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3 November 2, 2016

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5 Vicki Been  
6 Commissioner  
7 NYC Dept. of Housing Preservation & Development  
8 100 Gold Street  
9 New York, NY 10038

10  
11 **Re: Changes to NYC Affordable Housing Asset Cap**

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13 Dear Commissioner Been:

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15 On the recommendation of its Housing, Health, and Human Services (HH&HS) Committee,  
16 Manhattan Community Board 4 (MCB4) proposes increases to the recent changes to the City’s  
17 affordable housing asset cap and requests that applicants who applied before October 4, 2016 be  
18 assessed under the old asset cap. MCB4 recommends that the new asset caps be reevaluated,  
19 particularly concerning those residents falling in 100%-165% AMI where asset caps are being  
20 imposed for the first time.

21  
22 **Background**

23  
24 Manhattan Community Board 4 (MCB4) has a long history of working to preserve affordable  
25 housing in its district. Due to the prevalence of developers combining 421(a) and Inclusionary  
26 Housing in Manhattan Community District 4 (MCD4), more low-income housing has been built  
27 in the district than moderate to middle income housing. The growing need for moderate to  
28 middle income residents was codified in the Points of Agreement, which provides for a tiering of  
29 inclusionary bonus to higher income levels.

30  
31 West Chelsea Points of Agreement:

32 *Section 1(e): Tiering of inclusionary bonus to higher income levels*

33 The Administration agrees to allow developers to provide inclusionary housing units to  
34 higher income levels in exchange for providing more affordable units, as detailed in the  
35 modified zoning text.

36  
37 Hudson Yards Points of Agreement:

38 *Section 3(e): Tiering of inclusionary bonus to higher income levels*

39 The Administration agrees to allow developers to provide inclusionary housing units to  
40 higher income levels in exchange for providing more affordable units, as detailed in the  
41 modified zoning text.

42  
43 **Western Rail Yards Points of Agreement:**

44 *Section 2a(iii):*

45 “WRY & ERY Affordable Units will convert to permanent affordability to households at  
46 an average income of up to 90% AMI, not to exceed 125% AMI...”

47 *Section 3a(ii):*

48 [in reference to HPD’s RFP for the DEP and MTA sites] “An AMI mix of 165%”  
 49 *Section 3d:*  
 50 “HPD commits to develop the [DSNY] site for affordable housing at a range of incomes  
 51 up to 165% AMI.”  
 52 *Section 3h:*  
 53 [in reference to related off-site 80/20s] “The Westport (at 500 West 56<sup>th</sup> Street) and the  
 54 Tate (at 535 West 23<sup>rd</sup> Street) in Community District 4 will remain permanently  
 55 affordable to households at an average income of up to 90% AMI, not to exceed 125%  
 56 AMI.”

57  
 58  
 59 MCD4 has consistently advocated for middle and moderate income affordable housing. From  
 60 2006 until 2015, the Voluntary Inclusionary Housing Program (VIH) produced 2,571 units of  
 61 affordable housing in MCB4, 93.7% of these units were 60% AMI or below<sup>1</sup>. The rest of the  
 62 units are as follows:  
 63  
 64

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

**Total:** 2,571

65  
 66 The need for moderate to middle income residents is evident. In the past, an asset cap of  
 67 \$250,000 was applied to low-income applicants of affordable housing, with the exclusion of  
 68 retirement accounts. Moderate to middle income applicants were not subject to an asset cap.  
 69

70 On October 4, 2016, HPD published its new Marketing Handbook, which included several  
 71 significant changes that had not been previously announced or presented to MCB4. Section 5-5B  
 72 of the Handbook states that:  
 73

74 *“For a rental affordable unit, the value of the applicant’s household assets may  
 75 not exceed the amount of the current HUD income limit for a four person  
 76 household for the AMI limit applicable to such unit.”*  
 77

78 While previously there had only been a low-income cap, this is the first time there has been a cap  
 79 for moderate and middle income households. The new regulations add college savings accounts  
 80 to the list of accounts (including retirement accounts) that are not subject to the asset limit, but  
 81 are counted toward overall assets and income from assets.

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<sup>1</sup> See Appendix attached (list of VIH buildings forthcoming)

82  
83 These asset cap changes were not included in the press release or any other news reports.  
84 Nonetheless, HPD decided to put the new regulations into effect immediately.  
85

40%	50%	60%	80%	100%	120%	130%	165%
\$36,240	\$45,300	\$54,360	\$72,500	\$90,600	\$108,720	\$117,780	\$149,490

86  
87 The imposition of asset caps on 100%-165% of AMI disqualifies potential tenants who are  
88 currently priced out of the housing market from qualifying for affordable housing. These caps  
89 operate as a disincentive for moderate to middle income applicants, making it difficult to uphold  
90 the items in the Points of Agreement that look to expand the income range for affordable housing  
91 in MCD4.

92  
93 **Recommendation for Changes in Asset Caps**

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95 HPD’s new regulations went into effect immediately on October 4, 2016. That means that  
96 individuals and families that applied for affordable housing prior to October 4<sup>th</sup> but were  
97 interviewed after that date are being found ineligible. MCD4 has concerns about the new asset  
98 caps, but it is a matter of fairness that applicants who applied before October 4<sup>th</sup> should not be  
99 penalized for a change in rules that occurred in the middle of their application process. The new  
100 asset cap limits were never discussed publically before October 4<sup>th</sup>. If these changes had been  
101 presented to MCD4, the Board would have advised on the new limits. It is unfair to deny housing  
102 to individuals who were unaware of the policy changes.

103  
104 The Points of Agreement clearly outline a plan for providing much-needed moderate to middle  
105 income housing for residents earning between 100-165% of AMI. The recent changes in the  
106 asset caps for affordable housing applicants affects this demographic disproportionately.  
107 Penalizing residents for saving is counterproductive to long-term success. It is typical of  
108 moderate and middle income families to have savings and assets that would exceed these  
109 amounts, including but not limited to savings for college/education and family inheritances. For  
110 moderate and middle income housing to be successful in MCD4 and around the city, it is  
111 imperative that HPD take a second look at the asset caps and ask stakeholders for input into this  
112 important decision.

113  
114 **Conclusion**

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116 MCB4 urges HPD in the short term to grandfather in applicants who applied prior to October 4<sup>th</sup>,  
117 and in the long term to increase the asset cap so that all populations in need of affordable housing  
118 can be adequately served. The Board feels confident that these goals can be reached while still  
119 honoring the Points of Agreement and developing sustainable and long-term solutions for all  
120 residents.

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123 Sincerely,

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127 Delores Rubin  
128 MCB4 Chair  
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130

A handwritten signature or set of initials, possibly 'AT', written in black ink.

131  
132 Barbara Davis, Co-Chair  
133 Housing, Health &  
134 Human Services Committee  
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Joe Restuccia, Co-Chair  
Housing, Health &  
Human Services Committee

136 Cc: Assembly Member L. Rosenthal  
137 Council Member H. Rosenthal  
138 Borough President G. Brewer  
139 State Senator B. Hoylman  
140 Thehbia Walters, HPD  
141 S. Desmond, Housing Conservation Coordinators

142 **Appendix A.1**

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144 *The Marketing Handbook: Policies and Procedures for Resident Selection and*  
145 *Occupancy*

146 Section 5-5 B. ASSET LIMITS:

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148 1. Note: For purposes of these requirements, real property includes shares of stock  
149 in a cooperative housing corporation and ownership includes any type of direct or  
150 indirect ownership interest (including partial ownership).

151  
152 2. The value of household assets may not exceed the asset limit for the unit to  
153 which the applicant is applying. The definition of household assets, as it pertains  
154 to real property, deviates from the definition of assets in the HUD Handbook  
155 4350.3.

156 a. The entire market value of any interest in real property is subject to the  
157 asset limit; for other capital investments, only the applicant's equity in the  
158 investment is subject to the asset limit.

159 b. Balances in specifically designated retirement funds and college savings  
160 accounts are not subject to the asset limit, but are counted toward overall assets  
161 and income from assets.

162 c. Developers and Marketing Agents should refer to HUD 4350.3 Exhibit  
163 5.2 for the definition of all other assets not listed in this section.

164  
165 3. Asset Limit for Applicants of Rental Units

166 a. For a rental affordable unit, the value of the applicant's household assets  
167 may not exceed the amount of the current HUD income limit for a four person  
168 household for the AMI limit applicable to such unit.

169 b. For example, if the 60% HUD income limit for a four-person household  
170 is \$55,000, a household of any size applying for a 60% AMI unit is not eligible if  
171 its total household assets exceed \$55,000. If the 80% limit is \$72,000, a  
172 household applying for an 80% AMI unit may not have more than \$72,000 in  
173 assets.

174  
175 4. Asset Limit for Applicants of Homeownership Units For a homeownership  
176 affordable unit, the value of the applicant's household assets may not exceed the  
177 current four-person HUD income limit for 175% AMI

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180 Section 5-5 C. PROPERTY OWNERSHIP

181 1. Asset Calculation

182 a. If an applicant owns any real property, the market value of that real  
183 property is included in the calculation of household assets and is  
184 subject to the asset limit (see Section 5-5.B, "Asset Limits").

185 2. Income Calculation

186 a. If an applicant owns any real property, the actual or potential rental  
187 income from that real property is included in the income calculation.

188 3. Prohibition – Rental Affordable Unit

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- a. For a rental affordable unit, no member of the applicant’s household may own any residential real property in, or within a 100-mile radius of, New York City.
- 4. Prohibition – Homeownership Affordable Unit
  - a. For a homeownership affordable unit, no member of the applicant’s household may own, or have previously purchased, any interest in residential real property.

<b>Project</b>	<b>Year</b>	<b>Address</b>	<b>Total Units</b>	<b>Total Affordable</b>
<b>Caledonia</b>	2006	450 West 17th Street	288	59
<b>TF Cornerstone</b>	2007	455 West 37th Street	394	80
<b>Clinton Housing</b>	2007	505 West 51st Street	10	10
<b>Douglaston Development</b>	2007	316 11th Avenue	369	80
<b>Emerald Green</b>	2007	310-328 West 38th Street	569	120
<b>River Place II</b>	2007	600 West 42nd Street	1,169	234
<b>Atlantic Development</b>	2008	303 10th Avenue	89	18
<b>TF Cornerstone</b>	2008	505 West 37th Street	835	169
<b>Avalon Bay</b>	2009	525 West 28th Street	691	142
<b>Tower 37 LLC</b>	2009	350 W. 37th Street	207	42
<b>Crystal Green</b>	2010	330 West 39th Street	200	41
<b>Gotham West</b>	2011	550 West 45th Street	1,238	137
<b>Mercedes House</b>	2011	770 11th Avenue	900	171
<b>Lalezarian</b>	2012	515 West 28th Street	375	75
<b>Related Companies</b>	2012	500 West 30th Street	385	77
<b>Arker Companies Development</b>	2013	424 West 55th Street	17	17
<b>DHA Capital</b>	2013	546 West 44th Street	280	62
<b>Extell Development</b>	2013	551 10th Avenue	598	119
<b>Moinian</b>	2013	605 West 42nd Street	1,191	238
<b>Iliad Development</b>	2014	509 West 38th Street	224	46
<b>Elad</b>	2014	505 West 43rd	106	9
<b>Manhattan West</b>	2014	401 West 31st Street	844	169
<b>Taconic/Ritterman</b>	2014	525 West 52nd Street	392	79
<b>TF Cornerstone</b>	2014	606 West 57th Street	1,028	224
<b>Site 7</b>	2014	540 West 53rd	103	103
<b>Lalezarian</b>	2015	515 West 36th Street	251	50
<b>TOTAL</b>			<b>12,753</b>	<b>2,571</b>