The City of New York

Community Board 12 - Manhattan
Washington Heights & Inwood

530 West 166th St. 6th Floor, New York, NY 10032
Phone: (212) 568-8500, Fax: (212) 740-8197
Website: www.nyc.gov/mcb12

George Fernández Jr. - Chairman
Ebenezer Smith, District Manager

Amended

Dec 2, 2015

Hon. Carl Weisbrod, Director
NYC Department of City Planning
Equitable Life building
120 Broadway 31st Fl.
New York, NY 10271

Hon. David Quart
Deputy Commissioner of Strategy,
Research & Communications
NYC Dept. of Housing Preservation & Dev.
100 Gold Street Rm 5-P1
New York, NY 10038

Dear Director Weisbrod & Dep. Commissioner Quart:

Please be advised that on Tuesday, November 24, 2015 at the General Meeting of Manhattan Community Board 12 a resolution passed with a majority vote of (29) In Favor, (0), Opposed, and (0) Abstain of not supporting the Zoning Quality Affordability text Amendments for these reasons; The proposed ZQA and MIH zoning text amendments require further study and refinement before they are considered for implementation. In its review to-date of ZQA and MIH the Manhattan Borough President's office ("MBPO") has identified certain deficiencies in the proposed text amendments.

For ZQA the deficiencies include: the "two-door"/"poor door" option remains; loose provisions with respect to off-site affordable units; the FAR bonus does not take into account neighborhood character and is the same everywhere; double-dipping is allowed with the 421-A program and there are inconsistent provisions for community review. For MIH the deficiencies are: the absence of anti-harassment requirements; a loop-hole that allows BSA to waive affordable housing requirements; an undefined trigger for "substantial new residential density"; and lowering the unit threshold that applies to a special permit for the option of payment in lieu of providing affordable housing. The MBPO also notes that ZQA and MIH do not address New York City Housing Authority developments, which house over 115,000 residents in Manhattan alone; and

Whereas: As part of the City of New York's coordinated efforts under Housing New York, Mayor de Blasio's five-borough housing plan, the Department of City Planning ("DCP") is proposing a set of targeted zoning regulations to support the creation of new affordable housing and encourage better residential buildings. The targeted zoning regulations include Zoning for Quality and Affordability ("ZQA") and Mandatory Inclusionary Housing ("MIH"). ZQA seeks to advance numerous goals of Housing New York, including making the city more affordable to a wide range of New Yorkers, and fostering diverse, livable communities with buildings that contribute to the character and quality of neighborhoods. It aims to address several ways in which current zoning, drafted a generation ago, has in practice discouraged the affordability and quality of recent buildings. MIH is a new proposal to use zoning to require permanent affordable housing when future DCP actions encourage substantial new housing. It would require, through zoning actions, a share of new housing to be permanently affordable. Affordable housing would be mandatory, not voluntary and would be a condition of residential development when developers build in an

area zoned for MIH, whether zoned as part of a City neighborhood plan or a private rezoning application; and

Whereas: The goals of ZQA include promoting senior housing, reducing parking requirements for affordable housing and modifying the contextual building envelope. The goals of MIH include: promoting vibrant, diverse neighborhoods; ensuring affordable housing in areas in which DCP is planning for growth; meeting the needs of a range of low- and moderate income New Yorkers; ensuring that the MIH program meets legal standards, is applied consistently and supports the financial feasibility of housing creation; and

Whereas: The goals of ZQA and MIH are commendable, but these proposed text amendments will have broad, city-wide impacts and do not consider how these impacts will affect individual neighborhoods. Further, DCP has afforded community boards insufficient time to carefully and thoroughly review the proposed text amendments and to coordinate with the offices of their respective borough presidents, who are required to undertake their review of ZQA and MIH as the same time as the community boards; and

Whereas: DCP introduced the ZQA and MIH text amendment proposals for public review on September 21, 2015. Comments from community boards and from borough presidents are due by November 30, 2015. DCP presented the ZQA and MIH proposals to the Land Use Committee ("Land Use" or the "Committee") of Community Board 12- Manhattan at its November 4, 2015 meeting and also briefed the Committee on ZQA at its June 3, 2015 meeting. At the June 2015 briefing the Committee identified various concerns including: how affordable housing is defined and why nursing homes are included with affordable housing as opposed to healthcare facilities; the extent of communication and coordination between offices of New York City and New York State concerning New York State's long term plans for reducing the number of nursing home beds and how this reconciles with zoning changes that incentivize development of nursing homes; the analysis undertaken to support the recommendation to eliminate the parking requirement for new affordable housing developments; the impact of eliminating the parking requirement for new affordable housing on on-street parking and traffic congestion; why the development of micro-units appears to be encouraged and incentivized; and the absence of consideration to specific neighborhood characteristics and planning needs. The Committee requested that these concerns be relayed to DCP senior management. The Committee did not receive any response from DCP prior to its November 2015 meeting and the presentation made by DCP in November 2015 did not reflect any modifications to the zoning text proposal that responded to the concerns raised by the Committee; and

Whereas At the November 2015 presentation the following additional comments and concerns were raised with respect to ZQA and MIH.

1. The uniform application of the text amendments will have a disparate impact on low-income communities and will gradually promote displacement, decreased affordability and change neighborhood character.
2. The zoning changes made under ZQA encourages, but does not require the design of buildings with more interesting, articulated facades which leaves open the possibility and likelihood that new buildings constructed will be larger, but not more architecturally attractive.
3. The area median income (AMI) levels that apply to affordable units should not be based on "an average" percentage of AMI but a "not to exceed" percentage of AMI, should be tied to the AMI of the community district in which a project is to be developed, and the rent/income levels of affordable units should be tiered and not allowed to be concentrated near the upper income/rent limit.
4. Community Boards should have a role in the MIH application review process and should be consulted on which AMI options best fits the needs of its community.
5. There should be a 50% community preference for units developed under the MIH and ZQA.
6. Affordable units developed under MIH and ZQA should be permanently included in the rent stabilization system so that tenants are guaranteed lease renewals and rent increases are determined by the Rent Guidelines Board.

7. The assumption that parking spaces contained within affordable housing developments are underused due to unaffordable monthly fees is not supported with any documentation presented to the Committee, appears to be based on a limited sample of development projects that may be skewed towards low-income senior housing, and must be subjected to further, more detailed, transparent and inclusive research.
8. MIH allows the Board of Standards and Appeals ("BSA") to waive the affordable housing requirements; this defeats the purpose of MIH and should be eliminated.

Whereas: In its review to-date of ZQA and MIH the Manhattan Borough President's office ("MBPO") has identified certain deficiencies in the proposed text amendments. For ZQA the deficiencies include: the "two-door"/"poor door" option remains; loose provisions with respect to off-site affordable units; the FAR bonus does not take into account neighborhood character and is the same everywhere; double-dipping is allowed with the 421-A program and there are inconsistent provisions for community review. For MIH the deficiencies are: the absence of anti-harassment requirements; a loop-hole that allows BSA to waive affordable housing requirements; an undefined trigger for "substantial new residential density"; and lowering the unit threshold that applies to a special permit for the option of payment in lieu of providing affordable housing. The MBPO also notes that ZQA and MIH do not address New York City Housing Authority developments, which house over 115,000 residents in Manhattan alone; and

Whereas: The proposed ZQA and MIH zoning text amendments require further study and refinement before they are considered for implementation. Now, therefore,

Be It Resolved: Community Board 12-Manhattan understands and appreciates the goals set-forth for the Zoning for Quality and Affordability and Mandatory Inclusionary Housing zoning text amendments. However, it does not support the text amendments as they are currently drafted, but could support them if they are modified to satisfactorily address the various comments and concerns contained in this resolution and urges the Department of City Planning to make these modifications.

Sincerely,

George Fernandez, Jr.

George Fernandez, Jr., Chair
Manhattan Community Board12

cc: Hon. Bill de Blasio, Mayor
Hon. Gail Brewer, Manhattan Borough President
Hon. Letitia James, Public Advocate
Hon. Scott Stringer, Comptroller
Hon. Charles B. Rangel, Congressman
Hon. Bill Perkins, NY State Senator
Hon. Adriano Espaillat, NY State Senator
Hon. Herman D. Farrell, Jr., Assembly Member
Hon. Guillermo Linares, Assembly Member
Hon. Ydanis Rodriguez, Council Member
Hon. Mark Levine, Council Member