



THEATER SUBDISTRICT FUND TEXT AMENDMENT

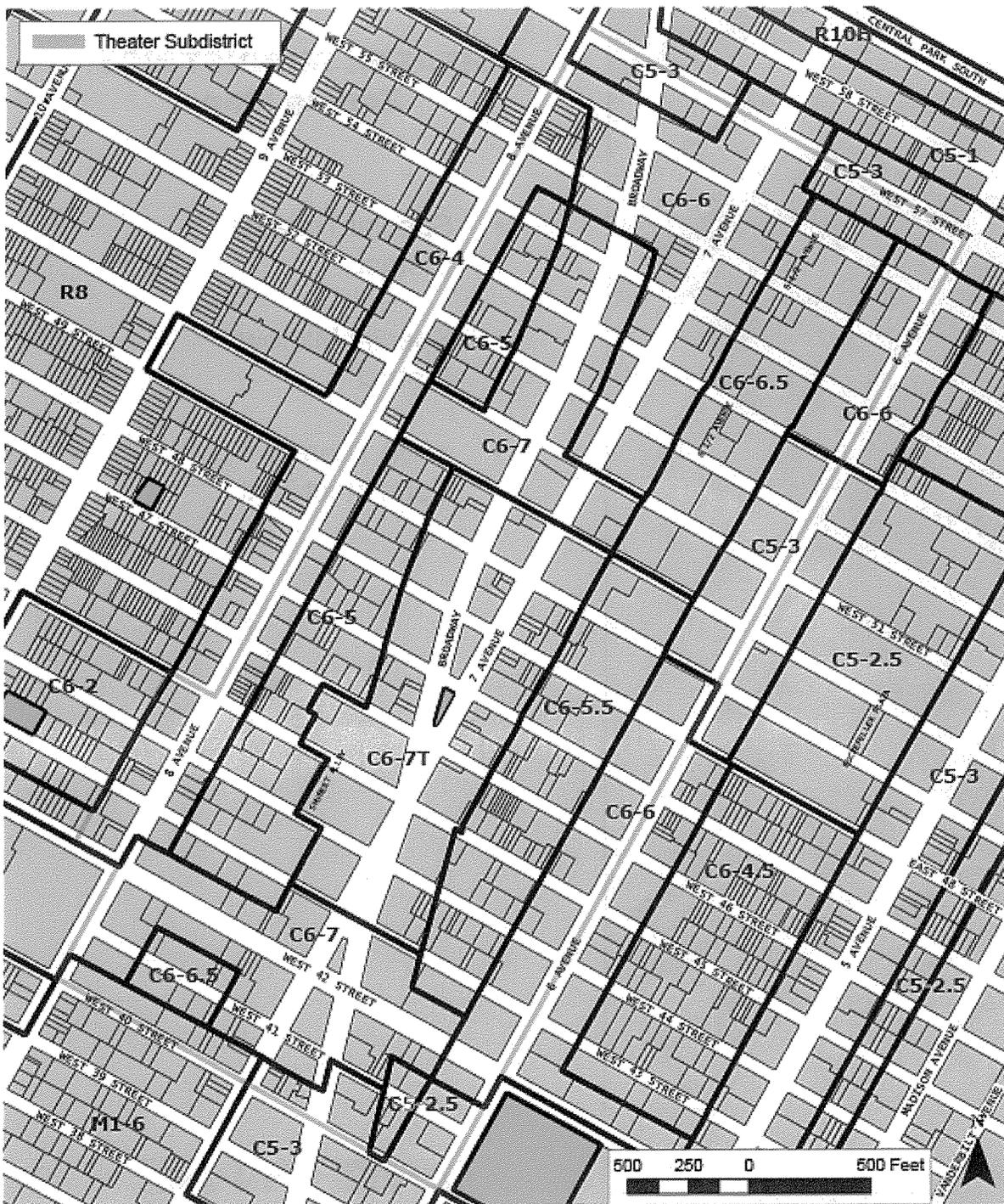
**New York City Council
Subcommittee on Zoning and Franchises
January 24, 2017**

New York City Department of City Planning



THEATER SUBDISTRICT Land Use Map

- Dense, Central Commercial District
- Central Business District (Special Midtown District)
- Residential west of 8th Ave (Special Clinton District)
- Manufacturing & Commercial south (Special Garment Center District)



THEATER SUBDISTRICT Zoning Map

- Districts: C5-3, C5-2.5, C6-4, C6-5, C6-5.5, C6-6, C6-6.5, C6-7, C6-7T, M1-6.
- High bulk commercial development
- Base FARs from 10.0 or 15.0
- Increase via a public plaza bonus and/or an Inclusionary Housing bonus.
- C6-7T district permits base FAR of 14.0 for commercial & mixed uses, 12.0 for residential use



THEATER SUBDISTRICT Zoning Map

- Special Theater District
- Special Midtown District
- 1998 Theater Subdistrict Text



THEATER SUBDISTRICT Listed Theaters

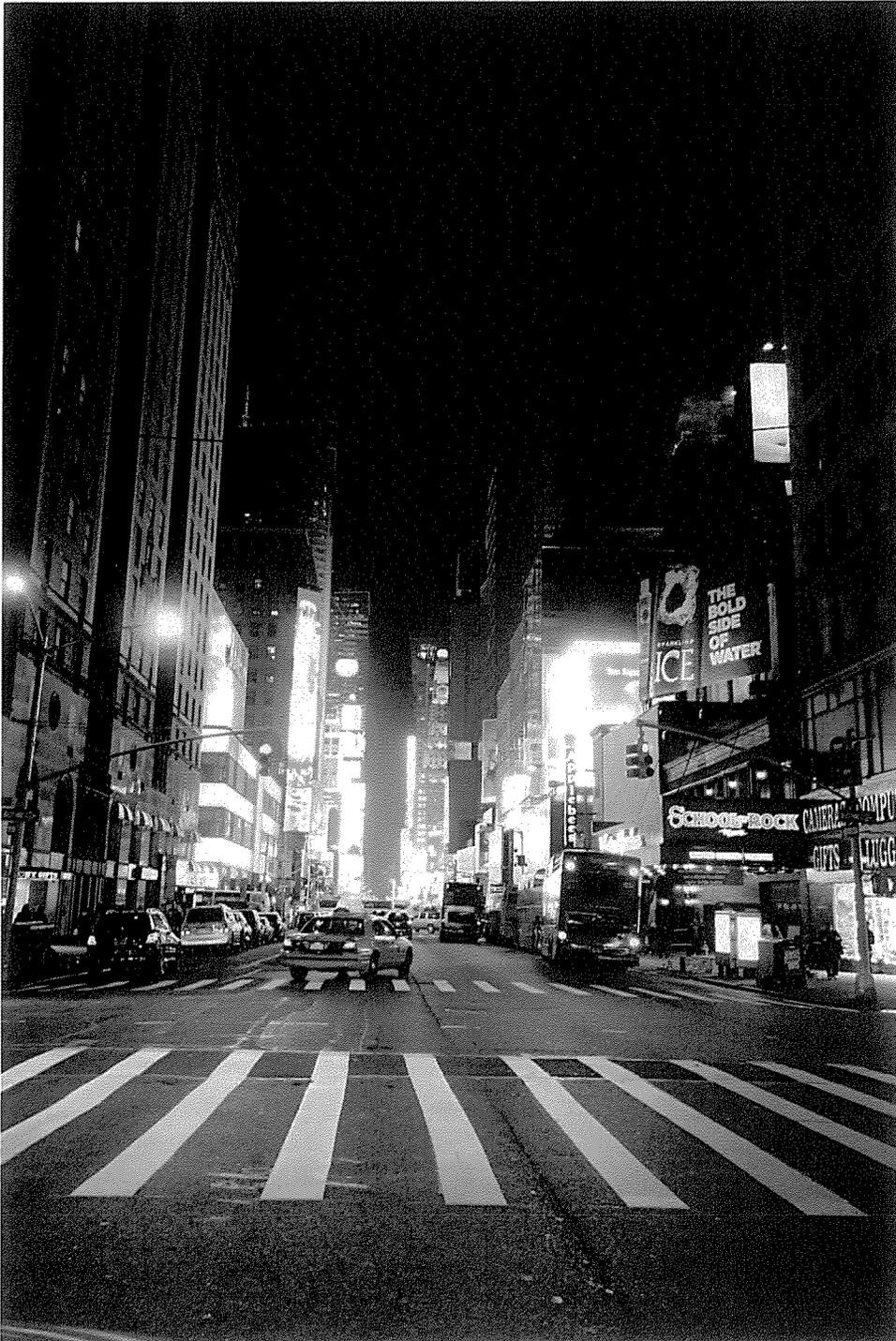
- | | |
|---------------------|---------------------|
| 1. Ambassador | 24. Lyceum |
| 2. Barrymore | 25. Lyric |
| 3. Belasco | 26. Majestic |
| 4. Biltmore | 27. Mark Hellinger |
| 5. Booth | 28. Martin Beck |
| 6. Broadhurst | 29. Music Box |
| 7. Broadway | 30. Nederlander |
| 8. Brooks Atkinson | 31. Neil Simon |
| 9. City Center | 32. New Amsterdam |
| 10. Cort | 32a. New Amst. roof |
| 11. Ed Sullivan | 33. New Apollo |
| 12. Empire | 34. Palace |
| 13. Eugene O'Neill | 35. Plymouth |
| 14. Forty-Sixth St. | 36. Ritz |
| 15. Golden | 37. Royale |
| 16. Harris | 38. Saint James |
| 17. Helen Hayes | 39. Selwyn |
| 18. Henry Miller | 40. Shubert |
| 19. Hudson | 41. Studio 54 |
| 20. Imperial | 42. Times Square |
| 21. Liberty | 43. Victory |
| 22. Longacre | 44. Virginia |
| 23. Lunt Fontaine | 45. Winter Garden |



THEATER SUBDISTRICT Current Zoning Regulations for 81-744

A Listed Theater (granting) can transfer development rights to a site (receiving) within Subdistrict:

- Basic maximum floor area permitted less the existing buildings and any previous TDRs
- Each transfer reduces the amount on granting site
- Maximum floor area transferred to a receiving site is no more than 20% of the base FAR of receiving site
- Continuation of legitimate theater use
- **Appropriate funds are deposited into the Theater Subdistrict Fund**



THEATER SUBDISTRICT Current Fund Methodology

- Based on a dollar value multiplied by the total amount of transferred square feet
- Adjusted every 3-5 years using assessed property values of all properties within the Subdistrict
- Adjusted twice
 - \$10.00 PSF original rate
 - \$14.91 PSF in 2006
 - \$17.60 PSF in 2011
- Details
 - 23 actions
 - 9 granting theaters
 - 15 receiving sites
 - 600,000 SF transferred
 - \$9.6 Million to the Fund

THEATER SUBDISTRICT

Theater Subdistrict Council Members

Mayor Bill de Blasio, DCLA Commissioner is
Chair on behalf of Mayor

Lin-Manuel Miranda, Mayoral Appointee

Daryl Roth, Mayoral Appointee

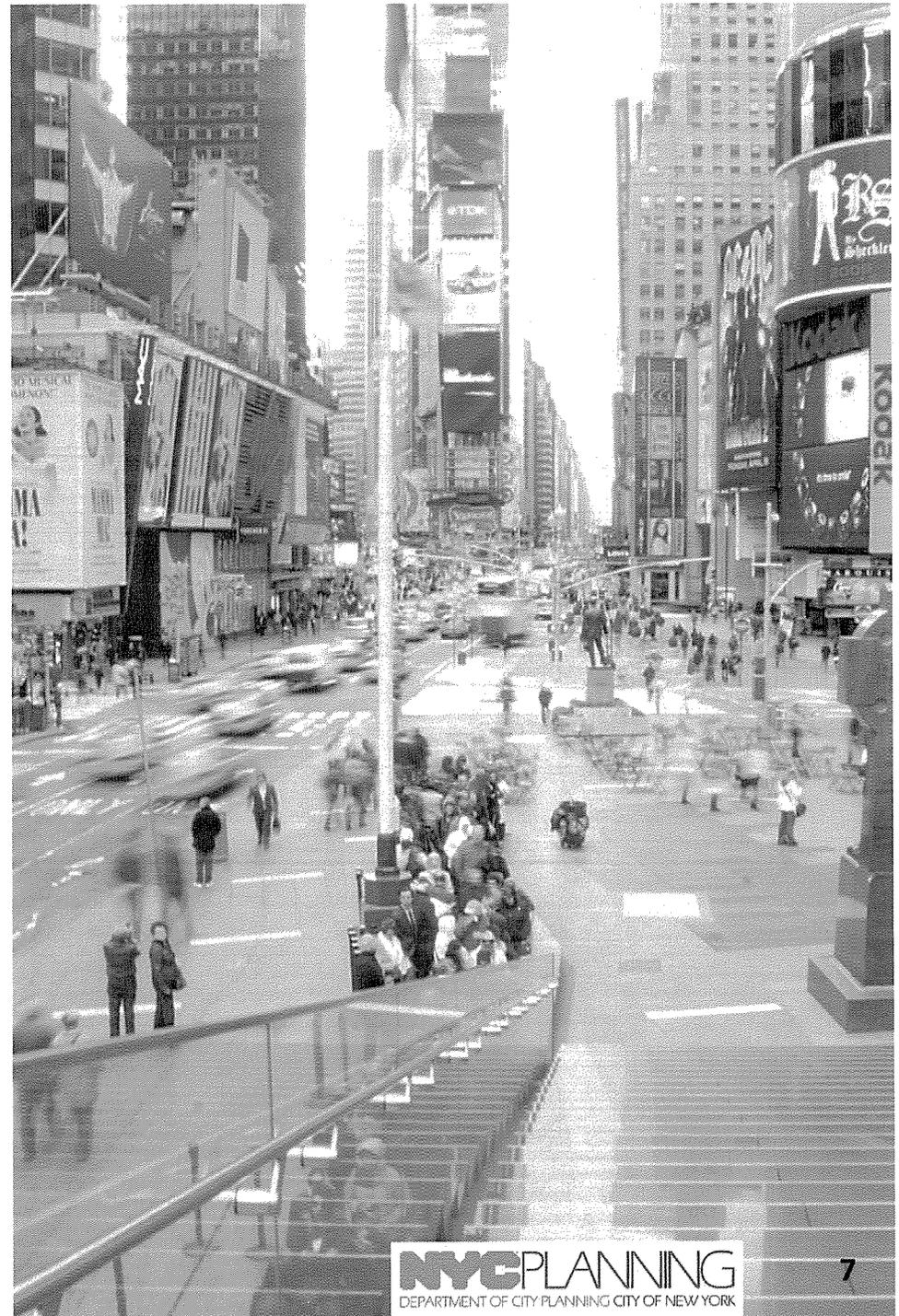
George C. Wolfe, Mayoral Appointee

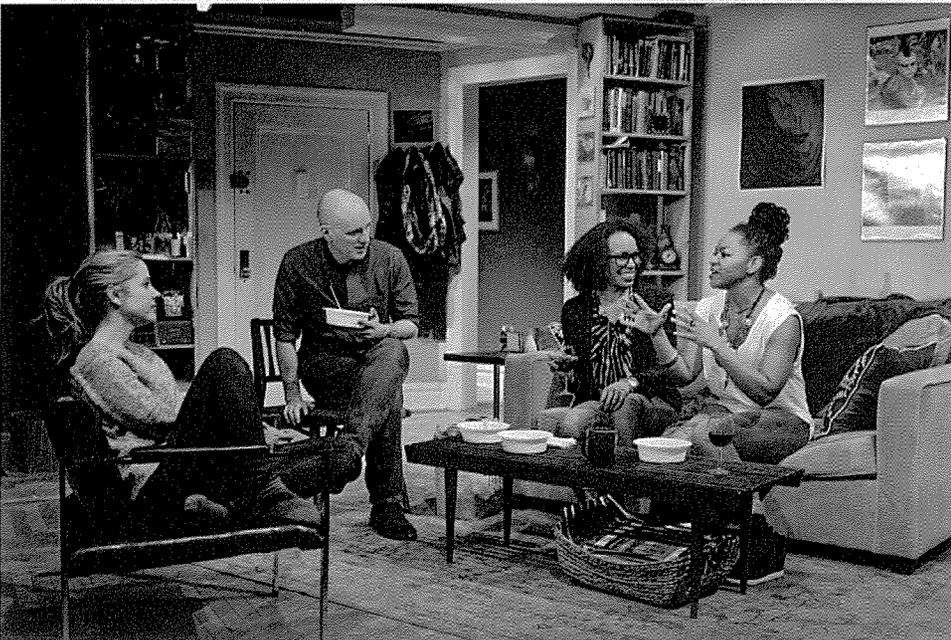
Melissa Mark-Viverito, City Council Speaker

Paige Price, City Council Speaker Appointee

Gale Brewer, Manhattan Borough President

Carl Weisbrod, Department of City Planning
Director





THEATER SUBDISTRICT Fund Grants

- **Five rounds** of Grantmaking by the Theater Subdistrict Council
- **\$8M** distributed rounds 1-5 (approximately)
- **37 Grants** funding rounds 1-4
 - 24 grants for new audience development and arts education programming for students
 - 9 grants new theatrical presentations
 - 4 grants strengthen theatrical productions through innovative management
- **266,000 tickets** free or discounted
- **62,000 students** engaged in arts programming
- **36** new productions
- **75** workshops and readings
- **Round 5** funding recipients announced on January 12, 2017, with focus on development and training of non-performing professionals in the theater and to promote and develop diversity in the field.

THEATER SUBDISTRICT The Proposal

- Chairperson Certification for 81-744(a)
- Clarify the goals of the Theater Subdistrict Council
- Administration of funds for inspection and maintenance reports



THEATER SUBDISTRICT The Proposal

- 20 percent of TDRs ~ Based on actual value
- Minimum contribution rate (floor price)
 - Market Study valuation adjusted every 3-5 years
 - \$347 (lower quartile)
 - Appraisal upon request
- Phase-in to contribution rate
 - June 30, 2017
 - December 31, 2017
 - January 1, 2018



January 24, 2017

STATEMENT OF THE NEW YORK LANDMARKS CONSERVANCY AT THE NEW YORK CITY COUNCIL SUBCOMMITTEE ON ZONING AND FRANCHISES PUBLIC HEARING REGARDING APPLICATION N 160254(A) ZRM, THE THEATER SUBDISTRICT FUND TEXT AMENDMENT

Good day Chair Richards and Council members. I am Andrea Goldwyn speaking on behalf of the New York Landmarks Conservancy. The Conservancy is a private, independent, not-for-profit organization founded in 1973. Our mission is to preserve and protect historic resources throughout New York.

The Conservancy opposes the creation of a percentage rate with a floor price to set the contribution amount from the sale of transferable development rights in the Theater Subdistrict. Since the Subdistrict's creation, any theater selling these rights has paid a preset per square foot price to the City, which has increased gradually. The current application would change from a flat fee to a percentage and floor that will amount to an almost 400% increase.

The initial purpose of these sales—and the rationale for the Theater Subdistrict—was to benefit the landmarks. We testified in support of the Subdistrict, and we appreciate that theater owners have made major investments in restoring and maintaining these complex buildings. The proposed changes would decrease the financial assistance they receive to do this. Sales of development rights in the Subdistrict have always varied in price, along with market forces. If these changes are approved, a theater selling its rights for less per square foot than the recommended floor price will still be required to contribute to the Theater Subdistrict Fund at the floor price level, leaving fewer proceeds for these landmark buildings.

Furthermore, there is no need for the City to fear incomplete reporting of these transfers and loss of income, as governmental on-line reporting provides the necessary transparency.

New York's landmark theaters are the heart of the City and they have been at the core of its revitalization. They have been paying a portion of development rights transfers and will continue to do so. However, the substantial proposed changes to the Theater Subdistrict Fund would penalize these landmark buildings and we ask you to reject this measure.

Thank you for the opportunity to present the Conservancy's views.



REAL ESTATE BOARD OF NEW YORK

**Real Estate Board of New York
Testimony before the New York City Council
Theater Subdistrict Fund Text Amendment
January 24, 2017**

The Real Estate Board of New York (REBNY) is a trade association with over 17,000 members comprised of owners, brokers, managers, lenders and other real estate professionals active in New York City.

REBNY strongly supports the purpose of the Theater Subdistrict. The relief provided to theater owners in the form of larger area to transfer their development rights is necessary to ease the burden of very restrictive land use controls placed on them by the City. These controls mandate continued theater use as well as the inability to effectively use their unused development rights on their site.

While we are supportive of the proposal to streamline the administrative process for the transfer of development rights, we have very serious concerns about the introduction of the concept of a floor price and the proposed percentage used to determine the contribution to the fund detailed in the Theater Subdistrict Text Amendment.

Over the past ten years, the City Planning Commission has adjusted the dollar per square foot contribution rate twice: going from \$10 to \$14.91 in 2006 and raising it again in 2011 to the current rate of \$17.60.

For more than 20 years, this has been a successful and efficient program whose contributions continue to adequately finance the purpose of the Theatre Fund without unduly stripping the theaters of the financial relief needed to maintain their buildings.

This new proposal is a radical departure from this very successful mechanism and would undermine the planning purpose for which this was established and which we support. We see no compelling reason for this change.

The Text Amendment recommends that the contribution amount be established at the higher of: twenty percent of the transferred development rights sales price or twenty percent of the psf of a "floor price"—established by a market study valuation equal to \$347 psf and adjusted every three to five years.

Based on the floor, the minimum contribution for future sales would be approximately \$70, nearly a 400 percent increase in the contribution. Needless to say, we believe this minimum increase is onerous, excessive, and unfair. In a weakening market, the actual percentage of a sale could exceed twenty percent.

Further, the City's proposal to adjust the floor price in a declining market is inadequate and impractical and does not offer a meaningful measure of relief to theater owners. The process will likely delay any transaction by more than a year and may not accurately reflect declining values



following an economic downturn. If a seller agrees to a price which in their judgment is fair and reasonable and acceptable to them, why should they have to pay the city to perform a market study to defend their pricing?

Based on our analysis, we can find no sales evidence that establishes 20 percent as the intended percentage of the sale price of transferred development rights when the City established this program.

By establishing a fixed amount, it would appear that the City decided that a fairer and more practical approach was necessary to encourage transactions. A fixed dollar amount is predictable in advance and would not harm those properties burdened by the requirement to preserve these theaters and their use as a theater.

This radical change would substantively transform the selling of air rights in the Theater Subdistrict. In contrast, the adjustments of the fixed price were simply a market update which established an equitable contribution among all owners over time. The proposed changes impose an inequitable burden on all future transactions which is likely to freeze activity which is not good for sellers, buyers, or the City

A reason to establish the transfer mechanism in the theatre district was the inadequacy of the zoning mechanisms in place to provide relief from the burdens of landmark designation.

In too many cases, the original rules for landmark transfers provided relief in theory and not in practice. It provided relief to some owners but not to others. In the circumstances where a transfer occurred there was no direct financial contribution required, though a plan for continuing maintenance of the landmark was required.

A similar problem had confronted Grand Central Terminal whose abundant unused development rights had very limited potential receiving sites. The establishment of the Grand Central Subdistrict expanded the mechanism for transferring development rights and introduced a five percent contribution toward the maintenance of the terminal. This is the percentage that should be our guide.

The floor price will be a serious deterrent to transactions and undermine the planning issues that this mechanism was intended to address. In a real estate market weaker than when this market based price was established, this contribution minimum, as a percentage, would rise and render the cost of a transfer almost confiscatory.

REBNY examined 2,349 parcels in the Subdistrict to see how much the values of the parcels have increased from 2011, the last time the contribution fund was adjusted, and 2016. According to Department of Finance records, the total market value of the parcels in 2016 is \$25,396,950,423; this is a 47 percent increase from 2011, when the total value of all the properties was \$17,244,463,433.

As an alternative to the City's proposal, we recommend the current contribution fund amount of \$17.60 be adjusted by 47 percent, the same amount the market values of all the properties in the



REAL ESTATE BOARD OF NEW YORK

Subdistrict have increased since 2011, which would result in a fixed contribution amount of \$25.87 psf.

However, if a more supple mechanism that can capture a rising market or a high priced sale is preferred, we propose a percentage of between 7-9 percent. This percentage is based on the fixed price increase of \$25.87 if it were converted to a percentage of these recent sales.

This fixed amount or this percentage will continue to fund the program no less than before, and would create a self-adjusting price which would eliminate the need for continued updating as is needed with a fixed amount. It would also not be a deterrent to sales activity

REBNY firmly opposes both the "floor price" and the drastic increase in the proposed Text Amendment.

Lastly, whatever the changes adopted, the new amendment should allow for a grace period for contracts entered into before the effective date of the change and closed within one year of the effective date, with any substantial increase in the rate phased in over five year period.



THE REAL ESTATE BOARD OF NEW YORK

A REVIEW AND ANALYSIS OF CITY PLANNING'S THEATER SUBDISTRICT FUND PROPOSAL



TABLE OF CONTENTS

INTRODUCTION..... 1

REVIEW AND ANALYSIS OF THE PROPOSAL 1

 City's Basis for Price Adjustment.....2

 Potential Impacts on Transactions.....2

CONCLUSION 3

ATTACHMENTS 5

 Attachment 1 - Theater Subdistrict Transactions @ \$10 PSF Level.....5

 Attachment 2 - Theater Subdistrict Transactions @ \$14.90 PSF Level.....6

 Attachment 3 - All Theater Subdistrict Transactions Since 2006.....7

 Attachment 4 - NYS Real Property Transfer Gains Tax Revenue.....9

Images on the cover sheet:

Top photo: Source: Royal Shakespeare Company
Bottom photo: Source: Wally Gobetz

INTRODUCTION

If duties are too high, they lessen the consumption; the collection is eluded; and the product to the treasury is not so great as when they are confined within proper and moderate bounds.

– Alexander Hamilton, Federalist No. 21, December 12, 1787

The Real Estate Board of New York (REBNY) reviewed the Department of City Planning’s (DCP) proposal to amend the contribution to the Theater Subdistrict Fund (“Fund”) for the listed theaters that transfer development rights within the Theater Subdistrict.

Currently, the contribution is established at \$17.60 per square foot (psf) for development rights transferred. When the Fund was established in 1998, the initial rate was \$10 with a requirement to review the contribution amount every three to five years using the assessed value of all properties in the Subdistrict. The contribution rate has since been raised twice: in 2006 to \$14.91 and in 2011 to \$17.60. The proposal is a timely reconsideration of the contribution amount to the Fund.

The proposal recommends that the contribution amount be established at the higher of: twenty percent of the transferred development rights sales price, or twenty percent of the psf of a “floor price”— established by a market study valuation equal to \$347 psf and adjusted every three to five years. In addition, the funding agreement would require a Chairperson Certification, a ministerial action, not an Authorization.

REVIEW AND ANALYSIS OF THE PROPOSAL

The purpose of allowing the transfer of development rights within the Theater Subdistrict was to provide relief to theater owners unable to demolish their buildings under the applicable zoning controls. Additionally, it would ensure that theater owners commit to perform maintenance work on the theater that would not otherwise be done at that time, and to commit to an ongoing maintenance and inspection program.

REBNY supports the purpose of the Theater Subdistrict Fund and thinks that a fixed dollar amount psf, adjusted regularly, would continue to provide the necessary and meaningful relief for theater owners whose properties are encumbered by the requirement to preserve these theaters as well as to continue to support the theater use. From this perspective, the Theater Subdistrict is unique as there are no other non-landmark buildings in Manhattan that are subject to similar constraints.

However, the DCP proposal is a dramatic departure from the current method of establishing the contribution to the Fund. This persuaded us to analyze DCP's justification for the change and its potential impact on transactions.

City's Basis for Price Adjustment

The City maintains that establishing a base price of twenty percent of the sales price reflects the underlying intent of the original fixed dollar amount. Based on previous increases in the contribution amount, we do not believe this to be the case.

A fixed dollar psf amount and twenty percent of a sales price are two fundamentally different methods of calculating a contribution. Based on our historical analysis of the transactions and the contributions to the Fund, we have concluded that the original contribution amount, as well as the two subsequent adjustments, were intended to establish a fixed dollar amount—not a percentage of the sales price.

Further, the contribution amount was to be adjusted and fixed based on the City's assessment of changes in the property values within the Theater Subdistrict. The fixed amount functioned effectively as a floor price, since every sale would be subject to this amount regardless of price.

Based on the information provided by DCP, there were four transfer of development rights (TDR) sales approved by DCP in 2006 (the first sales approved) where the contribution was \$10 psf. The contribution amount was considerably less than twenty percent of the sales price. Our analysis shows that a twenty percent contribution would have been an average of \$28 psf (See Attachment One).

In 2006, the contribution amount was raised to \$14.91—approximately fifty percent more than the initial \$10 amount. If the TDR sales between 2006 and 2011 were subject to a contribution amount of twenty percent of the sales price, and this was the basis for the new contribution amount, sellers would have been subject to a \$47 psf contribution (See Attachment Two). Instead, the amount was adjusted to its current price of \$17.60.

This substantial difference in the actual contribution amount and what would have been required based on a percentage of market value clearly indicates that a percentage of the market value was not determinative in establishing new contribution amounts. Instead, in our view, the City was relying on changes in assessed value to establish a fair price that would not thwart the land use goals and the public policy purpose of the Theater Subdistrict.

Potential Impact on Transactions

City Planning's proposal to increase the contribution rate to the Theater Subdistrict Fund will dramatically decrease the volume of TDR transactions.

We reviewed the twenty TDR transactions that contributed to the Theater Subdistrict Fund since the Subdistrict was created. The weighted average contribution would be slightly more than \$14 psf. At twenty percent of the sales price, the contribution would have been almost \$53 psf—nearly four times greater than the actual contribution amount (See Attachment Three).

Based on a twenty percent contribution, the most recent recorded sales of air rights from the Helen Hayes Theater in 2016 would have increased the contribution amount from \$17.60 to \$95 psf. Such an extreme increase to the contribution amount would stifle market activity.

Further, introducing the concept of a floor price will make transactions less likely. If the market value of development rights per square foot dips below the floor price, the contribution amount will increase as both a percentage and an absolute amount. For example, given the proposed “floor price” of \$347 per square foot, the minimum twenty percent contribution to the Fund would be approximately \$70 per square foot. In this scenario, even if the market value declines to \$300 per square foot, the seller would still be required to make that \$70 per square foot contribution—now almost twenty five percent of the sales price—instead of making a \$60 psf contribution.

In the late 1980s and early 1990s, New York State had a Gains Tax which imposed a ten percent tax on the gain in a transaction valued at more than \$1 million. For example, if you purchased a property for \$300 psf and sold it for \$400 psf, the \$100 psf gain would result in a tax of \$10 psf. The recession of the early 1990s led to a precipitous decline in transactions, and the gains tax was eventually repealed in 1995.

This ten percent tax rate on gains was significantly less than the proposed twenty percent of sales price in the Theater Subdistrict. The concept of a “floor price”, a new provision with no apparent basis in the original proposal, would negatively impact transactions in a declining market more significantly than the Gains Tax (See Attachment 4).

CONCLUSION

Based on the history of price adjustments to the Fund and our analysis of TDR sales, we find no indication that a percentage of the sales price was what the initial proposal was seeking to implement. We have serious concerns that a twenty percent contribution will hinder sales and undermine the land use purpose of the Theater Subdistrict.

In our analysis, we examined 2,349 parcels in the Subdistrict to see how much the values of the parcels had increased between 2011, the last time the contribution fund was adjusted, and 2016. According to Department of Finance records, the total market value of the

parcels in 2016 is \$25,396,950,423; this is a 47 percent increase from 2011, when the total value of all the properties was \$17,244,463,433. We recommend the current contribution fund amount of \$17.60 be adjusted by 47 percent, the same amount the market values of all the properties in the Subdistrict have increased since 2011, which would be \$25.87 psf.

There are benefits to a fixed psf contribution amount, which may have been a reason not to establish the contribution amount as a percentage of sales price. In a rising market, a fixed psf dollar amount would diminish as a percentage of the transaction cost. This would make the contribution less of an impediment to a sale, at least until the contribution amount was reset. This fixed amount approach, instead of fixed percentage, creates opportune moments to encourage a sale which benefits the seller, the buyer and the Theater Fund—the primary public policy goal of the Theater Subdistrict.

Additionally, the proposed appraisal study that would facilitate a price adjustment to the floor price is impractical and does not offer a meaningful measure of relief to theater owners. The process will likely delay any transaction by more than a year and may not accurately reflect declining values following an economic downturn.

We respectfully ask that the Department consider a more reasonable increase to the contribution fee that is based on a fixed amount. An immediate 400% increase to the contribution amount, without any phase-in period, is drastic and unfair. We believe a 47% increase of the fixed dollar psf amount to be fair and consistent with the intent to provide relief for these properties whose uses are extremely restricted. The City should allow for a grace period for contracts entered into before the effective date of the change and closed within one year of the effective date, with any substantial increase in the rate phased in over an appropriate period of time.

ATTACHMENTS

Attachment 1- Theater Subdistrict Transactions @ \$10 PSF Level

Theater Name	Receiving Site	Date of CPC Approval	Current Reported Transactions			Proposed Actions of Previous Transactions		
			Total SF Transferred	Contribution to the Fund	PPSF to the Fund	Price of Air Rights	PPSF Air Rights	20% of PPSF
Martin Beck aka Hirschfield								
N 060393 ZCM	750 8th Ave	5/22/2006	29,104	\$291,040.00	\$10.0	\$3,784,000	\$130	\$ 26.00
N 060414 ZCM	231 West 54th Street	6/19/2006	7,438	\$74,380.00	\$10.0	\$1,116,000	\$150	\$ 30.01
N 060435 ZAM	750 8th Ave	9/27/2006	28,901	\$289,010.00	\$10.0	\$3,757,500	\$130	\$ 26.00
St. James								
N 060414 ZCM	231 West 54th Street	6/19/2006	77,840	\$778,400.00	\$10.0	\$11,676,000	\$150	\$ 30.00
Total			143,283	\$1,432,830		\$20,333,500		
							Average of 20% of PPSF	\$ 28.00

Attachment 2- Theater Subdistrict Transactions @ \$14.90 PSF Level

Current Reported Transactions						Proposed Actions of Previous Transactions		
Theater Name	Receiving Site	Date of CPC Approval	Total SF Transferred	Contribution to the Fund	PPSF to the Fund	Price of Air Rights	PPSF Air Rights	20% of PPSF
Broadhurst Theater								
N 110249 ZCM	120 West 57th Street	9/6/2011	18,075	\$269,498.25	\$14.9	\$4,066,875	\$225	\$45.00
Broadhurst and Booth Theater								
N 080439 ZCM	120 West 41st Street	2/17/2009	9,480	\$141,346.80	\$14.9	\$3,792,000	\$400	\$80.00
Majestic Theater								
N 080414 ZAM	306 West 44th Street	9/24/2008	48,180	\$718,363.80	\$14.9	\$12,404,000	\$257	\$51.49
Shubert								
N 080045 ZAM	250 West 55th Street	1/28/2008	29,667	\$442,334.97	\$14.9			
N 080046 ZCM	250 West 55th Street	1/28/2008	67,351	\$1,004,203.41	\$14.9			
Booth								
N 080045 ZAM	250 West 55th Street	1/28/2008	18,537	\$276,386.67	\$14.9			
N 080046 ZCM	250 West 55th Street	1/28/2008	42,081	\$627,427.71	\$14.9			
Total	250 West 55th Street		157,636			\$33,310,560	\$211	\$42.26
Broadhurst								
N 070242 ZCM	131-139 West 45th Street	4/23/2007	54,820	\$817,366.20	\$14.9	\$10,964,000	\$200	\$40.00
St. James								
N 070196 ZCM	131-139 West 45th Street	4/23/2007	9,489	\$141,480.99	\$14.9	\$1,661,000	\$175	\$35.01
Martin Beck aka Hirschfield								
N 070196 ZCM	131-139 West 45th Street	4/23/2007	8,483	\$126,481.53	\$14.9	\$1,458,000	\$172	\$34.37
Total			306,163	\$4,564,890		\$67,656,435		
						Average of 20% of PPSF		\$46.88

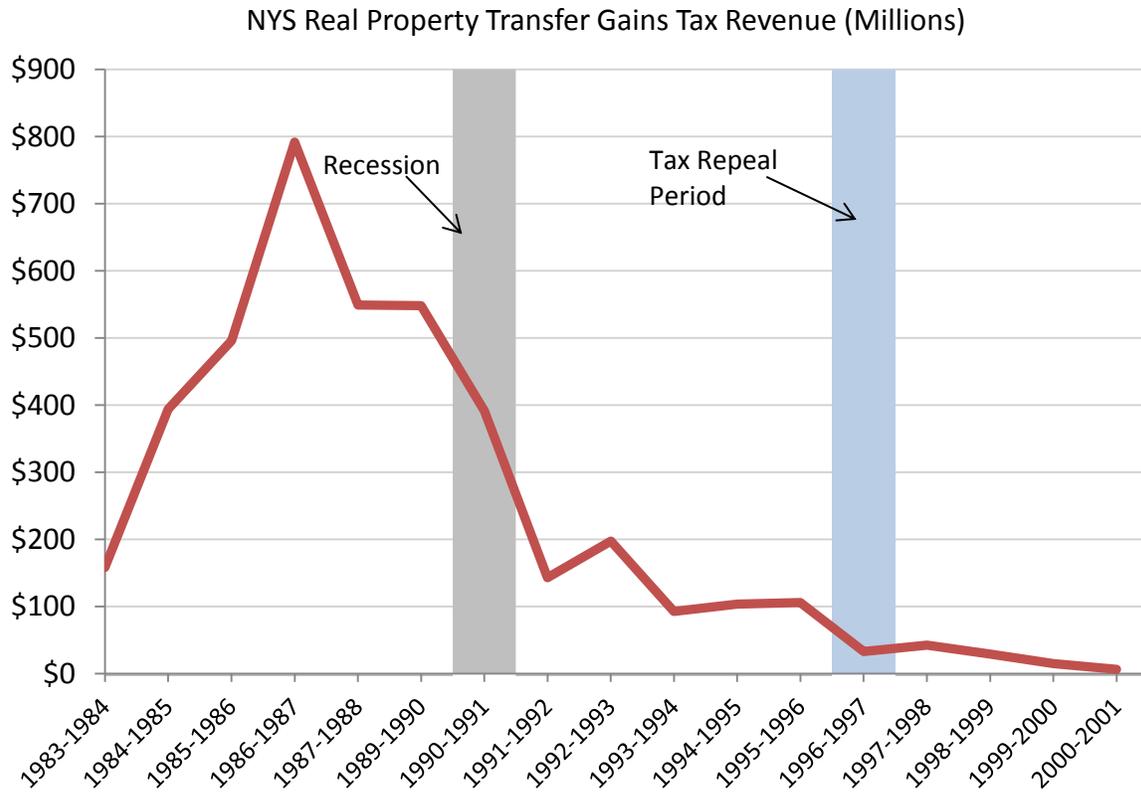
Attachment 3 - All Theater Subdistrict transactions since 2006

Current Reported Transactions						Proposed Actions of Previous Transactions		
Theater Name	Receiving Site	Date of CPC Approval	Total SF Transferred	Contribution to the Fund	PPSF to the Fund	Price of Air Rights	PPSF Air Rights	20% of PPSF
Helen Hayes Theater								
N160013 ZCM	250 West 49th Street	1/4/2016	16,000	\$281,600.00	\$17.6	\$7,040,000	\$440	\$88.00
N 160048 ZCM	1710 Broadway	1/4/2016	42,378	\$745,852.00	\$17.6	\$20,129,550	\$475	\$95.00
Neil Simon Theater								
N 150281 ZCM	560 7th Ave	6/29/2015	19,772	\$347,978.40	\$17.6	\$9,166,316	\$464	\$92.72
Majestic and Broadhurst Theaters								
N 140143 ZCM	239 West 52nd Street	2/3/2014	58,392	\$1,027,699.20	\$17.6	\$17,517,600	\$300	\$60.00
Booth and Schoenfeld Theater								
N 140129 ZCM	701 7th Ave	2/3/2014	44,988	\$791,791.62	\$17.6	\$18,391,504	\$409	\$81.76
Booth Theater								
N 120059 ZCM	237 West 54th Street	1/3/2012	24,100	\$424,160.00	\$17.6	\$5,420,500	\$225	\$44.98
Broadhurst Theater								
N 110249 ZCM	120 West 57th Street	9/6/2011	18,075	\$269,498.25	\$14.9	\$4,066,875	\$225	\$45.00
Broadhurst and Booth Theaters								
N 080439 ZCM	120 West 41st Street	2/17/2009	9,480	\$141,346.80	\$14.9	\$3,792,000	\$400	\$80.00

Attachment 3 - All Theater Subdistrict transactions since 2006 continued

Majestic Theater								
N 080414 ZAM	306 West 44th Street	9/24/2008	48,180	\$718,363.80	\$14.9	\$12,404,000	\$257	\$51.49
Shubert								
N 080045 ZAM	250 West 55th Street	1/28/2008	29,667	\$442,334.97	\$14.9			
N 080046 ZCM	250 West 55th Street	1/28/2008	67,351	\$1,004,203.41	\$14.9			
Booth								
N 080045 ZAM	250 West 55th Street	1/28/2008	18,537	\$276,386.67	\$14.9			
N 080046 ZCM	250 West 55th Street	1/28/2008	42,081	\$627,427.71	\$14.9			
Total	250 West 55th Street		157,636			\$33,310,560	\$211	\$42.26
Broadhurst								
N 070242 ZCM	131-139 West 45th Street	4/23/2007	54,820	\$817,366.20	\$14.9	\$10,964,000	\$200	\$40.00
St. James								
N 070196 ZCM	131-139 West 45th Street	4/23/2007	9,489	\$141,480.99	\$14.9	\$1,661,000	\$175	\$35.01
Martin Beck aka Hirschfield								
N 070196 ZCM	131-139 West 45th Street	4/23/2007	8,483	\$126,481.53	\$14.9	\$1,458,000	\$172	\$34.37
Martin Beck aka Hirschfield								
N 060393 ZCM	750 8th Ave	5/22/2006	29,104	\$291,040.00	\$10.0	\$3,784,000	\$130	\$26.00
N 060414 ZCM	231 West 54th Street	6/19/2006	7,438	\$74,380.00	\$10.0	\$1,116,000	\$150	\$30.01
N 060435 ZAM	750 8th Ave	9/27/2006	28,901	\$289,010.00	\$10.0	\$3,757,500	\$130	\$26.00
St. James								
N 060414 ZCM	231 West 54th Street	6/19/2006	77,840	\$778,400.00	\$10.0	\$11,676,000	\$150	\$30.00
Total			812,712	\$9,616,802		\$165,655,405	Average of 20% of PPSF	\$53.10

Attachment 4 - NYS Real Property Transfer Gains Tax Revenue



MANHATTAN COMMUNITY BOARD FIVE

Vikki Barbero, Chair

450 Seventh Avenue, Suite 2109
New York, NY 10123-2199
212.465.0907 f-212.465.1628

Wally Rubin, District Manager

TESTIMONY BY ERIC EDWARD STERN, Community Board Five Land Use, Housing and Zoning Committee Chair, regarding the Department of City Planning's proposed Theater Subdistrict Fund Text Amendment - Tuesday, January 24, 2017

Good morning. My name is Eric Edward Stern and I chair the Land Use, Housing and Zoning Committee of Manhattan Community Board Five. On behalf of my entire community board, I am testifying today in support of the Department of City Planning's proposed Theater Subdistrict Fund Text Amendment.

A December 12, 2013 CB5 resolution states: "The Board urges the City Planning Commission to re-think the contribution into the Theater Subdistrict Fund so that the contribution is updated on a yearly basis and in a manner which reflects the increase in real estate value." We have reiterated this call numerous times.

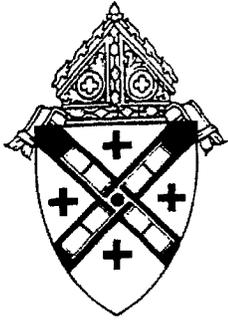
Fortunately, the Department of City Planning was responsive to the concerns of the community board and put forth a proposed mechanism that ensures greater public benefit in the Theater Subdistrict.

Our board strongly opposes any potential modifications that would erode the public benefit the de Blasio Administration and the Department of City Planning have worked to secure with their proposed amendment. In particular:

- (1) We believe that a minimum contribution rate is essential. Without this, we are concerned that developers will find legal mechanisms to avoid or significantly reduce their fair contribution to the fund.
 - o What if, instead of selling development rights for cash, a theater owner took a partial ownership stake in some other property? Would the city independently assess the value of that stake and require a contribution of 20% of that value? What mechanism would exist for a modification of the assessment if an owner or the community board believed the analysis was flawed?
 - o Without the minimum rate, how would non-arm's length transactions be dealt with? If the owner of a theater with unused development rights also owned a development site in the Theater Subdistrict, the owner may want to simply transfer development rights and therefore would not sell those rights. If there is no minimum contribution rate, will there be a contribution? If so, how will it be determined?
- (2) We believe the 20 percent cut is appropriate and are on record in our May 12, 2016 resolution supporting this rate. A contribution of 20 percent is consistent with the original intent of the Theater Subdistrict Text and the City Council should not lower this rate.

Lastly, Community Board Five is on record supporting the addition of the chair of Manhattan Community Board Five to the Theater Subdistrict Council.

Thank you for this opportunity to testify. I welcome any questions.



REAL ESTATE DIVISION
ARCHDIOCESE OF NEW YORK

January 24, 2017

New York City Council
Subcommittee on Zoning and Franchises
City Hall
New York, NY 10007

Re: Theater Subdistrict Fund Text Amendment
Application N 160254(A) ZRM

Chair Richards and Committee Members:

This statement is submitted on behalf of the Archdiocese of New York and the Trustees of Saint Patrick's Cathedral.

Although these entities are not directly impacted by the Theater Subdistrict zoning, there is an important zoning policy issue that is raised by the current proposal for this area and we see a commonality of interests between the landmarked Cathedral and the owners of landmarked theaters.

The common challenge for landmarked properties is the obligation to fund maintenance of these historic structures with limited ability to utilize the property's development rights either on-site or by way of transfer to receiving sites. The Theater Subdistrict zoning offered a pioneering tool to facilitate the transfer of development rights across a wider area and to create additional opportunities for landmarks to utilize their development rights. The transfer district became a significant element of the economic revival of both Times Square and the Theater District in the ensuing two decades.

In reviewing the proposed changes to the theater district regulations, we urge the City Council to recognize the dire need of landmarks for the revenues that development rights sales can generate. This need is especially acute in the case of not-for-profit and religious organizations that do not generate revenues from their landmark buildings and face great challenges in maintaining their properties, as required under the Landmarks Law.

In particular, we ask the City Council to reconsider the element of the Theater District proposal that would require owners of landmarks to make minimum contributions in connection

with a transfer of development rights, regardless of the amount actually paid to the landmark owner. If this provision remains in the proposed zoning text, it will unduly limit the resources available for the upkeep of landmarks, by inhibiting development rights transactions, particularly at the lower end of the price spectrum. We rely on the market to establish value in all other comparable contexts. Why is it not a credible measure in an air rights sale?

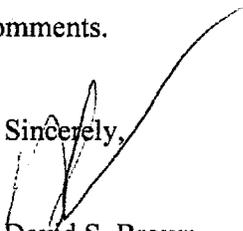
A similarly misguided "floor" price has been included in the City's proposed rezoning for Greater East Midtown. In addition to potentially limiting the resources available for landmark upkeep, we expect a floor price to stifle the very re-development that the city is seeking to facilitate (which will also have the effect of actually decreasing funding available for public realm improvements).

An underlying rationale for a floor price is that owners will seek to circumvent reporting the actual consideration received from a transfer. This fails to recognize the established reporting systems in place for transaction value, through the transfer tax filing system at the Department of Finance (and for the religious not-for-profit owners such as the Cathedral, the requirement to seek approval for all real property sales from the New York Supreme Court, thus assuring the accuracy of the reported sales consideration).

To safeguard the city's policy goals in both the Theater Subdistrict proposal and the Greater East Midtown rezoning, we urge that the requirement for a minimum contribution from landmarks be eliminated from the proposed text.

Thank you for your consideration of these comments.

Sincerely,



David S. Brown
Executive Director

Theatre Development Fund
520 Eighth Avenue, Suite 801
New York, New York 10018-6507
Tel: 212.912.9770 Ext. 100
Fax: 212.354.8739

e-mail: ToryB@tdf.org
www.tdf.org



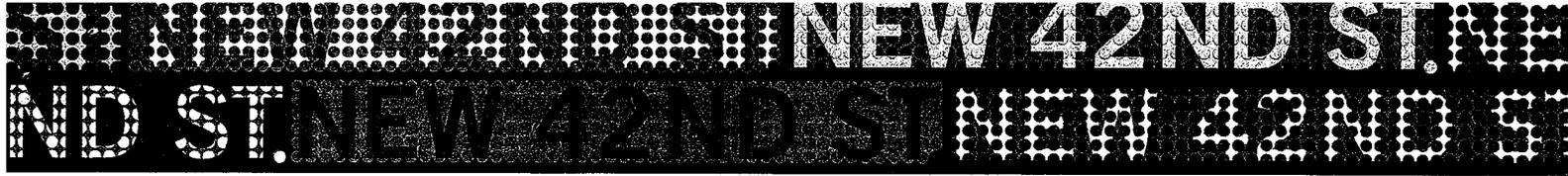
Victoria Bailey
Executive Director

New York City Council Committee on Land Use
Subcommittee on Zoning and Franchises
January 24, 2017 meeting on Zoning, Theatre Subdistrict Fund Text Amendment

Good morning. I am Victoria Bailey, Executive Director of Theatre Development Fund. Thank you for this opportunity to share with you the impact that funding from the Theatre Subdistrict Council has had on TDF as we work to fulfill our commitment to building sustainable audiences and act on our belief that access to theatre and dance is the birthright of every New Yorker. Our first grant in 2009 allowed us to create our New Audiences for New York program. Working with groups of individuals throughout the city in the program's first year we facilitated attendance at deeply discounted prices at 17 Broadway productions. Working with TDF teaching artists, groups met before and after the productions, discerning what productions would be best for their interests, preparing for the productions and then reflecting on their experiences. At the end of the program cycle, members were given TDF memberships allowing them to continue to attend offerings both on and Off Broadway throughout the theatre subdistrict. New Audiences for New York helped TDF deepen its understanding of and expertise in strategies for building new audiences for Broadway from underrepresented communities. For example, through the relationships that TDF staff and teaching artists built with the participants, we were able more deeply understand the importance of a welcoming atmosphere at the theatre for all ticket buyers, regardless of whether or not their race or ethnicity matches the expectations of the house staff and theatre artists. When attendees felt isolated and unwelcome or like they were entering a club where they didn't know the rules, they had to overcome a lot of negative feelings to enjoy the experience. Research has shown that feeling welcome and positive increases the impact of a performance on an individual; in turn increased impact leads to repeat attendance.

We continued the program after the grant period, assessing its strengths and weaknesses. Over five years, it evolved into Create New York. While New Audiences for New York attendees were groups of informally aligned audience members attending the theatre, Create New York builds a deeper relationship with participants. We work with community organizations as partners. The organizations select participants; they lead the show selection and curation of discussions. Participants attend Broadway and off Broadway shows in the theatre subdistrict as well as events in their neighborhoods and become ambassadors back to their own neighborhoods, advocating for attendance at theatre and dance by the wider community. At the end of each program year, participants create an event in their community which draws upon their experiences at the theatre and shows the larger community the impact of theatre and dance on their lives. Shows attended in the first year included *Kinky Boots*, *White Rabbit Red Rabbit* and *Skeleton Crew*. This program helps build stronger communities which builds a stronger New York.

We have just received funding from the most recent TSC initiative. I think the grants made as part of this initiative comprise a potentially transformative program for the Theatre Subdistrict workforce. TDF will be training individuals from underrepresented communities to work in our TKTS booth. At the end of their training, they will have the skills necessary to work in any Broadway box office. We hear over and over that new theatregoers are significantly more likely to feel comfortable at the theatre if some of the folks who work there look like them. And if we have a more diverse workforce in the sub district, they will do what we all do --- talk about their work at homes and in their neighborhood activities. And then the wonderful work that our artists do all over the Subdistrict will be on the minds of a much wider group of New Yorkers who will be that much more likely to attend.



FOR THE RECORD

**Cora Cahan
President
The New 42nd Street**

January 24, 2017

The New 42nd Street

When enlightened New York City and State public officials chose to establish The New 42nd Street in 1990 as an independent, nonprofit organization responsible for the historic theaters on 42nd Street, they could not have imagined that, in a depressed economy, our first bold action would be to create the City's first theater dedicated to kids and families.

The New Victory Theater is known for presenting captivating, innovative, transformative performing arts from around the world. Every year, over 100,000 kids and adults see great stuff on our stage, for the lowest-cost tickets in town.

This includes 40,000 kids who, through the New Vic Education Program, see shows for only \$2 a ticket, which is the same price for the last 20 years. The Theater partners with over 200 schools, reaching kids in all grades and in neighborhoods throughout the City. There are free Classroom Workshops led by professional New York City artists in support of the works kids see onstage.

Early on we realized that for many students their visit to the New Vic was their first and only theater experience. For 15 years, we struggled to find a way for the kids who saw our shows with their classmates to be able to come back to the New Vic with their parents and siblings to share the joy of going to the Theater together.

Like a deus ex machina, the Theater Subdistrict swooped in with a grant in 2010 that helped us launch a new initiative called Bring Your Family to the New Vic. The program makes it possible for students at our Title I partner schools to bring their parents, siblings and extended family members to the Theater for only \$5 a ticket. The kid sharing her new passion for theater with her family attends for free. Through Bring Your Family, we have seen families that don't speak English as their first language and/or who used to be apprehensive about coming to Times Square are now feeling safe and welcome at the New Vic. The program has grown from serving 234 people in its first year to at least 2,000 kids and adults this year.

An elementary school teacher from Sunset Park, Brooklyn, recently shared with us a heartwarming story of four Arabic-speaking families who wanted to bring their families to the New Vic. One of the moms, nominated by the group because she spoke the best English, worked with the teacher to buy tickets for eight students and four moms, representing recent immigrants from Egypt, Yemen, Saudi Arabia and Palestine. After the show, all of the students thanked the teacher for her help and told her how much they loved the show.

To introduce the program to parents, New Vic Education staff and Teaching Artists visit participating schools with informational materials translated into nine languages (Arabic, Bengali, Chinese, English, French, Haitian Creole, Korean, Spanish and Urdu) along with a video that de-mystifies the theater-going experience. Every season we encourage these families to come to shows that are not language-reliant and are enjoyable for any audience. Also, our New Victory Ushers, a group of 50 diverse youth aged 16 and up who hail from schools and neighborhoods across the City, and who work as the New Vic's primary Front of House staff,

also help these families feel more at home at the New Vic. Many Ushers come from the same neighborhoods and speak the same languages as the families in the program. During shows Ushers wear buttons that list the languages they speak so families can quickly identify an Usher who can help meet their needs.

And it's many of these same Ushers who will benefit from a new grant from the Theater Subdistrict, which will help The New 42nd Street create The New 42nd Street Fellowship Program. Many of the same Ushers who spend three years in the Usher Corps at the New Vic develop a strong desire to pursue the arts as a career but don't have access to the kinds of opportunities that would provide a path to employment. The Fellowship Program will provide these underrepresented young adults with the skills, resources and experience needed to transition into full-time employment within the theater industry.

Thanks to the Theater Subdistrict Council, Bring Your Family to the New Vic has helped us welcome people to our Theater who are from neighborhoods and backgrounds that might not otherwise come to see a show in the Broadway Subdistrict. Now, once again thanks to TSC, The New 42 Fellowship Program will help underrepresented young adults from these same neighborhoods and backgrounds to explore careers in arts administration and production. The Subdistrict helped change the face of our audiences; now it will help us change the faces of the people who serve those audiences, and ultimately, the landscape of arts administration throughout the City.

Finally, I would like to say that the well-considered Theater Subdistrict funding model has also helped to create a unique ecology in the city's theater community: the Broadway theater owners benefit from the sale of their air rights, the non-profit theaters benefit from the grants provided by the Theater Subdistrict, and many of these nonprofit theaters develop the vibrant, beautiful work which frequently lands in these same Broadway theaters. Look--in this season alone--how many shows that have made it to or are on their way to Broadway--including "Hamilton," "Falsettos," "The Humans," "Sweat," and "Dear Evan Hansen,"--started in the very non-profit theaters that have been supported by the Theater Subdistrict funds.

FOR THE RECORD

Frank E. Chaney
Of Counsel
212.551.1279
Fchaney@rosenbergestis.com

TESTIMONY OF FRANK CHANEY, ESQ.

ULURP NO. N 160254(A) ZRM – THEATER SUBDISTRICT ZONING TEXT AMENDMENT

CITY COUNCIL SUBCOMMITTEE ON ZONING & FRANCHISES

JANUARY 24, 2017

I am a zoning attorney and former city planner for the City of New York for 17 years (10 of which were with the Department of City Planning). While I have represented theater owners in recent transfers of listed theater development rights (“TDRs”), my testimony is not given on behalf of or at the request of my clients. Rather, I speak as a private citizen who is a zoning attorney, city planner and a lover of the theater and the Broadway theater district.

While consideration of increasing the Theater Subdistrict Fund (the “Fund”) contribution rate is appropriate and timely, I believe the proposed 20% contribution rate and floor price is unnecessary for, counterproductive to and inconsistent with the original intent and statutory purpose of the Theater Subdistrict. Instead, the contribution rate should remain as a fixed dollar amount per square foot of TDR, increased to approximately \$25 per square foot to reflect the overall increase in property values in the theater district since 2011 when the contribution rate was last increased.

The Contribution Rate and Floor Price

At the current contribution rate of \$17.60 per square foot of TDR, the three recent TDRs in which I was involved resulted in a total aggregate contribution to the Fund of \$1,375,430. If those TDRs had been subject to the proposed contribution rate of 20% of the sales price, the aggregate contribution would have amounted to \$7,267,173 – an increase of 428% over the current contribution. According to the Department of City Planning’s March 28, 2016 presentation¹, since the establishment of the Theater Subdistrict in 1998, 23 TDRs resulted in a total \$8.6 million contribution to the Fund.

¹ <http://www1.nyc.gov/assets/planning/download/pdf/plans-studies/theater-subdistrict/presentation-032816.pdf>

Thus, at the proposed 20% contribution rate, the payments into the Fund of these three most recent TDRs, by themselves, would nearly equal all of the contributions paid over the entire 18 years of the Fund's existence.

Purchasers may be willing to accept an incremental increase in the TDR contribution rate as normal increase in the cost of doing business, but they are more likely to react to a 428% increase by reducing the purchase prices they offer to theater owners and/or shifting the cost of some or even all of the contribution to the theater owners, or even foregoing theater TDRs altogether, any of which will mean less money to the theaters to spend on upkeep and maintenance of their historic buildings. It will also mean less money for them to spend on community outreach and audience development, which they do independently of and in addition to that undertaken by the Theater Subdistrict Council using the Fund. Lower prices and fewer TDRs will also mean fewer and lower contributions to the Fund. This would especially be the case in the event of another sudden market downturn such as occurred in 2008 where the market value of TDRs falls below the floor price. In such case, the market for theater TDRs could potentially freeze up altogether if the effective contribution rate were to increase to 25%, 30% or even more. The market rarely, if ever, surges as suddenly as it sometimes falls so that if the fixed dollar contribution continues to be adjusted on a regular basis, the potential "loss" to the Fund in a rising market where the fixed dollar amount temporarily and for a limited time is below market value would be far less than the potential loss to the Fund in the falling market scenario.

City Planning's "Original Intent"

The principle basis iterated by the Planning Department for the proposed 20% contribution rate is that it would bring the text into line with what is asserted to be its original intent in 1998 when the initial contribution rate was set at \$10 per square foot – the clear implication being that it was the City Planning's intent that the contribution rate be the equivalent of 20% of the market value of TDRs. However, the 1998 Commission report approving the Theater Subdistrict text states that \$10 per square foot was "determined as approximately 20 percent of the average sales price of *land* per square foot in the Theater Subdistrict" (on page 17) and "the average sales of *property* [emphases added] in the Theater Subdistrict" (on page 52). Nowhere does the report reference the sales price of TDRs – for

the obvious reason that there were not yet any sales of theater TDRs to average. There were other types of TDRs and the Department possibly could have estimated a value for theater TDRs, but then the report would have said that the \$10 rate represented 20% of such *estimated* value of TDRs. But it didn't.

Taken at face value, however, the statement in the report that \$10 represented 20% of the per square foot price of land means that the value of land in the Theater Subdistrict, in Midtown Manhattan, with some of if not the highest land values in the city, was a mere \$50 per square foot in 1998. This seems an unlikely low number.

Using the adjustments for changes in market conditions indicated in the study of TDR market values prepared for City Planning by Avison Young, beginning with the time adjusted average price per square foot of \$775 and working backwards, the per square foot price of land in 2001 would be significantly greater than \$50 per square foot. The average per square foot price of the five oldest land sales listed in the Avison Young study is \$255. Adjusting for time, the price per square foot of land in 1998 is likely to have been at least *four times* \$50. But assuming that \$50 per square foot was correct, based on the Avison Young study, which found that the time adjusted average price for theater TDRs is slightly less than half that for land, and further assuming that that relative relationship between land and air rights would have been the same then as it is now, the price per square foot of theater TDRs in 1998 would have been approximately \$23 and the \$10 per square foot of TDR contribution would have been the equivalent of 43% of the TDR price.

Further confusing things is the fact that the Commission report alternately refers to "sales prices" and "assessed values." In both places where the report states that the \$10 rate represents 20% of the average sales price of land or property, in the very next phrase or sentence, it states that the contribution rate will be adjusted in the future "based on changes in the *assessed* [emphasis added] values within the Theater Subdistrict" (page 18) and "to reflect changes in the assessed value of land in the district" (page 52). The report states several more times that adjustments to the contribution rate will be "based on changes in the assessed values" within the Theater Subdistrict. It would hardly seem likely that the Commission would have proposed that the initial contribution rate be based on

sales prices but that all future adjustments be based on assessed property values. The repeated and more frequent references to assessed values would strongly tend to indicate that the intention was to peg the contribution rate not to the sales price or market value of theater TDRs (which did not yet exist) but to assessed property values, which as we all know, are significantly lower than sales prices. The City Planning web page for the proposed text amendments appears to acknowledge this.²

The Theater Subdistrict's Limited Statutory Purpose

I would further argue that City Planning purposefully intended to set the contribution at the meaningfully nominal rate of 20% of assessed property values in consideration of the limited statutory purposes of the Theater Subdistrict Council and Fund. As provided in Section 81-71:

“The Theater Subdistrict Council[‘s]... organizational purpose shall be *limited solely* [emphasis added] to promoting theater and theater-related use and preservation within the Theater Subdistrict and promoting the welfare of the Theater Subdistrict generally.”

Section 81-71 then goes on to identify three and only three goals of the Theater Subdistrict Council:

- “[1] enhancing the long-term viability of Broadway by facilitating the production of plays and small musicals within the Theater Subdistrict,
- “[2] developing new audiences for all types of theatrical productions [through “the sale, distribution and marketing of reduced price tickets to new and undeveloped audience groups”], and
- “[3] monitoring preservation and use covenants in Broadway's ‘listed theaters.’ ”

In terms of disbursements of the Fund, Section 81-741 provides that the Council “shall expend such revenues and any interest accumulated thereon in the following manner.” First, it must set aside

² “The calculation would be based on the actual value of the development rights, *rather than assessed property values...*” [emphasis added]. See: <http://www1.nyc.gov/site/planning/plans/theater-subdistrict/theater-subdistrict.page>.

a portion of the contributions received (and in no case less than 20%) to cover the Council's administrative costs in monitoring compliance with the restrictive declarations each transferring theater must execute and record ensuring that the theater is operated and maintained as a legitimate theater. After doing so, "the remainder of such revenue shall be used for activities chosen by the Theater Subdistrict Council furthering the objectives and purposes of this Section."

The objectives and purposes of the Theater Subdistrict are strictly limited and explicitly defined. Accordingly, it follows that the contribution rate to the Fund should be appropriately commensurate with those limited purposes. I believe the City Planning Commission knew and understood that the statutory purposes of the Subdistrict Council and Fund were limited and that they set the contribution rate at a level they and the Department believed would be sufficient to fund those purposes. No more and no less.

As noted above, according to the Department's March 2016 presentation, \$8.6 million had been contributed to the Fund, of which approximately \$5.7 million had already been distributed in grants by the Council with another \$2 million in grants soon to be announced. That would leave a balance of nearly \$1 million (more than \$2 million including the most recent contributions).

As also noted above, the proposed 20% contribution rate would amount to a more than 400% increase. The three most recent TDRs, if subject to a 20% contribution, by themselves would have been nearly as much as the entire \$9.6 million amount contributed during the Fund's 18 years of existence. If all of the theater TDRs since 1998 had been subject to a 20% contribution, the total contributions would have been more than \$33 million. Yet, no information or analysis has been provided as to why the \$9.6 million in contributions to date has been insufficient to the limited statutory purposes of the Theater Subdistrict Council or why a more than 400% increase in the Fund is necessary or how it would be allocated or spent. The fact that the Theater Subdistrict Council has not spent all of the contributions collected to date and has a \$2 million balance on hand would appear to argue against the need for a 400% increase in the Council's funding or budget. Nor would the proposal to add "assisting activities that support and strengthen the New York City theater industry within the Subdistrict," as a goal of the Council appear to warrant such a large increase.

One final comment: the 1998 City Planning Commission report approving the Theater Subdistrict text noted in response to suggestions that the contribution rate be set as a percentage of the TDR sales price that “[i]t would be difficult to determine the actual value of individual transactions for the sale of air rights,” and concluded that “the Commission believes that the flat fee contribution is appropriate.” I would suggest that the Commission had it right the first time and that a fixed dollar per square foot amount is still the appropriate mechanism. An increase in such amount to approximately \$25 per square foot would be appropriate to the statutory purposes of the Theater Subdistrict Council and Fund.

Thank you for your time and consideration.



City Council Subcommittee on Zoning and Franchises

Hearing on Zoning, Theater Subdistrict Fund Text Amendment, Manhattan (N 160254
(A) ZRM)

Testimony Presented by the NYC Department of Cultural Affairs
Commissioner Tom Finkelpearl

Good morning Chair Richards and members of the subcommittee, I am Tom Finkelpearl, Commissioner of the New York City Department of Cultural Affairs. I am here to testify in regard to the grant activity of the Theater Subdistrict Council, and how it relates to the proposed zoning amendment. Thank you for the opportunity to present testimony on this important topic.

As you may know, the Theater Subdistrict Council administers the Theater Subdistrict Fund. The TSC's goals include enhancing long-term viability of Broadway; facilitating production of new theater work; and developing new audiences. The TSC includes:

- Mayor Bill de Blasio
- City Council Speaker Mark-Viverito
- Manhattan Borough President Gale Brewer
- Department of City Planning Director Carl Weisbrod
- City Council Speaker Appointee Paige Price

And Mayoral Appointees:

- Lin-Manuel Miranda
- Daryl Roth
- George C. Wolfe

As the Commissioner of Cultural Affairs, I serve on behalf of the Mayor as the Chair of the TSC. Additionally, our staff works closely with City Planning's staff and the TSC administrator to facilitate the grant program.

This creative zoning mechanism expands opportunities for theater owners to transfer their air rights while providing investments in the long-term health of our theater sector. We believe that this yields substantial public benefit. In the five rounds of funding provided since it was established (the fifth and most recent round was announced earlier this month), the TSC has invested over \$7.5 million in programs that promote the welfare of the Theater Subdistrict and theater sector.

In previous rounds of funding the TSC has supported audience development, education, new productions, and management programs. Through these programs, TSC funds have supported:

- **266,000** tickets distributed, many free or discounted
- **62,000** students engaged in arts education programs
- **36** new productions
- **75** workshops and readings

The Round 5 grants we recently announced will support paid mentorship and workforce development programs specifically targeted to diversifying backstage and technical positions in theater. This is an urgent need within the theater community. A survey of DCLA grantees released a year ago this month found that 70% of theater employees in New York City identify as white/non-Hispanic and only 35% of technical and production staff identified as female. In our increasingly diverse city, it is a great time to reach out to the widest pool of talent. The future of theater in New York will be stronger with their contributions.

This is not news to those who work in and care about theater. The response to our request for proposals for Round 5 was tremendous: we received over 90 letters of interest. Of these, 18 very strong proposals were asked to submit full applications. We were able to support 11 of them with just over \$2.2 million from the Theater Subdistrict

Fund. Clearly, this innovative, unique tool to address some of theater's most pressing concerns is in high demand.

The Theater Subdistrict Council itself includes people who are deeply committed not just to theater, but to theater as it is created and practiced here in New York City. As I mentioned, current members include Lin-Manuel Miranda, Actor/Producer Paige Price, Producer Daryl Roth, and Director George C. Wolfe. Among them, they have won a total of 23 Tony Awards. This level of excellence and expertise is clearly reflected in the grant making activities of the TSC.

Theater is a signature industry in NYC. According to the Broadway League, it contributed \$12.57 billion to NYC's economy and supported 89,000 jobs during the 2014-2015 season. The industry attracted a record-breaking 13.3 million admissions to Broadway shows, 63% from tourists. Off Broadway has an additional \$450 million annual impact on the economy of New York City, according to the Off Broadway Alliance.

The Theater Subdistrict encompasses what is probably the highest concentration of theater expertise and talent anywhere in the world. But the health of the Subdistrict is directly connected to New York's broader theater ecosystem, encompassing all five boroughs. Artists, producers, professionals, and audiences all play a vital role across commercial and nonprofit theater, both in and out of the Theater Subdistrict boundary. Strengthening the theater industry has a long-term positive affect on the Theater Subdistrict.

The TSC had invested millions of dollars in the health of organizations citywide. The connection between the Subdistrict and theater community around the city can be quite direct. We all know the impact of productions like *Hamilton* that started in the non-profit Public Theater and has stormed Broadway. But this is not an isolated incident. Actors, directors, technicians and audience members move freely between the commercial and non-profit theater, so a healthy theater world in the city makes a healthy Theater Subdistrict.

With additional funding, the Theater Subdistrict Council could deepen its impact. With this text amendment, we can bring the program's scope in line with its original intent and expand its ability to support the theater community. For instance we could consider scaling up some successful programs; explore new ways to achieve the TSC goals of enhancing viability of the Subdistrict; we could fund a greater number of the initiatives and organizations that apply each round; make theater accessible to hundreds of thousands of NYC school students who aren't able to attend Broadway; or invest in analysis or evaluation of programs.

According to the Alliance of Resident Theatres, more than 80 performance spaces have closed in the last 15 years. So while New York theater is undeniably vibrant, we cannot minimize the challenges faced by smaller organizations whose creative adventurousness is a major source of strength for the sector and the art form. Sustaining a robust commitment to the Subdistrict Council funding not only improves the prospects of those who work within its boundaries, but serves the field as a whole.

Thank you again for the opportunity to testify here today. I will be happy to answer questions you may have.



**PREGONES THEATER
PUERTO RICAN TRAVELING THEATER**

Two Great Stages, One Great Theater!

NEW YORK CITY COUNCIL COMMITTEE ON LAND USE
Subcommittee on Zoning and Franchises
Statement by Rosalba Rolón, Artistic Director Pregones/PRTT

Pregones Theater, rooted in The Bronx, and Puerto Rican Traveling Theater, rooted in Manhattan's theater district, have just completed our merger, establishing a mechanism for sustainability and growth. Our process coincided with a Theater Subdistrict Council's initiative that allowed us to dream/plan BIG, to fulfill the promise we had made to our audience, artists and community.

TSC's support allowed us to create our PLATAFORMA initiative. A platform for engaging seasoned and emerging Latino artists and production personnel in the cooperative development of new theater works, enhancing the viability of their careers. A new Off-Broadway Latino theater showcase playing before thousands of audience members from diverse racial, ethnic and social backgrounds. A platform for engaging existing and future audiences in meaningful dialogue about the current boom and diversity of Latino theater.

Our Theater's relationship with Theater Subdistrict Council is greater than a transactional funding relationship. Residual value resulting from our relationship to TSC includes:

- Pregones/PRTT's anchoring role as home for Latino artists/projects in Subdistrict
- Zooming in on changing demographics of the City and the Subdistrict itself
- Generating new inter-borough participation by general/underserved populations.
- Heightening the status of our mid size theater as a legitimate citizen of the District
- Drawing attention to vital links between Broadway, Off-Broadway, and Off-Off-Broadway
- Adding diversity/offers for tourists and cultural visitors (regional, national, international)
- Foregrounding values and tools of ensemble practice (teamwork, cooperation, resource pooling)
- Engaging multi-sector consultants and partners, both for-profit and nonprofit
- Leveraging the assets of the new national Latino theater movement
- Developing and presents new works of variable scale

We are proud to have met all goals/objectives of the initiative, effectively transforming our business model. Pregones/PRTT could not have achieved these new heights without the support the Theater Subdistrict Council.



SNAPSHOT OF PRODUCTIONS AND GUEST PROJECTS

In 5 Beats (aka A Nation's Beat) by Pregones

Betsy! by Pregones with Roadside, Imagining America, HowlRound

Zoetrope by Caborca

Gaytino by Dan Guerrero

One Festival (x2) with Teatro Círculo + Caicedo Productions

Hagiografías by Teatro Cruz de La Luna

Choppin' by Magdalena Gómez + Elise Santora

Deep Listening by Agua Dulce Dance Theater

Pura's Lágrimas by Yaraní del Valle + Gabo Lugo

More To Life by Omar Pérez

¿Quieres Boogaloo? by Flaco Navaja

Marianela by Pregones

Por el monte Carulé by Teatro de Las Estaciones

La Esquinita U.S.A. by Teatro Campesino

The Marchers by Pregones

The Desire of The Astronaut by Pregones

TimeZones by Pregones with Art Bridge

I Like It Like That co-production

- Total AUDIENCES: 42,549 (to date) · Total PRODUCTIONS: 18 (original, new, Latinx)
- Total WORKSHOPS/COMMISSIONS: 6 (developmental, ongoing)

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 01/24/17

(PLEASE PRINT)
Name: CORA CALIARI

Address: 229 W. 42 St.

I represent: The New 42 St.

Address: Same

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. LU 0545 Res. No. _____

in favor in opposition

Date: 1/24/16

(PLEASE PRINT)
Name: Ellen Lehman

Address: One New York Plaza

I represent: Archdiocese of New York

Address: 1011 First Avenue

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 540 Res. No. _____

in favor in opposition

Date: 1/24/17

(PLEASE PRINT)
Name: Victoria Bailey

Address: 138 Maple St Bklyn 11225

I represent: Treatse Deep Fund

Address: 500 8th Ave NY 10018

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

Name: ROSALBA KOLON (PLEASE PRINT)
Address: 304 W 47 ST

I represent: _____
Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: Jan. 24 2012

Name: Anita Laremont (PLEASE PRINT)
Address: 120 Broadway 31st Floor

I represent: DCP
Address: 120 Broadway

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: 1/24/17

Name: STEPHEN JOHNSON (PLEASE PRINT)
Address: NYC Dept of City Planning

I represent: NYC DCP
Address: 120 B Way

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Tom Finkelpearl, Commissioner, DCLA

Address: 31 Chambers Street / 85 South St.

I represent: DCLA

Address: 31 Chambers St

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 1.24.17

(PLEASE PRINT)

Name: Andrea Goldwyn

Address: _____

I represent: NY Landmarks Conservancy

Address: 1 Whitehall St NYC 10004

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 545 Res. No. _____

in favor in opposition

Date: 1/24/17

(PLEASE PRINT)

Name: Robin Kramer

Address: 555 MADISON AVE, NY 10022

I represent: Jujamcyn, Nederlandcr, Shubert

Address: Organizations

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 1/24/17

Name: Michael Spatterny (PLEASE PRINT)

Address: 570 LEXINGTON AVE

I represent: REAL ESTATE BOARD OF NY

Address: S/A

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 545 Res. No. _____

in favor in opposition

Date: JAN 24, 2017

Name: Eric Stern (PLEASE PRINT)

Address: _____

I represent: Manhattan CBS

Address: _____

Please complete this card and return to the Sergeant-at-Arms