian or Pacific Islander
- Black
- Hispanic
- White
- Other
- Information not provided by applicant in mail or phone application
- Not applicable

Table 1
Number of Loan Applications by Borough and Year

	2000	2001	2002	2003	Total
Bronx	13,031 (1.8)	15,989 (2.2)	17,921 (2.5)	22,269 (3.1)	69,210 (9.70)
Brooklyn	38,044 (5.3)	46,705 (6.5)	50,634 (7.1)	61,153 (8.6)	196,536 (27.5)
Manhattan	15,887 (2.2)	19,795 (2.8)	27,903 (3.9)	36,492 (5.1)	100,077 (14.0)
Queens	46,015 (6.4)	58,928 (8.2)	67,389 (9.4)	81,506 (11.4)	253,838 (35.5)
Staten Island	15,177 (2.1)	22,120 (3.1)	25,786 (3.6)	31,864 (4.5)	94,947 (13.3)
Total	128,154 (17.9)	163,537 (22.9)	189,633 (26.5)	233,284 32.6)	714,608

Numbers in parentheses represent that cell's percentage of the total number of applications.

In New York City for the 2000–03 period there were very few applications (2,774) from American Indians/Alaskan natives. In analyzing bank lending performance across race, the "not provided" (223,419) and "not applicable" (903) were also deleted. Table 2 shows the actions taken on applications across race. If loans originated are combined with those applications that were approved by the institution but later not accepted by the applicant, we observe that the highest percentage approved (75.7%) is for the Asian/Pacific islander group. This is followed by white (74.6%), Hispanic (62.4%), other (59.2%), and black (56.9%). For the percentage of applications denied, the results show black applicants denied 23.2% of the time, other (22.8%), Hispanic (20.7%), Asian/Pacific islander (13.0%), and white (12.9%).

These results are not *prima facie* evidence that lending institutions discriminate against black and Hispanic applicants. They do, however, parallel the results of scores of studies analyzing HMDA data at the national and local levels. Note also that these results are for the aggregate performance of all lending institutions combined. There can be substantial variation in performance from institution to institution.

Table 2
Race of Applicant and Action Taken

	Originated	*Approved, not accepted*	*Denied*	*Withdrawn*	*Incomplete*	*Total*
Asian/ Pac.Isl.	33,788 (64.2)	6057 (11.5)	6863 (13.0)	4258 (8.1)	1687 (3.2)	52,653
Black	50,913 (46.9)	10,865 (10.0)	25,138 (23.2)	16,434 (15.1)	5187 (4.8)	108,537
Hispanic	32,224 (52.6)	5998 (9.8)	12,691 (20.7)	7833 (12.8)	2480 (4.1)	61,226
White	156,061 (65.1)	22,705 (9.5)	30,879 (12.9)	22,009 (9.2)	7959 (3.3)	239,613
Other	12,760 (50.1)	2308 (9.1)	5798 (22.8)	3716 (14.6)	901 (3.5)	25,483
Total	285,746 (58.6)	47,933 (9.8)	81,369 (16.7)	54,250 (11.1)	18,214 (3.7)	487,512

Numbers in parentheses represent that cell's percentage of each row total.

Lending Performance by Geography

As part of each application in the HMDA data, the census tract in which the property for which the loan is being sought is recorded. This means the data can be used to analyze whether or not financial institutions lend in minority and/or low-income areas. One of the primary purposes of the Federal Community Reinvestment Act is to encourage depository institutions to help meet the credit needs of the communities in which they operate, including low- and moderate-income neighborhoods.

Note that only tracts in which properties were located that a loan application was filed for appear in the database. This means, for example, tracts in which there are only rental units, or tracts in which there were no properties that had applications filed, will not appear. As a result the total number of tracts in the database is less than the total number of tracts in New York City. Even with this limitation, loan applications were filed for properties in 2,209 of the City's tracts.

For the geographical analysis, the tracts were divided into race and income categories. For race, four categories were used—0% thru 20%, minority; 20.01% thru 50%, minority; 50.01% thru 80%, minority; and, 80.01% thru 100%, minority. Four categories were also established for income—low (defined as the tract median household income being less than 50% of the metropolitan area's median household income); moderate (tract median household income from 50% to 79.99% of metro area median household income); middle (tract median household income from 80% to 119.99% of metro area median household income); and upper (tract median household income greater than 120% of metro area median household income). Table 3 shows the distribution by race and income for the 2,209 tracts.

Table 3
Number of Census Tracts by Race and Income

	Low	Mod.	Middle	Upper	Total
0% - 20%	5 (0.2)	15 (0.7)	232 (10.5)	359 (16.3)	611 (27.7)
20.01% - 50%	7 (0.3)	61 (2.8)	228 (10.3)	171 (7.7)	467 (21.1)
50.01% - 80%	17 (0.8)	102 (4.6)	141 (6.4)	41 (1.9)	301 (13.6)
80.01% - 100%	290 (13.1)	253 (11.5)	185 (8.4)	102 (4.6)	830 (37.6)
Total	319 (14.4)	431 (19.5)	786 (35.6)	673 (30.5)	2209

Numbers in parentheses represent that cell's percentage of the total number of census tracts.

Table 4 shows the actions taken by financial institutions on applications for properties in tracts broken down by the four categories of minority population. If, as in the earlier analysis the actions of "originated" and "approved, but not accepted" are combined, we see that 67.6% of the applications are in this category for the low minority tracts and 48.1% are in this category for the high minority tracts. In the high minority tracts, 27.1% of the applications were denied; whereas 15.1% were denied in the low minority tracts.

Table 5 shows the results of decisions by financial institutions for applications for properties in tracts broken down by the four categories of income. In the upper income tracts, 65.8% of the applications were either originated or approved, but not accepted. In the low income tracts, only 47.2% are in this category. In the upper income tracts, 16.5% of the applications were denied; 29.0% were denied in the low income tracts.

Table 4
Percent Minority in Census Tract by Action Taken

	Originated	Approved, not accepted	Denied	Withdrawn	Incomplete	Total
0%-20%	130,996 (58.4)	20,721 (9.2)	33,956 (15.1)	30,025 (13.4)	8462 (3.8)	224,160
20.01%-50%	92,619 (56.6)	15,456 (9.4)	27,768 (17.0)	21,455 (13.1)	6335 (3.9)	163,633
50.01%-80%	41,624 (47.1)	8799 (10.0)	19,993 (22.6)	14,142 (16.0)	3860 (4.4)	88,418
80.01%-100%	89,760 (37.9)	24,219 (10.2)	64,128 (27.1)	47,726 (20.2)	10,911 (4.6)	236,744
Total	354,999 (49.8)	69,195 (9.7)	145,845 (20.5)	113,348 (15.9)	29,568 (4.1)	712,955

Numbers in parentheses represent that cell's percentage of each row total.

Table 5
Income of Census Tract by Action Taken

	Originated	Approved, not accepted	Denied	Withdrawn	Incomplete	Total
Low	12,762 (37.1)	3465 (10.1)	9976 (29.0)	6602 (19.2)	1574 (4.6)	34,379
Mod.	39,923 (40.8)	10,131 (10.3)	25,596 (26.1)	18,006 (18.4)	4243 (4.3)	97,899
Middle	114,255 (46.3)	23,960 (9.7)	55,174 (22.4)	42,590 (17.3)	10,664 (4.3)	246,643
Upper	188,127 (56.3)	31,645 (9.5)	55,090 (16.5)	46,132 (13.8)	13,069 (3.9)	334,063
Total	355,067 (49.8)	69.201 (9.7)	145,836 (20.5)	113,330 (15.9)	29,550 (4.1)	712,984

Numbers in parentheses represent that cell's percentage of each row total.

When census tracts are looked at on both race and income, the results are even more striking. For tracts that are high income *and* low minority, 69.6% of the applications were either originated or approved, but not accepted, while 14.1% were denied. In tracts that are low income *and* high minority, the corresponding numbers are 46.1% and 29.7%.

Affordability

For this part of the analysis, the database is further narrowed. Only conventional (noninsured) loans for home purchases are included. For the five boroughs over the period 2000–2003 there are 215,555 applications in this category. Before looking at what the HMDA data can tell us about affordability, analysis similar to those done previously are done for this subset of the data.

Tables 6–8 show, respectively, cross tabulations of 1) actions taken on applications by race, 2) actions taken by the percentage minority in census tracts, and 3) actions taken by median household income in tracts as a percentage of metropolitan area median household income. As in the prior analysis, the cross tabulations show that 1) the percentage of applications denied are higher for black and Hispanic applicants, 2) the percentage of applications denied increases as tract percentage minority increases, and 3) the percentage of applications denied decreases as tract median household income increases.

Table 6
Race of Applicant and Action Taken

	Originated	Approved, not accepted	Denied	Withdrawn	Incomplete	Total
Asian/ Pac.Isl.	20,672 (70.6)	3040 (10.4)	3058 (10.4)	1727 (5.9)	781 (2.7)	29,278
Black	14,402 (54.5)	2749 (10.4)	5495 (20.8)	2888 (10.9)	871 (3.3)	26,405
Hispanic	13,046 (59.9)	2134 (9.8)	3876 (17.8)	1986 (9.1)	746 (3.4)	21,788
White	70,454 (71.8)	8756 (8.9)	10,835 (11.0)	5598 (5.7)	2494 (2.5)	98,137
Other	5182 (62.3)	859 (10.3)	1241 (14.9)	798 (9.6)	238 (2.9)	8318
Total	123,756 (67.3)	17,538 (9.5)	24,505 (13.3)	12,997 (7.1)	5130 (2.8)	183,926

Numbers in parentheses represent that cell's percentage of each row total.

Table 7
Percent Minority in Census Tract by Action Taken

	Originated	Approved, not accepted	Denied	Withdrawn	Incomplete	Total
0% -20%	56,244 (71.4)	7130 (9.1)	8365 (10.6)	5033 (6.4)	2001 (2.5)	78,773
20.01% -50%	41,456 (69.0)	5442 (9.1)	7301 (12.2)	4073 (6.8)	1792 (3.0)	60,064
50.01% -80%	17,023 (61.9)	2680 (9.7)	4644 (16.9)	2208 (8.0)	936 (3.4)	27,491
80.01% -100%	25,293 (52.0)	5800 (11.9)	10,351 (21.3)	5581 (11.5)	1633 (3.4)	48,658
Total	140,016 (65.1)	21,052 (9.8)	30,661 (14.3)	16,895 (7.9)	6362 (3.0)	214,986

Numbers in parentheses represent that cell's percentage of each row total.

Table 8
Income of Census Tract by Action Taken

	Originated	Approved, not accepted	Denied	Withdrawn	Incomplete	Total
Low	5215 (54.2)	1044 (10.9)	2104 (21.9)	927 (9.6)	324 (3.4)	9614
Mod.	14,158 (54.7)	2910 (11.2)	5252 (20.3)	2692 (10.4)	861 (3.3)	25,873
Middle	44,084 (63.0)	6813 (9.7)	11,014 (15.7)	5821 (8.3)	2240 (3.2)	69,972
Upper	76,612 (69.9)	10,279 (9.4)	12,276 (11.2)	7445 (6.8)	2919 (2.7)	10,9531
Total	140,069 (65.2)	21,046 (9.8)	30,646 (14.3)	16,885 (7.9)	6344 (3.0)	214,990

Numbers in parentheses represent that cell's percentage of each row total.

Although not required, financial institutions may give up to three reasons as to why a loan application was denied. For conventional home-purchase loans there was a total of 30,731 denials. At least one reason for denial was given in 23,137 (75.3%) instances. The table below shows each of the reasons an application was denied.

Reasons for Denial

	#1	#2	#3
Debt-to-income ratio	3590	677	80
Employment history	287	197	38
Credit history	4374	743	116
Collateral	3660	492	155
Insufficient cash (down payment, closing costs)	722	710	347
Unverifiable information	1057	298	112
Credit application incomplete	5626	210	96
Mortgage insurance denied	37	44	49
Other	3784	1243	414

In many instances, one can surmise that the lending institution determined that the applicant would not be able to afford repaying the loan. Debt-to-income ratio, credit history, collateral and insufficient cash are all reasons suggestive of this.

The HMDA data provide another way to get at the issue of affordability. The annual household income and loan amount are part of each record in the data. By making certain assumptions about the loan, it is possible to estimate a monthly payment for principal and interest. For this research, it was assumed that conventional loans for home purchase were for a 30-year term. Annual interest rates were obtained from the Federal Housing Finance Board. The rates applied to each loan amount were 8.42% for 2000, 7.19% for 2001, 6.85% for 2002, and 5.47% for 2003.

When the monthly payment for principal and interest is divided by monthly income the percentage of income going to the payment is determined. Table 9 shows an analysis of the actions taken divided into two categories. The first category are applicants whose monthly principal and interest comprise less than or equal to 30% of their monthly income; the second category are those for whom the monthly principal and interest is greater than 30% of monthly income. Although the percentage of applications denied when the ratio is greater than 30% is higher than when it is not, the difference is not as great as one would expect. Given the generally accepted standard that housing costs should not exceed 30% of income, one would expect to see the denial rate in this category much higher than 19.8%. Clearly, financial institutions are taking many more variables into consideration than just this simple ratio when making decisions on loan applications.

Table 9
Applicants' Ratio of Principal & Interest to Income by Action Taken

	Originated	Approved, not accepted	Denied	Withdrawn	Incomplete	Total
< 30%	122,530 (66.4)	18,020 (9.8)	24,568 (13.3)	14,049 (7.6)	5313 (2.9)	184,480
> 30%	17,842 (57.4)	3104 (10.0)	6163 (19.8)	2887 (9.3)	1079 (3.5)	31,075
Total	140,372 (65.1)	21,124 (9.8)	30,731 (14.3)	16,936 (7.9)	6392 (3.0)	215,555

Numbers in parentheses represent that cell's percentage of each row total.

Conclusion

One goal of this paper was to determine what analysis of the HMDA data could lend to an understanding of housing affordability in New York City. The results were only marginally helpful. In those cases where lending institutions reported reasons for denial, we see that an applicant's inability to carry the loan in the institution's judgment was often cited. The issue of affordability was also addressed by looking at an applicant's estimated monthly payments for principal and interest in comparison to that applicant's monthly income. For applicants where this ratio is greater than 30%, 19.8% were denied mortgages compared to 13.3% for those where the ratio was under 30%. One would have expected this difference to be greater. Of course, this ratio is only one factor among many that lending institutions use when making a decision on a mortgage application.

There are many barriers to affordable housing. Several are identified in "Report to the New York City Public Advocate: Affordable Housing in New York City" prepared by the Steven L. Newman Real Estate Institute. These barriers apply to both rental and owner housing. This paper looks only at the ownership portion of the market. This research shows that 1) black and Hispanic applicants combined are denied loans at a rate that is 73% greater than that of white applicants; and 2) applications for loans in areas that are more than 50% minority are denied at a rate 72% greater than for those in areas that are less than 20% minority.[2] The results indicate that among the obstacles to becoming a homeowner, discrimination based on race continues to be a contributing factor.

[1] See, for example, *America's Worst Lenders* (1995), *Who's Financing the American Dream* (May 1998), and *America's Best and Worst Lenders* (Nov. 1998), all published by the National Community Reinvestment Coalition, Washington, DC.

[2] These figures apply to all types of applications—new mortgages, home improvement loans, and refinancings. When only new mortgages are looked at 1) black and Hispanic applicants combined are denied mortgages at a rate that is 76% greater than that of white applicants; and 2) applications for mortgages in areas that are more than 50% minority are denied at a rate 86% greater than for those in areas that are less than 20% minority.

All tables are from this source:
Federal Financial Institutions Examination Council (Washington, DC). *Home Mortgage Disclosure Act: HMDA Raw Data, 2000-20003*.