CHARTER 2019 NYC

**Post-Election Report,
Prepared by the Staff of the
2019 New York City
Charter Revision Commission**

December 31, 2019

Table of Contents

About the Commission and This Post-Election Report

The 2019 Charter Revision Commission (Commission) was created by Local Law 91 of 2018, which was passed by the New York City Council on April 11, 2018 and approved by the Mayor on April 30, 2018. The Commission consisted of 15 members appointed by nine separate elected officials: four members were appointed by the Mayor, four by the Speaker of the Council, and one each by the Comptroller, the Public Advocate, and the five Borough Presidents. This was the first charter revision commission in the City's history that was not either entirely appointed by the Mayor or appointed at the direction of the State Legislature. The Commission had not only the benefit of the wealth of City government experience amongst its members,[1] but also hearing different and unique viewpoints from all branches of the City's local government.

Throughout the course of its work which began in the Summer of 2018, the Commission conducted an extensive public engagement process and outreach effort throughout the City, both in person and through online platforms. The Commission held 23 public meetings and hearings throughout each of the boroughs, listening to and considering testimony from hundreds of members of the public, current and former City officials, experts (both local and across the country), community-based organizations, good government groups and other interested stakeholders. It received hundreds of ideas and proposals, adopted criteria to narrow the set of ideas and proposals for further study, and sought and received feedback and testimony from not only the public but also noted experts in the specific areas which advanced throughout the process.[2]

Ultimately, on July 24, 2019, the Commission voted to place five questions on the November 2019 ballot addressing the areas of Elections, Police Accountability, Ethics and Governance, City Budget, and Land Use.

This Post-Election Report is intended to inform City policymakers about what the Commission learned in three specific areas that, while not the subject of any of the proposed Charter amendments ultimately approved by the Commission, nonetheless garnered significant interest among members of the Commission: (1) comprehensive planning; (2) democracy vouchers; and (3) the role of the Borough Presidents in local service delivery. It is the Commission's hope that this information will prove helpful to City officials, policymakers, interested stakeholders, or a future charter revision commission that is considering reforms in these areas.

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[1] See 2019 Charter Revision Commission, Final Report August 2019, at 12-16.
[2] See 2019 Charter Revision Commission, Preliminary Staff Report April 2019, at 2-6; 2019 Charter Revision Commission, Final Report August 2019, at 5-11.

The November 2019 General Election Results

At the general election that occurred on November 5, 2019,[3] the voters of the City of New York adopted amendments to the City Charter that were proposed by the 2019 Charter Revision Commission in the form of five ballot questions in five general areas: Elections, the Civilian Complaint Review Board, Ethics and Governance, the City Budget process, and Land Use. The election results for each ballot question, as certified by the New York City Board of Elections on December 3, 2019, are listed below.[4]

Ballot Question # 1 – Elections

Total Applicable Ballots	**796,253**
YES	510,153
NO	182,900
Total Votes	**693,053**
Unrecorded	103,200

Voters approved the following amendments to the Charter with respect to Elections:

- Give voters the choice of ranking up to five candidates in primary and special elections for Mayor, Public Advocate, Comptroller, Borough President, and City Council, beginning in January 2021. If voters still want to choose just one candidate, they can. A candidate who receives a majority of first-choice votes would win. If there is no majority winner, the last-place candidate would be eliminated and any voter who had that candidate as their top choice would have their vote transferred to their next choice. This process would repeat until only two candidates remain, and the candidate with the most votes then would be the winner. This proposal would eliminate the separate run-off primary elections for Mayor, Public Advocate, and Comptroller *(effective immediately, applicable to primary and special elections beginning January 1, 2021)*;

- Extend the time period between the occurrence of a vacancy in an elected City office and when a special election must be held to fill that vacancy. Special elections would generally be held 80 days after the vacancy occurs, instead of 45 days (for Public Advocate, Comptroller, Borough Presidents, and Council Members) or 60 days (for Mayor) *(effective immediately)*; and

- Adjust the timeline of the process for drawing City Council district boundaries so that it is completed before City Council candidates start gathering petition signatures to appear on the ballot for the next primary election *(effective immediately)*.

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[3] For the first time in New York State history, pursuant to State legislation enacted in January 2019, all New Yorkers were given the opportunity to vote early for the November 5, 2019 general election. This early voting in New York City was administered by the New York City Board of Elections between October 26 and Nov 3, 2019. See New York State, Early Voting in New York.

[4] Board of Elections in the City of New York, Election Results Summary.

Ballot Question # 2 – Civilian Complaint Review Board

Total Applicable Ballots	796,253
YES	510,949
NO	173,368
Total Votes	**684,317**
Unrecorded	111,936

Voters approved the following amendments to the Charter with respect to the Civilian Complaint Review Board (CCRB):

- Increase the size of the Civilian Complaint Review Board from 13 to 15 members by adding one member appointed by the Public Advocate and adding one member jointly appointed by the Mayor and Speaker of the Council who would serve as chair, and provide that the Council directly appoint its CCRB members rather than designate them for the Mayor's consideration and appointment *(effective March 31, 2020)*;

- Require that the CCRB's annual personnel budget be high enough to fund a CCRB employee headcount equal to 0.65% of the Police Department's uniformed officer headcount, unless the Mayor makes a written determination that fiscal necessity requires a lower budget amount (*(effective immediately, applicable to the Fiscal Year 2021 City budget)*;

- Require that the Police Commissioner provide the CCRB with a written explanation when the Police Commissioner intends to depart or has departed from discipline recommended by the CCRB or by the Police Department Deputy (or Assistant Deputy) Commissioner of Trials *(effective immediately)*;

- Allow the CCRB to investigate the truthfulness of any material statement that is made within the course of the CCRB's investigation or the resolution of a complaint by a police officer who is the subject of that complaint, and recommend discipline against the police officer where appropriate *(effective March 31, 2020)*; and

- Allow the CCRB members, by a majority vote, to delegate the board's power to issue and seek enforcement of subpoenas to compel the attendance of witnesses and the production of records for its investigations to the CCRB Executive Director *(effective March 31, 2020)*.

Ballot Question # 3 – Ethics and Governance

Total Applicable Ballots	796,253
YES	520,656
NO	151,271
Total Votes	671,927
Unrecorded	124,326

Voters approved the following amendments to the Charter with respect to Ethics and Governance:

- Prohibit City elected officials and senior appointed officials from appearing before the agency (or, in certain cases, the branch of government) they served in for two years after they leave City service, instead of the current one year (*this change would be applicable to persons who leave elected office or City employment after January 1, 2022)*;

- Change the membership of the Conflicts of Interest Board (COIB) by replacing two of the members currently appointed by the Mayor with one member appointed by the Comptroller and one member appointed by the Public Advocate *(effective immediately and applicable to new members starting on or after April 1, 2022)*;

- Prohibit members of COIB from participating in campaigns for local elected office, and reduce the maximum amount of money that members can contribute in each election cycle to the amounts that candidates can receive from those doing business with the City ($400 or less, depending on the office) *(effective immediately and applicable to new appointees only)*;

- Require that the citywide director of the Minority- and Women-Owned Business Enterprise (M/WBE) program report directly to the Mayor and require further that such director be supported by a mayoral office of M/WBEs *(effective immediately March 31, 2020)*; and

- Require that the City's Corporation Counsel, appointed by the Mayor, also be approved by the City Council *(effective immediately and applicable to new appointees only)*.

Ballot Question # 4 – City Budget

Total Applicable Ballots	796,253
YES	477,328
NO	193,200
Total Votes	**670,528**
Unrecorded	125,725

Voters approved the following amendments to the Charter with respect to the City Budget:

- Allow the City to use a revenue stabilization fund, or "rainy day fund," to save money for use in future years, such as to address unexpected financial hardships. Changes to New York State (State) law will also be needed for this rainy day fund to be usable *(effective immediately, but requires State law change)*;

- Set minimum budgets for the Public Advocate and Borough Presidents. The budget for each office would be at least as high as its Fiscal Year 2020 budget adjusted annually by the lesser of the inflation rate or the percentage change in the City's total expense budget (excluding certain components), unless the Mayor determines that a lower budget is fiscally necessary *(effective immediately, applicable to the Fiscal Year 2021 City budget)*;

- Require the Mayor to submit a non-property tax revenue estimate to the City Council by April 26 (instead of June 5). The Mayor may submit an updated estimate after that date, but must explain why the updated estimate is fiscally necessary if the update is submitted after May 25 *(effective immediately, applicable to the Fiscal Year 2021 City budget)*; and

- Require that, when the Mayor makes changes to the City's financial plan that would require a budget modification to implement, the proposed budget modification shall be submitted to the Council within 30 days *(effective July 1, 2020)*.

Ballot Question # 5 – Land Use

Total Applicable Ballots	796,253
YES	505,926
NO	155,658
Total Votes	661,584
Unrecorded	134,669

Voters approved the following amendments to the Charter with respect to Land Use:

- For projects subject to the Uniform Land Use Review Procedure (ULURP), require the Department of City Planning (DCP) to transmit a detailed project summary to the affected Borough President, Borough Board, and Community Board at least 30 days before the application is certified for public review; and to post that summary on its website *(effective August 31, 2020)*; and

- Provide Community Boards with additional time to review ULURP applications certified for public review by DCP between June 1 and July 15, from the current 60-day review period to 90 days for applications certified in June, and to 75 days for applications certified between July 1 and July 15 *(effective immediately)*.

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Further information regarding these amendments can be found in the Final Report of the Commission.[5]

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[5] See 2019 Charter Revision Commission, Final Report August 2019.

Comprehensive Planning for the City

A topic area that garnered substantial public interest and in which the Commission received significant and varied ideas and commentary involves the subjects of "comprehensive" planning, strategic planning, and how the City now facilitates planning. The debate centered on how a City with a population of 8.4 million, projected to grow to more than 9 million by 2040,[6] should plan for its future growth in a fair, equitable, and orderly manner.

What is "Comprehensive Planning"?

Urban planning professionals use the term "comprehensive plan" to describe a document that articulates long-term development goals related to transportation, utilities, land use, recreation, housing, and other types of infrastructure and services. These goals – which are expressed separately from municipal laws and regulations – are meant to direct legislative and administrative decision-making. Comprehensive plans are used in various places throughout the United States. In some jurisdictions, zoning and land use decisions are required or strongly encouraged to conform with comprehensive plans; in others, comprehensive plans simply serve as general policy guides.

Lawmakers and stakeholders have long debated the merits and drawbacks of comprehensive plans. Some prefer flexible, project-specific planning practices to a single, binding comprehensive plan. When a city is not constrained by a long-term plan, it is free to adjust plans, priorities, and policies according to evolving conditions and needs. Critics of comprehensive planning fear that a binding plan could never be designed to accommodate a large, diverse, and dynamic city. In critics' view, comprehensive planning requirements stifle effective planning by limiting decision-makers to policies that are out of date as soon as plans are passed. However, other commentators believe that comprehensive planning improves municipal governance, promotes constructive planning, and prevents ad hoc decision-making. Proponents argue that adherence to a unified plan helps allocate necessary growth across a city according to planning principles rather than political or financial incentives.

Proponents of comprehensive planning often disagree among themselves about the ideal structure for a plan. Some advocate a "top-down" approach in which a mayor or city agency sets citywide goals and policies. This type of planning is designed to overcome local resistance to projects and regulations that promote broader goals. Other advocates prefer a "bottom-up" plan rooted in community concerns and priorities. This approach builds a citywide plan on a foundation of local input. Because these two visions of comprehensive planning reflect fundamentally different priorities, it is important for comprehensive planning proposals to clearly articulate which model they are pursuing.

Planning in New York City

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[7] See State Charter Revision Commission for New York City, A More Efficient and Responsive Municipal Government: Final Report to the Legislature, (Mar. 31, 1977) ("The Charter requirement of an overall Master Plan . . . in 38 years, was never fully implemented, has been replaced in the new Charter by a less ambitious provision for 'plans for the development, growth, and improvement of the city and of its boroughs and community districts.' These plans may be as comprehensive as desired and could even include an overall Master Plan if that should ever seem practicable. Such plans now may be initiated not only by the City Planning Commission as formerly, but also by the Mayor and by a Community or Borough Board.").

A "master plan" for New York City was required under the 1936 Charter; however, this requirement was repealed by referendum through New York State's 1975 Charter Revision Commission, the cited reason being that such a plan was never adopted (though one was attempted in 1969) and that more flexible procedures would better fit the City's needs.[7] Today, the City plans through an assortment of nonbinding documents, City initiatives, and amendments to the Zoning Resolution. State law requires that local land use regulation "accord with" a "comprehensive" or "well-considered" plan, but State courts have interpreted this language to require only that a municipality carefully consider community-wide benefits when regulating land use.[8]

The primary mechanism by which the City solicits input from communities and the public regarding individual discretionary land use decisions (e.g., rezoning, special permits, City land dispositions) is the Uniform Land Use Review Procedure (ULURP). Established in the Charter in 1975, ULURP specifies a timeframe and sequence for public review of land use applications by different government actors – Community Boards, Borough Presidents, Borough Boards, the City Planning Commission (CPC), and ultimately, the City Council. A goal of ULURP when it was created was to "give local communities a say in shaping important land use policies without granting them veto power over public welfare; in other words . . . to strengthen, not balkanize, the City's neighborhoods and communities."[9] ULURP seeks to achieve this goal with community-level review as the first step in the formal process, while reserving binding authority to the CPC and the City Council. Because ULURP considers individual actions, it is not designed to be a vehicle for holistic planning.

Existing Charter-Mandated Planning Documents

The Charter establishes no fewer than 11 separate kinds of planning documents that could fairly be considered part of a "strategic" or "comprehensive" plan for the City.[10] But the Charter does

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[7] See State Charter Revision Commission for New York City, A More Efficient and Responsive Municipal Government: Final Report to the Legislature, (Mar. 31, 1977) ("The Charter requirement of an overall Master Plan . . . in 38 years, was never fully implemented, has been replaced in the new Charter by a less ambitious provision for 'plans for the development, growth, and improvement of the city and of its boroughs and community districts.' These plans may be as comprehensive as desired and could even include an overall Master Plan if that should ever seem practicable. Such plans now may be initiated not only by the City Planning Commission as formerly, but also by the Mayor and by a Community or Borough Board.").

[8] See, e.g., Asian Americans for Equality v. Koch, 72 N.Y.2d 121, 131 (1988) ("A well-considered plan need not be contained in a single document; indeed, it need not be written at all.").

[9] "Planning for Land Use: Recommendations," State Charter Revision for New York City, 3 (Mar. 26, 1975).

[10] Prior to 2012, another planning document was required under the Charter. Known as the "Zoning and Planning Report" (ZPR) and required to be prepared every four years, its task was to describe the CPC's "planning policy" and to include all significant plans and studies by the planning department in the preceding four years. It was also required to analyze zoning resolution and those parts merited review in light of the CPC's planning policy, together with proposals for implementing that policy. See N.Y. City Charter § 192(f). On November 19, 2012, the Report and Advisory Board Review Commission (RABR Commission), acting pursuant to Charter § 1113, voted to "waive" the requirement that a ZPR be developed, finding it duplicative of other planning documents (e.g., PlaNYC required under Local Law 17 of 2008). Pursuant to Charter § 1113(d)(4) and (5), if the City Council does not, within 100 days of any given RABR Commission waiver of a report, vote to disapprove the waiver, then the impacted report is deemed no longer required. It does not appear that the City Council took any action with respect to this report; therefore, Commission staff believes that the ZPR is no longer required.

not always make clear how (and whether) these plans are intended to fit together, what they must address, how they relate to one another, how progress (or lack thereof) toward their goals is measured and assessed, and how the public can affect the content of these plans (if at all).

The Charter-required plans and similar documents are described below:

Borough Strategic Policy Statements (Borough SPS)
- **Summary:** Each Borough Strategic Policy Statement must include "(i) a summary of the most significant long-term issues faced by the borough; (ii) policy goals related to such issues; and (iii) proposed strategies for meeting such goals."[11]
- **Process/Timing:**
  - By September 1 in every fourth year (next occurring in 2022), each Borough President must submit a Borough SPS to the Mayor, City Council, and Community Boards in the borough.[12] Each Borough President must "consult" with the Community Boards in the Borough President's borough when preparing the Borough SPS.[13]
- **Progress/Success Indicators:** None specified in the Charter.
- **Affects the Following Plans:**
  - City Strategic Policy Statement
  - Ten-Year Capital Strategy
  - Zoning and Planning Report
  - Community development plans approved under Charter § 197-a (197-a plans)
- **Affected by the Following Plans:** None specified in the Charter.

City Strategic Policy Statement
- **Summary:** The City Strategic Policy Statement must include "(i) a summary of the most significant long-term issues faced by the city; (ii) policy goals related to such issues; and (iii) proposed strategies for meeting such goals."[14]
- **Process/Timing:**
  - By November 15 in every fourth year (next occurring in 2022), the Mayor must submit a "preliminary" City Strategic Policy Statement to the Borough Presidents, City Council, and Community Boards.[15] While preparing this preliminary plan, the Mayor must "consider" each Borough SPS.[16]
  - By the start of the following February (about two and a half months after submission of the preliminary City Strategic Policy Statement), the Mayor must submit a "final" City Strategic Policy Statement to the Borough Presidents, City Council, and Community Boards.[17] This final statement must include revisions as

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[11] Charter § 82(14).
[12] Id.
[13] Id.
[14] Id.
[15] Charter § 17(a).
[16] Id.
[17] Charter § 17(b).

the Mayor deems appropriate after reviewing the comments received on the preliminary statement.[18]
- o The Department of City Planning (DCP) is responsible for assisting the Mayor in developing the preliminary and final City Strategic Policy Statements.[19]
- **Progress/Success Indicators:** None specified in the Charter.
- **Affects the Following Plans:**
  - o Ten-Year Capital Strategy
  - o Zoning and Planning Report
  - o 197-a plans
- **Affected by the Following Plans:**
  - o Borough SPSs

Ten-Year Capital Strategy
- **Summary:** The Ten-Year Capital Strategy must include "(1) a narrative describing the strategy for the developing of the city's capital facilities for the ensuing ten years; the factors underlying such strategy including goals, policies, constraints and assumptions and the criteria for assessment of capital needs; the anticipated sources of financing for such strategy; and the implications of the strategy, including possible economic, social and environmental effects; (2) tables presenting the capital commitments estimated to be made during each of the ensuing ten fiscal years, by program category and agency. Where relevant the anticipated sources of financing for particular categories and projects shall be specified; and (3) a map or maps which illustrate major components of the strategy as relevant."[20]
- **Process/Timing:**
  - o By November 1 in every even-numbered year, the Office of Management and Budget and the DCP must submit to the Mayor, City Council, Borough Presidents, and the CPC a draft Ten-Year Capital Strategy.[21]
  - o By the following January 16, the CPC must hold a public hearing on the draft Ten-Year Capital Strategy and submit its comments and recommendations to the Mayor, Borough Presidents, and City Council.[22]
  - o By the following March 25, relevant City Council committees must, as part of their budget oversight hearings, hold hearings on the draft Ten-Year Capital Strategy and the City Council must submit its recommendations to the Mayor.[23]
  - o By the following April 26, the Mayor must publish the final Ten-Year Capital Strategy.[24]
- **Progress/Success Indicators:** None specified in the Charter.
- **Affects the Following Plans:**

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[18] Id.
[19] Charter § 191(a)(6).
[20] Charter § 215(b).
[21] Charter § 228.
[22] Charter § 234.
[23] Charter § 247. Presumably, in years that do not require a new draft Ten-Year Capital Strategy, these hearings are not required.
[24] Charter § 248.

- o Capital Budget[25]
- o Four-Year Capital Program [26]
- o 197-a plans[27]
- **Affected by the Following Plans:**
  - o Borough SPSs[28]
  - o City Strategic Policy Statement[29]
  - o 197-a plans[30]
  - o Previous reports required under Charter § 257 "comparing the most recent ten-year capital strategy with the capital budgets and programs adopted for the current and previous fiscal years"[31]

Four-Year Capital Program
- **Summary:** The Four-Year Capital Program must set forth "for both program categories and individual projects: (1) A statement for each of the three succeeding fiscal years of the total dollar amounts necessary to complete projects initiated in prior years and projects proposed in the executive budget, the amounts necessary for projects proposed to be initiated in future years and the amount necessary for amendments and contingencies; and (2) A statement of the likely impact on the expense budget of staffing, maintaining and operating the capital projects included in or contemplated by the capital program."[32]
- **Process/Timing:**
  - o The Mayor's executive capital budget, due by April 26 each year, is required to include an "executive capital program."[33]
  - o When the City Council adopts the executive budget for the upcoming fiscal year (see further discussion below in "City Budget"), it also adopts the Four-Year Capital Program.[34] Similar to the veto and veto override provisions for the normal budget, if the Four-Year Capital Program differs from the Mayor's executive capital program, the Mayor may veto the changes, and the City Council may, in turn, override that veto.[35] At any time after adoption, the City Council may amend the Four-Year Capital Program if the Mayor requests such an amendment.[36]
- **Progress/Success Indicators:** None specified in the Charter.
- **Affects the Following Plans:**
  - o Future Ten-Year Capital Strategy[37]

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[25] Charter § 257 ("Not later than thirty days after the budget is finally adopted, the mayor shall prepare a statement of how the capital budget and program as finally adopted vary, if at all, from the ten-year capital strategy . . . .").

[26] Id.

[27] 62 RCNY § 6-04(b)(4).

[28] Charter § 215(c).

[29] Id.

[30] Id.

[31] Id.

[32] Charter § 214(b).

[33] Charter §§ 214(b), 249.

[34] See Charter § 254(a).

[35] Id.

[36] Charter § 216(a).

[37] Charter § 215(c).

- **Affected by the Following Plans:**
  - Past Ten-Year Capital Strategy [38]

Community Development Plans (197-a plans)
Section 197-a of the Charter authorizes various City entities – including Community Boards – to sponsor non-binding plans for the development, growth, and improvement of particular local areas. Known as "197-a plans" and adopted in 1975 (together with the creation of ULURP), they are intended to provide an avenue for community-based planning. However, the process can be onerous and is not widely employed. Adopted in a process similar to ULURP, only thirteen 197-a plans – 11 of which were sponsored by Community Boards – have been adopted, the most recent over a decade ago in 2009. The primary reason that so few plans exist is that most potential sponsors (e.g., Community Boards) lack the resources and expertise to successfully produce and advocate for plans.

- **Summary:**
  - A plan "for the development, growth, and improvement of the city and of its boroughs and community districts" which may be proposed by the Mayor, CPC, DCP, a Borough President or Borough Board (within the respective borough), or a Community Board with respect to land located within its community district. [39]
  - The plan may be a "comprehensive or master plan"[40] for the area or "a targeted plan which considers one or a small number of elements of neighborhood, community districts, borough or citywide problems or needs."[41]
  - In either case, the plans must meet the following requirements:
    - "be presented in clear language and coherent form with elements, chapters or sections that are organized in logical sequence";[42]
    - "state their goals, objectives or purposes clearly and succinctly . . . contain documentation and explanation of the data, analysis or rationale underlying each [policy statement or recommendation and] demonstrate a serious attempt to analyze and propose policies that address the problems they identify";[43]
    - "contain, as appropriate, inventories or description and analysis of existing conditions, problems or needs; projections of future conditions, problems or needs; and recommended goals and strategies to address those conditions, problems or needs . . . [with the] information and analysis relied

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[38] Charter § 257.

[39] Charter § 197-a(a).

[40] 62 RCNY § 6-04(a)(1) ("A plan may take the form of a comprehensive or master plan for a neighborhood, community district, borough or other broad geographic area of the city. Such a plan would combine elements related to housing, industrial and commercial uses, transportation, land use regulation, open space, recreation, community facilities and other infrastructure and service improvements which promote the orderly growth, improvement and future development of the community, borough or city."); see also Charter § 197-a(b) (requiring CPC to "adopt rules establishing minimum standards for the form and content" of 197-a plans).

[41] 62 RCNY § 6-04(a)(2) ("Such a plan shall have as its focus issues that are related to the use, development and improvement of land within the sponsor's geographic jurisdiction and may give consideration to the provision of various city services necessary to support orderly growth, development and improvement of that area.").

[42] 62 RCNY § 6-04(a)(4).

[43] 62 RCNY § 6-04(a)(5).

upon to support its recommendations [sufficiently] identified so that when the plan is later under review, the accuracy and validity of the information and analysis may be understood";[44]

- "be accompanied by documentation of the public participation in their formulation and preparation, such as workshops, hearings or technical advisory committees";[45] and

- "include discussion of their long-range consequences, their impact on economic and housing opportunity for all persons (particularly those of low and moderate income), their provision of future growth and development opportunities, their ability to improve the physical environment and their effect on the fair geographic distribution of city facilities."[46]

- **Process/Timing:**
  - The sponsor of a 197-a plan must notify the DCP least 90 days before submitting a proposed plan.[47]
  - Within 90 days after submission of the plan, the DCP determines whether the plan meets the standards (discussed above) and, if so, presents the plan to the CPC.[48]
  - Within 30 days after such presentation, the CPC determines whether the plan meets the standards. If the CPC determines that the proposed plan does not meet the standards, it sends the plan back to the sponsor with a statement explaining its deficiencies. If the CPC determines that the proposed plan does meet the standards, it directs the DCP to undertake any required environmental reviews.[49]
  - The CPC then directs the DCP to distribute the plan to all affected Community Boards, Borough Presidents, and Borough Boards (and may also direct its distribution to other agencies whose operations are affected and City or State agencies with jurisdiction over elements of the plan).[50]
  - Within 60 days of receipt, a Community Board must conduct a public hearing on the plan and submit a written recommendation to the CPC, with copies provided to the Borough President, City Council, and the sponsor.[51]
  - Following receipt of the proposed plan, the Borough President of the relevant borough has 120 days to review the plan and submit written recommendations to the CPC, as well as copies to the City Council and the sponsor. The Borough President may choose to conduct a public hearing.[52]
  - If the proposed plan affects land in two or more community districts in the relevant borough, the Borough Board conducts a public hearing on the plan.[53] The public

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[44] 62 RCNY § 6-04(a)(6).

[45] 62 RCNY § 6-04(a)(7).

[46] 62 RCNY § 6-04(b)(1).

[47] 62 RCNY § 6-02(a).

[48] 62 RCNY § 6-03(a), (b).

[49] 62 RCNY § 6-03(b).

[50] 62 RCNY § 6-06(a).

[51] 62 RCNY § 6-06(b).

[52] 62 RCNY § 6-06(c).

[53] If a plan affects an entire borough, a single borough-wide public hearing may be held in lieu of separate hearings held by the Community Boards. Any Community Board or Borough Board may make a request to the DCP to receive and review a proposed plan that does not involve land within its district or borough. Such a request must state the

hearing must take place and the Borough Board must transmit a report within 120 days of receiving the proposed plan.[54]

- o Once the affected Community Board(s), Borough President(s), and/or Borough Boards have completed their review of any proposed plan involving land in their respective districts/boroughs, the CPC begins its review and holds a public hearing within 60 days.[55]
- o The CPC then votes to approve, approve with modifications, or disapprove the plan within 60 days following its public hearing[56] and accompanies with this resolution a report that describes its considerations and explains any determination.[57]
- o The CPC-approved plan is then filed with the City Council, which has 50 days to hold a public hearing and approve, approve with modifications, or disapprove the plan by a simple majority vote.[58]
- o If the City Council sends back a proposed modification of a plan, the CPC must review the proposed modification within 15 days, including an assessment of whether the modification must be subject to additional environmental review, and respond to the City Council with its findings and recommendations.[59]
- o If the City Council does not vote on the proposed plan, the CPC determination is final.
- **Progress/Success Indicators:** None specified in the Charter.
- **Affects the Following Plans:**
  - o Ten-Year Capital Strategy
  - o Zoning and Planning Report
- **Affected by the Following Plans:**
  - o Borough SPSs
  - o City Strategic Policy Statements
  - o Ten-Year Capital Strategy
  - o Zoning and Planning Report
  - o 197-a plans "of a neighboring or superior jurisdiction"[60]

Statement of Community District Needs
- **Summary:** A statement prepared for the community district by its Community Board that includes "a brief description of the district, the board's assessment of its current and probable future needs, and its recommendations for programs, or activities to meet those needs."[61]

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reason why the plan affects the welfare of its district or borough. Upon receiving the plan, the Community Board or Borough Board may conduct a public hearing and may make a recommendation to CPC. 62 RCNY § 6-06(e).

[54] 62 RCNY § 6-06(d).
[55] 62 RCNY § 6-07(a).
[56] If the CPC finds that it is unable to vote within that time frame, it must provide a written explanation to the sponsor. 62 RCNY § 6-07(c).
[57] 62 RCNY § 6-07(d).
[58] Charter § 197(d).
[59] 62 RCNY § 6-08(a).
[60] 62 RCNY § 6-04(b)(4).
[61] Charter § 2800(d)(10).

- **Process/Timing:** Prepared annually by each Community Board (on a schedule set by the Mayor), but no further process established in the Charter.
- **Progress/Success Indicators:** None required by the Charter.
- **Affects the Following Plans:**
  - Citywide Statement of Needs
- **Affected by the Following Plans:** None required by the Charter.

Citywide Statement of Needs
- **Summary:** The Citywide Statement of Needs must "identify by agency and program: (1) all new city facilities and all significant expansions of city facilities for which the mayor or an agency intends to make or propose an expenditure or to select or propose a site during the ensuing two fiscal years and (2) all city facilities which the city plans to close or to reduce significantly in size or in capacity for service delivery during the ensuing two fiscal years."[62]
- **Process/Timing:**
  - By November 15 of each year, the Mayor must submit to the City Council, Borough Presidents, Borough Boards, and Community Boards a "citywide statement of needs" prepared in accordance with "Fair Share" criteria.[63]
  - The Citywide Statement of Needs is developed based on needs information submitted to the Mayor by each City agency, and, to prepare its needs information, each agency is in turn required to "review and consider" the district needs statements provided by the Community Boards (discussed above).[64]
  - After receiving the Citywide Statement of Needs, each Community Board must hold a public hearing on it, and each Community Board and Borough President may, within 90 days after receiving the Citywide Statement of Needs, submit comments to the DCP.[65] Borough Presidents may also suggest alternative sites for facilities listed in the statement, provided that those alternative sites are within the same borough and satisfy Fair Share criteria.[66] Agencies must "consider" all written statements submitted through this process when taking action on a matter addressed by the Citywide Statement of Needs.[67]
- **Progress/Success Indicators:** None specified in the Charter.
- **Affects the Following Plans:** None specified in the Charter.
- **Affected by the Following Plans:**
  - Statement of Community District Needs[68]

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[62] Charter § 204(a).

[63] Id.

[64] Charter § 204(e)(1).

[65] Charter § 204(f).

[66] Id.

[67] Id.

[68] Charter § 204(e)(1).

Long-Term Sustainability Plan/Updates
- **Summary:** Charter § 20(e) required the development of a "comprehensive, long-term sustainability plan," formerly known as "PlaNYC."[69] That plan was required to include "an identification and analysis of long-term planning and sustainability issues associated with, but not limited to, housing, open space, brownfields, transportation, water quality and infrastructure, air quality, energy, and climate change" and to establish long-term goals (to be achieved by April 22, 2030) in those areas together with a "list of policies, programs and actions" for the City to meet those goals.[70] Since 2015, plan updates (see below) must also address "the resiliency of critical infrastructure, the built environment, coastal protection and communities."[71]
- **Process/Timing:**
  - The Office of Long-Term Planning and Sustainability[72] must update the Long-Term Sustainability Plan by April 22 in every fourth year (next occurring in 2023).[73]
  - The Office of Long-Term Planning and Sustainability is assisted in this effort by a "sustainability advisory board" appointed by the Mayor and comprising "representatives from environmental, environmental justice, planning, architecture, engineering, coastal protection, construction, critical infrastructure, labor, business and academic sectors."[74]
  - Plan updates must take into account the long-term (21-year) and intermediate (10-year) population projections that the DCP is required to make by April 22 in every fourth year (next occurring in 2022).[75]
- **Progress/Success Indicators:** Plan updates are required to include "implementation milestones for each policy, program and action contained" in the plan (and a rationale for any changes to such milestones).[76]
- **Affects the Following Plans:** None specified in Charter.
- **Affected by the Following Plans:** None specified in Charter.

Sustainability Indicators Report
- **Summary:** The report shows the City's performance with respect to a set of indicators developed by the Office of Long-Term Planning and Sustainability "to assess and track the overall sustainability of the city with respect to the categories . . . of housing, open space, brownfields, transportation, water quality and infrastructure, air quality, energy, and climate change; the resiliency of critical infrastructure, the built environment, coastal protection and communities; and regarding city agencies, businesses, institutions and the

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[69] See Local Law 17/2008.

[70] Charter § 20(e)(1).

[71] Charter § 20(e)(2).

[72] The Office of Long-Term Planning and Sustainability "may, but need not, be established in the executive office of the mayor and may be established as a separate office or within any other office of the mayor or within any department the head of which is appointed by the mayor." Charter § 20(a).

[73] Charter § 20(e)(2).

[74] Charter § 20(g).

[75] Charter § 20(d), (e)(2).

[76] Charter § 20(e)(2).

public," as well as any additional categories identified by the Office of Long-Term Planning and Sustainability.[77]
- **Process/Timing:** By December 31 of each year, the Office of Long-Term Planning and Sustainability must publish this report.[78]
- **Progress/Success Indicators:** (See discussion above.)
- **Affects the Following Plans:** None specified in the Charter.
- **Affected by the Following Plans:** None specified in the Charter.

Comprehensive Waterfront Plan
- **Summary:** The plan must describe the "planning policy" of the DCP with respect to the City's waterfronts and must include "an assessment of waterfront resources for the natural waterfront, the public waterfront, the working waterfront and the developing waterfront."[79] The plan must also include "proposals for implementing the planning policy of [the DCP] whether by amendment of the zoning resolution, development of plans or otherwise."[80]
- **Process/Timing:** By December 31 in every tenth year (next occurring in 2020), the DCP must file the plan with the Mayor, City Council, Public Advocate, Borough Presidents, and Community Boards.[81]
- **Progress/Success Indicators:** None specified in the Charter.
- **Affects the Following Plans:** None specified in the Charter.
- **Affected by the Following Plans:**
    - Borough SPSs
    - City Strategic Policy Statement
    - Ten-Year Capital Strategy
    - Four Year Capital Program
    - 197-a plans

Agency Plans
- **Summary:** The Charter provides that agencies must "prepare and submit to the mayor and other appropriate government authorities short term, intermediate, and long range plans and programs to meet the needs of the city."[82]
- **Process/Timing:** None specified in the Charter.
- **Progress/Success Indicators:** None specified in the Charter.
- **Affects the Following Plans:** None specified in the Charter.

Fair Share

Another prominent citywide planning concern is whether City facilities are fairly distributed among communities. It is argued by some that locally unwanted land uses (e.g., waste treatment/transfer facilities, sanitation garages) tend to be disproportionately located in low-

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[77] Charter § 20(b), (c).

[78] Charter § 20(c).

[79] Charter § 205.

[80] Id.

[81] Id.

[82] Charter § 386(a).

income communities of color. The 1989 Charter Revision Commission attempted to address this problem with a citywide planning process (Fair Share) to "further the fair distribution among communities of the burdens and benefits associated with city facilities." Fair Share is codified in sections 203 ("Criteria for Location of City Facilities")[83] and 204 ("Citywide Statement of Needs") of the Charter.[84]

Section 203 requires the CPC to promulgate rules establishing criteria to promote the fair distribution of City facilities. These criteria (Fair Share Criteria) are meant to reflect community needs, City cost considerations, the benefits and burdens associated with City facilities, and the social and economic impacts of facilities. In 1991, the CPC adopted criteria including neighborhood character, existing facility distribution, site suitability, adequacy of local infrastructure, cost-effectiveness, and consistency with existing neighborhood plans. These criteria have not been updated since they were first adopted.

Section 204 requires the Mayor to submit an annual Citywide Statement of Needs (described above and referred to here as SON) identifying all facility sitings, expansions, reductions, or closings planned for the next two fiscal years. The SON must explain why each site was selected, with reference to the Fair Share Criteria and information submitted to the Mayor by City agencies (e.g., Department of Environmental Protection, Department of Sanitation) in departmental statements of needs. Each agency, when preparing a departmental statement of needs, must consider district needs statements submitted by Community Boards. Each Community Board and Borough President may review and comment on the SON. Whenever an agency submits a ULURP application to locate a City facility, the agency must submit a "Fair Share Statement" explaining (1) whether the proposed action is consistent with the most recent SON and (2) how the proposed action satisfies the Fair Share Criteria.

Critics argue that Fair Share has been ineffective due to a lack of detail, transparency, agency compliance, and legal force. In practice, the City's Statement of Needs includes only a small fraction of relevant City projects, available public data does not allow for meaningful evaluation of Fair Share claims, and Fair Share Statements are often difficult to access. Many agencies routinely site facilities through emergency contracting, which is exempt from Fair Share.[85] According to a City Council report, in the nearly 30 years since the Fair Share Charter provisions went into effect, the distribution of some municipal facilities has actually become less fair. For example, the five community districts that experienced the largest increase in residential beds-to-population ratios between 1999 and 2015 were all communities of color (residential beds include typically unwanted uses such as correctional facilities, inpatient mental health treatment centers, and homeless shelters).[86]

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[83] N.Y. City Charter § 203.
[84] N.Y. City Charter § 204.
[85] New York City Council, Doing Our Fair Share, Getting Our Fair Share: Reforming NYC's System for Achieving Fairness In Siting Municipal Facilities (Feb. 2017), at 3.
[86] Id.

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Case Studies Outside of New York City

To better understand how a comprehensive planning process might address plan cohesion, facility siting parity, and community-level plans, Commission staff spoke with teams of planning professionals in advisory roles in Minneapolis, Seattle, Philadelphia, Denver, Los Angeles, Washington D.C., Arlington, Boston, and Oklahoma City, each of which have undertaken various forms of comprehensive planning processes. Commission staff reviewed planning practices with a focus on the interaction between planning documents and zoning in particular jurisdictions, approaches to equitable plan creation and implementation, public and stakeholder engagement, capital improvement programming in plans, and the scalability of plans (i.e., how the plans guide land use actions at different scales for neighborhoods, boroughs, etc.).

Overall, this research confirmed that approaches to comprehensive planning around the country vary in a multitude of different ways and that successful approaches are tailored to the specific needs and characteristics of each city and region. There are a wide variety of approaches to comprehensive planning across the country; some are detailed below.

- **City of Los Angeles (population 3,792,621):**[87] California law requires local land use regulations to be consistent with a "general plan."[88] As a chartered city, Los Angeles is required to have one. The city's general plan, which is approved by its planning commission and adopted by it city council, establishes goals and regulatory schemes for housing, conservation, open space, mobility, and other factors. The city is currently developing a 20-year plan setting targets for 2040. State law requires Los Angeles to demonstrate that it has adequate zoning capacity to accommodate projected population growth.[89] The general plan identifies parcels and geographical areas suitable for development by use. Applicants pursuing a zoning change inconsistent with the general plan must apply for a plan amendment, as well. A plan amendment is more cumbersome, expensive, and time-consuming than the process of applying for a zoning change consistent with the general plan, thereby creating an incentive to comply with the stated general plan. The general plan is now being used to inform a rewrite of Los Angeles's zoning code, titled *re:code LA*.

- **Denver (population 600,158):**[90] Colorado statutes require each municipality to have a "master plan" (often referred to as a comprehensive plan) prepared by its planning commission.[91] It is an advisory document that guides land development decisions, but with sufficient detail it may be made binding by inclusion in adopted land use regulations. The plan for Denver, titled *Denveright*, ties together numerous other plans, including other city plans, to form more detailed goals and implementation actions. Two of those other plans, Blueprint Denver and Game Plan for a Healthy City, were adopted by the Denver City Council as supplements to the Denver comprehensive plan due to their broad, long-term visions. Neighborhood plans and small area plans are also adopted by the

[87] United States Census Bureau, American FactFinder, 2010 Census Total Population Data.
[88] Cal. Gov. Code § 65300.
[89] Cal. Gov. Code § 65030.1.
[90] United States Census Bureau, American FactFinder, 2010 Census Total Population Data.
[91] Texas Stat. § 213.002.

city council as supplements to the Denver comprehensive plan. The planning effort in Denver is led by its Community Planning and Development Office. The plan is updated every 20 years.

- **Minneapolis (population 2,849,567):**[92] Under Minnesota's Metropolitan Land Planning Act, Minneapolis' Department of Community Planning and Economic Development must write a comprehensive plan and update it every 10 years.[93] The city's plan must be consistent with *Thrive MSP 2040*, a regional development guide produced by the Metropolitan Council, a regional planning agency with 16 members, each appointed by the governor. This local comprehensive plan must be adopted by the Minneapolis city council after the Metropolitan Council makes its determination that the plan is consistent with the regional *Thrive MSP 2040* plan.[94] The engagement process for the drafting *Thrive MSP 2040* plan was led by a steering committee, took three years, and resulted in a regional plan that was organized into 11 topic areas: parks and open space, public services and facilities, technology and innovation, arts and culture, heritage preservation, public health, environmental systems, land use and built form, transportation, housing, and economic competitiveness. Goals included "climate change resilience," "eliminat[ing] disparities," and "affordable and accessible housing," among others.[95] One of the most notable components of the most recent comprehensive plan that was adopted by the Minneapolis city council in 2018[96] (*Minneapolis 2040*[97]) was the provision to eliminate single-family residential zoning, thereby making way for additional density in residential neighborhoods.[98]

  There are some who argued that the adoption of the *Minneapolis 2040* comprehensive plan was facilitated by the state law that delegates planning authority to the region-wide Metropolitan Council.[99] As mentioned above, the Metropolitan Council has only 16

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[92] Metropolitan Council, 2010 Census Data.

[93] Minn. Stat. § 473.864(2).

[94] Minn. Stat. § 473.145.

[95] See Metropolitan Council, Thrive MSP 2040, at 58, 40, 43.

[96] Miguel Otárola, Minneapolis City Council Approves 2040 Comprehensive Plan on 12-1 Vote (Dec. 7, 2018).

[97] Minneapolis 2040, Welcome to Minneapolis 2040: The City's Comprehensive Plan.

[98] It is also worth noting that outside the context of local comprehensive planning efforts, state legislatures have used their authority to implement, or attempt to implement, laws to direct a municipality to plan for its development. For example, similar to Minneapolis, in June 2019, the Oregon (population 3,831,074; United States Census Bureau, American FactFinder, 2010 Census Total Population Data) state legislature voted to eliminate single-family zoning statewide in municipalities with more than 25,000 residents (or within Portland-area municipalities with more than 1,000 residents). While the changes will not be fully effective until 2022, lawmakers and advocates are looking to the new law's potential to provide affordable housing options and reduce systemic inequality. See Jeff Mapes, Oregon Strikes Exclusive Single-Family Zoning, But Effects May Take Years, OPB (July 3, 2019). On the other hand, recent attempts by California lawmakers to implement a similar ban on elimination of single-family zoning were defeated in 2019, in the face of lobbying efforts by suburban homeowners. Nonetheless, California has sought to increase housing supply by requiring municipalities to allow homeowners to build small houses in their yards and to convert their garages to residential space. While other provisions of state and local law continue to strictly limit development in California, these new measures show how region-wide policy goals (e.g., increasing housing supply) can be achieved when imposed by a governmental body with region-wide binding authority. See Liam Dillon, How Lawmakers are Upending the California Lifestyle to Fight a Housing Shortage, Los Angeles Times (Oct. 10, 2019).

[99] Metropolitan Council, Who We Are.

members, each appointed by the governor to represent a large geographic area.[100] These regional council members do not need to tailor their planning choices to satisfy local interest groups because they are not elected from small districts. Instead, these council members – organized by a motivated governor[101] – may craft a binding plan to address long-term, region-wide needs. State law requires subsequent local zoning decisions to conform to the Metropolitan Council's plan.[102] Some argue that this governmental structure facilitates a meaningful region-wide plan that may have been impossible in many local jurisdictions.

- **Austin (population 790,390):**[103] In Texas, any city that has adopted a comprehensive plan must zone in accordance with that plan. However, cities have some latitude to decide whether a plan is advisory or mandatory. Austin's Charter stipulates that its comprehensive plan has the force of law.[104] *Imagine Austin*, the comprehensive plan adopted by the Austin City Council in 2012, is based on topic areas that include land use and transportation, housing and neighborhoods, the economy, conservation and the environment, city facilities and services, society, and creativity. The Austin Department of Planning and Zoning directs the planning effort. The Planning Commission reviews the comprehensive plan annually and may recommend amendments to the Austin City Council. The plan is organized into five chapters, which include background on comprehensive planning, needs assessments and future projections, an action framework for realizing city goals, and a growth concept map that shows in general terms where new development over a 30-year timeframe should be located. Recently, Austin attempted to do a complete zoning code rewrite.[105] The rewrite was scrapped in part because the Mayor believed that it did not fit the "vision" of the comprehensive plan. [106]

- **Detroit (population 713,777):**[107] In 2010, Detroit convened a working group to develop a master plan for the city's development in a post-industrial economy.[108] The resulting "Detroit Future City" plan reassessed the city's fundamental structure and vision: The plan first evaluated the capital and civic assets of an insolvent jurisdiction and then developed strategies to rebuild a sustainable tax base, protect cultural assets, and attract new businesses and residents to a derelict core.[109] Detroit experienced an impressive economic and social resurgence after the plan's adoption in 2012.[110] Buoyed by tax incentives, investment poured into Detroit's neglected downtown.[111] Abandoned buildings became

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[100] Id.
[101] See Peter Diamond, Governor Walz and Mayor Frey Talk 2040 Housing, Mpls St. Paul (June 28, 2019).
[102] 2019 Minn. Statutes § 473.858.
[103] United States Census Bureau, American FactFinder, 2010 Census Total Population Data.
[104] Austin City Charter Article X, § 6.
[105] See Audrey McGlinchy, After More Than a Yearlong Hiatus, Austin's Code Rewrite Returns. How Did We Get Here? KUT (Oct. 4, 2019).
[106] See Austin Sanders, Austin's Land Use Debate Returns to the Spotlight, The Austin Chronicle (Oct. 11, 2019).
[107] United States Census Bureau, American FactFinder, 2010 Census Total Population Data.
[108] Detroit Future City: 2012 Detroit Strategic Framework Plan, at 3 (2012).
[109] See id. at 8 et seq.
[110] Quinn Klinefelter, Detroit's Big Comeback: Out of Bankruptcy, A Rebirth, NPR News (Dec. 28, 2018).
[111] Mary Childs, New Money is Driving a Revival in Detroit. Can it Stick? Barron's (Mar. 8, 2019).

affordable offices for information-economy businesses, and new developments offered urban housing and premium services to young and educated workers.[112] A new downtown basketball arena near existing football and baseball stadiums consolidated Detroit's professional sports facilities and brought lucrative events and fans to the urban core.[113] While it is impossible to know how Detroit might have developed without this comprehensive plan, Detroit's recent success closely tracks the plan's efforts to redirect investment and rebuild the city's cultural identity.

<u>Testimony Received by the Commission</u>

The Commission heard a good deal about the City's land use and public infrastructure planning processes. Many individuals and organizations raised concerns about the City's current approach to planning. Some expressed a desire for a Charter amendment that would require the City to develop a "comprehensive plan" to address these and other concerns (though not necessarily agreeing on what such a plan would look like), while others argued that such a requirement would not improve the City's approach to planning or could be to its detriment; still others spoke in support of how the City currently plans.

Some of the testimony the Commission received relating to whether or not the Charter should contain a provision to require the development of "comprehensive plan," and suggestions for such a provision, are listed below by organization and individual. <u>Note:</u> The summaries below are not meant to be exhaustive of each person's/entity's views or ideas on the issue of how the City should plan. Readers of this report are encouraged to read the complete written testimony of the cited persons/entities, which are attached hereto as <u>Appendix A</u>.

The New York City Council[114]
- Require production of a comprehensive plan for the City once every 10 years to serve as the basis for land use, zoning, and capital planning decisions, and to serve as a strategic framework and vision for growth and development.
- Development should be rationally and equitably distributed across the City because ad hoc selection of particular neighborhoods for growth-oriented rezoning plans is inefficient and an acrimonious process.
- A citywide strategic planning framework could allow community-based proposals and private development proposals to move forward with an accelerated process if it comports with the comprehensive plan.
- The comprehensive planning process should include an Existing Conditions analysis studying citywide demographic, economic, infrastructure state of repair and capacity, housing, land use, sustainability, resilience, and environmental data (including climate-change impacts) over the prior 20 years and growth/needs projections for the next 20 years, undertaken by one central agency or mayoral office.

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[112] <u>See</u> <u>id.</u>
[113] <u>See</u> Sarah Cwiek, <u>It's Go Time for Little Caesar's Arena and District Detroit</u>, Michigan Public Radio (Sept. 5, 2017).
[114] Report to the 2019 New York City Charter Revision Commission, New York City Council, Jan. 29, 2019, at 24-29 (<u>see</u> Appendix A, attached hereto, at pages A1 to A4).

- There should be participatory workshops throughout the five boroughs to examine the Existing Conditions analysis and implications at the local-level.
- A Draft Plan should include quantifiable targets for growth, city facilities, and investment at the borough and community district level; and should be subject to community review and feedback.
- The Charter should be amended to authorize the City Council to modify the quantifiable targets set forth in the plan through the ULURP process.
- The City's Fair Share criteria must (1) be regularly updated with binding rules and authorize the City Council to initiate future reviews of the rules and (2) require a higher bar for sitings in highly over-concentrated districts.
- Reform the Citywide Statement of Needs to be a more thorough and useful planning document.

City Council Progressive Caucus[115]
- The City should be required to put together a comprehensive plan every 10 years through a data driven and inclusive process, in accordance with the following principles: (1) equity and fairness; (2) affordability; (3) responsive and proactive planning; (4) inclusiveness; (5) sustainability and resilience; and (6) transparency and accountability.
- Make the Ten-Year Capital Strategy real rather than notional and tie it to the comprehensive plan.
- Make actions that are aligned with the plan able to move more quickly through ULURP.
- Create a comprehensive planning framework that includes an analysis of Fair Share Criteria.
- Make CPC independent and create a long term planning office.
- Establish a proactive, rather than reactive, planning process that sets shared goals at the beginning through dialogue, data gathering, and "cross-acceptance" of plans from different groups.
- The City needs a larger vision based on equity, a vision in which low-income communities do not have to solely bear the brunt of the City's every housing or infrastructure need. The City needs to envision a land use process in which communities are empowered and the equitable distribution of City resources, facilities, and new developments is prioritized.
- The following steps are needed to produce a meaningful comprehensive plan based on updated data and community input: (1) evaluate existing conditions and establish citywide strategic goals; (2) set community district goals in partnership with community organizations; (3) produce scenario plans balancing local and citywide priorities, and provide opportunities for public input; (4) approve the final comprehensive plan; and (5) facilitate compliant development and discourage projects that do not comply.

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[115] See Testimony of the New York City Progressive Caucus in Appendix A, attached hereto, pages A5 to A28. Members of the Caucus are Ben Kallos, Co-Chair, (testified Sept. 27, 2018 and May 9, 2019); Diana Ayala, Co-Chair, (testified Sept. 12, 2018); Keith Powers, Vice Co-Chair (testified Sept. 27, 2018); Carlos Menchaca, Vice Co-Chair; Margaret S. Chin; Carlina Rivera; Corey Johnson (testified Sept. 27, 2018); Helen Rosenthal (testified Sept. 27, 2019); Mark Levine; Bill Perkins; Ydanis Rodriguez; Jimmy Van Bramer; I. Daneek Miller; Adrienne E. Adams (testified September 20, 2018) ; Donovan J. Richards; Stephen T. Levin; Antonio Reynoso (testified Mar. 21, 2019); Brad Lander (testified Sept. 17, 2018 and May 2, 2019); Alicka Ampry-Samuel; Justin Brannan; Deborah Rose (testified Sept. 24, 2019).

Comptroller Scott Stringer[116]
- An Independent Long-Term Planning Office should be established to conduct comprehensive planning for the City and the resulting plan should be ratified by the City Council through a public process.
- 197-a plans should be strengthened in the Charter to require agencies to integrate the plans into their policies and that any deviation from the plan by either a private actor in public review or an agency should be justified in writing.
- The Charter should require that Community Boards be given the necessary resources to have dedicated support and expertise to fulfill their purpose of conducting community-based planning (e.g., through a qualified urban planner, architect, public policy professional, or professional from a similar discipline), including the necessary budget appropriations.

Manhattan Borough President Gale Brewer[117]
- A citywide comprehensive plan should be created every 10 years, with a process that ensures new developments are equitably distributed across the City.
- The Zoning Resolution itself could be reviewed every 10 years, and then the City could include use group reform and other issues that people want.

Thriving Communities Coalition[118] **(Coalition testimony)**[119]
- The Charter should require a comprehensive plan that articulates a vision for equity and inclusion; aligns budgeting, policy, programming, and land use decisions; and sets broad goals and specific planning principles.
- The plan should require a community-district level assessment of existing unmet needs and citywide projections for future needs and growth. This assessment will factor into an overall "equity index" that will help drive goal setting and project prioritization.
- This planning process should be led by a Citywide Steering Committee and include borough committees to ensure a transparent process that includes meaningful public engagement.

Pratt Center for Community Development (**Paula Crespo, Senior Planner**[120] **and Elena Conte, Deputy Director**)[121]
- A comprehensive planning framework can meet numerous challenges faced by the City and set goals toward creating a more equitable City. For example:

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[116] See Testimony of Comptroller Stringer, Sept. 27, 2018 (Appendix A, attached hereto, at pages A29 to A38).

[117] See Testimony of Manhattan Borough President Gale Brewer, Sept. 27, 2018 (Appendix A, attached hereto, at pages A39 to A49).

[118] The Thriving Communities Coalition includes the Association for Neighborhood and Housing Development; Brooklyn Legal Services Corp A; CASA – Community Action for Safe Apartments; Chhaya CDC; Churches United for Fair Housing; Cypress Hills LDC; Good Old Lower East Side; Los Sures Lucha; Municipal Art Society of New York; New Economy Project; New York Appleseed; Northwest Bronx Community & Clergy Coalition; Pratt Center for Community Development; Regional Plan Association; Southside United HDFC - Los Sures; and United Neighborhood Houses. Association for Neighborhood & Housing Development, Thriving Communities Coalition.

[119] See Testimony of Thriving Communities Coalition, additional testimony, May 24, 2019 (Appendix A, attached hereto, at pages A50 to A64).

[120] See Transcript of Sept. 27, 2018 Manhattan Borough Hearing, at 260-64.

[121] See Testimony of Elena Conte, Mar. 21, 2019 (Appendix A, attached hereto, at pages A65 to A67).

- o Address rampant residential displacement for which there is no official measure of risk across the City, with current projection methods being egregiously flawed.
  - o Improve the City's Fair Share policy, which is falling far short of protecting disproportionately burdened communities from new threats to health and safety.
- Meaningful public participation should be at the heart of any planning process, with the goal of advancing the participation of low-income communities of color.
- The current ad hoc land use system is dominated by as-of-right land use actions and reviews that are ineffective, polarizing, and disempowering to most communities.
- Comprehensive planning creates the opportunity to participate in and co-create the citywide equity-based collective goals that guide the City's framework; and can repair the City's broken piecemeal system by integrating and aligning planning, policymaking, and the budget in an intentional way to achieve the City's equity goals.
- A comprehensive planning framework must be community-based, not a master top-down plan.

Regional Plan Association (Maulin Mehta Senior Associate, State Programs and Advocacy)[122]
- Create a citywide comprehensive planning framework in collaboration with communities and local elected officials that will consider community and citywide targets for things like increasing the affordable housing supply and identifying infrastructure needs.
- Create clear and comprehensive "fair share" requirements and guidance to site amenities and undesirable facilities in an equitable manner.
- The framework should serve to anticipate displacement concerns and protect vulnerable communities as the City continues to grow.
- Establish an equity index that evaluates infrastructure services, economic conditions, and growth opportunities across the City. This index should be tied to the planning process and used in a way to prioritize investment. Such an index could be used to place neighborhoods on a spectrum, looking at the comprehensive nature of what makes communities thrive and assets that need to be protected, assessing factors like diversity, people, sustainability, community centers, parks, etc. Development of the index could also include community engagement in a process to evaluate more nuanced measures, such as social networks. The index could in turn be used to identify areas for City initiatives to improve access to opportunity.

United Neighborhood Houses (JT Falcone, Policy Analyst)[123]
- o Create a comprehensive plan based on the following elements: a single coherent plan, equity principles, citywide and localized analysis, balancing of citywide needs with local needs through bottom-up community planning, equitable distribution of resources and future development, coordination with the capital budget, creation of a future land use map, and incentivized alignment with the plan.

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[122] See Testimony of Maulin Mehta, Sept. 12, 2018, Sept. 20, 2018, Mar. 21, 2019, and May 9, 2019 (Appendix A, attached hereto, at pages A68 to A76).
[123] See Testimony of J.T. Falcone, May 9, 2019 (Appendix A, attached hereto, at pages A77 to A80).

Association for Neighborhood Housing and Development ((Emily Goldstein, Director of Organizing and Advocacy)[124]
- A comprehensive plan must spell out clear goals of reducing neighborhood-based racial and socioeconomic inequality.
- There must be a separate assessment of existing residents' needs from projected future needs of residents. Without this clarity, less powerful communities will continue to risk having their existing needs met only in exchange for future growth or in relation to planning for future populations.
- The City's existing needs statements, policy statements, budget documents and processes, agency plans, future land use and development plans, and spending plans should be coordinated, and the City should take stock of indicator reports when planning.
- A single clear and coherent plan should include equity principles and citywide and localized analysis as well as balance citywide and local needs, with equitable distribution of resources and future development, coordination with the capital budget, and incentivizing with the plan.

Tom Angotti (Professor Emeritus of Urban Policy and Planning at CUNY Hunter College and Graduate Center)[125]
- Comprehensive planning is long overdue in New York City and should be mandated and coupled with a mandate for community-based planning. Every Community Board should have a community plan that is regularly updated and reviewed by the Community Board and the CPC.
- The plan should be both long-term (decades into the future) and middle-range (5 to 15 years), be inclusive and exhaustive, consider multiple scenarios, and balance growth and preservation. Environmental and public health concerns should be at the heart of the plan.
- Zoning is not planning; it is a weak tool for land use control and housing production.
- ULURP should be restructured to require consistency with comprehensive and community plans.
- The mission, structure, and culture of the CPC and DCP should be transformed. CPC should be an independent commission under the City Council and oversee the comprehensive and community planning processes. DCP should remain a mayoral agency, required to update zoning rules every five years.

Open New York (William Thomas, Jake Schmidt, Members)
- Create a comprehensive plan to address population growth and the attendant need for new housing. Housing targets should be measured against population changes. If neighborhoods are not meeting growth targets, then the DCP should be mandated to rezone or otherwise allow for more housing growth in that neighborhood.[126]

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[124] See Testimony of Emily Goldstein, May 9, 2019 (Appendix A, attached hereto, at pages A81 to A83).
[125] See Testimony of Tom Angotti, March 21, 2019 (Appendix A, attached hereto, at pages A84 to A86).
[126] See Transcript of Apr. 30, 2019 Queens Borough Hearing, at 95-97.

- More comprehensive planning will allow the City to plan its growth in an equitable manner. Development as a whole will be seen as much less toxic when rich neighborhoods take on their fair share of, if not most, growth.[127]
- Planning for adequate growth has to be built into the system, with specific actions that act as triggers if housing growth is insufficient for City residents.[128]
- Environmental reviews should require an affordability, gentrification, and racial impact analysis for all zoning changes.[129]

John Shapiro (Professor at Pratt Institute)[130]
- DCP and the Office of Long Range Planning, at the direction of the Mayor, should prepare a comprehensive plan that is subject to the approval of CPC and the City Council. This is the norm in the United States: executive preparation followed by legislative adoption, and could result in a politically articulate and popular plan that leads to participatory methods at least at the citywide level. Differences between the Mayor's draft and the City Council could be subject to a reconciliation methodology.
- 197-a plans should be official addenda (not advisory) to a comprehensive plan, provided they are approved ultimately by the City Council and subject to the veto of the Mayor, in which case there should be a reconciliation process.
- This "cross-acceptance" method of comprehensive planning would be best achieved in concert with the following:
  - Return of capital budget planning to the DCP/Office of Long Range Planning.
  - Enhancement of Community Board staff and member expertise
  - Removal of the mayoral majority of CPC appointments
  - Removal of the local council member "veto" power for the comprehensive planning document
  - Revision of CEQR to ease the adoption of the comprehensive/197-a plans.
  - Creation of a reconciliation entity comprised of people without obligation to the appointers (only people who are mutually agreed upon by multiple appointers)
  - Changes to the Fair Share rules to (1) redress accumulated City disinvestment, (2) address environmental justice, and (3) fully consider the risk of secondary displacement, with countermeasures.
- DCP/CPC should function mainly as a regional planning entity with more authority than usual; Community Boards should function as typical municipal planning boards with less authority than usual; the shared authority of the Mayor and City Council, with the reconciliation methodology, generally assures transparency, accountability, and reasonableness.

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[127] See Transcript of May 9, 2019, Manhattan Borough Hearing, at 267-70.
[128] See Testimony of Jake Schmidt of Open New York, May 9, 2019 (Appendix A, attached hereto, at pages A87 to A88).
[129] See Testimony of Open New York, additional testimony (Appendix A, attached hereto, at pages A89 to A92).
[130] See Testimony of John Shapiro, May 9, 2019 (Appendix A, attached hereto, at pages A93 to A94).

Municipal Art Society[131]
- Genuine consideration needs to be given by the City to community-based land use plans, including but not limited to 197-a plans, rather than the City focusing primarily on private development application-based decision-making.
- An office of community-based planning should be established with oversight provided by the Public Advocate's office, and there should be revisions to the Charter that require Community Boards to present district-wide plans at regular intervals.
- Land use proposals submitted by private applicants should be required to conform to local 197-a plans or district-wide community plans.
- A citywide planning framework should be created, including a shared set of citywide development priorities, which local 197-a plans and district-wide community plans should both help shape.

Manhattan Community Board 8 (Alida Camp, Chair)[132]
- Community Board 8 recommends a stronger, more robust community-based land-use planning process, with greater emphasis on community assessment of social and environmental factors in considering land use plans.
- Community Boards should have a greater role in the planning process, including policymaking, to ensure that all community concerns are heard and considered.

Community Service Society of New York (Oksana Miranova, Policy Analyst)[133]
- Develop local targets for housing and economic development, displacement protections, public facility siting, and sustainability benchmarks, among others, underpinned by a consideration of racial and economic inequities between neighborhoods. Include a process for aligning the City's long-term capital strategy with the resulting framework. Include a process for aligning future land use changes and agency plans with the resulting framework.

Department of City Planning (Marisa Lago, DCP Director/CPC Chair; Anita Laremont, DCP Executive Director; Howard Slatkin, DCP Deputy Executive Director of Strategic Planning)[134]
- Rather than thinking about imposing a new comprehensive planning requirement, the City should articulate how it wants to enhance the mechanisms that it already has to be better and more effective at articulating what it is that it wants to do.
- As-of-right development is critical to the City. Over 80% of new housing produced in the City since 2010 has been built as-of-right.
- ULURP is a sound process that is indispensable to creating the capacity for future as-of-right development and to supporting the production of permanently affordable housing. To ensure that land use decisions promote a more equitable City, local community

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[131] See Testimony of Municipal Art Society, Sept. 27, 2018, and May 24, 2019 (Appendix A, attached hereto, at pages A95 to A98).

[132] See Testimony of Alida Camp, September 27, 2018 (Appendix A, attached hereto, at pages A99 to A100).

[133] See Testimony of Community Service Society, Sept. 27, 2018 (Appendix A, attached hereto, at pages A101 to A103).

[134] See Testimony of Marisa Lago, Mar. 21, 2019; Anita Laremont, Mar. 21, 2019; and Howard Slatkin, Mar. 21, 2019 and May 9, 2019, (Appendix A, attached hereto, at pages A104 to A133, and A135 to A136).

perspectives must be balanced with broader, citywide views, such as the need to site necessary infrastructure and to meet the housing needs of future generations of City residents.

- The current balance of power was struck in part to ensure that the City executive has the ability to, taking a citywide view, fairly site locally unwanted land uses.
- A "master plan" – then required under the Charter – was attempted in 1969 in part to enable the City to qualify for federal public housing funds, but was outdated by the time it was complete, widely criticized, and ultimately never adopted.
- In 1989, the City's Charter was amended to establish a strategic planning function to help prevent the land use decision process from becoming overly politicized and driven by short-term considerations. Instead of a master or comprehensive plan, strategic planning uses facts, analysis, and consistent objectives to help anchor decisions in clear planning rationales.
- There is no comprehensive plan that could be adopted that would obviate the need for informed decision-making based on detailed consideration of specific facts and local conditions. In implementing the objectives of current plans such as OneNYC or of any plan of such scale, goals and objectives often have inherent intentions and must be balanced. A nimble and practical approach to citywide strategic planning can support timely and equitable decision-making.
- It is important to enable newly elected mayors and borough presidents to articulate their priorities for the direction of policy and the issues that they see as pressing and important in order to enable actions to be taken to advance addressing those issues.

Sandy Hornick (former Deputy Executive Director for Strategic Planning at the Department of City Planning)[135]
- A comprehensive plan that takes years to accept by one administration, assuming there is consensus, is not necessarily going to be accepted as a guide by the next one.
- The 1976 Charter revision that created ULURP to formally involve communities in planning removed the unfulfilled Charter mandate for a comprehensive plan.
- Past Charter revisions filled this space by requiring reports and statements and creating a Fair Share process, but the public and elected officials have ignored these.
- The Charter Fair Share mandate does not really end up distributing things in a way that some people would like. It merely provides an explanation of the other options and why particular choices were made.
- There should be fewer planning documents required by the Charter, and they should focus on identifying important issues and priorities for planning as well as broad strategies to address them, rather than detailed prescriptions of specific actions. The documents cannot be expected to detail specific proposals that do not yet exist, such as what future rezonings are needed or where specifically they should occur. Even if this were possible, it would impede meaningful local engagement, which informs the Commission's consideration of the pre-ULURP process.
- Fewer and more flexible Charter-mandated documents offer the best guidance without unwanted and unworkable control.

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[135] See Testimony of Sandy Hornick, Mar. 21, 2019, and May 2, 2019 (Appendix A, attached hereto, at pages A137 to A142).

Vicki Been (Former Boxer Family Professor of Law at New York University School of Law, Faculty Director of NYU Furman Center, former Commissioner of Housing Preservation and Development)[136]

- Comprehensive planning is meaningless unless it specifies in detail what is required – but this level of detail is not appropriate for the Charter.
- Comprehensive planning processes vary dramatically across the country – some states mandate detailed requirements; others provide only vague guidance. It is irresponsible to submit such an ambiguous concept to a vote, as different people have different definitions for the term.
- A discussion of the Fair Share Criteria regarding what fairness actually means and how things get distributed equitably would be incredibly controversial, hard-fought, and difficult. And there is no reason to believe that comprehensive planning would actually make any progress on these questions.
- Comprehensive planning can foster NIMBYism and be an exclusionary tool. There is little evidence that comprehensive planning leads to equitable growth, more affordable housing, and better housing affordability.

Eric Kober (former director of Housing, Economic and Infrastructure Planning at DCP)[137]

- It is beneficial for the Charter to require DCP to identify in a broad sense the areas of the City in which growth should take place and the amount and type of growth that needs to take place over a reasonable timeframe of not more than 10 to 20 years. To go beyond this and have a comprehensive plan for every neighborhood is not realistic because the resources will never be available, and it is not really necessary because most neighborhoods are not going to change in the foreseeable future.
- Rationalizing the various existing planning requirements of the Charter is laudable, but there are no penalties for disregarding those requirements. Thus, the Charter can at best give a nudge toward good planning but cannot mandate it. Any planning provisions in the Charter should be high-level and provide the flexibility to adapt to specific times and conditions.

Citizen's Housing and Planning Council (CHPC), Jessica Katz (Executive Director)[138]

- The City's ULURP and land use process is by no means perfect, but it has stood the test of time and forces developers, City agencies, and community activists alike to arrive at a compromise position.
- Any improvements to the existing land use process should meet the following goals that CHPC has identified: 1) balance local and citywide perspectives; 2) incorporate accurate data; 3) address the needs of both current and future residents; 4) be decision-driven; and 5) provide better ways for neighbors and communities to participate and stay informed. The CHPC does not believe that a comprehensive plan would help achieve these goals. Any such plan would be outdated before the ink was dry, and the City is already replete with plans.

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[136] See Testimony of Vicki Been, Mar. 21, 2019 (Appendix A, attached hereto, at pages A143 to A151).
[137] See Testimony of Eric Kober, Apr. 30, 2019 (Appendix A, attached hereto, at page A152).
[138] See Testimony of Jessica Katz, Mar. 21, 2019, and May 9, 2019 (Appendix A, attached hereto, at pages A153 to A158).

Vishaan Chakrabarti (Professor at Columbia University, former Director of the Manhattan Office of the New York Department of City Planning)[139]

- Opposes the calls for significant revisions to ULURP, including the proposal for additional layers of so-called comprehensive planning. The authority to plan for the City'sgrowth firmly rests with the Mayor's office and should continue to do so.
- While the intention of comprehensive planning is laudable, it would actually exacerbate the social and environmental problems impacting equity and affordability of housing by further limiting the City's capacity to address population growth and diversify the economy. Even a limited strategic comprehensive plan to combat climate change would not be agile enough to deal with the dynamic needs of the City.
- Production of affordable and market rate housing units must increase to combat the affordable housing problem, and a comprehensive plan would stifle the ability to build more housing.

Andrew Lynn (former Executive Director of the DCP, counsel to 1989 Charter Revision Commission)[140]

- The more inclusive the decision-making, the more difficult it becomes for City leaders to advance or define vision and for voters to hold leadership accountable.
- The function of depoliticized planning rests with the City's elected executive branch, which is already obligated under current law to solicit local input and obtain binding City Council approval.

<div align="center">Issues for Further Consideration</div>

The City's population is projected to grow to over 9 million people by 2040.[141] This growing population will require, among other things, an adequate housing supply, together WITH the siting and construction of new City projects to provide adequate sanitation facilities, schools, and other City services.

Many suggested to the Commission that a comprehensive plan could equitably allocate necessary development throughout the City and ameliorate local opposition to individual projects and thereby facilitate necessary growth; however, there was no agreement on what such a plan would consist of or address, or how it would operate. Others posited the opposite, that a City as large and diverse as New York would not benefit from a single comprehensive plan, as the City requires the ability to be nimble in its planning to address critical needs on a timely basis. No one argued that the current system of planning is perfect.

The debate on whether the City should produce a comprehensive plan, and what form it should take, will undoubtedly continue. As City officials, policymakers and other interested stakeholders consider how best to plan for the future orderly growth and development of the City, whether under the current system (or improved version of the current system) or through an entirely new system

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[139] See Testimony of Vishaan Chakrabarti, Mar. 21, 2019 (Appendix A, attached hereto, at pages A159 to A160).
[140] See Transcript of Mar. 21, 2019 Land Use Expert Forum, at 13-16.

(e.g., some form of a "comprehensive" citywide plan), the testimony received by the Commission (including those outlined above) should be used to inform this discussion, and should thoughtfully consider the following factors:

- o How to balance local community concerns with citywide needs and policy goals;
- o How to engage local communities in a meaningful way in the City's overall growth plan;
- o How to address the effects of new development on local communities, including the displacement of existing residents;
- o The advantages and disadvantages of a "top-down" versus "bottom-up" planning approach, and whether the two approaches must be mutually exclusive;
- o How to allocate and distribute the City's resources and services in an equitable manner; and
- o How to improve the Fair Share Criteria to enable the fair distribution of City facilities across communities.

Democracy Vouchers

The influence of private money in politics has concerned policymakers for decades, who have responded by implementing a variety of measures designed to regulate the financing of political campaigns. At their most basic level, these regulations take the form of contribution limits, such as those that govern campaigns for federal office. Some jurisdictions, including New York City, go a step further and operate a system for public financing of campaigns – for those candidates which choose to opt in – via a small-dollar contribution matching system coupled with spending limits for candidates. A more recent development in public campaign financing is a voucher system, in which voters are given public-funded contribution vouchers to donate to their chosen candidates for office, which candidates can then redeem in exchange for public funding for their campaign. In exchange, as in most matching systems, candidates are generally held to a higher financial reporting standard and have to meet designated public support standards in order to qualify to receive funds.

New York City Public Matching Funds Program

New York City municipal elections are currently governed by a robust campaign finance law that includes a small-dollar public matching funds program, administered by the Campaign Finance Board (CFB).[142] Under the public matching funds program, candidates who choose to participate are eligible to receive a substantial match in public funds for the first $250 or $175 raised (depending on the race) from each qualified City resident. Recent changes to the system by the 2018 Charter Revision Commission mean that candidates for elections through 2021 can either opt into the new program, where contributions are matched 8:1, or the old program, where contributions are matched 6:1.[143] After the 2021 elections, all contributions to the program participants will be matched at 8:1.[144] In return, these candidates agree to a spending limit and an extensive post-election audit to ensure compliance with the Campaign Finance Act.[145]

New York State has recently made significant progress in establishing a statewide public financing system, with the State Legislature approving the creation of a New York City-type system in January 2019. In November 2019, the New York State Public Campaign Financing Commission recommended that a matching funds program be structured similarly to the City's, with candidates able to receive public matching funds for contributions up to $250.[146] The first $50 of every contribution will be matched at 12:1, the second $100 will be matched 9:1, and the last $100 will be matched 8:1. For State Assembly and Senate candidates, only contributions from contributors within the candidate's district will be matchable.[147] Los Angeles, San Francisco, and Washington

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[142] Charter §§ 1051-§1057-f; N.Y. City Administrative Code § 3-702(3)(g).
[143] New York City Campaign Finance Board, Limits and Thresholds: 2021 Citywide Elections.
[144] New York City Campaign Finance Board, What's New in the Campaign Finance Program.
[145] New York City Campaign Finance Board, How It Works.
[146] Samar Khurshid, State Commission Approves New Campaign Finance System, Raises Bar for Political Party Ballot Access, Gotham Gazette (Nov. 25, 2019).
[147] Id.

D.C. in 2018, among other local jurisdictions, have also modeled their campaign finance systems on the City's matching funds program.[148]

The City's public matching funds program has a high rate of participation. Across four municipal elections between 2001 and 2013, 91% of primary candidates and 67% of general candidates participated in the program. In the 2017 election cycle, the CFB distributed $17.7 million in public matching funds to candidates in 10 open-seat City Council elections and one competitive citywide election for Mayor.[149] The City Council regularly makes amendments to the Campaign Finance Act through passage of local law,[150] and in November 2018, voters approved significant changes to the program, as proposed by the 2018 Charter Revision Commission.[151]

<u>Seattle's Democracy Voucher Program</u>

Seattle, Washington (population 744,955[152]) is currently the only jurisdiction in the United States to have implemented a campaign finance voucher system, created by voter initiative in 2015.[153] Before implementing what it calls "democracy vouchers," Seattle had operated without a public campaign financing system since 1992.[154] A 2013 ballot proposal to revive a more traditional matching program narrowly failed.[155] Proponents of democracy vouchers in Seattle cited a desire for more competitive elections, a more diverse candidate pool, and a reduction in influence for political action committees and large dollar donors.[156]

Under Seattle's current program, each adult resident (regardless of whether registered to vote) can receive four $25 democracy vouchers to assign to candidates running for local office.[157] Candidates qualify to receive public financing by meeting a minimum signature and contribution support threshold, which varies by office.[158] The maximum yearly budget for democracy voucher program funding and administration is $3 million, due to how the program was set up to be funded over 10 years by a special property tax.[159]

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[148] Los Angeles City Ethics Commission, Campaigns; City & County of San Francisco Ethics Commission, Public Financing Program; Rachel Chason, D.C. Council Unanimously Votes to Create Public Campaign Finance Program, The Washington Post (Jan 9, 2018).

[149] New York City Campaign Finance Board, Keeping Democracy Strong: New York City's Campaign Finance Program in the 2017 Citywide Elections, at 30.

[150] Local Law 17 of 2006 (regulating the contributions of lobbyists to candidates and closing corporate donation loopholes); Local Law 116 of 2013 (allowing text messaging contributions to be made to candidates in the matching program); Local Law 181 of 2016 (require donor disclosure for all non-governmental entities controlled by a local elected official or their agents).

[151] Final Report of the 2018 New York City Charter Revision Commission, Sep. 6, 2018, at 47-50.

[152] United States Census Bureau, Quick Facts: Seattle City, Washington: United States.

[153] Seattle Ethics and Elections Commission, Democracy Voucher Program: About the Program.

[154] Mike O'Brien, Seattle Public Financing Going to the Voters, Seattle.gov (Jun. 24, 2013).

[155] Jim Brunner, Huge Win for Seattle Council Districts; Narrow Loss for Public Financing, The Seattle Times (Dec. 2, 2013).

[156] Bob Young, Seattle's Democracy Vouchers Haven't Kept Big Money out of Primary Election, The Seattle Times, Jul. 30, 2017.

[157] Seattle Ethics & Elections Commission, Democracy Voucher Program: How to Qualify as a Candidate, at 1.

[158] Id. at 1-2.

[159] Seattle Ethics & Elections Commission, How Is the Democracy Voucher Program Funded?

In 2017, democracy vouchers were mailed to nearly 500,000 Seattle residents.[160] Residents could assign vouchers to candidates running for two at-large city council seats and one City Attorney seat. Overall, 79,923 vouchers were returned from over 20,000 unique contributors.[161] To be considered valid, a voucher must be signed and dated by the contributor and be returned to the Seattle Ethics & Elections Commission (SEEC) directly by mail, dropped off at a drop-off location, or provided directly to a campaign.[162] Then King County Elections validates a contributor's signature based on their voter registration, and SEEC staff distributes funds to qualified candidates who have not yet exceeded their spending limit.[163] To qualify to receive funds, candidates must meet a threshold of 400 verified contributions of $10 or more from Seattle residents.[164] Only five of the 12 city council candidates participating in the voucher program qualified to receive funds.[165] Of the two candidates running for City Attorney, only one candidate chose to participate in the voucher program and also qualified to receive funds.[166]

Before the November 2019 municipal elections, the SEEC introduced the Democracy Voucher Online Portal, which gives residents the ability to assign vouchers to candidates online, not just by mail.[167] In the November 2019 election cycle, all 13 participating city council candidates qualified to receive democracy vouchers for the seven district council seats up for election.[168]

In June 2017, two Seattle property owners brought suit against the City of Seattle under 42 U.S.C § 1983, challenging the constitutionality of the city's Democracy Voucher program, arguing the property taxes funding the program burden First Amendment rights and unconstitutionally compel speech.[169] Seattle countered that the program was a constitutionally valid method of public campaign finance approved by the United States Supreme Court in *Buckley v. Valeo*, 424 U.S. 1, 96 S. Ct. 612, 46 L. Ed. 2d 659 (1976).[170] The superior court upheld the constitutionality of the Democracy Voucher Program, finding that the city "articulated a reasonable justification" for the program that was consistent with United States Supreme Court precedent: "an increase in voter participation in the electoral process."[171] On appeal, the Supreme Court of Washington affirmed the decision of the superior court, similarly finding that the program did not violate the First Amendment.[172] In reaching its decision, the court held that the "program does not alter, abridge, restrict, censor, or burden speech, nor does it force association between taxpayers and any message conveyed by the program."[173] On November 11, 2019, plaintiffs filed a petition for a *writ of*

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[160] BERK Consulting, Democracy Voucher Program Evaluation, at 5.

[161] Id. at i, 10-11.

[162] Id. at 5.

[163] Id. at 9.

[164] Seattle Ethics & Elections Commission, 2017 Allocated Funds (see link to Democracy Voucher Data - 01_05_2018).

[165] BERK Consulting, Democracy Voucher Program Evaluation, at 13-14.

[166] Id. at i, 14.

[167] Seattle Ethics & Elections Commission, Democracy Voucher Online Portal.

[168] Seattle Ethics & Elections Commission, 2019 Participating Candidates.

[169] Elster v The City of Seattle, No. 17-2-16501-8, 2017 WL 11407502 (Wash.Super., King County Nov. 02, 2017).

[170] Id. at *1.

[171] Id. at *4.

[172] Elster v. City of Seattle, 444 P.3d 590, 595, 193 Wash.2d 638 (Wash., 2019).

[173] Id. at 646.

certiorari, which is currently pending before the United States Supreme Court (Case No. 19-608).[174]

<u>Other Jurisdictions – Public Voucher Programs</u>

Seattle's Democracy Voucher program is the only public financing voucher program currently operating. However, two other municipalities have considered adopting a program similar to democracy vouchers:

- **Albuquerque, New Mexico:** In November 2019, voters rejected the ballot question that would have created a Democracy Vouchers-style program for local elections.[175] Prior to the ballot initiative, Bernalillo County Commissioners had voted twice against adding a campaign public voucher financing question to the ballot.[176] Albuquerque currently has a public financing system that utilizes matching funds for certain local participating candidates.[177]

- **Austin, Texas:** A 2017 Charter Review Commission recommended creating a voucher-style program.[178] A charter amendment is expected to be placed on the ballot in time to implement the program for the 2022 city elections.[179]

At the federal level, in March 2019, the House of Representatives passed H.R. 1, the "For the People Act," which seeks "to expand Americans' access to the ballot box, reduce the influence of big money in politics, and strengthen ethics rules for public servants." It includes numerous campaign finance-related provisions, including both a small-dollar matching program and funding for a pilot voucher-style system in three states.[180] H.R. 1 has not been made into law and is therefore not in effect.

Some 2020 Democratic presidential candidates have also supported creating a voucher-style public financing program for federal elections. Senator Kirsten Gillibrand proposed giving $200 worth of "democracy dollars," split between federal primary and general elections, to each eligible voter in America to be distributed to candidates for the United States House of Representatives and Senate.[181] Senator Bernie Sanders has also included a public voucher program among a larger slate

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[174] Petition for Writ of Certiorari, <u>Elster v. City of Seattle</u>, No. 19-608 (filed Nov. 12, 2019).

[175] Matthew Reichbach, <u>Democracy Dollars' Voted Down, but Other Public Financing Improvements, Bonds Pass</u>, NM Political Report (Nov. 5, 2019).

[176] Andy Lyman, <u>Democracy Dollars Second Attempt Fails</u>, The NM Political Report, Common Cause New Mexico, (Aug 22, 2018).

[177] City of Albuquerque, <u>Election Matching Funds</u>.

[178] Emma Freer, <u>Austin Weighs $1.5 Million Democracy Dollars Voucher Program</u>, Community Impact Newspaper (Oct 24, 2018).

[179] Mark Lisheron, <u>Seattle "Democracy Dollars" Case that Could Influence Austin Goes to State High Court</u>, The Texas Monitor (Jan 9, 2019).

[180] H.R. 1 2019. Title V. Small Dollar Financing of Congressional Election Campaigns.

[181] David Gutman, <u>Presidential Hopeful Kirsten Gillibrand Wants to Take Seattle's Public Campaign Finance System Nationwide</u>, The Seattle Times (May 17, 2019).

of election-related reforms, and Andrew Yang has proposed a "democracy dollars" program which would give $100 to every American to give to each person's favored candidate.[182]

The Commission received testimony from members of the public and various experts in the campaign finance field regarding Seattle's democracy vouchers program, which testimony is summarized below. Note: The summaries below are not meant to be exhaustive of each person's/entity's views or ideas on the issue of democracy vouchers. Readers of this report are encouraged to read the complete written testimonies of the cited persons/entities, which are attached hereto as Appendix B.

Wayne Barnett (Executive Director of the Seattle Ethics & Elections Commission (SEEC)): The SEEC spent a lot of time and energy educating the public on the benefits of democracy vouchers, and then a huge part of the actual process was tracking and verifying vouchers so they could be converted into campaign funds for participating candidates. Because Washington State has universal voter registration and vote by mail, Seattle has a very high voter registration rate and therefore most eligible voters are on the list to mail democracy vouchers. Mr. Barnett expects that improvements to the voucher program ahead of the 2019 elections, including online vouchers and a larger pool of candidates who could potentially qualify to use vouchers, would make the 2019 round even more successful than the 2017 one.[183]

Alan Durning (the Executive Director of the Sightline Institute in Seattle): As a main proponent of the democracy voucher program, Mr. Durning noted that Seattle studied the New York City matching funds program when considering how to construct its Democracy Voucher Program and that the initial preference of reformers was to establish a 6:1 matching program, although voters eventually rejected the ballot question. Mr. Durning believes that the Democracy Voucher Program is the most democratizing and egalitarian method of public campaign financing that has so far been invented. He noted that while the program is the first of its kind in the world, for Seattle residents, who primarily vote absentee by mail, it was largely second nature to receive vouchers in the mail and to mail them back, which made implementing the program easier for the SEEC.[184]

Dr. Jennifer Heerwig (Assistant Professor of Sociology at Stony Brook University):[185] Dr. Heerwig and her colleague, Brian McCabe, conducted a study[186] that examined the effects of the 2017 Seattle Democracy Voucher Program, which is the first public campaign finance program of its kind in the United States. The study found that Seattle's Democracy Voucher Program had

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[182] Ella Nilsen, Bernie Sanders Takes Aim at the DNC with his New Anti-Corruption Plan, Vox.com (Oct. 7, 2019); Yang2020, Policy: Democracy Dollars.

[183] See Transcript of Feb. 25, 2019, Elections Expert Forum, at 80-82.

[184] See Transcript of Feb. 25, 2019, Elections Expert Forum, at 78-80, 112, 114, 117-19.

[185] See Testimony of Dr. Jennifer Heerwig, February 25, 2019 (Appendix B, attached hereto, pages B1 to B31); Transcript of Feb. 25, 2019 Elections Expert Forum, at 82-85, 110-11, 114.

[186] Brian McCabe and Jennifer Heerwig, Diversifying the Donor Pool: How Did Seattle's Democracy Voucher Program Reshape Participation in Municipal Campaign Finance?, Election Law Journal: Rules, Politics, and Policy (Sept. 24, 2019). See Appendix B, attached hereto, pages B10 to B31.

dramatically increased the number of participants in the local campaign finance system by over 300% and had helped to reduce the overrepresentation of wealthy campaign donors from the donor pool. However, the study observed that voucher usage was still lower among communities of color, younger voters, and those with lower levels of income.

Jerry Goldfeder (Adjunct Professor of Election Law at Fordham Law School and election attorney):[187] The current New York City public matching funds program already allows "candidates of modest means" to run viable campaigns, but there is always room for improvement. While there are complications to implementing democracy vouchers in conjunction with the existing matching funds program, the City should consider whether it would force candidates to talk to more constituencies to raise money.

Dr. Michael Malbin (Professor of Political Science, University at Albany):[188] Professor Malbin highlighted that New York City's matching funds program has been and should continue to be a model for the nation. The City should analyze whether the democracy voucher system adopted in Seattle will truly yield better results than the City's newly adopted 8:1 matching funds program or other public financing systems. Malbin noted that while he was "intrigued by the Seattle experiment, which has been implemented in a very impressive way," he encourages further study of the issue to fully analyze the Seattle program's impact and results after the Seattle mayoral race in 2021. Professor Malbin recommends that the City Council set up a new commission dedicated entirely to comparing the strengths and weaknesses of public financing systems; such a commission should be made up entirely of scholars and should focus on the election results of Seattle and New York City in 2021 and report back to the City Council.

New York City Campaign Finance Board (CFB) (Richard Shaffer, Chair, and Amy Loprest, Executive Director):[189] In testimony to the 2018 Charter Revision Commission, the CFB recommended lowering campaign contribution limits, increasing the matching rate, and increasing the amount of public funds that campaigns can receive through the existing New York City public matching funds program to help transform the ratio of big dollar contributions to small dollar ones, especially in local elections. The 2018 Commission proposed substantially similar changes to the program, and these changes received overwhelming voter support in the 2018 election; under the new program, the average contribution amount is getting smaller while the donor base is increasingly diverse. CFB emphasized that the board's independence and non-partisan status are critical to maintaining the effectiveness and integrity of the matching funds program. The existing program is regarded as a success and a model for cities nationwide.

Frank Morano:[190] The City's matching funds program has worked well for individuals and incumbents who are more easily able to raise funds, and the newly adopted 8:1 match will help "level the playing field" for insurgent candidates. Nonetheless, the matching funds program is flawed and the Campaign Finance Act has fallen short of its original expectations. Mr. Morano

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[187] See Testimony of Jerry Goldfeder, February 25, 2019 (Appendix B, attached hereto, pages B32 to B33); Transcript of Feb. 25, 2019 Elections Expert Forum, at 85-89.

[188] See Testimony of Michael Malbin, Feb. 25, 2019 (Appendix B, attached hereto, pages B34 to B35).

[189] See Testimony of Frederick Schaffer and Amy Loprest, Feb. 25, 2019; Transcript of Feb. 25, 2019 Elections Expert Forum, at 74-77, 108 (Appendix B, attached hereto, pages B36 to B40).

[190] See Testimony of Frank Morano, May 7, 2019 (Appendix B, attached hereto, pages B41 to B43).

argues that a democracy voucher model should be presented to the voters, as the issue will not likely be taken up by elected officials that "enjoyed the benefits of our current campaign finance system."

John F. Manning:[191] Democracy vouchers are a "viable, realistic alternative" to the current issues that the City and State face involving "legalized bribery," corruption, and fraud. Elected officials must be responsive to private interests and lobbyists because they rely on these same actors for campaign donations. Mr. Manning believes democracy vouchers would open up the political process and allow more non-wealthy individuals to run for office and for support for less well-connected candidates.

The Manhattan Libertarian Party (Ilya Schwartzburg):[192] The Manhattan Libertarian Party opposes the democracy voucher model on the basis that it is "compelled political speech." Ms. Schwartzburg believes that democracy vouchers are fundamentally flawed given that "any and all political speech" would be routed through a government program. As such, democracy vouchers would compel taxpayers to finance campaign speech, thus violating their First Amendment rights.

<u>Issues for Further Consideration</u>

While some believe Seattle's experience is promising in that it is attracting new, small-dollar contributors to engage in campaigns, further research and analysis would be needed regarding the impacts of Seattle's program and how such a system could or should be implemented in New York City, especially given the City's extensive existing public matching program. As it rolls out its system for more races, particularly for its mayor's race in 2021, Seattle's experience will likely prove useful if the City Council or a future charter revision commission chooses to consider adopting such a system in New York City. Presented below are questions for further study:

- o Would a potential democracy vouchers program replace the current public matching funds program?
- o Would a potential democracy vouchers program supplement the current public matching funds program? What would a potential hybrid system look like?
- o How would democracy vouchers be funded and would there be a limited number, as in Seattle?
- o How many vouchers would be distributed to City residents?
- o Who would be eligible to receive vouchers (e.g., residents versus registered voters)
- o Could the program be implemented with the assistance of the City Board of Elections in confirming contributor signatures with their voter registration?

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[191] <u>See</u> Testimony of John F. Manning, Sept. 17, 2018 (Appendix B, attached hereto, pages B44 to B47).
[192] <u>See</u> Testimony of Ilya Schwartzburg, May 9, 2019 (Appendix B, attached hereto, pages B69 to B70).

The Role of the Borough President

Throughout the course of its work, the Commission heard and received testimony regarding the appropriate role of the City's Borough Presidents – ranging from significant additions to their powers to the need for the offices altogether. Several Commissioners themselves articulated the importance of the office and the need to explore ways to enhance the office's efficacy. The evolution of the office is instructive. Upon consolidating the existing City of New York, Brooklyn, the East Bronx, western Queens County, and Staten Island into a single city in 1898, the City created the offices of the Borough Presidents[193] to assuage concerns that boroughs would become irrelevant in a more centralized government.[194] Borough Presidents are elected by the voters of their respective boroughs. They are elected at the same time and serve the same term as the Mayor.[195]

From 1901[196] to 1990, Borough Presidents served on the Board of Estimate, a powerful governing body that had significant authority in budget, land use, contracting, and other areas.[197] In many ways, the offices of the Borough Presidents and their powers were the impetus for the 1989 overhaul of the City Charter. Each Borough President had one vote on the Board of Estimate (citywide elected officials each had two).[198] However, under this voting structure, some boroughs were more represented than others due to significant differences in borough population and this system was declared unconstitutional by the United Supreme Court in 1989.[199] [200]

Elimination of the Board of Estimate resulted in Borough President powers being significantly diminished after 1989.[201] Borough Presidents retained control over some intra-borough affairs,[202] with a number of historical powers remaining in some form (e.g., maintain a topographical bureau[203]) and others added (e.g., monitor service delivery in the borough,[204] introduce legislation,[205] train and provide technical assistance to community boards[206]).

The 1989 Commission chose not to eliminate the offices of the Borough Presidents largely if not mostly due to the historical importance of boroughs, significant public testimony urging a meaningful borough role, and concerns that without a role for borough voice the 1989

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[193] Frederick A.O. Schwarz, Jr. and Eric Lane, The Policy and Politics of Charter Making, at n.1.

[194] Gregory Perrotta, A Case for and Against the Borough President in Twenty-First Century New York City, 58 N.Y.L. SCH. L. REV. 193, 194 (2013-2014).

[195] Charter § 81(b).

[196] Schwarz, Jr. and Lane, The Policy and Politics of Charter Making, at 766.

[197] Perrotta, A Case for and Against the Borough President in Twenty-First Century New York City, at 194. See Linda Greenhouse, Justices Void New York City's Government; Demand Voter Equality in All Boroughs, The New York Times (Mar. 23, 1989).

[198] Schwarz, Jr. and Lane, The Policy and Politics of Charter Making, at 740.

[199] Id. at 739-740.

[200] Id. at 765.

[201] Perrotta, A Case for and Against the Borough President in Twenty-First Century New York City, at 194.

[202] Id.

[203] Charter § 82(3).

[204] Charter § 82(10).

[205] Charter § 82(11).

[206] Charter § 82(12). Other added powers can be found in Charter §§ 82(8)-(9) and (13)-(15).

Commission's proposals would be voted down.[207] At the same time, the 1989 Commission did not want to give Borough Presidents a true legislative role because the 1989 Commission believed this would dilute the City Council's power and would not create opportunities for minority politicians (one of its primary goals).[208] The 1989 Commission was also reluctant to give Borough Presidents significant executive power, as the 1989 Commission could not identify issues sufficiently local in scale to reserve for Borough President control rather than mayoral control.[209] Only a few years after the 1989 revisions, the Borough Presidents faced calls for abolishment of their offices and questions regarding their purpose.[210]

Powers of the Borough Presidents

Currently, Borough Presidents' limited powers include making non-binding recommendations for capital projects,[211] having legislation introduced in the Council,[212] appointing community board members,[213] appointing one member each to the City Planning Commission,[214] and allocating funds within their respective boroughs (5% of the City's capital budget is distributed to Borough Presidents),[215] among others. Borough Presidents are also empowered to hold public hearings.[216] For example, Borough Presidents often hold hearings on land use topics[217] and various other issues.[218]

Borough Presidents are required to chair their borough board,[219] make recommendations regarding their borough to the Mayor and other officials,[220] maintain a planning office for the borough,[221] monitor service delivery in the borough,[222] propose a borough capital budget,[223] and recommend executive budget modifications to the Mayor and Council.[224]

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[207] Schwarz, Jr. and Lane, The Policy and Politics of Charter Making, at 810-811.

[208] Id. at 813-814.

[209] Id. at 815.

[210] Perrotta, A Case for and Against the Borough President in Twenty-First Century New York City, at n. 87.

[211] Charter § 82(4).

[212] Charter § 82(11).

[213] Charter § 2800(a)(1).

[214] Charter § 192(a).

[215] Charter § 211(a); MNN Blog, What Does the Manhattan Borough President Do?, MNN: Manhattan Neighborhood Network (Jan. 12, 2017).

[216] Charter § 82(5).

[217] Office of the Brooklyn Borough President Eric L. Adams, Uniform Land Use Review Procedure Public Hearing, Office of the Borough President Eric L. Adams (last visited Feb. 12, 2019).

[218] Gale Brewer – Manhattan Borough President, 9/11 Town Hall for Downtown Community, Gale Brewer – Manhattan Borough President (last visited Oct. 15, 2018).

[219] A Borough Board is a body comprised of the Borough President, Council Members from the borough, and the chair of each Community Board in the borough; it holds regular public hearings and reports to the CityCouncil, Mayor, and City Planning Commission on borough programs and capital projects (Charter § 85(a)). Additionally, a Borough Board has binding approval power in the leasing or selling of City property within the respective borough (Charter § 384(4)) and makes Uniform Land Use Review Procedure (ULURP) recommendations when the application affects multiple community districts within the respective borough (Charter § 197-c(f)).

[220] Charter § 82(7).

[221] Charter § 82(9).

[222] Charter § 82(10).

[223] Charter § 211(c).

[224] Charter § 251.

Borough Presidents also play a role in the City's land use process. In addition to appointing community board members and a member each to the City Planning Commission, they have authority to issue non-binding recommendations concerning the approval, disapproval, or modification of land use applications under the Uniform Land Use Review Procedure (ULURP).[225]

Each Borough President also chairs a "borough service cabinet," which must include one or more designees of "senior officials" of each City agency that delivers services to the borough. The purpose of the cabinet is to coordinate at the borough level service delivery functions and programs of agencies that provide services in the borough; consider interagency problems and impediments to the effective and economic delivery of services in the borough; and plan and develop programs addressed to the needs and priorities of the borough and its residents.[226]

<u>Testimony Received by the Commission</u>

The Commission heard testimony from former Borough Presidents, academics, and veterans of City government regarding the appropriate role of the office of the Borough President, its place in the balance of power in the City's local government, how to ensure that the voice of a borough continues to be heard, and the importance of a borough's identity to City residents. Some recommended that Borough Presidents' powers be strengthened, others stated that they be left alone. The written testimonies of the persons identified below can be found in <u>Appendix C</u>, annexed hereto.

Ruth Messinger (former Manhattan Borough President)[227]: Ms. Messinger encouraged structural changes that would allow Borough Presidents to convene with local and citywide bodies to reach agreements on issues affecting their borough.[228] The Borough President draws its strength from having a less narrow focus than individual City Council representatives. The ability to more consistently convene such meetings would give a Borough President the opportunity to present borough proposals to the Mayor, commissioners, and the City Council.

Virginia Fields (former Manhattan Borough President): Ms. Fields suggested that the Mayor should be required to have more consistent and formalized communications with the Borough Presidents, and that Borough Presidents should have binding votes in the ULURP process.[229]

Eric Lane (Dean of Hofstra University School of Law and former Executive Director of the 1989 Charter Revision Commission): People in New York City identify strongly with their borough, so a referendum that seeks to eliminate Borough Presidents would likely not pass. The goal of the 1989 Charter Revision Commission was to give Borough Presidents partial executive power because their role on the Board of Estimate was eliminated.[230]

Doug Muzzio (Professor, Baruch College, City University of New York): The Borough Presidents ensure effective City service delivery and represent an important borough voice in the

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[225] Charter § 197-c(h).
[226] Charter § 2706.
[227] <u>See</u> Testimony of Ruth Messinger, Mar. 25, 2019 (Appendix C, attached hereto, pages C1 to C2).
[228] <u>See</u> Transcript of Mar. 25, 2019 Public Meeting, at 5.
[229] <u>See</u> Transcript of Mar. 25, 2019 Public Meeting, at 9-12.
[230] <u>See</u> Transcript of Mar. 25, 2019 Public Meeting, at 73-74.

affairs of the City. The Borough Presidents are important to the City's political opportunity structure and incorporate their multi-dimensional diversity in governance. Their power to act on behalf of the boroughs should be enhanced while not fundamentally reducing the power of the Mayor or the City Council, particularly by requiring borough agency heads and commissioners to attend meetings headed by the Borough Presidents. For example, the Commission should create independent budgets for the Borough Presidents and increase their influence in the ULURP process.[231]

Stanley Brezenoff (former Deputy to the Koch Administration, former head of NYC Health + Hospitals, Special Assistant to the de Blasio Administration, former Interim Chair and CEO of NYCHA): Borough President power should not be expanded at the expense of the Mayor. Historically, Borough Presidents have not excelled at balancing various interests and this can result in policy stalemates.[232]

Allan Cappelli (City Planning Commission, Attorney and Borough Advocate): The office of the Borough President is a unique position with the ability to advocate for the borough by focusing on issues at a borough level, and strengthening the position should be considered. This could be done by making certain appointments subject to the recommendation of the Borough President, such as positions that handle transportation and other local issues.[233]

Issues for Further Consideration

30 years after the 1989 changes to the structure of City government, the delicate but important balance between local control and centralized administration of City services continues to be a significant topic of discussion and debate. As just one example, as noted in the Commission's Preliminary Staff Report and referenced above, the Charter empowers the Borough Presidents to chair a borough service cabinet consisting of borough-level representatives from various City agencies, but it does not clearly delineate City agencies' responsibility for attending any meetings or providing information. If policymakers, or a future charter revision commission, choose to further examine the role that Borough Presidents play in advocating for the interests of their constituents on local service delivery matters, the extent to which they are empowered to convene with and receive information from City agencies is one potential area for further discussion.

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The three areas outlined above generated a great deal of interest by the Commissioners, as reflected by the amount of research and discussion to which they were subject. In addition to the discussion of these areas by public speakers and related submissions by individuals and advocacy groups, these areas were debated by the Commissioners at a number of public meetings and continued to be discussed throughout the Commission's tenure. At its final meeting, when the five ballot questions – consisting of 19 proposed amendments to the Charter – were approved for the

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[231] See Testimony of Doug Muzzio, Mar. 18, 2019 (Appendix C, attached hereto, pages C3 to C10); Transcript of Mar. 18, 2019 Governance Expert Forum, at 102.

[232] See Transcript of Mar. 18, 2019 Governance Expert Forum, at 95-98 and 110-13.

[233] See Transcript of Mar. 25, 2019 Governance/Land Use Expert Forum, at 12-15.

November 2019 election, these three ideas continued to have currency. The Commissioners requested that these ideas be presented to the elected officials who had appointment power under Local Law 91 of 2018 to ensure that these topic areas have visibility beyond the Commission and considering the possibility that they might be revived by a future charter revision commission or considered by other City officials.

Appendix A

NEW YORK CITY COUNCIL

REPORT TO THE
2019 NEW YORK CITY
CHARTER REVISION COMMISSION

JANUARY 2019

COREY JOHNSON, SPEAKER
FERNANDO CABRERA, CHAIR, COMMITTEE ON GOVERNMENTAL OPERATIONS
BRAD LANDER, DEPUTY LEADER FOR POLICY

PART VI: LAND USE

I. REFORMS FOR MORE EQUITABLE AND RATIONAL PLANNING

RECOMMENDATION: Require the creation of a Comprehensive Plan—a citywide strategic framework and vision for growth and development.

- Require the City to produce a Comprehensive Plan for the city once every ten years to serve as the basis for land use, zoning, and capital planning decisions.

Current law: The Charter includes many provisions related to comprehensive land use planning but does not require an actual plan. Section 16 of the Charter requires the Mayor to submit annual reports on socio-economic disparities and efforts to reduce the poverty rate. Section 17 requires the Mayor to submit a strategic policy statement every four years. Section 20, created in 2006, establishes the Mayor's Office of Long-Term Planning and Sustainability and requires this office to develop sustainability indicators, population projections and a long-term sustainability plan regarding housing, open space, brownfields, transportation, water quality and infrastructure, air quality, energy and climate change to be updated every four years with an annual progress report. Section 191 requires the Department of City Planning (DCP) to assist in preparation of strategic plans.

Section 192(d) requires the City Planning Commission (CPC) to be responsible for planning related to orderly growth, and Section 192(f) requires the Commission to issue a zoning and planning report every four years stating: the planning policy of the Commission and its relation to the Ten Year Capital Strategy; the four year capital program; the demographic reporting required by Charter § 16; the strategic policy statements of Section 17 and any Section 197a plans; summaries of the significant plans and studies undertaken by DCP during the prior four years; analysis of any portions of the zoning resolution that "merit reconsideration;" and any proposal for implementing the planning policy of the Commission. In practice, Charter § 192(f) is fulfilled by slides published on the DCP/CPC website summarizing their work and it is not taken seriously by DCP/CPC as a tool for setting forth a comprehensive, coordinated planning strategy.

Per § 197a of the Charter, plans for the development, growth, and improvement of the city may be submitted by the Mayor, CPC, DCP, Borough Presidents, Borough Boards, or Community Boards, and through ULURP. In practice, most of these plans have been selectively referred to as policy guidance but not implemented and there has not been a new § 197a plan since 2011.

Section 204 establishes the Citywide Statement of Needs process for transparency and public input on public facility siting. Section 205 requires the DCP to publish a Comprehensive Waterfront Plan every ten years beginning in 2010. Section 206 requires tracking of policy commitments made by the Mayor during the public review process for public rezoning applications. Section 215 requires the preparation and submission of the Ten Year Capital Strategy, which serves as the City's medium-term infrastructure and facilities planning document.

Reasons for proposed change: While the New York City Charter has many provisions intended to require comprehensive consideration of land use and planning policy, there is no actual requirement to publish a citywide comprehensive plan.

A2

In other major cities around the country and the world, the Comprehensive Plan—a document establishing a strategic framework and vision for growth and development—serves as the basis for land use, zoning, and capital planning decisions. Lacking such a plan, New York City is without a strategic vision for how growth and development should be rationally and equitably distributed across the City. The lack of a citywide plan contributes to the overall housing shortage and exacerbates conflicts for space between different uses. The ad hoc selection of particular neighborhoods for growth-oriented rezoning plans has proved to be an inefficient and acrimonious process and is not delivering enough opportunities for development as the city needs. Making matters worse, unlike other cities, New York does not iteratively update zoning and other development regulations, leaving many parts of the city hamstrung by decades-old regulations. When communities or private developers seek to facilitate new types of development, they often struggle to find relevant up-to-date zoning tools.

A citywide strategic planning framework, developed with extensive community-level participation but with clear guidelines to accommodate the City's projected housing, commercial, industrial, and infrastructure needs on a fair and rational basis, would serve as the foundation for both public and private development decisions. It would allow both community-based proposals and private development proposals to move forward with an accelerated process if such proposals comport with the comprehensive plan. And it would usher in a new, iterative planning process in New York to comprehensively update and maintain the Zoning Map and Zoning Text for contemporary needs.

The Charter should therefore be amended to require a strengthened and integrated comprehensive planning process. It should require the City to first complete an Existing Conditions analysis, which should include the following elements:

- A citywide study of demographic, economic, infrastructure state of repair and capacity, housing, land use, sustainability, resilience and environmental data (including a focus on sea-level rise and other climate-change impacts) over the prior 20 years and growth/needs projections for the next 20 years, undertaken by one central agency or Mayoral office. Much of this information is already actively gathered and analyzed by various city agencies and some of it is brought together and published under the current "OneNYC" Charter § 20 report.

- A supplementary "Growth and Equity" analysis, similar to the analysis conducted by Seattle's Office of Planning and Community Development, to help guide decision making on the Comprehensive Plan. This analysis should set explicit policy goals and priorities for the City's overall growth and development and include an "Access to Opportunity" Index that overlays education, economic, transit, civic infrastructure, and health data and a "Displacement Risk" Index that overlays indicators of vulnerability and analyzing both geographically.

The Charter should then require the City to hold a minimum number of participatory workshops throughout the five boroughs in which the City will share the results of the citywide Existing Conditions study to examine the findings and implications at the local-level.

Informed by public input and the Existing Conditions analysis, the Charter should be amended to require the City to produce a Draft Comprehensive Plan to develop a strategic vision for the City's future, including, at a minimum, multiple possible scenarios for growth. The Draft Plan should also be required to include quantifiable targets for growth, city facilities and investment at the borough and Community District level, identified based on the findings of the Existing Conditions study and objective criteria, determined by the City with consideration of public input. The Charter should require a minimum number of presentations and workshops throughout the five boroughs to review the Draft Comprehensive Plan and collect community feedback.

A3

Finally, the City should be required to release a Final Comprehensive Plan and complete a CEQR GEIS analysis on such plan. The Final Comprehensive Plan should then be subject to public review with final approval by the City Council. The Charter should also be amended to authorize the Council to modify the quantifiable targets set forth in the plan through the ULURP process. Further, the Ten Year Capital Strategy for that year should be required to directly cross-reference the adopted Comprehensive Plan, with prioritization of the investments identified through the planning process and restrictions on how those investments can be modified by the City in future years.

To incentivize implementation, the Charter should be amended to explicitly allow the GEIS analysis to fast-track public and private applications that comport with the Comprehensive Plan. Private and public applications that comport with the plan and GEIS would only need to complete an abbreviated, supplementary EAS or technical memo for impacts unique to the project, significantly reducing the time, cost and burden on applicants in the land use review process.

The Charter should require the City to complete this planning process once every ten years, and produce progress reports once every two years. The Charter should also provide a concrete pathway to update the plan as necessary, on an annual basis. Finally, the Charter should specify that the process, from start to finish, should not exceed four years to complete.

RECOMMENDATION: Amend the Charter to improve the transparency, planning, community input and effectiveness of the City's Fair Share System.

- Require the City to regularly update the Fair Criteria and mandate as binding rules, not just guidelines, and authorize the Council to initiate future reviews of the rules.
- Require a higher bar for sitings in highly over-concentrated districts (i.e. require CPC or Council review of sitings in districts that are the most over-concentrated of that facility type).
- Increase transparency so that members of the public can easily review Fair Share Statements and objectively compare the concentration of any kind of facility between different communities.
- Reform the Citywide Statement of Needs to be a more thorough and useful planning document.

Current law: Section 203 of the City Charter requires that CPC, following a proposal by the Mayor, promulgate rules establishing criteria for the siting of new City facilities, and the expansion, reduction, or closing of existing facilities, consider the fair distribution of facilities among communities as well as communities' needs for services, the efficiency of service delivery, and the social and economic impact of facilities on their surrounding areas. These criteria are commonly referred to as the "Fair Share Criteria."

Section 204 requires the Mayor, in conjunction with DCP, the Department of Design and Construction, and the Department of Citywide Administrative Services to produce an annual citywide Statement of Needs (SON), which must identify all sitings subject to the Fair Share Criteria planned for the next two fiscal years and explain why the specific siting was chosen. Before submitting their own departmental statements of need to the Mayor, agencies are required to consult with the district needs statements and statements of budget priorities prepared by Community Boards. Community Boards and Borough Presidents may comment on the SON within 90 days of its issuance, and Borough Presidents may propose alternate locations for any proposed siting within their borough.

Testimony to the New York City Charter Revision Commission by Council Member Ayala
Bronx Public Hearing on September 12, 2018

Introduction

Good evening members of the Charter Revision Commission. Thank you for this opportunity to testify. I am Council Member Diana Ayala, Co-Chair of the City Council's Progressive Caucus, and I will be testifying on behalf of the Caucus on our priorities related to the Charter Revision.

In this testimony, I will be focusing on the city's land use powers and process, which has wide-reaching effects on critical issues affecting the city. This issue is a priority for the 22 members of our Caucus, who represent districts across the five boroughs of New York City.

Land Use: Road Map of Key Issues

It is no secret that the City's land use and planning processes are deeply flawed. Opposition to recent rezonings have made it clear; New Yorkers are unhappy about the City's land use process. The current system frustrates community members, grassroots organizers, elected officials and planners alike. This is because the City's approach to planning is basically reactive. Without a larger city-wide plan in place, we react to private developments, natural disasters, school seats, homelessness, and other important infrastructure needs randomly.

In the Bronx, we are experiencing an unprecedented level of development and growth. As an elected official from the Bronx, I can tell you from my experience. The status quo of ad-hoc planning is just not working. We need a larger vision, one based on our short- and long- term needs. We need a larger vision based on equity. A vision in which low-income communities do not have to solely bear the brunt of the City's every housing or infrastructure need. We need envision a land use process where communities are empowered and the *equitable* distribution of City resources, facilities and new development is prioritized.

Principles for Community-Based Planning to Support Equitable Growth:

As a first step, I will share five guiding principles that reflect the Caucus's values and will drive the development of our recommendations moving forward:

- **Equity and fairness**, to ensure that all communities are doing their fair share and have access to affordable housing, services and amenities, and a healthy environment;
- **Proactive and responsive plans**, that account for the housing needs of this growing city as well as existing conditions and infrastructure needs;
- **Inclusive engagement**, to ensure all New Yorkers have a voice in land use decisions, regardless of language, age, income, ability, gender, religion, race, and ethnicity

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- **Resiliency and sustainability**, to guard against the future impacts of natural disasters and climate change;
- **Transparency and accountability**, to ensure that New Yorkers understand how and why decisions are made, how to participate, and how those decisions affect will them.

Recommendations

Guided by these principles, the Progressive Caucus is working with our community partners to develop specific recommendations to achieve the following three goals:

1) Create a comprehensive planning framework that includes a fair-share analysis
2) Make the City Planning Commission independent and create a long-term planning office
3) Empower communities to engage in decisions before, during, and after land use processes

I will start with:

1. **Create a Comprehensive Planning and Fair Share Framework**

   The City needs to assess as a whole the need for housing, public facilities, and neighborhood amenities, and use that assessment to develop a comprehensive framework to plan for the city's long-term needs, including housing targets which include affordable and fair housing, school seats, open space, infrastructure, and services. The City should also reform its Fair Share processes to achieve fairness in siting city facilities.

2. **Make the City Planning Commission (CPC) independent and create a new office for long-term, community planning**

   Currently, there is a strong Mayoral majority on the CPC and a Chair that simultaneously directs the City Planning Department. The City Planning Commission must be reformed to ensure greater objectivity and independence from political actors. A comprehensive plan would require all City agencies who engage in planning work to emerge from their silos. This may require the creation of a new entity with the responsibility for coordinating this work, independent from the City Planning Department, assisting communities in developing plans, and increasing resources, technical assistance and support available to communities engaged in citywide and neighborhood-based plans.

3. **Empower communities to engage in development decisions before, during and after formal land use processes.**

   A comprehensive plan cannot be a top down effort, but should rather be developed in true collaboration with local communities. To accomplish this, Community Boards must be reformed and given increased resources. As recommended by the Mayor's 2018 Charter Revision Commission, the Community Board application and placement process should be reformed to better reflect the demographics in the communities they represent and reduce conflicts of interests. Community Boards should also be provided the resources to

A6

hire, contract or develop technical expertise to help advocate for the interests of local residents. Community Boards and Council Members should be given formal opportunities to provide input prior to the certification of land use actions.

Conclusion

Our current system does not provide an avenue in which to have honest conversations about our city's needs – much of it is done out of the public eye with the outcome revealed and often negotiated just moments before a final vote. This method is not working.

We need to engage in proactive planning that is not guided by the latest real estate speculation, but by data, local input, a commitment to right past inequities and projected long-term needs.

Over the next several months, we will be refining the proposals we have laid out today alongside our colleagues and stakeholders. Thank you to the Commissioners for your time and we look forward to working with you, our colleagues at the Council and key stakeholders to refine recommendations that reflect the principles and achieve the goals we have outlined here today.

Testimony to the New York City Charter Revision Commission by Council Member Adams

Queens Public Hearing on September 20, 2018

Introduction

Good evening members of the Charter Revision Commission. My name is Council Member Adrienne Adams, and I am a lifelong resident and city representative from southeast Queens. I am a (new) Member of the City Council's Progressive Caucus, and I will be testifying on their behalf. In this testimony, I will be focusing on the city's land use powers and process, specifically on why the City needs a comprehensive plan with a real fair share analysis, an independent City Planning Commission, and a better, more transparent and accountable way to engage communities. This issue is a priority for the 22 members of our Caucus, who represent districts across the five boroughs of New York City.

Opposition to recent rezonings have made it clear; New Yorkers are unhappy about the City's current land use process. The current system frustrates community members, grassroots organizers, elected officials and planners alike. This is because the City's approach to planning is basically reactive. Without a larger city-wide plan in place, we react to private developments, natural disasters, school seats, homelessness, and other important infrastructure needs randomly.

As an elected official from southeast Queens, I can tell you from my experience. The status quo of ad-hoc planning is just not working. Communities like mine have bore the brunt of the lack of fair share in our city planning. We need a larger vision, one based on our short- and long- term

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needs. We need a larger vision based on equity. A vision in which low-income communities do not have to solely bear the brunt of the City's every housing or infrastructure need. We need envision a land use process where communities are empowered and the *equitable* distribution of City resources, facilities and new development is prioritized.

As a first step, I will share five guiding principles that reflect the Caucus's values and will drive the development of our recommendations moving forward:

- **Equity and fairness**, to ensure that all communities are doing their fair share and have access to affordable housing, services and amenities, and a healthy environment;
- **Proactive and responsive plans**, that account for the housing needs of this growing city as well as existing conditions and infrastructure needs;
- **Inclusive engagement**, to ensure all New Yorkers have a voice in land use decisions, regardless of language, age, income, ability, gender, religion, race, and ethnicity
- **Resiliency and sustainability**, to guard against the future impacts of natural disasters and climate change;
- **Transparency and accountability**, to ensure that New Yorkers understand how and why decisions are made, how to participate, and how those decisions affect will them.

Recommendations

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Guided by these principles, the Progressive Caucus is working with our community partners to develop specific recommendations to achieve the following three goals:

1) Create a comprehensive planning framework that includes a fair-share analysis

2) Make the City Planning Commission independent and create a long-term planning office

3) Empower communities to engage in decisions before, during, and after land use processes through community board reform and changing the way that the City interacts with, supports, and implements community plans and land use decisions

Conclusion

Our current system does not provide an avenue in which to have honest conversations about our city's needs – much of it is done out of the public eye with the outcome revealed and often negotiated just moments before a final vote. This method is not working. We need to engage in proactive planning that is not guided by the latest real estate speculation, but by data, local input, a commitment to right past inequities and projected long-term needs. Over the next several months, we will be refining the proposals we have laid out today alongside our colleagues and stakeholders. Thank you to the Commissioners for your time and we look forward to working with you, our colleagues at the Council and key stakeholders to refine recommendations that reflect the principles and achieve the goals we have outlined here today.

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39TH DISTRICT, BROOKLYN

COMMITTEES
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WOMEN'S ISSUE

Testimony of NYC Council Member Brad Lander
Deputy Leader for Policy
To the New York City Charter Revision Commission
Brooklyn Public Hearing
May 7, 2018

Good evening, Members of the Charter Revision Commission. Thank you for your service, and for this opportunity to testify. My name is Brad Lander, New York City Council Member for the 39th District in Brooklyn, and the Council's Deputy Leader for Policy. I'm working together with Speaker Johnson and other colleagues in the Council, as well as member of the Progressive Caucus, to identify issues and proposals for your consideration. For tonight, though, I am speaking only for myself.

While there are many issues that merit your commission's review — from more transparent budget oversight (e..g. through more detailed units-of-appropriation) to expanding the Council's advice and consent on major appointments, tonight I would like to urge you to include two topics in your consideration: 1) Instant Runoff Voting and 2) advancing more equitable growth, fairness, and community engagement through changes to our land use processes.

1. **Bring Instant Runoff Voting (IRV) to New York City, to avoid costly, low-turnout runoff elections, increase participation, encourage candidates to campaign in all communities, and improve the majoritarian legitimacy of those elected.**

As some of you maybe aware, the 2018 Charter Revision Commission appointed by the Mayor received a significant amount of testimony in support of Instant Runoff Voting (IRV, sometimes known as "ranked choice voting") in its public hearing process, but punted the issue to "a future Charter Revision Commission," finding that further research, outreach and analysis is "appropriate." As the prime sponsor of Intro 130-2018, City Council legislation to implement IRV in NYC (though it would still require a referendum, making inclusion in your recommendations far preferable, for reasons outlined below), I want to voice my strong support for Instant Runoff Voting, and make the case for why this Charter Revision Commission should take leadership on this critical issue by placing IRV on the ballot in November 2019.

Instant Runoff Voting is a win/win. Evidence shows that it increases participation, saves money, gives candidates a reason to campaign in every community, discourages negative campaigning, leads to more diverse representation, and strengthens the majoritarian legitimacy of those elected.

IRV allows voters to rank candidates for office in order of preference, rather than only voting for one candidate (although voters are welcome to continue to just vote for one candidate). If a candidate earns more than half of voters' first pick, that candidate wins. If not, lower vote-getting candidates are eliminated, and ballots from the eliminated candidates go to the remaining candidates who are ranked next, until one candidate emerges with a majority of the vote.

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This "instant" runoff would replace the runoff elections currently held for offices where no candidate receives 40% of the vote. These runoffs cost the City millions of dollars and consistently see abysmal voter turnout. In 2013, at least $13 million were spent on a runoff election for Public Advocate where only 6.9% of voters turned out; in other words, the runoff saw a 62% drop in voter turnout as compared to the primary. Runoffs also allow candidates to raise significantly more big dollar campaign contributions, above and beyond the contribution limits for the Primary. The Campaign Finance Board's current guidance even allows candidates to take additional contributions where a runoff election is "reasonably anticipated," by press coverage and polling data.

Evidence from cities all across the country has shown that voters are comfortable ranking candidates in order of preference. This system was implemented in Minneapolis, MN, a City that uses the same voting machines and software as New York City. With thoughtful ballot design and voter education, Minneapolis saw a 31% increase in voter turnout in the election following the implementation of IRV. 92% of voters found instant runoff voting easy to use (including 86% of voters 65+), 93% of voters felt candidates spent more time on issues than criticizing opponents. IRV in fact worked so well in Minneapolis, even losing candidates continue to stand by the system.[1]

I urge the Commission to explore the details, review research and develop a thoughtful proposal to place IRV on the ballot in 2019.

2.   **Advancing more equitable growth, fairness, and community engagement in NYC's land use processes.**

In 1989, the Charter Revision Commission proposed and the people adopted significant changes to the City's Uniform Land Use Review Procedure (ULURP), as well as it's "fair-share" process for siting municipal infrastructure. I greatly respect the work of that Commission and the adjustments they made.

However, 25 years later, we face new challenges. We are seeing levels of population growth and development they could not have imagined a generation ago, contributing to an affordability crisis across the city. As a result of climate change, we have an urgent need to focus on sustainability and resiliency in the built environment. Our infrastructure is aging, but we lack a comprehensive plan to address it. Our city's diversity is one of its extraordinary strengths, but we remain highly segregated, and resources are not distributed fairly.

These challenges make our planning, land use and development processes especially difficult. To make matters worse, the current ULURP process is too reactive. Instead of beginning from broader goals or values, it starts either with the proposal of an individual developer proposing a project with the aim (understandably) of making money, or with a proposal from the Department of City Planning for one neighborhood, chosen in a way that often feels random to the people of that neighborhood. The process makes people suspicious from the start.

As a result, ULURP is unsatisfying both in its process and its outcomes. As process, it plays out as a series of battles that I sometimes call "REBNY vs. NIMBY," that may end in a compromise at City Hall, but rarely constitute good planning, or feel to community residents like it helped to make their neighborhood stronger. You are going to hear those frustrations as you travel around the city. And it its outcomes, since we don't start

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[1] http://video.startribune.com/minneapolis-winners-and-some-losers-praise-ranked-choice-voting/456463163

with overall goals or any effort to measure them, there is too little evidence that ULURP delivers the more equitable, inclusive, and sustainable city we need.

We are never going to make everyone happy; but we can do better. Over the next few months, I'll be working alongside my colleagues and external stakeholders to refine recommendations for reforming NYC's land use processes. As a first step, the Progressive Caucus set forth guiding principles:

- **Equity and fairness**, to ensure that all communities are doing their fair share and have equitable access to affordable housing, city services and amenities, and a healthy environment in which to live, work and raise their families;
- **Robust and inclusive community engagement**, to ensure that all New Yorkers have a voice in our planning decisions, regardless of language, age, income, ability, gender, religion, color, race, ethnicity, etc.
- **Proactive and responsive plans**, that account for projected growth and existing conditions and infrastructure needs, alike;
- **Resiliency and sustainability**, to guard against the future impacts of climate change and mitigate the adverse impacts they bring;
- **Transparency and accountability**, to ensure that all New Yorkers understand why decisions are made, how to participate in the process, and the ways in which those decisions affect their neighborhoods.

Today, I will highlight three proposals in particular that I personally recommend for the Commission's consideration, that I believe would help advance these goals. I'll be working closely with my colleagues and external stakeholders to refine these recommendations in greater detail in the coming months:

- **Require the City to establish a Comprehensive Plan, through a data-driven, inclusive process of "cross-acceptance," and regularly update it (at least every 10 years)**: We need to reform our land use processes to holistically assess the City's need for housing, public facilities, and neighborhood amenities. A critical step the City could take towards these goals is the development and implementation of a comprehensive plan for the city's long-term needs, including population growth projections, planning for where development and additional density can best be accommodated, infrastructure investments needed to support such growth, a hard look at sustainability and resiliency issues in light of climate change, affordable and fair housing goals, economic development goals, and the schools, open space, public institutions, and resources necessary. In prior generations, the New York City planners put forth comprehensive citywide development visions that preceded and framed individual zoning actions.

  The City should once again plan strategically for the entire city, rather than serve as an enabler of developer-driven projects. Many cities around the world (e.g., London) and in the United States (e.g., Portland) now utilize comprehensive planning to foster successful, sustainable, and shared growth. A successful comprehensive planning process in NYC will make extensive and transparent use of relevant data, engage communities through a process that offers them the opportunity to shape the plan, plan large-scale infrastructure investments necessary to sustain growth (though better connections between the land use process and the capital budget planning process), incorporate "fair share" principles (more on that in the next section), and then find ways to make subsequent planning actions — both developer-drive projects and neighborhood rezonings — easier to implement if they conform to the comprehensive plan.

3

In coming months, I plan to work closely with my colleagues at the Council and key stakeholders to develop this proposal in greater detail, including recommendations to ensure the City has the resources it needs to coordinate across City agencies and plan in close collaboration with communities -- and to propose a clear path for implementation of the plan, to ensure we can meet our goals for community-driven, equitable growth.

- **Reform the City's Fair Share System:** The City should also significantly reform its Fair Share processes, starting with the recommendations laid out in the Council's 2017 Fair Share report, to achieve fairness in siting municipal facilities. A basic principle of a fair city is that, to the greatest extent possible, all communities should have their fair share of municipal facilities -- whether those are schools, libraries, shelters, parks, prisons or waste transfer stations. Unfortunately, in New York City, facilities that bring environmental burdens to communities like waste transfer stations are disproportionately located in low-income communities of color. At the same time, wealthy whiter communities benefit from having less than their fair share.

  This was a major focus of the 1989 Charter Revision Commission. Under Fritz Schwartz's leadership, the Commission instituted a "Fair Share" procedure requirement to govern how the City sites facilities that it operates, either directly or through contracts with third-party service providers. Fair Share was established to require the City to plan its facility sitings in a thoughtful, deliberate manner that takes community input seriously and that aims -- at least in principle -- to avoid the uneven distribution of these essential City facilities and services.

  Unfortunately, this system has not worked as the 1989 Charter Revision Commission intended -- and in many instances, the distribution of City Facilities has actually become less fair since 1989. Fair Share statements - which exist to explain how a siting is fair or unfair - are generally inaccessible to the public. The City does not disclose enough data about the current distribution of facilities. The Citywide Statement of Needs, intended to be a forward-thinking planning document, does not contain enough detail to be useful. There is no consequence to City agencies for implementing sitings that exacerbate the unfair distribution of city facilities, while NIMBYism makes it even more difficult to site the facilities that communities need most in neighborhoods that are not already over-concentrated.

  The Council's report lays out legislative recommendations for Fair Share reform, one of which -- to prohibit unfair sitings in over-concentrated districts -- would require a voter referendum as it curtails the Mayor's power to site facilities. Through this Charter Revision process, we now have the opportunity to think outside the box -- to craft ballot proposals that can effectively prevent unfair sitings, make fair sitings meaningfully easier and to make the process more transparent in the process. I will be working with my colleagues and key stakeholders to develop recommendations in greater detail.

- **Preserving public land for affordable housing and non-profit job stewards:** It is no secret that NYC is facing a serious housing affordability crisis, with nearly 63,000 people in our shelter system and hundreds of thousands more families who are severely rent-burdened or facing displacement from the neighborhoods the love. Making sure that all New Yorkers can afford to stay in their homes and creating new opportunities for affordable housing may be the greatest challenge confronting our City. Over the last few years, we've made some real progress through mandatory inclusionary zoning, stronger tenant protections from harassment and displacement and substantial additional resources and programs to support tenants.

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Still, the City continues to dispose public land to private developers, who will only ever concede to building as much affordable housing as will turn them a decent profit. According to Living Lots NYC, there are around 600 acres of vacant public land in NYC. We cannot leave these precious lots in the hands of private developers. In Barcelona, for example, the City's Right to Housing Plan commits to developing public land for affordable housing, which will increase the City's publicly-owned affordable housing stock by 50% in just six years.[1]

In NYC, we should better leverage the resources we have by limiting the City's disposition of public land to non-profit developers and community land trusts, for permanently and maximally affordable housing, or for mission-driven economic development that maximizes good jobs. Unlike private developers, these non-profit organizations are equipped to work appropriately with communities to create lasting, durable opportunities for both housing and economic opportunity. The Council has explored restrictions on the Mayor's ability to dispose of land to private developers by local law, but we have generally concluded that we are curtailed from doing so. This Commission should strongly consider and research ways to limit the disposition of public land to maximize affordability and equitable economic development in NYC.

Thank you for the opportunity to testify today. We hope you will take these recommendations under strong consideration as you move forward in this process -- and to consider even bolder ideas as well. We will be developing these ideas in greater detail in coming weeks. In the meantime, please do not hesitate to reach out to my office directly for additional information.

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[1]

https://www.barcelona.cat/infobarcelona/en/over-4500-new-homes-with-affordable-rents-on-public-land_7 03250.html

The New York City Council
Progressive Caucus

Testimony to the New York City Charter Revision Commission

by Council Member Keith Powers

Manhattan Public Hearing

September 27, 2018

Introduction

Good evening, members of the Charter Revision Commission. My name is Council Member Keith Powers, and I represent District 4 in Manhattan.

Thank you for the opportunity to testify before you.

Tonight, I will focus on the city's land use process, specifically on why the City needs a comprehensive land use plan, an independent City Planning Commission, and a more transparent and accountable way to engage communities. This issue is a priority for the 22 members of the Progressive Caucus, for which I am Vice Chair, and countless other Council Members.

Many New Yorkers are unhappy about the City's current land use process. The current system seems to frustrate community members, grassroots organizers, elected officials and planners alike. This is because the City's approach to planning is largely reactive. Without a long-term city-wide plan in place, we are constantly reacting to private applications, natural disasters, school seat changes, homelessness, and other important infrastructure needs.

The status quo of ad-hoc planning causes frustration amongst all parties involved. We need a more proactive vision, one based on our short- and long-term needs. We need to envision a land use process based on equity, where communities are empowered.

Guiding Principles

These are the five guiding principles that reflect the Caucus's values that will drive our recommendations moving forward:

1. **Equity and fairness**, to ensure that all communities are doing their fair share and have access to affordable housing, services, and a healthy environment;

2. **Proactive and responsive plans**, that account for the housing and infrastructure needs of this growing city;

3. **Inclusive engagement**, to ensure all New Yorkers have a voice in land use decisions, regardless of language, age, income, ability, gender, religion, race, or ethnicity

4. **Resiliency and sustainability**, to guard against the future impacts of natural disasters and climate change;

5. **Transparency and accountability**, to ensure that New Yorkers understand how and why decisions are made, how to participate, and how those decisions affect them.

Recommendations

Guided by these principles, the Progressive Caucus is working with our community partners in advocating for these three recommendations:

1) Create a comprehensive planning framework that ensures every community contributes their fair share

2) Make the City Planning Commission independent and create a long-term planning office

3) Empower communities to engage in decisions through community board reform and changing the way the City interacts with and implements land use decisions

Conclusion

Our current land use system is not working. Much of it is done out of the public eye, with the outcome revealed and often negotiated just moments before a final vote.

Instead, New York City needs to engage in proactive planning—not guided by the latest real estate speculation, but by data-driven research, local input, a commitment to right past inequities and meet our long-term needs.

Thank you to the Commissioners for your time. We look forward to working with you, our colleagues at the Council and key stakeholders to delve deeper into these recommendations and achieve the goals we have outlined here today.

More detailed recommendations:

1. **Create a Comprehensive Planning and Fair Share Framework**

   The City needs to assess as a whole the need for housing, public facilities, and neighborhood amenities, and use that assessment to develop a comprehensive framework to plan for the city's long-term needs, including housing targets which include affordable and fair housing, school seats, open space, infrastructure, and services. The City should also reform its Fair Share processes to achieve fairness in siting city facilities.

2. **Make the City Planning Commission (CPC) independent and create a new office for long-term, community planning**

   Currently, there is a strong Mayoral majority on the CPC and a Chair that simultaneously directs the City Planning Department. The City Planning Commission must be reformed to ensure greater objectivity and independence from political actors. A comprehensive plan would require all City agencies who engage in planning work to emerge from their silos. This may require the creation of a new entity with the responsibility for coordinating this work, independent from the City Planning Department, assisting communities in developing plans, and increasing resources, technical assistance and support available to communities engaged in citywide and neighborhood-based plans.

3. **Empower communities to engage in development decisions before, during and after formal land use processes.**

   A comprehensive plan cannot be a top down effort, but should be developed in collaboration with local communities. To accomplish this, Community Boards must be reformed and given increased resources. As recommended by the Mayor's 2018 Charter Revision Commission, the Community Board application and placement process should be reformed to better reflect the demographics in the communities they represent and reduce conflicts of interests. Community Boards should also be provided the resources to hire, contract or develop technical expertise to help advocate for the interests of local residents. Community Boards and Council Members should be given formal opportunities to provide input prior to the certification of land use actions.

PROGRESSIVE CAUCUS

NEW YORK CITY COUNCIL

March 21, 2019

Council Member Antonio Reynoso Testimony on Behalf of the NYC Council Progressive Caucus

Good evening members of the Charter Revision Commission. Thank you for your service, and for this opportunity to testify. I am Council Member Antonio Reynoso and I will be testifying on behalf of the City Council's Progressive Caucus on our priorities for the Commission's consideration.

It is no secret that the City's land use and planning processes are deeply fraught. Controversies and opposition to recent rezonings have made quite evident that New Yorkers, grassroots organizers, elected officials and skilled practitioners alike share deep concerns about the lack of transparency, community engagement, and equity evident in our land use processes and outcomes. New York City's approach to planning has been primarily reactive for decades. The current system encourages ad-hoc planning, in which the City positions itself to be strictly reactive to private development proposals, devastating hurricanes, urgent needs for school seats, waste transfer stations, and other infrastructure needs. This reactive approach even extends itself to perhaps our most pressing crisis - housing and homelessness. We believe there's a better way.

With this Commission, we have an obligation to shift our planning processes away from short-term political goals and toward long-term planning that accounts for the realities of climate change and the needs of a growing coastal city. We need to reimagine how land use decisions are made to empower communities in the planning process to advance the *equitable* distribution of City resources, facilities and new development. We presently face challenges in addressing climate change and sea level rise, the City's housing affordability crisis, spatial inequality and segregation, aging infrastructure, and job growth. These issues will only increase in severity as we move toward the future and we simply cannot afford to ignore them any longer.

Numerous progressive cities, including Seattle, Minneapolis, and London, use comprehensive planning to set long-term goals and identify concrete steps for achieving them. With comprehensive planning, New York could set a strategy for growth that meets pressing community needs and long-term goals. It could balance neighborhood with city-wide priorities in a transparent and accountable way. It could ease the approval process for development that complies with the plan, and rationalize the capital budget. It could create a meaningful role for communities in shaping our future, and provide mechanisms for enforcing promises that are made to neighborhoods that have been often left out of decision making.

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Over the past six months, we have been working diligently to explore how this process might work and we've thought through many of the mechanisms and processes that would be required to implement a comprehensive plan in NYC. The City, in partnership with communities, could produce a meaningful comprehensive plan based on updated data and community input through a 3 year process. We have outlined proposed steps in detail, which I'll summarize. The city would would need to:

1. Evaluate existing conditions and establish citywide strategic goals;
2. Set community District Goals in partnership with community organizations;
3. Produce Scenario Plans balancing local and citywide priorities, and provide opportunities for public input;
4. Approve the final comprehensive plan;
5. Facilitate compliant development and discourage projects that do not comply.

We acknowledge this is a significant undertaking with real challenges. But these are challenges that we can no longer avoid if we expect our City to thrive in the coming years. Our city is successful today because we met the challenges of the past head on. It is our belief that in partnership with communities, the Commission, the Administration, and the Council, we can come up with a process to that will both plan for the future, while delivering on the present needs of our citizens. We look forward to working with you and would be happy to take any questions you have.

Introduction

New York City's current land use process was established through the 1989 Charter Revision. The revisions made significant improvements to the prior structure, which heavily empowered the Board of Estimate to dictate the City's land use actions. The 1989 revision significantly increased the small-d democratic oversight of land use decisions by placing veto power with the City Council. However, with 30 years of hindsight, it is clear that significant shortfalls are present within the process. Fundamentally, the current regime is one of approval/disapproval of individual actions, lacking a mechanism to engage in long-term, holistic, rational urban planning. Furthermore, the practice of member deference has made it difficult for the City to address citywide needs in a fair and equitable manner. We are also witnessing a heightened level of conscientiousness and distrust around the land use process at a time when we are facing some of the greatest development challenges in a generation.

New York City is unusual in that it does not require some form of a long-term plan to guide the City's development and address its future needs. It is increasingly clear that we cannot meet the significant challenges the City faces without engaging in true long-term planning. A comprehensive plan will require the transparency, accountability, equity, and predictability that is currently lacking in the current land use process. Additionally, comprehensive planning will disincentivize the parochialism that has penetrated the current process and encourage a rational approach based on community engagement and data analysis. Requiring the City of New York to develop a comprehensive plan will reform our land use process for the better, ensuring that our decisions are not driven by politics, but rather a commitment to fairness and informed decision making. The process proposed in this document is a fundamental reorientation of our land use process away from reactionary measures and towards long-term, needs-based and fair share urban planning.

Current Challenges

There are no shortage of planning and development challenges facing New York City. These challenges are shared by numerous constituencies; communities feel unfairly targeted by land use actions and distrust the process; developers have little ability to predict if a given project will ultimately be approved; the City lacks a framework through which to plan for and meet its long term needs. Below are failures of the current system that can be addressed through a comprehensive plan:

- The affordability crisis causing residential displacement across the city;
- An urgent need to focus on sustainability and resilience in the face of sea level rise & climate change;
- Aging infrastructure and no meaningful long-term planning for investment;
- Inequitable growth resulting in persistent socioeconomic and racial inequality and segregation
- A broken Fair Share system where resources and facilities are unevenly distributed throughout the City, with no process to redistribute (for the purposes of equity and fairness) over time;

- Lack of strategic, proactive planning resulting in neighborhood rezonings that leave communities feeling targeted, frustrated, and fatigued;
- Lack of overarching public framework driving land use decisions;
- A reactive, exclusive ULURP process that shuts residents out of the process until it is too late to affect decisions;
- Community benefit commitments resulting from rezonings that are difficult to enforce;
- Processes for evaluating and approving proposed development projects that are time-consuming, expensive, arcane and inefficient.

Why is action required through Charter Revision?

While a number of components of this proposal could be achieved through legislative action, it cannot be accomplished in its entirety and much of its usefulness and intent would be lost through a piecemeal approach. The following outlines the most critical components of the proposed comprehensive planning process that must be included in the Charter:
- A comprehensive planning mandate that aligns with principles of equity and fairness, responsive and proactive planning, inclusiveness, sustainability and resilience, transparency and accountability.
- Reorganization of planning responsibilities among the various agencies and Mayor's office.
- A robust and proactive community engagement process.
- A mandated Equity Assessment that must be completed once every 10 years, including a citywide Displacement Risk Index and Access to Opportunity Index that will inform community decisions about growth and development for the decade.
- Incorporating the capital budget into the comprehensive planning process.

Comprehensive Planning Mandate:

The City will be required to put together a comprehensive plan every 10 years in accordance with the following **principles**:

- Equity and Fairness
- Affordability
- Responsive and Proactive planning
- Inclusiveness
- Sustainability and Resilience
- Transparency and Accountability

Steps of Comprehensive Planning
To be effective in both its planning and goal setting stages up to implementation, a city-wide long term comprehensive plan should include the following five steps.
1. Analyzing Existing Conditions & Citywide Goals
2. Establishing Community District Goals
3. Creating Draft Scenario Plans
4. Publishing a final 10-Year Comprehensive Plan with Associated GEIS
5. Incentivizing Rezonings that Comply with the Plan

Step 1: Existing Conditions & Citywide Goals

Goal: To analyze city conditions, including existing plans and recent rezonings, to better understand current trends in the City, identify critical capital investments and project the City's future growth and needs, informed by data and community engagement.

Key Actors: Mayoral Office, Community Boards, General Public

Timing: This analysis should be synced with the Census process, to ensure the City has access to the most up-to-date data. The entirety of phase one should be completed within 12 months.

1A. Community District Needs: The Charter would require and standardize the process and contents of a Community Board's Needs Statement. Under this new process, a Mayoral office would create a standard survey, including both qualitative and quantitative questions for Community Boards to submit. Their response should also include public input, informed by Community Board meetings in which the public is invited to provide input and testify on local needs.

The Community Board would vote to adopt this District Needs statement and submit that statement to the Mayoral office.

1B. Assessing NYC's Alignment with Principles: A Mayoral office, in collaboration with City Agencies, would be tasked with doing an initial analysis of existing conditions which would include an assessment of critical indicators at the Citywide and Community Board level. In this process, the Charter should require this Mayoral office to complete an **Assessment of NYC's Alignment with the Principles** which shall include an assessment of:

- Equity and Fairness
- Affordability
- Inclusiveness
- Sustainability and Resilience

That assessment should also include:

- **A Displacement Risk Index**, with consideration of the following indicators: people of color, linguistic isolation, housing tenancy, housing cost-burden, educational attainment, proximity to transit, median rent, development capacity, proximity to civic infrastructure, proximity to high-income neighborhoods, among other factors;
- **An Access to Opportunity Index**, with consideration of the following indicators: school performance, graduation rate, access to college or university, proximity to employment, property appreciation, proximity to a location that sells produce, proximity to a healthcare facility, proximity to transit, among other factors.

1C. Identifying Current & Future Needs: Following this assessment of existing conditions, the Mayoral office would be tasked with identifying key challenges in the current system and future projected needs. This would include but not be limited to:

- Key challenges that a 10-year comprehensive plan would seek to address;
- Citywide population and job projections;
- Citywide targets for accommodating population and job projections, including affordable housing units and school seats;
- Infrastructure investments required to bring communities up to an appropriate level of service;
- Infrastructure investments required to support growth;

1D. Feedback on Draft Existing Conditions: The Charter would require these analyses to be released as a public draft report, followed by series of required, borough-based information sessions and opportunities for the public to provide feedback and suggested revisions online, in-person and in-writing.

1E. Articulation of Goals & Publication of Final Existing Conditions: The Mayoral Office would then articulate the citywide goals for the forthcoming Comprehensive Plan. Incorporating feedback from the public, the Mayoral office would publicize the final existing conditions & Equity Assessment report online.

1F. Vote of the CPC & Council: The CPC should vote to approve, approve with modifications or disapprove this document. Within 30 days, the full Council must also vote to approve, approve with modifications or disapprove this document.

Step 2: Establishing Community District Goals

Goal: In collaboration a new Steering Committee, a Mayoral Office would establish targets for growth, investment, and fair share at Community District level.
Key Actors: Mayoral Office, Steering Committee
Timing: This phase should take 6 months to complete.

2A. Steering Committee: Informed by the key challenges identified in the Existing Conditions and Equity Assessment report, a Steering Committee would be appointed to provide initial feedback on the process moving forward. The Charter would require a Steering Committee of at least 15 members, appointed by the Chair of the CPC and approved by a ¾ supermajority of the CPC.

2B. Methodology & Community District-level Targets: In collaboration with the Steering Committee and City Agencies, a Mayoral Office should define a method for how to set neighborhood-specific goals, which should include, but not be limited to:
- Existing conditions
- Principles (displacement risk & access to opportunity)
- Fair Share, with respect to facility sitings specifically
- Recent development & rezonings
- Market conditions / demand
- Community Board Needs Statements

Using this methodology, the Mayoral office will set 10-year community district targets for the following (no map):

- Affordable Housing, including depth of affordability
- Jobs
- City Facilities, as defined by Fair Share (e.g. parks, libraries, shelters)
- School seats
- Infrastructure investments necessary to bring existing conditions up to appropriate levels of service
- Infrastructure investments necessary to accommodate proposed growth

2C. Steering Committee Review: Prior to making these goals public, the targets must be approved by a vote of the Steering Committee.

Step 3: Draft Scenario Plans

Goal: Based on the analysis and feedback gathered in Phase 2, develop a Community District level map that describes specific goals for growth and investments.
Key Actors: Mayoral Office, Department of City Planning, Community Boards, General Public Timing: This phase should take 12 months to complete.

3A. DCP generates and presents a number of **potential scenarios** for meeting a districts' goals.

- This could encompass facility sitings in a number of different locations, transit oriented growth along different train lines, etc.

3B. A round of **community engagement** is done to establish preference for a given scenario, a blend of the given options, or an alternative.

- Engagement here should be done with both the CBs, as it pertains to their District Needs Statement, as well as the broader community. CB meetings, large public meetings, etc.
- Critical that quality informational materials are available at this step to illustrate the precise outcomes of a given scenario.

3C. Draft 10-year capital plan: In conjunction with the draft scenario plans, the City will develop its 10-year capital budget. The capital budget must account for potential needs associated with the implementation of the various draft scenarios (schools, parks, etc.) This will likely require the development of multiple capital plan scenarios to respond to the various draft plans, giving communities the opportunity to more fully understand the potential capital dollars associated with each draft scenario.

3D. Community Board Vote on preferred scenario and finalization of the ten-year capital plan. This should be done at a public meeting in which members of the General Public should be given the opportunity to speak. Lots of public meeting notice requirements.

Step 4: Submit Final 10-Year Comprehensive Plan with Associated GEIS for Public Review

Goal: Prepare a Generic Environmental Impact Statement (GEIS) and publish final comprehensive plan
Key Actors: Mayor's Office
Timing: 12 month GEIS process

> **4a-- GEIS for Preferred Scenario** Preferred Scenario (now called "Comprehensive Plan") goes through a Generic Environmental Impact process (DGEIS, etc.)
> **4b-- Community engagement** Public hearings and comment periods on GEIS
> **4c-- Comprehensive Plan goes through ULURP process, final approval by City Council**
> **4d--Issuance of final Comprehensive Plan** with companion capital budget. Plan should be available online. Future rezonings that align with the comprehensive plan benefit from the GEIS and only supply supplemental/technical memos as necessary.

Step 5: Incentivizing Rezonings that Comply with the Plan

Goal: Implementation of the 10-year Comprehensive Plan
Key Actors: City Planning Commission, Department of City Planning, Community Boards, Borough Presidents, Council Members & Private Developers
Timing: Ongoing of subsequent Comprehensive Plan

- Upon filing documents with the Department of City Planning, the applicant is required to submit documents defining how the rezoning action **does** or **does not comply** with the comprehensive plan.
- Upon certification, the City Planning Commission shall **certify compliance or non-compliance** with the Comprehensive plan.
- If the applicant is **in compliance**, they need only submit any required **supplemental** environmental review analysis.
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- If the rezoning action **does not comply**, the application will go through ULURP as written currently in the Charter. (*Note*: If the rezoning action does not comply, and they did not submit a full Environmental Review Statement, they will need to complete a full EIS prior to certification.)
- If the application **does comply**, it will be subject to the following expedited process:
    - The application is sent to the City Council, Community Board and Borough President upon certification.
    - The Community Board and Borough President would have the option to hold a public hearing and notify the public within **30 days** (total/simultaneous, not one-after-the-other) of receiving the application.
    - If either the Borough President or Community Board hold a public hearing, they may submit recommendations directly to the City Council and CPC.
    - The CPC will approve, modify or disapprove the application within **30 days**.

- o The City Council member(s) that represents the district in which the rezoning would be applied can initiate a "call up" within **30 days** of receiving the CPC's decision. A call-up would require:
  - An analysis that is made available to the public, describing how the rezoning action either does not comply with the comprehensive plan, or making the case for why the comprehensive plan no longer meets the needs of the community.
  - Approval from at least 11 members of the Land Use Committee including the Chair of the Land Use Committee.
- o Upon a call-up, the City Council would have **30 days** to hold a hearing and vote to approve, approve with modifications or disapprove.
- o If the Council does not act, the CPC decision would be made final.

Conclusion:

The Charter Revision Commission convened by the New York City Council provides a once in a generation opportunity to bring meaningful reform to our City's land use process. However, it is not enough to simply reform a broken process - we must reimagine what urban planning looks like in our City. This proposal does not seek to create policy, but rather a process through which policy can be developed in an equitable, thoughtful, and efficient way. It is critical that we seize this moment to embed in our City's constitution principles and processes that will aid us in meeting the significant planning challenges we face. Our current mechanisms for addressing the housing crisis, rising seas, overcrowded schools, and a broken transportation system are insufficient. A comprehensive plan is a significant undertaking, but it is also the only way we as New Yorkers can address our City's many needs in a holistic, cohesive, equitable way. s. We strongly encourage the Charter Commission to adopt this Comprehensive Planning proposal.

NEW YORK CITY COMPTROLLER
SCOTT M. STRINGER
Bureau of Policy and Research

September 2018

A New Charter to Confront New Challenges

Giving Communities a Stronger Voice in Land Use Decisions

Decisions about how our land is used is at the core of city government. With our city confronting an affordability crisis driven by a lack of affordable housing and a local government that too often fails to listen to the voices of local residents feeling that crisis most acutely, reforms to local land use policy are urgently needed. While many changes to land use regulations and the processes by which they are approved should be considered for reform—including ways to make the process more efficient, predictable, and responsive to community concerns—many of these changes would more appropriately occur through either agency regulations or changes to the zoning resolution. However, there are many steps that the City should take through reforming the Charter that will better empower communities, encourage sound planning, and strengthen the overall Uniform Land Use Review Procedure (ULURP) process.

Empowering Community-Based Planning

The following reforms would, in tandem, enhance the ability of local communities to make better informed planning decisions and ensure that the City includes the views of local stakeholders when making decisions that impact residents.

Strengthen Community Boards with Urban Planning Expertise

Community Boards were originally established as Community Planning Councils by Manhattan Borough President Robert F. Wagner in 1951 to conduct comprehensive community-based planning for the growth of the city. In 1975, the Charter Revision Commission extended Community Boards citywide, with 59 Community Boards representing the same number of districts. The Charter revision aimed to decentralize service delivery and make the new Community Boards into what Mayor John Lindsay had called "little city halls." It ensured that service delivery, such as parks and sanitation, was coterminous with Community Boards, established district service cabinets, and officially created the district manager position. In addition, it gave Community Boards other advisory functions such as budget analysis, capital needs recommendations, oversight of City service delivery, and the creation of district needs assessments.

While the Charter laid the groundwork for local planning through the creation of ULURP (Uniform Land Use Review Procedure) and 197-a plans, it was not until the 1989 Charter Revision Commission that these powers were fully expanded. Specifically, the new Charter

A30

required the City Planning Commission to define and adopt rules regarding the review of 197-a plans, gave Community Board representatives the right to attend meetings regarding the environmental impact of proposed land use proposals, and gave boards the power to make recommendations relating to the opening and closing of City facilities. And most importantly, the new structure highlighted the role of Community Boards in ULURP as the local focal point for responding to zoning changes.

Consequently, Community Boards were endowed with dual mandates of both focusing on service delivery for local residents and responding to land use planning issues in their districts. Historically, however, due to limited resources, proactive planning often took a back seat to service delivery.

Yet much has changed since Community Boards were first directed to oversee service delivery. Indeed, since that time, many other elected officials began to professionalize their operations, including through the creation of district offices and hiring of professional staff to respond to constituent needs. As a result, today, constituent services are effectively delivered by a host of government actors including City Council members and Assembly members who have full-time district offices. In addition, with the advent of 311 in 2003, New Yorkers have more places than ever to report noise complaints or get potholes filled.

Therefore, rather than continuing to focus on constituent services, Community Boards should be empowered to better fulfill their intended role as neighborhood planning bodies. As the current development boom reaches deeper into the boroughs, affordable housing has become increasingly scarce, and our transit system is bursting at the seams – neighborhood-based planning that takes the diverse needs of local communities into account is more essential than ever. With Community Boards working more as partners, the City might be more successful in gaining community buy-in for large re-zonings, siting shelters, and moving forward a host of other initiatives to help our city stay fair and affordable for the people who helped build the very neighborhoods that are now targets for development.

Community Boards, however, have historically lacked the resources, capacity and expertise to fulfill their community planning role in a consistently meaningful way. Indeed, community boards face challenges in their ability to adequately review and analyze land use matters due to a lack of resources and expertise. Most boards do not have trained urban planners on staff, and must therefore rely on their volunteer members to analyze land use proposals and to develop recommendations. And yet they are expected to argue their positions against $800 an hour lawyers hired by major developers in front of the City Planning Commission.

A31

As first proposed by Comptroller Stringer in 2010 when he was Manhattan Borough President, Community Boards should be required to have a full-time urban planner on staff to help shape future development on a local level and address the real needs of the neighborhood. The sole responsibility of this planner would be to support the board's analysis in developing recommendations on land use matters and to coordinate community-based planning activities. The expertise of the urban planner would better enable Community Boards to conduct comprehensive community planning, leveling the playing field between community boards and developers.

3

The City Charter should be amended to require that Community Boards hire a full-time qualified urban planner with a degree in urban planning, architecture, real estate development, public policy or similar discipline and include the necessary budget appropriations to fund this position. Community Boards require dedicated support and expertise to fulfill their purpose of conducting community-based planning.

Increase the Impact of Community Generated Plans

Currently, the only mechanism for community members to make their own planning decisions is found in section 197-A of the City Charter, which authorizes community boards to propose plans for the development, growth, and improvement of their local community. But, while the Charter allows these plans to be proposed, in reality they have been relatively rare. Indeed, since 1989 only 12 community board-generated 197-A plans have been approved and none since 2009.[16]

A major reason why 197-A plans have been infrequent is that they require significant time and resources for community boards, who often do not have the time, capacity, or expertise available to develop the plans. Other reforms discussed in this section, including providing each community board with an urban planner and creating an Independent Long-Term Planning Office that can work directly with community boards and other local stakeholders, will address these particular hurdles.

But, in addition to these reforms, the City Charter should be modified to ensure that community plans are meaningfully followed once implemented. To do so, the Charter should require that 197-A plans be submitted to all relevant City agencies, require the agencies to formally review, respond to, and integrate the plans as much as possible in their

A32

policies. Further, if a City agency believes that it needs to take action that would depart from an approved 197-A plan, the agency should be required to justify that action in writing with an opportunity for the community board and public to respond. Finally, all ULURP actions should also require consideration of integrating 197-A plans when practicable and any inconsistencies should be formally justified in the application materials.

4

The City Charter should be amended to strengthen 197-A plans by not only requiring that agencies integrate the plans into their policies, but also that any deviation from the plan by either a private actor in public review or an agency should be justified in writing.

Create a Centralized Development Database

Following the City's land use decision making process is not a simple task, even for the most informed member of the public. Doing so requires a member of the public to have the time and knowledge needed to track the websites of multiple City agencies, read and understand complex City documents, and attend public hearings. For New Yorkers who are already overworked and may have family and other commitments, the amount of time and work it takes to engage in the City's land use processes is a deterrent to civic participation.

For instance, to determine when and where public discussions and relevant meetings are occurring that pertain to a project involving a "simple" ULURP action, a concerned citizen would need to review multiple information sources, including community board websites as well as those of the City Planning Commission and the City Council. A more complex approval process may also include multiple hearings at the Landmarks Preservation Commission or Board of Standards and Appeals. Further, if a member of the public wants to track the status of a challenge to whether a development is in compliance with the zoning code, that New Yorker must each day check an individual construction site's landing page on the Department of Buildings' website. This requires both knowledge of the process, awareness of the zoning challenge process and time to regularly check for an opportunity to comment.

To overcome these challenges, the City Charter should require that the City create and maintain a centralized website for the posting of public notices for hearings and meetings

on land use matters being considered by the City Planning Commission, Landmarks and Preservation Commission, Board of Standards and Appeals, Department of Buildings, and any other body making land use decisions. The hearings and/or meetings should be at minimum searchable by date, type of action, project name, and community district. Doing so would facilitate public participation in the land use process by making it easier for the public to obtain notices and other information about land use matters, track the status of a single project or multiple projects, and share their views, which will ultimately improve public participation and the outcomes of land use decisions.

5

The City Charter should be amended to require the Department of Information Technology and Telecommunications (DOITT) to maintain a website that allows the public to easily search for all land use matters under consideration in the City.

Update Fair Share Requirements

Section 203 of the New York City Charter requires that the City Planning Commission propose rules relating to the siting of city facilities, known as "Fair Share" rules. The intent of these rules are to ensure that City facilities are fairly distributed throughout the boroughs in order to ameliorate historic environmental inequities.

However, a 2017 report by the New York City Council found that the current fair share rules are failing to accomplish this goal. Indeed, according to the report, low-income communities and communities of color still see far more than their fair share of City facilities that are harmful or burdensome to the local community. In addition, the report found that data on City facilities is difficult to access, local community residents and community boards are often not aware of new facilities being sited in their community, and that there are few to no consequences or mitigation required if a facility is sited in contravention of fair share rules.[17]

Unfortunately, since the release of this report, little action has occurred by City agencies to reform their fair share analysis. In fact, no significant changes have been made to the rules since their creation in 1991.

As such, the City Charter should be modified to require that the City Planning Commission review and update fair share criteria every five years. As part of this process, any proposals

A34

to update the criteria should be shared with community boards and borough presidents for comment and subject to a vote by the City Planning Commission. In addition, the Commission should utilize the newly proposed Independent Long-Term Planning Office, discussed in more detail below, to help analyze the concentration of City services to advise on the communities that are oversaturated and inappropriate for future facility sitings.

6

The City Charter should be amended to require that the City Planning Commission regularly review and update "fair share" requirements no less than every five years.

Reforming Land Use Agencies

The City's land use process could be improved with the creation of new agencies focused on long-term planning and sustainably developing vacant City-owned property while also reforming the governance of existing agencies.

Encourage Comprehensive Long-Term Planning

Comprehensive planning is a basic tool used by local governments for assessing needs, providing a framework for growth and development, and informing public policy. For instance, in late 2017, the City of London released the "London Plan," which serves as the "overall strategic plan for London." To this end. the London Plan provides an "integrated economic, environmental. transport and social framework for the development of London over the next 20-25 years."[18]

While used in London and elsewhere, this type of comprehensive planning is unfortunately lacking in New York City where responsibility for long-term planning is divided among multiple agencies and no single agency has the authority to direct another agency's planning actions. Specifically, while discrete zoning and land use policies are developed and evaluated by the Department of City Planning and the City Planning Commission. other elements that are typical to comprehensive planning are handled separately by other City agencies. For example, most transportation planning is conducted by the Department of Transportation; the Department of Parks and Recreation is largely responsible for open space planning; economic development is under the purview of the Mayor's Office and the Economic Development Corporation: and for the most part, the City's housing policy is

set by the Department of Housing Preservation and Development. Furthermore, each individual agency is responsible for its own capital planning process in the 10-year capital plan. In addition to the work of these City agencies, outside actors like the Regional Plan Association provide context and support for infrastructure planning across the entire New York City region.

The lack of coordinated comprehensive long-term planning makes it difficult for communities across the City to engage with government agencies, evaluate future plans, and ensure that their priorities are reflected in planning decisions. Indeed, these gaps have created a crisis of confidence in many neighborhoods, where local residents no longer trust that government planners have a sufficient framework in place to synthesize community needs and concerns with a broader policy vision. As a result, when the City does undertake more comprehensive planning efforts, such as the large area rezoning plans for East New York or Jerome Avenue, the plans may be incomplete and unsuccessful because mayoral goals may not align with community priorities and inadequate mechanisms exist for integrating community input.

As a result, the City's current system of planning should be reformed to offer more support for the ability of communities, government representatives, and City agencies to evaluate and make intelligent decisions and to envision the larger purpose and cumulative impact of individual proposals. To do so, the City Charter should establish a new Independent Long-Term Planning Office (ILTPO), with a primary duty of generating a citywide comprehensive plan based on agency needs, citywide development goals, mayoral policies, borough presidents' Strategic Policy Statements, and community board plans. To be successful, the ILTPO should have the following features:

Independence – The independence of the ILTPO will provide it with the credibility necessary to establish a comprehensive plan while bringing together the perspectives of disparate agencies, similar to the existing Independent Budget Office ("IBO"). Like the IBO, the ILTPO would perform independent analysis for communities and elected officials. Funding for this organization should come from reductions of redundant staffing levels at City agencies, currently responsible for the production of the plans required by the City Charter that would no longer be necessary. The appointment of an ILTPO director should follow the same format as that for the IBO director, who is appointed by a committee of elected officials.

Dissemination of Information – In order to provide sufficient context for the development of a comprehensive citywide plan, City agencies must be mandated by the Charter to provide the ILTPO with information on existing conditions such as as-of-right developments; any known environmental, economic, social service, land use and zoning impacts; and long-term agency needs and goals. The ILTPO would use this information to

generate the citywide plan and to assist community boards in developing District Needs Statements and other community-based planning documents.

Ratification of comprehensive plan – To ensure that the comprehensive plan truly represents New York City's interests and is formally adopted as policy, the ILTPO's comprehensive plan must be ratified through a public review process. The Charter should establish a process similar to what exists currently in ULURP for reviewing and adopting the comprehensive citywide plan. Community boards and the borough presidents should have the power to review and make recommendations on the plan, and the City Council should have the authority to amend and adopt the plan. The mayor should review the plan and alter it as needed. As with ULURP, if the mayor alters any city council action, the Council should have the authority to overturn the mayoral changes with a vote by two-thirds of the city council.

7

The City Charter should be amended to establish an Independent Long-Term Planning Office to conduct comprehensive planning for the City of New York and the resulting plan should be ratified by the City Council through a public process.

Create a New York City Land Bank

Addressing New York City's affordable housing crisis requires using all of the tools at the City's disposal to build and preserve truly affordable housing. But, for too long the City has left a proven solution out of its toolkit by failing to turn vacant City-owned land and tax delinquent properties into permanently affordable housing.

According to a 2016 audit from the Comptroller's Office, the City's Department of Housing Preservation and Development controls more than a thousand vacant lots that could potentially be developed for affordable housing. The audit further found that 75 percent of these have been owned by the City for more than 30 years without being developed or otherwise disposed of.[19] A follow up audit, released in 2018, found that these problems persist, despite the agency's contention that it was in the process of transferring or disposing of many of these vacant lots.[20]

To date, New York City's primary strategy for developing affordable housing on city-owned lots has been to sell the property to a developer in exchange for a percentage of affordable units for a limited duration. While this model has facilitated the creation of

thousands of affordable units, the City loses leverage by transferring title, which weakens its ability to hold developers accountable and negotiate for deeper and permanent affordability.

For this reason, Comptroller Stringer has called on the City to create a new model based around the creation of a New York City Land Bank. Under this new model, the City would:

- Transfer property to a land bank that would be 'seeded' with City-owned vacant land to be developed into affordable housing.

- The land bank would then put together a package of subsidies and identify a developer, in most instances a non-profit, with whom to partner. Because these developers do not have the primary goal of making a profit, this partnership would allow for the creation of more housing for lower-income New Yorkers than the current system.

- Finally, instead of selling the land to a developer, the land bank would enter into a long-term lease with a developer, allowing the City to enforce affordability and ensure that the affordability is permanent.

- In addition to City-owned properties, the New York City Land Bank would also have the ability to target tax-delinquent vacant properties that it could seek to foreclose upon more quickly than the current system.

The Comptroller's analysis of how a land bank could be used to develop vacant City-owned land found that a New York City Land Bank focused just on the City's vacant lots and a smaller sub-set of vacant properties that have failed to pay taxes for multiple years could support the development of more than 57,000 units of permanently affordable units.[21]

Therefore, to realize these benefits, the City Charter should be changed to require the creation of a Land Bank with the mission of constructing permanent affordable housing on blighted city and privately-owned vacant properties.

8

The City Charter should be amended to create a New York City Land Bank.

A38

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Gale A. Brewer, Borough President

Testimony of Manhattan Borough President Gale A. Brewer In Response to The 2019 Charter Revision Commission Preliminary Staff Report

Good evening, Members of the 2019 Charter Revision Commission. Thank you for the opportunity to be here. I submit the following comments and suggestions in response to the Preliminary Staff Report issued by your Commission.

First, I would like to commend the members of the Commission and the staff for the tremendous work being done. It's clear that you are genuinely dedicated to identifying the best proposals for reform of our City Charter. The testimony from experts, and your questioning, have both added to our understanding of the issues, and sharpened the choices you face.

I would like to first address the land use issues, since that is a major area of responsibility of my office.

I believe your staff identified the significant issues around the current Uniform Land Use Review Procedure (ULURP) (§197-c). I again strongly urge the commission to adopt proposals to change the procedure to allow pre-ULURP input from communities, community boards, and city elected officials during a pre-certification process.

Such a ULURP pre-planning process would enable CBs and local elected officials to more effectively help shape a project in a timely way by identifying and raising concerns about an

application prior to finalizing environmental scope and the starting of the ULURP "clock," thereby helping to ensure that community input is pro-active rather than reactive.

Although not addressed in the staff report, I reiterate my argument that the Charter should be amended to provide that, in cases involving the designation of zoning districts and amendments to the Zoning Resolution, and in which a city agency or a local development corporation is the applicant or co-applicant, the procedure for submitting amended applications (i.e., an "a-text") during ULURP should be widened to allow the BPs to submit amended applications with their ULURP recommendations. Amended applications of this type should be restricted to the same geographic scope as the original and contain only those documents and provisions that pertain to the amendment, such as an amended text amendment or amended sketch map and zoning docket for a zoning map amendment. They would also be limited to amendments that could be fully studied within the ULURP timetable.

This would allow BPs to play a more pro-active role in ULURP, by enabling them to provide the City Planning Commission (CPC) with options to choose from, and by allowing them to place more options within the scope of ULURP and CEQR for the Council, as the BP's amended application would have been studied pursuant to CEQR and heard by the CPC.

Regarding the proposal that I, and I know many others, made for regularized, comprehensive city-wide planning, the Preliminary Staff Report, while noting that the Charter currently includes approximately a dozen different processes for borough or city-wide planning, reported significant disillusionment and confusion among the public relating to comprehensive planning for development. I believe that the various planning provisions in the current Charter support the need and public desire to see comprehensive, fair, comprehensive, cohesive city-wide planning.

The need is, I believe, made starkly clear during this current period when the city is undertaking an *ad hoc* approach to neighborhood planning, and in fact has proceeded with substantial rezonings in diverse neighborhoods where there may be support from local elected officials, but not from other neighborhood stakeholders and residents. A result of these undertakings is that key decisions about whether or how to rezone a neighborhood for increased density, and who may benefit, are often made without a full, open public process, at least in the public's perception.

Under this administration, neighborhoods selected for rezoning have been predominately those housing low income communities of color. To justify targeting these communities, DCP has cited their higher concentration of vacant lots, parking lots, and single-story buildings suitable for development, and cited their effort to minimize residential displacement' when rezoning occurs. Despite this approach, current rezoning practices are incentivizing the displacement of residents in many low-income neighborhoods. By contrast, white middle class areas have succeeded in getting DCP to approve down-zonings or the creation of historic districts that restrict development. These policies are shocking in the face of a housing crisis with 60,000 homeless, a significant proportion of whom are low-income working families with small children.

It should be a primary goal of the city to address such disparities, and the *ad hoc* policies that create them, by directing the DCP to act under its Charter mandate to begin a comprehensive, long-term planning process.

Therefore, I continue to urge the commission to propose amendments to the Charter to require the Department of City Planning to prepare or revise, every ten years, a comprehensive, city-wide planning proposal that examines the appropriateness of development locations based on density, resources, need and all other appropriate factors to ensure fairness to all our communities.

A41

· Additional Land Use Reform

I'm disappointed that the preliminary staff report does not address a number of my suggestions for important changes to the Charter:

1.   The placement, and even more importantly, the removal of existing City Deed Restrictions have had a dramatic impact on community facilities and resources. Currently, a lack of transparency has disrupted communities and undermined their faith in local government. To provide for a full review of such impacts, changes to Deed Restrictions should be required to go through ULURP.

2.   In the matter of Zoning Lot Mergers, I recommend amending the Charter to require that requests for zoning lot mergers and Zoning Lot Development and Easement Agreements be made publicly accessible through an online map portal and notice provided to local community boards. Today, property owners may create a merged zoning lot from two or more existing lots that are contiguous for at least 10 linear feet. This effectively allows underbuilt properties to transfer their unused development rights to another part of the merged zoning lot.

The transfer of development rights in zoning lot mergers often occurs as-of-right, and such transfers have played a major role in shaping the built environment of the city. Combining the development rights of a merged lot into one site often leads to taller buildings that stand out from their context and subvert the expectations of the community.

3.   The process and standards for modification of CPC Special Permits must be clarified. At present, applications to modify Special Permits are reviewed by DCP staff to determine whether a modification is "major," and therefore subject to ULURP, or "minor," in which case it is approved or disapproved by vote of the CPC. For example, if a proposed modification to a Special Permit would have been allowed "as of right"- i.e., not requiring a waiver for changes to a building's height

or set back - then it is ruled a "minor" modification. However, for large scale projects in which a new building is added to a site, changes to height, setback, and floor area ratio would be considered "major" modifications. However, neither the Charter nor the Zoning Resolution contains criteria for which modifications would be considered "minor." Such criteria also do not exist within the ULURP rules.

The DCP's current approach must be replaced with Charter-mandated standards. At a minimum, the charter should specify that any modification to the site plan or zoning calculations that would increase the amount of floor area, decrease the amount of open space, or increase the height or bulk of buildings must go through ULURP, in addition to any other changes not provided for under the Zoning Resolution. The Department of City Planning could then submit an application to modify the Zoning Resolution to specify what would constitute a minor modification. For instance, a change in curb cut location might constitute a minor modification.

4. The Charter should be amended to authorize the City Council to determine if modifications to a zoning proposal are within the scope of the existing application and environmental review. The Council has the expertise and experience to make scope determinations, as did the Board of Estimate. When ruling on a modification, the Council has before it the same information as the Planning Commission and is fully capable of determining whether a modification is "in scope" and compliant with environmental and other restrictions. There is no need, therefore, to have City Planning serve as a watchdog over such modifications.

Currently however, under §197-d, if the CPC finds that a Council determination on a modification requires additional review pursuant to §197-c or additional environmental review, the Council's determination is not adopted. The Charter should be amended to remove the CPC's power to overrule a Council determination in matters of this kind.

I further urge the Commission to propose a Charter amendment requiring decennial review of the Zoning Resolution.

DCP/CPC Reform

In addition to changes in Charter provisions relating to land use review and zoning, I strongly urge the Commission to consider proposals for reform of the CPC itself.

Under the current Charter, the Director of the Department of City Planning also serves as Chair of the City Planning Commission. The Mayor appoints seven members of the Commission, and the five Borough Presidents and the Public Advocate each appoint one member. I believe that the Charter should be amended to make the City Planning Commission (CPC) more independent through the following changes:

1. The Director of the Department of City Planning (DCP) should not also serve as Chair of the Planning Commission (CPC). 2. The appointment of the CPC Chair should require the advice and consent of the City Council. 3. To avoid conflicts of interest and ensure that proposals are independently reviewed by the Planning Commission, the Chair and Commissioners should be at "arms-length" from any involvement in the planning process at DCP. 4. To help ensure the independence of the Commission, the number of Mayoral appointees should be reduced from 7 to 5. This change, in concert with a requirement for a Commission Chair independent of City Planning, would help limit actual or perceived undue influence in cases where the Commission is evaluating proposals drafted by City Planning at the direction of the Mayor's office.

In summary, to avoid conflicts of interest and to ensure that plans developed by DCP are evaluated and modified impartially by the Commission, the Charter should mandate that the Commission be an independent body whose responsibilities are separate from those of the DCP or

A44

the Office of the Mayor, and that the Chair of the Commission is not a member of the Department of City Planning.

Ranked Choice Voting

I strongly support the Staff's recommendation for further consideration of Ranked Choice Voting ("RCV"). However, I urge the Commission to propose adoption of RCV. I also suggest that the proposal include creation of a body charged with its eventual implementation, whose job will also be to ensure that whatever method and details adopted for the program achieve the goals of fairness and inclusivity.

The CCRB

The Civilian Complaint Review Board (CCRB) plays a vital role in ensuring that everyone in our city receives equal protection of the law and provides a fair and effective process for handling complaints of police misconduct. I strongly agree with the proposals made in the Preliminary Staff Report for reforms to the Charter affecting the CCRB, including changes to the appointment of the members of the Board, the imposition of obligations on the Police Commissioner to provide explanation for deviations in recommended discipline and adoption of a disciplinary matrix, the delegation of subpoena power to senior staff and the granting of permission to the Board to investigate and impose discipline in cases of false representations during ongoing CCRB investigations. These are all necessary reforms that will make the Board a more effective body. However, I urge the Commission to also consider two other reforms:

The Charter should be amended to codify the current Memoranda of Understanding (MOUs) that provide for the Administrative Prosecution Unit and that set forth the duty of the New York Police Department (NYPD) to cooperate with the Board beyond the investigation stage of a proceeding.

Office of the Manhattan Borough President

It is equally important that the CCRB's budget should be set permanently at 1% of the NYPD budget. By tying the two budgets, we ensure that as NYPD's resources grow or change, the CCRB can continue to fully carry out its responsibilities and investigate and pursue new issues that arise. If our city is serious about ensuring fair and equal treatment for all citizens, we must ensure that the body charged with making that promise a reality is funded sufficiently to do so.

Corporation Counsel and Conflicts of Interest Board

Independent and unconflicted legal counsel is essential to effective government. Because the Office of the Corporation Counsel provides legal guidance not only to the Mayor, but to all of city government including the heads of mayoral and non-mayoral agencies, as well as other elected officials, I agree with the recommendations in the Preliminary Staff Report that the appointment of the Corporation Counsel require approval of the City Council. I also agree with the proposal that the Law Department promulgate rules, to be formally adopted, pertaining to conflicts of interest and procedures to be followed in the event such conflict arises between opposing parties represented by the Department.

Similarly, the Mayor currently appoints all five members of the Conflicts of Interest Board ("COIB") and designates the Chair. The Board is one of the city's most dynamic resources, providing vital advice and education to all city employees in ethics, propriety and avoiding violation of our laws against conflicts of interest. As one of our most sensitive offices, we must never allow even a perception that the Board is unduly influenced by any sitting Mayor. Therefore, I support the recommendation of the Staff Report that the structure of the COIB be adjusted to include members appointed by the Public Advocate and Comptroller, whether by increasing the number of Board members or changing the appointing authority of the existing five members.

Landmarks Commission

The Landmarks Preservation Commission is another important body within the structure of our city government which I strongly believe requires reform through Charter revision. The Charter currently requires that the commission be comprised of, among others, at least three architects, one historian, and one city planner or landscape architect. I believe the Charter should also require the inclusion of city planners and at least two trained preservationists on the commission.

Borough Presidents

As noted by the Preliminary Staff Report, the offices of the five Borough Presidents are granted specific obligations and authority within the current Charter, but the powers to execute those duties are somewhat stunted. I fully support the proposals to require city agencies to provide the Borough Presidents with requested documents, and to ensure that agencies cooperate through meaningful engagement in borough services cabinet meetings. However, as I first testified, there are other crucial issues in the area of Borough President offices that should be addressed.

In the 1989 Charter Revision, when the Board of Estimate was abolished, a funding formula was established by which each Borough President would receive capital funding to disburse in their borough to community-based organizations, schools, and parks. The formula was arrived at based on the land area and population of each borough. While this formula may seem reasonable on its face, the Borough of Manhattan is grossly shortchanged by it. According to a recent NYU study, Manhattan's population doubles each workday as approximately 2 million commuters from the throughout the tri-state area enter Manhattan to use (and wear out) its infrastructure. This dramatic daily population spike is ignored in the current funding formula and it must be amended to reflect this reality.

In addition, as I previously testified, the budget of each Borough President should include funding for the positions of Borough Engineer as well as a Compliance Officer, now necessary due to new reporting mandates under Personal Identification and Privacy Laws, implementation of sexual harassment prevention programs, and new Diversity and Equal Employment programs.

City Budget

As noted in the Preliminary Staff Report, in the last major charter revision, the New York City Council was given a robust role in setting spending priorities. However, the elastic interpretation of "units of appropriation", continues to stymie that role.

The Charter should be amended to clarify that city agencies are required to submit a full breakdown and details of what the Council is being asked to approve—including a reconciliation of year-over-year changes—rather than permitting an agency to categorize all of its spending in one unit of appropriation.

Although not part of the Staff recommendation, I believe the Charter should be amended to require that the Mayor provide final revenue estimates earlier than is currently mandated.

I also urge the Commission to reconsider my original recommendation that the Office of Civil Justice and the Universal Access Program be included as a Charter-mandated part of the city government.

Community Boards

Community Boards are our front line in promoting neighborhood planning and in defending neighborhoods from developers who seek only maximum profit from their projects in our communities.

The Charter should be amended to increase the planning capacity of community boards with assignment of one full-time urban planner at each board. Community Boards need greater technical

A48

capacity to both analyze proposed land use actions and to conduct pro-active community planning. All Community Boards should have a baseline level of planning expertise, adequate to address the complexity of the zoning process.

Thank you for the opportunity to testify, and for your contribution to the critical work of revising the Charter to improve the city's governance and provision of services, and to ensure that the Charter embodies our best ideas and highest values.

Thriving Communities Coalition Proposal for Comprehensive Planning Requirements

1. **Equity principles must be written into the Charter.**

   - <u>What We Want</u>: The charter should include a statement of the broad goals we as a City want our comprehensive planning process to strive for. We believe the following principles specifically should be included as goals of planning:
     - Equitable distribution of resources and development.
     - Elimination of disparities across race, geography, and socio-economic status.
     - Equal access to opportunity for every New Yorker, regardless of where they live.
     - Affirmatively further fair housing while preserving the right to stay in and access neighborhoods with quality housing, good-paying jobs, and cultural and social connections.
     - The fulfillment of the human right to housing for all New Yorkers, regardless of income.

   - <u>How This Builds on the Current Charter</u>: This would be something new. Today, the Charter doesn't require a single comprehensive plan so there aren't principles to guide it. The City needs to articulate a vision for what planning is supposed to achieve. That vision should guide the City's assessments of need, its land use, policy, and budgeting strategies, and its measurements of progress.

   - <u>How This Builds on the Staff Report Recommendations</u>: The Staff Report calls for a plan that will identify and address short-, intermediate-, and longer-term issues, and specific indicators for measuring progress consistently throughout planning documents and over time. For this to work, the charter must specify what those "issues" are, creating broad categories that indicators can be designed to assess. Whether they are called principles, goals or "issues," the plan must have something to guide it forward, and we propose that something be a vision for equity and opportunity.

2. **Needs Assessments.** The City must conduct community-district level assessments of existing, unmet needs, and citywide projections of future needs/growth.

   a. <u>What We Want</u>: The City's comprehensive planning process must start with a community-level assessment of each area's (1) opportunities, (2) unmet needs, and (3) existing displacement risk. This assessment should include both quantitative data – a common framework of information that will permit comparison among communities, and enable progress to be tracked over time – and qualitative data – narratives from community members on the ground who are most directly impacted by the City's planning processes. The Charter should

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A50

require that the needs assessment examine community-level determinants of social, economic, and physical well-being across areas such as housing, jobs & industry, education, transportation, infrastructure, health, environment and sustainability. These factors would be analyzed to create an overall "equity index" (as described below) and develop equity scores for neighborhoods to help drive goal setting and project prioritization. The City must also create projections of future needs and growth to develop plans that account for our City's present and future.

b. How This Builds on the Current Charter:
 i. **Community-level assessments of current need conducted as part of the comprehensive planning process would build off of several requirements already in the Charter:**
  1. The *Statement of Needs* that each community board must already prepare each year as the first step in the creation of the Citywide Statement of Needs.
  2. The *Mayor's annual reports on (1) the poverty rate and the City's efforts to reduce it*[1] *and (2) social indicators and equity.*[2] The latter report is required to analyze the social, economic and environmental health of the city, including any disparities among populations including racial groups and income groups, and use indices related to economic security and mobility, poverty, education, child welfare, housing affordability and quality, homelessness, health, and transportation, among other factors. The report must also contain a narrative discussion of differences and disparities "among the subdivisions of the city and of the changes over time in such conditions." Finally, the report must examine disparities "which are significantly related to the jurisdiction of the agencies responsible for [certain city] services"[3] including local parks, social services, housing code enforcement, and health services.[4]

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[1] New York City Charter Chapter 1: Mayor, Section 16(b): Report on Social Indicators and Equity. http://library.amlegal.com/nxt/gateway.dll/New%20York/charter/newyorkcitycharter/chapter1mayor?f =templates$fn=default.htm$3.0$vid=amlegal:newyork_ny$anc=JD_16

[2] Example here: https://www1.nyc.gov/site/opportunity/reports/social-indicators-report.page.

[3] New York City Charter Chapter 1: Mayor, Section 16(a): Report on Social Indicators and Equity. http://library.amlegal.com/nxt/gateway.dll/New%20York/charter/newyorkcitycharter/chapter1mayor?f =templates$fn=default.htm$3.0$vid=amlegal:newyork_ny$anc=JD_16.

[4] New York City Charter Chapter 69: Community Districts and Coterminality of Services, Section 2704: Coterminality of Local Services. http://library.amlegal.com/nxt/gateway.dll/New%20York/charter/newyorkcitycharter/chapter69comm unitydistrictsandcoterminal?f=templates$fn=altmain-nf.htm$q=[field%20folio-destination-name:%272704%27]$x=Advanced#JD_2704.

3. *The requirement that the Office of Long-Term Planning and Sustainability develop measurable sustainability indicators* to assess the City's progress toward achieving sustainability.[5]

ii. **The projection of *future* needs would also build on existing requirements in the Charter:**

1. Every four years, the Department of City Planning must create "a population projection for the city that covers a period of at least twenty-one years, with intermediate projections at no less than ten year intervals. Where feasible, such projections shall include geographic and demographic indicators."[6]

2. The Office of Long-Term Planning and Sustainability is already required to "develop and coordinate the implementation of policies, programs and actions to meet the long-term needs of the city, with respect to its infrastructure, environment and overall sustainability citywide, including but not limited to the categories of housing, open space, brownfields, transportation, water quality and infrastructure, air quality, energy, and climate change; the resiliency of critical infrastructure, the built environment, coastal protection and communities; and regarding city agencies, businesses, institutions and the public."[7]

iii. **Our proposal would create a *new* role for community members within the process of identifying community needs.** At present, the charter does not require a community engagement process to support the creation of community-board level Statements of Need, and there is no local role at all in the creation of the report on social indicators & equity, report on poverty, or sustainability report. Our proposal would help to streamline the needs assessment processes that are already required, while inviting community members to help identify what needs are most pressing. A more thorough and better-supported needs assessment conducted every 4 years as part of the comprehensive planning process could replace and alleviate the current annual requirement for Community District Needs Assessments.

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[5] New York City Charter Chapter 1: Mayor, Section 20(b): Office of Long-Term Planning and Sustainability.
http://library.amlegal.com/nxt/gateway.dll/New%20York/charter/newyorkcitycharter/chapter1mayor?f=templates$fn=default.htm$3.0$vid=amlegal:newyork_ny$anc=JD_16.

[6] New York City Charter Chapter 1: Mayor, Section 20(d): Office of Long-Term Planning and Sustainability.
http://library.amlegal.com/nxt/gateway.dll/New%20York/charter/newyorkcitycharter/chapter1mayor?f=templates$fn=default.htm$3.0$vid=amlegal:newyork_ny$anc=JD_16.

[7] New York City Charter Chapter 1: Mayor, Section 20(b): Office of Long-Term Planning and Sustainability.
http://library.amlegal.com/nxt/gateway.dll/New%20York/charter/newyorkcitycharter/chapter1mayor?f=templates$fn=default.htm$3.0$vid=amlegal:newyork_ny$anc=JD_16.

iv. Finally, **our proposal would newly require the City to assess** *residential displacement risk* **and** *access to opportunity,* **including jobs and education, when assessing each community's needs.** Today, there is no requirement that the City consider displacement risk or access to opportunity in developing sustainability indicators or performing any other assessment of need.

c. How This Builds on the Staff Report Recommendations:
   i. The Staff Report recommends that (1) community district and citywide statements of need be included in the planning cycle to inform and impact planning and budgeting, and (2) plans be required to address short-, intermediate- and longer-term issues. Such planning is possible only if the City first assesses current needs, and creates projections of future needs.
   ii. The Staff Report recommends that the charter require "specific indicators for measuring progress consistently throughout such [planning] documents and over time." We propose that indicators be developed to align with the equity principles we have set forth, and that the indicators evaluate, among other factors, access to opportunity and displacement risk.

3. **Growth targets and investment goals** are set based on the local and citywide needs assessments and equity concerns, through a transparent process that includes **meaningful public engagement**.

   a. What We Want:
      i. *Meaningful public engagement:*
         1. We believe that ensuring a deep and meaningful role for community members will help to ensure that the plan is well-designed and that there is local buy-in for future growth and investment in communities. Residents can also help prioritize which initiatives feel most critical given the range of needs in their area.
         2. We propose that the Comprehensive Planning process be led by a **Citywide Steering Committee**.
         3. The Steering Committee would collaborate with City officials and agencies to:
            a. Develop the specific criteria used to assess community-level and citywide needs, opportunities, and risks, and
            b. Help generate community-district level goals for growth and investment that account for both current need, and future growth.
         4. To broaden engagement in the process, we also propose **Borough Committees**, which would help to oversee and

4

A53

coordinate efforts at the community district level, and work with the Borough President to identify cross-district priorities.

5. Both the Steering Committee and Borough Committees should be representative of New York City's diversity, and include people of color, low-income renters, immigrants, youth, and others historically marginalized in planning processes.

6. The Citywide Steering Committee should also include community planners, affordable housing advocates, and other subject matter experts who can support the committee in discussions of technical information.

ii. *Growth Targets and Investment Goals:*

1. Goals would be informed by an assessment of which communities have the capacity to absorb additional density (based on factors such as levels of service and displacement risk) and which have high levels of existing need that require investment in infrastructure and programming. Goals would be responsive to the equity index and shaped to help increase equity between neighborhoods.

2. The Steering Committee would help identify where potential future land use actions are appropriate and what additional investments in amenities, affordable housing, schools, open spaces, and other infrastructure might be needed to support new growth.

iii. *Equity Index:* The City would evaluate the relative needs of different communities and prioritize among the identified goals through the use of an equity index. The **equity index would look at the existing conditions identified through the needs assessment process, and assign an "equity score" indicating each community's level of need relative to others. These scores would then be used to prioritize investment in the communities with the greatest need.** The Equity Index would add a new level of transparency to the City's planning and investment decisions, helping everyday New Yorkers easily understand where the needs are greatest and how the City's decisions are seeking to decrease inequities.

(NOTE: Our explanation of this proposal responds to the explicit question asked of us by Commission Staff at the May 17 meeting: are the Sustainability Indicators comprehensive enough? We believe the answer is no. Of the indicators across the 4 "Visions" of OneNYC, only 1 subcategory (Air quality - within VIsion 3: Our Sustainable City) address the distribution or disparity of any of the measures. In this instance, there are 2 sub-indicators, disparity of SO2 and pm 2.5 across neighborhoods,

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but all the rest of the 69 indicators ONLY address citywide averages, masking inequality.)

    b. <u>How This Builds on the Current Charter</u>:
        i. *Steering Committee:* Creation of the Citywide and Borough Steering Committees to help guide this process would be new additions to the Charter.
        ii. *Growth Targets and Investment Goals:* The City Strategic Policy Statements, mandated every four years, require the City to lay out goals related to the "most significant long-term issues faced by the city." The Borough Strategic Policy Statements require the same at the Borough level. The Long-Term Sustainability Plan, required to be updated every four years, requires the City to identify "long-term planning and sustainability issues." Comprehensive planning would strengthen these processes by explicitly requiring that the goals set forth in these plans clearly relate to identified local and citywide needs. Local goals would also be required at the community district level in addition to the borough and citywide goals that are already mandated.
        iii. *Equity Index:* The creation of an equity index to help prioritize among goals for growth and investment would be a new addition to the Charter, though it could build off of the indicators in the Sustainability Indicators Report and the mayor's reports on poverty and social indicators and equity.

    c. <u>How This Builds on the Staff Report Recommendations</u>: the Report recommends that the City "establish a clear and, to the extent feasible, uniform process for ensuring that the public and other stakeholders have an opportunity to meaningfully weigh in on what the plans address and how." We believe that this recommendation is critical to the success of any proposal and the process we have proposed is the best way of accomplishing this goal. The Report further recommends that "some element of the this planning describe contemplated short-term, intermediate, and long-term changes to land use and development in communities, such as reasonably anticipated neighborhood rezonings." Using an equity index that considers current neighborhood amenities, displacement risk, and other factors to guide growth would help to advance that goal.

4. **The Charter must require a single, Comprehensive Plan that aligns budgeting, policy, programming, and land use decisions.**

    d. <u>What We Want</u>: The Charter should require that the needs assessments, equity index, and citywide and community district level planning goals are brought together to create **one comprehensive plan** that will guide budgeting, policy, programming, and land use decisions.

6

e. <u>How This Builds on the Current Charter</u>:
   i. The Charter already requires the creation of a Ten-Year Capital Plan. Our proposal would explicitly require that that Plan advance the goals identified through the comprehensive planning process. Community boards, borough presidents, and City agencies - all of which play a part in setting the City's capital priorities - would be required to respond within the budgeting process to the identified needs and explain how their investment decisions advance equity among communities.
      1. The Community Parks Initiative is a project-based example; through this initiative a needs assessment of the park system was conducted, a specific fund was allocated to address the gravest disparities, and funding has been prioritized specifically to address parks in communities with the greatest needs.
      2. The process for agency decision-making would be similar to the internal equity review used by the Department of Health to advance equitable outcomes in the programs and policies they implement.
   ii. The Charter requires that every four years, the Mayor issue a Strategic Policy Statement that identifies the most significant long-term issues faced by the City, policy goals related to those issues, and proposed strategies for meeting the goals. We propose that the Charter be amended to require the Strategic Policy Statement to describe what policies and strategies will be used to advance the community-level planning targets and goals identified as part of the comprehensive planning process.
   iii. The Charter also requires the Office of Long-Term Planning and Sustainability to "develop and coordinate the implementation of policies, programs and actions to meet the long-term needs of the city ..."[8] The Office must also create, and update every 4 years, a "comprehensive, long-term sustainability plan" that must include "an identification and analysis of long-term planning and sustainability issues associated with, but not limited to, housing, open space, brownfields, transportation, water quality and infrastructure, air quality, energy, and climate change; and goals associated with each category ... and a list of policies, programs and actions that the city will seek to implement or undertake to achieve each goal ..." Our proposal would require that *all* of the existing plans required by the Charter advance a single comprehensive plan that is guided by principles of equity and livability, of which sustainability is just one part. Though the existing sustainability plan is intended to coordinate

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[8] New York City Charter Chapter 1: Mayor, Section 20(b): Office of Long-Term Planning and Sustainability.
http://library.amlegal.com/nxt/gateway.dll/New%20York/charter/newyorkcitycharter/chapter1mayor?f=templates$fn=default.htm$3.0$vid=amlegal:newyork_ny$anc=JD_16.

7

the efforts of other agencies - under the current administration, a requirement met by the OneNYC plan - the Charter does not require that the plans of City agencies, the Mayor's initiatives, or budgeting decisions be clearly responsive to, and meaningfully implement, that guiding vision. Our proposal would require such implementation, ensuring that future actions across agencies are guided by one coordinated plan.

    iv.   Our proposal that the City create a land use and infrastructure framework to guide future development is new. We believe that such a framework is essential in order to ensure that growth is distributed equitably rather than driven to the most-marginalized communities through piecemeal rezoning actions.

f.   How This Builds on the Staff Report Recommendations:

    i.   The Staff Report recommends that community district and citywide Statements of Need be included in the planning cycle to inform and impact planning and budgeting.

    ii.   The Report further recommends that planning identify contemplated land use changes at the community level.

    iii.   Finally, the Report recommends that the Charter require that Statements of Needs (Community District and Citywide), Strategic Policy Statements (Borough-Level and Citywide), Agency Plans, Land Use Plans (specifically the City Planning Commission Zoning & Planning Report, Community Development Plans (197-a Plans), the Comprehensive Waterfront Plan, and the Long-Term Sustainability Plan), Capital Spending plans (Ten-Year Capital Strategy and Four-Year Capital Program), and the Sustainability Indicators Report be made to "relate to and impact one another." We propose that the clearest way to ensure this is to design a single comprehensive plan to which all existing plans must respond, and that they must each, in their own way, advance.

5. **Support for robust local planning to meet Comp Plan targets**, with routes for local plans to move as rezonings, & get incorporated into next round of comp planning.

a.   What We Want:

    i.   After the creation of the initial Land Use & Infrastructure framework, each community district would be required to create a community land use plan. Each community land use plan would include proposed zoning changes, and proposed siting of infrastructure projects deemed necessary to meet each community's current and future needs as well as meet the district's responsibility to the whole. Community members would be deeply involved in the creation of local community plans, supported by

strengthened community boards and the independent planners hired to work with each CB.

    ii.   Community land use plans that are found to be in compliance with the land use & infrastrastructure framework of the comprehensive plan will become part of the comprehensive plan, with any recommended land use actions (rezonings etc) implemented through ULURP.

    iii.   At the next cycle of comprehensive planning, these existing community land use plans will be used in developing the assessment of community needs for the new land use & infrastructure framework, which future community land use plans must comply with and so on and so on through a dialogic process extending into the future.

b.   <u>How This Builds on the Current Charter</u>: Charter Section 197-a already outlines the process for the creation of Community Development Plans. The Charter should delineate that Community Development Plans are required in response to the planning targets and goals outlined for each Community District as part of the comprehensive planning process, and strengthen enforceability for those that are found to be in compliance with these goals.

c.   <u>How This Builds on the Staff Report Recommendations</u>: The Report recommends that the City "establish a clear and, to the extent feasible, uniform process for ensuring that the public and other stakeholders have an opportunity to meaningfully weigh-in on what the plans address and how," including to contemplated changes in land use and development at the community level.

9

Thriving Communities Coalition Comprehensive Planning Summary

1. **Equity Principles should be written into the charter to enshrine a values-based approach to planning and land-use decision making:**

   - ○ Equitable distribution of resources and development
   - ○ Elimination of disparities across race, geography, and socio-economic status
   - ○ Equal access to opportunity for every New Yorker, regardless of where they live
   - ○ Affirmatively further fair housing while preserving the right to stay in and access neighborhoods with quality housing, good-paying jobs, and cultural and social connections.
   - ○ The fulfillment of the human right to housing for all New Yorkers, regardless of income.

2. **The creation of a robust needs assessment to be used in decision making should be called for in the Charter to:**

   - ○ Develop a cross-sectoral assessment of neighborhoods including areas like climate risk, infrastructure, open space, housing, jobs, education needs, etc.
   - ○ Enable more robust community-based qualitative data gathering and examine community-level determinants of social, economic, and physical well-being
   - ○ Feed into an equity index that would assess displacement risk, access to opportunity, and identify areas of the city that have the capacity to absorb growth, those that need more investment into existing communities, neighborhoods with the greatest risk of climate impacts, etc.

3. **A charge to establish targets across areas such as population, jobs, housing, etc. and investment goals that are guided by equity principles (#1) and needs (#2) to:**

   - ○ Align citywide and local needs through improved community-level goal setting and ensure goals are reflective of both geographic differences and NYC's diversity (seniors, youth, people of color, low-income, etc.)
   - ○ Create a framework to guide decision making in the best interest of the city
   - ○ Curtail the ad hoc, transactional nature of planning and pursue a more thoughtful approach to developing the City.
   - ○ Create an equity index to evaluate the needs of different communities and prioritize among the identified goals by assigning an equity score indicating a community's need relative to another.
   - ○ Add transparency to the City's planning and investment decisions

4. **The Charter must require existing and new planning-related processes to align with one another to develop a singular framework for comprehensive planning that:**

- Would be used to guide budgeting, policy, programming, and land use decisions
- Enable interagency cooperation to meet community priorities equitably
- Streamline the planning cycle and reduce redundancy in the process, saving resources and improving the quality of community involvement
- Coordinate short, medium, and long-term needs across sectors

5. **Support for robust local planning to meet established targets by:**

   - Strengthening the 197a community planning process with new resources and language to streamline approval process so long as they align with citywide targets

How the Process Would Work

A. Equity principles are written into charter and future planning decisions have to include a report on how they abide by them. (#1)

B. Needs assessment would be initiated after the 2020 Census data is complete and available and would be carried out by an established City agency or commission (e.g. DCP Population Division or Civic Engagement Commission). (#2)

C. Equity index would be created working with policy and community groups, along with a public engagement process to identify the nuances to include in each score (e.g. Transit access scores would be based on proximity, ADA accessibility, quality of service, etc.). (#3)

D. A-C would be used to establish city-wide targets and create parameters for communities to create local goals. (#3)

E. Existing planning processes undertaken by various City agencies (e.g. HPD housing plan, OneNYC, etc.) would utilize A-D in developing their plans and would include that information in public engagement before adopting final plans. (#4)

F. City agencies would incorporate Equity Index and principles into decision-making, driving a portion of resources to address communities with a low equity score (e.g. Community Parks Initiative), with report to enable electeds and the public to hold them accountable. Flexibility would be built in to enable agencies to take on required projects (e.g. consent orders from the state) or handle emergencies. (#4)

G. Community boards would be more likely to get 197a plans approved or resources for their priorities if those speak directly to issues established for their community from A-F. Developments would be prioritized depending on how closely they follow what has been established in A-F. (#5)

The Charter *already* requires about 10 different plans. How would creating a single "comprehensive plan" improve on what's already required? Won't this just add to the confusion?
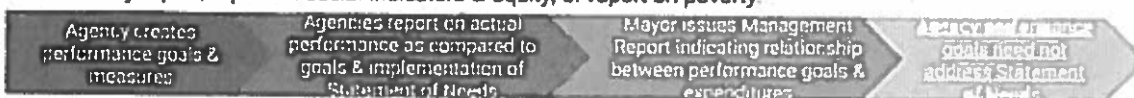
- <u>Growth targets and investment goals created *for the whole city, through one process, at one time*</u>. Today, many communities do not have a "seat at the table" because *there is no single table* where decisions about growth and investment are made. Instead, efforts like neighborhood rezonings are undertaken piecemeal, pushing growth to communities with less political capital and leaving high-opportunity, wealthy communities largely untouched. These power dynamics are unlikely to change as long as development plans are made neighborhood by neighborhood, one at a time. Comprehensive planning would create shared fates across the City by requiring one process within which conversations about growth and investments would unfold, and longer-term decisions made. None of this is required through any of the City's current processes.
- <u>Equity principles</u> would be included in the charter as an element of the Comp Plan, outlining a coherent vision of what the City is supposed to *achieve* with all of its various initiatives. Today, with no clear goals, it's hard to debate whether the City's plans are "working" or not. Working toward what? Equity principles would set out broad goals that the Comp Plan, and *all* of the City's plans, would advance.
- <u>A robust needs assessment process</u> would assess each area's (1) access to opportunity, (2) existing residential displacement risk, and (3) unmet needs. *Neither (1) nor (2) is required in the charter today*, even though other types of needs assessments (such as the Community District Needs Assessments) do happen. Our proposal would require the City to use data-driven methods to assess these specific factors, invite community members to help identify the greatest priorities, look at both *current* and *projected future* need, and make land use, budgetary, and policy decisions that are clearly responsive to the identified needs. This is just common sense - but it's largely not required today.
- <u>An equity index</u> would help to highlight the areas of greatest need, improving transparency and helping lawmakers, agencies, and members of the public quickly understand where resources are most needed, where displacement risk is highest, and whether the City's current strategies are working to advance equity principles.
- <u>Require the plans to "speak to" each other</u>. Today, the Charter requires several different types of assessments and plans, but in many cases, the assessments are not required to inform the plans, and the plans are not required to inform planning, programming, or budgetary decisions. Our proposal would require alignment among these different documents, including explicit alignment with the Comprehensive Plan.
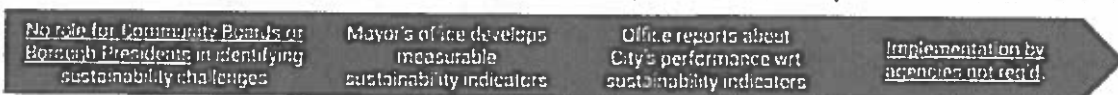
Thriving Communities Coalition 1

A61

| Community Boards prep statements of community needs | Agencies submit departmental statements of need | Mayor creates Citywide Statement of Needs | Implementation not req'd. Agencies must only "consider" needs. |

There is nothing that requires agencies to act to *address* the Citywide Statement of Needs.

| No role for Community Boards in identifying policy priorities | Borough Presidents create strategic policy statements | Mayor creates strategic policy statement w/help from DCP | Implementation by agencies not req'd. CPC must take planning policy into account when creating framework |
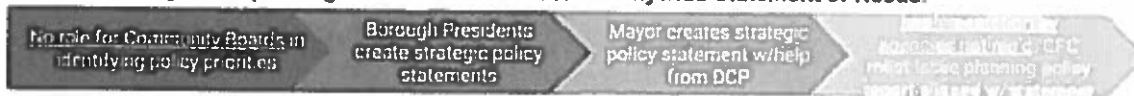
There is nothing that requires the Strategic Policy Statement to be responsive to the Citywide Statement of Needs, sustainability report, report on social indicators & equity, or report on poverty.

| Agency creates performance goals & measures | Agencies report on actual performance as compared to goals & implementation of Statement of Needs | Mayor issues Management Report indicating relationship between performance goals & expenditures | Agency performance goals need not address Statement of Needs |

Performance goals & expenditures set forth in the Mayor's Management Report do not need to be responsive to the Citywide Statement of Needs, even though the Report *is* required to address "implementation" of the Statement.

| No role for Community Boards or Borough Presidents in identifying sustainability challenges | Mayor's office develops measurable sustainability indicators | Office reports about City's performance wrt sustainability indicators | Implementation by agencies not req'd. |

Sustainability Indicators & report exist independent from agency decisionmaking processes & w/o local input.

| Charter sets forth certain indices, report must address. Council can add to these | Mayor's office must report on social indicators & equity incl. disparities by group & location, focusing on areas related to City services. | Report must go to CBs 60 days before they ID budget priorities, but need not inform them | Mayor must lay out plans to address disparities & CPC must address in planning policy, but agencies need not implement, nor budget |

Report on social indicators & equity provides valuable info, but agencies aren't required to use it to plan/budget.

| No role for Community Boards or Borough Presidents in identifying challenges related to poverty | No requirement that data on poverty be disaggregated by race or other identity factors | Mayor must annually report on the poverty rate, disaggregated by borough & neighborhood | Mayor must report efforts to reduce poverty & CPC must address in planning policy, but agencies need not implement |
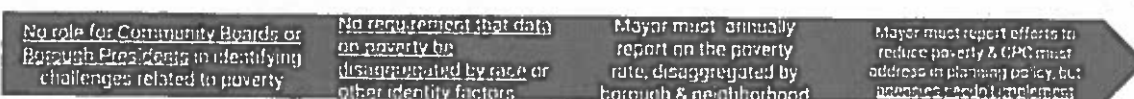
Report on poverty also provides valuable info, but agencies aren't required to use it to plan/budget.

Would comprehensive planning solve the affordability crisis?

On its own, no. But it *would* address affordability in several ways:
- Needs assessments would highlight displacement risk and access to opportunity. These regularly-conducted assessments would help surface issues and inform future plans to better address affordability.
- A single process resulting in a citywide growth framework would help drive more development to higher-opportunity, wealthier communities. Through Mandatory Inclusionary Housing, growth in hot markets could help to create more affordable housing - at no cost to the City.
- Unregulated market-rate growth would be directed away from areas with high displacement risk, helping to preserve affordable units - "naturally occurring" and otherwise - that already exist.

Thriving Communities Coalition 2

I'm concerned that this plan would sit on a shelf and not change anything the City or developers do. How can we address this?

- A required Comp Plan guided by equity principles and a needs assessment process would give advocates important accountability tools and a framework off of which to build a more robust process. There is no question that advocates would have to *continue* to push to ensure that whatever was in the Charter - likely somewhat vague language, as is the case with most things required in the Charter - would be meaningfully implemented. But the requirements in the Charter would give advocates a leg to stand on, which they don't have today.
- Our proposed Land Use and Infrastructure Framework would help inform future land use decisions.
  - Proposed land use actions would be required to disclose the extent to which they did, or did not align with the Framework, and justify any proposed deviations. This would help create pressure to align with the Framework, which would be positioned as the "default" plan - incentivizing applicants to propose actions that are in compliance with the plan.
  - The creation of a citywide framework would make it more difficult for local councilmembers to block growth in wealthy communities, while making it clear to low-income communities that *all* parts of the City were receiving their fair share of growth.

What would incentivize developers and the City to take action in accordance with the Comp Plan? Wouldn't they just ignore it like 197-a plans?

- Our proposed process would set growth and investment targets for every community, and any City-led or private development plans would have to be in alignment with those targets. Non-aligned proposals would be flagged as such and face disapproval.
- Likewise, community-created plans found to be in compliance with the comprehensive plan would be able to advance through ULURP, where unaligned plans would face disapproval.

The City used to require comprehensive planning in the charter - then they took it out because it was never carried out. Knowing this history, why would we put it back in?

The single botched example at a plan should not have been used as an excuse to remove the requirement from the Charter. The challenges that the Lindsay-era plan

encountered were one-part a product of the time and another part a product of real estate opposition and poorly executed public engagement. None of these failures addresses the issue of whether comprehensive planning is needed in NYC. The removal from the Charter speaks more to the inefficacy of the original language (no consequences for failure to complete) than it does to the merits of the concept.

This seems too complicated! Can't we just align the existing plans through a future local law instead of tackling all this now?

- The Commission was convened in great part to deal with the City's land use issues, and not addressing them is likely to be seen by many as an abdication of that important responsibility. (It *certainly* will be seen that way by the members of the Thriving Communities Coalition!)
- Most major cities except NYC have comprehensive planning. This isn't a radical idea, and its time has come.
- The many existing plans are not currently required to align with each other or work toward shared goals. A comprehensive planning mandate in the Charter could require this, and center equity as a goal of all planning.
- The extensive, multi-year process carried out by the Coalition for Community-Based Planning, led by the Municipal Arts Society that culminated in a white paper and draft legislation in 2010 undertook a legal analysis of its recommendations. It concluded that Charter Revision was a necessary step to accomplish the goal. A comprehensive plan must be more than alignment because aligning existing plans alone does not provide for meaningful public input or oversight. The Charter must address a meaningful plan.
- Yes, experts have debated the finer points of comprehensive planning and a lot would still need to be figured out. But kicking the can down the road typically doesn't make difficult challenges any easier. We have already collectively begun to vision what exactly comprehensive planning should look like, and a requirement in the Charter would create a mandate for us to continue this progress. Don't give up on this now!

Testimony to 2019 Charter Revision Commission
Chair Gail Benjamin
March 21, 2019

Good evening, and thank you for the opportunity to testify. My name is Elena Conte, and I am the Director of Policy at the Pratt Center for Community Development, which has been working closely with the Thriving Communities Coalition.

I have fifteen years of experience working for and with community-based organizations in low income communities of color, and my organization has been dedicated to supporting the planning and implementation efforts of these communities for close to sixty years. That description doesn't do justice to what this work is, however — a community-based plan is both process and product that elicits and then codifies a collective set of values into a practical roadmap to manifest them.

Pratt Center believes that a comprehensive planning framework has the potential to mirror this process at a citywide level, and my mission tonight is to describe how such an effort, by actively engaging local communities throughout, represents our only real promise to achieve citywide goals of equity and justice.

As described in our longer written comments, which will be subsequently submitted, a comprehensive planning framework respects the expertise of local communities to determine and articulate their own needs and also charges and trusts them with contributing to the betterment of the city as a whole.

This is a radical departure from our current ad hoc system, which is dominated by as-of-right land use actions and review. It is ineffective, polarizing, and disempowering to most communities, even those whose wealth and privilege afford them disproportionately more

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A65

power than low income communities of color. It is not, however, a radical departure from how planning is done in other major U.S. cities.

Whether your perspective is that "not enough projects get 'through'" or that "terrible projects are rammed down communities' throats" – a comprehensive planning framework has something to offer. Much of the contention in local land use battles can be traced to:

1) longstanding unmet needs,

2) the lack of genuine engagement in the process, where instead of being asked to co-create plans, communities are pushed into reactionary positions,

and in some cases,

3) exclusionary tendencies.

Comprehensive planning addresses each of these. It provides for:

1) Acknowledgement and assessment of the impact of previous planning practices, including racist disinvestment and redlining, through
   - A statement of principles and values to guide the framework
   - A comprehensive, data-driven needs assessment of housing, transportation, health, education, jobs, and other needs at the local level. This provides greater information about neighborhoods and their relationship to others across a slate of critical measures – including residential displacement risk, and economic and educational opportunity.
   - An emphasis on investing in areas of greatest need, and budgetary alignment of commitments for capital project and programmatic (expense) expenditures.

2) The opportunity to participate in and co-create the citywide, equity-based collective goals that guide the framework

2

- This would be instead of goals that are solely determined by the Mayor, announced in various (and sometimes conflicting) policy documents by different agencies, with different or non-existent reporting requirements

3) The responsibility and opportunity to engage in neighborhood-based planning that contributes to the well-being of the whole city and the reduction of inequality
    - The current system not only allows but encourages neighborhoods to only consider the local impact of a proposal, giving them a free pass from grappling with the hard questions of how to balance our interconnectedness and interdependence – questions they are fully capable of tackling when properly supported to articulate a proactive vision.

    - Neighborhood-level planning that has official standing will increase participation, generate new ideas, and organize the community around a vision.

In sum, a comprehensive planning framework is the way to repair our broken, piecemeal system by integrating and aligning planning, policy-making, and the budget in an intentional way to achieve our equity goals. A plan, just like the budget that should be attached to it, is an expression of our values. Failing to create a comprehensive framework for our city has fostered our dramatic failure to address inequality. We can and must do better. We and our partners have worked extensively on concrete proposals for how to achieve these goals and we look forward to working closely with you to craft a proposal for the ballot.

For more information, contact **Elena Conte, Director of Policy (718) 399-4416,** econte@prattcenter.net

NOTE: This testimony was prepared by the Pratt Center for Community Development. It does not necessarily reflect the official position of Pratt Institute.

(R)(P)(A) Regional Plan Association

Good evening commissioners. Thank you for giving us the opportunity to provide testimony to advise the next phase of charter review and revision. My name is Maulin Mehta, and I am a Senior Associate with the Regional Plan Association. RPA is an urban planning research and advocacy organization working to improve the New York metropolitan region's prosperity, sustainability and quality of life.

This fall, New Yorkers will be able to vote on a series of charter revision proposals for restructuring NYC government. In our Fourth Regional Plan, we discussed the importance for inclusivity in the planning and development processes that govern our City. We applaud the Mayor's commission for promoting the ideas of more robust civic engagement and solutions to diversify community boards and drive community planning. The Council's commission has an opportunity to build off these efforts to provide a comprehensive review and overhaul for voters to decide on in 2019.

Community Board Reform
Imposing term limits on community board members, standardizing the appointment process, and using annual reporting to ensure boards represent their districts, as proposed by the Mayor's commission, will expand opportunities for civic engagement and help create a more representative body of local stewards. To reduce the knowledge gap and promote robust participation in meetings and decision-making, community board reforms should include specific tools and practices such as:

- Expanded budgets for community boards to improve capacity and accessibility. Funding should be used to hire technical experts, such as a full-time urban planner, that can improve board capacity and prepare them to develop community plans. Childcare and translation services for public events should also be fully funded to improve community turnout and participation at events.

- Standardizing and requiring digital tools for engagement. Existing software could be implemented city-wide to enable community members to participate in community board discussions and decisions without physically being at the meeting. Additionally, each community board should have a predictable online presence with clarity and publicity for events and agendas, historical records, communications, and other documentation.

- Standardize training for board members so that they better understand basic planning concepts and the ULURP process. This can help community boards better define their role in the development process and what community outcomes should be prioritized. Community boards should also be required to produce official community plans and updates on a rolling basis.

Community Engagement
If a Civic Engagement Commission is established, the City will have taken an important step in solidifying the value and necessity for broader community participation in decision making. As currently proposed, the commission would focus on participatory budgeting, language interpretation at poll sites, raising awareness of City services, and supporting other civic engagement initiatives city-wide.

This entity should be given the resources necessary to take on more responsibility and reach. The commission can work with community groups and community boards to strategize local planning activities, take lead on pre-ULURP action around the city to involve the public before and during

A68

formal processes, develop a city-wide planning framework sourced from community board input, and be tasked with regularly undertaking a citywide comprehensive planning process.

Effort should also be made to improve transparency and reduce the burden on City government, by establishing process, rules, and guidance to enable community-based decision making. In addition to building awareness and consensus on projects, the City should adopt tools and systems that encourage community stewardship over neighborhood assets, and provide a platform to push new ideas. I'll briefly touch on two examples:

- Madrid adopted a free civic engagement platform, Consul, and has successfully used this technology to get broader community engagement during the participatory budgeting process. The technology also enables any resident to pitch and promote ideas for new projects. If an idea receives a certain number of votes, the City Council is required to evaluate the idea and consider it for adoption. NYC has already adopted a similar approach with participatory budgeting, and we encourage the exploration of applying this technology in a way that promotes sustained, long-term civic engagement.

- San Francisco has implemented Groundplay, which is a multi-agency program that enables residents to learn about different right-of-way intervention types in a central place. The central website provides project examples, toolkits and guidance to help residents develop and implement their ideas. This program helps foster grassroots stewardship and reduces costs normally associated with formal top-down planning projects.

These examples show that with the right tools and knowledge, residents can engage in civic life more fully and be more integral to the decision making process.

Land-Use and Comprehensive Planning
The land-use review process needs to be reformed to be more accessible, actionable, and transparent. The City also needs to implement holistic and inclusive comprehensive planning. There a number of goals that the City should aim for including:

- Adopting official plans for each community board that include targets to increase the supply of affordable housing and identify infrastructure needs.

- Creating clear and comprehensive "fair share" requirements and guidance to cite amenities and undesirable facilities in an equitable manner.

- Increasing transparency and accountability in the land-use review process so that the public can weigh in on proposals before an EAS is submitted.

- Tracking mitigation measures for all EIS' prepared, including public and private land-use applications.

- Requiring a community needs assessment before the disposition of public sites.

A revised charter should pave the way for a community-driven approach to comprehensive planning in the City, empower communities to be more informed and active in making land-use decisions, and ensure that resources and tools expand access and understanding for all New Yorkers. RPA looks forward to working with our partners and the commission over the coming months to make sure charter reform is successful in achieving these important goals.

R P A Regional Plan Association

Regional Plan Association testimony before the Charter Revision Commission 2019
Maulin Mehta, Senior Associate
September 20, 2018 @ Queens Borough Hall

Good evening commissioners. My name is Maulin Mehta, and I am here representing the Regional Plan Association. In collaboration with a wide range of community groups, elected officials, and other institutions, RPA released a report earlier this year, Inclusive City: Strategies to achieve more equitable and predictable land use in New York City. In this testimony I will quickly run through some of the objectives and strategies contained in the report that we would like the Commission to consider.

Objective 1: Dramatically increase the amount of proactive planning in New York City

1. We need to create a citywide comprehensive planning framework, in collaboration with communities and local elected officials that will look at community and citywide targets for things like increasing the affordable housing supply and identifying infrastructure needs. The framework should serve to anticipate displacement concerns and protect vulnerable communities as the city continues to grow.

2. The office of civic engagement, if established, must serve as a resource to communities and bolster efforts for bottom-up planning.

3. Community board reforms should standardize the selection process to ensure boards are more representative of their districts, standardize training to ensure board members are well-versed in topics of land-use to make informed decisions, and make sure they all have a predictable online presence.

4. Technology should be adopted city-wide to improve access to information and enable continued civic engagement. Madrid implemented a system called Consul to expand their participatory budgeting process and provide a platform for residents to pitch ideas that the Council could further study. San Francisco implemented a multi-agency program called Groundplay to give residents guidance and tools for developing and implementing low-level right-of-way interventions in their neighborhoods.

5. To help fund these expanded activities, we urge the commission to explore new revenue streams to increase resources and support for communities to engage in planning.

Objective 2: Increase communication, participation, and transparency in development decisions before and during formal procedures.

1. By creating more robust community planning around the city, EIS analysis should be expanded to include a third – community-based alternative – in addition to the "no-build" and "with-action" scenarios typically assessed.

2. For public sites, require that community needs assessments be completed and attached to the RFP before initiating ULURP. Community priorities should play a heightened role in any selection process for public sites.

3. Overall – find ways to give more power to communities in land-use decisions impacting their neighborhoods and imbue decisions with community priorities.

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Objective 3: Improve accountability, oversight, and enforcement in the City Environmental Quality Review process.

1. Standardize the review of all draft EIS's for accuracy and create consequences for the use of misleading or incomplete information.

2. Ensure funding and implementation of mitigation measures identified in an EIS, along with an accessible system for the public to monitor the status of mitigation efforts.

3. The City has implemented a system to track rezoning commitments in recently rezoned neighborhoods. Such a system should be expanded to track neighborhood outcomes after land use actions are approved for lessons learned.

4. The City should convene an expert panel to review and propose updates to the CEQR technical manual, require updates to be subject to public comment, and ensure regular updates. Some changes are outlined in our report.

We look forward to continuing this discussion and working together to get meaningful changes in front of voters next year. Thank you for your time.

Please feel free to contact me if you have any questions or need additional information:

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(R)(P)(A) Regional Plan Association

RPA Testimony on Comprehensive Planning
Maulin Mehta, AICP
Prepared for the 2019 Charter Reform Commission Hearing on Land Use
March 21, 2019

Thank you for the opportunity to be here today to speak with you all. My name is Maulin Mehta, and I am a Senior Associate at Regional Plan Association.

RPA is a nearly 100 year old non-profit civic organization that conducts advocacy, research and planning for improved opportunity, mobility, and sustainability in the New York City metropolitan region. Our Fourth Regional Plan provides a blueprint for shared prosperity developed through a values-driven approach. We worked with a range of stakeholders including community groups, governments and business leaders to create a comprehensive vision for 31 counties across 3 states.

This big picture approach should never replace the hard-work of community planning that, when done right, creates partnership between communities and decision-makers to implement projects, programs, and policies to address immediate and long-term needs. However, the reactionary nature of planning in the City today has led to a breakdown in accountability, predictability, and equity in the planning process. We've reached a situation where wealthy communities with power and marginalized communities with decades of neglect are united in blocking investments in their neighborhoods because they no longer trust the objectivity of the process.

We need to get away from siloed frameworks and do something different.

Comprehensive planning, undertaken by most big cities in the U.S., would move us to a proactive approach in developing our City. Done right, it would objectively and equitably establish city-wide targets based on shared values, ensure we plan for both existing and new communities, and give more deference to community plans. Local planning, development and policies would align with city-wide goals established through a comprehensive evaluation of existing and future needs.

We could do this by:
- Incentivizing these aligned plans by fast-tracking development, and parties objecting to projects could be required to prove that alignment is not occurring
- Ensuring that decisions in capital and expense budgeting align with the comprehensive plan, while still allowing for flexibility to address urgent or unanticipated needs.

A72

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We've also heard concerns that this type of plan could be outdated by the time it's completed. Across the pond, the London Plan has successfully cycled through multiple administrations and is regularly updated to provide a framework for strategic development. This plan is required by their governing charter, which lays out some basic values and limitations that need to be taken into account. One of the biggest concerns about that plan is how it coordinates with capital budgeting, since the Mayor has little control over the biggest investment resources necessary to implement plan recommendations. We share similar concerns in New York City.

However, comprehensive planning can still be a functional framework for us. We can set rules so that a portion of capital dollars are set aside for addressing disinvestment and other inequities, as the Parks Department has done through their Community Parks Initiative. Unfortunately, we see evidence that the city is moving further from comprehensive planning. For example, the City has been relying more frequently on spot rezonings on a smaller scale - doubling the frequency of map amendments since 2016, compared to the prior 15 years, for areas that are on average six times smaller.

Oftentimes, community boards do not have strict requirements and resources for robust engagement when formulating their needs assessment, which is not seen as a thorough representation of local needs and goals. New charter reforms should either establish an independent body to carry out robust community engagement and transparent data gathering and analysis or enforce that existing bodies be independent. This independent body can also be tasked with regularly assessing and changing technical processes and track mitigation enforcement to be more predictive of policy and land-use decision impacts. The process should be transparent, easily updatable, and accessible by everyone.

Charter reforms should focus on simplifying our land use process and implementing values-driven requirements that align planning, expenditures, and processes that will be used to create a holistic roadmap for the city. This roadmap should be flexible in accommodating existing populations while addressing a new generation of infrastructure and investment.

Thank you again for your time. RPA intends on submitting formal written testimony in the coming days and I'd be happy to include written responses to any questions you may have.

A73

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RPA Response to the Preliminary Staff Report
Maulin Mehta, AICP

Prepared for the 2019 Charter Reform Commission Hearing on the Preliminary Staff Report
May 9, 2019

Good evening commissioners and thank you for the opportunity to respond to the preliminary staff report. My name is Maulin Mehta, and I am a Senior Associate at Regional Plan Association. RPA is also a member of the Thriving Communities Coalition.

We are glad the preliminary report took the step in calling for coordination amongst the dozen planning processes currently in the Charter. However, we share our partners' frustration that, given this once in a generation opportunity, bolder steps are not being taken.

The eight key elements that members of the coalition and progressive caucus have discussed should be a guiding framework for developing a more robust planning process. We should not take for granted that we have progressive momentum in our City. As we've stated before, defining a values-driven approach in the charter would help put equity upfront in the planning process regardless of the administration in charge.

I'll focus the rest of my testimony specifically on the idea of an equity index that we've been thinking about more in-depth at RPA, which speaks to the data-driven needs assessment process of comprehensive planning we've discussed in previous submissions to the commission.

An equity index that evaluates infrastructure, services, economic conditions, and growth opportunities across New York City neighborhoods should be tied to the planning process and used in a way to prioritize investment. Such an index could be used to place neighborhoods on a spectrum looking at the comprehensive nature of what makes communities thrive and assets that need to be protected: things like diversity, sustainability, community centers, parks, transit access, jobs and schools. Development of the index could also include a community engagement process to evaluate more nuanced measures such as social networks.

This index could in turn be used to identify areas for city initiatives to improve access to opportunity – those that have the capacity to absorb new growth, areas for which transit expansion should be a priority, more holistic investment in protecting against climate change. Areas with a lower score would indicate another type of prioritization – one that would push investments in foundational areas to meet the existing needs of those

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communities that have been historically underserved or those that are at a high risk of displacement.

Each indicator used in developing the index would also have further scrutiny to make sure they are capturing something more than a binary yes/no attribute. For example, access to transit would not just be about station proximity, but also look at things like service levels, ADA accessibility and capital needs.

Cities across the country are using this type of an index to guide their comprehensive planning process. In Denver for example, the neighborhood equity index helps them quantify equity in City policies, plans, and projects, and was most recently used in the development of their 2040 comprehensive plan. It is also being used in their 10-year bond program to target investment in communities with the highest level of inequality.

An example that I've cited before here in New York is the Parks Department's Community Parks Initiative. This program has used a type of equity assessment to target capital investment in parks within communities that have been historically neglected.

We are doing better than many municipalities in moving progressive policies forward. However, we cannot take for granted this momentum. A comprehensive planning process guided by sound analysis and equity principles only works if our City's constitution requires it to be undertaken and provides mechanisms for enforcement and budgeting.

Thank you for your time and as always we stand ready to be a resource as you develop the final report.

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A75

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Below you will find the guiding principles and comprehensive planning elements we think are necessary to ensure a robust process that should be established within the charter. We will also be submitting more detailed ideas digitally by May 14th.

Principles to be lifted up in the charter:

- Fair distribution of resources and development
- Enforceable commitments
- Integration without displacement
- Transparency and accountability
- Real community power and ownership

Elements of successful comprehensive planning:

1. A single clear, coherent plan
2. Equity principles
3. Citywide & localized analysis
4. Balance of citywide and local needs
5. Equitable distribution of resources and future development
6. Coordinate with capital budget
7. Create a future land use map
8. Incentivize alignment with the plan

A76

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**Testimony of United Neighborhood Houses
Before the New York City 2019 Charter Revision Commission**

Commissioner Gail Benjamin, Chair

**Presented by J.T. Falcone, Policy Analyst
May 9, 2019**

Thank you Chair Benjamin and members of the Charter Revision Commission for the opportunity to testify today. My name is J.T. Falcone, and I am a policy analyst at United Neighborhood Houses (UNH). UNH is a policy and social change organization representing 42 neighborhood settlement houses that reach 765,000 New Yorkers from all walks of life.

Now in our 100th year, UNH is stewarding a new era for New York's settlement house movement. We mobilize our members and their communities to advocate for good public policies and promote strong organizations and practices that keep neighborhoods resilient and thriving for all New Yorkers.

UNH leads advocacy and partners with our members on a broad range of issues including civic and community engagement, neighborhood affordability, healthy aging, early childhood education, adult literacy, and youth development. We also provide customized professional development and peer learning to build the skills and leadership capabilities of settlement house staff at all levels.

Neighborhood Affordability

For over a century, UNH's member settlement houses have strengthened communities across New York, offering a wide variety of programming for New Yorkers of all ages and backgrounds and leading social reform movements. Settlement house workers fight to ensure that all community members have access to opportunity by promoting equitable labor and housing policies and holding those in power accountable.

UNH and our member settlement houses are increasingly concerned with New York City's affordability crisis and a sense that the City is reaching a tipping point. Communities are kept out of the decision-making process and the Universal Land Use Review Procedure (ULURP) has failed to promote the interests of low- and moderate-income New Yorkers. Instead, inequitable land use decisions put communities at risk.

Charter Revision Proposals

UNH was disappointed in the Charter Revision Commission's decision to walk away from addressing land use and procurement reforms such as implementing ULURP for New York City Housing Authority

1

(NYCHA) land dispositions and contracting reforms for the City's human services sector that delivers vital services for all New Yorkers. Unfortunately, this Commission has missed an important opportunity to make positive, long-lasting changes at a time when they are desperately needed.

Of the proposals put forth by UNH and our fellow advocates, comprehensive planning is the sole issue that remains under consideration by the Charter Revision Commission, but – as written in the staff report released last month – the recommendations put forth do not go far enough. I am here today to urge the Commission to put a meaningful comprehensive planning proposal on the ballot in November.

Comprehensive Planning

Along with fellow member organizations of the Thriving Community Coalition, UNH is concerned that the staff report outlines only modest changes to the City's land use processes, when what is needed is real reform to empower disenfranchised communities and fight deeply entrenched racial and socio-economic inequality. While the alignment of existing planning mechanisms and the creation of a "planning cycle" would streamline the process, it would not affect the underlying mechanisms themselves and would therefore do little to disrupt a status quo that has seen astronomical increases in rents, continued divestment in low-income communities of color, and low-density preference shown for wealthy white communities.

Because of the sheer number of complicated mechanisms involved in the City's existing planning process (that staff report identifies 12 "plans or similar documents that could, in staff's view, be considered part of a 'strategic' or 'comprehensive' plan"), it is easy to be overwhelmed and overlook the fact that all this planning is currently being done piecemeal. As the staff report shows, the charter asks only that our elected representatives who are creating and operationalizing these various plans "consider" "consult" or "reference" each other, and many of these plans require no meaningful community input whatsoever. This process allows too much to slip through the cracks. Despite the fact that the staff report also recommends amending these processes to give the public and other stakeholders an opportunity to "meaningfully weigh in on what the plans address and how," your average New Yorker would need an advanced degree to meaningfully and proactively engage with the myriad proposals currently laid out in the charter, and even the most knowledgeable New Yorkers likely lack the time to engage with so many concurrent processes.

One hundred years ago, settlement houses across the City came together to found United Neighborhood Houses out of recognition that "neighborhood workers" who were deeply committed to small geographic regions of this City required a body where they could come and compare notes in order to ensure that common issues and broader ideas were not missed or lost. Because of this legacy, UNH is clear on the importance of communities acting together towards something that is bigger than its sum of parts. Despite 12 different planning tools, there is no process by which we comprehensively assess our collective, City-wide needs and aspirations, set goals and priorities based on those needs and aspirations, develop strategies to meet those goals and priorities, and then invest in those strategies.

While the mechanisms of a comprehensive plan might be complicated, the concept is not. A comprehensive plan should be a road map for growth and priorities for New York City that exists outside of any one particular administration. While the staff recommendations for inclusion of short-term,

2

intermediate, and long-term issues got the timing right, I am here to urge the Commission to get the issues in question right, too. In developing the plan, as a City, we should put our cards on the table and clearly lay out the resources that are and will be available so they can be allocated fairly while acknowledging and correcting for historic divestment from communities-of-color and the racist policies that are woven into our City's fabric, from who has been asked to live next to and underneath noxious highways to which communities have enough seats in their classrooms.

Critically, once we develop a plan that accomplishes these goals, alignment with it should be incentivized. Not only would this ensure that major development projects are in alignment with established goals and principals that have been set collectively, but it would also ensure that we are approaching development in this City with consistency and predictability.

Comprehensive planning for communities is necessary to end policies that contribute to widening inequality, segregation, and displacement.

Along with our partners, UNH calls for the Commission to ensure that the final version of comprehensive planning on the ballot in November is based on the following elements:

- **A single clear, coherent plan:** Aligning what's already required in the charter is a start, but it's not enough. The charter must require the creation of a citywide comprehensive plan, which can guide future land use, budgeting and policy decisions.
- **Equity principles:** The process and the plan itself must be rooted in shared principles of equity; inclusiveness; sustainability and resilience; transparency; and accountability. The principles should inform articulated city-wide goals, linked to clear indicators to measure progress and success over time. Meeting the greatest needs, reducing neighborhood-based, racial, and socio-economic inequality, fostering integration without displacement, and increasing access to opportunity should be clearly stated as goals of comprehensive planning.
- **Citywide & localized analysis:** The City must perform data-driven, top-down analyses of citywide infrastructure and service needs, as well as displacement risk. These analyses must result in a plan that transparently balances neighborhood and city-wide needs.
- **Balance citywide and local needs through bottom-up community planning:** The process must entail a robust community-based planning process that gives under-resourced communities and underrepresented stakeholders a meaningful voice in the planning process and subsequent land use and development decisions. The plan should transparently balance community priorities with citywide needs in alignment with its principles and goals.
- **Equitable Distribution of Resources and Future Development:** The plan should set concrete, measurable, and equitable neighborhood targets for growth, including affordable housing, essential City services and facilities, and critical investments, so that all neighborhoods do their part and receive their piece.
- **Coordinate with Capital Budget:** The community investments identified in the plan should be included in the 10-year capital strategy to ensure the City allocates needed resources and capital investment to communities through each annual expense and capital budget process, consistent with the plan.
- **Create a future land use map:** The City should create a future land use map to guide growth and development that will engender the citywide and local goals of the comprehensive plan.

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- Incentivize Alignment with the Plan: The City should enact mechanisms to incentivize plan-aligned growth and discourage land use actions that do not comply with the plan. This includes allowing plan-aligned developments to bypass ULURP, and those that do not align to be subject to ULURP. Private and public applications that align with the plan and land use map should only be required to complete an abbreviated, supplementary Environmental Assessment Statement (EAS) or technical memo, saving the applicants significant time and resources. All land use applications should require a rationale for pursuing the project. Applications that are not aligned with the plan would be subject to the current ULURP process. If non-aligned applications seek approval through ULURP, the Commission and local Council Members should be required to publish their rationale for wanting to modify the comprehensive plan.

Any comprehensive planning cycle needs a real regulatory framework that can give teeth to the needs and opportunities the plan identifies. These eight elements aim to create that very framework.

Conclusion

In order for New York City to remain affordable, equitable, and fair for all New Yorkers, we must take action now. Since the last major revision to the Charter in 1989, New York City has changed dramatically. In the last decade alone, rents have risen at twice the pace of wages, and today more than half of the renters in New York City are rent burdened, or paying more than 30% of their income towards housing expenses. With so many New Yorkers at risk of displacement, and with so few affordable places left in this City to go, we must make bold decisions with real urgency.

By strengthening the land use process, which has a direct impact on the affordability of neighborhoods, the Charter Revision Commission has an opportunity to enact meaningful reforms that help to ensure that New York City remains affordable, equitable, and fair for all New Yorkers. Please take that opportunity.

Thank you for the chance to testify. For questions, I can be contacted at (917) 484-9322 or at jfalcone@unhny.org.

4

A80

**Association for
Neighborhood
& Housing
Development**

Testimony to the 2019 Commission on Charter Reform

Emily Goldstein, Association for Neighborhood & Housing Development

May 9th, 2019

Good evening. My name is Emily Goldstein and I am the Director of Organizing
and Advocacy at the Association for Neighborhood and Housing Development
(ANHD). ANHD's mission is to advance equitable, flourishing neighborhoods for all
New Yorkers. We are a coalition of 100 community-based affordable housing and
equitable economic development organizations in New York City, and we use
organizing, policy, advocacy, and capacity-building to advance our mission.

ANHD is also a member of the Thriving Communities Coalition, made up of
grassroots organizing, advocacy, policy, and legal services groups who work at the
neighborhood and citywide level, and who are committed to pursuing reforms to
the City Charter that will advance the following principles:

- Fair distribution of resources and development
- Enforceable commitments – No more empty promises
- Integration without displacement
- Transparency and accountability
- Real community power and ownership

In reviewing the preliminary staff report, ANHD was disappointed to see that
several recommendations we believe are necessary to address problems within
the existing ULURP process were ignored. Specifically, we still believe that there
ought to be:

- A requirement for a regular and public process to make changes to the
  CEQR Technical Manual.

A81

- A requirement for a detailed analysis of direct and indirect residential displacement in every EIS
- Require an enforceable mitigation plan following an EIS

However, we believe the preliminary staff report's recommendations regarding comprehensive planning are promising. We specifically appreciate and endorse the following ideas:

- Coordination of the City's various needs statements, policy statements, agency plans, land use plans, and spending plans, and to take stock of indicators reports when planning.
- Inclusion of statements of need as documents that should impact planning and budgeting.
- Alignment of planning and budgeting processes.
- Disclosure of future land use and development plans for communities.
- Indicators measuring progress over time.

However, we strongly believe that in its present form, the recommended version of Comprehensive Planning will not accomplish the real changes our city needs.

A meaningful comprehensive planning cycle must include the elements below, which must be expressly required in the charter:
1. A single clear, coherent plan
2. Equity principles
3. Citywide & localized analysis
4. Balance citywide and local needs
5. Equitable Distribution of Resources and Future Development
6. Coordinate with Capital Budget
7. Create a future land use map
8. Incentivize Alignment with the Plan

The charter must spell out clear goals of reducing neighborhood-based, racial, and socio-economic inequality that comprehensive planning is intended to address – without clear goals, it is impossible to measure progress.

It is crucial that any process of identifying needs separate out assessment of existing residents' needs from projected needs of future residents. Without this clarity, less powerful communities will continue to risk having their existing needs

A82

met only in exchange for future growth or in relation to planning for future populations.

And the charter must make clear that the public and stakeholders not only have an opportunity to weigh in, but that people with a wide range of perspectives and experiences have seats at the decision-making table of this process. Too many communities have participated in too many processes that encourage but then ignore their public input.

Whether it is called a "planning cycle," a "comprehensive planning process" or a "master plan," the 8 elements listed above are indispensable to citywide planning that meets the demands of today. Working together with community groups, planning organizations, and elected officials, we have agreed on these 8 features that we think are essential to any comprehensive planning cycle. Without these features, a comprehensive citywide planning cycle will not have enough power or coherence to enact real change and remedy the frustrations New Yorkers have with the current system, which has produced decades of inequity, unfairness, and inefficiency.

We urge the Commission to take full advantage of the rare and necessary charge you were given to fully and deeply re-examine the City's charter and make the necessary changes to serve the needs of a New York that is radically different from the one the designers of the 1989 charter lived in.

A83

**Testimony to the New York City Charter Revision Commission, March 21, 2019
In Support of Comprehensive and Community Planning**

By Tom Angotti, Professor Emeritus of Urban Policy and Planning, Hunter College and
the Graduate Center, City University of New York

I strongly support the proposal to mandate comprehensive planning in New York City,
but only if it is coupled with a mandate for community-based planning. Comprehensive
planning should be long-term as well as middle-range. We should also restructure
ULURP to require consistency with comprehensive and community plans, and transform
the mission, structure and culture of the City Planning Commission and Department of
City Planning.

- **YES to comprehensive city-wide planning.** I was delighted to see the proposal
  to mandate comprehensive planning, something I have advocated for decades.
  New York City is the only major city in the US that has never adopted a long-
  range plan. The present crises of infrastructure, homelessness, low-income
  housing, sea-level rise and environmental contamination are in large part a result
  of the lack of comprehensive long-term planning.

  It is no longer viable for the city to uphold the outrageous fiction that the Zoning
  Resolution is the city's plan, thus fulfilling the mandate under state law that
  requires that zoning be consistent with a comprehensive plan. We should also
  beware of the absurd argument that master plans are useless documents that
  just sit on a shelf. They sit there when plans are seen as only end products and
  not part of an on-going process. While it is true that many plans have wound up
  on the proverbial shelf, many have not, in other US cities and in cities around the
  world. Furthermore, as urban populations exploded over the last half-century,
  cities became regions, requiring comprehensive planning at multiple scales.

- **NO to city-wide planning without COMMUNITY-BASED PLANNING.** I strongly
  oppose comprehensive city-wide planning unless there is a robust process of
  community-based planning that engages and empowers the city's diverse
  populations and neighborhoods. Every community board should have a
  community plan that is reviewed and approved by both the board and the City
  Planning Commission, and subject to updating requirements similar to those
  applicable to the city's comprehensive plan. The 197-a planning process is
  broken and can be fixed only when community boards have the resources and
  professional staff to fully participate in the planning and decision-making process.
  Community boards should be elected, the charter-mandated community board
  planners should be funded, and community board members should receive
  training, ideally in collaboration with our public university, CUNY.[1]

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[1] I have advised communities that produced approved 197-a plans, was a founding member and leader of the
Campaign for Community-based Planning, a partnership with the Municipal Art Society. We catalogued some 100
community plans and advised many community boards and community-based organizations. The Campaign lost

- **Comprehensive planning should be both LONG-TERM and MIDDLE-RANGE.** Imagine if a century ago when the first subways, bridges and major roadways were built there had been more thought given to the ultimate size and shape of the city and region. Imagine if decisions had considered long-term environmental impacts when the streets were taken over by motorized vehicles and trolley tracks torn up in the last century. Middle-range planning may cover 5-15 years but long-term planning should look decades into the future, or as many as seven generations (as proposed by the Iroquois Confederation). I support the Commission's proposals requiring frequent reviews and updates of the city's comprehensive plan.

- **Comprehensive planning is both PROCESS and SUBSTANCE.** To guarantee good planning we have to get the process right. We don't need plans baked only by small groups of technocrats. Nor do we need the childish "participation games" the city uses to push through its rezoning plans. **The planning process should be inclusive, exhaustive, deliberative and just.** The city needs to adopt methods that engage people in deep processes of civic engagement, embracing and not submerging differences. The plan itself is as important as the process, and the process must be on-going.

- **Comprehensive plans need to consider not one but SEVERAL POSSIBLE SCENARIOS.** Using scenarios helps the public and planners select major alternatives and closely examine their potential consequences. Comprehensive planning should not be reduced to the projection of the present into the future, although that is usually one of many possible scenarios.

- **Comprehensive planning should seriously BALANCE GROWTH AND PRESERVATION.** The city's 2006 long-term sustainability plan, for example, was essentially a growth plan wrapped in green (and arguably neither long-term nor sustainable). It opened the door to massive rezonings and new development without reducing the city's carbon footprint or addressing deep needs and inequalities in the existing city. We should avoid debates that only focus on the growth vs. preservation binary, and many other binaries that fail to deal with the enormous complexities of life in the city.

- **Planning reforms will require major changes to the agencies now responsible for planning. THE DEPARTMENT OF CITY PLANNING (DCP)** is essentially a zoning administrator and oversees ULURP. It should become the Department of Zoning and remain a mayoral agency. It should be required to update zoning rules every five years. **THE CITY PLANNING COMMISSION** should be an independent commission under the City Council and oversee the comprehensive and community planning processes. All plans should be

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steam when the city undertook a massive rezoning of the city in the first decade of this century and relegated 197-a planning to obscurity. However, the interest in community planning remains powerfully present.

approved through the ULURP process. ULURP should be administered by an independent agency of trained facilitators capable of allowing all voices to be heard in a respectful and meaningful way. I support the requirement that a substantial proportion of commissioners be trained in city planning; however, I am concerned that the disproportionate lack of minority planners in the profession will perpetuate existing deficiencies in the relationship of planners with the city's diverse neighborhoods.

- **Comprehensive planning must place ENVIRONMENTAL AND PUBLIC HEALTH concerns at the heart of planning.** We should no longer relegate environmental concerns to the CEQR process, which is necessarily connected to individual development projects undergoing ULURP.

- I support the proposal to **open up the pre-ULURP** process to full participation by communities and the public at large. Too many decisions are made behind closed doors before the ULURP clock begins, making it extremely unlikely that they be changed during the ULURP process.

Beyond the charter, but critical to the fulfillment of charter objectives:

- **CHANGE THE CULTURE.** Just changing the structure and process of planning is not enough. We need to change the way of thinking about the future of the city, so we can all take responsibility for the future welfare of the city, region and the planet. This requires political courage and leadership.

- **ACKNOWLEDGE AND EMBRACE DIFFERENCES** – differences in places, races, ethnicities and all dimensions of human diversity. Planning must consciously allow spaces for real engagement by all sectors of the population, avoiding symbolic representations that do not result in real change. Planning must be multi-lingual and multi-cultural in this, one of the most ethnically diverse cities in the world. Notions of past, present and future are culturally imbedded and influenced by material interests claiming to be culturally neutral.

- Think about **THE REGION.** While there is no public agency responsible for regional planning, New York City is the largest municipality in the tri-state region and can play a leading role in promoting regional planning. Let us mandate a public alternative to the private Regional Plan Association. New York should be a leader in the overhaul and reorganization of regional transportation, services and infrastructure.

As New York City faces major climate-related challenges, comprehensive planning is more important now than ever before. This can be part of a Green New Deal that breaks the mold of incremental changes that have left the city and its population vulnerable to adverse climate conditions. The ongoing uncertainties about sea-level rise in the city and region require that planning for a resilient, sustainable, low-carbon future be thoroughly integrated with the city's and region's plans and policies at multiple scales.

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A86

Hello, my name is Jake Schmidt, representing Open New York, which is an all-volunteer group advocating for building more homes in New York, especially in high-opportunity neighborhoods.

I want to talk about land use, specifically the recommendation about comprehensive planning.

Regardless of the whether we recommend a comprehensive plan or not, it is CRITICAL that the planning process account for the fact that we have a housing shortage in New York. For five decades now, we have failed to build enough housing for everyone who wants to live in New York - and the humanitarian consequences have been disastrous. Our zoning pretends the city doesn't need to grow, which means we push people out. This exclusionary system HAS to change.

One of the earlier speakers talked about conflicts of interest in community boards and city planning. I want to talk about a type of conflict of interest that's absolutely endemic, and which seems to go unremarked in discussions like this. I hope this can help shape how you think about the issue, because I think it's under-discussed. The problem is the power of homeowners. Homeowners OWN real estate, but when we say "real estate lobby", we don't include homeowners, even when they're lobbying on real estate issues! And the problem with that is, people who own real estate have a financial interest in housing scarcity, because they own the scarce asset. Like anything else in high demand, if you restrict its production - which we have - the price goes up. Simple as that. Homeowners benefit, renters - like me - get screwed.

Against that background, the current system for land use in New York is, at its core, very tight zoning, coupled with ad-hoc exceptions approved by the local community board and city council member. Well, let me tell you, my group spends our time advocating for housing at community board meetings and in front of the city council, and it is wall-to-wall homeowners. We usually don't usually describe as such, but they form a real estate lobby, and we have to stop allowing them to restrict the construction of new homes.

To be clear, because I'm sure a lot of people are feeling pretty attacked right now, I don't think these homeowners are bad people - they're advocating for their interests, and everyone should be able to do that - but that's why this system of ad-hoc exceptions doesn't work. We need to ensure the charter sets up land use processes that actually produce enough housing for everyone who wants to live here, in the greatest city in the world. Because the current system privileges a very specific set of voices, and by any metric it's failing.

I have some specific recommendations for implementing this.

Any planning process has to be designed with several ongoing factors in mind:
The population is growing, and will continue to grow.
The world has been urbanizing for centuries, and will continue to do so.
Employment market trends are increasing the advantage of larger cities over smaller ones.

We can't legislate New York's growth out of existence; we have to take it into account, and actually plan to house these new people. Our zoning code puts a straitjacket on the city, and our

process for changing it is piecemeal and inadequate - neighborhoods feel like they're under attack, the amount actually built is tiny, and the results are wholly inequitable. Our system needs to BUILD IN the assumption that we will construct homes for all who want to live here.

The language of the staff recommendation has the building blocks we need for this:
It mentions "specific indicators for measuring progress consistently throughout such documents and over time". Rental vacancy rates, market rents, and affordable housing wait-list lengths would all be excellent indicators of the success of our land use process. Right now, all 3 are so bad they qualify as an emergency.
The recommendation mentions "future planning challenges". A housing shortage is a planning challenge! Planning for adequate growth has to be built into the system, with specific actions that trigger if we fail to house our people. Let's change our charter to include housing growth as one of the challenges that we address, because the current system does not, and the results have been disastrous.

OPEN NEW YORK 2019 CHARTER REVISION COMMENTS

Last year, despite a generations-long housing crisis, New York City permitted fewer than 2.5 new homes for every 1,000 residents – a permitting rate below Baltimore or Indianapolis. Housing more New Yorkers must sit at the top of the Charter Review Commission's agenda as it rethinks the city's land use governance. To that end, we have a few suggestions for how the city should rethink how it plans.

Comprehensive Planning

New York City's parochial approach to planning is a major contributor to its chronic housing deficit. While mayors and their administrations often have a citywide perspective on urban planning that centers the crisis above overly local and privileged concerns like preserving current residents' parking, views, and general preference for low densities, the City Council can ultimately veto any and all rezoning decisions. As a result, a general attitude of narrow-sighted NIMBYism and deference to local council members reigns. As chief planner Marisa Lago hinted at a charter review hearing earlier this year, the de Blasio administration disproportionately proposes upzoning poorer neighborhoods because council members in wealthier ones refuse to accept growth in their own districts.

A mandatory comprehensive plan could be an opportunity to force council members to reckon with the citywide consequences of their local actions. A big-picture grappling with how much housing the city builds, how much it needs to build, and where it builds could be helpful in reframing the conversation around inclusive growth, particularly if it is paired with a binding requirement for "fair share" distribution of infrastructure and housing by neighborhood.

In order to be effective, though, a comprehensive plan must have real teeth and remedy the deficiencies of the current Uniform Land Use Review Procedure (ULURP) process. The comprehensive plan should be a level above the site-specific plans addressed by the Zoning Resolution and agency infrastructure plans. It should anticipate the city's housing needs based on expected job and population growth first, then allocate those needs by borough and community district based on their proximity to major job centers, current population density, and levels of demand. The revised charter should mandate that infrastructure capital plans, city-sponsored rezonings, landmarking decisions, and any other relevant agency actions be made in ways consistent with growth trajectories required to meet these needs, with provisions to accelerate approvals for projects in community districts that fall behind on their assessed needs.

A comprehensive plan should be designed in a way that avoids politicized council district-by-council district decisions made through ULURP. In his March 14 testimony before the commission, Council Member Antonio Reynoso said he did not want City Council involved in comprehensive planning, indicating that its input would only complicate the process and distract from citywide needs. If a plan cannot be adopted along these lines, it is likely more trouble than it is worth.

Finally, the comprehensive plan must not be allowed to impede the growth it is meant to facilitate. We are strongly opposed to any halting of rezonings until such a plan is completed, as it will likely take many years to draft.

ULURP

The environmental impact reviews that occur as part of ULURP are overly focused on the negatives of growth, and take too narrow of an approach to the issues. Environmental review should require an affordability, gentrification, and racial impact analysis for upzonings *and* downzonings, reflecting research that shows that all housing units – market-rate *and* affordable ones – put <u>downward pressure on rents</u> and reduce <u>displacement</u> and <u>homelessness</u>. Strangely for an environmental review, the current process also does not note the positive ecological effects of concentrating population in walkable, transit-rich cities like New York with low carbon footprints, and reducing the demand for unsustainable sprawl outside of the city and region.

While ULURP should analyze the impacts of proposed new land use actions, any comprehensive plan should consider the aforementioned impacts of prior land use actions to make sure the city does not repeat the same mistakes it has made in the past.

In sum, we believe that the current charter review process is a good opportunity to focus planning on the city as a whole, and reevaluate it in light of the major affordability and climate crises of our time. While the current process is broken, the commission must be mindful that the problem is of too little new homes in New York, not too many. If changes to New York City's land use planning framework are made, we hope that they focus on the development of a coordinated approach to accommodate population growth without sprawl and displacement, and that procedures be changed in a way that streamlines, simplifies, and depoliticizes land use decisions and forces them to conform to a greater plan.

Signed:
Lauren Catherine Thomas
David Anderson
M Rz
Andrew Karas
Rafael Solari
Matthew Budman
Thomas Hansen
Stanislaw Ratkowski
Jorge Romero
Ben Wetzler
Elisabeth Weaver
Andrew Thompson
Wilson Li
Christopher Baratta

Dennis Griffith
Michael Kearney
Caley Jack Steward
Daniel B Smith
Sarah E. Dunn
Jacob Boysen
Jackson Kernion
Nathaniel Thompson
Kyle Moore
Nathan J. Mehl
Chris Durrance
Dylan Miles
Stephen Foglia
Chris Grenga
Travis Feehan
James L. May
Alan Gerber
Erik Nilsen
Susannah Glickman
Elizabeth Fitzpatrick
Brendan Buckley
David Moo
Immanuel Gilen
Vaughn Campbell
Rachel Soszynski
Josh Cohen
Ryan Pollock
Alex Shebanow
John Pepen
Alec Kubas-Meyer
Breton Fischetti
Evan Dean
Max Livingston
Michael Coenen
Paul Caine
Joshua M. Taylor
Professor Michael Lewyn, Touro Law Center
Samir Lavingia
Christopher Hogg
Daniel Crandall
Tristan Siegel
Bernard Gordon
Shawn Convery

Yefim Kelmanskiy
Scott Howard
Joshua Morrison
Gillian A Flowers
Martin Clark
Paul Barrett
Timothy Kelleher
Laura Lyons
Noah Davis
James Cole
Matthew Hendrickson
Max Howald
Eli Brockett
Jacob Anbinder
Christopher Goode
Mike Cherepko
Spencer Heckwolf
Erez Mossek
Casey Berkovitz
Alex Kouzemtchenko
Nicholas Iorio
Benjamin Townsend
Charles Alwakeel, AIA
Matthew Santoyo
Nathaniel Elkins
Michael J Kaess
Utku Ural
Alex Rubin
Douglas Hanau
Thomas Smith
William S. Thomas
Daisuke Oh
Jake Schmidt
Dan Miller
Benjamin Carlos Thypin
Ken Ayub
Stephen Jacob Smith
Max N. Coyne-Green
Ilya Schwartzburg
Lawrence Velázquez
Matthew Frank

John Shapiro

By way of introduction: For 25 years I was a principle of Phillips Preiss Shapiro Associates, where my citywide work included the waterfront zoning study and the city's open space and park policy plan (both for Mayor Koch), as well as loads of local work for City agencies and community groups in every borough. One of these won the nation's top planning award in connection with a participatory planning methodology, and remains in use, nationally, by the Local Initiatives Support Corporation. Outside of NYC, I was a consultant preparing the master plans for (among other places) Newark, Stamford, Washington DC, and Yonkers; in addition to policy white papers for the Philadelphia master plan. I have frequently worked with the Regional Plan Association, and have prepared regional plans for Central Connecticut, Southeast Connecticut, and the Harlem Valley, Upstate. More recently, I was the lead facilitator / mediator for both the SPURA / Essex Crossing (during Mayor Bloomberg) and the East Midtown up-zoning (during Mayor de Blasio). I was a president of the local chapter of the American Planning Association for two years, and for eight years the Chair of Pratt Institute's Graduate Center for Planning and the Environment—where I am now a full-time professor.

***

With regard to a Comprehensive Plan (and planning), the present Charter proposal retains unbridled Mayoral control of planning, and is unacceptable in my view. The plan is not without merit. It responds to the fact that New York City (NYC) is, by its sheer size and complexity, incapable of planning in exactly the same way as the rest of urban America; and the amalgamation of agency and other reports would lead to cross-checking plans for inconsistencies.

However, the loophole would be to resort to ever shorter-and-shorter reports composed of mom-and-apple-pie propositions that wash over disagreements in policy or action to maintain maximum independence for the agencies and is tolerated because it also affords maximum flexibility for the Mayor. The current proposal does not respond to the wish for more participatory and a moderation of top-down, planning-related decision making about the future of the city and its neighborhoods. Further, if the Comprehensive Plan ("Comp Plan") is the singular product of the mayor then in office, it lasts only so long as that mayor serves in office. That's not long-range planning.

The simple answer is to have the Mayor (the Department of City Planning (DCP) / Office of Long Range Planning) prepare the Comp Plan, subject to the approval of the City Planning Commission (CPC) and then the City Council. This is how it is normally done in the United States: executive preparation followed by legislative adoption. The only way for the Mayor to forestall potential City Council grandstanding is to arrive at a politically articulate and popular plan, leading to participatory methods at least on the citywide level. Differences between the Mayor's draft and the City Council could be subject to a reconciliation methodology. Over time, the plans would get better, though they might (sadly again) instead devolve into mom-and-apple-pie statements.

… So, we need to go further.

I urge making 197a plans official addenda (not advisory) to the Comp Plan, provided they are approved ultimately by the City Council, and subject to the veto of the Mayor, in which case there is a reconciliation process. Will this result in parochialism? Not if the Comp Plan indicates fair share for NIMBYs, affordable housing, allocation of parks, etc. Will the Mayor (or CPC, which the Mayor effectively controls) gut the 197a plan? Not without risk of alienating Council Members, or being embarrassed in the

reconciliation phase. Will the Mayor still create a fuzzy mom-and-apple-pie Comp Plan? Not likely, because the broader the Comp Plan, the more divergent the 197a plans will be, to the chagrin of the Mayor; the more articulated the Comp Plan is, the more likely that Citywide policies and priorities will be realized.

This "cross-acceptance" method of comp planning would be best achieved in concert with the following:

(1) Long range capital budget planning is returned to a combined DCP / Office of Long Range Planning.

(2) Community Board (CB) staffs are enhanced; CB members are appointed by a wider range of officials to assure more diversity; and CB members must comply with annual continuing ed standards.

(3) The Mayor does not make the majority of appointments to the CPC.

(4) The City Council abandons the custom of member privilege for the central Comp Plan document.

(5) The environmental review process (CEQR) is revised to ease the adoption of Comp Plan / 197a plans. (Revised rules for Generic Environmental Impact Statements (GEISs) can provide the solution, I think.)

(6) The reconciliation entity is designed to be comprised of people without obligation to the appointers, e.g., only people who are mutually agreed upon by multiple appointers.

(7) The "fair share" rules for the allocation of amenities like parks consider redressing (a) accumulated City disinvestment and (b) environmental justice; plus, the fair share rules for development fully considers the risk of secondary displacement, with countermeasures.

The Mayor's DCP / CPC would function mainly as a regional planning entity with more authority than usual; CBs would function as typical municipal planning boards with less authority than usual; the shared authority of the Mayor and City Council, with the reconciliation methodology, generally assures transparency, accountability, and reasonableness.

After all: Our population exceeds that of Ireland, and our demographies, densities and uses run the wildest gamut imaginable—so central authority is needed for us to be successful at the metropolitan level. Yet with that variety, and because every Community District (CD) has the population and dimensions of a typical U.S. city—there is no excuse that there is neither reason nor the human and financial resources at the local level to have meaningful local planning. The answer is a mediated balance between long-range metropolitan priorities and local needs and preferences. This can be achieved through cross-acceptance governance for planning, like (though of course not necessarily) the one I posit here.

The intent is to line up the incentives to improve planning with Mayoral leadership, legislative oversight, and meaningful bottom-up participation —as well as with more transparency and accountability. I have been in the field for 40+ years, and have heard the same complaints about ornery CBs, the non-responsive DCP, the too-generic (yet overly complex) Zoning Resolution, the absence of a Comp Plan or vision, etc... irrespective of who was mayor. So, the issue is not the politics or the compelling issues of the day (e.g., attracting investment in the '80s; controlling growth in the 2010s), but how incentives line up whatever the politics and issue. Every Charter Review represents an almost-once-in-a-lifetime opportunity to get things right *from multiple perspectives*—never perfect, but surely better.

The Municipal Art Society of New York

MAS NYC

September 27, 2018

MAS Comments on the New York City Council Charter Revision Commission 2019

Background

Founded in 1893, four years before the adoption of New York City's first charter, the Municipal Art Society of New York (MAS) has had a long history of advocating for sound land use and planning policy. As part of our advocacy, MAS has provided input on several City Charter revisions throughout the years. From a historical perspective, we find that many of the issues from previous Charter revision efforts remain relevant today, and are central to the revisions under consideration by this Commission.

Since the release of our 2013 *Accidental Skyline* report, which examined the proliferation of supertall buildings in the city, MAS has been a strong voice in supporting new rules and regulations to protect our public assets such as light, air, and open space, and preserve the character of the city's neighborhoods from out-of-scale development. As pressure mounts and communities face the prospect of long-term negative impacts of unsound and inequitable land use decisions, the time is ripe for this Charter revision.

Community-Based Planning

Based on our reviews of large-scale rezonings and other developments, we find that current public review processes do not facilitate effective community input, and that long-term, community-based planning initiatives meet strong resistance from the City.

In 2018, the City is well on its way to setting a record number of approvals for zoning map amendments. By June, the City certified or approved 38 amendments, and based on recent trends we expect that they will likely surpass 50 approvals by the end of the year. Most concerning about this record number of approvals is the lack of community engagement in the process. Only four out of this year's 38 zoning map amendments have gone through an extended public review. These include the City-initiated Inwood and Jerome Avenue neighborhood rezonings, the 80 Flatbush Avenue proposal in Downtown Brooklyn/Boerum Hill, and the Bedford-Union Armory project in Crown Heights.

As New York City continues to grow each neighborhood must accept a fair share of necessary development and understand the role development plays in achieving the fundamental social, physical, and economic needs of the city; and residents, given greater responsibility in land use decision-making, can effectively increase the equity with which the city develops.

In summary, MAS believes that the City needs to give genuine consideration to community-based land use plans including, but not limited to, those created under Section 197-a of the current Charter, rather than focusing primarily on private development application-based decision-making.

MAS supports the creation of an Office of Community-Based Planning, with oversight provided by the Public Advocate's office, and revisions to the Charter that require Community Boards to present district-wide plans on a regular basis; at periods to be determined. Moreover, land use proposals submitted by private applicants should be required to conform to local 197-a plans or district-wide community plans. MAS also supports the development of a citywide planning framework, including a shared set of citywide development priorities, which local 197-a plans and district-wide community plans should both help shape and conform to.

1

ULURP & Environmental Review

The City Charter should institute a pre-ULURP process, which would allow for public input into development plans before projects are officially certified. Through this process, the City would disclose application information and hold public meetings to garner input from communities to ensure that major issues are identified and discussed at the beginning of the planning process.

The City Charter should also strengthen the City's CEQR process. The full disclosure and evaluation of the potential effects of discretionary actions by the City is critical to the land use process. CEQR documents, to the extent practicable, must accurately identify the full extent of potential development that would result from a land use action and effectively evaluate the full array of expected impacts.

City Charter revisions also need to strengthen mitigation requirements for adverse impacts identified in the CEQR process by making the Office of Community-Based Planning responsible for conducting environmental review of plans initiated by Community Boards or other local organizations.

The City could also require follow-up technical memoranda, where applicable, to resolve issues raised by community boards and Borough President's offices in their respective project resolutions about findings and conclusions in Environmental Impact Statements (EISs). The City should also establish penalties for misrepresentations and inaccurate information in project applications (including EISs, building permit applications, and documentation submitted to the Board of Standards and Appeals).

Agency Structure

MAS opposes amending the Charter to allow the City Planning Commission (CPC) to make final determinations on all administrative land-use permits, such as certifications, authorizations, and special permits, as this would diminish the City Council's role in the CPC Special Permit process.

MAS is also strongly opposed to unnecessary changes to landmark designation procedures that involve the CPC. Even more distressing is the idea of reorganizing the Landmark Preservation Commission (LPC) to become a division of the Department of City Planning. MAS believes that the landmark designation process should remain entirely within the scope of an independent LPC.

Municipal Open Data

MAS firmly believes that accessible open data is critical to government accountability and policymaking. As MAS has previously advocated, the City must incorporate Zoning Lot Development Agreements (ZLDAs) into the MapPLUTO datasets including specific information on the quantity of development rights transferred, the receiving lot, and the sending lot. This simple reform would merely make public records easier to access and improve transparency in development potential for parcels across the city.

Furthermore, MAS asks that the City collect data on retail vacancies and maintain a publicly available, updated list. The creation of a register of retail vacancies would provide crucial insights for addressing and reducing retail vacancies that plague neighborhoods across the city.

Thank you for the opportunity to comment on this critical matter.

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MAS Comments to the New York City Charter Revision Committee 2019 regarding the Preliminary Staff Report

May 24, 2019

The Municipal Art Society of New York (MAS) has been providing input on the City's Charter revisions since our founding in 1893. With this unique historical perspective, we have observed an increasing number of neighborhoods experiencing long-term, negative impacts of unsound and inequitable land use policy. Many New Yorkers believe that they do not have a true voice in decisions regarding the allocation of funds, changes to zoning regulations, and overall development in their neighborhoods.

As we engage in the first major Charter overhaul since 1989, we see an incredible opportunity to effect meaningful changes to remedy these issues. MAS is encouraged that many of these reforms have been identified in the *Preliminary Staff Report* as potential Charter revisions under consideration by the Commission.

MAS provides the following comments and recommendations regarding the positions taken in the *Preliminary Staff Report* that we urge the Commission to consider.

Public Advocate

We believe that the Commission should expand the power of the Public Advocate beyond the role defined in the Charter today. The Public Advocate should be obligated to annually review policies covered under the City's Fair Share criteria and examine citywide planning concerns such as public school capacity, inclusionary housing, the siting of public facilities such as homeless shelters and jails, major infrastructure investments, and actions that could result in residential and commercial displacement.

MAS also supports providing the Public Advocate with subpoena power, elevating the office to the same level of oversight as the Comptroller who currently has the power to check and balance the Mayor on fiscal issues. The Public Advocate should have similar powers for service issues, as envisioned by the 1989 Charter Commission. MAS firmly believes that incorporating the voice of the Public Advocate, as a citywide elected position, into these processes by way of subpoena power will allow the Public Advocate to better serve as an ombudsperson for all New Yorkers.

Borough Presidents

As a planning and preservation advocacy organization, we value the role that Borough Presidents play in land use and policy decisions. MAS therefore recommends that the Commission amend the Charter to require that agencies provide Borough Presidents' offices with documents and records relating to matters in their jurisdiction. This is especially important for projects subject to ULURP where Borough Presidents' input, though currently advisory, often carries significant weight in decisions made by the Department of City Planning and the City Council.

Land Use

MAS has long believed a pre-certification process is needed to bring about meaningful public discourse in the ULURP process. All too often by the time a project has been certified, there is the sense that it is a veritable "done deal," and that meaningful public input is not considered. Therefore, we strongly recommend that the Commission establish a pre-certification engagement process to provide more time and an earlier opportunity for Community Boards and

Borough Presidents to weigh in on land use applications subject to ULURP. We recommend a minimum 60-day process, which must include a public meeting to be hosted by the affected Community Board and Borough President. Along with improving the ULURP process, we would be remiss if we did not mention that we strongly advocate for strengthening the City Environmental Quality Review process as well, especially mitigation requirements for projects that result in significant adverse environmental impacts.

Planning

Planning, comprehensive or otherwise, has proven to be one of the more challenging issues considered under Charter revisions. From 1936 until 1975, the City Charter required a master plan. The requirement was repealed because no master plan had ever been fully implemented. Subsequently, it was replaced by a nebulous provision for "plans for the development, growth, and improvement of the city and of its boroughs and community districts." In addition, the *Preliminary Staff Report* identifies no fewer than 12 plans it considers part of a "strategic" or "comprehensive" plan for the city. These include Borough Strategic Policy Statements, Ten-Year Capital Strategy Plans, and 197-a Community Development Plans.

Since 1975, significant change has occurred in New York City through amendments to the City's Zoning Resolution. Some contend the Zoning Resolution is in itself the embodiment of comprehensive planning. MAS firmly disagrees. Comprehensive planning addresses issues such as infrastructure, schools, open space, transit, historic preservation, resiliency, and sustainability. On the other hand, the Zoning Resolution is limited to issues related to building density, bulk, and height.

A clearly defined comprehensive planning process that represents a shared vision for the entire city should be undertaken every 10 years. It should include citywide policy recommendations with coherent, borough-based plans for achieving those goals and targets. Furthermore, it needs to consider issues on a community, county, city and regional level in coordination with the Capital Budget. In this capacity, the Capital Budget should be looked at as a planning tool, especially with regard to ensuring that adequate infrastructure investments are in place to accommodate future development, which is a critical element to any long-term city planning process. In this way, we believe comprehensive planning would take a balanced approach to limited citywide resources and unique neighborhood challenges.

Given the *Preliminary Staff Report's* own admission that the "scattered approach the Charter currently takes" with regard to various planning requirements has exacerbated the "disillusionment and confusion" about comprehensive planning, it is clear the Commission needs to address this issue.

Conclusion

Thirty years since the last major revision, the time is now ripe for a major overhaul of the City Charter. Through our recommendations, MAS seeks expanded roles for the Public Advocate and Borough Presidents, true comprehensive planning, and an improved ULURP process.

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The City of New York
Community Board 8 Manhattan

FOR THE RECORD

Testimony of Community Board 8 Manhattan Chair Alida Camp
Before the New York City Council Charter Review Commission
September 27, 2018

Good evening Commissioners. Thank you for hearing my testimony. My name is Alida Camp. I am the Chair of Community Board 8 Manhattan (CB8M). The Board has not had the opportunity to determine fully which Charter provisions this Commission should examine.

I understand that there will be additional opportunities to testify. I would like to address only land use and landmarks.

CB8M supports additional financial and other resources to enable Community Boards to do their job properly. We support an urban planner for each community board. However, we urge this Commission to propose that such resources be provided by the Borough Presidents' offices.

CB8 recommends a stronger, more robust community-based land-use planning process. We would like to see greater emphasis on community assessment of social and environmental factors in considering land use plans. Land use affects our communities. We deserve, and accordingly, recommend that Community Boards have a greater role in the planning process, including policy-making, to be sure that all community concerns are heard and considered.

New York is a large and diverse city. The great diversity of age, religion, culture, race, ethnicity, and income are what create the vitality that attracts businesses, visitors, and residents. We are well situated to assess impact of land use decisions on the diversity and quality-of-life in our communities.

REBNY testified before the 2018 Charter Review Commission. We anticipate that it will testify to the same, or closely-related points, before this one. We emphatically oppose stronger as-of-right development, including allowing the CPC final determination on administrative land-use permits.

We are gravely concerned about the extent of development in our community and across New York. We further reject any attempt to displace the City Council in land use decisions. These decisions are at the heart of New York. Many, if not all, issues and problems facing New York, such as affordable housing, displacement of long-term residents because of ill-considered gentrification, sufficient educational resources, overburdened infrastructure, lack of green space, particularly in CB8, loss of small business, and environmental deterioration, for example, flow from the overdevelopment we are seeing.

We further believe that the entire ULURP process should be transparent. Transparency would include an evaluation of whether self-certification benefits New York.

Individually, I ask for comprehensive community plans before further building permits are issued. I want to know the impact of these buildings on my community as well as around New York, where we are seeing out-of-context construction.

CB8 wants to know that there are provisions to provide for affordable housing for those New Yorkers that cannot afford market rate housing. New York should be a city for everyone, at all economic levels. We ask that sufficient resources be provided for affordable housing and that the need for and commitment to affordable housing be a part of the Charter.

CB8 urges the Commission to include a revision to provide for notification to Community Boards as soon as any land-use applications, including as-of-right and commencement of the ULURP process, are filed. We further recommend that applications indicate in which Community Board the project is filed, enabling prompt notification to the Boards.

CB8 supports the expansion of ULURP to land owned by NYCHA and enforcement of deed restrictions on land held for the public benefit.

The Landmarks Preservation Commission has the critical task of preserving New York's valuable history and architecture. We strongly urge the Commission to support and enhance the LPC's role, and that of Community Boards in landmarks designation and application reviews, and to recognize the importance of preservation in the dynamic fabric of New York.

Finally, CB8 urges this Charter Review Commission to continue to allow for a robust, significant role for Community Boards, as the voice of New York's diverse local communities, in the land use and landmarks processes.

Thank you for your time.

Alida Camp
Chair

cc: Honorable Bill de Blasio, Mayor of the City of New York
        Honorable Carolyn Maloney, 14th Congressional District Representative
        Honorable Gale Brewer, Manhattan Borough President
        Honorable Liz Krueger, NYS Senator, 26th Senatorial District
        Honorable Dan Quart, NYS Assembly Member, 73rd Assembly District
        Honorable Rebecca Seawright, NYS Assembly Member 76th Assembly District
        Honorable Ben Kallos, NYC Council Member, 5th Council District
        Honorable Keith Powers, NYC Council Member, 4th Council District

A100

2018 City Charter Revision Commission Testimony
Oksana Mironova, Housing Policy Analyst, Community Service Society of New York
September 27, 2018

My name is Oksana Mironova and I am a Housing Policy Analyst at The Community Service Society (CSS), an independent nonprofit organization that addresses some of the most urgent problems facing low-income New Yorkers and their communities.

Thank you for this opportunity to comment on the New York City charter.

1. Public property disposition for public benefit

Given the diminishing supply of public property and the great need for affordable housing, open space, and public facilities, the disposition of public property should serve pressing community needs. We recommend:

- Requiring the city to prioritize public benefit in the sale or lease of all public property, rather than selling or renting it "only for the highest marketable price or rental".

- Defining a process for measuring public benefit that prioritizes the most pressing community needs.

- Developing a comprehensive process for public property disposition that is connected to a city-wide planning framework.

2. Affordability protection

The charter devotes multiple pages to the process of land use review, but does not define the metrics or goals for measuring the impact of the land use actions. While explicit guidance and methodology should be left to the City Environmental Quality Review (CEQR) Technical Manual, major methodological gaps have repeatedly underestimated displacement pressures and socioeconomic impacts resulting from land use changes (see Pratt Center's *Flawed Findings: How NYC's Approach to Measuring Displacement Risk Fails Communities* and RPA's *Inclusive City*). We recommend:

- Updating the environmental review language within the charter to be more prescriptive about the goals and methodology of the environmental review process.

- Requiring the mayor, in consultation with community and agency experts, to establish a criteria for measuring displacement risk, including the potential for direct, indirect, chain, and exclusionary displacement.[1]

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[1] Peter Marcuse, Gentrification, Abandonment, and Displacement: Connections, Causes, and Policy Responses in New York City, 28 Wash. U.J. Urb. & Contemp. L. 195 (1985)

- Requiring the city planning commission to conduct a city-wide analysis of displacement risk using said criteria. The criteria should be employed with explicit goal of meeting the city's fair housing goals (as established by *Where We Live NYC*) and ensuring a no net loss of affordable units.

- Employing the criteria in the environment review process for all future land use actions.

- Requiring the tracking and reporting of displacement and socioeconomic neighborhood change after land use actions are approved, to measure impact.

- Mandating a review of the City Environmental Quality Review Technical Manual by community and agency experts every five years.

3. Develop a framework for comprehensive community planning

Multiple city agencies are currently in the midst of multiple planning efforts, including *Housing New York*, *NextGen NYCHA*, *Turning the Tide*, all long range efforts to address affordability and homelessness; *Where We Live NYC*, a fair housing effort; as well as *OneNYC*, an environmental sustainability plan. These plans intersect on the ground with other initiatives, including participatory budgeting, public health initiatives, transit and pubic space projects, all shaping public perception of, and experience with, the planning process. Without coordination, these approaches are at times at odds with each other and do not distribute benefits and burdens equitably across the city.

Without a comprehensive planning framework, neighborhood planning efforts have largely been coupled with rezonings. Since the neighborhoods targeted for rezonings are primarily low-income, residents and elected officials are often placed in an (unenviable) position of trading the potential for displacement for necessary improvements to public facilities.

The charter review presents an opportunity decouple neighborhood planning and the distribution of resources from zoning, a blunt tool which, within itself, is not effective at achieving equitable neighborhood-based outcomes. The city should use existing efforts, including citywide initiatives like *Where We Live NYC* and local 197a plans, to create a comprehensive citywide planning framework. The process for the development of this framework should:

- Meaningfully engage neighborhood-based organizations and the public at large, in addition to community boards and local elected officials;

- Acknowledge and mitigate displacement and affordability concerns;

- Develop local targets for housing and economic development, displacement protections, public facility citing, and sustainability benchmarks, among others,

2018 City Charter Revision Commission Testimony
Oksana Mironova, Housing Policy Analyst, Community Service Society of New York
September 27, 2018

underpinned by a consideration of racial and economic inequities between neighborhoods.

- Include a process for aligning the city's long-term capital strategy with the resulting framework.

- Include a process for aligning future land use changes and agency plans with the resulting framework.

Thank you again for the opportunity to offer our recommendations. For more information or if you have any questions, please contact me at 212-614-5412 or omironova@cssny.org.

A103

NYC PLANNING

STATEMENT BY MARISA LAGO, CHAIR OF THE NYC CITY PLANNING COMMISSION AND THE DIRECTOR OF THE NYC DEPARTMENT OF CITY PLANNING TO 2019 CHARTER REVISION COMMISSION
March 21, 2019

Good evening. My name is Marisa Lago. I am the Director of the Department of City Planning and Chair of the City Planning Commission.

My testimony will focus on three topics: the importance of continuing to rely on as-of-right development to meet the needs of a diverse and welcoming city, the necessity of having a workable ULURP process to create capacity for growth, and the role of the City Planning Commission and the Department of City Planning.

In New York, unlike other large, industrial-era U.S. cities, we are at all-time highs for both population and jobs. In 2000, we matched our previous peak, set in 1970. Since then, we have added over 700,000 people – an entire Seattle – and become far more ethnically diverse. And, we are continuing to grow.

If we cannot continue to make room for immigrants, for our children, and for future generations of New Yorkers, we will fail to meet the needs of our most vulnerable residents, and we will cease to be the diverse and welcoming city that has defined us through history.

As-of-right development is the lifeblood of our built environment. We should not threaten it by increasing the number and type of land use actions that are subject to ULURP.
- Over 80 percent of new housing produced since 2010 has been built as-of-right. Without this development, approximately **300,000 New Yorkers** – an entire Pittsburgh – would not have the homes in which they live today.
- If, as in San Francisco, every project had to go through discretionary review, the number of housing units in our city would be far less, markedly increasing the pressure on our most vulnerable residents.

The existence of a sound, workable ULURP process is indispensable to creating the capacity for future as-of-right development, and to supporting the production of permanently affordable housing.
- Since 2010, about 30 percent of the new housing that has been built occurred as-of-right, following a ULURP-approved neighborhood rezoning that had increased the amount of housing that could be built.
- An additional 20 percent of new housing has come through ULURP as site-specific actions, about half through applications by private land owners and about half through projects advanced by the City.
- These City projects are typically 100% affordable housing, underscoring the fact that **producing affordable housing relies on a workable ULURP process.**

The ULURP process is premised on local input. It gives Community Boards the opportunity to weigh in first during public review, and it culminates at the City Council, enabling the local Council Member to

1

play a key role in the final decision. But, to ensure that land use decisions promote a more equitable city, these local community perspectives must be balanced with broader, city-wide views, such as the need to site necessary infrastructure and to meet the housing needs of future generations of New Yorkers.

- Creating enough housing for our growing population is fundamental to addressing displacement pressures in neighborhoods across the city. If our economic success continues, but we fail to provide housing for a growing population, we will become a city where housing is only accessible to the most fortunate.
- The City is doing more than ever to keep low-income tenants in their homes. In addition to a record commitment to fund legal services for tenants, HPD has preserved more than 83,000 affordable homes since 2014.
- While stronger rent regulation is part of the strategy, without sufficient new housing the size of our housing crisis – and the inequality of its distribution – will only grow.

Some express concerns that low-income neighborhoods bear the brunt of most new housing development. Others allege that our growth only serves the most fortunate. I share the passion for equity that underlies these concerns. But this Administration's policies are, in practice, promoting equity by producing housing in high-opportunity neighborhoods:

- Since 2015, the largest share of new housing construction (36%) has occurred in the 25% of neighborhoods with the highest median incomes.
- And about one-third of the new affordable housing that has been completed under the Mayor's Housing New York Plan was built in these same, high-income neighborhoods.

Finally, the **Department of City Planning (DCP)** is an indispensable resource to the **City Planning Commission (CPC)**, enabling this deliberative body to make informed decisions in the ULURP process.

- I have worked broadly around the world and have led the planning department in another major U.S. city. I can vouch that DCP is in a class by itself among municipal planning departments.
- The unique quality of our expertise is perhaps best epitomized by our Population Division, which has been the analytical backbone of the multistate legal challenge to the U.S. Census Bureau's proposal to add a citizenship question to the 2020 Census.
- DCP's expertise is also evidenced by the fact that other major U.S. cities routinely raid DCP staff to head their planning departments (Los Angeles, Pittsburgh, and Seattle, among others)
- The link between DCP and the CPC is vital to ensure that planning decisions are guided by sound information and analysis that is informed by both deep community knowledge and a necessary city-wide perspective.

Thank you.

NYC PLANNING

STATEMENT BY HOWARD SLATKIN, DEPUTY EXECUTIVE DIRECTOR FOR STRATEGIC PLANNING, NYC DEPARTMENT OF CITY PLANNING TO 2019 CHARTER REVISION COMMISSION
March 21, 2019

Good evening, Commissioners. My name is Howard Slatkin, and I am the Deputy Executive Director for Strategic Planning at the Department of City Planning.

The history of land use planning in the City Charter traces an arc from traditional, static notions of comprehensive planning to a practice of strategic planning that supports timely responses to a rapidly changing environment, and informs a robust public land use review process with data and consistent objectives.

The most recent attempt to create a citywide comprehensive plan was the 1969 Plan for New York City. Undertaken in part to enable the City to qualify for Federal public housing funds, it was outdated by the time it was complete, widely criticized, and never adopted.

Following the failure of the 1969 Plan, the 1975 Charter Revision Commission eliminated the requirement for a master plan, and established ULURP, to decentralize the land-use decision making process. The changes reflected the planning profession's broader shift away from comprehensive plans and other master-planning tools such as Urban Renewal.

In 1989, Charter revisions established a strategic planning function to help prevent the land-use decision process from becoming overly politicized and driven by short-term considerations. Instead of a master, or comprehensive, plan, the aim was to supply facts, analysis, and consistent objectives to help anchor decisions in clear planning rationales.

The City uses the strategic planning model today in a range of ways. Through OneNYC, the City has articulated principles and priorities for sustainable and equitable growth, including citywide goals for housing creation. DCP regularly undertakes strategic initiatives to advance citywide strategies that address planning issues of pressing significance. Recent examples are Mandatory Inclusionary Housing, Zoning for Quality and Affordability, and Zoning for Flood Resiliency. By using the Internet and a wide variety of interactive tools (the Community Portal, ZoLa, etc.), which the 1989 Charter commissioners could not have imagined, the Department today makes far more data and analysis available to both decision makers and to the public than ever before.

A106

There is sometimes a view expressed that if we already had a citywide master plan, the individual decisions that can be so challenging and contentious would become easier or even unnecessary. But it's important to recognize that there is no comprehensive plan that would obviate the need for informed and sensitive decision making based on detailed consideration of specific facts and local conditions. (It's also worth keeping in mind that local constituencies frequently ask that citywide programs, such as MIH and ZQA, be tailored and customized to address local priorities.)

In implementing the objectives of OneNYC, or any plan of such scale, goals and objectives often have inherent tensions and must be balanced. Take, for instance, the question of whether a plot of City-owned land within a neighborhood should be used for open space or affordable housing. There is no citywide plan that can predetermine an appropriate and equitable local outcome. This is the job of ULURP – it allows NYC officials to balance competing equities, based on sound information and consideration of all views and voices.

A nimble and practical approach to citywide strategic planning can support timely and equitable decision making, but approaches that require every land-use decision to be made twice or divert substantial resources away from action would detract from our ability to undertake responsive planning for New York City's dynamic environment and pressing needs.

PLANNING

STATEMENT BY ANITA LAREMONT, EXECUTIVE DIRECTOR, NYC DEPARTMENT OF CITY PLANNING TO 2019 CHARTER REVISION COMMISSION

March 21, 2019

Together with Community Boards, ULURP was established in 1975 as part of a set of Charter revisions that discarded top-down master planning and established a locally responsive land use decision making process.

ULURP was amended in 1989. It was then that the City Council's role was expanded to amplify the voice of communities in NYC's land use process.

ULURP today has three essential ingredients : **Balance, Predictability, and Transparency.**

Balance ensures both neighborhood and citywide perspectives are given weight in the ULURP process.

Community Boards and Borough Presidents comment first, ensuring decisions are informed early on by local perspectives.

Decisions are made by entities – the City Planning Commission and the City Council -- with responsibilities to the whole city. Decisions are informed but, we hope, not dominated by local voice.

Balance also refers to the shared power of the executive and the City Council that emerges from ULURP.

The 1989 Charter gave the executive a 1-vote majority on the Commission, but it gave the City Council the final word on every ULURP application.

The Council itself balances its role as a citywide body against its practice of giving a dominant voice to the local member on land use matters.

As such, local perspectives and the views of the Council are strongly represented and increasingly decisive in ULURP.

While some local voices feel the ULURP process does not give them a strong enough voice, we hear from affordable housing developers, Fair Housing advocates, and others, who see that local concerns are frequently winning out over the wider needs of families, immigrants, and others among the City's most vulnerable.

Predictability refers to access to a process with a finite timeline. This seven-month process provides opportunities to elicit and consider information that can and does affect the outcome, up to and including the decision whether or not to approve.

ULURP ensures that the City cannot, as in Chicago, sit on applications forever; nor can the City rush projects through in a week.

We strongly urge caution around proposals that would allow non-applicants to introduce amended applications during ULURP or that would significantly broaden changes that can be made at the very end of the process. This will undermine predictability and deter many from entering ULURP in the first place.

Transparency refers to ULURP's requirements for public notice and information. The process informs the public and ensures the rights of all parties, including applicants, to due process and the opportunity to be heard on changes that may affect them.

In making its decision, the Commission responds to all relevant comments and elaborates on the grounds for its decisions in a public report.

We see this basic process as sound, and caution strongly against changes that undermine its balance and predictability. We are, however, mindful of ways to make the process more transparent.

We are already making more information easily accessible to the public earlier in the process. Among our many new transparency tools, I will point to our ZAP portal, which maps all applications, and will soon make full applications available to all online.

We commit to working toward ever greater transparency.

Thank you.

NYC Department of City Planning

Attachment to Written Submission to the 2019 Charter Revision Commission

Examples of "Info Briefs" Providing Publicly Available Data and Analysis

- Since 2010, 80% of all new housing production, and nearly 90% of construction on privately-owned land, was as-of-right.
- Half of units requiring actions from the City Planning Commission were City-sponsored.
- About 28% of all new units were built in neighborhoods rezoned after 2000 to allow for more housing.

To better understand the role of land use review in facilitating new housing, the Department of City Planning analyzed the share of new housing completed from 2010 to 2018 that was built following site-specific discretionary approvals by the City Planning Commission (CPC). The analysis also considered how much new housing was built as-of-right – requiring no action from the CPC – including in areas where neighborhood rezonings adopted since 2000 increased housing capacity. The findings include:

As-of-right development is critical to new housing production in New York City. About 20% of new housing units completed since 2010 required CPC site-specific discretionary approvals. The other 80% of new housing units were built as-of-right, amounting to 136,500 units.[1]

Neighborhood planning is important to sustaining as-of-right housing production. Neighborhood rezonings[2] of the past two decades have contributed significantly more new housing (28%) than all site-specific approvals (20%).

Housing Units Completed 2010 - 2018

	%	Units
As-of-right[1] (based on zoning in place prior to 2000)	52%	88,600
As-of-right within neighborhoods rezoned post-2000[2]	28%	47,900
Publicly-initiated site-specific action	10%	16,400
Privately-initiated site-specific action	10%	16,100

As-of-right development[1]
New housing that complies with existing zoning regulations can be built as-of-right – requiring no action from the CPC – by filing for building permits with the Department of Buildings (DOB).

As-of-right within neighborhoods rezoned post-2000[2]
To plan for NYC's growing population, the City conducts neighborhood planning initiatives, which include rezoning appropriate areas to increase opportunities for new housing. Where a neighborhood rezoning since 2000 increased the permitted density of housing, it allowed for more new housing construction to proceed as-of-right.

Site-specific actions
Some land use actions enable the construction of a specific project. In such a case, an application to the CPC modifies zoning regulations for a limited area or grants certain special permissions. Site-specific CPC applications are typically also required for the sale or lease of City-owned land, for instance to allow for development of affordable housing. Thus, the applicant for a site-specific action may be a public entity, such as the Department of Housing Preservation and Development (HPD), or a private property owner.

1 All units that did not require CPC site-specific discretionary approvals are labeled "as-of-right," though they may have required other ministerial or discretionary approvals by the Board of Standards and Appeals, the Landmarks Preservation Commission or another City or State entity
2 Analysis includes only those specific areas within rezoned neighborhoods where the residential density was increased.

Completed Housing Units, by Year and Type of Land Use Action

- Privately-initiated site-specific action
- Publicly-initiated site-specific action
- As-of-right within neighborhoods rezoned post-2000
- As-of-right (based on zoning in place prior to 2000)
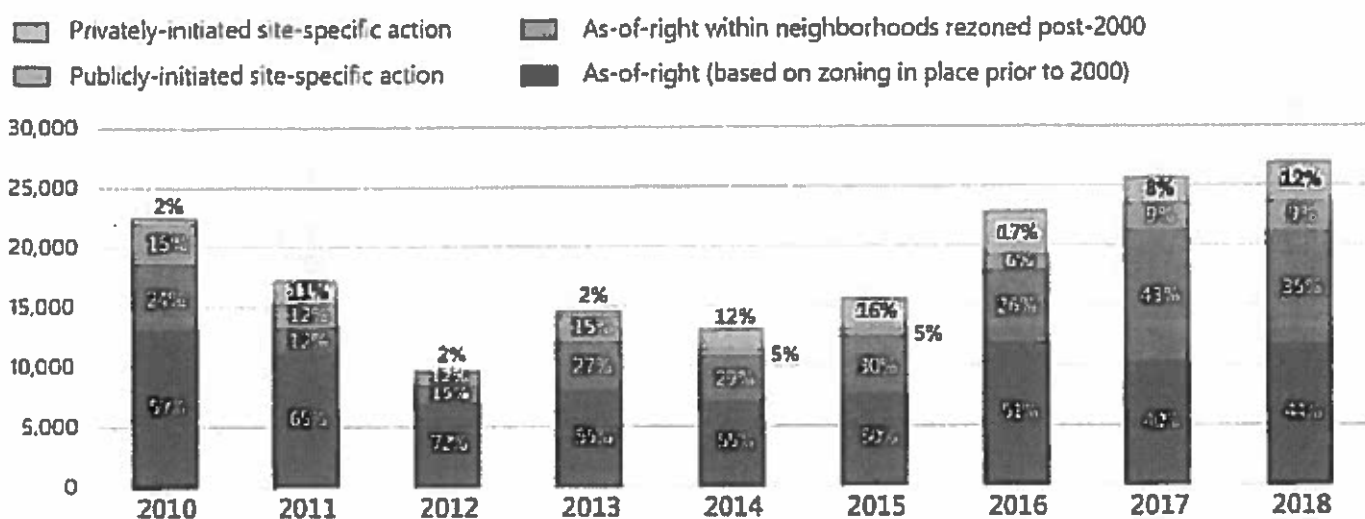
Other Findings

- Housing development on City-owned land, which typically consists of affordable housing, is subject to CPC approval through publicly-initiated site-specific actions.

- Considering only housing construction on privately-owned property[3] (which excludes units completed as a result of publicly-initiated site-specific actions), 89% of new housing units completed between 2010 and 2018 were built as-of-right.

- Neighborhood rezonings have played a significant role in supporting new housing creation: 28% of all new housing completed since 2010, about 48,000 new units, has been built as-of-right in areas where housing capacity was increased through a neighborhood rezoning post-2000.

- Neighborhood rezonings that have resulted in the most new housing units were in Long Island City, Greenpoint/Williamsburg, Downtown Brooklyn, Hudson Yards and West Chelsea.

- In recent years, the number of units built as-of-right in recently rezoned neighborhoods has increased, while other as-of-right production has not exceeded its 2010 level.

- While all housing production is related to economic cycles, the production of units from privately-initiated site-specific actions varies more widely during market cycles than other categories of housing development.

3. Privately-owned property encompasses all property that is not City-owned, including property owned by non-profit institutions.

Methods and Sources

The Department of City Planning created a spatial join between three databases

A. A housing database (version January 2019) of DOB Applications and Certificates of Occupancy data from 2010 to 2018, compiled by DCP. Units completed are based on the year of issuance of the first Certificate of Occupancy (Temporary or Final). The analysis is limited to New Buildings, Alterations or Demolitions are not included. The time period covered by this database defined the time frame of the analysis

B. A database of select site specific discretionary actions approved by the CPC between 2000 and 2015 (900 records), including Urban Development Action Area Projects and other dispositions, zoning map changes, certain Special Permits and Authorizations, and certain Modifications of Special Permits or Restrictive Declarations

C. A database of City-led area-wide rezonings approved between 2000 and 2015 (130 records for area-wide actions), where the change in permitted residential density was evaluated on a lot by lot basis, based on permitted residential density before and after the zoning change, per MapPLUTO.

The analysis only considered housing completions with permits issued after approval of the site-specific or area-wide land use action.

NYC Planning | March 2019 | How much housing is built as-of-right?

A112

- In 2017, 13+ story buildings accounted for five percent of new buildings, but almost half of new housing units.
- Taller buildings were concentrated in transit-accessible neighborhoods in Manhattan, Brooklyn and Queens.
- In the past decade, taller buildings have become increasingly important to producing new housing.

As the city's population continues to grow, housing construction is increasingly occurring in central locations and in buildings of more than six stories. This represents the continuation of a trend that began in the mid-2000s. All building height categories described in this info brief play a role in producing new affordable as well as market-rate housing.

Figure 1

New Housing Units and Buildings in 2017 by Building Height

Number of Stories

13+ story buildings accounted for 5% of new buildings, but nearly 50% of new units

Percent New Buildings

Percent and Net New Housing Units
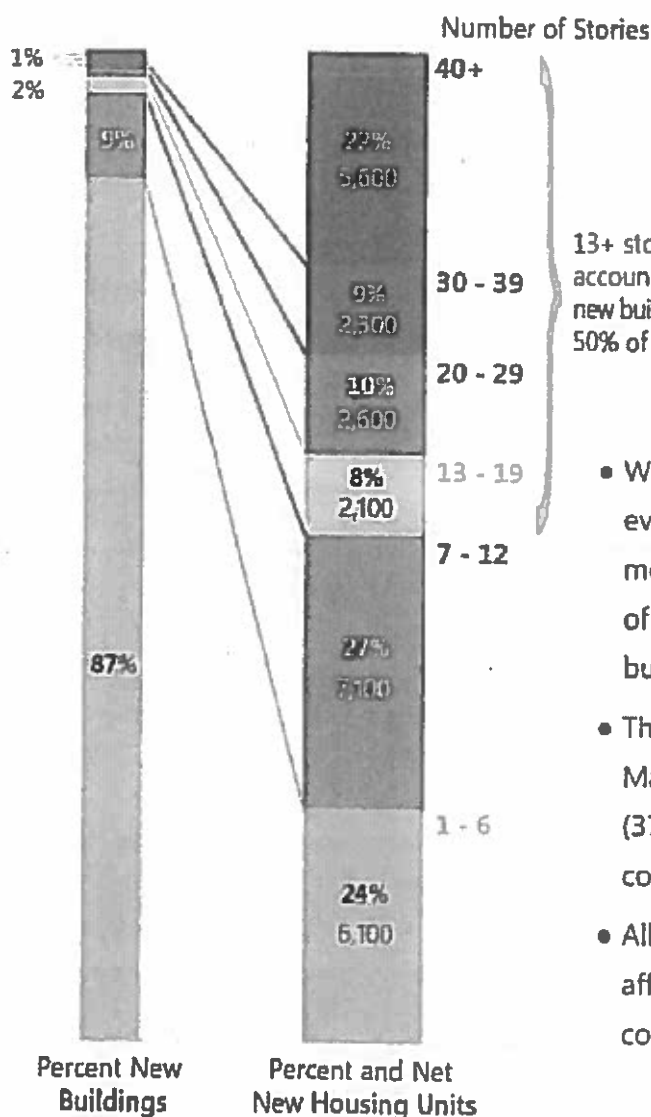
2017

- Almost 50 percent of the 25,800 units completed in 2017 were in buildings of 13 or more stories. These units were all in transit-rich neighborhoods.

- New units in one- to six-story buildings represented 87 percent of new buildings and 24 percent of new units, whereas buildings of 40 or more stories represented just one percent of new buildings, but 22 percent of new units.

- While buildings of 12 or fewer stories were completed in almost every neighborhood, buildings of more than 13 stories were mostly located in Manhattan south of 96th Street and portions of Brooklyn and Queens near Manhattan. All of these taller buildings were near mass transit.

- The share of new units in 13+ story buildings was highest in Manhattan (81%) and Queens (54%), followed by Brooklyn (37%) and the Bronx (23%). There were no 13+ story buildings completed on Staten Island.

- All building height categories included market-rate as well as affordable units. For instance, new buildings of 40+ stories completed in 2017 included close to 1,300 affordable units.

Building Height Trends: 2000 - 2017

- New units in one- to six-story buildings have decreased substantially since peaking in 2006, when they were 56 percent of new units; in 2017, they represented 24 percent. This is likely due to several factors, including shifts in the market, the 2006 sunset of a State tax exemption for one- to three-family homes, and building code changes.

- Every year since 2009, the majority of new units have been delivered in buildings larger than six stories. In 2016 and 2017, this share exceeded 70 percent of new units.

- Since 2015, 40+ story buildings have been an important contributor to new housing production in transit-rich neighborhoods, with a handful of large buildings accounting for about one-fifth of new units each year.

Figure 2
New Buildings Completed in 2017 by Building Height
- Thirteen or more stories
- Twelve or less stories

Source: DCP Housing Database, version March 2018
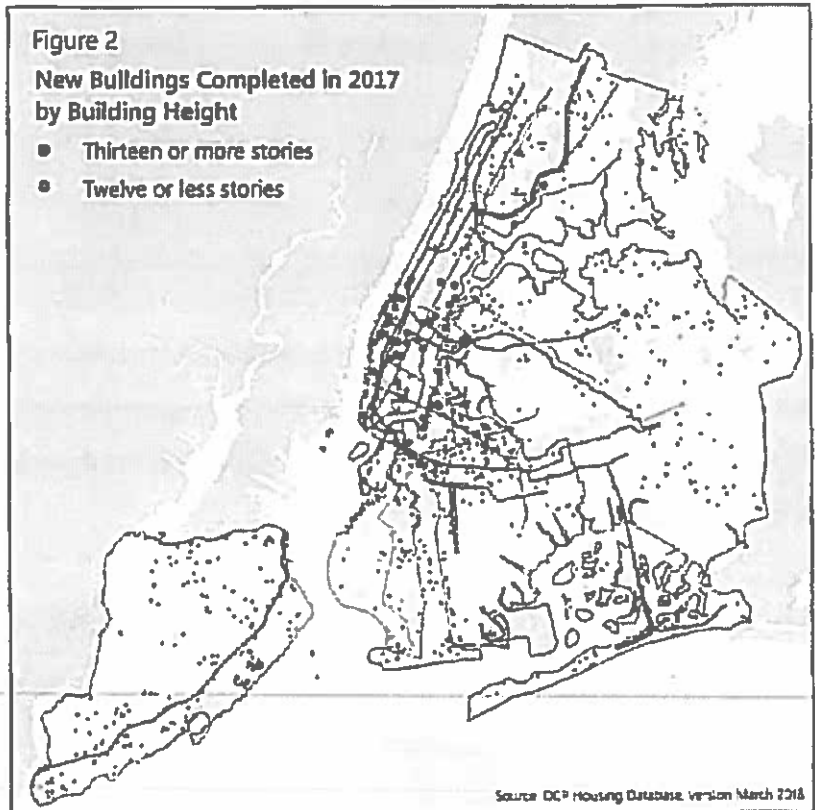
Figure 3
New Housing Units 2000 - 2017 by Building Height

Number of Stories: 40+, 30 - 39, 20 - 29, 13 - 19, 7 - 12, 1 - 6
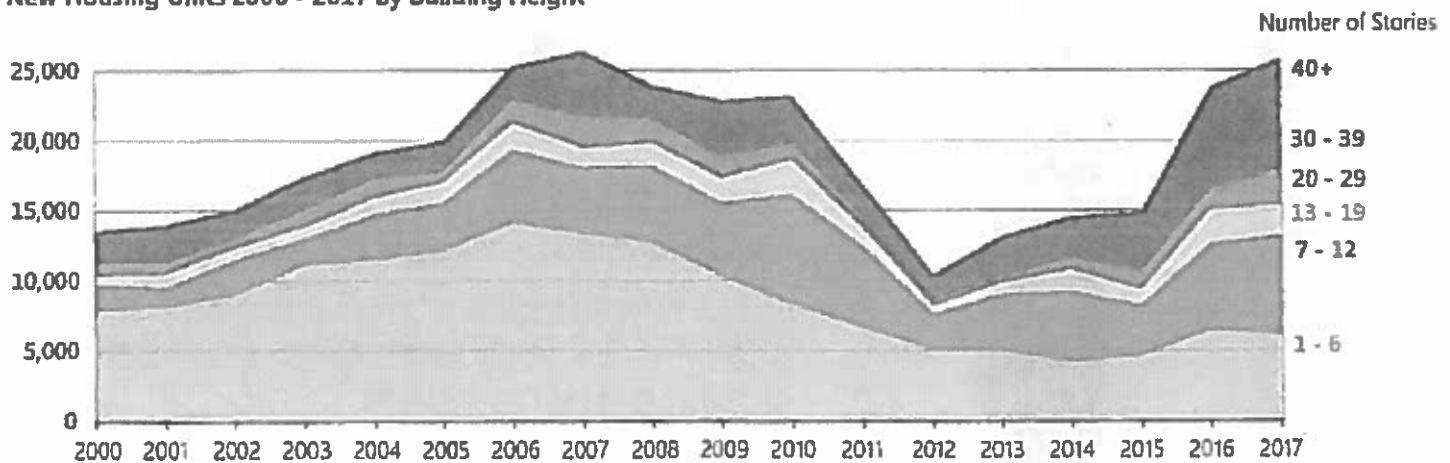
Sources and Notes

This analysis builds on another info brief called *2017 Housing Production Snapshot*, available at http://www1.nyc.gov/site/planning/data-maps/nyc-economy.page

The data is derived from Department of Buildings (DOB) Applications and Certificates of Occupancy data, which is compiled by DCP (version March 2018). The analysis is limited to New Buildings; units created through Alteration or Change of Use are not included. Where DOB lacked information regarding number of proposed stories, it was supplemented with DCP PLUTO data. Completed buildings are buildings containing units that received a temporary or final Certificate of Occupancy in any given year.

- About 25,800 housing units were completed in 2017, nearing peak levels of recent decades.
- Brooklyn led all boroughs, gaining one-third of the 141,000 units built citywide between 2010 and 2017.
- Over 79,000 permitted units are not yet completed, suggesting significant new housing completions for upcoming years.

New housing completions have increased every year since hitting a low of 10,000 new units in 2012, when the last ripple effects of the 2008 recession were felt in the NYC housing production market. A nearly unprecedented spike in housing permits in 2015, spurred by changes to the 421-a tax exemption program, kicked off a period of strong housing production. In 2016 and 2017, housing completions exceeded 20,000 units, nearing peak levels during the prior decade.

2017

- In 2017, 25,800 new housing units were completed. This is comparable to the last peak of 26,400 units in 2007.
- In Brooklyn, 11,000 units were completed in 2017, more than in any other year for the borough since 1964.
- Long Island City led all neighborhoods with 2,800 completed units in 2017.

2010 - 2017

- Between 2010 and 2017, 140,800 new housing units were completed. Over one-third of completed units were located in Brooklyn (35%), followed by Manhattan (27%), Queens (20%) the Bronx (14%) and Staten Island (4%).

- Despite high completions in 2016 and 2017, the long-term pace of housing completions is still slower than during the preceding eight years: between 2002 and 2009, 170,000 units were completed.

- The neighborhoods that added the most new units since 2010 include Long Island City (9,150 units), Williamsburg (8,200 units), Hudson Yards/Chelsea (7,350 units), Hell's Kitchen (7,100 units) and Downtown Brooklyn (6,300 units).

Figure 1
Completed Housing Units in New Buildings 2010 - 2017, by Neighborhood

Legend:
- 0 - 100
- 101 - 200
- 201 - 500
- 501 - 1,000
- 1,001 - 2,000
- 2,001 - 3,500
- 6,001 - 9,200
- Excluded Areas

NYC Department of City Planning, March 2018
Source: DCP Housing Database 18v1, compilation of NYC DOB Applications and Certificates of Occupancy data
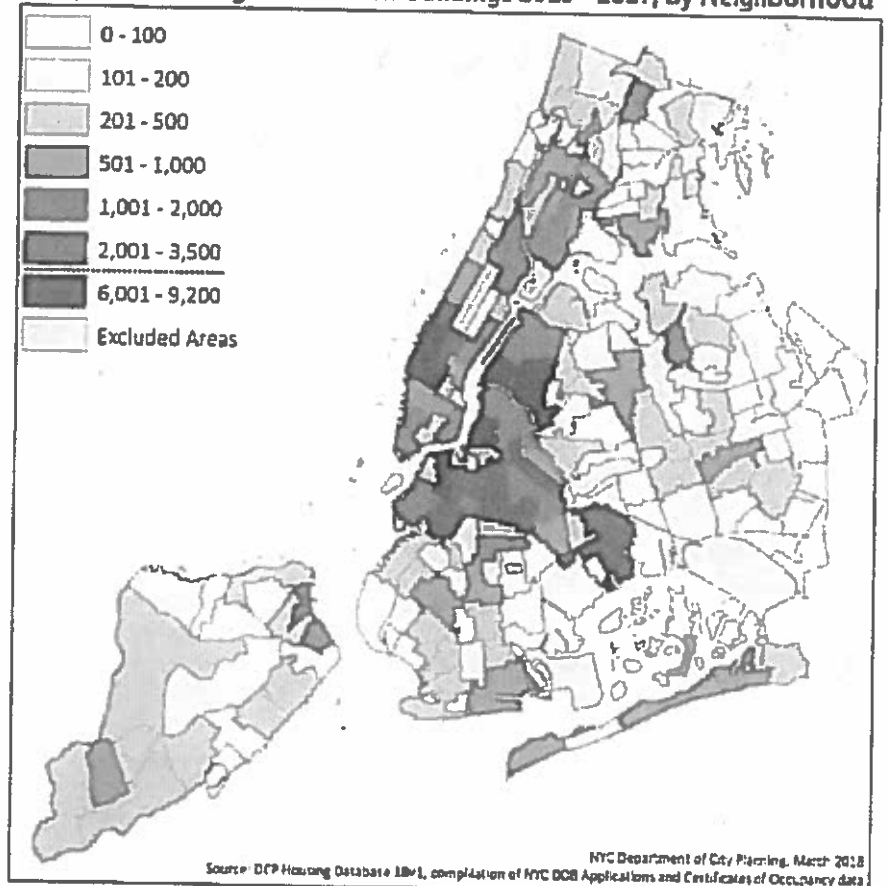
Figure 2
**Completed Housing Units in New Buildings by Borough
and Permits Issued from 2010 - 2017**
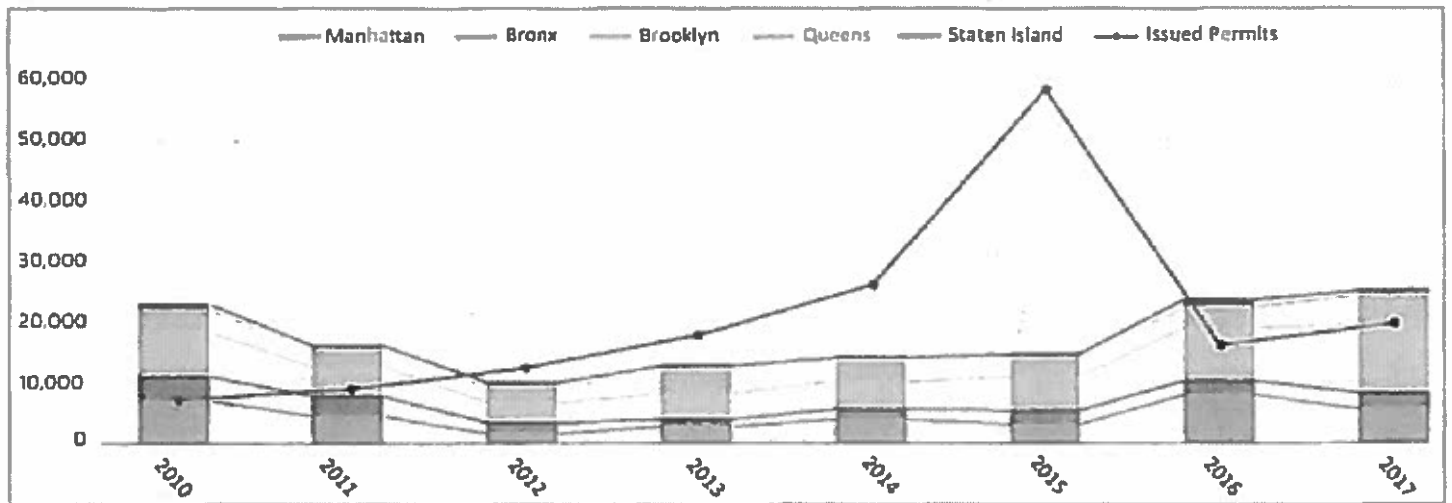
Figure 3
Housing Pipeline as of January 2018, by NTA

NYC Department of City Planning, March 2018
Source: DCP Housing Database (Rev) compilation of NYC DOB Applications and Certificates of Occupancy data
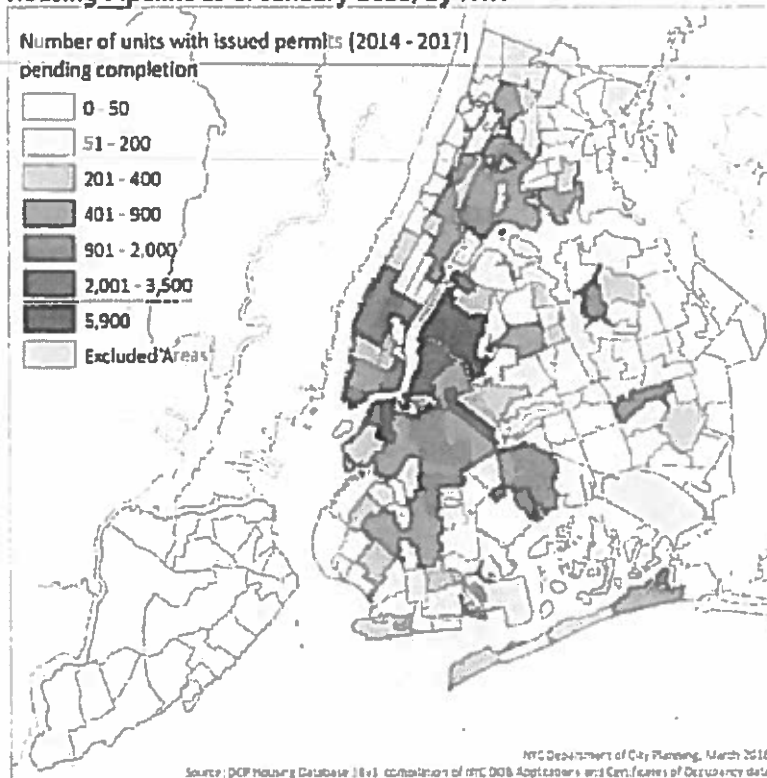
Housing Pipeline

- Citywide, over 79,000 housing units have been issued permits but have yet to be completed. These units represent the housing pipeline.

- In 2015 alone, permits for 57,600 units were issued – a spike spurred by changes to the 421-a tax exemption program. Only 30 percent of permits issued in 2015 have been completed as of the end of 2017.

- In 2017, 19,600 new housing units were permitted. This is an increase of about 3,500 units over 2016.

- Long Island City is the neighborhood with the most extensive housing pipeline: 5,900 units in total. It is followed by Williamsburg (3,200 units), Bushwick South (3,000 units), Greenpoint (3,000 units) and Central Midtown (2,600 units). Many neighborhoods in NYC have a negligible housing pipeline.

Sources and Notes

The data in this info brief stems from Department of Buildings (DOB) Applications and Certificates of Occupancy data which is compiled by DCP (version March 2018). The analysis is limited to New Buildings; units created through Alteration or Change of Use are not included.

The housing pipeline is calculated based on the number of job applications with permits that have not yet been completed. The estimate only includes units that were permitted after January 1, 2014. Units permitted pre-2014 that have not yet reached completion, or units that have not yet been permitted, were excluded.

The 421-a program allows property tax exemption benefits for new residential construction. For more information, see: http://www1.nyc.gov/site/hpd/developers/tax-incentives-421a-main.page

Background: Employment has been growing in all five boroughs. This Info brief summarizes portions of a larger report from the NYC Department of City Planning containing quantitative research on economic growth. This work is intended to inform land use planning, policymaking, and the public generally. For more information and a list of data sources, go to: nyc.gov/nyc-economy

Overview

- New York City gained 500,000 private-sector jobs between 2010 and 2015. This rapid growth in employment has outpaced the nation, with total employment reaching an all-time high of 4.1 million jobs in 2015.
- Private-sector job growth in all industry sectors has fully replaced job losses from the 2008 financial crisis.
- Health care, education, retail, and professional and other services lead other sectors in growth and total number of jobs.
- Non-manufacturing industrial sectors, such as construction and wholesaling, remain a significant source of employment.

NYC Annual Average Employment, 1978-2015
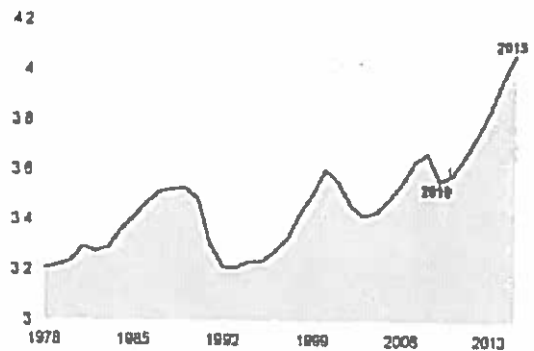
Source NYSDOL QCEW 2000-2015 and ES-202 historical estimates 1978-1999

Private Employment by Sector, 2010 and 2010-2015 Change

Job growth is occurring in all sectors, and continues to diversify the economy

- (+16%) Health & Education
- (+20%) Professional Services & Information
- (+16%) Retail & Other Services
- (+7%) Finance, Insurance & Real Estate
- (+32%) Leisure & Hospitality
- (+9%) Transportation & Wholesale
- (+20%) Administrative Support
- (+20%) Construction & Utilities
- (+2%) Manufacturing

2010 Jobs

Job Growth 2010 - 2015
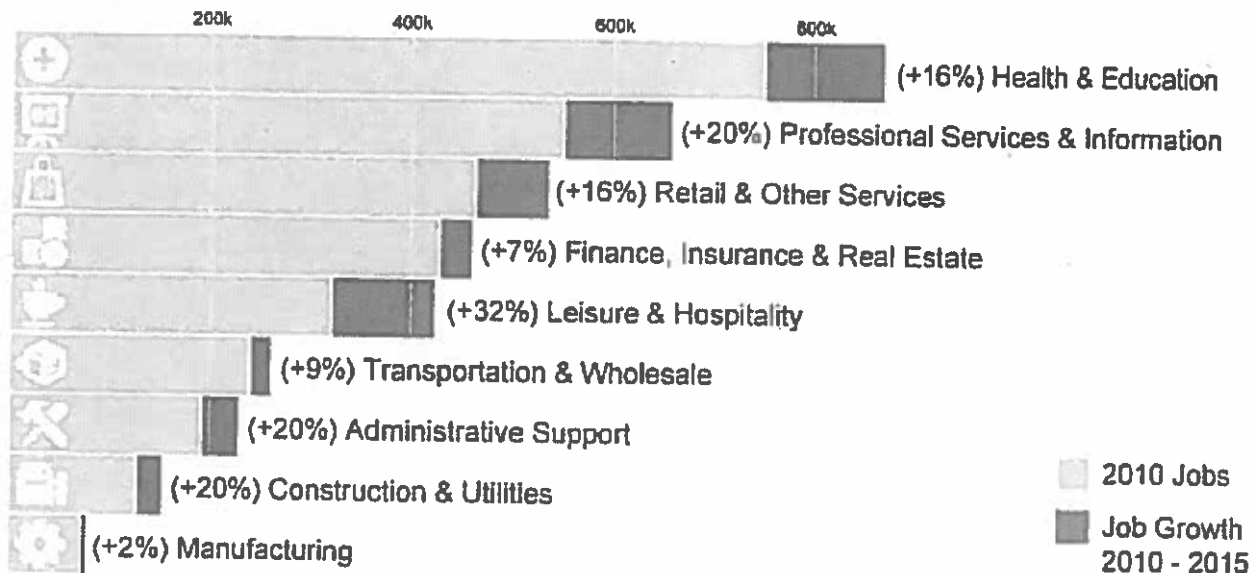
Source NYSDOL Current Employment Statistics, 2010-2015

- Industries are defined according the North American Industry Classification System (NAICS), a standard used by Federal statistical agencies to classify business establishments.
- Businesses in Professional Services typically require a high degree of expertise and training, such as legal advice, accounting, engineering and design services, computer services, or scientific research.
- Other Services include activities not classified elsewhere, such as equipment and machinery repair, grantmaking, advocacy, laundry services, and personal or pet care services.

Location of Job Growth

An analysis of which zoning districts saw job growth illustrates how each of these districts has contributed to meeting the needs of businesses and populations.

- High-density commercial districts in Midtown absorbed much of the job gains, but the boroughs outside Manhattan accounted for over 40 percent of job growth.

- Growth in health care and restaurants fueled job gains on local commercial streets and in residence districts close to growing populations.

- Job gains in manufacturing districts included both industrial and non-industrial jobs.

- There was growth in the office-based jobs outside Manhattan, but this represented a small share of new jobs.

Job Gains By Zoning District Outside Manhattan, 2010-2014
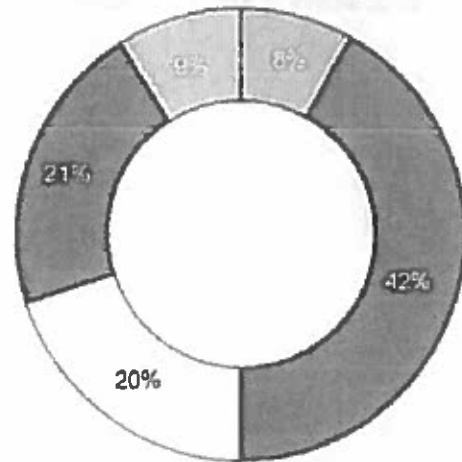
Source: NYSDOL QCEW 2010 & 2014 3rd quarter

Neighborhood Commercial Corridors
allow for local retail & services

Major Commercial Districts
allow for office & regional retail

Manufacturing Districts
allow for industrial & commercial activity

Mixed-Use Districts
allow for wide range of businesses

Residential Districts
allow for facilities such as schools & medical offices
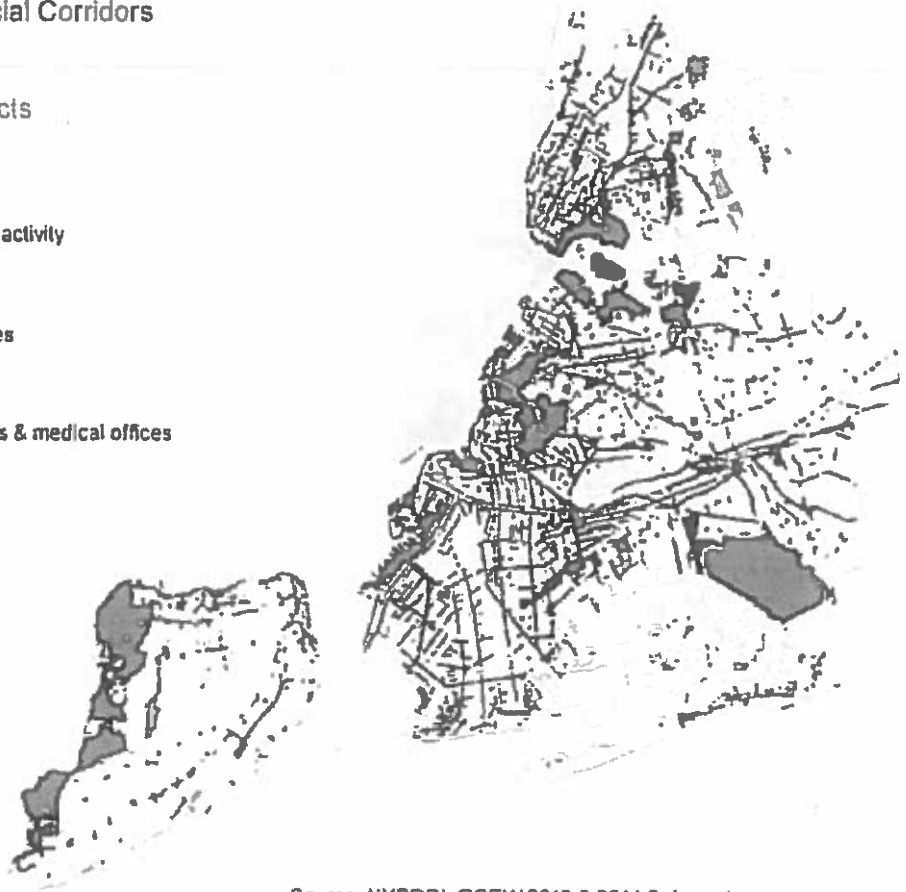
Source: NYSDOL QCEW 2010 & 2014 3rd quarter

New York City has 2.9 million resident workers without a college degree. In support of efforts to improve economic opportunities for all New Yorkers, this Info Brief presents the major findings of an analysis of occupation and wage data that provides detailed information on the employment and wage opportunities across different economic sectors for workers with different levels of education.

Overview

- Private employment in New York City reached an all-time high in 2016. The largest gains were in sectors in which employment is concentrated in lower wage occupations – food services and ambulatory health care -- as well as in highly paid professional services jobs. (See Figure 1).

- Several fast-growing sectors are a good source of jobs in occupations not requiring a college degree and paying decent wages (greater than $40,000).

- Of the nearly 4 million jobs in New York City, 1.7 million (43 percent) were in occupations that typically require only a high school diploma or less.

- Average annual wages for these occupations across all industries was $33,580. (See Figure 2).

- Food services (restaurant) and retail jobs accounted for over one-third of all the jobs available to workers with less education. Wages were below average in these sectors.

Figure 1: High Growth Sectors and Middle Wage Jobs

Change in NYC employment in top 10 fast-growing sectors, 2010-2016

Total jobs in occupations with average annual wages >$40,000 and requiring less than a college degree

Fewest,high wage jobs ← Less than 50,000 jobs | More than 50,000 jobs → Most high wage jobs

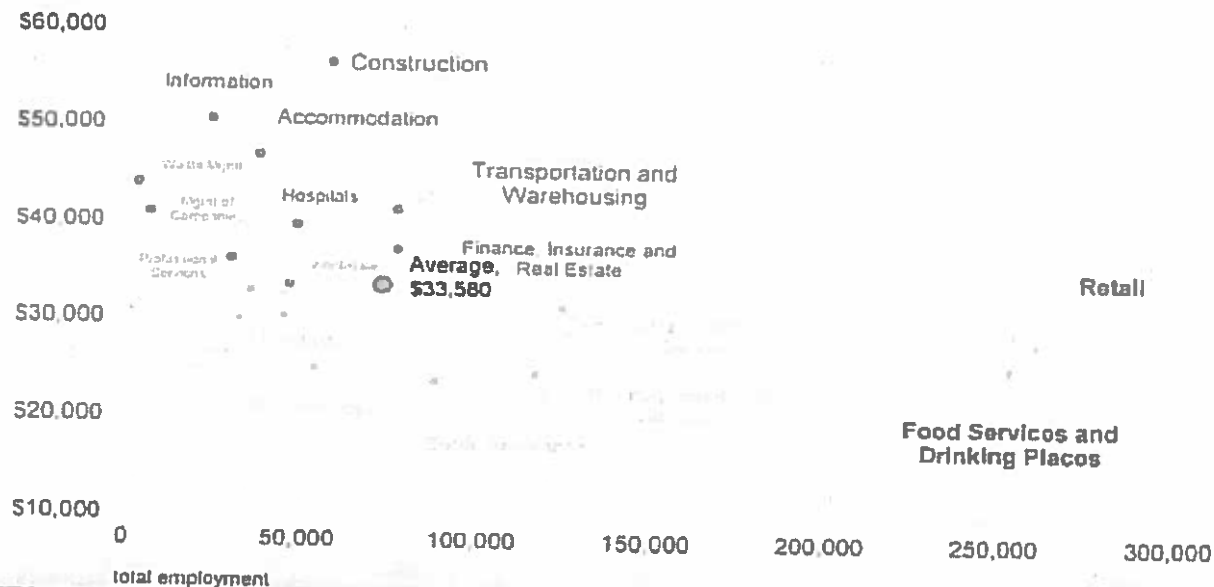*Finance, Insurance and Real Estate Services
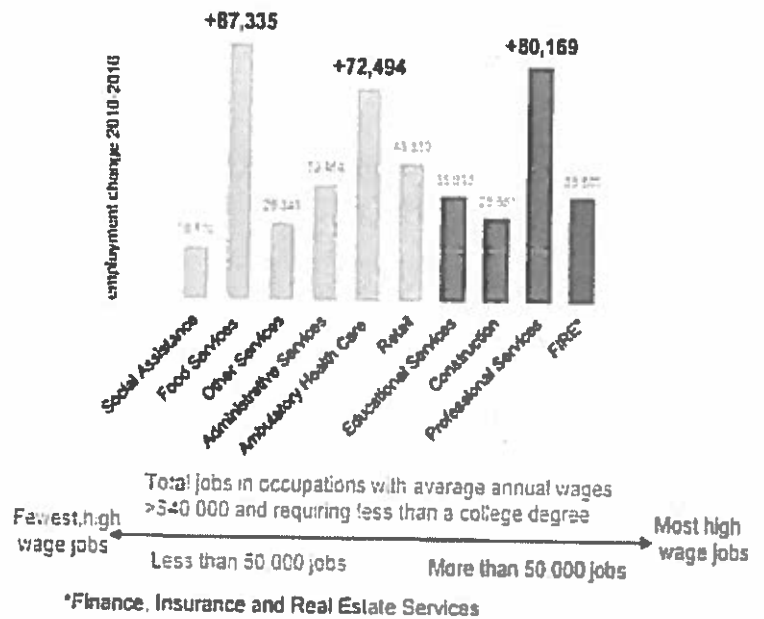
Figure 2: Occupations Requiring a High School Diploma or Less

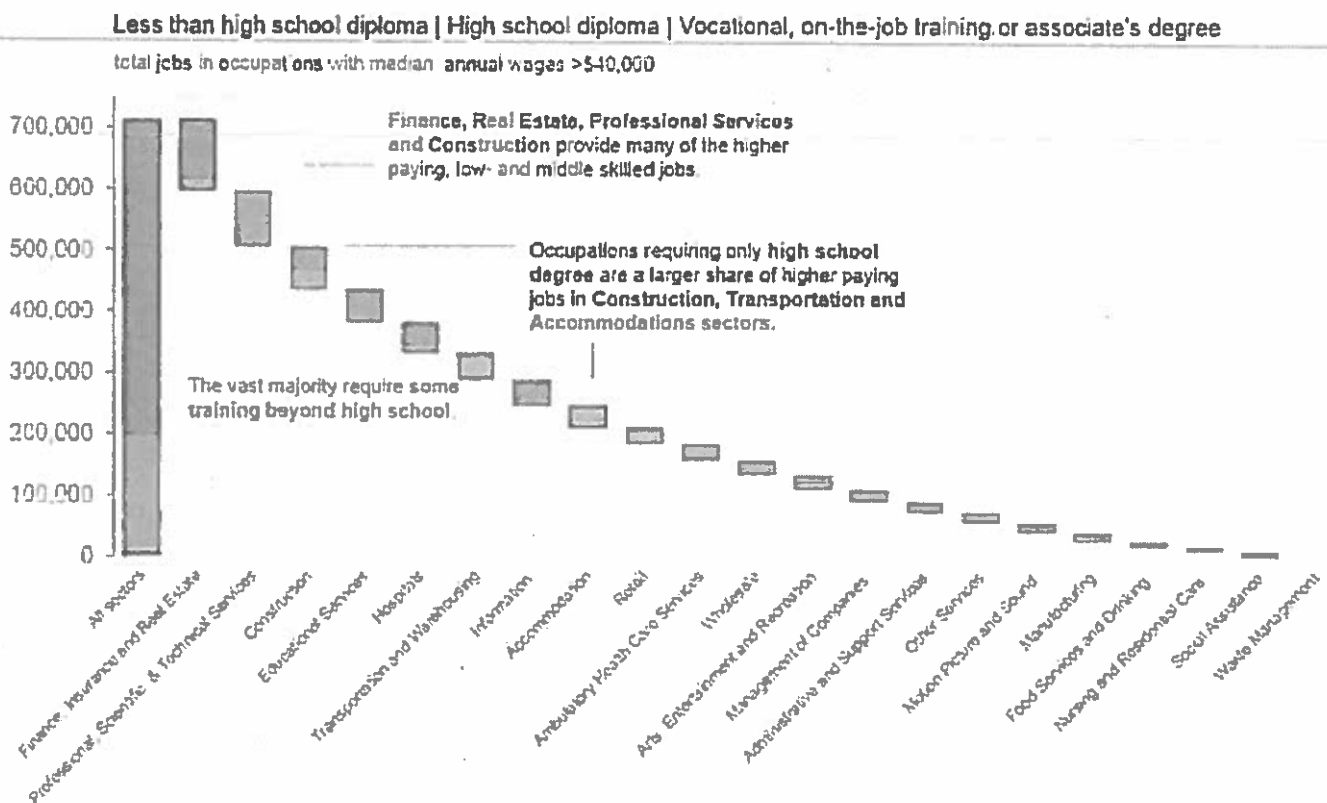Average annual wages and total employment by sector

Middle wage job opportunities

This analysis defined "middle wage" jobs as those in occupations requiring less than a four-year college degree and paying average annual wages of $40,000 or higher. The total numbers of middle wage jobs were aggregated by common industry classifications to identify sectors providing the greatest number of middle wage jobs.

- Jobs requiring less than a college degree and paying average wages of $40,000 or more accounted for approximately 715,000 jobs, representing about one-fifth of the city's total private employment.
- The vast majority of middle wage job opportunities are in occupations requiring some training beyond high school, such as a vocational school, an associate's degree or on-the-job training.
- Approximately 40 percent of all middle wage jobs were in the following three major sectors: finance, insurance and real estate services; professional, scientific and technical services; and construction.
- Educational services and hospitals were also a significant source of opportunity, providing over 14 percent of all middle wage jobs.
- Manufacturing accounted for two percent of middle wage jobs in New York City.

Figure 3: Middle Wage Jobs

By sector and educational attainment

Less than high school diploma | High school diploma | Vocational, on-the-job training or associate's degree

total jobs in occupations with median annual wages >$40,000

Finance, Real Estate, Professional Services and Construction provide many of the higher paying, low- and middle skilled jobs.

Occupations requiring only high school degree are a larger share of higher paying jobs in Construction, Transportation and Accommodations sectors.

The vast majority require some training beyond high school.

Data sources: Employment and wage data are based on a special tabulation from NYS Department of Labor of the Occupational Employment Statistics-(OES) survey for New York City businesses. The survey collected information in 2011, 2012, 2013 and 2014, and adjusted for 2015 dollars. Typical educational requirements are based on standards from O*Net, an occupational database sponsored by the U S Department of Labor. Employment change numbers in Figure 1 are based on New York City data from the Quarterly Census of Employment and Wages from NYSDOL for 2010 and 2016.

Populations change in two ways: through migration and natural increase (births minus deaths). Migration is of particular interest to planners in NYC, as the flows of different groups drive the changing composition of the City's population. This Info Brief analyzes historical migration to and from NYC to show how its dynamism shapes the size and characteristics of the population, and how it relates to larger socioeconomic trends.

Historical Migration Flows to and from NYC

- Since 1975, out-migration from NYC has remained consistently high whereas in-migration has increased steadily, resulting in large net outflows of the 1970s turning to net inflows in 2010-2014.

- During 1975-80, amidst NYC's fiscal crisis, 1.1M people migrated out and only 671k migrated in, resulting in a net migration loss of 429k that shrank NYC's total population.

- By the 1980s and 90s, increasing in-migration helped NYC grow again. The majority of in-migrants during this period came from abroad, a cumulative effect of the 1965 Immigration Act. Today, national reurbanization trends are evident in the record numbers of domestic migrants coming to NYC.

- Following decades of suburbanization, flows between NYC and the rest of the metro region are beginning to equalize. During 1975-80, 453k NYC residents migrated out to the region and were replaced by only 130k in-migrants from the region, resulting in a net loss of 322k. Today the net loss to the region is only 99k, a historic low.
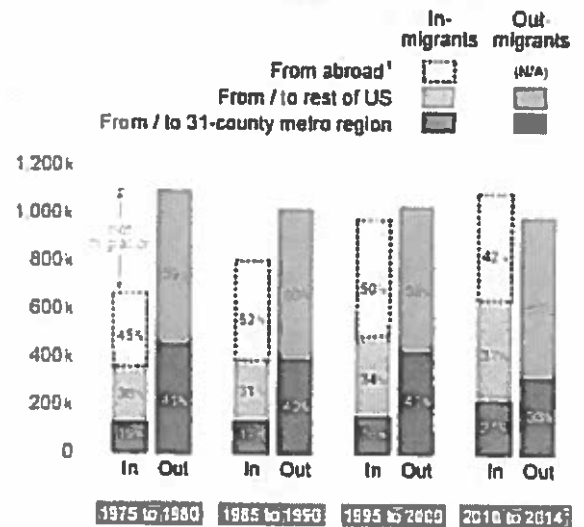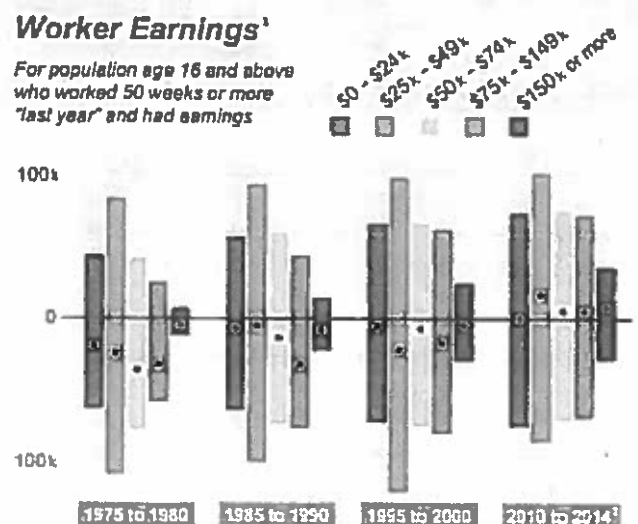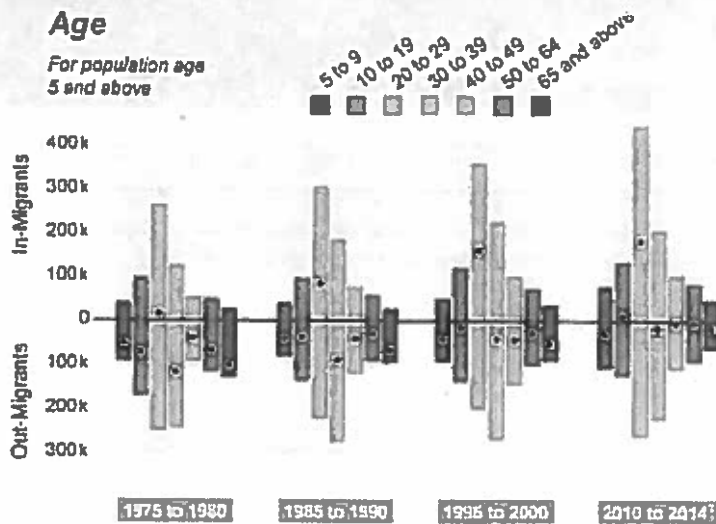

Migration Flows by Race and Hispanic Origin

For population age 5 and above and counted among one of the following groups
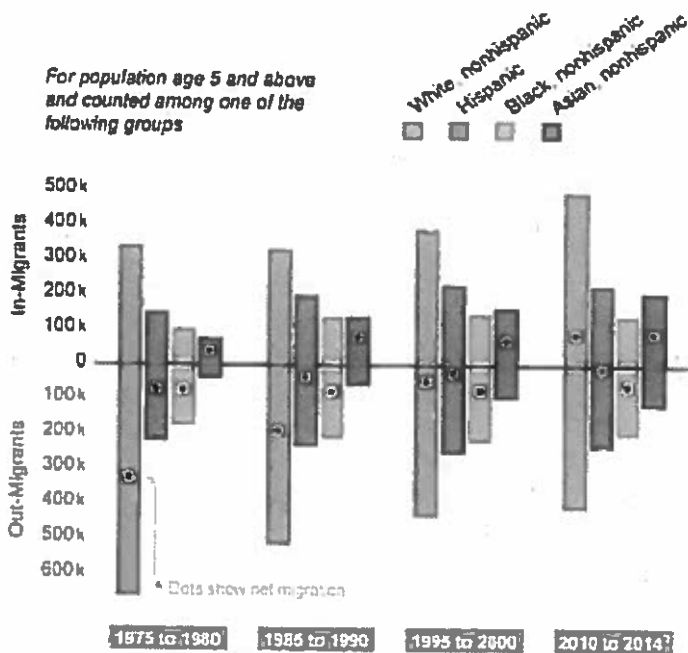
- Each race/Hispanic group shows unique migration patterns since 1975, which has significant impacts on the City's ethnic composition. Natural increase (not shown) mitigates migration losses for all groups, particularly blacks and Hispanics.

- The 1970s saw a dramatic net outflow of whites, but this outflow ebbed in subsequent decades, with net migration turning sharply positive today.

- The black population has shown consistent net outflows since the 1970s, a reversal of the earlier 20th century trend that saw a surge in net inflows, especially from the south. Today, blacks are the only group with meaningful migration losses from NYC.

- Hispanics have also experienced net migration losses since the 1970s, but losses have been pared back and were close to zero in 2010-2014.

- Asians are the only major group to have positive net migration since the 1970s, due primarily to immigration.

Age

For population age
5 and above

[Legend: 5 to 9 | 10 to 19 | 20 to 29 | 30 to 39 | 40 to 49 | 50 to 64 | 65 and above]

In-Migrants: 400k, 300k, 200k, 100k, 0
Out-Migrants: 100k, 200k, 300k

[1975 to 1980] [1985 to 1990] [1995 to 2000] [2010 to 2014³]

Worker Earnings¹

For population age 16 and above
who worked 50 weeks or more
"last year" and had earnings

[Legend: $0 - $24k | $25k - $49k | $50k - $74k | $75k - $149k | $150k or more]

100k, 0, 100k

[1975 to 1980] [1985 to 1990] [1995 to 2000] [2010 to 2014³]

Migration Flows by Age and Worker Earnings

- Throughout the last 40 years, migrants have been disproportionately young adults, unmarried, and holding high-skilled jobs (not illustrated in this Brief), reflecting that these groups often have more flexibility and resources to move.

- Age is one of the best predictors of migration. NYC consistently attracts large numbers of people in their 20s, and generally sees net migration losses of people in all other age groups. This is tied to a common pattern whereby young single people move to the City, and some residents move out after family formation.

- The net inflow of people in their 20s has dramatically increased since 1975. Moreover, the most recent period has seen a reduction in net outflows of other age groups due to the overall increase of in-migrants.

- Following the 2009 recession, NYC has captured a large portion of the region's job growth, which is reflected in worker migration. For the first time since 1975, NYC now has net migration gains of workers in all earnings groups, particularly in the $25k to $49k range.

- Current data show historically high net migration gains for workers making $75k and over. Higher earners are coming to the City in larger numbers than previously and are likelier to stay.

Gateway Neighborhoods for In-migrants
2011-2015 annual average

Percent of resident
population who migrated to
NYC within the "last year"

15%
8%
4% NYC
2% ← average
0% (3 2 %)
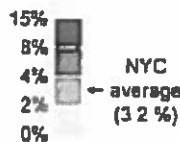
- At the neighborhood level, the Manhattan CBD and surrounding areas are far more affected by in-migration than others.

- In some Manhattan neighborhoods 1 in 7 residents is a new arrival. Residents in these areas tend to subsequently settle deeper into the boroughs.

In 2015 the city's immigrant population stood at 3.21 million, up 12% from 2.87 million in 2000. If New York's foreign-born were an independent city, it would be larger than Chicago. The foreign-born represent a global microcosm and account for 38% of the city's population and 46% of its resident labor force. This info brief provides a demographic, social, and economic portrait of the city's foreign-born and highlights changes between 2000 and 2015.
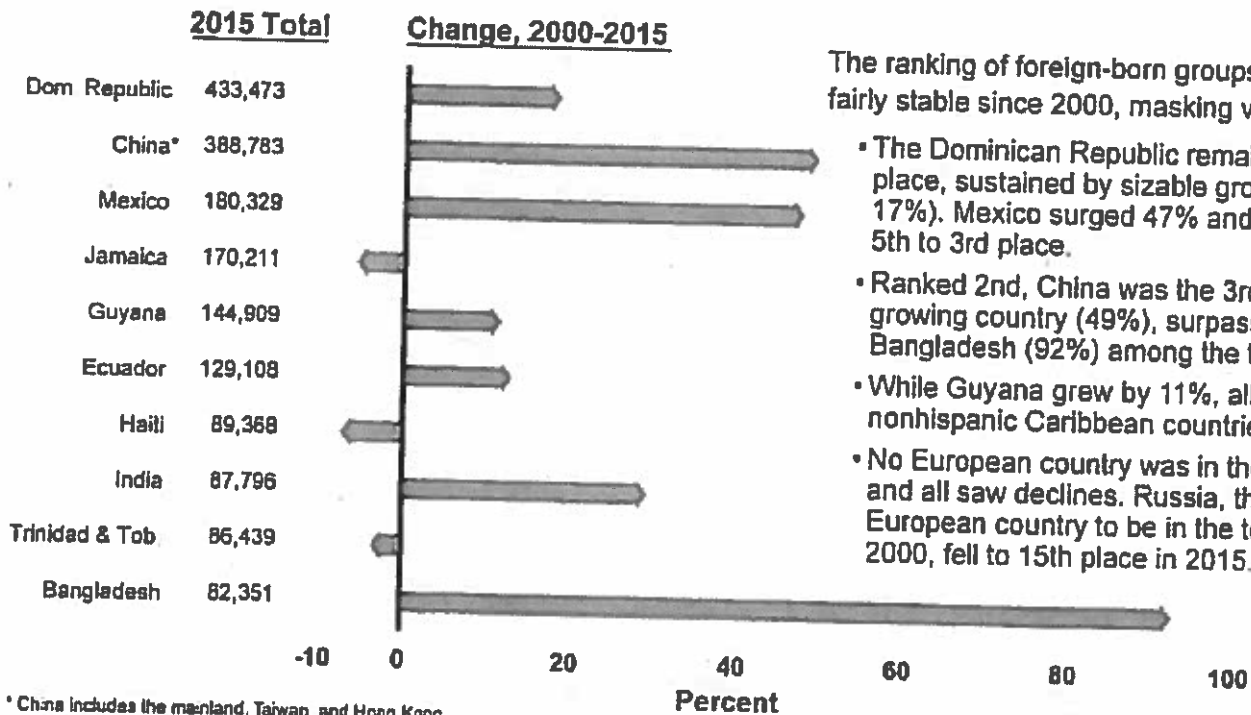
Area of Origin

- Latin Americans accounted for 32% of the foreign-born. Increasing from 919,800 in 2000 to 1.02 million in 2015, they retained both their share and position as the largest area of origin.

- Asians, with a 29% share, increased from 686,600 to 945,000. If this growth persists, Asia would become the city's top area of origin.

- The share of the nonhispanic Caribbean was 18%, down 2 percentage points, with their total foreign-born (590,000) remaining virtually unchanged from 2000.

- Those born in Europe now account for 15% of all immigrants, down from 19% in 2000.

- While immigrants from Africa comprised the smallest share (5%), they were the fastest growing, increasing by over one-half in 15 years.

Foreign-born by Area of Origin
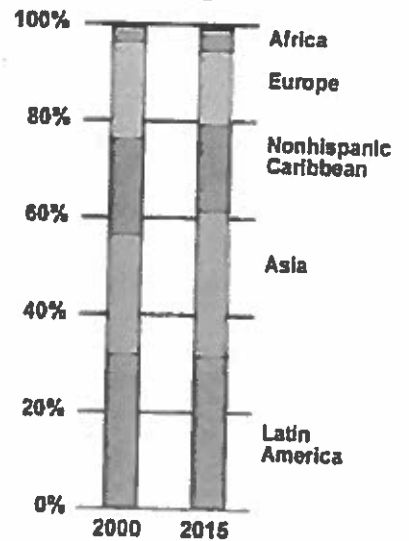
Change in Top Foreign-born Groups, 2000 to 2015

	2015 Total	Change, 2000-2015
Dom Republic	433,473	
China*	388,783	
Mexico	180,329	
Jamaica	170,211	
Guyana	144,909	
Ecuador	129,108	
Haiti	89,368	
India	87,796	
Trinidad & Tob	86,439	
Bangladesh	82,351	

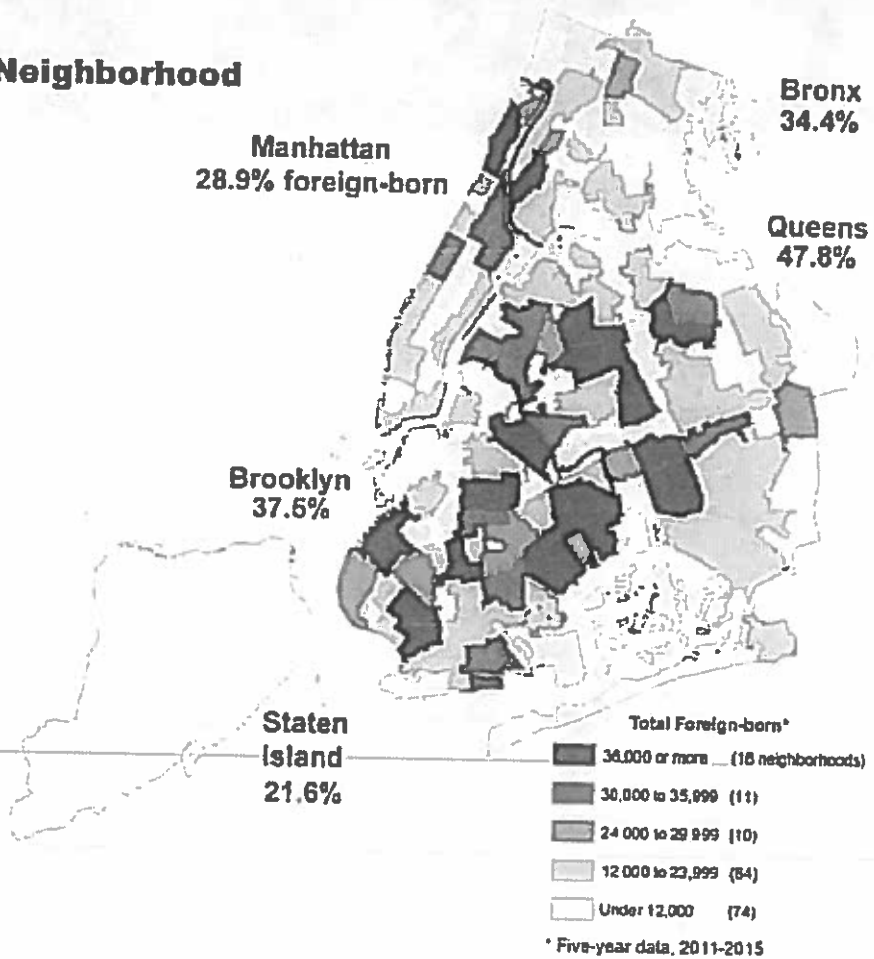The ranking of foreign-born groups remained fairly stable since 2000, masking vibrant trends.

- The Dominican Republic remained in 1st place, sustained by sizable growth (up 17%). Mexico surged 47% and leaped from 5th to 3rd place.

- Ranked 2nd, China was the 3rd fastest growing country (49%), surpassed only by Bangladesh (92%) among the top 10.

- While Guyana grew by 11%, all other nonhispanic Caribbean countries declined.

- No European country was in the top 10, and all saw declines. Russia, the last European country to be in the top 10 in 2000, fell to 15th place in 2015.

* China includes the mainland, Taiwan, and Hong Kong

Foreign-born Settlement by Neighborhood

- Queens was home to 1.1 million immigrants, and another 972,300 resided in Brooklyn, together accounting for two-thirds of the city's foreign-born.

- The top immigrant neighborhoods were Bensonhurst (BK), Washington Heights (MN), Elmhurst (QN), and Corona (QN), with a combined foreign-born population exceeding 300,000.

- Three immigrant-dense neighborhoods saw substantial foreign-born declines: Greenpoint (BK), decreased 49%, and Astoria (QN) and Chinatown (MN) each declined approximately 30%.

- While Staten Island's neighborhoods had relatively fewer immigrants, its overall foreign-born population increased the fastest. In 15 years it gained 41% more immigrants, concentrated primarily along the North Shore.

Manhattan
28.9% foreign-born

Bronx
34.4%

Queens
47.8%

Brooklyn
37.6%

Staten Island
21.6%

Total Foreign-born*
- 36,000 or more (16 neighborhoods)
- 30,000 to 35,999 (11)
- 24,000 to 29,999 (10)
- 12,000 to 23,999 (84)
- Under 12,000 (74)

* Five-year data, 2011-2015

Selected Socio-economic Characteristics of Top Groups, 2015

Foreign-born groups spanned the socioeconomic spectrum. When compared to the native-born, the foreign-born population had lower educational attainment, but higher labor force participation and lower poverty.

			Educational Attainment [2]		Labor Force Participation [3]		Income and Poverty		
	Median Age	% Limited English Proficient [1]	% High School Graduate or Higher	% College Graduate or Higher	Number	Rate	Median Household Income	Poverty Rate	% Owner-occupied
Total	36.0	22.8	80.9	36.8	4,439,927	64.0	$55,200	19.4	31.7
Native-born	28.0	5.6	88.5	44.2	2,431,949	63.2	$61,700	19.8	32.1
Foreign-born	46.0	48.8	72.6	28.7	2,007,978	64.9	$49,800	18.7	31.2
Dominican Republic	46.0	70.5	55.1	12.2	255,961	62.2	$29,300	31.8	9.2
China	48.0	76.6	60.7	27.2	220,549	59.1	$44,000	22.3	45.2
Mexico	36.0	77.8	48.7	6.9	131,786	75.6	$37,900	24.3	6.8
Jamaica	49.0	0.5	78.3	18.0	121,090	70.6	$51,900	12.4	40.4
Guyana	50.0	2.1	72.9	17.3	90,453	68.0	$60,000	10.3	51.8
Ecuador	42.0	73.7	59.3	10.3	98,051	74.3	$43,100	19.2	19.1
Haiti	51.0	53.3	79.1	20.1	57,328	67.3	$60,000	12.8	34.1
India	40.0	42.8	84.3	53.8	56,525	68.1	$79,050	10.7	40.8
Trinidad & Tobago	51.0	2.0	84.8	17.9	55,180	65.7	$51,000	16.9	30.6
Bangladesh	36.0	64.1	78.3	36.2	44,588	61.2	$40,700	19.6	28.1

1 Persons 5 years and over   2 Persons 25 years and over   3 Persons 16 years and over

A124

New York City is highly vulnerable to flooding from coastal storms due to its intensively used waterfront and its extensive coastal geography. Floods have the potential to destroy homes and businesses, impair infrastructure, and threaten human safety. With climate change and sea level rise, these risks are expected to increase in the future, but will most adversely affect low-lying neighborhoods.

Flood Risks

Hurricanes, tropical storms, nor'easters, intense rain storms, and even extreme high tides are the primary causes of flooding in NYC.

For building code, zoning, and planning purposes, flood risk in NYC is represented on FEMA's 2015 Preliminary Flood Insurance Rate Maps (PFIRMs).

- PFIRMs show the extent to which flood waters are expected to rise during a flood event that has a 1% annual chance of occurring. This height is denoted as the Base Flood Elevation (BFE) on the maps.

- The 1% annual chance floodplain is sometimes referred to as the 100-year floodplain. However, this term is misleading since these floods can occur multiple times within 100 years. In the 1% annual chance floodplain, there is a 26% chance of flooding over the life of a 30-year mortgage.

For flood insurance purposes, refer to FEMA's 2007 Flood Insurance Rate Maps (FIRMs). All property owners of buildings in the 1% annual chance floodplain with a federally insured mortgage are mandated by law to purchase flood insurance.

Approximately who and what is affected by the 1% annual chance floodplain?*	
Residents	400,000
Jobs	291,000
Buildings	72,000
1-4 Family Buildings	53,000
Multifamily Buildings	5,000
Residential Units	183,000
Floor Area (Sq. Ft.)	532M

The number of New Yorkers living in the city's floodplain is higher than the entire population of Cleveland, OH, Tampa, FL, or St. Louis, MO.

* These numbers are based on FEMA's 2015 PFIRMs. In October 2016, FEMA announced that the City won its appeal of the PFIRMs and has agreed to revise New York City's flood maps. For now, the 2015 PFIRMs are in use for building code, zoning, and planning purposes, while the 2007 FIRMs remain in use for flood insurance. For more information on the appeal visit www.nyc.gov/floodmaps.
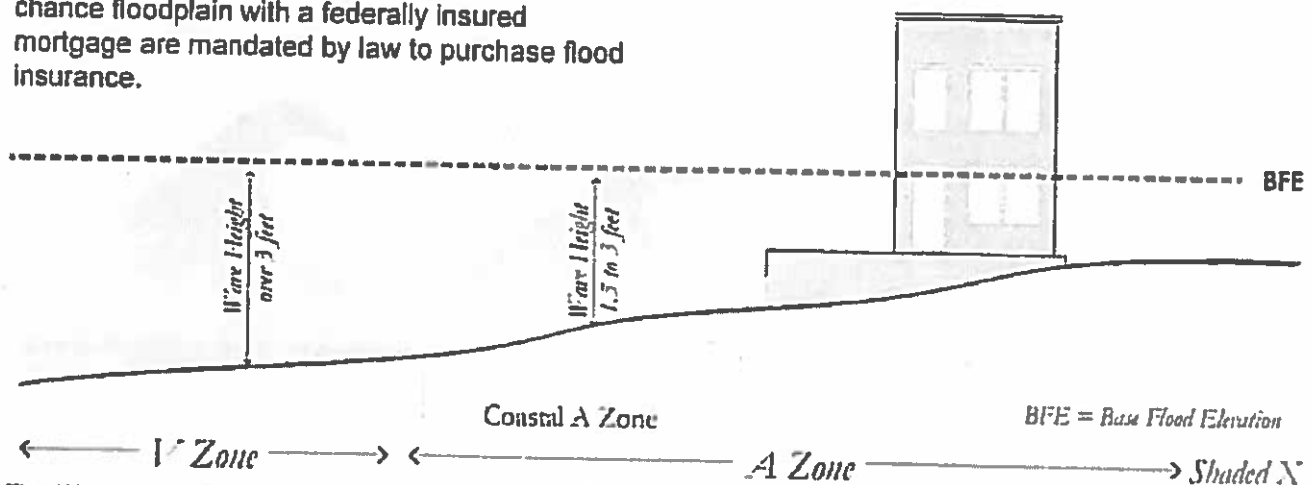
The 1% annual chance floodplain is divided into three areas—the V Zone, Coastal A Zone, and A Zone—and each has a different degree of flood risk. V and Coastal A Zones are vulnerable to waves, while the rest of the A zone is vulnerable to flooding but not wave damage. The maps also show the 0.2% annual chance floodplain, denoted as the Shaded X Zone, which has a lower annual chance of flooding than the A Zone.

Future Flood Risks

With climate change, the risk of coastal storm surges, intense rain, and high tides will increase.

- Sea levels in NYC have already risen a foot over the last 100 years.

- According to the New York City Panel on Climate Change, sea levels are expected to increase between 8 to 30 inches by the 2050s, and as much as 15 to 75 inches by the end of the century.

- Sea level rise will lead to frequent, potentially daily, tidal inundation in some especially low-lying neighborhoods. This type of flooding causes less damage than extreme storms, but can be a nuisance and has significant long-term impacts on public safety and City services.

Higher sea levels mean the future 1% annual chance flood will cover a larger area and affect more people.

- By the 2050s, the number of people living in the 1% annual chance floodplain could more than double.

- The annual chance of major storms will also increase. What is a 1% annual chance storm today will have nearly a 3% annual chance of occurring in the 2050s.

◼ 2015 PFIRMs 1% annual chance floodplain

◻ 2050s projected future 1% annual chance floodplain

Data Sources: Current floodplain impacts based on 2015 FEMA PFIRMs and NYC MapPLUTO version 13. Future flood risk data and information from the New York City Panel on Climate Change (2015), analysis of future flood zone impacts based on 90th percentile projections for SLR and MapPLUTO version 13.

Terms to Know

1% Annual Chance Floodplain: the area that has a 1% chance of flooding in any given year, as designated on FEMA's Flood Insurance Rate Maps.

Base Flood Elevation (BFE): the computed elevation in feet to which floodwater is anticipated to rise during the 1% annual chance storm as shown on FEMA's Flood Insurance Rate Maps.

Coastal Storm: includes nor'easters, tropical storms, and hurricanes.

Low-lying Neighborhoods: neighborhoods that have a low elevation relative to sea level and are particularly vulnerable to flooding.

City Planning is working with communities throughout the floodplain to identify zoning and land use strategies to reduce flood risks and support the city's vitality and resiliency through long-term adaptive planning. To learn more, visit www.nyc.gov/resilientneighborhoods.

A126

Flood resilient construction reduces potential damages from flooding and can lower flood insurance premiums. New buildings in the floodplain are required to meet flood resilient standards. Existing buildings can reduce their risk by retrofitting or rebuilding to meet these standards, or can take partial, short-term measures to address safety concerns.

Overview

There is a wide range of accepted flood resilient construction practices for buildings to better withstand floods and reoccupy more quickly following a storm. These include:

- Elevating the lowest floor.

- Elevating mechanical equipment such as electrical, heating, and plumbing equipment.

- Wet floodproofing by utilizing water resistant building materials and limiting uses below the Design Flood Elevation (DFE) to parking, building access, and minor storage. This allows water to move in and out of uninhabited, lower portions of the building with minimal damage.

- Dry floodproofing sealing the building's exterior to flood waters and using removable barriers at all entrances below the expected level of flooding in mixed-use and non-residential buildings.

Examples of Flood Resilient Construction

Visit www.nyc.gov/resilientneighborhoods to see more examples in the *Retrofitting for Flood Risk* report.
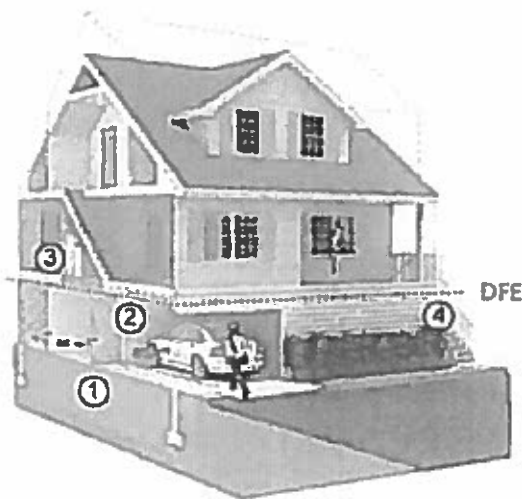
Wet floodproofed residential building
① Site is filled to the lowest adjacent grade
② Space below the DFE is for parking, building access or minor storage
③ Mechanical systems are above the DFE
④ Plants and stair turns improve the look of the building from the street
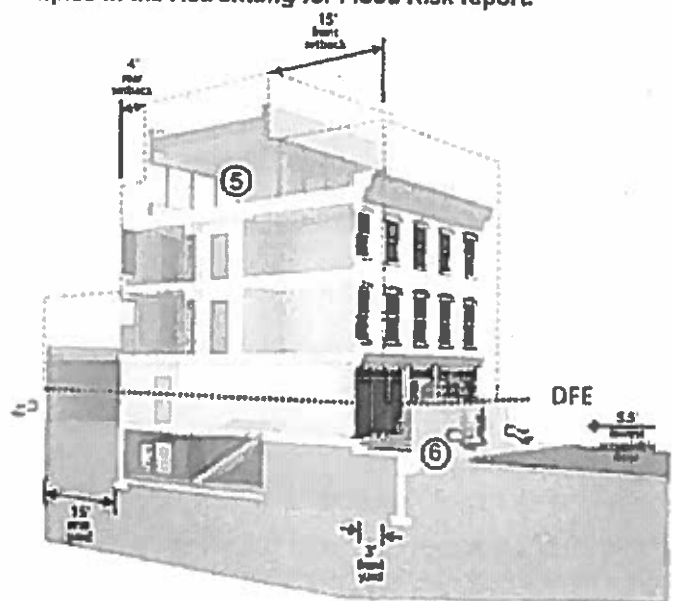
Dry floodproofed mixed-use building
⑤ Rooftop addition replaces lost below grade space
⑥ Commercial space is dry floodproofed with removable barriers

Requirements for New Buildings

NYC Building Code requires that all new buildings or substantial improvements within the 1% annual chance floodplain* meet federal requirements for flood resilient construction.

- Residential buildings must elevate living spaces and may only use space below the DFE for parking, storage or building access. Mechanical systems must be elevated and enclosed walls must be wet floodproofed.

- Within the V Zone, which denotes areas subject to wave hazards, the space below the DFE must be either kept open to accommodate wave action or designed to break away during a storm.

- Mixed-use or non-residential buildings can either elevate and wet floodproof or dry floodproof.

*Per the more restrictive of the 2007 FIRMs or 2015 PFIRMs

Flood Insurance

NYC is required to enforce these standards through building code to participate in FEMA's National Flood Insurance Program. Buildings that do not comply with flood resilient construction standards are at risk for both flooding and increased flood insurance rates. See the Info Brief on Flood Insurance for more information.

Requirements for Existing Buildings

Retrofitting buildings will significantly reduce their vulnerability to damage from flooding, and could save homeowners thousands of dollars annually in flood insurance premiums. Buildings that are substantially improved must also meet flood resilient construction code.

For buildings that are not substantially improved, lower cost, short-term adaptation measures can help reduce risk to damages caused by flooding. For example, elevating mechanical equipment to minimize damage or installing backflow valves can prevent water from flowing in the reverse direction (back up through pipes). However, such measures may not reduce premiums.

Zoning

The Flood Resilience Zoning Text Amendment, a temporary measure enacted by the City after Sandy to support storm recovery, removes regulatory barriers that would hinder or prevent the reconstruction of storm-damaged properties. It also ensures that flood resilient buildings maintain neighborhood character and plants and stair turns improve the look of the building from the street. A future update of this text, guided by community input, will aim to make the text permanent and to incorporate lessons learned during the recovery and rebuilding process.

Terms to Know

Design Flood Elevation (DFE): the minimum elevation to which a structure must be elevated or floodproofed, determined by adding the specified amount of freeboard, an additional height for more safety (usually 1 to 2 feet depending on building type), to the Base Flood Elevation—the anticipated elevation of a flood during a 1% annual chance storm.

Substantial Improvement: any repair, reconstruction, rehabilitation, addition, or improvement with a cost equaling or exceeding 50% of the current market value of the building.

City Planning is working with communities throughout the floodplain to identify zoning and land use strategies to reduce flood risks and support the city's vitality and resiliency through long-term adaptive planning. To learn more, visit www.nyc.gov/resilientneighborhoods.

A128

The Flood Resilience Zoning Text (the "Flood Text") is one part of a wide range of efforts by the City to recover from Hurricane Sandy, promote rebuilding, and increase the city's resilience to climate-related events, including coastal flooding and storm surge. To learn more about the Flood Resilience Zoning Text and other terms used here, visit: www.nyc.gov/floodtext.

Overview

NYC's zoning seeks to enable and encourage flood resilient building construction throughout designated floodplains.

In 2013, the Flood Resilience Text Amendment modified zoning to remove regulatory barriers that hindered or prevented the reconstruction of storm-damaged properties by enabling new and existing buildings to comply with new, higher flood elevations issued by the Federal Emergency Management Agency (FEMA), and to comply with new requirements in the New York City Building Code. It also introduced regulations to soften the effects flood resilient construction may have in the public realm.

The text was adopted in 2013 on a temporary, emergency basis. Therefore a future update of this text is necessary to make the text permanent. As part of this process, the Department is soliciting community input and is seeking to incorporate lessons learned during the recovery and rebuilding process.

Where is the Flood Text Applicable?

The Flood Text is available to buildings located entirely or partially within the 1% annual chance floodplain*.

These rules can be found in Article VI, Chapter 4 of the Zoning Resolution and, if utilized, typically require the building to fully comply with flood resilient construction standards found in Appendix G of the New York City Building Code. However, some provisions, such as elevation of mechanical spaces, are available to all buildings located in the floodplain, even if not fully compliant with Appendix G.

*This includes areas that are in the 100-year floodplain on either the 2007 FIRMs or 2015 PFIRMs.

Summary of the Flood Text

Height

The Flood Text recognizes flood resistant construction requirements in Building Code and allows buildings to measure height from the flood level to ensure they can fit their permitted floor area above the flood elevation. Where flood elevations are moderate, a few feet of additional height are allowed for usable space (parking, storage, and access).
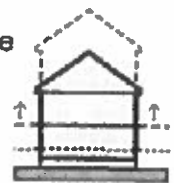
Access

Additional flexibility is provided for stairs, ramps, and entry areas as needed, in order to allow the access of elevated spaces.

Ground Floor Use

For existing buildings located in lower-density commercial areas, active, dry floodproofed commercial spaces are encouraged by not counting them toward limits on floor area.
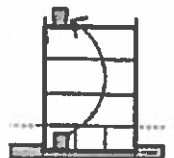
Parking

More flexibility is allowed for the accommodation of off-street parking above grade.

Mechanical Systems

More flexibility is allowed for locating mechanical systems above flood levels.

Streetscape

Design elements are required when the first occupiable floor is elevated above moderate heights, in order to improve the way buildings are perceived at the street level.
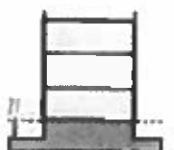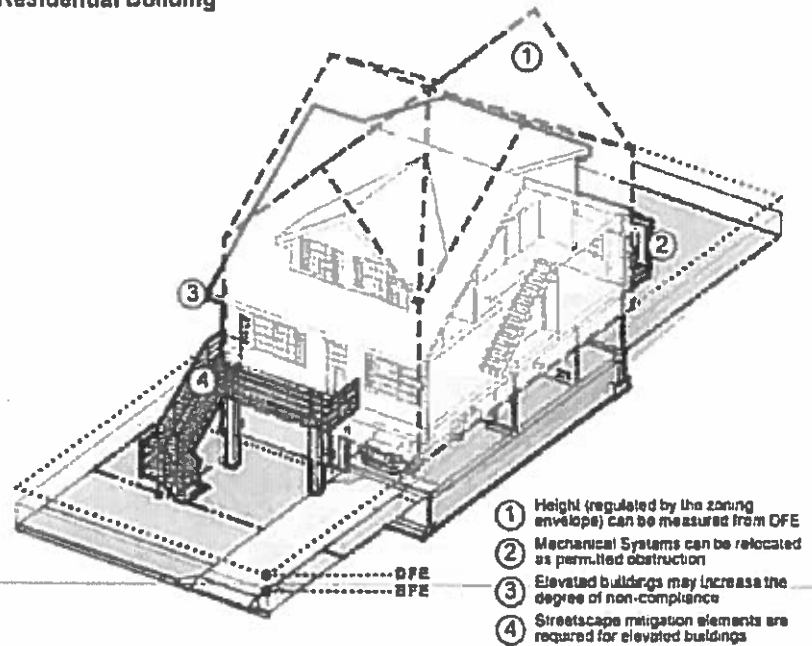
Examples of how the Flood Text can be enable resilient construction

Existing Buildings

The Flood Text provides special allowances to facilitate the retrofitting of existing buildings, which can often be more complex than building a new, flood resilient building. For example, zoning allowances are provided to existing single- and two-family homes to elevate in place, even if they do not match the current zoning envelope. These rules also allow the building to be shifted back on the lot to provide adequate space in the front yard for stairs, ramps, or lifts. In addition, mechanical systems can be relocated to portions of the rear or side yard as permitted obstructions. If a building is elevated, it must comply with requirements for streetscape mitigations, to soften any effects at the street level.

Retrofitted Wet Floodproofed Residential Building

① Height (regulated by the zoning envelope) can be measured from DFE
② Mechanical Systems can be relocated as permitted obstruction
③ Elevated buildings may increase the degree of non-compliance
④ Streetscape mitigation elements are required for elevated buildings

New and Existing Buildings

The Flood Text recognizes that buildings in the floodplain often cannot have subgrade spaces, such as basements or cellars. In residential buildings, ground-floor space is limited to parking, storage or access, since this space has to be wet floodproofed. Zoning also takes into consideration the high cost of dry floodproofing, which is generally the preferred option for commercial or mixed-use buildings, since it allows active uses to remain at grade and therefore encourages street-level activity. The Flood Text allows additional flexibility for buildings that meet flood resistance standards in order to help neighborhoods in the floodplain remain vibrant.

New Dry Floodproofed Mixed-Use Building

① Height can be measured from a higher reference plane
② Mechanical systems can be located at permitted obstruction atop roofs
③ Ground floors can be discounted from floor area

City Planning is working with communities throughout the floodplain to identify zoning and land use strategies to reduce flood risks and support the city's vitality and resiliency through long-term adaptive planning. To learn more, visit www.nyc.gov/resilientneighborhoods.

A130

Flood insurance covers damages to property or personal contents from flooding caused by excessive rainfall, tidal flooding, or wind-driven storm surges. Changes to flood maps and reforms to the National Flood Insurance Program will lead to increases in flood insurance rates over time. In addition to flood resilient construction, insurance is another strategy for reducing flood risk.

Why is Flood Insurance Important?

* Floods can cause significant damage to your most valuable asset: your home or business.

* Even properties far from the coast may be at risk of flooding.

* Homeowner and property insurance do not cover damage by flooding. You must buy a separate policy.

* Federal assistance is not guaranteed in the event of a flood.

* Many property owners are required by federal law to purchase and maintain flood insurance if the property is located in a high-risk flood zone of the 2007 FIRMs (see map to right), has a federally backed mortgage, or has received federal disaster assistance.

How Much Flood Insurance Must a Homeowner Purchase?

Properties with a federally backed mortgage in a high-risk flood zone and those that have received federal disaster assistance must maintain flood insurance up to the NFIP coverage limits, or the outstanding mortgage balance, whichever is lower. Failure to do so may lead mortgage servicers to purchase a policy for the property—possibly at a higher price—and pass on the cost through monthly mortgage bills.

Homeowners without a federally-backed mortgage or outside a high flood risk zone can carry up to the maximum policy limit of $250,000 with additional contents coverage available up to $100,000 for owners or renters. Co-ops, larger multifamily buildings and business properties can be covered up to $500,000. Business owners and tenants can also purchase up to $500,000 in contents coverage.

How Are Flood Insurance Policies Purchased?

Most flood insurance policies are administered by the National Flood Insurance Program (NFIP), a federal program run by the Federal Emergency Management Agency (FEMA). NFIP policies are separate from homeowners or property insurance, but are often sold through the same agents. A few private insurers also offer flood insurance, but these policies tend to be more expensive and less available.

◻ 2007 FIRMs high-risk flood zone

◼ 2015 PFIRMs high-risk flood zone

Purchase of a flood insurance policy is required for buildings in the floodplain as shown on the 2007 FIRMs, but may expand based on updated FIRMs. The 2015 PFIRMs, the best available data for planning purposes, are depicted above for comparison. Coverage for buildings outside of the 2007 FIRMs is available at a lower cost.
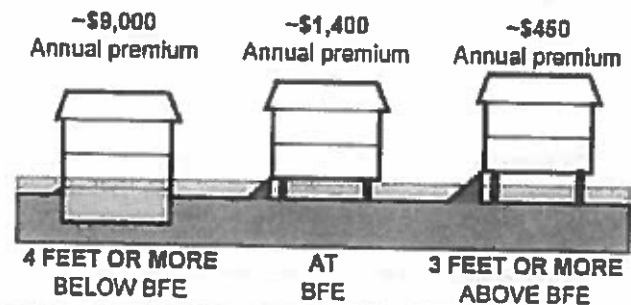
In October 2016, FEMA announced that the City won its appeal of the PFIRMs and has agreed to revise New York City's flood maps. For more information on the appeal visit www.nyc.gov/floodmaps.

What Determines a Flood Insurance Premium?

- **Flood Zone:** The higher risk your flood zone, the higher the flood insurance base premium will be.

- **Building Type:** Single-family homes, two- to four-family homes, apartment buildings, and other non-residential buildings may have different base rates.

- **Elevation of Lowest Floor:** The higher the lowest inhabited floor (any floor not used solely for storage, access, or parking) is elevated relative to the Base Flood Elevation (BFE), the lower the premium may be.

- **Amount of Insurance:** The more insurance coverage you buy, the higher your premium.

- **Deductible:** A higher deductible may lower your insurance premium.

Why are Flood Insurance Rates Increasing?

FEMA is in the process of updating the city's FIRMs, which designate flood zones and the BFE. Once these maps are adopted, properties may have higher flood insurance premiums over time. In addition, the federal reforms to make NFIP more financially stable will cause steady increases in premiums until the policies reflect the full risk to flooding. Property owners can reduce their insurance premiums by utilizing certain flood resilient construction methods.

~$9,000 Annual premium	~$1,400 Annual premium	~$450 Annual premium
4 FEET OR MORE BELOW BFE	**AT BFE**	**3 FEET OR MORE ABOVE BFE**

Projected rates for premiums based on the BFE shown here for illustrative purposes only.

What Should I Do?

The Mayor's Office of Recovery and Resiliency provides the following guidance to property owners seeking to understand their flood insurance options.

Learn about your risk and flood insurance requirements:

- Identify your property's flood zone on FEMA's Flood Insurance Rate Maps (FIRMs) by visiting Region2Coastal.com or FloodHelpNY.org. Users can also use the second link to get an estimate by using FloodHelpNY's rate calculator.

- Request an Elevation Certificate by hiring a licensed engineer or surveyor to determine the height of the lowest occupied floor relative to the BFE.

Purchase flood insurance:

- Call at least 3 agents listed on floodsmart.gov or by call (888) 435-6637 for quotes. Homeowners or property insurance does not cover damage from floods and federal assistance is not guaranteed in the event of a flood.

- Call the FEMA National Flood Insurance Advocate's Office for other questions: (202) 212-2186

In the event of a flood or flood warning, move your valuables to high ground and follow evacuation orders. For more information on locating a storm evacuation center, please visit maps.nyc.gov/hurricane

City Planning is working with communities throughout the floodplain to identify zoning and land use strategies to reduce flood risks and support the city's vitality and resiliency through long-term adaptive planning. To learn more, visit www.nyc.gov/resilientneighborhoods.

NYC Department of City Planning
Examples of Electronic Planning and Information Resources for the Public

- Community Portal – Community District-level data resources
  https://communityprofiles.planning.nyc.gov/
- ZoLa – Zoning and Land Use application
  https://zola.planning.nyc.gov/
- ZAP Portal – zoning and land use applications
  https://zap.planning.nyc.gov/projects
- Population Factfinder – Census data access and mapping tool
  https://popfactfinder.planning.nyc.gov/
- NYC Facilities Explorer – interactive map of community facilities
  https://capitalplanning.nyc.gov/facilities
- NYC Street Map – status and history of City streets
  https://streets.planning.nyc.gov/about
- NYC 3D model by Community District
  https://www1.nyc.gov/site/planning/data-maps/open-data.page#3d_data

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212 962 6307

March 19, 2019

To the Commission:

I am Vishaan Chakrabarti, an architect and planner, a professor at Columbia
University, and the former Director of the Manhattan Office for the New York
Department of City Planning in the years following 9/11. I am testifying today as a
private citizen, not on behalf of any group.

I have reviewed many of the proposed changes to the Land Use section of the
Charter and must respectfully oppose the calls for significant revisions to ULURP
including the proposal for additional layers of so-called comprehensive planning.
While the intention of trying to improve equity and affordability is laudable, I am
convinced these proposals would have the opposite effect and exacerbate our worst
social and environmental problems because they will further limit our capacity to
serve our population growth and diversify our economy.

The statue in our harbor cannot say "Give me your tired, your poor, your huddled
masses...but only after we are done with our analysis paralysis."

Our lack of affordability does not stem from ULURP. To the contrary, ULURP
works because it has the wholly democratic tendency to make everyone somewhat
unhappy, which is the hallmark of balance. Many meritorious projects have gone
through ULURP with community support, such as Domino or Essex Crossing, both
of which I helped to plan and design, and we hope to achieve similar results with our
plan for over 2,000 affordable housing units in East New York at the Christian
Cultural Center.

New York's lack of affordability stems from a far simpler issue: the demand for
housing in our city wildly outstrips our supply. We are outpacing our growth
projections but given our land scarcity, we simply can't keep up unless we expand
the production of both affordable and market rate housing. The fantasy that less
growth will lead to equality is irresponsible rhetoric that willfully ignores both our
population projections and our history as a city of welcoming newcomers.

Part of the role of our elected executive branch is to plan for future New Yorkers, a
role that would be a conflict of interest for council members who by definition must
instead protect the interests of their local constituents. This is why the authority to
plan for New York's growth firmly rests with the Mayor's office and should continue
to do so. In my experience, the most successful cities around the world are ones in
which the Mayor can take strong actions to address social ills, infrastructure and
climate change.

**STATEMENT OF HOWARD SLATKIN, DEPUTY EXECUTIVE DIRECTOR FOR STRATEGIC PLANNING,
NYC DEPARTMENT OF CITY PLANNING
MAY 9, 2019**

Good evening, Commissioners. My name is Howard Slatkin, and I am the Deputy Executive Director for Strategic Planning at the Department of City Planning.

Thank you for the opportunity to speak before you again. My comments are directed toward the specific recommendations for land use in the Commission's staff report, which relate to the ULURP and pre-ULURP process, and to citywide planning.

ULURP

The Department is sensitive to the demands the ULURP process places on Community Boards. Their step is the first in the ULURP process, giving them less lead time than the other parties in the process to prepare for their review. We see it as a reasonable change to extend the time allotted to CBs for their review of ULURP items by 15 days during those times when scheduling can be particularly challenging.

The Department encourages early interaction between applicants and Community Boards and Borough Presidents prior to ULURP. Most applicants already do this, and certainly the Department conducts extensive engagement for our own actions. The idea of requiring applicants to provide 30 days' notice of an upcoming ULURP item to CBs and BPs is a reasonable one, in order to further promote early dialogue without undermining the functioning of the ULURP process.

However, this should be advance notice about the basic parameters of the upcoming application, and not an additional formal comment period requiring submission of drawings or other detailed application materials:

- The advisory recommendations in the ULURP process are delivered to decision makers – the CPC and Council – to inform those decisions. This additional period would deviate from that structure. The new 30-day "comment period" would be followed immediately by a 60-day comment period by the same CB.
- A formalized "pre-review review" stage would introduce a structural incentive to delay the start of ULURP, which is contrary to the purpose of the process.
- By definition, discussions prior to certification cannot be informed by complete and accurate application materials. Certification is the act of DCP verifying that the information provided is complete and suitable for public review.

Citywide Planning

Regarding the citywide planning documents laid out in the Charter, the staff report outlines an approach in which planning documents can be coordinated and streamlined. This would be conducive to citywide strategic planning that informs and shapes further actions, without presupposing the future actions of the parties authorized by the Charter to make decisions.

We take issue, however, with the recommendation that these citywide plans "describe contemplated short-term, intermediate, and long-term changes to land use and development in communities, such as reasonably anticipated neighborhood rezonings." It would be neither reasonable nor desirable to generate and disclose a list of future neighborhood rezoning plans in a citywide planning document, without the opportunity for sufficient engagement with affected communities.

A citywide planning document can identify existing plans and planning processes that are underway. It can also describe growth trends, broad needs for the future, and the types of strategies that can address these needs – e.g., criteria for areas where increases in housing capacity should be considered. But prematurely suggesting potential projects that have not been the subject of engagement would be needlessly provocative, would undermine productive engagement with communities, and could have unintended side effects, such as unwarranted and undesirable land speculation.

Members of the Commission, Good Evening,

My name is Sandy Hornick, I am an urban planner now in private practice but for 38 years I was an employee of, or consultant to, the Department of City Planning. From 1991 to 1996, I had the privilege of serving as the Deputy Executive Director for Strategic Planning at the Department and then for another 7 years I performed virtually the same function as a consultant.

During my years at DCP, there was a series of Charter mandates that sought to create a more rational and equitable planning. The list of possible revisions in your Charter Revision Commission report reminds me how hard it is to achieve these goals. Periodically, the Charter is revised because people feel the process is not open enough and after a few years we find ourselves back looking to open up the process.

I think there is a larger issue involved which is the tension between local desires and Citywide needs. New York is already a very crowded place and, after half a century where the population barely penetrated its 1950 level, it is getting more crowded all the time adding, in just 16 years, six times the population gain and a million more jobs than in the previous 50 years. This has driven up the cost of housing, made crowded subway more crowded, etc. While it is important to have open participation in the decision making process, it is at least equally important to have a voice at the table for the future, the people who will be competing for housing, employment,, recreation, transportation and so on 5, 10 or 20 years from now. Those voices need to be heard as well.

I do not think that it is accidental that the 1976 Charter revision which created ULURP to formally involve communities in planning also removed the unfulfilled 40-year old Charter mandate for a Comprehensive Plan. Comprehensive planning is inherently a planning exercise with a top-down emphasis: beginning with regional needs, then municipal and then attempting to fit these into a local context.

Past Charter revisions sought to resolve these conflicts by mandating a series of reports and statements every 4 years such as the planning and zoning report and strategic policy statements , and by creating a Fair Share process.

But, except for the officials who issue a particular document, the public and other elected officials have largely ignored these. The Dinkins administration plan to place future homeless shelters in the neighborhoods that did not already have them was met with vociferous opposition resulting, if I remember correctly, with the opening of a single, small women's shelter in Park Slope. The overall plan went nowhere. Communities without shelters felt that they had more than their fair share of other things that overburdened them.

As a planner, I strongly support a better understanding what problems confront us today and are likely to confront us in the future and developing plans to best address our future needs. Nevertheless, I am

concerned that the proposals as drafted are based on unrealistic expectations of what we can predict and may have the effect of justifying policies that would be directly contradictory to the problems that need to be addressed. I'd like to give one example.

Since undertaking, more than a decade ago, what became PlaNYC the Department of City Planning has been projecting population growth both City wide and then more locally in what are called PUMAs, roughly agglomerations of 2 or 3 Community Districts. In response to the projections of a population that would exceed 9 million in a decade or two, DCP conducted an internal estimate of the capacity of the City. At the time, DCP came up with a then current residentially capacity of about 10 million people. In theory, under the then current zoning, NYC could accommodate all its growth now projected until 2040 (now estimated to be just over 9 million.)

I think many people might conclude that there is ample capacity for growth and that they do not want this already crowded City to reach a population of 10 million.

The reality of site availability is quite different. Unlike suburbs or exurbs where farmland or forest can be turned into housing, very little land in New York City is vacant. It is used by housing, commercial or other uses that have relatively high values that tend to keep most of these sites from redevelopment at any one time. Encouraging more of these sites to be reused is really about changing the relative value of reuse and redevelopment versus the existing use. The problem is compounded because each time a site is redeveloped and thus removed from the inventory of available sites, there is additional pricing pressure on the remaining sites eventually pushing the price of these sites higher and increasing the land cost component of new housing.

If the City seeks to meaningfully halt the rise of the land cost component of new housing, it needs to increase the carrying capacity of the land by rezoning for more housing for households across a broad spectrum of incomes and providing the infrastructure and other supports that healthy communities need even while there is substantial theoretical zoned capacity remaining. As difficult as it may be to contemplate, rather than needing a fixed amount of redevelopment sites, the City needs an increasing supply of zoned development capacity. The more capacity we create, the lower the future land cost components will be and hence the ability for

So I am concerned that what seems to be a well-intentioned effort to provide a basis for a broader consensus about how to of how much change the City should accommodate may provide the fodder for limiting such change.

Over the years, I have come to think that a more valuable and more achievable approach in a dense, built-up city is for the City to identify the issues of strategic importance to provide a context for planning decisions. A comprehensive plan that takes years to assemble by one administration, assuming there is consensus, is not necessarily going to be accepted as a guide by the next one. It may be better to have, for example, a healthy discussion of the City's housing needs than a plan for where all the housing is going to go.

I would implore the Commission to preserve one mechanism for ensuring a transparent public process. Scope is a mechanism for ensuring that everyone has had an opportunity to comment during the process by limiting review to those changes that have been advertised for public hearing. Determining scope is a determination of fact. It is not a political gesture. It does not benefit community or real estate interests. Zoning rules that are proposed to be changed are complicated and require technical expertise that resides at City Planning.

Finally, I want to note that there is a good chance that among the members of the current Council sit one or more future executives of this great city. I would encourage you, in any Charter revisions that you propose, to keep in mind that whomever among you may rise to run this future city, you will need the appropriate authority to do this effectively.

Comments by sandy Hornick, May 2, 2019

Members of the Commission, Good Evening,

My name is Sandy Hornick, I am an urban planner now in private practice but for 38 years I was an employee of, or consultant to, the Department of City Planning. From 1991 to 1996, I had the privilege of serving as the Deputy Executive Director for Strategic Planning at the Department, a position mandated by a previous Charter revision, and then for another 7 years I performed a similar function as a consultant.

I would like to address two of the topics raised in the Preliminary Staff Report:

How the ULURP and Pre-ULURP Process might be revised and
How to best encourage planning takes place in the context of the best possible balance of city-wide and local concerns.

ULURP PROCESS

As currently structured, the ULURP process assures that sooner or later everyone is frustrated and I believe that is by design to ensure that a diversity of views gets considered in land use decisions.

As currently structured, the ULURP process is intended to give communities meaningful *voice* but not *authority*, which often means that sooner or later everyone is frustrated but I believe that is by design.

- The public can only voice its opinion or, as if sometimes the case, opinions and hope that its reasoning resonates or its numbers overwhelm.
- Community Board members give freely of their time but their recommendations are only advisory.
- Staff at the public agencies has the luxury of being paid for their time but no voice in the decision-making process.
- The Planning Commission neither develops proposals nor controls the final decision making and
- the City Council has final decision making authority but does not control what comes before them.
- Not that they are the subject of much sympathy but private applicants often feel they must invest substantial time and money in a process with no certainty other than the ULURP time line and that they are at the mercy of everyone else in the process.

This is a messy process but one that is designed to promote balance. I believe this is good and should not be changed. I do think that community boards are at a disadvantage, however, because, while they get 60 days to review in the ULURP calendar, the interaction of the dates of

certification with the calendars of the community boards often means that the community boards effectively have less than 60 days to review.

Changes to ULURP that promote advance notice may be workable without adding to much difficulty to the process. Changes that try to change the carefully crafted balance among the various participants in the process are likely to cause more problems than they would solve.

BALANCING CITYWIDE AND LOCAL CONCERNS

The staff report does an admirable job in highlighting and explaining 12 Planning Documents. While all of these documents do not address the same issues, this is just too many documents. This process needs to be simplified.

Planning and planning issues are not static. New York City is, fortunately, a dynamic place and as a consequence the city is constantly confronting evolving issues as the city reinvents itself. The history of the past 30 years of requiring all these reports is not that these mandated and extensive processes remain precise guidance documents for the future.

As an example, PlaNYC was an innovative document that focused the City on a host of issues that the City would confront. But the issues did not stay the same and the arrival of a new administration with new or revised policies inherently changes the emphasis and sometimes the recommendations of the plan.

There should be fewer planning documents and they should focus on identifying important issues and priorities for planning, and broad strategies to address them, rather than detailed prescriptions of specific actions. They cannot be expected to detail specific proposals that do not yet exist, such as what future rezonings are needed or where specifically they should be. Even if this could be done, it would run counter to the desire for meaningful local engagement, which is informing the Commission's consideration of the pre-ULURP process.

As this Commission considers potential revisions, I would encourage you to also consider the temporal implications of all of these reports. Obviously, they take a lot of time and allocation of limited resources to prepare.

But it is important to consider that governance commences with inauguration. Reports that take years to prepare, especially when based on other reports that also need to be prepared, will automatically be completed well into and perhaps even at the end of the term. This was the case with the one and only Planning and Zoning Report that took years to prepare and was issued after the Dinkins administration had been voted out of office.

These mandated reports are most likely to affect the administration that prepares them and the more detailed they have to be and the more complicated the process of making them means that they will take more time to prepare and therefore have less of an impact on that administration.

The following administration may share the same goals as its predecessor but more frequently it wants to show that it is different. Charter-mandated reports have proven to be an ineffective tool of mandating an agenda on subsequent administrations and we should be happy that this is the case. Each time the public elects a new administration, it is choosing how much continuity and how much innovation it wants.

Fewer and more flexible charter-mandated documents offer the best guidance without unwanted and unworkable control.

Testimony of Vicki Been[*]
Before the New York City Council's 2019 Charter Revision Commission
March 21, 2019

My name is Vicki Been, and I am the Boxer Family Professor of Law at New York University School of Law, where I teach, research, and write about land use and housing policy. I also am a Faculty Director of the NYU Furman Center, which is an interdisciplinary research center dedicated to improving knowledge and public debate about housing, land use, and urban policy. I had the privilege of serving the city as Commissioner of Housing Preservation and Development (HPD) from 2014 to 2017.

I am acutely aware, given my membership on the Commission to Reform New York City's Property Tax System, of the hard work and thoughtfulness that members of the Charter Revision Commission are devoting to the critical issue of whether and how to amend the City's Charter to require changes in the City's land use processes. I am grateful for the invitation to speak with the Commission, and will focus my testimony on proposals to add a requirement to the City Charter that the City prepare a comprehensive plan, and given my background, will focus especially on the implications that proposal may have for the City's efforts.

The City engages in an enormous amount of planning and should (indeed, must) continue to do so. Since the Bloomberg Administration released PlanNYC, for example, the City has put out detailed and comprehensive plans for affordable housing (Housing NY, and Housing NY2.0); for NYCHA (NextGen NYCHA); for homelessness (Turning the Tide on Homelessness); and sustainability (Lower Manhattan Coastal Resiliency (LMCR) project), among other critical issues. The City has pulled much of that together in a plan to become the most resilient, equitable, and sustainable city in the world – OneNYC. An update of OneNYC is in the works, and other planning processes are underway – HPD is now working with many other agencies to draft what is essentially a fair housing plan in their Where We Live Initiative, for example. The City also issues a ten-year capital plan, and the City Planning Department has taken on an expanded role in integrating the capital plan with its zoning work and in ensuring that all the agencies are working together to coordinate their work with the capital plan.

So, what exactly would be required by a mandate for a comprehensive plan?

It is unclear exactly what the proposals for comprehensive planning have in mind beyond all the planning that already takes place. My first point, therefore, is that a mandate for comprehensive planning is meaningless unless the proposed amendment specifies in considerable detail what exactly is required. But that level of detail is not appropriate for a

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[*] These comments do not represent the institutional views (if any) of NYU, the NYU Furman Center, NYU's School of Law, or NYU's Wagner Graduate School of Public Service.

1

charter, which should be a statement of principles, a constitution, and not a statute or a rule or a regulation.

Comprehensive planning processes vary dramatically across the country – some states mandate very detailed requirements as to what plans must contain; others provide only vague guidance about what comprehensive planning actually means. California, for example, has since 1969 mandated that each local government draft a comprehensive plan that addresses seven elements: land use, transportation, conservation, noise, open space, safety, and housing.[1] California requires considerable detail in the local governments' plan – much more detail than most comprehensive plans in place in major cities across the country, and a daunting level of detail for a city as large as New York City. Each "housing element," for example, must contain:

(a) An assessment of housing needs and an inventory of resources and constraints . . . [which shall include the following]:

(1) An analysis of population and employment trends and . . . a quantification of the locality's existing and projected housing needs for all income levels. These existing and projected needs shall include the locality's share of the regional housing need . . .

(3) An inventory of land suitable and available for residential development, . . . and an analysis of the relationship of zoning and public facilities and services to these sites . . .

(5) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels . . ., and for persons with disabilities . . . including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, local processing and permit procedures, and any locally adopted ordinances that directly impact the cost and supply of residential development. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need . . . and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters . . . .

(b)(1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing . . .

(c) A program which sets forth a schedule of actions during the planning period, each with a timeline for implementation . . . that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision

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[1] Cal. Gov't Code § 65300 (West 2019) (requiring local governments to "adopt a comprehensive, long-term general plan for the physical development of the county or city").

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of regulatory concessions and incentives, the utilization of appropriate federal and state financing and subsidy programs when available . . . [T]he program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning . . . [2]

(A) Where the inventory of sites . . . does not identify adequate sites to accommodate the need for groups of all household income levels . . . rezoning of those sites, including adoption of minimum density and development standards, . . . shall be completed no later than three years after [the earlier of certain specified actions] . . .

(3) Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing . . . [3]

California's comprehensive planning requirement is reinforced by a mandate in the state's zoning enabling act that local governments consider the effect of their zoning ordinances and other regulatory activities on the housing needs of the region,[4] and also is reinforced by California's least-cost zoning law, which requires local governments to "zone sufficient vacant land for residential use with appropriate standards . . . to meet housing needs for all income categories as identified in the housing element of the general plan."[5] Compliance is also either a requirement for participation in various funding programs or results in extra points in the competition for funding.[6]

At the other end of the spectrum, where many, if not most, comprehensive plans can be found, is Charlottesville's comprehensive plan. It states goals and strategies with far more generality than New York City already provides in the various plans I mentioned earlier. For example, it lists as one of its housing goals: "Grow the city's housing stock for residents of all income levels." The strategies it lists for accomplishing that goal are:

- Continue to work toward the City's goal of 15% supported affordable housing by 2025.

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[2] The regional need to which the planning requirement refers is established by the California Department of Housing and Community Development, which determines the state's need for housing for households of various income levels and allocates that need among the various regions within the state; the Council of Governments for each region then allocates the region's share to municipalities within the region. *Id.* at § 65584.

[3] *Id.* at § 65583.

[4] *See, e.g., id.* at § 66412.3.

[5] *Id.* at § 65913.1.

[6] Cal. Dep't of Hous. and Cmty. Dev., *Incentives for Housing Element Compliance* (2009), http://hcd.ca.gov/community-development/housing-element/docs/loan_grant_hecompl011708.pdf.

3

- Incorporate affordable units throughout the City, recognizing that locating affordable units throughout the community benefits the whole City.
- Achieve a mixture of incomes and uses in as many areas of the City as possible.
- Encourage creation of new, on-site affordable housing as part of rezoning or residential special use permit applications.
- Consider the range of affordability proposed in rezoning and special use permit applications, with emphasis on provision of affordable housing for those with the greatest need.
- Promote housing options to accommodate both renters and owners at all price points, including workforce housing.[7]

Those goals and strategies are so vague and general that it is hard to imagine how they inform, guide, or constrain future housing, land use, or capital budgeting actions in any way. None of the strategies is measurable today. Each of them is subject to multiple interpretations. All but one are not time-limited, and none specifies who is responsible and should be held accountable for their implementation.

Where on the continuum from specificity to vagueness should a comprehensive plan mandated by a revision to the Charter fall? Without further detail about what exactly is being required, it is hard to have an intelligent discussion about the requirement. A myriad of questions need to be answered before the Commission, policy experts, or any citizen can evaluate a proposal to add a comprehensive plan requirement to the Charter. What exactly is required? At what level of detail? By what date? On what budget? What happens in the interim – do agencies go on with their work as before, or are certain things going to be delayed until the plan is finalized? Who will draft the plan? What role will borough presidents, community boards, and local residents each play in the planning process? Will the plan be 59 neighborhood plans merged in the same document? 59 neighborhood plans plus a citywide plan? Only one citywide plan? Who must approve the proposed plan – the City Council's proposal envisions that it will approve the plan, but must there be some form of cross-acceptance process between the neighborhoods and the City as a whole, for example? Must the plan be approved by, for example, the MTA, given the relationship between its transit strategies and the City's plans? Must the plan go through environmental impact review? ULURP? As the City Council considers the plan, can it amend the proposed plan before adopting it, or will the plan have to be sent back to the City Planning Commission (or borough presidents, community boards, or others) before amendments can be introduced? Will council members defer to objections from an individual council member that the plan is not consistent with what the council member or his or her constituents want, allowing the so-called councilmatic veto that is the rule and not the exception in the City Council? What happens if the plan isn't approved? If approved, can the plan be amended, and if so, how and under what circumstances? If it can be amended relatively easily, what real force will it have? Must agencies prove that each of their decisions is consistent with the plan? If so, what does

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[7] Charlottesville 2013 Comprehensive Plan, Ch. 5, available at http://www.charlottesville.org/departments-and-services/departments-h-z/neighborhood-development-services/comprehensive-plan/comprehensive-plan-2013.

"consistent with the plan" mean? Can people who don't like an agency's action sue claiming that the action is not consistent with the plan? What kind of review will courts give in such actions? What are the remedies that courts might impose?

A survey of everyone in this room would reveal an enormous range of views about what a mandate for a comprehensive plan means. To some, it means that each neighborhood will be required to allow enough affordable housing to meet some minimum that the City as a whole determines. To others, it means that each neighborhood will get to determine how much housing it will allow. To others, it means that each neighborhood will get to determine what preconditions must be met before any additional housing capacity is authorized. Still others may think it means that neighborhoods and the city as a whole will engage in a cross-acceptance process whereby they negotiate to a compromise. Yet others will view comprehensive planning as a threat to the power of homeowners, preservationists, and other interest groups that now dominate community board processes, because it may widen the scope of those who have input into the process. We'd likely have 20 more versions of what it means as well. That's dangerous.

Indeed, it's irresponsible to submit such an ambiguous concept to a vote. It just means that we've avoided the tough political choices involved by using "weasel words" -- words that sound specific and indisputable, but that are in fact evading a direct and transparent statement or position. Comprehensive planning can mean more or less neighborhood control, depending on how it's interpreted. It can mean longer land use processes as we debate whether the proposal is consistent with the plan, or it can mean that once a proponent shows that the project is consistent with the plan, the project should be subject to less scrutiny. It can be a ceiling imposing an upper limit on what is developed in a neighborhood, or a floor below which the neighborhood loses control or suffers penalties. It can be a broad vision, or it can be a series of very specific, measurable, accountability-focused, and time-limited goals.

To evaluate the requirements of a comprehensive plan, we need to know the answers to the questions I've raised and no doubt many more. We need to understand what we are talking about. But that's not a job the Charter Revision Commission can realistically take on in the time allotted. The Charter Revision Commission is working extremely hard, but is addressing a wide range of complex issues under a tight deadline, and in unlikely to be able tackle this issue with the level of specificity required.

Nor should the Commission: a charter is not meant to be legislation; it is supposed to be guiding principles. A charter should articulate the City's values, allocate power and responsibility among government actors, and establish the processes and checks and balances required to ensure that power and responsibility are used to achieve the stated values. It should not detail how exactly the City ought to formulate its goals and strategies, in part because that detail will need to change based upon experience and in response to evolving challenges.

But without a more detailed proposal, voters cannot give the issue the level of attention

5

required for a change that could have major consequences for every neighborhood and for every issue that would be affected (from how much affordable housing is built, to how the city would address the need for homeless shelters, schools, and fire stations, to name a few, to how the city will provide room for job growth). November 2019 is an off-year election; the only other issue likely to draw much attention is the public advocate's race. Only about 400,000 people turned out to vote in the special election for public advocate earlier this year, less than 10 percent of the 5.2 million people registered to vote (which unfortunately is not all those eligible to vote).[8] The decision to adopt a charter revision to mandate comprehensive planning thus is likely to be made by a very small number of people, yet could affect the future of the city and its residents in profound ways. And unless we have a much more specific proposal, those voters will have no idea what they are voting for, except that comprehensiveness, and planning, sound reasonable – like apple pie and teddy bears.

The Dangers of a Comprehensive Planning Mandate

Why should we worry about what a mandate for comprehensive planning really means? Why not just pass such a requirement and figure the details out later? Because comprehensive planning can foster and empower NIMBYism and can be an exclusionary tool. Depending upon the specifics of the comprehensive planning process, each neighborhood in New York City can seek a plan that protects that neighborhood's special character, its density, open space, student/teacher ratios, historic buildings, and so on. But if every neighborhood does so, it will become even harder than it is now to build the housing, infrastructure, and other projects that the city needs to ensure that people can afford to live here. The 1975 charter revision commission adopted ULURP, which has no requirement that the process include a comprehensive plan, to "give local communities a say in shaping important land use policies without granting them veto power over public welfare: in other words . . . to strengthen, not balkanize, the City's neighborhoods and communities." But comprehensive planning, again depending upon the specifics, can lead to precisely that kind of balkanization.

One of the city's most pressing issues is how to make housing more affordable for the 1.1 million households who are rent-burdened—paying 30% or more of their income for housing, so that they don't have enough left over for adequate food, health care and medicine, quality childcare, and other essentials--or for the nearly 600,000 households who are paying more than half of their income on housing. That requires multi-pronged strategies – to improve people's employment prospects and wages; to increase the supply of housing, especially the "missing middle" of unsubsidized housing affordable to moderate- and middle- income households; to provide and preserve subsidized affordable housing, improve and preserve NYCHA housing, and provide low-income tenants with rental assistance; and to provide protections against displacement for tenants such as rent regulation, limits on eviction, and legal assistance for tenants facing evictions.

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[8] Savannah Jacobson, *How Many Voters Will Turn Out for the Public Advocate Special Election?*, GOTHAM GAZETTE, Feb. 14, 2019; Jeffery C. Mays, *Pubic Advocate: Jumaane Williams Wins Special Election*, N.Y. TIMES, Feb. 26, 2019.

6

But neighborhood residents, and their elected officials, consistently do not want their neighborhoods to change significantly. They reject proposals that might affect their property values or their rents. They support affordable housing in theory, but the particular housing proposed is never just right – it's too tall, badly designed, targeted at the wrong incomes, on a site that would be better for something else, built by non-union workers, staffed by the wrong employees, operated by the wrong entity, etc., etc. That risk aversion, the rational desire to maximize the value of one's largest investment or to minimize one's own expenses, and the myriad of concerns that people express about specific proposals may all be well-meaning or understandable. But they too often add up to no new housing, even affordable housing; no housing for people with special needs; no homeless shelters; and no essential infrastructure to support the city's needs, such as sanitation, garages or police stations.[9] I wish I could believe the arguments that if only we had a comprehensive plan, people would come forward with great ideas about how to design and site such facilities and would see that they were only being asked to do what every other neighborhood is also doing and therefore take the burden of accommodating the city's needs on willfully. But those arguments defy decades of experience, reams of research, and, unfortunately, at least some of human nature.[10]

What does the evidence about comprehensive planning show? The evidence that comprehensive planning leads to equitable growth, and especially more affordable housing and better housing affordability in general is scant, and to put it charitably, even the two studies that are most favorable are quite weak. Let's go back to California, which not only has a state mandate that each local government have a comprehensive plan, but also has very detailed requirements each plan show how the locality will achieve the level of affordable housing the state and regional governments have mandated as the local government's share of the statewide need, and a system of sticks and carrots if the local government does not achieve those goals.

Nevertheless, almost three decades after the planning requirement was imposed, in

[9] *See* Vicki Been, *City NIMBYs*, 33 J. LAND USE & ENVTL L. 217 (2018); John Mangin, *The New Exclusionary Zoning*, 25 STAN. L. & POL'Y REV. 91, 91 (2014); Roderick M. Hills, Jr. & David Schleicher, Balancing the "Zoning Budget", 62 CASE W. RES. L. REV. 81, 85 (2011); Roderick M. Hills, Jr. & David Schleicher, *Planning an Affordable City*, 101 IOWA L. REV. 91, 93 (2015); Wendell Pritchett & Shitong Qiao, *Exclusionary Megacities*, 91 S. CAL. L. REV. (2018); David Schleicher, *City Unplanning*, 122 YALE L.J. 1670, 1675 (2013); Charles Joshua Gabbe, *Do Land Use Regulations Matter? Why and How?* (Jan. 1, 2016) (unpublished Ph.D. dissertation, University of California at Los Angeles) https://escholarship.org/uc/item/6db0k1k5. For classic studies of parochial opposition to new housing development, see WILLIAM A. FISCHEL, THE HOMEVOTER HYPOTHESIS: HOW HOME VALUES INFLUENCE LOCAL GOVERNMENT, TAXATION, SCHOOL FINANCE AND LAND-USE POLITICS 18(2001); Richard Briffault, *Our Localism: Part I – The Structure of Local Government Law*, 90 COLUM. L. REV. 1, 3 (1990); Robert C. Ellickson, *Suburban Growth Controls: An Economic and Legal Analysis*, 86 YALE L.J. 385, 405–07 (1977).

[10] For evidence specific to New York City, see Vicki Been, Josiah Madar, & Simon McDonnell, *Urban Land Use Regulation: Are Homevoters Overtaking the Growth Machine?*, 11 J. EMPIRICAL LEG. STUD. 227, 238–40 (2014); Edward L. Glaeser, Houston, *New York Has a Problem*, CITY J., Summer 2008, at 62, 67; Edward L. Glaeser, Joseph Gyourko, & Raven Saks, *Why is Manhattan So Expensive: Regulation and the Rise in Housing Prices*, 48 J. L. & ECON. 331 (2005); see also Paul Krugman, Opinion, *That Hissing Sound*, N.Y. TIMES, Aug. 8, 2005, http://www.nytimes.com/2005/08/08/opinion/that-hissing-sound.html.

1996, only 58 percent of the local governments required to adopt the required housing element of a comprehensive plan had done so.[11] By 2018, nearly 50 years after the requirement was imposed, the share of local governments subject to the housing plan requirements that were in compliance had risen to 88%.[12] Nevertheless, almost 98 percent of the jurisdictions were failing to approve the housing the state had determined was needed.[13] The reasons for that failure are many, but one clear lesson from California's experience with comprehensive planning is that it does not overcome local resistance to the steps cities must take to achieve housing affordability.[14]

The evidence about whether comprehensive planning processes in areas outside California are associated with more housing affordability is mixed but very weak. In the words of a recent scholarly review of the evidence, "little is known about the outcomes of most plans, let alone the affordable housing component of local comprehensive plans [or about] the impact of various elements of plan quality on community outcomes or housing affordability . . . ."[15] The most recent study looked at 58 local comprehensive plans in the Atlanta and Detroit metropolitan areas, and evaluated whether the strength of those plans' housing elements was associated with reductions in the share of low-income households who were rent burdened (paying more than 30% of their income for housing). The research concluded that the number and mandatory nature of housing policies discussed in comprehensive plans was associated with improved housing affordability in the Atlanta metro, but not in the Detroit metro.[16] Of the three earlier studies looking at whether comprehensive plans in Florida were associated with more housing affordability, two concluded that they were not; the third study found that the

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[11] Nico Calavita et al., *Exclusionary Housing in California and New Jersey: A Comparative Analysis*, 8 HOUSING POL'Y DEBATE 109, 118 (1997). Although at least one court took tough measures against a recalcitrant community, enjoining it from approving any subdivision maps or rezonings until it had complied with the requirements, Camp v. Bd. of Supervisors, 176 Cal. Rptr. 620 (Ct. App. 1981), compliance still lagged. *See* Ben Field, *Why Our Fair Share Housing Laws Fail*, 34 SANTA CLARA L. REV. 35 (1993) (blaming failure on obstacles to litigation, limits of judicial expertise, and a judicial reluctance to intervene in local land use matters).

[12] Cal. Dep't of Hous. and Cmty. Dev., Housing Element Implementation Status Tracker (Dec. 4, 2018), http://hcd.ca.gov/community-development/housing-element/docs/Housing_Element_Implementation_Tracker.xlsx.

[13] Cal. Dep't of Hous. and Cmty. Dev., S.B. 35 Statewide Determination Summary (2018), http://www.hcd.ca.gov/community-development/housing-element/docs/SB35_StatewideDeterminationSummary01312018.pdf.

[14] For further analysis of California's planning approach, see Victoria Basolo & Corianne P. Scally, *State Innovations in Affordable Housing Policy: Lessons from California and New Jersey*, 19 HOUS. POL'Y DEBATE 741 (2008); Tej Kumar Karki, *Mandatory Versus Incentive-Based State Zoning Reform Policies for Affordable Housing in the United States: A Comparative Assessment*, 25 HOUS. POL'Y DEBATE 234 (2015); Paul G. Lewis, *Can State Review of Local Planning Increase Housing Production?*, 16 HOUS. POL'Y DEBATE 173 (2005); Matthew Palm & Deb Niemeier, *Achieving Regional Housing Planning Objectives: Directing Affordable Housing to Job-Rich Neighborhoods in the San Francisco Bay Area*, 83 J. AM. PLAN. ASS'N 377 (2017); Ngai Pindell, *Planning for Affordable Housing Requirements*, in LEGAL GUIDE TO AFFORDABLE HOUSING 3 (Tim Iglesias & Rochelle Lento, eds., 2011); Darrel Ramsey-Musolf, *Evaluating California's Housing Element Law, Housing Equity, and Housing Production (1990-2007)*, 26 HOUS. POL'Y DEBATE 488 (2016).

[15] Hee-Yung Jun, *The Link Between Local Comprehensive Plans and Housing Affordability*, 83 J. AM. PLAN. ASSN. 249, 254 (2017).

[16] *Id.*, at 258-259.

8

number of housing policies in a comprehensive plan was associated with great housing affordability in subsequent years, although the number of housing policies in a plan may bear little relationship to the number or quality of policies actually implemented.[17]

In short, then, the evidence suggests that mandating a comprehensive plan may, at best, do little to help New York achieve a more just and affordable city. At worst, depending upon how comprehensive planning is structured, implemented, and enforced, it may make it even harder for the City to achieve those and other goals. There is a growing consensus across land use and urban policy experts in academic institutions; public policy think tanks; and federal, state and local governments that land use regulation, including planning is limiting growth in productive cities like New York in ways that have very negative consequences both for those cities and for their states and the nation as a whole.[18] A mandate for a comprehensive plan could make an already lengthy, unpredictable, and costly land use process even more onerous by providing yet another veto point or opportunity for holdup to NIMBY interests. This would come at the expense of more equitable development for those who have been shut out of many neighborhoods and housing opportunities because of their income, race, or ethnicity.

New York is a city of neighborhoods, but it is one city, and we stand or fall as a whole. The balance between giving neighborhoods appropriate control over what happens to their neighborhoods and getting the things built that we need if we are going to thrive as a city is difficult to strike. Something that could upend that balance, which a comprehensive planning mandate would do, should not be undertaken lightly. I therefore urge the Commission to reject the calls to revise the Charter to mandate a comprehensive plan.

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[17] Compare J. Anthony, *The Effects of Florida's Growth Management Act on Housing Affordability*, 69 J. AM. PLAN. ASSN. 282 (2003); A. Aurand, *Florida's Planning Requirements and Affordability for Low-Income Households*, 29 HOUSING STUD. 677 (2014); R.C. Feiock , *The Political Economy of Growth Management*, 22 AM. POL. Q. 208 (1994).
[18] *See* Vicki Been, Ingrid Gould Ellen and Katherine O'Regan, *Supply Skepticism*, 29 HOUS. POL'Y DEBATE 25 (2018) (surveying literature); Been, *supra* n. 9.

ERIC KOBER TESTIMONY

NEW YORK CITY CHARTER REVISION COMMISSION

APRIL 30, 2019

Thank you for the opportunity to testify. My name is Eric Kober. I am the former director of housing, economic and infrastructure planning for the New York City Department of City Planning, now retired and a visting scholar at the Wagner School of Public Service at NYU. I am speaking tonight as a private citizen.

I have written for the *City Journal* website two op-ed articles about the work of this Commission. The first raised an alarm about the charter revision proposals advanced in January by the City Council, which I saw as an all-out assualt on the Mayor's authority. The second cautiously praises the *Preliminary Staff Report*, which generally adheres to the good-government standards established by the 1989 Charter Revision Commission. This conservatism of process is welcome and a credit to the Commission's leadership.

Nevertheless, the staff report also includes proposals that could impede, not improve, governmental operations. For example, the report proposes that the Council approve the appointment of the Corporation Counsel, who would also serve an unspecified term. This change, the report asserts, would insulate the corporation counsel from undue influence by the mayor, preserving the independence of the position. But really, the opposite is true, because the proposal would enable the City Council to exert pressure on a Corporation Counsel nominee to dismiss advice from Law Department staff, and potentially work against the city's best interests.

The report also recommends giving the public advocate some means to compel agencies and officials to provide information, "whether that mechanism be some form of subpoena power or otherwise." Since the public advocate has no specific responsibilities or authority, his staff could be empowered to draw up an unlimited number of wide-ranging requests. One can imagine such a mechanism becoming a costly and time-consuming distraction for agencies that have real administrative responsibilities.

Regarding land use, the report recommends that community boards and borough presidents be permitted to comment on land-use applications before the start of the formal ULURP process. The report implies that a pre-ULURP comment period, specified in the charter, would be more influential than the current practice of informal consultation. Hpwever, such a provision raises the question of what the Department of City Planning and the City Planning Commission are expected to do with these official pre-ULURP comments. Private applicants will still choose what to submit for Planning Commission approval—they are not obliged to make changes in response to comments. ULURP kicks off when the application is complete, not when the planners support it. The Planning Commission votes to approve, reject, or modify the application only after it hears from the community board and borough president again, during the designated review periods.

I applaud the report's idea of rationalizing the various planning requirements of the Charter, but note there are no penalties for disregarding Charter planning requirements. Thus the Charter can at best give a nudge toward good planning, not mandate it. Any planning provisions in the Charter should be high-level and provide the flexibility to adapt to specific times and conditions.

Thank you, and I'm happy to answer any questions.

CHPC Testimony on 2019 Charter Revision
March 21, 2019

Hello Chair Benjamin and fellow commissioners:

Thank you for inviting me to testify here today. My name is Jessica Katz, I am the Executive Director of the Citizens Housing and Planning Council. Since our founding in 1937, CHPC has sought to advance practical public policies to support the housing stock in New York City by better understanding New York's most pressing housing and neighborhood needs.

NYC's land use and planning process, while imperfect, is far more robust, transparent, and predictable than the majority of its counterparts in other cities. While it is often reviled by developers, city agencies, and community activists alike, as the old saying goes, the mark of a good compromise is when all parties are equally unhappy. Our City's land use process is by no means perfect, but it has stood the test of time. Any changes should be weighed carefully and CHPC commends the Commission for its diligent work on this herculean task.

CHPC believes our planning process should meet the following goals:

- Balance local and citywide perspectives
- Incorporate accurate data
- Address the needs of both current and future residents
- Be decision-driven

- Provide better ways for neighbors and communities to participate and stay informed

Any improvements to our current system should make it easier for New Yorkers to say "Yes" to local land use actions that they support – not simply create new ways to say "No." This means raising our standards for how we inform communities about planning, and finding better ways for New Yorkers to express their needs and preferences.

Our current system tends to amplify only the voices of those who have the time and temperament to testify at hearings, decisions on individual projects can seem to lack context or data, and too many stakeholders feel excluded from the process.

Our system rests on the premise that building more has an impact, but we often fail to consider the consequences of doing nothing. As some of you know, my background is in supportive housing, so I am particularly concerned about the 60,000 homeless people who tend not to show up for community board meetings, but whose needs are clearly not well met by our current system.

Other cities have interesting mechanisms in place to encourage the development of more affordable housing, such as the Chapter 40B process in Massachusetts.

It is a delight to be here tonight among the planning nerds of New York City to discuss these issues, and I truly believe that many of the panelists share more values than we might expect.

But here's the bad news:

We don't see any evidence that Comprehensive Planning would help achieve those goals or advance our shared values. CHPC is concerned that Charter Revision is not a nimble enough tool to engage in this type of Comprehensive Planning which has not been undertaken at this scale or intensity. A Comprehensive Plan would take enormous time and resources, the plan would be outdated before the ink was dry, and while we can write a plan into the Charter, NYC is already replete with plans, and the Charter cannot guarantee that a Comprehensive Plan would be useful, meaningful, or taken seriously.

One of the other recommendations submitted to this Commission is radical in its simplicity, and I think provides a wonderful framework for us to assess charter revisions themselves. The recommendation is as follows: Require that all legislation identify (a) the problem it is intended to solve, (b) the means by which it addresses such problem, (c) the metrics that will be used to determine its success/failure; and (d) appropriate grounds for sunset.

At CHPC, we wish we had thought of this ourselves! We are not convinced that Comprehensive Planning passes such a test, and while we are always in search of new ideas to improve our systems for housing and planning, Charter revision is too blunt a tool to make such a change in such a short period of time.

CHPC Testimony on 2019 Charter Revision Staff Report
May 9th, 2019

Good evening Chair Benjamin and Commissioners:

Thank you for allowing me to testify today. My name is Jessica Katz and I am the Executive Director of the Citizens Housing and Planning Council. CHPC has followed this process carefully and commends the incredibly diligent work of the Commission and its staff. Your work as a Commission has been deeply impressive, especially to the true ULURP nerds among us.

A city as huge and diverse as New York requires decision-driven land use and planning processes that balance local and citywide needs. We also need a process that is robust, transparent, and predictable. There is no process where all parties will be happy, but we can do better to ensure that all parties are heard. But I also want to point out that it is impossible to legislate consensus, and that even small changes to this process could disrupt the delicate balance ULURP was created to achieve.

You've heard a lot of concerns about ULURP. Communities want more information, sooner, on projects in their neighborhoods, and more time to meaningfully influence them. Any changes should directly address those concerns by advancing transparency and meaningful community engagement.

CHPC is in full support of requiring Community Boards be notified of ULURP applications prior to their certification. Building discourse and trust early on is beneficial for both applicants and communities. Local stakeholders will have more time to prepare for ULURP to begin.

However, duplicating a ULURP comment period will only add opacity, confusion, and conflict. Certification precedes ULURP so that applications reach technical compliance before undergoing public review. A community that spends time and energy commenting on an uncertified application will only encounter more frustration if it is then significantly revised to satisfy DCP feedback, especially if changes conflict with community wishes. And since residents will have only very little time to engage and participate before comments begin, the pool of voices contributing to the process will become narrower and more exclusive.

Pre-certification is different for every project. It needs to remain fluid so that the subsequent ULURP itself is clear and transparent.

In this spirit, we support an extension of the Community Board comment period from 60 to 75 days throughout the entire calendar year. Coupled with early notification, the extension will give Community Boards more time to host multiple meetings or hearings, diversifying who gets to participate and how.

How to participate- this is the critical question. The current process means that the primary form of participation is to testify at a hearing. This puts parties in opposition, instead of encouraging them to better understand one another's wishes and constraints, ask questions, and strive for consensus. Hearings can be long, crowded, and intimidating; they amplify only the voices of those with the time and temperament to testify. Additional meetings set aside for information and discussion would engage a wider range of residents: those who want to weigh in but not to testify and those who need

2

more information to form an opinion. They would also give evening workers and people with childcare needs more opportunities to learn about projects in their neighborhood.

CHPC is optimistic that these changes will help capture more community voices and amplify their role in land use decisions. It is our hope that outside the charter reform process, we can experiment with ways to help capture the voices and needs of those not well served by our current system, including homeless New Yorkers and the future residents of proposed housing developments. It is our responsibility to ensure a process where those needs are kept in sight.

On that note, I'd like to commend and thank the staff for focusing on proposals that clarify, streamline, and synchronize existing plans. It is only with a clear understanding of where the gaps in our current plans are that we can begin to fill them.

Our planning documents should identify local and citywide needs, goals, and priorities, along with strategies to address them on a cohesive timeline. They should set out the data and context necessary to frame and assess how individual policies, programs, and land use decisions will collectively advance our overarching vision for the city.

CHPC is happy to support the Commission and its staff in the exploration of such solutions. Thank you for your time.

3

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215 Park Avenue South, 1901
New York, NY 10003
212 962 6307

March 19, 2019

To the Commission:

I am Vishaan Chakrabarti, an architect and planner, a professor at Columbia University, and the former Director of the Manhattan Office for the New York Department of City Planning in the years following 9/11. I am testifying today as a private citizen, not on behalf of any group.

I have reviewed many of the proposed changes to the Land Use section of the Charter and must respectfully oppose the calls for significant revisions to ULURP including the proposal for additional layers of so-called comprehensive planning. While the intention of trying to improve equity and affordability is laudable, I am convinced these proposals would have the opposite effect and exacerbate our worst social and environmental problems because they will further limit our capacity to serve our population growth and diversify our economy.

The statue in our harbor cannot say "Give me your tired, your poor, your huddled masses...but only after we are done with our analysis paralysis."

Our lack of affordability does not stem from ULURP. To the contrary, ULURP works because it has the wholly democratic tendency to make everyone somewhat unhappy, which is the hallmark of balance. Many meritorious projects have gone through ULURP with community support, such as Domino or Essex Crossing, both of which I helped to plan and design, and we hope to achieve similar results with our plan for over 2,000 affordable housing units in East New York at the Christian Cultural Center.

New York's lack of affordability stems from a far simpler issue: the demand for housing in our city wildly outstrips our supply. We are outpacing our growth projections but given our land scarcity, we simply can't keep up unless we expand the production of both affordable and market rate housing. The fantasy that less growth will lead to equality is irresponsible rhetoric that willfully ignores both our population projections and our history as a city of welcoming newcomers.

Part of the role of our elected executive branch is to plan for future New Yorkers, a role that would be a conflict of interest for council members who by definition must instead protect the interests of their local constituents. This is why the authority to plan for New York's growth firmly rests with the Mayor's office and should continue to do so. In my experience, the most successful cities around the world are ones in which the Mayor can take strong actions to address social ills, infrastructure and climate change.

PAU

We now face an existential threat from climate change, which we should not confront with years of infighting about process just as Rome burns. We should not respond by forcing the growth of our city into sprawl because we don't have the chutzpah to build densely near mass transit or near emerging employment hubs outside of Manhattan.

As a planner I believe in concepts like strategic planning, particularly in the face of climate change but worry that a cumbersome comprehensive plan every decade would not be agile enough to meet our dynamic needs. As the Mayor's office illustrated with their recent resilience proposal for Lower Manhattan, the function of depoliticized planning rests with our elected Executive Branch, which is already obligated under current law to solicit local input and obtain binding council approval.

My experience after 9/11 taught me that today's concerns of gentrification and congestion may well give way to unforeseen challenges as our climate changes and our infrastructure fails. Our best defense is in the strength of our communities and our economy, which must grow smartly in order to rebuild our infrastructure while still welcoming newcomers, newcomers who have no political voice.

Rather than retrench, the times require us to do what our predecessors did, to have the temerity to build an infrastructure of opportunity that will create both social mobility and environmental resilience in this city we all love.

Thank you for the opportunity to testify.

Vishaan Chakrabarti, FAIA
Founder, Practice for Architecture and Urbanism
Professor of Practice, Columbia University

2

Appendix B

Dr. Jennifer A. Heerwig
Assistant Professor of Sociology
SUNY-Stony Brook
Jennifer.heerwig@stonybrook.edu

Written Testimony Prepared for
The New York City Charter Revision Commission, 2019

February 25, 2019

Good evening and thank you for asking me to participate. My name is Dr. Jennifer Heerwig and I'm an assistant professor of sociology at SUNY-Stony Brook. My research is broadly on the American campaign finance system including studies of individual donors in the federal system. With my co-author at Georgetown University, I have recently completed a study that looks at the effects of the 2017 implementation of the Seattle Democracy Voucher Program.

As you know, the initiative in Seattle created the nation's first Democracy Voucher Program. In January of 2017, Seattle mailed four $25 vouchers to every registered voter in the city. Those vouchers could be used for qualified candidates in 2 citywide City Council races and the race for City Attorney, all held in November of 2017. In my study, I ask and answer two broad research questions about the effects of the Voucher Program that will be of interest to this Commission.

First, did the Seattle program increase the number of participants in the local campaign finance system? Here, I answer with an unqualified, "yes." The program dramatically increased the number of citizens who funded local elections (see Figure 1 below). Compared to the number of cash donors in City Council or City Attorney races, the Democracy Voucher program increased participation by over 300%.

Second, did the program diversify the donor pool? In just one partial implementation, the program has made some notable progress in diversifying campaign donors in local elections. Let me outline just a few of the takeaways from our research (see Table 1 below). Compared to local donors who made **cash contributions**, Democracy Voucher users are substantially more diverse. Democracy Voucher users look more like voters in Seattle in terms of race, age, and income level.

For example, upper-income citizens provided nearly 36% of the private cash contributions in 2017, but only 17% of the voucher funds. Middle-income Seattle residents were a much larger share of Democracy Voucher users and Democracy Voucher funds. In other words, the Democracy Voucher system worked to reduce the over-representation of the wealthy among campaign donors. However, I should also note that voucher usage was still lower among communities of color, younger Seattleites, and those with lower levels of income—an aspect of the program that Seattle is working to improve upon in 2019 when the program is expanded.

To summarize, the Democracy Voucher program increased participation in the local campaign finance system by over 300%. Those who participated in the program didn't look exactly like all voters in Seattle, but they

B1

were much more similar to Seattleites than those who made cash contributions and I anticipate these patterns will only improve in 2019.

Thank you for your time.

List of Attachments:
1. Figure 1: Figure 1: Total Number of Cash Donors and Voucher Users in Seattle Municipal Elections

2. Table 1: Demographic Composition of Voucher Users, Registered Voters, Active Voters and Cash Donors in the 2017 Seattle Election

3. Heerwig, Jen. 2018. "Evaluating the Seattle Democracy Voucher Experiment." Sludge.com Guest Essay.

4. McCabe, Brian J. and Jennifer A. Heerwig. 2019. "Diversifying the Donor Pool: Did Seattle's Democracy Voucher Program Help Reshape Participation in Municipal Campaign Finance?" Working paper.

Figure 1: Total Number of Cash Donors and Voucher Users in Seattle Municipal Elections
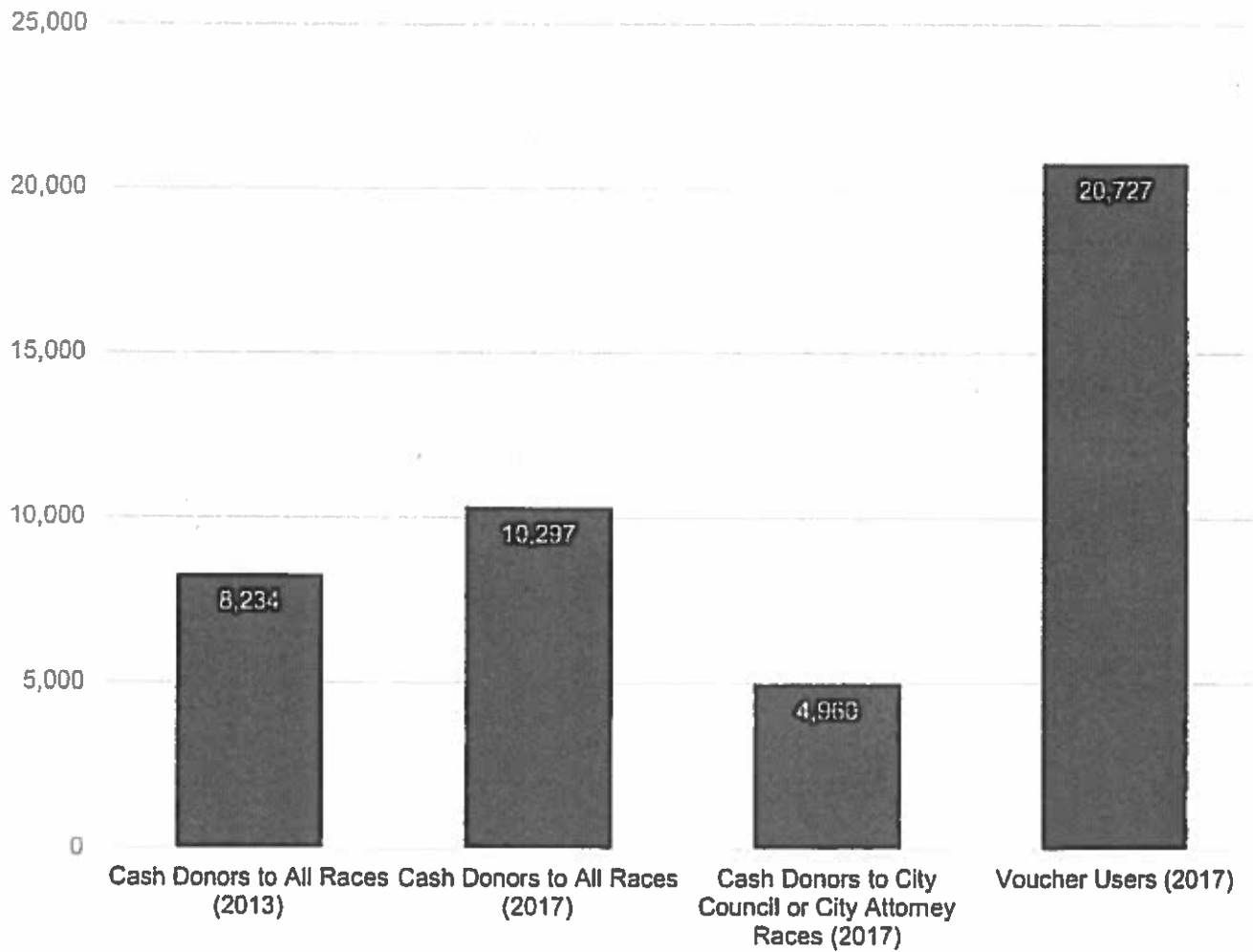
Table 1: Demographic Composition of Voucher Users, Registered Voters, Active Voters and Cash Donors in the 2017 Seattle Election

	Voucher Users	Registered Voters	Voters (2017)	Cash Donors	% of Private Money	% of Voucher Money
Gender						
Male	45	49.34	47.68	49.93	54.17	45.19
Female	55	50.66	52.32	50.07	45.83	54.81
Race						
White	88.2	81.93	88.09	90.48	92.83	88.08
Black	3.68	5.75	3.73	3.2	2.67	3.73
Hispanic	2.35	3.31	2.16	2.08	1.31	2.51
Asian	5.76	9.01	6.02	4.23	3.18	5.68
Age						
18-29	11.02	19.42	10.83	7.48	2.91	11.95
30-44	28.93	33.56	29.07	26.97	19.08	30.90
45-59	23.57	23.4	26.84	30.05	35.72	23.08
60+	36.47	23.61	33.26	35.5	42.29	34.07
Income						
< $30K	3.72	7.56	3.7	2.12	1.52	3.51
$30K - $49K	25.13	31.89	23.81	20.05	14.63	25.60
$50K - $74K	33.34	31.08	31.37	28.4	23.94	33.72
$75K - 99K	20.83	15.81	20.54	22.62	24.26	20.56
> $100K	16.98	13.66	20.59	26.82	35.64	16.61
Ideology						
Conservative	1	1.61	2.1	1.43	2.30	0.93
Moderate	3.7	10.29	6.08	3.3	4.71	3.59
Liberal	95.3	88.1	91.82	95.27	92.99	95.48
Total #	18,770	455,017	210,391	6,429	6,429	18,770

Note: Columns 1-4 present percentages of the total *number* of voucher users, registered voters, active voters and cash donors, respectively. The last two columns present percentages of total *dollar* donations and voucher receipts.

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Seattle streake School
STEPH
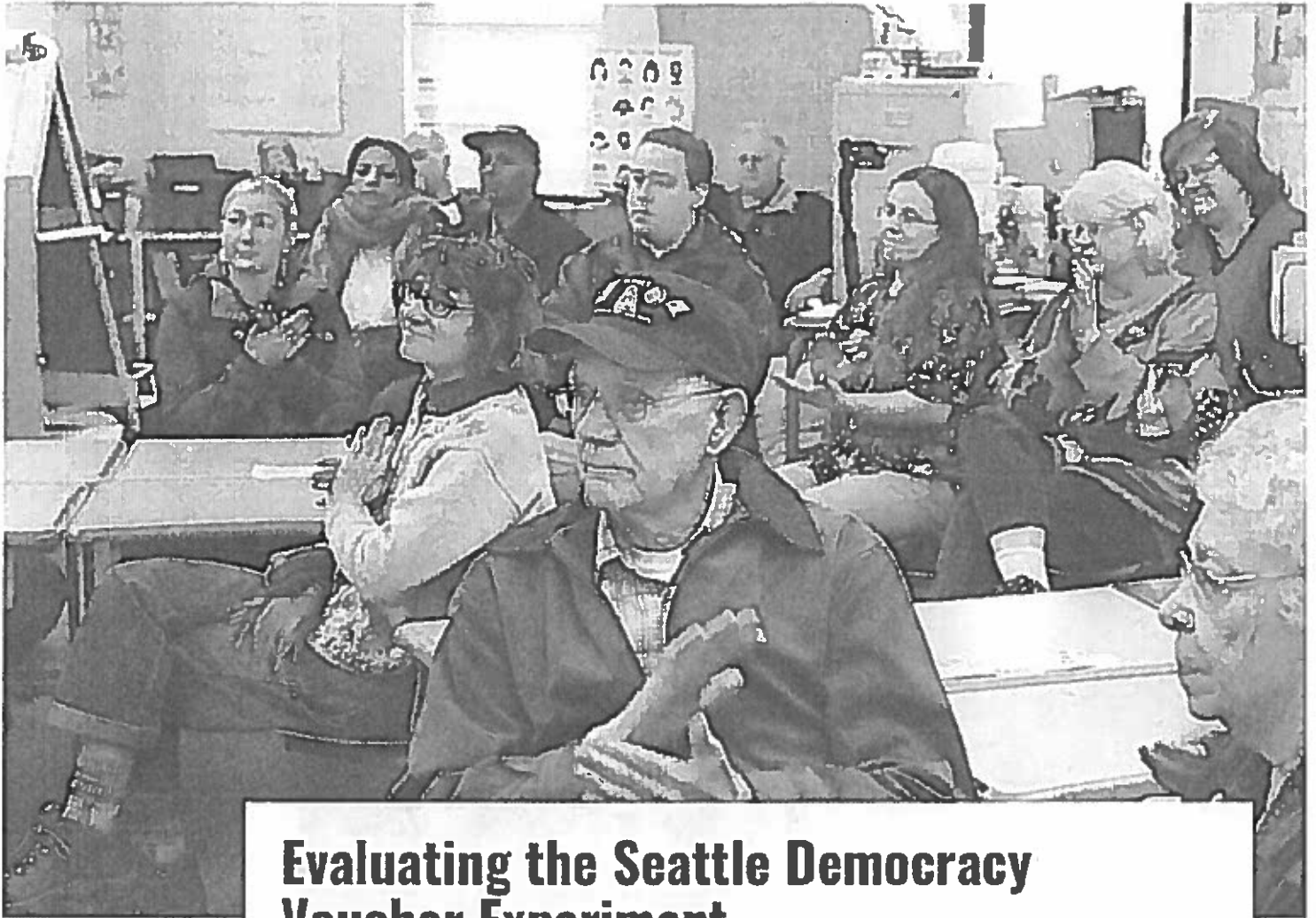
Evaluating the Seattle Democracy Voucher Experiment

A 2017 program showed "democracy vouchers" for Seattle elections doubled the amount of users over traditional cash donors, and that participants were more representative of the city's population in terms of income, race, and age.

NOV 10, 2018 2:00PM EST   ELECTIONS

Jen Heerwig @drjenh

Jen Heerwig is an assistant professor of sociology at SUNY-Stony Brook.
See more

In the national elections of 2016, a meager 0.52 percent of the American population made a contribution over $200. Nevertheless, those donations over $200—quite a hefty sum for most citizens—constituted 68 percent of the funds received by federal candidates,

parties, and PAC's, according to the Center for Responsive Politics. Despite media

B5

attention to the role of small donors in American elections, most campaign cash still comes from large donors. And those wealthy enough to make donations in excess of $200 tend to be white, affluent, and far older than the American population at large. No surprise, then, that a recent book finds that that the preferences of ordinary Americans have virtually no impact on policy outcomes. Economic elites, however, seem to much more often get their way when it comes to policy—think healthcare, taxes, or ironically, campaign finance reform.

What, if anything, can be done to break the dependence of candidates on wealthy donors and restore democratic responsiveness? A new innovative public financing program implemented in Seattle, Washington, offers a possible path forward. Passed by ballot initiative in 2015, the Seattle Democracy Voucher program gives every voter in Seattle four $25 vouchers to spend on local candidates of their choice. By putting "democracy dollars" in the hands of ordinary Seattleites, the program is intended to bring more people into the campaign finance system and involve a more diverse slice of the voting population. It also has the potential to give average Seattleites—especially those without the surplus income to make a private donation—a voice in who can successfully run for local office.
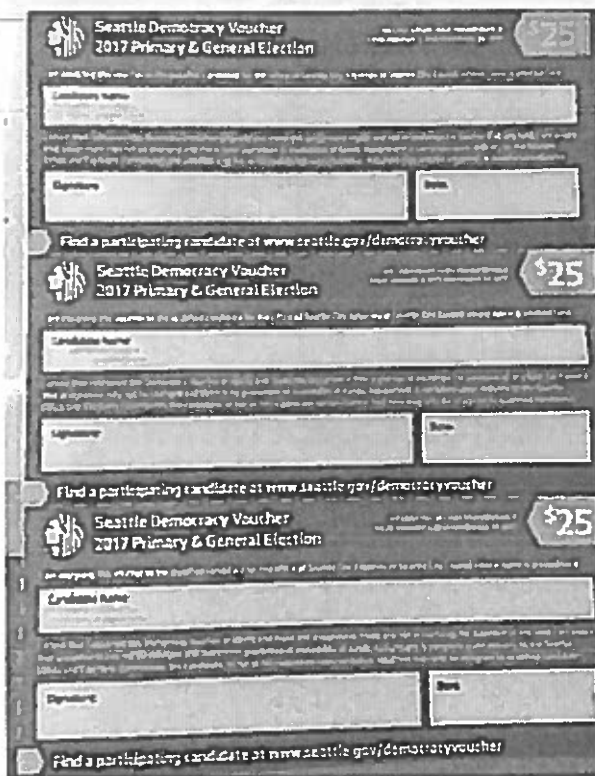
In 2017, Seattle began the Democracy Voucher program with a partial implementation. In that election, voters could spend their vouchers on two city council races and the race for city attorney. In all, Seattle voters could choose between five city council candidates and one candidate for city attorney that qualified for the program.

Did the program meet its goals of bringing more people into the system? For

comparison, local elections are routinely financed by a tiny share of the adult population —about 1.7 percent in 2017. That rate includes donors who made a contribution of any size. The participation rate in the Democracy Voucher Program was about 3.4 percent— twice the overall donor participation rate. There were over 20,000 unique democracy voucher users, compared to just 10,000 unique donors to any local candidate.

Group

Total Donors (2013)
Total Donors (2017)
Total Donors to City Cc
Total Voucher Users

Besides bringing in more participants, the program was also intended to make those who use their vouchers more diverse than the donor population. Again, this is important because political donors tend to be much more affluent, older, and more likely to be white than voters at large. To evaluate this aspect of the program, I compared the sociodemographic characteristics of DVP users to all Seattle voters and to the much tinier donor pool. If Democracy Voucher users well approximate voters, then the program was also successful in diversifying who funds local elections.

Below, I show the income distribution of voters, Democracy Voucher users, and donors. Although there are still some gaps between voters and Democracy Voucher users, DVP users appear much more similar to voters than do cash donors. Take those folks in the exact middle of the income distribution—whose incomes fall between $50,000 and $74,999 per year.

Group

Voters
Voucher Users
Cash Donors

Here, we see that about 31 percent of voters fall into this category, compared to 28 percent of cash donors. Middle-income Seattleites make up 33 percent of DVP users, an

increase of 18 percent over cash donors. At the high end of the distribution, nearly 27

B7

percent of cash donors had incomes over $100,000 per year, compared to just 17 percent of Democracy Voucher users—a 37 percent reduction in high-income donors and a significant step in the direction of bringing greater class representation to local races.

Another important dimension for representation is race. Here, too, we see evidence for the diversifying effects of the Democracy Voucher program, although more work remains to be done. Compared to cash donors, Democracy Voucher users contained a higher share of people of color, although the increase was just a quarter of the overall representation gap.

Group

Voters
Voucher Users
Cash Donors

Finally, Democracy Voucher users were also younger, on average, than the population that makes cash contributions (although still older than the voter population at large). For the youngest residents, voucher users were more representative than cash donors, but still far shy of the share of young voters. For instance, just 7.5 percent of cash donors are between 18-29, compared to 19 percent of voters and 11 percent of voucher users.

Group

Voters
Voucher Users
Cash Donors

Although gaps remain between Democracy Voucher users and Seattle voters, the Democracy Voucher program did move the donor pool in an egalitarian direction. In jus one election cycle—and with just a partial implementation of the program—larger numbers of people of color, young, and especially, middle-income Seattleites funded their local elections.

Native sculpture at Seattle City Hall by Sackraison Weranakna

In 2019, Seattle will expand the program to seven district city council races, offering residents far more opportunities to participate in the program. For Americans concerned about the state of our democracy, the Seattle program may be a viable path forward to achieving a more inclusive politics and one that reflects the concerns of all Americans.

Jen Heerwig is an assistant professor of sociology at SUNY-Stony Brook and a visiting scholar at the Russell Sage Foundation. More info: www.jenheerwig.com.

Thanks as well to Heath Brown, associate professor of public policy at the John Jay College of Criminal Justice, City University of New York, and Scholars Strategy Network's New York City Chapter for facilitating this guest article.

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B9

Diversifying the Donor Pool: Did Seattle's Democracy Vouchers Program Reshape Participation in Municipal Campaign Finance?

Brian J. McCabe
Associate Professor of Sociology
Georgetown University

Jennifer A. Heerwig
Assistant Professor of Sociology
SUNY-Stony Brook

February 2019

B10

Title: Diversifying the Donor Pool: How Did Seattle's Democracy Vouchers Program Reshape Participation in Municipal Campaign Finance?

Abstract: In this paper, we evaluate whether an innovative new campaign finance program in Seattle, Washington shifted the composition of campaign donors in local elections. In 2015, voters in Seattle approved the creation of the Democracy Voucher program with the intent of broadening representation in the campaign finance system and expanding participation from marginalized communities. Every registered voter in Seattle was provided with four, twenty-five-dollar vouchers that they could, in turn, assign to the local candidate(s) of their choice. Through an analysis of the inaugural implementation of the program in 2017, we investigate whether this innovative public financing system increased participation, broadened involvement from underrepresented groups and led to donor pool that was more representative of the electorate. Compared to cash donors in the municipal election, we report that voucher users are less likely to be high-income and more likely to come from poor neighborhoods. While older residents are over-represented among voucher users, there is little difference in the racial composition of cash donors and voucher users. Our analysis confirms that the Democracy Voucher program successfully moved the donor pool in a more egalitarian direction, although it remains demographically unrepresentative of the electorate. The lessons from Seattle's inaugural implementation offer key insights for other municipalities considering public financing policies, and these lessons have the potential to reshape the national policy debate about the influence of political money.

American elections are decided not only by voters, but also by the coalitions of donors that fund modern campaigns. Yet, only a fraction of Americans contributes to a political campaign each election cycle, and an even smaller share makes large donations to political candidates. In 2016, 0.52% of adults made a contribution over $200, but these donations accounted for nearly 70% of cash collected by political candidates (Center for Responsive Politics 2017). This population of donors is not only numerically small; it is also deeply unrepresentative of the broader electorate. Since donors in American elections are wealthier than the population at-large, the campaign finance system has emerged as a key potential mechanism for the transmission of elite policy preferences to American policymakers (Gilens 2012; Bonica 2018).

Concurrent with the growing role of money in politics, the Supreme Court has narrowed the scope of campaign finance regulations by affirming political donations as a form of speech subject to First Amendment protection. One result of these developments has been the innovation of new public financing programs designed to shift the focus of reforms away from restrictions and limitations on political contributions and toward innovative policies that increase participation in the campaign finance system (Overton 2012; Mayer 2013). While traditional public financing programs supplied campaign funds through candidate grants, this new generation of programs aims to incentivize citizen participation through programs like matching funds (Demos 2017).

In this paper, we report on an innovative, participation-oriented voucher program designed to increase participation in municipal campaign finance. In 2015, voters in Seattle, Washington approved a referendum to create the nation's first taxpayer-financed voucher program to fund local elections (Berman 2015). Under the rules of the program, each voter in

Seattle would receive four, twenty-five dollar vouchers to assign to the municipal candidate(s) of their choice. The program was launched in the subsequent election cycle in 2017, and residents of the city were permitted to redeem their vouchers for qualifying candidates in the at-large City Council and City Attorney races. Proponents of the Democracy Vouchers program expected the initiative to increase participation in municipal campaign finance and diversify the pool of donors in local elections – goals consistent with the broader efforts to mobilize democratic participation through public financing schemes. More broadly, city leaders expected the program to bring "democracy and accountability" to Seattle elections (Seattle Municipal Code 2015).

We offer the first comprehensive evaluation of Seattle's Democracy Voucher (DV) program to understand whether the program successfully expanded and diversified the local donor pool. While concerns about representational inequalities in the campaign finance system – and more broadly, the role of money in politics – have been widely researched and debated in federal elections, they have been largely neglected in the study of urban politics (Heerwig and McCabe 2018). This oversight is important because municipal elections are financed by a relatively smaller number of donors who may garner greater access to political candidates through their contributions.

In the sections below, we examine how the voucher program affected patterns of representation in the 2017 Seattle municipal election. First, we compare participants in the Democracy Voucher program to four groups – individuals who made a qualifying donation in the 2017 municipal elections ("qualifying donors")[1], individuals who made a cash donation outside

of the qualifying period in the 2017 municipal election ("cash donors")[2]; voters in the 2017 municipal election ("2017 voters"); and the broader Seattle electorate ("registered voters"). Through these comparisons, we assess the representativeness – both demographically and geographically – of voucher users to other participants in the political ecosystem. In doing so, we also offer one of the first individual-level portraits of the sociodemographic characteristics of political donors in *local* elections. After reporting these descriptive comparisons, we estimate a series of multilevel logistic regression models to predict voucher usage and successful voucher assignment in the 2017 election. By identifying the socio-demographic correlates of voucher redemption and assignment while controlling for overall participation propensity, we offer a more nuanced understanding of the uneven patterns of participation in Seattle's Democracy Voucher program.

Although our analysis comes from a single election cycle in Seattle, it contributes to a growing movement in the field of policy analysis to consider the implications of "big data" for evaluating and understanding social policy (Cook 2014). Drawing on several large, administrative datasets, we are able to present a richly descriptive account of the landscape of campaign finance in Seattle following the implementation of a major new social policy innovation. This baseline analysis lays the groundwork for future research, both in Seattle and elsewhere, to exploit program implementation and changes to estimate the causal effects of voucher usage on political participation. Within the field of policy analysis, our research adds to efforts to assess local initiatives designed to create more fair, equitable elections (Malbin, 2005, Corrado, 2005; LaRaja, 2005, Wood and Spencer 2018).

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[1] Candidates for municipal office qualified for Seattle's Democracy Voucher program by soliciting a specified number of qualifying donations between $10 and $250. Candidates running for City Council qualified after receiving 400 donations and candidates for City Attorney qualified for the program after receiving 150 qualifying donations.

[2] This category includes all donors who made cash donation outside of the qualifying period, including those who *also* made a qualifying donation.

EQUALITY AND REPRESENTATION IN CAMPAIGN FINANCE

Issues of representational distortion are centrally important to the study of campaigns and elections, although they have received only limited attention in research on local campaign finance systems. We use the concept of *representational distortion* to understand how the demographic and geographic composition of donors to municipal campaigns compares to the composition of other groups, including cash donors and the broader electorate. To do so, we draw on theory derived from federal elections to evaluate representativeness in municipal politics, and we apply them to the study of local elections, which tend to focus on the involvement of organized groups, rather than the dominant role of individual donors, in funding municipal campaigns.

Although municipal elections are overwhelmingly funded by individual donors, previous research on local funding coalitions tends to focus on organized interest groups, including real estate organizations and labor groups. Through a series of individual case studies, past research has evaluated the way that organized interests shape local politics through the campaign finance system. Citing a rich theoretical tradition on the urban growth machine, they center on pro-growth groups, including real estate and development interests, that participate in local funding regimes as a way to tilt urban policy in their favor (Fleischmann & Stein 1998; Krebs & Pelissero 2001; Adams 2006, 2007). These studies hypothesize that donors connected to the real estate and development communities participate in financing municipal campaigns in order to steer urban policy and curry favor with local elected officials.

Although studies of organized groups in municipal politics dominate research in municipal campaign finance, these studies reveal that only a fraction of the money collected by municipal candidates comes from organized groups. Instead, the world of municipal campaign finance is dominated by individual donors. Although these individual donors overwhelmingly come from within the jurisdiction, rather than outside of it, their geographic distribution *within* the city is poorly understood (Fleischmann and Stein 1998). In Seattle, previous research highlights the spatial concentration of wealthy donors in both mayoral and City Council elections (Heerwig and McCabe, 2018). Individual donors making a high-dollar donation contributed a plurality of donations in City Council races and a majority of the money received by candidates for mayor. These campaign contributors tended to be geographically concentrated in high-income neighborhoods, rather than spread evenly across the city (Heerwig and McCabe 2018).

The neglect of research on individual donors and their spatial concentration within urban neighborhoods leaves unexamined one important way that affluent donors work to distort policy in their favor (Trounstine 2009). In municipal politics, where many policy decisions have geographic consequences, the campaign finance system may be a particularly important mechanism by which city residents influence the distribution of urban policies. Given the way local political candidates rely on a small number of high-dollar donors, the voices of some city residents are disproportionately heard while those of others are marginalized from the political process. To the degree that these high-dollar donors are unrepresentative of the broader electorate, the system of municipal campaign finance magnifies concerns about representational distortion in local elections.

Research on the federal system, by contrast, has closely examined issues of representational distortion. This research reports that individual donors in the federal campaign finance system are demographically unrepresentative of the electorate and the larger population at-large. Donors to federal elections are more likely to be white, affluent, highly educated, and male (Brown, Powell & Wilcox 1995; Francia et al. 2003; Heerwig and Gordon 2018).

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Crucially, the degree to which donor characteristics depart from the electorate at-large tends to increase with the size of a contributor's donation. Donors who make large contributions to political candidates are even more unrepresentative than those who make small contributions (Joe et al. 2008). As we discuss in more depth below, representational distortion in the campaign finance system has recently been linked to diminished democratic responsiveness as well as the ideological polarization of the two political parties.

PUBLIC FINANCE IN CONTEXT

Programs in States and Municipalities

Given these patterns of political influence in local and national politics, a handful of states and municipalities around the country have adopted public financing programs. These programs aim to curb election spending, increase competition between candidates (Donnay and Ramsden 1995, Mayer and Wood 1995, Mayer, Werner and Williams 2006, Dowling 2011), and to reduce the influence of interest groups and wealthy contributors (Malbin and Gais 1998; Francia and Herrnson 2003; Miller 2011, 2014). Importantly, these public financing programs vary along a number of salient dimensions that structure how and when candidates receive public funds (Stern 2011, Miller 2014).

One of the most important dimensions of public financing programs is whether they provide full or partial funding for candidates. In public financing systems with full funding, candidates typically qualify for the program by gathering signatures and collecting a specific number of low-dollar donations to demonstrate their support and viability as a candidate. After the qualification stage, public subsidies are usually given to candidates via a lump sum bloc grant to finance either a primary or general election campaign. For instance, candidates for state senate in Connecticut must receive $15,000 worth of small-dollar contributions including at least 300 in-resident contributions to qualify for public funding. In these so-called "clean elections" states like Connecticut, candidates receive an amount large enough to cover all (or most) of their campaign expenses and forego private contributions after the qualification stage (Stern 2011, Miller 2014).

In public financing systems with partial funding, candidates receive a subsidy that offsets some, but not all, of the costs of running for office. These partial subsidies typically come through the allocation of matching funds to supplement private donations. Matching funds systems incentivize candidates to engage a wider swath of the electorate as they solicit donations for their campaigns. In addition to the candidate-centered goals of traditional grants-based systems, matching funds explicitly emphasize the distinct goal of citizens engagement in the political process. As of 2017, ten municipalities, including New York City, NY, Tucson, AZ, San Francisco, CA, and Los Angeles, CA used matching funds to finance local elections (Demos 2017). In New York City, for example, candidates for City Council qualify for matching funds by collecting donations from a minimum number of private contributors within their districts and agreeing to abide by program rules. Once qualified, the city government provides $6 in matching funds for each donation, up to $175, raised by participating candidates (Kraus 2011, Malbin, Brusoe & Glavin 2012). After thirty years of matching funds, the New York City system has successfully increased the proportion of low-dollar donors in local races and broadened the geographic distribution of the donor base (Malbin and Parrott 2017).

Seattle's Democracy Voucher Program

In contrast to the grants-based and matching funds forms of public election funding, Seattle became the first municipality in the United States to utilize a voucher-based program to fund municipal elections. The Seattle program gave citizens publicly-financed vouchers to spend on their local elections. Notably, since Seattle residents bore no personal expense to participate in the program, the voucher program may be more effective in ameliorating representational inequalities than other forms of public financing.

The Seattle Democracy Voucher program was created in 2015 when city voters overwhelmingly passed a referendum (I-122) to develop a publicly-financed campaign finance system for municipal elections.[3] The program was launched in the municipal election two years later. The Seattle Elections and Ethics Commission mailed four, twenty-five dollar vouchers to registered voters on January 3, 2017. Vouchers were sent to every person who, by November 15th of the previous year, was registered to vote in the city. Residents who registered to vote between November 15th, 2016 and October 1st, 2017 were automatically mailed a voucher upon completion of their registration. Eligible citizens *not* registered to vote in Seattle could request a voucher directly from the Seattle Ethics and Election Commission. Upon receiving their vouchers, residents could redeem their vouchers by assigning them to any qualifying candidate for City Council or City Attorney in the 2017 election.

To participate in the program, candidates were required to participate in a series of public debates and agree not to solicit money on behalf of organizations that make independent expenditures. In addition, candidates agreed to both contribution limits from individual donors and overall spending limits in the election. Participating candidates could not accept more than

$250 in contributions from a single individual. This amount *excluded* any vouchers assigned to the candidate, meaning that a candidate could accept $250 in cash *plus* $100 in vouchers from a single contributor. At-large City Council candidates participating in the program also agreed to limit their spending to $150,000 in the primary election and a combined $300,000 in the primary and general elections. Candidates for City Attorney agreed to a spending limit of $75,000 in the primary and a combined $150,000 in the primary and general elections. After agreeing to these program rules, candidates qualified for the Democracy Voucher program upon receiving a minimum number of *qualifying contributions* of *at least* $10, but no more than $250. At-large City Council candidates qualified for the program by receiving 400 qualifying donations; candidates for City Attorney qualified after receiving 150 qualifying donations (Seattle Municipal Code 2015).[4]

In 2017, two at-large City Council positions – Position 8 and Position 9 – and City Attorney were on the ballot.[5] Eight candidates contested the election for Position 8 and seven candidates contested the election for Position 9 in the primary election. Of these candidates, five at-large City Council candidates and one candidate for City Attorney qualified for the program, as we report in Table 1. For City Council candidates in the general election, the mean voucher totals of $241,137.50 in 2017 far exceed the average total fundraising of $140,383 for city council candidates in 2013 (Heerwig and McCabe 2017).[6]

<<Insert Table 1>>

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[3] The program is funded through a 10-year, $30 million property tax levy.

[4] In 2019, candidates for each of Seattle's seven district-level City Council seats will be eligible to participate in the Democracy Voucher program. In 2021, mayoral candidates will be eligible to participate, as well.
[5] The 2017 Seattle elections also featured an unexpected open seat contest for mayor after incumbent Edward Murray resigned on September 12, 2017.
[6] In 2013, four at-large city council seats were contested.

Local proponents of the DV program made several claims about the expected impact of the program that echoed the larger concerns about private money in American elections. First, they argued that the donor pool for local candidates was descriptively unrepresentative of the Seattle electorate. By providing vouchers to every registered voter in the city, program advocates expected a larger share of low- and moderate-income residents to participate in the campaign finance system. Likewise, they anticipated that the Democracy Voucher program would reshape the pool of campaign donors in a way that more accurately reflected the demographic and geographic composition of the electorate (Berk 2018). Beyond these representational changes, proponents expected the Democracy Voucher program to increase the rate of participation in the local campaign finance system (Seattle Municipal Code 2015). In doing so, the program would dilute the power of a small number of wealthy donors by offering an avenue for non-traditional donors to make their voices heard. In the next section, we evaluate these claims.

DATA

To investigate whether the Democracy Voucher program enlarged the donor pool or reshaped the composition of campaign donors in Seattle, we begin with a complete list of all registered voters in Seattle as of October 2, 2017. The Washington state voter file includes the name, address, registration date and full vote history of each citizen including the last election in which each voter voted. It also includes each registered voter's gender and date of birth (age). The state voter file also contains a Washington State Voter Identification Number that uniquely identifies each individual in the file. Because Democracy Vouchers were mailed to every

resident on the voter roll, this universe of individuals represents all Seattle residents eligible to redeem a Democracy Voucher.[7]

Next, we merge in publicly available donation records from the 2017 election. Each cash contributor to a municipal campaign is recorded by the Seattle Elections and Ethics Commission, and their record includes the campaign(s) to which they donated, the size of their contribution and the date of their contribution. Before matching to the voter file, the contributions of each unique donor were assigned a donor identification number using a variety of deterministic and fuzzy deduplication techniques. Because the donor data do not include the Washington State Voter Identification Number for each campaign contributor, we then matched the contribution records to the voter file primarily through a deterministic match on last and first names, as well as street address. Additional details are available in the Methodological Appendix.

Using the residential address of every voter in the Seattle voter file, we geocode each voter to identify the census tract where they live. We then merge the voter file with data from the 2016 American Community Survey (ACS). For this analysis, we create quintiles of census tracts by median household income so we can identify whether voters live in the poorest quintile of neighborhoods, the second poorest quintile of neighborhoods, etc.

The final version of the Democracy Voucher program participation data was provided by the Seattle Election and Ethics Commission (SEEC) on January 3, 2018. The data identifies the date each voucher was assigned, the candidate to whom the voucher was assigned, the number of vouchers used by each city resident, and the status of each voucher. Information about voucher usage is merged into our dataset using the Washington State Voter Identification Number.

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[7] Seattle residents not registered to vote could request a Democracy Voucher independently, but in practice, only a very small number did so.

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Throughout the analysis, we refer to everyone registered to vote by October 2, 2017 – the full set of registered voters in the city – as *registered voters*. We describe citizens who voted in the 2017 municipal elections as *2017 voters*. Seattle residents who made a cash contribution to a municipal campaign outside of an eligible candidate's qualifying period are referred to as *cash donors*. Notably, this category of cash donors includes a small number of donors who made both a qualifying donation *and* reported a separate cash donation.[*] Residents who made *only* a donation (under $250) during the candidate's qualifying period are referred to as *qualifying donors*. Residents who used their Democracy Vouchers to contribute to a campaign are referred to as *voucher users*. Notably, donors and voucher users are not mutually exclusive, as a significant share of Seattle residents both used their vouchers and made a cash contribution, either inside or outside of the qualifying period.

Since the publicly-available voter, voucher, and donor files contain only limited demographic characteristics, we supplement our voter and voucher data with a proprietary dataset from Catalist. The Catalist file includes information on the race, income, and political ideology of each eligible voter in Seattle along with their state voter identification number. Taken together, we use the following demographic variables:

Age: Age is measured in years and is available in the Washington state voter registration data. We recode age into 4 categories: 18-29, 30-44, 45-59, and 60 years or older.

Gender: Gender is available in the Washington state voter file. We code gender as female or male.

Race: Washington state does not require race on its voter registration form. Therefore, the Catalist data includes an imputed race variable that is modelled from a voter's surname and geographic location.[†] Validation studies of the demographic information available in commercial voter files have found that race is generally well-identified (Hersh 2015; Schaffner, Rhodes and LaRaja 2017; Pew Research Center 2018).

Income: Catalist models a voter's household income bin modelled based on a large, nationally representative survey. We recode income into 6 categories: less than $30,000; $30,000 to $49,999; $50,000 to $74,999; $75,000 to $99,999; and $100,000 or more. Income is missing for just over 2% of registered voters in Seattle. However, validation studies have shown considerable uncertainty in estimates of income (Pew Research Center 2018). For this reason, the income results should be read with some caution.

Ideology: Finally, Catalist estimates a predicted continuous measure of ideology with zero indicating the most conservative (least progressive) and 100 indicating the most liberal. We recode ideology into three categories: conservative (0-39), moderate (40-60), and liberal (61-100). Again, validation studies of commercial voter files in general—and Catalist in particular—have found that voter ideology is generally well-identified even in states, such as Washington,

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[*] These "dual donors" appear similar to cash donors on key sociodemographic characteristics. Descriptive statistics for dual donors are available upon request.

[†] Catalist reports the variable for *race* in two separate ways – first, as a seven-category indicator (including other and unknown) identifying a respondent's race; and second, as a three-category confidence score (Highly Likely, Likely and Possible) identifying the model's confidence in the selected racial category. In the methodological appendix, we re-run the models presented below limited to only those with "highly likely" race classifications.

where registration is non-partisan (Schaffner, Rhodes and LaRaja 2017; Pew Research Center 2018: 30; but *see also* Hersh 2015).

RESULTS

Demographic Composition of Voucher Users

Using these variables, we begin with a descriptive analysis that compares voucher users with four categories of participants in Seattle's political system: qualifying donors, cash donors, 2017 voters, and registered voters. Given our broad interest in the *representativeness* of the pool of voucher users, we focus on two sets of comparisons. First, we compare these groups on a range of demographic indicators, including age, race, gender, income and ideology, to identify whether the composition of voucher users differs meaningfully from the composition of these groups in the Seattle electorate. We take differences between the demographic composition of these groups – for example, a larger share of whites in the voucher pool than the electorate – as evidence that participants in the Democracy Voucher program are *not* representative of the electorate. We then extend this descriptive analysis to the *geographic* composition of voucher users. After classifying Seattle neighborhoods into quintiles by median income, we identify the share of voucher users from each quintile. These descriptive comparisons identify whether voucher users are less spatially concentrated than cash donors in municipal elections.

In the 2017 election, 20,727 residents of Seattle redeemed their Democracy Vouchers in the races for City Council and City Attorney. This represents approximately 4.05% of the electorate in Seattle. By contrast in the 2013 election, the most comparable recent election, Heerwig and McCabe (2018) report that only 1.49% of the voting-age population in Seattle made

a cash contribution to a municipal candidate.[10] While the number of voucher users represents only a small share of the electorate, it is nearly a three-fold increase over the total number of contributors in the 2013 election. We present the raw number of unique campaign contributors in 2013 and 2017 as compared to the number of unique voucher users in Figure 1.[11]

<<Insert Figure 1>>

In Table 2, we compare voucher users (column 1) to registered voters (column 2), voters in the 2017 election (column 3), qualifying donors (column 4), and cash donors (column 5). Compared to registered voters, voucher users are disproportionately female, more likely to be white, older and more likely to be liberal. About 55 percent of voucher users are female compared to only 51 percent of the electorate. More than 88 percent of voucher users are white compared to only 82 percent of the electorate. Older Seattle residents (age 60 and over) make up 36 percent of voucher users, but they comprise only 24 percent of the electorate. On the other side, residents under the age of 30 comprise 19 percent of the electorate, but they make up only 11 percent of the voucher users. There is some evidence that middle-income voters are overrepresented among voucher users compared to the Seattle electorate. For example, citizens with an income between $50,000 and $74,999 — a range which includes the Seattle median household income of $74,448 in 2016 (Census Bureau 2018) — make up 31% of registered

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[10] In 2013, 4 at-large city council seats and a mayoral contest were on the ballot. In that election, voters in Seattle also passed a referendum to move from an at-large city council system to a districted city council. As a consequence, all 9 city council seats were up for election in 2015. We therefore use 2013 as the most comparable recent election to compare with the 2017 election.

[11] In Figure 1, we report the total number of voucher users and cash donors reported by the Seattle Ethics and Elections Commission. In the descriptive and multivariate analyses below, our results are limited to voters who had complete information on all of the covariates. The missing data rate for this analysis is 5.35%.

voters, but they comprise 33% of voucher users. By contrast, citizens in the lowest household income categories are underrepresented among voucher users, while citizens in the highest income categories are overrepresented. Table 1 also indicates that liberal Seattle residents are overrepresented among vouchers users, while conservative and moderate residents are underrepresented.[12]

<<Insert Table 2>

Although voucher users are descriptively unrepresentative of registered voters, we find fewer differences when we compare voucher users to voters in the 2017 election. Similar to voucher users, nearly 88 percent of 2017 voters are white. About 11 percent of 2017 voters are under the age of 30 years old and 29 percent of voters were between the ages of 30 and 44 — numbers that are remarkably similar to the composition of the voucher pool itself. Voters in the 2017 election are more likely than voucher users to come from the highest income category.

In Column 4, we present the characteristics of qualifying donors. One of the unique features of the Seattle Democracy Voucher Initiative was its two-pronged approach to diversifying the donor pool. In order to qualify for the public financing program, candidates had to solicit small-dollar donations from a minimum number of residents, as noted above. Like voucher users, small-dollar donors who gave a contribution during a candidate's qualifying period may be more representative of the Seattle electorate than donors who made a cash contribution outside of the qualifying period. Column 4 shows that the qualification stage of the

DV program also helped to diversify the donor pool. Whites compose 82% of registered voters and about 83% of qualifying donors. African Americans are actually overrepresented among qualifying donors—about 7% of qualifying donors are African American compared to just 6% of the Seattle electorate. The youngest voters are underrepresented among qualifying donors, but those in the 30-44 range are overrepresented. Qualifying donors are also more representative by income. Voters in the $30,000-$49,999 range are 31% of qualifying donors and about 32% of registered voters. Similarly, voters in the $50,000-$74,999 range where the Seattle median household income falls are overrepresented among qualifying donors (33%) compared to registered voters (31%).

Finally, when we compare voucher users to cash donors, we find some evidence that the pool of voucher users is more egalitarian. We find that women are overrepresented among voucher users compared to the traditional campaign finance system, at least in 2017. Table 2 indicates a similar percentage of people of color in the voucher pool compared to donors in the 2017 cycle. While 11 percent of voucher users are under 30 years old, only 7 percent of cash donors fall into this age category. Cash donors are more likely to come from the highest income category than voucher users. In fact, about 27 percent of cash donors have an income above $100,000 compared to only 17 percent of voucher users—evidence for the democratizing impact of the Democracy Vouchers program. These differences are graphed in Figure 2.

<< Insert Figure 2 >>

In the final rows of Table 2, we compare the geographic distribution of voucher users to the geographic composition of cash donors, 2017 voters and registered voters. After dividing

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[12] This analysis is limited to voters with complete information on all covariates. Of the 488,744 registered voters in Seattle, 25,727 voters had a missing value on one or more of the covariates. The final missing data rate is 5.35%.

Seattle neighborhoods (census tracts) into quintiles based on the median neighborhood income, we identify the share of voucher users residing in each quintile of neighborhood. About 13 percent of voucher users live in the poorest quintile of neighborhoods and approximately 22 percent of voucher users live in the wealthiest quintile of neighborhoods.

Relative to the electorate, voucher users are more likely to come from wealthy neighborhoods and less likely to come from poor ones. Over 15 percent of registered voters live in the poorest quintile of neighborhoods and about 20 percent of registered voters live in the wealthiest quintile. However, we observe the opposite pattern when we compare voucher users to voters in the 2017 election. Compared to 2017 voters, voucher users are slightly more likely to come from the poorest neighborhoods and slightly less likely to come from wealthy ones. Only 12 percent of voters in the 2017 election came from the poorest quintile of neighborhoods and more than 24 percent came from the wealthiest quintile.

Finally, when we compare voucher users to cash donors, we show that voucher users are substantially more representative of the electorate. While 33 percent of voucher users came from the bottom two quintiles, only 25 percent of cash donors came from these neighborhoods. Likewise, while 22 percent of voucher users were from the wealthiest quintile of neighborhoods, 31 percent of cash donors came from these wealthy communities. Cash donors are more likely to be drawn from the wealthiest neighborhoods and less likely to be drawn from the poorest ones, thereby making voucher users more representative of the Seattle electorate than cash contributors. These differences are graphed in Figure 3.

<< Insert Figure 3 >>

Modeling the Likelihood of Using a Voucher: Multivariate Analyses

The descriptive analysis above suggests that voucher users are more representative of the Seattle electorate than cash donors. To better understand how the voucher program impacted representational inequalities in participation, we next estimate two multilevel logistic regressions predicting the likelihood of voucher redemption and voucher status among Seattle voters. First, we model the likelihood of voucher usage regardless of the final status of the vouchers. In these models, citizens who participated in the program by returning one or more of their vouchers are coded "1" and those who did not participate in the program are coded "0". Next, among those who participated in the program, we model the likelihood that a voucher user successfully assigned all of her attempted vouchers to a qualifying candidate. Used vouchers are assigned a status of redeemed, accepted, received, on hold or voided by the Seattle Ethics and Election Commission (SEEC).[13] In these models, vouchers users who successfully assigned 100% of their attempted vouchers—including vouchers that were redeemed, accepted or received—are coded "1", while vouchers users who successfully assigned less than 100% of their vouchers are coded as "0". For instance, a voucher user who attempted to use 3 vouchers with 2 successfully redeemed and 1 voucher voided would be coded "0". Overall, about 12 percent (n=2,233) of program participants submitted a voucher that was not accepted (i.e., the voucher was put on hold or voided by the SEEC).

Each of these logistic regression models includes a tract-level random intercept to account for unobserved differences across neighborhoods that may be related to participation in the voucher program. Past analyses of voting behavior have found that individual-level political

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[13] Vouchers were sent to the Kings County Board of Elections for signature verification (Berk 2018). Vouchers that were not properly filled out or signed by voters—or if the voter's signature could not be verified—were put on hold or voided. Vouchers received after a candidate had reached the voucher limit were received but not accepted or redeemed.

participation is importantly influenced by neighborhood context (Gimpel, Dyck and Shaw 2004; Cho, Gimpel and Dyck 2006, Dyck, Gaines and Shaw 2009). Since we have already observed variation across neighborhoods in voucher redemption, as indicated by Table 2, a single-level logistic regression models violates the assumption of independence of observations (Snijders and Bosker 2012). To account for the spatial dependence of participation, our logistic regression models include a random intercept for each of the 135 Census tracts in Seattle. These tracts contain a mean of 3,371 registered voters.

In addition to the tract-level random intercept and sociodemographic characteristics used in the analyses above, we include two additional control variables in the multivariate models. The first is a continuous measure of past voting history. For each voter in Seattle, we use the Washington state voter file to identify the percentage of elections in which a voter participated after registering to vote. (This share excludes the 2017 election.) We also control for whether each voter is also a qualifying donor or a campaign donor. Finally, in the models predicting voucher status, we control for the total number of vouchers that a participant attempted to redeem.

The results of the multilevel logistic regressions are reported in Table 3. For ease of interpretation, we present odds ratios rather than logit coefficients. In Column 1, we show that sociodemographic predictors of political participation are, as expected, associated with voucher redemption. Older residents are significantly more likely than younger ones to redeem a voucher, even controlling for other individual characteristics and overall participation propensity. People of color—and African Americans in particular—are significantly less likely to redeem a voucher compared to whites. Compared to the $50,000-$74,999 income category, the most affluent Seattle voters are less likely to be voucher users. Voters with incomes between $50,000-

$74,999 and those with incomes between $75,000 and $99,999 per year were the most likely to participate in the program, followed by those with incomes $100,000 or over, those in the $30,000 to $49,999 range, and finally those with incomes less than $30,000. We also find a strong association with political ideology. Liberal Seattle voters were over twice as likely as conservatives to participate in the program. This finding is consistent with research from other states that finds conservative candidates are less likely to participate in public financing systems (Miller 2011) given ideological opposition to state-funded elections. Finally, Column 1 confirms that other forms of political participation, including regularly voting in previous elections and making a cash donation, are significant predictors of voucher usage. In Methodological Appendix B, we also present a series of robustness checks for this model that use a restricted version of the race variable.

<<Insert Table 3>>

In Column 2, we model the likelihood of a voucher user having successfully allocated all of her attempted vouchers, conditional on being a voucher user. These models give insight into which demographic groups were able to successfully navigate the program's voucher assignment rules. In doing so, the analysis offers some indication of which communities might be targeted for support in future iterations of the program. Column 2 shows several interesting patterns compared to the coefficients in Column 1. Although older residents in Seattle were more likely to participate in the program, they were less likely than the youngest voters to have all of their vouchers successfully accepted. Women were more likely than men to successfully allocate their vouchers. While most of the race coefficients are insignificant, Asians are less likely than whites

(and other groups) to successfully assign their vouchers. Similarly, voters in the lowest income categories were both less likely to participate in the program *and* less likely to successfully allocate their vouchers. Unsurprisingly, qualifying donors and cash contributors were far more likely than non-donors to successfully assign their full set of vouchers. This relationship may be driven by campaign donors' familiarity with local politics and disclosure forms, as well as higher overall levels of political interest and efficacy.

DISCUSSION & CONCLUSION

In this paper, we offer the first evaluation of the Democracy Voucher program to understand whether this innovative, participation-oriented public financing program diversified the donor pool in municipal elections. Although the analysis centers on the inaugural year of the program, it offers important insight into the promise of public financing as a strategy to broaden participation and shift donor coalitions away from wealthy individuals. Notably, several cities, including Albuquerque, NM and Austin, TX, are considering programs similar to the one implemented in Seattle (Misra 2018), and a handful of other places, including Washington, DC, have recently implemented other types of public financing schemes designed to promote fairness in local elections (Chason 2018).

Our analysis offers several important insights from the Seattle program. Although the Democracy Voucher program increased participation in the municipal campaign finance system and shifted the donor pool in a more egalitarian direction, voucher users remain broadly unrepresentative of the electorate in Seattle. Compared to the group of people represented by elected officials, participants in Seattle's Democracy Voucher program are more likely to be white, female and older. However, voucher users are *more* representative of the electorate than

cash donors in municipal elections, and qualifying donors – those who contributed small sums of money to candidates during the qualifying period – appear to be the most representative. This finding suggests that one of the most notable successes of Seattle's program was the integration of a small number of *representative donors* into the donor pool at an early stage in the process. Finally, although we find that voucher users are not representative of the broad universe of registered voters, they are more demographically similar to voters in the 2017 election – a finding that underscores the theoretical equivalency of voucher participation to the binary act of voting.

In our multivariate analysis, when we investigate the predictors of successfully assigning all of one's attempted vouchers, our portrait of engagement with the program is more complicated. Although the oldest Seattleites were more likely to use a voucher, they were also significantly less likely to successfully assign all of their vouchers than younger participants. Although there are few significant differences by race, we do note that Asian-Americans were less likely to successfully assign all of their attempted vouchers, relative to whites. Notably, this finding may be driven by Seattle's large foreign-born Asian-American population. Although the vouchers were available in 15 different languages, non-native English speakers may have encountered difficulties with navigating the new system. We also report that, among voucher users, those in the lowest income categories were less likely to successfully assign all of their vouchers. This result may be driven by overall lower levels of the political resources critical to engagement—namely, time, money and civic skills (Brady, Schlozman and Verba 1995).

Our efforts to identify participant characteristics offer a methodological advance on previous analyses of matching fund programs, which typically rely on neighborhood-level characteristics to describe program participants. Still, our analysis is not without limitations. As

we noted above, the Catalist data we draw on to account for race, income, and ideology are imperfect measures of these demographic variables, and the findings in the multivariate analysis —especially vis-à-vis income—merit caution. Although we report that voters near the Seattle median household income were the most likely to participate in the voucher program, this estimate could be misleading if higher-income voters are systematically under-identified in the data. In their comprehensive evaluation of voter files, Pew Research Center (2018) finds that households with incomes above $75,000 per year were the least likely to be correctly identified in commercial files.

Although our primary contribution concerns an emergent form of participation-oriented public financing at the municipal level, the analysis of Seattle's Democracy Voucher program offers insight for campaign finance reform at the federal level, as well. In federal elections, representational distortion reinforces the weak link between the policy preferences of the least well-off Americans and policy outcomes (Gilens 2012; Page & Gilens 2017; Bonica 2018). Without representation in the donor pool, low-income Americans may be less likely to see their policy preferences reflected in federal policy. The dominance of private campaign contributions has also been cited as an important causal mechanism in the growing ideological polarization of political elites (Bonica 2014; Barber 2016; Heerwig 2018). As Barber and McCarty (2015) argue, federal political candidates increasingly rely on donors with extreme ideologies. In doing so, these candidates may shift their own policy preferences toward the ideological extremes, underscoring the way that private money is linked to the ideological polarization of the political parties. Rescaling a participation-oriented public financing program to the federal level would empower a broader swath of donors, perhaps mitigating partisan polarization among members of Congress and re-aligning policy outcomes with the preferences of a wider group of citizens

(Page and Gilens 2017). In fact, among the anticipated outcomes of the Democracy Voucher program is not only that the donor pool will be more representative, but that public policy will reflect a much broader constituency.

For policy scholars and practitioners, the innovate Democracy Voucher program is at the forefront of a new wave of participation-oriented public financing programs. The program reflects a growing concern about the role of money in politics, and with tweaks through the next election cycle, it has the potential to dramatically reshape local campaign finance policies. Still, while the program holds the power to reshape municipal elections, only by linking this type of program with a constellation of political reforms—including changes to the voter registration system and stronger disclosure laws — will policymakers ensure equal and effective political representation in the United States (Page and Gilens 2017; Wood 2018).

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B24

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B25

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Table 1: Number of vouchers redeemed and total voucher proceeds for participating City Council and City Attorney candidates, 2017

Candidate	# of Vouchers	Voucher Total
City Council Position 8		
Teresa Mosqueda*	11,996	$299,900
Jon Grant	11,972	$299,300
Hisam Goueli (P)	1,086	$27,150
City Council Position 9		
M. Lorena Gonzalez (I)*	8,523	$213, 075
Pat Murakami	6,091	$152,275
City Attorney		
Pete Holmes (I)*	5,874	$146, 850
Total Redeemed	45,542	$1,138,550

Source: Author's calculations using Seattle Ethics & Elections Commission (2018)
Note: Asterisk indicates election winner. Incumbency is denoted by "I" and primary-only by "P" in parentheses.

Table 2: Demographic Composition of Voucher Users, Registered Voters, Active Voters, Qualifying Donors, and Cash Donors in the 2017 Election

	Voucher Users	Registered Voters	Voters (2017)	Qualifying Donors	Cash Donors[1]
Gender					
Male	45	49.34	47.68	46.73	49.93
Female	55	50.66	52.32	53.27	50.07
Race					
White	88.2	81.93	88.09	83.38	90.48
Black	3.68	5.75	3.73	7.4	3.2
Hispanic	2.35	3.31	2.16	3.48	2.08
Asian	5.76	9.01	6.02	5.73	4.23
Age					
18-29	11.02	19.42	10.83	10.81	7.48
30-44	28.93	33.56	29.07	40.57	26.97
45-59	23.57	23.4	26.84	24.38	30.05
60+	36.47	23.61	33.26	24.24	35.5
Income					
< $30K	3.72	7.56	3.7	3.19	2.12
$30K - $49K	25.13	31.89	23.81	30.55	20.05
$50K - $74K	33.34	31.08	31.37	32.66	28.4
$75K - 99K	20.83	15.81	20.54	18	22.62
> $100K	16.98	13.66	20.59	15.60	26.82
Ideology					
Conservative	1	1.61	2.1	0.36	1.43
Moderate	3.7	10.29	6.08	3.27	3.3
Liberal	95.3	88.1	91.82	96.37	95.27
Median Tract Income					
Bottom Quintile	12.72	15.35	11.79	13.28	10.24
Second Quintile	19.74	19.29	18.06	26.27	14.80
Third Quintile	20.98	23.16	21.91	21.48	20.12
Fourth Quintile	24.09	21.80	23.59	22.57	23.70
Top Quintile	22.47	20.40	24.65	16.40	31.13
N	18,770	455,017	210,391	1,378	6,429

[1] Cash donors include donors who made both a qualifying and non-qualifying cash donation.

Table 3: Random Intercept Logistic Regression Models Predicting Voucher Usage and Successful Assignment of 100% of Attempted Vouchers

	(1): Voucher Use	(2): Successful Assignment
Age		
30-44	1.39***	0.86
	(0.04)	(0.08)
45-59	1.32***	0.52***
	(0.04)	(0.05)
60+	1.57***	0.39***
	(0.04)	(0.04)
Gender		
Female	1.11***	1.11**
	(0.02)	(0.05)
Race		
Black	0.71***	0.82
	(0.03)	(0.10)
Hispanic	0.84***	1.21
	(0.04)	(0.21)
Asian	0.76***	0.72***
	(0.03)	(0.07)
Income		
<$30K	0.67***	0.65***
	(0.03)	(0.07)
$30K - $49K	0.86***	0.87**
	(0.02)	(0.05)
$75K - $99K	1.01	1.11
	(0.02)	(0.07)
>$100K	0.88***	1.02
	(0.02)	(0.07)
Ideology		
Moderate	0.98	1.05
	(0.08)	(0.22)
Liberal	2.34***	1.61**
	(0.18)	(0.30)
Past Voting (%)	1.03***	1.01***
	(0.00)	(0.00)
Qualifying Donor	15.19***	3.43***
	(0.89)	(0.73)
Cash Donor	6.41***	2.15***
	(0.19)	(0.22)
Total Vouchers		0.91**
		(0.04)
Constant	0.00***	5.22***
	(0.00)	(1.42)
Random Effect Intercept	0.35**	0.25**
	(0.03)	(0.03)
N (Voters)	455,017	18,770
J (Tracts)	135	134

Notes: Coefficients are odds ratios with standard errors in parentheses. Excluded categories are 18-29 (age), White (race), $50K - $75K (income), Non-donor (donor status), and conservative (ideology)
*** $p<0.01$, ** $p<0.05$, * $p<0.1$

B28

Figure 1: Total Number of Cash Donors and Voucher Users
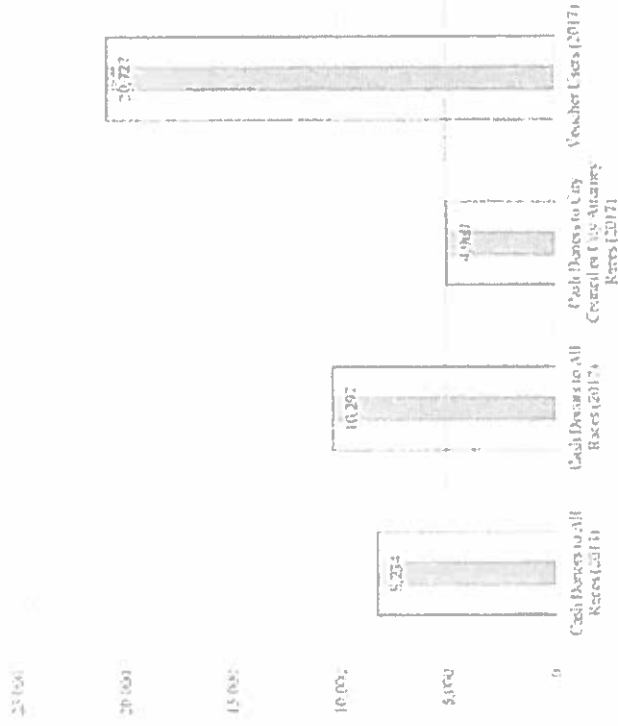
Figure 2: Composition of Political Participants, by Age
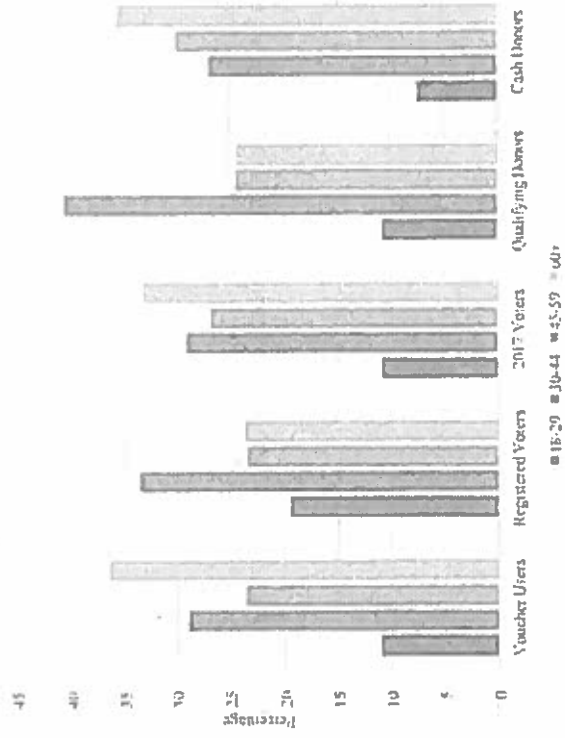
Figure 3: Composition of Political Participants, by Median Neighborhood Income
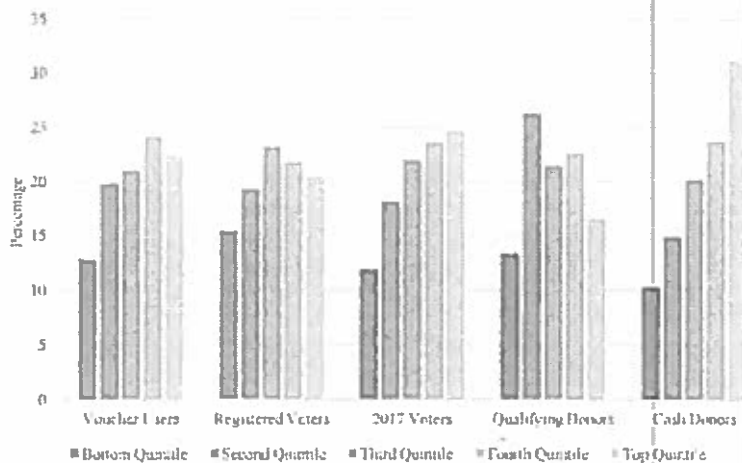
METHODOLOGICAL APPENDIX A

Match Procedure	N	% of Matched Records
Last name, first name, zip code, street number	6,736	82.13
Last name, first name, zip code	705	8.60
Last name, nickname, zip code, street number	384	4.68
Last name and street number	183	2.23
Last name and first two characters of first name	148	1.80
Exact street address	46	0.56
Total	8,202	100.00

Final Match Rate: 79.65%

Although the Seattle PDC matches campaign donors within candidates for each election, there is no unique donor identification number that would allow us to cleanly merge the donor records and voter file. Because of this, we matched the records using the personal identifying information available in both the donor records and voter files. These match variables include the donor's last and first names as well as street address and zip code.

Of the 10,297 unique donors to city council, mayoral, and city attorney candidates, we matched a total of 8,202 (79.65%) donors to the voter file. Of these matched donors, the large majority (N=6,736) matched a unique voter record exactly on full name, zip code, and street number. Next, a significantly smaller portion (N=705) of donors matched a voter record exactly on last and first name and zip code; these matches were limited to those where only one unique voter in the voter file existed for that combination of match variables.

A much smaller portion of donors were matched using one of four techniques. First, we matched donor records to the voter file where one of the listed first names was a nickname (e g . Ben versus Benjamin), but otherwise matched exactly on last name, zip code, and street number (N=384). The last three matching procedures were the least stringent and matches produced by these procedures were manually reviewed for accuracy. First, we brought together records where last name and street number matched (N=183); this matching procedure identified contributors whose listed first names deviated from the name used in the voter file (e g . Hank versus Henry). Second, we matched and then manually reviewed donors that matched a voter record on last name and first two characters of first name (N=148). Finally, we manually reviewed donors that matched a voter entry exactly on street address. This match (N=46) identified contributors where variations in the last/first names prevented a match on other identifiers.

Of the 8,202 donors matched to the donor file, 6,747 were what we refer to as "cash donors" and 1,455 were qualifying donors who gave a small dollar donation during a participating candidate's qualifying period.

METHODOLOGICAL APPENDIX B

In the table below, we present the main findings from the body of the paper in Column 1. In columns 2 and 3, we present models restricted to voters whose race category was identified with high confidence. The coefficients in Column 2 are restricted to the control variables that come directly from the voter file. In Column 3, we present the full model restricted to voters whose race category was identified with high confidence. Importantly, the direction and significance of the primary explanatory variables are consistent across specifications.

	(1) Voucher Use	(2) High Race Confidence: Restricted	(3) High Race Confidence: Full
Age			
30-44	1.29***	1.35***	1.25***
	(0.04)	(0.05)	(0.05)
45-59	1.22***	1.35***	1.18***
	(0.04)	(0.05)	(0.05)
60+	1.57***	1.61***	1.53***
	(0.04)	(0.06)	(0.06)
Gender			
Female	1.11***	1.17***	1.11***
	(0.02)	(0.02)	(0.02)
Race			
Black	0.71***	0.60***	0.60***
	(0.03)	(0.07)	(0.07)
Hispanic	0.88**	0.70	0.61*
	(0.04)	(0.17)	(0.16)
Asian	0.76***	0.62***	0.65***
	(0.03)	(0.05)	(0.05)
Income			
<$30K	0.67***		0.68***
	(0.03)		(0.05)
$30K - $49K	0.86***		0.87***
	(0.02)		(0.02)
$75K - $99K	1.01		1.02
	(0.02)		(0.03)
>$100K	0.88***		0.90***
	(0.02)		(0.03)
Ideology			
Moderate	0.98		1.06
	(0.08)		(0.11)
Liberal	2.34***		2.70***
	(0.18)		(0.24)
Past Voting (%)	1.03***	1.03***	1.03***
	(0.00)	(0.00)	(0.00)
Qualifying Donor	15.19***	16.77***	16.46***
	(0.89)	(1.32)	(1.31)
Cash Donor	6.41***	6.15***	5.83***
	(0.19)	(0.23)	(0.22)
Constant	0.00***	0.00***	0.00***
	(0.00)	(0.00)	(0.00)
Random Effect			
Intercept	0.35**	0.29**	0.27**
	(0.03)	(0.02)	(0.02)
N (voters)	455,017	276,483	270,886
N (tracts)	135	135	135

TESTIMONY BY JERRY H. GOLDFEDER
TO THE CHARTER REVISION COMMISSION
February 25, 2019

Thank you for inviting me to participate in your series of expert panels as you consider

various proposals to improve New York City's campaign finance system.

I am here tonight in my capacity as an election lawyer who has represented dozens of

candidates in New York City, an Adjunct Professor of Election Law at Fordham Law School, a

1989 participant in the Campaign Finance Law's public matching funds program, and a student

of Charter Revision Commissions.

I am privileged to be joined by the Chair of the Campaign Finance Board, and several

experts on the Seattle, Washington "Democracy Voucher" program. I will of course defer to

them as to the intricacies of both New York City's program and Seattle's. That said, I offer

several observations.

1- There is no question that New York City's thirty-year program is appropriately recognized as a success. Our matching funds program has enabled many diverse candidates of modest means to run viable campaigns. And the staff and Commissioners of the CFB have been assiduous in ensuring that New York City's taxpayer dollars are distributed and used lawfully. Given the fact that millions of dollars are distributed to candidates in municipal elections, this is no small feat – and, of course, extremely critical to the success of our program.

2- There is always room for improvement, and the CFB endeavors to update its procedures after every election.

A question before you is whether the Seattle Democracy Voucher program should be substituted

for the CFB's current matching program.

1- Prefatorily, the Commission should know that the constitutionality of the Seattle program is still being litigated. When challenged by the Pacific Legal Foundation on constitutional grounds, the trial court in Washington ruled that the case should be dismissed. Plaintiffs have appealed, and the intermediate appellate court certified the appeal to Washington's

Supreme Court, its highest court. The appeal has been briefed and oral arguments are scheduled for May 14, 2019.

2- Until the Supreme Court of Washington rules – and the law is settled as to the Democracy Voucher program's constitutionality – the Charter Commission may wish to withhold judgment as to whether or not the Seattle program should be imported into our Campaign Finance Law.

3- However, should the Commission decide to proceed with studying the Seattle program, I believe that there are aspects to it that are worthy for adoption in New York City.

    A. A system in which public monies are distributed to the candidate directly by registered voters through vouchers compels the candidates to campaign more vigorously, not just for votes but for financial support. This would enable less well-known candidates to become better known by attracting support one person at a time. It also compels more well-known candidates to have to "press the flesh" more assiduously in order to obtain the necessary funds for their campaigns. In short, it is a process that results in a more robust, person-to-person campaign.

    B. The voucher program also eliminates a great administrative burden now placed upon the CFB – having to track whether private contributions are eligible for matching funds. In this respect, the voucher program is more straightforward in that every registered voter's contribution can be used without further administrative burdens.

    C. It also saves the taxpayers a good deal of money that the CFB currently awards to candidates whose races are not genuinely competitive. Rather than the sometimes-charade by candidates who claim that their opponents are "real" – the market place will demonstrate through the voucher program which candidates can actually attract sufficient funds to run a viable campaign. This contrasts with the CFB having to distribute matching funds to candidates who may claim to have competitive races, but really do not. The City would thus save significant sums of taxpayer dollars.

I trust that these observations are useful to the Commission.

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2

B33

STATEMENT OF MICHAEL J. MALBIN

PROFESSOR OF POLITICAL SCIENCE
ROCKEFELLER COLLEGE OF PUBLIC AFFAIRS AND POLICY
UNIVERSITY AT ALBANY, SUNY

AND

DIRECTOR, THE CAMPAIGN FINANCE INSTITUTE
A DIVISION OF
THE NATIONAL INSTITUTE ON MONEY IN POLITICS

Before the
New York City Charter Revision Commission of 2019
February 25, 2019

Chairperson Benjamin and Members of the Commission:

Thank you for this opportunity. I am a Professor of Political Science at the University at Albany who has been writing about political finance for more than four decades. I was co-founder of the Campaign Finance Institute (CFI) in 1999 and have been its director since. CFI is a nonpartisan think tank committed to the idea that durable policy should be based on rigorously objective research. In 2018 CFI became a division within the National Institute on Money in Politics, which maintains the only national database of campaign finance data from all fifty states, the federal government, and selected localities, including New York.

Over the years, CFI's work has played a leading role nationally on the issue of small-donor empowerment. Its research has included peer reviewed and self-published reports that focus on New York State, New York City, and many other jurisdictions. The reports are most relevant for this hearing. One is *Citizen Funding for Elections: What do we know? What are the effects? What are the options?* This was an overview of all of the state and municipal programs. The other was entitled "Small Donor Empowerment Depends on the Details," a peer reviewed article that focused on New York and Los Angeles. Both are available for download on the CFI website at www.CFInst.org.

In the interest of full disclosure, I should state that CFI was asked to testify before the Mayor's Charter Revision Commission in 2018 and then served as technical consultants to that commission. I should emphasize that the consulting was technical. The opinions I offer today will be my own, and not those of any of the organizations with which I am or have been identified.

I have written for some time that the city's matching fund program has been and should continue to be a model for the nation. After moving from a 1-to-1, then a 4-to-1 and then a 6-to-1 matching rate, the city has seen an impressive increase in both the number and demographic diversity of donors. There is no question that the program has been a major success, particularly for city council candidates. However, the 2017 election saw a noticeable drop in the importance of small donors. In addition, the results were never as impressive for mayoral or other citywide candidates as they were for city council.

Because of this, the Mayor's Charter Revision Commission in 2018 recommended increasing the matching rate to 8-to1 while reducing the contribution limits. A remarkable 80% of the voters approved those recommendations in November. Now, only a few months later, we are being asked whether the city should change again – perhaps to something like the new voucher system pioneered in Seattle.

Like many of my professional colleagues, I have been intrigued by the Seattle experiment. Alan Durning and Sightline were thoughtful throughout the drafting process. Wayne Barrett and the staff at SEEC (Seattle Ethics and Elections Commission) have done an outstanding implementation job. And Professor Heerwig's excellent research has shown positive results for the elections of 2017.

Despite these positive points, I would urge you **not** to adopt a voucher system for New York at this time. This is the first voucher system enacted in the country – perhaps in the world. The one election under it involved only a handful of races. It has not yet been through a full four-year election cycle. The first mayoral election will not be until 2021.

What should we expect in 2019 and 2021? It is likely that vouchers will continue to bring new donors into the system. Only 4% of the public used them in 2017; I would guess more will in 2019 and 2021. That means the system will continue to show better and more diverse participation than Seattle had under a privately funded system.

But will the system really do better? By this I mean not better than Seattle before vouchers, but better than other public financing systems? Will it do better than the new 8-to-1 system just adopted in New York? Will it do better than the new system in Montgomery County, Maryland? The point here is that your job is not to compare a voucher system to nothing. The tougher question is whether vouchers on balance would be better for this city at this time than what is already in place. Maybe, but we will know a lot more if we wait just a while.

We also need time because the voucher system's effects will go well beyond the participation numbers. We need time to see whether there are unintended consequences. For example, I wonder whether vouchers will increase the power of membership-based interest groups, such as the NRA or other issue groups on the right and left. This may not happen, but wouldn't it be nice to know?

My recommendation is to let the 8-to-1 system work for at least one full cycle without further changes. This recommendation is also against trying experimental vouchers now. I am not recommending a permanent ban on experimental vouchers. Rather, there should be a pause. 80% of the voters said yes to New York's new law. CFI's predictive models said the system would produce positive change. Some see this preliminarily in the Public Advocate's race, although the results are not in. I therefore urge you to let the NYC Campaign Finance Board go through the complicated implementation process without adding new wrinkles. The people supported the new system. Let's see how it works.

At the same time, the city council should consider a new commission. This would be a study commission made up mostly of scholars. Its job should be to compare the strengths and weaknesses of the new public financing systems *to each other*. No one anywhere has done this. The study commission should report back to the City Council one or more years after New York's next elections in 2021, which would also be after Seattle's mayoral election. By then, you would have a basis for action if needed. You could deliberate based on fact and not speculation. I would be willing to serve on that kind of a group and I suspect so would Prof. Heerwig and many others.

I would be happy to take your questions.

B35

Testimony of Frederick Schaffer
Board Chair
New York City Campaign Finance Board

2019 Charter Revision Commission
February 20, 2019

Good evening Chair Benjamin and commissioners of the 2019 Charter Revision Commission.
My name is Frederick Schaffer, and I am the Chair of the New York City Campaign Finance
Board (CFB). With me is Amy Loprest, Executive Director of the CFB. Thank you for the
opportunity to provide testimony today.

We are proud that New York City's public matching funds program has served as a model
campaign finance program for jurisdictions all over the country for more than 30 years. For
decades, small-dollar public financing programs have sought to reduce the role of big money in
elections and the resulting perception of corruption by making small campaign donations more
valuable. Public financing programs ensure that candidates and elected officials are accountable
to voters, rather than big money or special interests. Across the country, we are seeing new
energy around the idea of redefining the role of money in politics, which is resulting in changes
in the way candidates raise money at every level of government. We are even seeing candidates
for federal office now shifting away from dialing for dollars from PACs and big donors, and
focusing on small-dollar fundraising strategies. Jurisdictions across the country are adopting
programs modeled after our own, including Washington, D.C.; Montgomery County, Maryland;
and Denver, Colorado, where voters just approved a $9-to-$1 public matching funds program in
last November's election. Even H.R.1, the "For the People Act of 2019," includes a small-dollar
multiple match program like ours for congressional campaigns.

In 1988, after a series of corruption scandals, New York City voters approved a ballot proposal
that created the CFB and New York City's landmark public matching funds program. This

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B36

referendum aimed to diminish the possibility and perception of corruption and undue influence that may result from large, private contributions to electoral campaigns. Our program has developed over the years, and it is now one of the most robust public matching funds programs in the country today.

When it was first established in 1988, the program matched contributions up to $1,000 at a $1-to-$1 ratio. The rate was changed in 1998 to provide a $4-to-$1 match for the first $250 per contributor, and it was increased again in 2007 to a $6-to-$1 formula for the first $175. The CFB is always looking for ways to make our program better by working with the City Council and previous Charter Revision Commissions. Last summer, the Board made recommendations to significantly lower contribution limits, increase the matching rate, and increase the amount of public funds that campaigns can receive to 75% of the spending limits to the 2018 Charter Revision Commission. These recommendations were based on data that showed how the program was working differently in citywide races compared to City Council races. These recommendations aimed to transform the ratio of big-dollar contributions to small-dollar ones, specifically for citywide offices. As you know, voters went on to overwhelmingly adopt an increased matching rate of $8-to-$1, while lowering the contribution limits for all offices. Over 1.2 million voters voted in favor of the new program, compared to just over 300,000 who voted against it.

We are already seeing changes in fundraising with the public advocate special election. Early data suggests that average frequent contributions are getting smaller under the new program. So far, the most frequent contribution is $10 for public advocate candidates, compared to $100 in previous elections.

After three decades, the program still continues to see high participation rates, and these numbers reflect the continued popularity of the matching funds program. Across recent election cycles, typically 90% of candidates in the primary election chose to participate in the matching funds program, while approximately two-thirds participated in the general election. Both incumbents and challengers tend to participate in the program and can run viable campaigns as a result of their participation.

B37

We understand that democracy vouchers like the program piloted by Seattle that others have testified about are among the Commission's areas of focus for study. Like the matching funds program, candidates who decide to participate in the democracy voucher program have lower contribution limits and must abide by spending limits. Additionally, participants in both programs are unable to receive contributions from political action committees, political parties, or any organization that makes an independent expenditure.

Both programs maximize the voices of ordinary voters, amplify small contributions, and help ensure that politicians are accountable to the people they serve, not special interest contributors. The Democracy Vouchers program was also created to increase donor diversity in Seattle. By looking at the data we have from our decades of experience, including from the most recent election cycle, we know that New York City has a diverse donor base within the matching funds program, and we see contributions coming in from all neighborhoods across the city. We can conclude from these findings that the matching funds program helps everyday New Yorkers get involved in the political process. A 2009 study conducted by Professor Michael Malbin and the Brennan Center for Justice showed that over 90% of census block groups in New York City had at least one contributor donate to a City Council candidate. Our recent research shows that in 2013, 89% of census block groups had at least one contributor donate to city races, and 93% did so in 2017.

Additionally, we know that under the matching funds system, voters who contribute to a candidate vote at a much higher rate than those who do not contribute. Based on our study of voting and contributing behavior in 2013, non-contributors turned out to vote at a rate of 22%, while contributors had a turnout rate of 66%. We are currently updating our study of this for the 2017 election cycle. It would also be useful to study whether giving vouchers affects voter turnout and behavior in a similar way. As the Democracy Voucher program is relatively new, data on the program's impact is fairly limited, and it will likely take a couple more election cycles to determine if the program is achieving its goals. We look forward to seeing how the program impacts Seattle's mayoral race in 2021 as more candidates and voters learn about the benefits of the program.

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B38

In terms of administering the public matching funds program here in New York, a key component to ensuring the strength and integrity of the program is the Board's independent nonpartisan structure. As you are aware, the Board consists of five members. The mayor and the speaker of the City Council each appoint two members who may not be enrolled in the same political party, and the Chair is chosen by the mayor in consultation with the speaker. Each member of the Board has a fixed term of five years and may be removed only for cause. The Board is authorized to employ staff, including an executive director and counsel who serve at the pleasure of the Board.

The Board's independence and nonpartisan status ensure that administration of the public matching funds program is not influenced by the political pressures or agendas of the moment. We often work closely with the mayor and City Council on policy issues and legislative changes to strengthen the public matching funds program. However, it is our independent administration of the public financing program and enforcement of the law that ensures we are treating all candidates fairly, whether they are sitting elected officials or their challengers. This independence is critical to maintaining the public's confidence in the program and has been strengthened over time. For example, the 1998 Charter Revision Commission put forth a proposal adopted by voters to give the CFB independent budget authority. The Board presents the mayor with its budget request in March, which the mayor is required to include without revision in his Executive Budget. The Commission specifically included this proposal to insulate the Board from political pressure.

The Board's-nonpartisanship is equally important to how we carry out our work. When the 1988 Charter Revision proposed a ballot question on campaign finance to create the CFB, they proposed the CFB be directed to operate in a strictly nonpartisan manner, in order to protect the integrity of the public fund from which amounts are disbursed to candidates. This differs from bipartisan structures such as the Federal Election Commission or the New York State Board of Elections, which are divided evenly along party lines. The nonpartisanship of the Board is essential to its credibility and ensures that the Board is beholden to the public rather than political parties, which protects the integrity of the program and ensures proper oversight of the public funds we administer. As the Commission considers proposals relating to the structure of

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B39

the Campaign Finance Board, we would like to emphasize that maintaining this independence and nonpartisanship is essential to the continued success of the matching funds system.

Thank you for the opportunity to testify today. We understand tonight's forum is on elections, and we look forward to discussing other possible election reforms related to this topic with the Commission in the future. I'm happy to answer any questions the commissioners may have.

B40

Charter Revision Commission Testimony

May 7th, 2019 at Lehman College, 250 Bedford Park Blvd. West in the Bronx

As I've mentioned previously, my admiration for the work that the staff has been able to do in a fairly short amount of time in compiling such a cross section of ideas and proposals from so many different subject areas is remarkably impressive. Because of the incredible work that's been done on this report, I know it might understandably be your instinct to defer to the staff in terms of what proposals you're ultimately putting on the ballot. You are the Commissioners. You were the ones appointed for your expertise, experience and most importantly, your judgement. It's your name that history will record as either changing city history or preserving the status quo, not theirs. There's at least one issue, where I don't think you should defer: democracy vouchers.

Before I get to why I think the staff is incorrect in their analysis, let's look at the campaign finance system in this city and in this country and how we got where we are today. Anyone who lived in this city in the 1980s, read the book, "City for Sale" or saw the movie "City Hall," recognizing the significance and the breadth of the shocking public corruption scandal that enveloped our city. Alongside this corruption, were gargantuan, but completely legal campaign contributions, made to New York City officials under state law. This was essentially, a system of **LEGALIZED BRIBERY!** Not surprisingly, this shocked the sensibilities of the public and good government groups alike and the City Council acted swiftly to create a campaign finance system, which included a matching funds program. Commissioner Albanese, having served in the City Council at that time, can no doubt speak to the hopes of the Campaign Finance Act and how it's fallen short. The voters enshrined these changes in the City Charter. At the time, the match was a ONE TO ONE match. It could be argued that we went to a system that was largely ineffective and possibly **insufficient.**

Then, we increased the match to 4-to-1. This 4-to-1 system certainly proved costly. It certainly seemed odd that in the aftermath of financial austerity in this city and slash-and-burn budget costs, which involved raising property taxes on middle class New Yorkers by 18.5%, while at the same time saying we didn't have the money for the lights on our city's bridges, we were also doling out millions of dollars in tax money to politicians, who in some cases were running unopposed. So we went to a system, which may have helped some candidates for certain offices be competitive, but it was **costly.**

That match, then went to 6-to-1, which was simply too much free public money for ambitious politicians to ignore. That's where we saw multiple public officials and campaign workers arrested, indicted and convicted for scheming to exploit or defraud the matching funds system. It was a system that was a **magnet for corruption.**

That wasn't enough. Now we've enhanced this match to make sure it's an 8-to-1 match. That really would level the playing field for insurgent candidates to compete with incumbents or

well-heeled candidates, but for citywide races, as we've heard in testimony from the candidates themselves, the match is still too high for insurgent candidates to reach. So, candidates that already have no problem raising money can collect millions of dollars in taxpayer money to spend on attorneys, consultants, political operatives and accountants, many of whom than lobby those same candidates, once they're elected — ALL PERFECTLY LEGAL. Last year's changes should really have included a name change renaming the Campaign Finance Act, the Political Consultant Protection Act. So, we have a program currently that's **still legalized bribery still insufficient, still costly and now serves to enrich a gang of insiders,** who would probably be doing just fine without the benefit of taxpayer largesse.

There has to be a better way! There is, and Seattle has found it with democracy vouchers! I could go into some details with respect to how democracy vouchers work either in theory or in practice, but I know you're more familiar with the nuts and bolts of how they're implemented than I am. Democracy vouchers have become such a model for actually involving voters in the campaign finance system, instead of just having them rubber stamp the choice of money men and special interests, that even New York's own Senator Kirsten Gillibrand has proposed launching this nationally for federal contests, as part of her presidential campaign. How does it look, that while a New Yorker seeks to export this program nationwide, that we can't even give the voters of our city an opportunity to make this change themselves?

Why? Let's look at the rationale that's in the preliminary staff report. The staff report says that democracy vouchers didn't satisfy the focus criteria that the Commissioners voted on (criteria, which I happen to think is right on the money). Let's look at which aspect(s) of the focus criteria that the staff believes democracy vouchers fall short in. The staff writes in their reasoning:

"the City generally can, without a referendum, enact local laws relating to campaign finance. In fact, the City enacted its current campaign finance system through the Campaign Finance Act in 1988 and has since amended its finance system through local laws on numerous occasions.

That's it! That's all they say. They don't weigh in on the merits or the practicality of implementation, except to allude that Seattle is the only place that has tried this. So, which focus criterion does this run afoul of? It would seem to be that it's the first one (and I would argue the most important. The first criterion reads:

1) *Focus on ideas and proposals that likely would not be accomplished by local law without a referendum — in other words, changes that would likely require a Charter Revision Commission or referendum to accomplish. (emphasis added)*

The focus area says would LIKELY require a referendum. Not would be mandated by referendum. No one questions that the current City Council could do this if it wanted to and it's long been established that Charter Revision Commissions have the ability to weigh in on subjects, which could also be implemented through local law. In fact, New York State's Municipal Home Rule Law, Part 2, Section 36, specifically mentions that you're permitted to delve into areas that can also be done by local law.

B42

The question (based on the focus area that you voted on) is ... is it likely? You tell me. Is it likely that politicians who have gotten elected and enjoyed the benefits of current campaign finance system and who are supported by a gaggle of boosters who have mastered how to game the system are going to through that entire system out?? Of course they won't.

So, in my view, the staff has either misunderstood or misrepresented the focus criteria you've adopted and that's why I can't emphasize enough that as tempting as it is to let the staff do all the work, while you simply vote "yes" or "no" on their work product, this mischaracterization of your own criteria demonstrates why that shouldn't happen. Of course, democracy vouchers certainly meets the other four criteria listed as well.

However you feel about the campaign finance system, whether you think it needs some minor adjustments around the margins or needs to be completely blown up, as I do, make a decision on democracy vouchers on the merits of the proposal of itself. If you don't think it works, tell us why. If you don't think it's ripe, then tell us that it requires further study, but please for your own credibility and out of respect for the intelligence of the public, don't decline to put this question before the voters and then claim that you're doing so based on the adopted focus criteria.

I think it says a great deal about the ineffectiveness of the Campaign Finance Act that a man who actually voted to implement it in 1988 is sitting here begging the commission and the public to reform it. Put the question before the voters. We have a right to choose!

If Senator Gillibrand thinks it's good enough for America, it should certainly be good enough for America's greatest city.

Sincerely,

Frank Morano

816-8-Morano

Morano@nycradio.com

B43

Campaign Finance & Lobbying Reform – Democracy Vouchers

My name is John F. Manning. I am a resident of Brooklyn and a life-long New Yorker. Last September I testified for campaign finance and lobbying reforms that would empower the citizenry and end the control of big money over local government, how this issue is the root cause of many other problems, and to ask the Charter Revision Commission to place Democracy Vouchers on the November ballot as an alternative to the current campaign finance system. Thank you for the opportunity to speak again.

I have read the Preliminary Staff Report for Charter2019. I find it unfortunate that this issue has been relegated to the "Other Proposals" section for allegedly failing to satisfy the Focus Criteria of December 10, 2018. The Focus Criteria states that Commission proposals should "...improve government effectiveness, transparency, accountability, or efficiency... (and) encourage meaningful participation by New Yorkers."

The biggest shortcoming in our political system today is the near-impossibility of conducting a successful election campaign without accepting huge sums of money from lobbyists, special interests and political action committees. The seemingly unchallengeable power of the Real Estate Industry in New York City and State government is just one of many examples

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of how our democratic process has been corrupted. The lobbying industry, as it currently exists, is nothing less than legalized bribery.

The Mayor, Governor, our City Council Members, and our State Legislators, are supposed to be wrestling with representing the interests of their constituents and doing what is best for the society as a whole. They should not be responding to whichever lobby donates the greatest amount of money to their campaigns, or what special interest dangles lucrative post-government employment in front of them. That corruption, fraud and "Pay to Play" have become so pervasive in New York Government that it is hard for honest and competent people to get elected is a direct result of our current campaign finance and lobbying laws.

If every registered voter in the City were allocated 4 Democracy Vouchers worth $25 or $50 each, to give to the candidate(s) of their choice, it would encourage high voter turnout and enable well-meaning people of modest means to run for office. Democracy Vouchers are currently being used in Seattle, Washington and are being considered in numerous other cities and states. The Staff Report states that Democracy Vouchers are a new thing and that there is a lawsuit challenging Democracy Vouchers in Washington State. That lawsuit was dismissed in Superior Court and is currently being appealed. If you read the suit, the legal briefs, and the Superior Court's decision to

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dismiss it you will find the logic and arguments of the suit unconvincing. There is nothing new, radical or unconstitutional about wanting to replace corruption and pay to play with honest good-government. The lobbying industry finds Democracy Vouchers to be a mortal threat and is trying to kill this before it catches on.

Democracy Vouchers, limiting other campaign donations to small amounts, and ending third-party donations from lobbying firms and bundlers, could cause the current political climate of cynicism, complacency and low voter turnout to be replaced with idealism, leadership and community involvement.

Democracy Vouchers will open up our political process, giving voters better choices. It will enable all kinds of citizens who care about their communities and our great City to run for office or otherwise get involved in civic affairs. The City of New York being the national leader of honest, competent, good government and real progressiveness would be a wonderful legacy for the Charter2019 Commission.

Let's have the courage and integrity to end the grip that big money, lobbyists and special interests have on our noble democratic process. Please give the voters the choice this November to amend the New York City Charter

B46

to create Democracy Vouchers, and to end large bundled and third party

donations.

Thank you,

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B47

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

8

9 MARK ELSTER and SARAH PYNCHON,

10   Plaintiffs,   No.   17-2-16501-8 SEA

11   vs.   ORDER GRANTING CITY OF SEATTLE'S
                                              MOTION TO DISMISS
12 THE CITY OF SEATTLE,

13   Defendant.

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15   Defendant City of Seattle has moved to dismiss the complaint filed by Plaintiffs Mark Elster

16 and Sarah Pynchon. After briefing and argument of counsel,[1] the Court GRANTS the City's motion

    to dismiss based on the analysis set out below.

17
    City of Seattle's Democracy Voucher Program

18   On November 3, 2015, the voters in the City of Seattle passed Initiative 1-122, codified as

19 "Honest Election Seattle," in Seattle Municipal Code (SMC) 2.04.600 to 2.04.690. The initiative

20 authorized the funding of a "Democracy Voucher Program" through the imposition of an additional

21 property tax imposed in years 2016 through 2025. The proceeds of this tax may be used only to fund

22 the Democracy Voucher Program.

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    [1] *See* Appendix A for the materials considered by the Court.

    ORDER ON CITY OF SEATTLE'S
    MOTION TO DISMISS - 1

B48

1   Under this program, every Seattle registered voter received four vouchers totaling $100 which

2   the voter can assign to qualified candidates running for election to the position of city mayor, city

3   attorney, and city councilmember. SMC 2.04.620(b) and (e).

4   Candidates qualify to receive these vouchers from voters if they agree to participate in at least

5   three public debates for both the primary and general elections, and they agree to comply with special

6   campaign contribution and spending limits. SMC 2.04.630(b). To qualify for the program, candidates

must receive a minimum number of campaign contributions, ranging from 600 for a mayoral candidate

7   to 150 for a city attorney candidate, of at least $10 or more. SMC 2.04.630(c). The campaign spending

8   limits run from a high of $800,000 total for a mayoral candidate, to $150,000 total for district city

9   council candidates and city attorney candidates. SMC 2.04.630(d). If a qualifying candidate

10   demonstrates that his or her opponent has exceeded these spending limits, the candidate may ask the

11   Seattle Ethics and Elections Commission (SEEC) to be released from the program's contribution and

12   spending limits. SMC 2.04.630(f).

13   All Seattle residents are entitled to receive Democracy Vouchers, whether the residents own

property or not. No residents living outside of Seattle may receive these vouchers even if they own

14   real estate within the city and are paying property taxes for the Democracy Voucher Program fund.

15   **Plaintiffs' Complaint**

16   On June 28, 2017, Mark Elster and Sarah Pynchon filed this lawsuit challenging the

17   constitutionality of the Democracy Voucher Program. Mr. Elster who owns a family home in

18   Magnolia, has been taxed under the program and received but not used Democracy Vouchers.

19   Complaint, ¶4. Ms. Pynchon owns property in Seattle and has been taxed under the program but,

because she lives outside the city limits, is not entitled to receive any Democracy Vouchers. Complaint,

20   ¶5. Mr. Elster and Ms. Pynchon contend that the Democracy Voucher Program is a compelled subsidy

21   of political speech which violates their First Amendment rights. The City counters that the program is

22   a constitutionally valid method of public campaign finance approved by the United States Supreme

23   Court in *Buckley v. Valeo*, 424 U.S. 1, 96 S. Ct. 612, 46 L. Ed. 2d 659 (1976).

ORDER ON CITY OF SEATTLE'S
MOTION TO DISMISS - 2

B49

ANALYSIS

The parties agree that this case presents the Court with an issue of first impression. Although there are reported cases affirming and invalidating various means of publicly funding political campaigns, none involve the imposition of a tax used to finance a voucher program in which registered voters make campaign contributions of their choice to candidates in certain qualified electoral races. After reviewing the case law cited by both parties and considering the arguments of the parties, the Court finds the City's position to be the more persuasive one.

Buckley v. Valeo: The Use of Public Money to Finance Political Campaigns

In 1976, the Supreme Court considered the constitutionality of the Federal Election Campaign Act, which placed limits on campaign contributions and expenditures and created a system of public financing of presidential election campaigns and nominating conventions. The Court invalidated the campaign spending provisions but affirmed the public financing provision of the act, known as Subtitle H.

Subtitle H created a Presidential Election Campaign Fund financed from general tax revenues. Taxpayers may check a box on their tax returns authorizing the diversion of taxes to a fund for distribution to presidential candidates for nominating conventions and primary and general election campaigns. 424 U.S. at 86-87. The amount of money each campaign was entitled to receive depended on whether the candidate belonged to a major or minor political party. *Id.*

The challengers contended that Subtitle H constituted government support of political speech in violation of the First Amendment. The Supreme Court rejected this argument and concluded that the program was intended "not to abridge, restrict, or censor speech, but rather *to use public money to facilitate and enlarge public discussion and participation in the electoral process, goals vital to a self-governing people.*" *Id.* at 92-93 (emphasis added). *Buckley v. Valeo* affirmed the proposition "that the public financing of political candidates, in and of itself, does not violate the First Amendment, even though the funding may be used to further speech to which the contributor objects." *May v. McNally*, 203 Ariz. 425, 428, 55 P.3d 768 (2002).

ORDER ON CITY OF SEATTLE'S
MOTION TO DISMISS - 3

Public Funding of Political Campaigns Post-*Buckley*

Since *Buckley v. Valeo*, several states have passed laws publicly funding political campaigns. Some have survived constitutional challenge. *See Libertarian Party of Ind. v. Packard*, 741 F.2d 981 (7th Cir. 1984) (imposing sales tax on personalized license plates to publicly fund campaigns); *Bang v. Chase*, 442 F. Supp. 758 (D. Minn. 1977) (allowing income tax filer to allocate taxes to state election campaign fund for use by specific party); *May*, 203 Ariz. 425 (imposing 10% surcharge on criminal and civil traffic fines to publicly fund campaigns).

Some have not. *See Vt. Soc'y of Ass'n Execs. v. Milne*, 172 Vt. 375, 779 A.2d 20 (2001) (imposing tax on lobbyist expenditures to fund public grants to gubernatorial candidates violated lobbyists' First Amendment rights); *Butterworth v. Republican Party of Fla.*, 604 So. 2d 477 (Fla. 1992) (imposing 1.5% assessment on donations to state political parties to finance public campaign funding of qualifying candidates violated First Amendment).

Plaintiffs contend that the Democracy Voucher program cannot survive their First Amendment challenge because the City is compelling them to subsidize the voucher recipients' private political speech. They argue that this program, unlike any other public campaign finance case, involves a government entity allowing voters to choose to whom to donate public funds. They contend that the voucher feature interferes with the Plaintiffs' First Amendment right to support candidates other than those selected by the voucher holder, or the right to not support any candidate at all.

The Court agrees with Plaintiffs that the City's Democracy Voucher program does implicate their First Amendment rights. In *Board of Regents v. Southworth*, 529 U.S. 217, 120 S. Ct. 1346, 146 L. Ed. 2d 193 (2000), the Supreme Court considered a First Amendment challenge to a mandatory student fee used to support student organizations engaged in expressive activities. The plaintiffs claimed that they should not be compelled to subsidize student organizations with which they disagreed. *Id.* at 222-24. The Court held that once the university conditioned the opportunity to obtain an education on an agreement to support objectionable speech (through the imposition of a mandatory fee), the First Amendment was implicated. *Id.* at 231. By analogy here, the City is conditioning

ORDER ON CITY OF SEATTLE'S
MOTION TO DISMISS - 4

B51

1 property owners' rights to their land on the payment of a tax used to support speech property owners

2 may find objectionable. The First Amendment is implicated.

3   Viewpoint Neutrality

4   But the fact that the First Amendment is implicated does not mean that the program is

5 unconstitutional. The City asks this Court to adopt the public forum standard of viewpoint neutrality

6 when evaluating the Democracy Voucher Program. Under public forum law, when a government

creates a nonpublic or limited public forum, namely a forum that is limited to use by certain groups or

7 dedicated solely to the discussion of certain subjects, speech restrictions need only be "reasonable and

8 viewpoint neutral." *Pleasant Grove City v. Summum*, 555 U.S. 460, 469-70, 129 S. Ct. 1125, 172 L.

9 Ed. 2d 853 (2009). In *Southworth*, the Supreme Court applied this standard when assessing the

10 constitutionality of mandatory student funding of organizations. 529 U.S. at 230.

11   Plaintiffs, however, ask the Court to apply the "compelled funding of speech" cases. *See Knox*

12 *v. Serv. Emps. Int'l Union, Local 1000*, 567 U.S. 298, 309-10, 132 S. Ct. 2277, 183 L. Ed. 2d 281

(2012); *Abood v. Detroit Bd. of Educ.*, 431 U.S. 209, 97 S. Ct. 1782, 52 L. Ed. 2d 261 (1977). In *Knox*,

13 the Supreme Court held that the "compelled funding of the speech of other private speakers or groups"

14 is unconstitutional unless (1) there is a comprehensive regulatory scheme involving a mandated

15 association among those who are required to pay the subsidy; and (2) the mandatory fee or tax is a

16 necessary incident of the larger regulatory purpose which justified the required association. 567 U.S.

17 at 310 (citing *United States v. United Foods, Inc.*, 533 U.S. 405, 414, 121 S. Ct. 2334, 150 L. Ed. 2d

18 438 (2001)). The *Southworth* Court acknowledged this line of cases but concluded that those cases did

not apply in the context of extracurricular student speech at a university. 529 U.S. at 230.

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    The Court does not find the test used in *Knox* or more recently *Harris v. Quinn*, __ U.S. __, 134

20 S. Ct. 2618, 189 L. Ed. 2d 620 (2014) to be any more applicable to the City's Democracy Voucher Plan

21 than it was to the University of Wisconsin's student fee. The program is not mandating that property

22 owners associate with each other. Without this mandated association, it is difficult to see how the test

23 laid out in the "compelled funding of speech" cases fits a campaign funding tax.

ORDER ON CITY OF SEATTLE'S
MOTION TO DISMISS - 5

B52

Plaintiffs next argue that the City's funding plan is not viewpoint neutral because it "distribut[es] voucher funds through the majoritarian preferences of Seattle residents." Response, p. 21. At oral argument, counsel clarified this argument: the voucher recipient is choosing to whom to donate public money, rather than the City, based on the voter's viewpoint preference, making the decision as to which candidate receives financial support viewpoint-based. They rely on *Amidon v. Student Ass'n of the State University of New York*, 508 F.3d 94 (2d Cir. 2007) in which a federal court of appeals held that the use of a student referendum to determine how to allocate student fees among student organizations was not viewpoint neutral because the vote reflected the student body's majority opinion of the value or popularity of an organization's speech. *Id.* at 101.

This Court does not find *Amidon* to be analytically helpful. The City sets eligibility requirements for Democracy Voucher candidates. Candidates must demonstrate adequate grassroots support to qualify for the program by showing they have received a certain number of donations of $10 or more. In *Buckley*, the Supreme Court held that it was permissible for a government to set eligibility requirements because "Congress' interest in not funding hopeless candidacies with large sums of public money necessarily justifies the withholding of public assistance from candidates without sufficient public support." 424 U.S. at 96 (citation omitted). The City does not, however, put eligibility to a popular vote, as in *Amidon*. Any voter can assign a $25 voucher to any eligible candidate, even if that candidate's viewpoint is unpopular with the majority of Seattle voters. The City is not distributing voucher funds "through majoritarian preferences of Seattle residents."

The City argues that its voucher program should be deemed viewpoint neutral because the City is not choosing to whom to allocate campaign funds and is allowing voters to make a completely private choice, similar to school voucher programs. In *Zelman v. Simmons-Harris*, 536 U.S. 639, 122 S. Ct. 2460, 153 L. Ed. 2d 604 (2002), the Supreme Court held that a government school voucher program was constitutional under the Establishment Clause because it was "neutral with respect to religion," and provided assistance to a broad class of citizens who directed the aid to a religious school "wholly as a result of their own genuine and independent private choice." *Id.* at 652. The Court is reluctant to

ORDER ON CITY OF SEATTLE'S
MOTION TO DISMISS - 6

invoke Establishment Clause precedent here given the Supreme Court's admonition in *Buckley* that any analogy to Establishment Clause case law is "patently inapplicable" to the issue presented in that case. 424 U.S. at 92. But the Court can find no other analogous precedent. This Court concludes that the Democracy Voucher program is viewpoint neutral because candidates qualify for voucher support regardless of the views they espouse, and the City imposes no restrictions on voters' choice as to whom they may assign their vouchers.

The City has articulated a reasonable justification for the Democracy Voucher Program. It seeks an increase in voter participation in the electoral process. This goal was recognized by the *Buckley* Court to be "goals vital to a self-governing people." *Id.* at 92-93. The Democracy Voucher Program is a viewpoint neutral method for achieving this goal.

For the foregoing reasons, the Court GRANTS the City's motion to dismiss Plaintiffs' complaint.

IT IS SO ORDERED this 3rd day of November, 2017.

Electronic signature attached

Honorable Beth M. Andrus

APPENDIX A

Plaintiffs' Complaint, Sub. #1
City of Seattle's Rule 12(b)(6) Motion to Dismiss, Sub. #17
Amicus Curiae Brief of Washington CAN!, et al., Sub. #20
Plaintiffs' Response to Defendant's Motion to Dismiss, Sub. #34
Plaintiffs' Consolidated Response to Amicus Briefs Filed in Support of City, Sub. #35
City of Seattle's Reply in Support of Its Rule 12(b)(6) Motion to Dismiss, Sub. #36
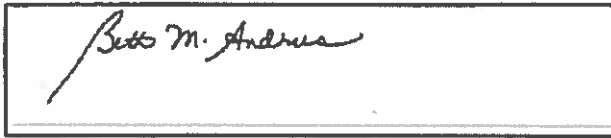
ORDER ON CITY OF SEATTLE'S
MOTION TO DISMISS - 7

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B54

King County Superior Court
Judicial Electronic Signature Page

Case Number: 17-2-16501-8
Case Title: ELSTER ET ANO VS SEATTLE CITY OF

Document Title: ORDER DISMISSAL

Signed by: Beth Andrus
Date: 11/2/2017 4:28:58 PM

Judge/Commissioner: Beth Andrus

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7   SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

8

MARK ELSTER and SARAH PYNCHON, Plaintiffs, v. THE CITY OF SEATTLE, a Washington Municipal corporation, Defendant.	Case No. _____ **COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF**

16 **INTRODUCTION**

17   1.   The City of Seattle compels property owners to sponsor the partisan political speech

18 of city residents. A new levy on real property funds so-called "democracy vouchers" that residents

19 donate to candidates running for local elected offices. Property owners must thereby pay for

20 political viewpoints they object to and enrich the campaign coffers of politicians they don't

21 support. Indeed, "democracy voucher" is mere euphemism for a law that operates in effect as a

22 politician enrichment tax.

23 ///

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Complaint - 1 of 13

B56

1   2.   The First Amendment embodies not only the right to speak, but also its corollary—

2   the right not to speak. This includes the right to refrain from funding the speech of another person.

3   The Supreme Court calls this a "bedrock principle" of the First Amendment—"that, except perhaps

4   in the rarest of circumstances, no person in this country may be compelled to subsidize speech by

5   a third party that he or she does not wish to support." *Harris v. Quinn*, __ U.S. __, 134 S. Ct. 2618,

6   2644, 189 L. Ed. 2d 620 (2014). The politician enrichment tax, by forcing Seattle property owners

7   to finance campaign contributions, tramples upon this bedrock principle.

8   **PARTIES**

9   3.   Plaintiff Mark Elster has owned and resided with his family in a home in the

10   Magnolia neighborhood of Seattle since 1990. He is subject to the politician enrichment tax.

11   Mr. Elster grew up in West Seattle and graduated from the University of Washington with a

12   Masters in Architectural Design in 1988. He then cofounded AOME Architects in downtown

13   Seattle—an award-winning firm that builds homes across the Northwest. Mr. Elster has actively

14   volunteered at his sons' local schools over the years, including serving as PTA President, designing

15   a school garden, and teaching magic classes to middle schoolers.

16   4.   Mr. Elster is politically active, often meeting with candidates and attending

17   campaign activities. He cares deeply about personal liberty and robust free markets. Mr. Elster

18   does not wish to support any of the local candidates eligible to receive democracy vouchers. He

19   had considered using his vouchers to support Sara Nelson for city council, but Ms. Nelson has

20   declined to participate in the democracy voucher program because she objects to it on an ethical

21   basis. Mr. Elster no longer plans to use the vouchers. He adamantly objects to being compelled to

22   subsidize views that conflict with his own values.

23   ///

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Complaint - 2 of 13

B57

1   5.   Plaintiff Sarah Pynchon owns property in Seattle subject to the politician

2 enrichment tax, though she herself lives outside city limits. Ms. Pynchon moved to the Seattle area

3 after completing her MBA at University of California-Berkeley in 1997. She worked for T-Mobile

4 for many years before turning to her current career as a marketing consultant. She also enjoys

5 volunteering at a camp for at-risk kids every year. Ms. Pynchon has owned and rented out a four-

6 bedroom, single-family home in Seattle's Broadview neighborhood since August 2005. She also

7 rents out a small studio condo in Seattle that she purchased in 2009.

8   6.   Ms. Pynchon herself is not a Seattle resident or registered to vote in Seattle. She is

9 therefore not qualified to receive vouchers, though she still must pay for the vouchers of Seattle

10 residents. Ms. Pynchon objects to being compelled to subsidize other people's political speech,

11 especially when she herself is not entitled to vouchers.

12   7.   Defendant City of Seattle is a municipality located in King County, Washington.

13 **JURISDICTION AND VENUE**

14   8.   Plaintiffs Mark Elster and Sarah Pynchon bring this civil-rights lawsuit under 42

15 U.S.C. § 1983 for the violation of rights secured by the First Amendment to the United States

16 Constitution.

17   9.   This Court has jurisdiction over this matter under RCW 4.28.020, RCW 7.24.010,

18 7.40.010, and Article IV, Sections 1 and 6, of the Washington State Constitution.

19   10.   Under RCW 4.12.020, venue is proper in King County Superior Court because the

20 City of Seattle sits within county limits.

21 **FACTUAL ALLEGATIONS**

22   11.   In November 2015, Seattle became the first city in the nation to single out property

23 owners to finance campaign contributions through so-called "democracy" vouchers. Seattle voters

24

Complaint - 3 of 13

B58

1   passed Initiative 122 (I-122), entitled "Honest Elections Seattle," which established the voucher

2   program. I-122 is codified in Subchapter VIII of Section 2.04 of the Seattle Municipal Code. A

3   true and correct copy of this initiative is attached as Exhibit A.

4   **HOW THE POLITICIAN ENRICHMENT TAX OPERATES**

5   **I.**   **The politician enrichment tax funds municipal campaign contributions**

6   12.   Washington law imposes strict limits on municipalities' power to increase property

7   taxes. *See* RCW 84.55.010. A taxing district, however, can bypass the state law's lid on the levy

8   rate if the levy is authorized by an initiative approved by a voter majority. RCW 84.55.050. I-122

9   lifts the lid for the purpose of imposing the politician enrichment tax.

10   13.   The levy lift lasts from 2016 through 2025 and authorizes the county tax assessor

11   to collect up to $30,000,000 in politician enrichment tax revenue over that period, with a cap of

12   $3,000,000 per year. I-122 § 2. This is in addition to the regular property taxes that the city collects

13   through the King County assessor's office.

14   14.   The politician enrichment tax authorized by I-122 may only be used to fund

15   vouchers for Seattle residents to give to qualifying candidates in Seattle municipal elections and

16   the administrative costs of running the program. *Id.*

17   **II.**   **Voucher distribution**

18   15.   On the first business day of the municipal election year, the Seattle Ethics and

19   Elections Commission (SEEC) distributes four $25 campaign finance vouchers to Seattle voters.

20   16.   Each individual duly registered to vote in Seattle elections by the prior November

21   automatically receives four vouchers in the mail. Anyone who subsequently becomes a registered

22   voter in Seattle by October 1 of the election year will also receive four vouchers by mail.

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Complaint - 4 of 13

B59

1   17.   Seattle residents who are not registered to vote in Seattle can also receive four

2   vouchers. Any citizen or green-card holder over the age of 18 who has lived in the city for thirty

3   days can obtain their vouchers upon request to the SEEC.

4   **III.   Voucher use**

5   18.   Voucher recipients can contribute the vouchers, separately or in combination, to

6   any qualified candidate for Mayor,[1] City Council, or City Attorney who agrees to abide by certain

7   conditions, listed below in paragraph 25. SMC § 2.04.620(e).

8   19.   Voucher recipients can only assign vouchers to an eligible candidate participating

9   in the voucher program. *Id.*

10   20.   Each voucher states the voucher holder's name, an identification number, and the

11   election year. *Id.* § 2.04.620(c). It contains language of assignment with blank spaces for the date

12   and the name of the candidate that the holder wishes to support. *Id.*

13   21.   No one can buy, sell, or give away unassigned vouchers. *Id.* § 2.04.620(e).

14   Trafficking in vouchers constitutes a gross misdemeanor punishable by up to a $5,000 fine and

15   imprisonment for up to 364 days. *Id.* § 2.04.690(d).

16   22.   Each voucher contains the following attestation:

17   I attest that I obtained this Democracy Voucher properly and make this
assignment freely, voluntarily and without duress or in exchange for any
18   payment of any kind for this assignment, and not for any consideration of any
kind, and that I am aware that assignment does not guarantee availability of
19   funds and is irrevocable. Assignment is complete upon delivery to Seattle
Ethics and Elections Commission, the named candidate, or her or his registered
20   representative. Sale/transfer for consideration of this Democracy Voucher is
strictly prohibited. Voucher may be redeemed only by qualifying candidates
21   and only if such candidate has complied with additional contribution and
spending limits and if funds are available.

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23   [1] Mayoral candidates may receive vouchers starting in the 2021 election cycle.

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B60

1   *Id.* § 2.04.690(c).

2   23.   After listing a candidate's name and signing the voucher, the holder can deliver it

3   to the selected candidate, an authorized representative, or the SEEC. *Id.* § 2.04.690(d). This can

4   occur by mail, in person by anyone that the voucher holder wishes, or via SEEC's online system.

5   *Id.*

6   24.   If voucher recipients do not assign the vouchers to an eligible candidate by the last

7   business day in November after the election, then the unused voucher funds will carry over to the

8   next election cycle to fund the program. *See id.* § 2.06.620(e); Democracy Voucher Program

9   FAQ.[2] Unused voucher money does not roll over into the general fund. Democracy Voucher

10 Program FAQ, *supra.*

11   25.   The program limits candidates' eligibility to receive vouchers. Candidates

12 interested in the program must apply to the SEEC. To qualify, candidates—among other things—

13 must:

14   •   Accede to specific campaign spending and contribution limits not otherwise

15   required by law;

16   •   Receive a specified minimum number of campaign contributions;

17   •   Participate in at least three debates in the primary and general elections; and

18   •   Forebear soliciting on behalf of groups that make independent expenditures in the

19   same election cycle.

20 *Id.* § 2.04.630.

21 ///

22 _____

    [2] http://www.seattle.gov/democracyvoucher/i-am-a-seattle-resident/faqs# (What happens if I do
23 not use my Democracy Vouchers?)

24
    Complaint - 6 of 13

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B61

1   26.   Candidates can only use voucher funds for campaign-related expenses. *Id.*

2   § 2.04.630(i).

3   27.   Misuse of voucher funds can result in a civil penalty of up to $5,000. *Id.* § 2.04.500.

4   28.   I-122 does not require the SEEC to audit candidates' uses of voucher funds. Nor

5   does it require candidates to sign a sworn statement or otherwise affirm that they will use the

6   voucher funds for limited campaign purposes.

7   **IV.   The Vouchers' impact**

8   29.   The politician enrichment tax disfavors minority viewpoints and undermines the

9   speech rights of property owners

10   30.   I-122 does not provide an equal amount of funding to each eligible candidate.

11   31.   Rather, each candidate will receive campaign funding from vouchers only to the

12   extent that Seattle residents choose to direct their vouchers to support that candidate.

13   32.   Candidates who enjoy the most support among residents will receive more voucher

14   funds than candidates with less support.

15   33.   This distribution differs from a neutral public funding scheme in which candidates

16   all receive an equal allotment of public funds.

17   34.   The unequal distribution of voucher funds based on voter preferences harms the

18   political interests of property owners who must pay the politician enrichment tax yet support less

19   popular candidates.

20   35.   Landlord-tenant issues present one example of how the law harms property owners

21   compelled to fund campaign contributions.

22   36.   Renters comprise more than 54 percent of Seattle households. *See* Seattle

23   Ordinance 125280.

24

B62

1   37.   The political interests of Seattle's many renters and their landlords often clash

2   before the city council. Landlord groups like the Rental Housing Association, for example, actively

3   opposed recent legislation such as the Seattle Renters' Commission, caps on move-in fees, and the

4   first-in-time rule limiting landlord discretion to select tenants. Pro-renter groups such as the

5   Tenants Union of Washington State and Washington CAN supported these measures.

6   38.   Seattle imposes the burden of funding renters' political speech—in the form of

7   vouchers—solely on the shoulders of landlords and other property owners. It thus forces landlords

8   to fund the speech of the very interest group that they often oppose before the city council.

9   39.   The current distribution of 2017 voucher funds underscores this outcome.

10   40.   As of June 7, 2017, three candidates are actively receiving vouchers, while ten more

11   are awaiting approval from the SEEC. Two of the currently eligible candidates are running for city

12   council, and the third is running for city attorney.

13   41.   Four local candidates have opted not to participate in the program. Of these, city

14   council candidates Sara Nelson and David Preston have declined to participate because of ethical

15   and constitutional objections to the program.

16   42.   As of June 9, one of the three currently eligible candidates, Jon Grant—a housing

17   advocate and former head of the Tenants Union of Washington State—has received more

18   compelled campaign contributions than the other two candidates combined.

19   43.   Of the 9,116 vouchers that voters have thus far assigned to candidates for the 2017

20   election, Mr. Grant has scooped up 5,178, totaling $129,450.[3]

21   ///

22   _____

[3] Democracy Voucher Program, Program Data,
23   http://www.seattle.gov/democracyvoucher/program-data.

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Complaint - 8 of 13

1   44.   If elected, Mr. Grant promises, among other things, to grant renters collective

2 bargaining rights, a proposal that will affect the political and economic interests of Seattle's

3 landlords.[4] He has vowed to "freeze all permits, licenses, and rental registrations where the

4 landlord has any ownership stake until they meet and negotiate in good faith with the tenants."[5]

5   45.   I-122 forces landlords and other property owners to sponsor these messages to the

6 tune of $129,250 to date.[6]

7   46.   The politician enrichment tax disfavors dissidents and compels property owners to

8 bankroll speech they do not wish to support.

9 **CLAIM FOR RELIEF**

10 **The politician enrichment tax unconstitutionally compels property owners to fund political speech in violation of the First Amendment**

11

     47.   The plaintiffs reallege the preceding paragraphs as though fully set out here.

12

     48.   The First Amendment to the United States Constitution protects an individual's

13

right to refrain from speaking or subsidizing the speech of others.

14

     49.   I-122 violates the First Amendment on its face and as applied to Mr. Elster and

15

Ms. Pynchon.

16

     50.   A viewpoint-based or content-based speech regulation—whether it compels silence

17

or compels speech—must satisfy strict scrutiny. *See Knox v. Service Employees Int'l Union, Local*

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1000, 567 U.S. 298, 132 S. Ct. 2277, 2289, 183 L. Ed. 2d 281 (2012). Such speech regulations

19

must serve a compelling interest in a narrowly tailored manner. *Harris*, 134 S. Ct. at 2639.

20

21 _____

[4] Elect Jon Grant, Affordable Housing, http://www.electjongrant.com/affordable_housing.
22 [5] *Id.*

[6] Democracy Voucher Program, Program Data,
23 http://www.seattle.gov/democracyvoucher/program-data.

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B64

1   51.   The politician enrichment tax forces Seattle property owners to subsidize campaign

2 contributions to local politicians. By distributing such funds at the whim of majoritarian interests,

3 the program disfavors minority viewpoints. It also disfavors the supporters of candidates who

4 object to and refuse to abide by the increased campaign contribution limits required to participate

5 because these candidates' supporters cannot use their vouchers to contribute to their preferred

6 campaign. The program is therefore viewpoint-based and must satisfy strict scrutiny.

7   52.   The law also discriminates based on content. It compels the financial support of

8 speech on a particular topic—campaigns for Seattle elected offices. For this reason, too, the

9 democracy voucher program must satisfy strict scrutiny.

10   53.   I-122 does not satisfy strict scrutiny because funding the speech of Seattle residents

11 at the expense of property owners serves no compelling interest.

12   54.   The law is not narrowly tailored to achieve its purposes in a manner least restrictive

13 of First Amendment freedoms. The voucher program, for example, claims to fight corruption.

14 SMC § 2.04.620(a). Certainly, preventing contributions might reduce corruption. But corruption

15 is not stymied when individuals who wish to refrain from contributing are forced to do so.

16   55.   The law also purports to level the playing field and strengthen democracy. *Id.* By

17 disfavoring minority viewpoints, however, the law undermines rather than serves these goals. A

18 program that funnels money in a partisan manner does not level the playing field, strengthen

19 democracy, or prevent corruption. Indeed, the program contradicts each of these goals. It therefore

20 fails strict scrutiny and violates the First Amendment on its face.

21   56.   Additionally, the politician enrichment tax violates the First Amendment as applied

22 to Mr. Elster and Ms. Pynchon.

23 ///

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B65

1   57.   Mr. Elster does not support any of the candidates currently eligible to receive

2   vouchers. He had planned to use his vouchers to support Sara Nelson, but she has refused to

3   participate in the program because she objects to the policy. Therefore any use of the voucher

4   funds will enrich the war chests of candidates that he opposes. I-122 thus violates his First

5   Amendment right to refrain from supporting speech with which he disagrees.

6   58.   Ms. Pynchon, as a property owner who lives outside the city, must subsidize private

7   speech, but she cannot avail herself of the voucher program to counteract voucher contributions to

8   candidates that she does not want to support. I-122 therefore violates her First Amendment right

9   to refrain from subsidizing speech.

10   59.   Plaintiffs have and will continue to suffer irreparable harm until this law is declared

11 unconstitutional and void.

12 **DECLARATORY RELIEF ALLEGATIONS**

13   60.   An actual and substantial controversy exists between Plaintiffs and the City as to

14 their respective legal rights and duties.

15   61.   Under 42 U.S.C. § 1983, Plaintiffs contend that Subchapter VIII of Section 2.04 of

16 the Seattle Municipal Code and the associated property levy violate the First Amendment on their

17 face and as applied to Mr. Elster and Ms. Pynchon.

18   62.   The First Amendment to the United States Constitution does not allow local

19 governments to force individuals to subsidize private political speech.

20   63.   I-122 violates the First Amendment by compelling Seattle property owners to pay

21 for other people's campaign contributions.

22   64.   A declaratory judgment will afford relief from the uncertainty and insecurity giving

23 rise to this controversy.

24

Complaint - 11 of 13

B66

1   PERMANENT INJUNCTIVE RELIEF ALLEGATIONS

2   65.   Mr. Elster and Ms. Pynchon have no adequate remedy at law to address the City's

3   forced subsidization of private political speech.

4   66.   I-122 offers no refund mechanism or exemption for conscientious objection.

5   Mr. Elster and Ms. Pynchon therefore will suffer irreparable injury absent an injunction restraining

6   the City from administering this unconstitutional program.

7   **PRAYER FOR RELIEF**

8   Plaintiffs pray for the following relief:

9   1.   For a declaration that Subchapter VIII of Section 2.04 of the Seattle Municipal

10   Code and the associated levy facially violate the First Amendment to the United

11   States Constitution;

12   2.   For a declaration that Subchapter VIII of Section 2.04 of the Seattle Municipal

13   Code and the associated levy violate the First Amendment to the United States

14   Constitution as applied to Mr. Elster and Ms. Pynchon;

15   3.   For a permanent injunction forbidding the City from enforcing Subchapter VIII of

16   Section 2.04 of the Seattle Municipal Code;

17   4.   For an award of reasonable attorney fees, expenses, and costs under 42 U.S.C.

18   § 1988; and

19   5.   For such other relief as the Court deems just and proper.

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B67

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                                     BRIAN T. HODGES, WSBA No. 31976

2   ETHAN W. BLEVINS, WSBA No. 48219

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4   Date: __June 28, 2017__   By: _s/ Ethan W. Blevins_

5   Ethan W. Blevins
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NYLP

MANHATTAN LIBERTARIAN PARTY

Ilya Schwartzburg
State Committee Representative

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http://manhattanlp.org/
http://nyclibertarians.org/
http://lpny.org/

May 10, 2019

BY ELECTRONIC SUBMISSION

Members of the NYC Charter Revision Commission

Re: Submission of the Manhattan Libertarian Party

Dear Honorable Members:

The following is a copy of my personal testimony from the Queens hearing held on May 2, 2019. Please find further commentary below.

> My name is Ilya Schwartzburg and I am an officer with the Manhattan Libertarian Party and a committee member of the state Libertarian Party. The Libertarian Party is the third-largest party nationwide and after 46 years of fielding candidates, we attained official party status last year in New York State. We are a growing force in the state and in this city and hopefully I can offer the commission a unique and useful perspective.
>
> First, we would ask that if you adopt ranked choice voting, you apply it to general elections. We agree with our colleagues in the Green Party that extending RCV to general elections makes eminent sense. It will reduce the element of fear-based voting and encourage ideological diversity. This will in turn lead to greater voter engagement.
>
> We respectfully but forcefully disagree with Common Cause's new position not to extend RCV to general elections. RCV would have actually have greater force in generals because many voters would not automatically disengage after the primary--unlike generals today, they would again have real options to consider. Yes, fusion offers a logistical challenge, but this commission should not ignore that parties such as the Greens and Libertarians exert a lot of effort to offer real alternatives. To not extend RCV would be perceived as serving the interests of the Democratic and Republican duopoly instead. We would be encouraging friendly competition in primaries where a major party's overall interest is safe, but insulating major party candidates from third parties in general elections where a major party's interest would be at stake. The party can't lose in a primary, but it can in a general.
>
> Second, on other policies being considered, we would generally endorse the idea of first do no harm. Our city has a housing crisis due to overly restrictive zoning and land use restrictions which we believe often violate property rights and demonstrably and obviously limit the amount of housing made available to New Yorkers. Any measures to enhance veto power and obstacles for new developments should be rejected. Streamlining ULURP would be welcome, but not a new veto or delays. Any centralized

B69

plan should look to accommodate the market, not mandate a specific vision—it should have to accommodate growth, private planning and the interests of renters who benefit greatly when there is more housing supply.

Third, we support diversifying the authority of the CCRB away from the police commissioner to the maximum legal extent.

We oppose inscribing into the Charter a so-called Chief Diversity Officer. Under City of Richmond v. J. A. Croson, Co., 109 S.Ct. 706 (1989). the M/WBE program is only constitutionally justified as a remedial program for past discrimination. To inscribe it permanently is antithetical to that temporary justification.

We advocate for the abolition of the Public Advocate and Borough President positions.

We oppose guaranteeing any agency's budget--whether independent or not.

Finally, we oppose democracy vouchers as compelled political speech.

Following this testimony, there has been debate on some issues that we would like to opine on.

First, we would like to assert our opposition to non-partisan elections. We have struggled for 46 years to earn the Libertarian Party's spot in the system. Changing the rules now is unfair to the party and our decades of effort petitioning and running candidates at great time and expense. Furthermore, I have consulted with my colleagues in San Francisco, California who operate in a jurisdiction with non-partisan races and ranked choice voting. The end result is contrary to ideological diversity--the truly unique voices are drowned out at the primary and the general becomes a face-off of very similar candidates from the one dominant party or ideological basis.

Second, we would like to clarify our position on "Democracy Vouchers." In our opinion, the policy would exacerbate the fundamental injustices of the campaign finance system. The policy depends on routing any and all political speech through a government program, which presents at least three problems: (1) it is contrary to individuals' fundamental right to express themselves especially regarding political matters; (2) it suppresses and further discourages candidates from running or volunteers from assisting by presenting numerous issues and liability regarding compliance; and (3) it dangerously inserts the state into election and campaign speech to a dangerous degree with possibilities for censorship and outrage when that publicly financed speech is not unreasonably perceived as the state's speech. In addition, taxpayers would be compelled to finance campaign speech, violating their First Amendment rights, and cost the taxpayers money that would be otherwise provided voluntarily by donors.

Thank you for your consideration,

Ilya Schwartzburg
State Representative, Manhattan Libertarian Party
Committee-member, New York Libertarian Party Interim
State Committee

B70

Appendix C

COMMENTS FOR THE CHARTER COMMISSION ON THE BOROUGH PRESIDENCY

Submitted by Ruth Messinger, Former Manhattan Borough President

March 25, 2019

I appreciate the invitation to speak to this Commission. I am not presenting a lengthy treatise either orally or in writing, but am simply speaking to the importance of continuing to have elected Borough Presidents with clear authority to work on borough wide issues and with sufficient office budgets to make it possible for them to do this work.

The Borough President position draws its strength precisely from being less narrowly focused/ less parochial than individual council representatives. It offers a very large and very diverse city a level of government intermediate between local districts [Council and also State Senate and Assembly] and the city-wide government. There are many issues that ought to be brought to city government on behalf of the council members and, sometimes, on behalf of the council members and the community board chairs together. A Borough President should regularly convene these two groups and urge the members to determine additional and specific budget and land use issues that are important to the borough and then hammer out a borough position, rather than letting the Mayor and/or Commissioner make proposals that set one council district/member against another. Similarly, the Mayor and/or Commissioners should bring issues to the Borough President and ask for a coordinated borough position on the matter. And note that some of this happens already, but I am advocating for it to happen much more consistently.

Some powerful examples can be taken from the headlines at any point in time: a borough should be thinking together with its Borough President about where to locate and how to design a borough jail. A borough should be considering with the executive branch the best ways to achieve improved school integration. The parameters of which sites to offer for additional affordable housing, of where to sacrifice open space, could benefit from borough-based discussion and borough-based or borough board negotiations handled by the Borough President and the Mayor/Commissioners. The challenge for protecting small businesses—an area where the current Manhattan Borough President has been very involved—is but one more example of work that benefits from being studied throughout a borough, leading—hopefully—to recommendations for action being brought to the Executive branch or the Council or both

A strength of my Borough President tenure was the development of a very sophisticated and knowledgeable land use unit which was able to review and comment on land use proposals that were going before the Council. We were able to influence the Council's consideration because we could bring expertise that was much more difficult for an individual Council Member or community board to develop. We could provide data and analyses that the involved Council Member could then use in negotiation with the developer or in advancing her or his position to the rest of the Council.

Similarly, that land use unit was available to and used by several Community Boards in developing what the Charter refers to as 197a plans. Communities were engaged in plotting out some aspects of their own future development, indicating where they wanted to see growth, where they wanted to see open space, how they envisioned changes in traffic patterns, what zoning they would recommend. This

C1

provided a framework to which not only the broader city government but future developers could respond.

The existence of Borough Presidents does, also, provide the public with people they can consider for city wide offices based on how those individuals have performed in their boroughs; that is a more logical step forward than imagining which individual district city and state office holders could best handle the challenges of city-wide positions.

One additional point. When I was in government we required the city to prepare and publish a tax expenditure budget. I believe this provision still exists but I know that on several occasions during my tenure the report was not published until we asked for it. Given the recent articles about tax forgiveness negotiations around Amazon and Hudson Yards it would be of interest for this Commission to investigate the status of this requirement, ensure that it is mandated and that the document is released with the proposed Executive budget.

NEW YORK CITY GOVERNANCE: GOVERNANCE AND OTHER MATTERS

Douglas Muzzio, Ph.D.
Professor of Public Affairs
Austin Marxe School of Public and International Affairs
Baruch College, CUNY

Testimony before the 2019 Charter Revision Commission
March 18, 2019

Madam Chair and members of the Commission, thank you for the opportunity to testify before you. I'm Douglas Muzzio. I am a Professor of Public Affairs at the Austin Marxe School of Public and International Affairs at Baruch College, CUNY.

I am a confessed charter revision nerd. My affliction began in 1989 when I co-authored the City Council report for the 1989 Commission, followed in 1992 as the survey researcher for the New York State Charter Commission for Staten Island. It has persisted through the 2003 commission, as an expert witness and as a consultant to the 2010 Commission.

I want to congratulate you all for thoroughness of your efforts. I was a strong supporter of this commission that could/would comprehensively examine the 1989 Charter changes in light of challenges and opportunities that have arisen in thirty years.

Any meaningful review of today's charter take cognizance the 1989 charter changes. What has worked? What hasn't? Why? How have post-1989 commissions attempted to "fix" it? Have they been successful? How do we "fix" it now? Any unwanted consequences lurking?

A comprehensive charter, in my way of thinking, ought to be framed by three broad themes: centralized power vs. local power and advice and consent, governmental checks and balances (essentially, how to contain the power of the mayor/expand the power of other city officials/institutions), and expansion of an informed and efficacious electorate.

Specifically, I can discuss matters of governmental structure and process, among them
- the role of the City Council vis-à-vis the Mayor (e.g. advice and consent power, enhance its budgetary role),
- Public Advocate (i.e. retain, eliminate, enhance or reduce authority. If not eliminated dedicated questions funding stream; subpoena power),
- Borough Presidents (e.g. retain or eliminate, maintain, reduce or enhance authority such as in land use decision making and capital planning and budgeting)
- the role of the Corporation Council/law Department
- independent budgeting (Public Advocate, Borough Presidents, Comptroller)
- cautions

Articulate Clear and Compelling Goals

The 2010 and earlier commissions never defined their goals. The 1986-88 Ravitch commission, believing that charters and, hence, charter changes should reflect clear and compelling goals, adopted a number of goals "to provide logic, rationale, and context for various decisions to more universal principles…" The chair of the successor 1989 commission, Frederick Schwarz, restated these goals in his "Initial Proposals" in April 1989:
- balancing power/checking power
- increasing participation/adding voices
- enhancing government efficiency and effectiveness

1

C3

- fixing accountability
- ensuring fair representation

Without clearly articulated goals, a commission's deliberations are ultimately directionless. It can get you places where you don't/ought not want to be. Neither the preliminary staff report nor the final report to the 2010 commission provided a discussion of any principles that structured the choice of the alternatives and recommendations offered.

Governance Issues

City Council

The City Council in January 2019 released a report to the Charter Commission outlining its recommendations in six areas: the balance of power in city government, voting and elections, police oversight, the city budget, the procurement process, and land use. I support with various degrees of knowledge and enthusiasm most of these recommendations, focusing on those which seem paramount. I disagree on the matter of the Public Advocate and I am concerned with IRV. I also have concerns with the advice and consent powers over certain government officials and the accountability of these officials to the Council after their appointment.

The Council identified a number of areas designed to principally re-calibrate the executive/legislative balance in the city: advice and consent for what are seen as "key" actors in New York City government, the role of the Corporation Counsel and Law Department, among others. These concerned revenue estimating, units of appropriation, impoundment and budget modifications, independent budgeting for the Comptroller and Public Advocate and non-negotiable budgets for the Borough Presidents, as proposed by the City Council in its January 2019 report.

- **Advice and consent power** of Council: Corporation Counsel, Police Commissioner, Chair of City Planning, Chief Administrative Law Judge, Executive Directors of the Campaign Finance Board (current advice and consent), Conflict of Interest Board (current advice and consent)

  Advice and consent of these officials by the Council is tied to core principles of altering the present balance of power, that is, sharing and checking the Mayor's power by the Council. It is an attempt to moderate in a small sense the dominant power of the Mayor in strong-mayor form of municipal government.

- **Separation/attenuation of powers**: same officials subject to establishment of three year terms. The Council proposes the removal of Commissioner of Investigation be subject to the approval of the Council.

The three year term provides two benefits
  1. It enhances accountability to the City Council as the legislative branch in its policymaking role. The Council notes,in its Jan 2019 report, "The New York City Police Department, the City Planning Commission, The Office of Administrative Trials and hearings, the campaign Finance Board, and the Conflict of Interest Board played critical roles in city operations and the

C4

carrying out of the policies established by the Council." (An action which would bolster accountability would be to require periodic questioning – say twice a year – by the Council).

2. and at the same time gives some degree of independence of the designated officials.

There are several issues with this proposal:

1 The commission should prioritize one or two officials who meet specified criteria of importance/impact (Should it designate any?)

2. Do all designated officials "deserve" the requirements. Is, for example the control of the police department an exclusively executive prerogative or should policy-making be divorced from the technical/tactical?

Two examples of the latter are:

1. Los Angeles' Board of Police Commissioners (Los Angeles Police Commission) is made up of five members who are appointed by the mayor and confirmed by the city Council. Each member serves a five year term with a maximum of two terms. The Police Commission is head of the Los Angeles Police Department. They set the overall policy while the Chief of Police manages the daily operations of the Department and implements the Board's policies and goals.

2. The Detroit Board of police commissioners is vested by city charter with broad supervisory authority over the police department. The charter provides for the board to have 11 commissioners, four members appointed by the mayor and subject to the approval of the city Council and seven elected members, one from each of non at large police commission district. Each commissioner serves a five-year term. The Board has the authority to establish Police Department policy, rules and regulations, approves its budget, and serves as the final appellate authority for employee discipline

Corporation Council/Law Department

The Corporation Counsel is the City's "attorney and counsel" who has "charge and conduct of all the law of business of the city and its agencies and in which the city is interested." As the city's lawyer, the Council 2019 report asks who exactly does the Corporation Counsel represents. The City is composed of multiple branches and elected officials not under the control of the mayor. Why should the mayor's wishes be prioritized?

The charter does not clearly state which branch of city government asked as the client in legal matters or provide direction for the city's lawyer. It is doubtful that the mayor should be the sole arbiter of what is in the city's best legal interest prioritizing only the mayor's interests. Most notably when the mayor is in opposition to the Council or other elected officials.

Bottom Line: I agree that the charter should establish that in the event elected officials and the mayor disagree on a legal matter that the law department either represents both interest if possible or if not provide funding for outside legal representation for the Council, controller, Borough Presidents and the public advocate in certain matters

Alternative: In many jurisdictions, the duties of the Corporation Counsel are performed by independently elected officials mainly called the City Attorneys e.g. Los Angeles and San Francisco. The elected position is meant to disburse power in mayor-council systems away from the mayor as well as remove some of the quandaries surrounding New York's Corporation Counsel mayor-dominated role. The Los Angeles Charter (Sections 270-275) characterizes the

C5

City Attorney as both the city government's lawyer – representing departments, elected officials, and city commissions --and a criminal prosecutor. The City Attorney may be asked to interpret the city charter.

Public Advocate

The commission has three options regarding the public advocate: 1. eliminate the office(s); 2. retain it as is; 3. enhance its powers, duties, resources. What are the arguments and the proposals regarding these choices? How do these proposals relate to/foster the goals of the charter and the commission?

Eliminate: Arguments for the elimination of the office in 2019 essentially reflect those made by opponents of retaining the then-City council President in 1989: 1. the ombudsman function would be better performed by an appointed, rather than an elected, official; 2. oversight of the mayor's service delivery function would be better performed by the Council and, moreover, an oversight role for the (then) council president would undercut the Council; 3. a (then) council president would not have enough to do governmentally (Schwarz and Lane 1998: 819).

The Goodman Commission in 1975 contemplated eliminating the position and later, in 1993, Mayor Dinkins and Council Speaker Vallone discussed placing a referendum on the ballot to eliminate the office, but they could not agree how to divide the office's limited power, particularly regarding mayoral succession. That year, legislation was proposed in the Council to eliminate the Council President but this was rejected in favor of simply changing the name to Public Advocate to reflect better the powers and purviews of the position.

Mark Green and Mayor Rudolph Giuliani (both elected in 1993) was contentious. The mayor attempted to blunt Green's activities through budget starving, cutting the Public Advocate's budget as a political weapon. Similarly, the Council and Mayor Bloomberg slashed Public Advocate Betsy Gotbaum's budget in retribution for her opposition to the overthrow of the two-term limit.

In 1999, Giuliani created a charter commission to change the city's succession procedure, largely to stop Green from becoming mayor if Giuliani left his job for the U.S. Senate. The measure, along with 14 others in the omnibus proposal, was overwhelmingly rejected by the voters 76-24%.

The 2002 charter commission appointed by Mayor Bloomberg proposed one ballot measure that changed mayoral succession from the Public Advocate being interim mayor until the end of the former mayor's term to being interim mayor only until a special election to be held within 60 days of a vacancy.

In 2009, then-councilmember and chair of the Governmental Operations Committee, Simcha Felder, introduced a bill and issued a report calling the office "redundant" and calling to get rid of it.

Retain as is: Supporters contend that the public advocate is important to the city's political opportunity structure. The cost of the Public Advocate is minimal relative to the overall size of the city budget. Moreover, proposing elimination could endanger all other commission recommendations, producing "collateral damage."

Enhance: The principal arguments in favor retaining or enhancing the powers, duties, and responsibilities of the public advocate are essentially the same as in 1989: that the office would be an additional check on powerful mayors and the mayor-controlled city bureaucracy and that it provides a stepping stone to the mayoralty (or at least as a candidate for the office).

Ombudsman role: The City Council President in 1975 became New York City's ombudsman (although Charter does not use the term), responsible for addressing complaints

C6

about government waste and abuse. The office's ombudsman powers included a mandate to handle complaints and identify systemic problems in city agencies (Charter, Chap 2, section 24). (For a brief history of the ombudsman role of the City Council President/Public Advocate see Green and Eisner 1998)

An ombudsman, is "an independent, impartial public official with authority and responsibility to receive, investigate or informally address complaints about government actions, and when appropriate, make findings and recommendations, and publish reports" (United States Ombudsman Association 2003: 1)

A number of cities most notably Detroit, Portland, Oregon and Seattle, Washington have ombudsmen (For a discussion of municipal ombudsmen see Mills 1994):

Enhancements of ombudsman role include:

- **Ability to obtain agency information:** The Public Advocate should be empowered to receive documents directly from city agencies (now he or she must go through the relevant City Council committee should an agency be recalcitrant). Charter Chapter 2 section 24(j) should be changed to mandate city agencies to provide the Public Advocate documents and other materials upon receipt of written request of the Public Advocate.
- **Investigative/subpoena power:** The New York City Public Advocate, like its counterpart in Seattle/King County could be empowered to initiate investigations of any scope of any administrative act of any administrative agency, administer oaths and hold hearings in connection with any matter under inquiry, issue a subpoena to compel any person to appear, give sworn testimony or produce documentary or other evidence relevant to a matter under inquiry without the stricture that written complaints by a citizen of the city or county be required to initiate such an inquiry. Additionally, the charter could require access to independent counsel from the Law Department.
- **Appointive power:** Giving the Public Advocate an enlarged voice through augmented appointment powers, notably to the Board of Standards and Appeals, the Conflict of Interest Board, and the Landmarks Preservation Commission.

Bottom Line

The questions confronting the 2010 commission are essentially the same as those confronting the 1975, 1989, 1998, and 2002 commissions. Does the Office of Public Advocate make institutional sense? Does it (or can it be made to) serve an important and useful function in the city's governance? The answer to the first question is NO. It was an ad hoc creation, and its occupants have had different approaches, with different styles, with different effects of the which are hard to recall. It remains undefined and ad hoc with proposals for it hanging like Christmas ornaments from the tree.

Borough Presidents

The Commission has basically three options regarding the borough presidents: 1. eliminate the office; 2. retain as is; 3. enhance the powers, duties, resources. How does each of these relate to or foster the overall goals and objectives of structural change for city government?

Eliminate: The *New York Post* has likened the borough presidents to dogs, with "nothing to do." The charter commission should "ax the beeps." The office "does offer the trappings of power — a lofty title, $135,000 a year salary, a driver and sometimes a palatial

C7

office — but without much real authority anymore" (Robinson 2005). Those supporting elimination argue that the boroughs were arbitrary constructs, created for political convenience at the time of the creation of the Greater City. As a result of the development of the structure of the city government over time, they say, the consequences on New York City politics and policy if the borough presidency were eliminated would be negligible. They argue further that the boroughs are massive, greater in population than most cities, so that it is not compelling to regard the borough presidents as bringing a "local voice" to public discourse.

Retain as is: Defenders of the office argue that borough presidents are accepted by the media and city residents as legitimate advocates, and have been effective in this role. Moreover, the offices have some resources through which they may define issues of concern to borough (and all city) residents, and advance policy solutions. Borough presidents also play an important role in the physical development of the city through their formal ULURP role.[1]

Additionally, the borough presidencies serve a political function. They are a sort of "junior varsity" for up-and-coming politicians, providing them a base from which to seek citywide or other higher office. Confirming this point, recent borough presidents who have run for mayor include Robert Wagner Jr., David Dinkins, Ruth Messinger, and Fernando Ferrer.

Moreover, those who advance this view say, there are more compelling structural matters that require the attention of the Charter Commission. Efforts to restructure the borough presidencies would likely be a distraction, diminishing public attention to these other issues and complicating the politics of charter change. The conclusion: "If it ain't broke, don't fix it."

Enhance: The structural changes being advanced for the borough presidencies strengthen their ability to act of behalf of the boroughs while not fundamentally reducing the power of the Mayor (or the Council).

They are:

1. providing an independent budget for the Borough Presidents
2. granting the power to require the appearance of borough agency heads and commissioners at monthly interagency meetings led by the borough presidents,
3. giving the borough presidents additional appointments to boards and commissions,
4. greater borough president input and influence in ULURP process.

Bottom line: Borough presidents are in the words of Gregory Perotta, "The Super City's Special Executives." The borough presidents ensure effective city service delivery and, more generally, give an important (and necessary) borough voice in the affairs of the city. The borough presidents are important to the city's political opportunity structure, and to incorporating its multi-dimensional diversity in governance.

Budget Powers

Revenue Estimates: If final non-property revenue estimate of revenue still lies with the Mayor/OMB this should occur earlier than the current (June 5) date after spending proposals become known. These projections should be moved earlier to determine budget priorities. The Council in 2019 suggested May 25 for approval by the Council; the Citizens Union in 2010 suggested May 5 which is usually the beginning of Council hearings on the executive budget. By allowing the Mayor to modify the revenue estimate at the point of the final budget adoption, s/he could thwart spending proposals whish s/he disagrees by reducing the revenue estimate by an amount equal to the spending with which s/he takes issue. Further, the Council recommends in 2019 that in the event the deadlines are not met, required the city

C8

to adapt the revenue estimate produced by the Independent Budget Office. An assessment should be conducted comparing the accuracy of OMB and IBO revenue projections over the years

Another approach would be to designate another official (the Comptroller) or a body   such as the Independent of Office or some sort of amalgam, including the Mayor.

Units of Appropriation: Units of appropriation discussed by 1989 commission staff as means to make the budget programmatic. The commission proposed a statement of programmatic objectives of each program/purpose/activity of each single unit of appropriation. In the intervening years, the units of appropriations were never re-structured to reflect the wishes of the 1989 charter.

The Council proposed to the structure and presentation of the expense budget to make it more programmatic, meaningful and transparent. Specifically, 1. narrower units of appropriation, providing definitions in Chap. 6, section 100 of the Charter of "program," "purpose," "activity," and "institution"; 2. prohibition on having a majority of an agency's spending in one unit of appropriation; 3. eliminating the distinction between personnel services and other than personal services. Units of appropriation should reflect spending on particular purposes, programs, or activities and include both personal and other than personal services. Large, unspecified units of appropriation make the budget opaque making it difficult for the Council to adjust priority.

Impoundment Power: limiting the Mayor's impoundment power to cases where there is a significant and sudden reduction in estimated revenues in current fiscal year. The impoundment power, like the revenue estimation power should not thwart the Council's budgetary roles.

Independent Budgeting

The control of the Comptroller's, the Pubic Advocate's, and the Borough Presidents budget (and, hence, its activities) is held by the Mayor and the Council. And that control has been used as a political weapon. Mayor Giuliani attempted to reign in Public Advocate Green through "budget starving" (as well as removing the Public Advocate from the line of succession). Betsy Gotbaum was punished by the Mayor and Council for her opposition to the overthrow of the two-term limit through budget cuts. Mayor Bloomberg again slashed the Public Advocates budget for FY 2011 (which he had suggested eliminating), only to have the Council restore the funding.

The argument for independent budgeting is simply that officials selected by citywide or boroughwide electorates should not be at the mercy of the Mayor and the Council. A multiplicity of formulae (generally based on the Independent Budget Office model) are possible. Again, all are arbitrary, but hopefully wisely so.

Cautions

Beware the unintended consequences.

Jimmy Flannery, the Chicago sewer inspector, machine ward heeler, sleuth and protagonist of Robert Campbell's crime series, has a warning in *The 600 Pound Gorilla* for those who would tinker with a city's government:

C9

"A thing like a city government is like a tower built out of match sticks. It stands so rickety you think one breath'll knock it flat. Somebody decides to fix it. Take out this rotten beam and that rotten brick. Chop out a floor, pump out the basement, add a garden room. Then everybody acts surprised when it comes crashing down."

And Yogi: "If you're going to build a better mouse trap, you better make sure there are mice out there"

C10

Testimony of John Mollenkopf
Distinguished Professor of Political Science and Sociology
Director, Center for Urban Research
The Graduate Center of the City University of New York

to the
New York City Charter Revision Commission
Public Forum on Governance
March 25, 2019

Good evening Chairperson Benjamin and distinguished members of the New York City Charter Revision Commission. My name is John Mollenkopf and I teach and do research on urban politics and urban policy issues at the Graduate Center of the City University, which houses our system's doctoral programs and many of its research centers, including the Center for Urban Research. It is a pleasure to be here tonight between my distinguished colleagues Eric Lane and Ester Fuchs.

Previous to joining the Graduate Center, I was the division director for economic development in the New York City Department of City planning in 1980 and 1981, where it was my good fortune to work with Chairman Herb Sturz. My subsequent teaching and research have focused on the political dynamics of urban inequality, often using New York City as a laboratory, with a specific focus on how demographic and economic change influence patterns of voting and civic engagement and the evolution of city policies. Examples of our applied policy analysis include evaluations of the HomeBase homeless services program and the Build It Back program at the Mayor's Office of Housing Recovery Operations and a recent survey on civic engagement for New York City Service.

It was also an honor to be consultant to the 1988 and 1989 Charter Revision Commissions led by Richard Ravitch and Fritz Schwartz and to learn from their distinguished staff, Eric Lane, who just spoke, and Frank Mauro. My role was to advise on how much to increase the size of the City Council in order to ensure fair representation of previously under-represented communities in New York City. I have also worked with the three Districting Commissions that have redrawn council boundaries after the 1990, 2000, and 2010 Censuses. Our Center for Urban Research works on many related issues, for example with the Campaign Finance Board on patterns of contributions and with many full count efforts in advance of the 2020 Census.

In my short time, let me address three points raised in Commission documents and suggest one brand new idea for you that was mentioned briefly in the submission from the Citizens Budget Commission.

As my CUNY colleague Doug Muzzio testified last week, and as Professor Lane just said, your deliberation essentially amount to an assessment of how well the 1989 Charter revision has fared over the three decades since its enactment. It is a chance to affirm what worked from that pivotal effort and correct what did not. Its basic aim was to supplant the Board of Estimate, reallocate its powers to the Council and Mayor, thereby substantially reducing the powers of the borough presidents, and strengthen those of the Council

In the main, the 1989 charter reform has worked quite well. Perhaps the most important implementation challenge was empowering the City Council to be an effective, representative, and democratic body. As Henry Stern told many of us at the time, the previous council was worse than a rubber stamp because it did not even leave an impression. Today, we can declare that the City Council is full of able members who represent their highly diverse constituencies very well.

A second aim of the 1989 charter reform was to continue the long march that began with the 1936 charter to empower the mayor and reduce the policy influence of partial and special interests that had initially been lodged with the borough presidents and exercised through the Board of Estimate. The new charter succeeded in this aim as well, giving us a series of iconic mayors who, whether we liked them all or not, had the power to respond to the crises of their times.

C11

The 1989 charter revision commission made a half-way compromise on the position of Public Advocate. To me, sentiment within the 1989 commission and among the staff leaned significantly toward abolishing this position. The primary reason they did not do so was a fear that the incumbent City Council President, Andrew Stein, would spend a lot of his own money to defeat charter reform.

In the past 30 years, the primary function of the Public Advocate position has been to provide a platform for aspiring candidates for higher office could win a city-wide election and achieve greater political visibility, generally to the detriment of city council leaders who also sought to be mayor. While there is some merit in the argument that having this position deepens the pool of potential candidates at fairly low cost, if we are candid with ourselves, it seems doubtful that the Public Advocate can act either to remedy individual problems, as an Ombudsperson (that is better done through Council members) or that it raises many under-appreciated issues except in ways that serve the political interests of the Public Advocate.

The success of the 1989 charter revision commission's other experiment, the Independent Budget Office, also diminishes the need for a Public Advocate. IBO has done an excellent job. This leaves me to conclude that the case for strengthening the office of Public Advocate is weak, while giving the IBO both a reasonable budget and assuring its access to information for entities like HHC and NYCHA, as others who have appeared before you have recommended, makes sense.

Along the lines of not seeking to fix what is not broken about the 1989 charter, it strikes me as a disastrously bad idea to subject key mayor appointments to Council review and approval. That would dilute and undermine the accountability of the mayor. It would force mayors to make side deals with special interests to secure appointments, which goes against the tenor of previous successful charter reforms. And it would deter the most capable people from accepting high positions in city government. It is already hard enough to get the most experienced and capable people to do these jobs.

The 1989 charter commission also extensively debated the role of borough presidents, with my friend and colleague Doug Muzzio, along with my late colleague Ed Rogowsky, making a strong plea for the necessity of having an office that was in between the city-wide perspective of the mayor and the neighborhood perspective of the council member. After all, before 1898, three of the five counties were outside of New York City and they continue to have their own cultures and sense of identity. So you should not eliminate borough presidents, but you should not increase their powers, either.

In closing, let me suggest one new innovation to structure of New York City that you should consider and adopt: mandating a periodic survey of New Yorkers' interactions with government that would provide evidence on how utilizing city services affects the life trajectories of New Yorkers. This would take the movement for open government and big data to a new level. Such a survey should have a large enough sample that it would provide statistically reliable at the Council District level (about 20,000 participants). It should be a panel study that tracks experiences and results over time so that we can understand much better how and why New York City neighborhoods are changing. Currently available data, such as the American Community Survey or even our own Housing and Vacancy Survey, do not give us this information. We may know, for example, that a neighborhood has gained white residents but lost black residents, but we do not know why this happens or what happens to those who move out or what might have enabled them to stay if they wished to do so. This would be expensive, as surveys go, but it would be a rounding error in the overall city budget, probably about one-tenth of one percent of the total. Given that city policy now often drives down dark roads with no headlights, it makes lots of sense to spend the money to help New York City government to see more clearly where it is going and what it is doing. And it would be a signal innovation in the movement to improve and increase the amount of data we have to understand the complexities of governing. Evaluating Thrive New York is just one example of where such knowledge would help us make good policy.

Thank you for the opportunity to share these thoughts and I would be happy to expand on any of these comments or answer any questions you might have, either now, or later with staff.

C12