CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON HOUSING AND BUILDINGS

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HELD AT: Council Chambers - City Hall

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Chairperson

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A P P E A R A N C E S (CONTINUED)

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Mike McGuire
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Ellen Davidson
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Katie Goldstein
Tenants and Neighbors

CHAIRPERSON WILLIAMS: Good morning everyone. Thank you all for coming. A little slightly less interesting than the last hearing, but still a good turnout. I'm Council Member Jumaane Williams, Chair of the Committee on Housing and Buildings. I'm joined today by Council Member Ydanis Rodriguez. Today, we are a holding an oversight hearing on the 421-a Tax Exemption Program. This program was designed to encourage residential development of underused land by significantly reducing the property taxes for time periods ranging from 10 to 25 years. The program has two main objectives, stimulate residential development and increase access to affordable housing for low income New Yorkers. Since its inception in 1971, the program has undergone several changes, from requiring that developers ensure that at least 20 percent of the units constructing in certain geographic areas are affordable to the creation of an affordable housing trust fund that is meant to support the development of affordable housing in some of the city's poorest neighborhoods. The Department of Finance estimates that there are over 160,000 units citywide currently receiving this benefit, at a cost of approximately 1.1 billion dollars per year in foregoing tax revenue. Historically, the program has been extended every four years, most recently under the rent act of 2011. The rent act of 2011 extended the 421-a Tax Program to June 15th, 2015, and unless the State Legislator acts to extend the program, the tax exemption will expire on that date. This hearing today will focus on the benefits and drawbacks of this program, including a consideration of whether or not the tax exemption should be allowed to sunset this June. I'd like to thank my staff for the work they did to assemble this hearing, including Nick Smith, my Deputy Chief of Staff, Jen Wilcox and Shejuaday [sp?] Codray [sp?] Counsels to the Committee, Guermo Patino [sp?], and Jose Conday [sp?], Policy Analyst to the Committee, Sarah Gestelum [sp?]--did I do that right--the Committee's Finance Analyst. With that said, I'm going to call up a representative from the Administration as our first panelists. I see we have the Commissioner plus one. Thank you, Baaba, I didn't see you before. I'd like to--oh, and we've been joined by Council Member Brad Lander as well. I'd like to remind everyone that would like to testify today to please fill out a card with the Sergeant. Let's see information, next page. Also been joined by Council Members Reynoso and Rosenthal. If both of you don't mind raising your right hand, please? Do you affirm to tell the truth, the whole truth and nothing but the truth in your testimony before this committee and to respond honestly to Council Member questions? Thank you and you can begin at your leisure. Do we have copies? Oh, yes we do. Alright.

COMMISSIONER BEEN: So, Chairman Williams and members of the Committee. Thank you so much for the opportunity to testify today on the Administration's preliminary thinking about how best to reform and improve the 421-a program. HPD's Assistant Commissioner for Governmental Relations and Regulatory Compliance, Baaba Halm, is joining me today. So, the 421-a program as Chair Williams mentioned was created in 1971 to stimulate residential housing production, the late 60's and early 70's, as some of us in the room are old enough to remember, were a period of really profound economic crisis for New York city and neighborhoods across the city were suffering from enormous disinvestment and abandonment. One of the state government’s responses to that problem was to create an incentive for new residential housing, providing an as-of-right exemption from real property taxes for 10 years for all new residential construction. At its inception, the program was not an affordable housing program. It imposed no requirements for affordability, nor did it take into account that the amount or the incentive necessary to entice developers to build new housing might vary borough to borough or neighborhood by neighborhood. So, I think it’s really important to realize that the program over time has changed, and at its inception, it was most definitely an affordable housing program, but it changed somewhat in 1984. In 1984, the first affordability requirement was added in the form of a geographic inclusion area or what is affectionately called GEA. The GEA required projects at its inception in 1984, the GEA required projects in the strongest Manhattan markets below 110th Street to provide affordable housing units either onsite or offsite in exchange for the 421-a benefit. The GEA was further expanded through 2006 and 2008 to include all of Manhattan and portions of the other four boroughs. And I think it’s important to see how that change transpired. If you watch the film here, you will see the growth in the GEA staring with Manhattan and then changing dramatically in 2008 to cover, you know, so much more of all of Brooklyn, Queens, Staten Island, the Bronx, and of course, Manhattan. So, I also want to say that in the 19--in the mid 1980's a negotiable ticket program was created to allow offsite affordable units to generate 421-a certificates that could then be bought by market rate developments within the GEA and allowing them to satisfy their affordable housing obligations by buying those certificates. Those certificates were sold by affordable housing developers or brokers and bought by market rate developers at prices determined by the free market. Okay, so as the law now stands, projects meeting eligibility criteria that are specified in the statute are entitled to an exemption from real property taxes on the increase of the property's assessed value that results from the construction of a new rental building, new co-ops or condominiums on the property. The length of the exemption can either be 10 years, 15 years, 20 years, or 25 years. That depends upon the location, the financing and the affordability of the project, and I should note that even though we describe it as a 10 year, 15 year, 20 year, or 25 year period, it's actually the period the exemption phases out in the last years of the program. So, it's never a full 10 year benefit. It phases out over time. So, the 10 year exemption, this is very small print and it's a lot of detail, and I won't bore you, put everybody to sleep so early in the morning, but let me just give you sort of the highlights because it's important to understand the different components of what's going on here. The 10 year exemption period is extended to market rate units that are located in Manhattan, south of 110th Street provided that the project obtains a negotiable certificate that I just described. The 15 year exemption is extended to market rate housing located north of 110th Street in Manhattan and in the other boroughs. If the project is in a geographic exclusion area, it is only entitled to a 15 year exemption if it buys one of those or obtains negotiable certificates. Okay, so those are the 10 and the 15 year exemptions. The extended benefit exemptions are the 20 year exemption, which is available to projects located below 110th Street in Manhattan that are either carried out with what we call substantial governmental assistance, which generally means some subsidy, either in the form of tax credits, bonds or direct cash subsidies from HPD or possibly the state, or they set aside 20 percent of the units for affordable housing. Okay? The 25 year exemption is extended to projects located north of 110th Street in Manhattan and in the other boroughs, that again, either are receiving substantial governmental assistance or are providing 20 percent of the units as affordable housing. So, those extended benefits are only available if they provide affordable housing or are being subsidized, which means they're providing affordable housing in other ways. Okay, so that's the rather complicated scheme. Let me just say a couple of other things that are important to understand about the program as we think about, you know, its validity and how it can be improved. The owners continue to pay. First of all, all eligible projects are entitled to construction benefits for no more than three years following the beginning of construction, and thereafter, the projects receive a full exemption period that is phased out to a schedule. During the construction and the full exemption period, owners continue to pay real estate taxes, but they pay it only on the assessed value before the new construction, right? So, they continue to pay some taxes, but they're not paying taxes on the added value that's created by the new building whether it be a rental or a condo or a condominium. Developers apply for a determination of eligibility on the 421-a from HPD. So, we determine the eligibility according to the statutory requirements. They apply twice. First, for construction period benefits, and then once the project is completed, for final certificates of eligibility. All rental units that receive the benefits, whether they are market rate or affordable are subject to rent stabilization for the entire exemption period. The affordable rental units have to be rent stabilized for 35 years and tenants with leases in those affordable units may remain as rent stabilized tenants as long as they stay on the property. Okay? So, again, some complexities, but they're important in assessing the program. I'd like to turn now some descriptive information about the 421-a projects that I think can help inform the debate over 421-a. According to the Department of

Finance's annual report on tax expenditures for fiscal year 2013, in fiscal year 2013 there were just under 150,000 units that were receiving tax benefits. Those 150, almost 150,000 units had an exempt value. So that value of the new construction of about 8.1 billion dollars. About half of those properties were condos and co-ops and the rest, about half were rental properties. The rest are one to three family homes, condos and co-ops. Okay? The tax expenditure as Chairman Williams mentioned was in fiscal 2013 just a little bit over one billion dollars. Now, I want to note that that's the cumulative expenditure. I mean, that one billion dollars is from projects that were started up to in some cases like 24 years, right? Because every year projects come into the program and every year projects exit out of the program as they reach the end of their phase out period. Okay, so one of the things that people always ask is where these, where the 421-a units are, and so I want to show you where they are throughout the city. Every borough has projects that have benefitted from the program, from Staten Island with just under 1,000 to Manhattan at just over 61 or almost 62,000, but every borough has benefitted from the project in different ways. As you see on the chart, I hope it can be seen, in Manhattan for example there have been about 37, almost 38,000 rentals. In Brooklyn there have been almost 15,000 rentals. In the Bronx almost 11,000 rentals units that are right now receiving the exemption in terms of the borough and the property type. Generally, more rental units than condos come on every year, but there are exceptions. So, this slide here shows you over time how many units have been coming into the program in each of the boroughs. And you see, you know, obviously it matches real estate cycles. It matches other things like the threat of that 421 might not be extended. Those kind of issues result in fluctuations in the total dwelling units that are coming into the program over time, but you see that Manhattan in the top left hand corner and Brooklyn in the top, in the bottom left hand corner are, you know, saw real spikes in the 2007-2008 periods. Okay, so another issue as I mentioned earlier, projects within the geographic exclusion area have to make 20 percent of their units affordable, while projects outside of the GEA have no obligation to provide affordable units unless they are seeking those longer periods, those 20 and 25 year extended benefits. So, as you can see, this shows you in the blue are the total number of units for which we received applications, whereas in the red are the total units that are inside of a GEA. So this gives you some sense of how those geographic exclusionary boundaries are related to who's getting the benefits and who isn't, or not who isn't, but who isn't being asked to provide any affordable housing unless they seek the extended benefits. Okay, because the cost of the 421-a exemption is very high, one billion dollars is obviously enormous, many people argue that not enough affordable housing is being produced for the money that we are spending, or that it is being produced at levels of affordability that don't meet the needs of the particular neighborhoods, or that it is no longer necessary to incentivize production in a city that is thriving economically and that is having--that is seeing robust housing production. So, all of those are major concerns, concerns that we certainly share about the efficiency and effectiveness of the 421-a. There are arguments obviously in favor of 421-a. 421-a is seen by many experts as critical to spur residential development, and of course residential development brings a variety of economic benefits other than taxes such as the development related jobs, the permanent jobs, the jobs for services and, you know, the retail stores and everything that provide goods and services to the residents. All of those things are thought to be benefits that accrue because of the production of the housing. One thing I think that's important to note is that because of the very high value of condo units and because of the differences in the way that new rental buildings versus co-ops and condos are assessed for taxation purposes, rental buildings, especially are thought to depend very heavily on this production incentive. But 421-a doesn't just function as a production incentive. It also--other arguments in favor of 421-a are that it creates affordable units in very high demand neighborhoods, where production would otherwise really not be financially feasible. Right? If we were try to subsidize affordable buildings or affordable units in some of the highest values neighborhoods in Manhattan and in Brooklyn, we simply would not be able to do that. So, having 421-a where it produces affordable units does result in new production of affordable units in those very high value neighborhoods that would not otherwise occur. The other thing is that it does certainly help achieve income diversity in the neighborhoods in which 421 is used where it brings that 20 percent affordable housing. Now, there are many, many calls, obviously, as you already heard this morning and as you'll be hearing throughout the day, to improve 421-a, and we share those goals. In our work leading up to the release of Housing New York, we began to explore all of these arguments and proposals. Last fall, the administration consulted with stakeholders to hear more as we had committed to do in the housing plan. We met with over 50 representatives from housing advocates, legal aid organizations, organized labor, for profit and not for profit developers, community groups, and council staff to hear concerns, to hear ideas about reforms and improvements, and specifically on 421-a we solicited ideas, concerns and proposals and a number of policy areas that emerged where the stakeholder group saw room for-- were at least some of the stakeholder groups found room for improvements. So, if the program is to be renewed, proposals for reform have many goals. I've sent the size of the goals here that we are most concerned about. They all revolve around making the program more efficient, more in tuned with our affordable housing policies across the board. We believe that the primary goal should be to provide no more incentive than is absolutely necessary to spur both market rate and affordable production, but the incentive also needs to be more carefully targeted and better aligned with our other affordable housing programs so that it produces both the kind of housing, the income range, and the kinds of neighborhoods that Housing New York calls for. And last but not least, 421-a, the 421-a program has become very difficult and costly to both use for the developers and to administer for HPD and all of that I think needs to be significantly simplified and streamlined. So, in thinking about how to accomplish these goals, how to accomplish reform, we really have been looking at what I call the different policy leaders, our approach to exploring the possible reforms has been to examine the various aspects of the policy that could be tweaked or changed to better achieve the goals that I let out. For example, we are considering the boundaries of the GEA, asking really whether it's sound policy to have requirements for affordable housing in some neighborhoods or blocks within some neighborhoods, but not in others. We're considering whether or not condos should be treated the same as rentals and be under, you know, the same kinds of rules and under the same programs given all the evidence that rentals are much harder to build in New York City. As I mentioned earlier, the program is now a hodge-podge of these 10, 15, 20, 25 year periods will all their different requirements, and the question is could those terms be simplified, could that all be--should they be shortened? Should they be extended? Could it be simplified? We're considering obviously whether or not the portion of units in the building must be affordable should be revised. We're reviewing the arguments over whether all the affordable housing units should be onsite, offsite, with some new version of a certificate program or what should be done there. We're reviewing calls for permanent affordability or at least for longer term of affordability, and finally, we're asking how the benefit terms and the other requirements can be rationalized and simplified and how we can streamline the administration so more money is going to build affordable housing and less money is going for the application time and process. We are still in the listening and analysis phase. We look forward to hearing everyone's concerns and ideas and the arguments of those who are testifying today. We are continuing to do market analysis to understand the effect of any possible changes to the program that any possible changes to the program might have on the production of both market rate and affordable housing. We're working in tandem with Department of City Planning to make sure that the mandatory inclusionary housing program that will--the proposal will be released later this spring. Those things have to work in tandem. 421-a also has to work in tandem with the existing voluntary inclusionary program. So we're working very hard to stay on track and make sure that those programs will all be complementary and work well together. As we look at renewing and reforming the program, we hope to be able to count on the City Council's support. I believe we share the same goals as the City Council. We want to ensure that our tax expenditures are efficient, effective and producing the kinds of housing in neighborhoods that all New Yorkers want to live. How exactly that's best achieved will depend on many factors including many factors that we're going to learn more about over the course of the next few months. So, our mission at this point is really to hear the concerns, to analyze the options, but to stay open and flexible so that we can adjust as we learn more and as the debate unfolds over the next five or six months. So thank you again for the opportunity to testify, and I look forward to your questions.

CHAIRPERSON WILLIAMS: Thank you very much, Commissioner for your testimony. We've also been joined by Council Members Levine, Mendez, Cumbo, Koslowitz, Espinal and Levin. Just start a little more globally at first, which agencies track the 421-a affordable units? Which agencies, if any, track that landlords are giving leases to people who are affordable? Who tracks to make sure that the developers and landlords are doing what they said they would do under the 421-a program?

COMMISSIONER BEEN: Okay, so that was whole bunch of questions. Let me separate them out. So, who tracks? Obviously, the Department of Finance keeps records on who is receiving a 421-a exemption. We keep records on who applies for the 421-a, you know, who applies to show that they are eligible? DOF. You know, we provide the sort of the eligibility stamp of approval so to speak. We say whether or not the project is eligible for 421-a benefits, and if it is deemed eligible, then we tell DOF, the Department of Finance, that we've reached that determination, and then they keep records about which of the properties they are giving the exemption to and obviously where it is in the stage of the exemption period, etcetera. So, we do the work on the eligibility and the affordable units. DOF does the work on the tax issues.

CHAIRPERSON WILLIAMS: And is anyone making sure that landlords are renting to tenants who fall under the eligibility gap?

COMMISSIONER BEEN: Yes. So, let me break that out, because it depends upon the type of project that we're talking about, right? So, some projects that receive 421-a benefits, but do not receive any subsidies from the city, right, they are required--if they are providing affordable units, they are required to register those units as rent stabilized with DHCR, right? And DHCR is in charge of making sure that they abide by the rent stabilization rules, that they register it, that they charge the right rents, etcetera. Right? Some of the properties are not just receiving 421-a benefits, but they're also receiving some subsidy from us and if so, they are then entering into a regulatory agreement with us about not just the terms of the affordability but overall terms because we have other subsidy in the mix, right? And in that case, we are enforcing the regulatory agreement.

CHAIRPERSON WILLIAMS: So, if they're not receiving subsidy, they couldn't--they could not be receiving subsidy, but also have income eligibility guidelines.

COMMISSIONER BEEN: Right.

CHAIRPERSON WILLIAMS: So you're saying that DHCR would have to enforce that they're following those?

COMMISSIONER BEEN: Oh, okay. SO there are two different issues. There--one is, who goes into the properties initially, and then making sure that they are maintained as rent stabilized units over time. The rent stabilization issues are DHCR's issues. The, who gets into the units originally is conducted through the housing lottery.

CHAIRPERSON WILLIAMS: But if those, if they leave, someone else has to come in and still be under that income threshold.

COMMISSIONER BEEN: If there is a re-rental, right, then that is supposed to meet the same income bands that were originally applied to the first rental.

CHAIRPERSON WILLIAMS: And then whose responsibility is that?

COMMISSIONER BEEN: That is our responsibility.

CHAIRPERSON WILLIAMS: Even if they're not receiving subsidies.

COMMISSIONER BEEN: Yes, they're supposed to be going through a not--we don't have a lottery for the re-rentals yet, although we're working on that, but they're supposed to be meeting those same income bands even if they are not receiving our subsidy.

CHAIRPERSON WILLIAMS: But if--so is there something in place to make sure that's happening?

COMMISSIONER BEEN: There--we are putting much, many more protections in place to make sure that nothing is falling through the cracks. We, I think as I've mentioned before, our Asset Management that manages all of this has not had the investment in technology that it should have had. We have changed that in this administration. We've devoted a great deal of resources, and thanks to the City Council for that as well, to bringing our technology up to snuff. We are right now experimenting with what we call the e-rentroll program. It's being piloted with ten of the largest property management organizations, and that will allow us to get electronically the rent roll for every, I think, quarter. It may be month. I thinking we might still be experimenting with that. That will allow us to make sure that absolutely nothing is slipping through the cracks.

CHAIRPERSON WILLIAMS: But it sounds like it's not as tight as it should be.

COMMISSIONER BEEN: It's not as tight as it should be. That's why we're improving.

CHAIRPERSON WILLIAMS: Okay. Do you have any--have you had any complaints or have you had any stories of people, or belief that someone is being re-rented that is not the income threshold? Do you have any idea if that is happening?

COMMISSIONER BEEN: I have--we have no quantification of how much if any that might be happening. We certainly get anecdotal reports, which we investigate.

CHAIRPERSON WILLIAMS: Has the investigations led to anything?

COMMISSIONER BEEN: Well, so if we find that somebody has, is out of compliance with the program, then, you know, first of all we see what we can do to correct it. if it weren't corrected, if there was--I mean, the reason why I'm hesitating a little bit about the way you phrased the question is sometimes if somebody--if a re-rental were to go to somebody who is slightly over or slightly under income but they are put in the unit, they then become rent stabilized. And so, under the rent stabilization laws, our ability to--you know, we wouldn't want to evict them because of their rent stabilization protection. So, there have been circumstances in which something like that has happened and then we've mad the owner give the next apartment that becomes available in the building to somebody who does income qualify. So--

CHAIRPERSON WILLIAMS: Do you have information of how many of those have happened that you know of?

COMMISSIONER BEEN: I don't. I mean, my understanding is it's a handful. I don't know exactly how many. We could try to find that out.

CHAIRPERSON WILLIAMS: Yes, I'd like to get that information. Now, so just also globally, there's a general agreement that it's about one billion dollars a year in foregoing taxes. It's roughly 400 million a year in construction or preservation costs, is that right?

COMMISSIONER BEEN: You mean--I'm not sure what you mean by that? You mean the--

CHAIRPERSON WILLIAMS: The cost of the--besides the taxes, the other cost to either construct that the city gives to either construct or preserve in the 421-a program.

COMMISSIONER BEEN: No, I don't know where that number is coming from. You mean, in a situation where we are providing subsidies for the building in addition to the 421-a? You're asking what the value or what the construction cost of that is?

CHAIRPERSON WILLIAMS: The Housing Trust Fund, the--where do the funds come before the 421-a program?

COMMISSIONER BEEN: No. So, let's separate out two things.

CHAIRPERSON WILLIAMS: Okay.

COMMISSIONER BEEN: There is a trust fund call the 421-a Trust Fund, and that trust fund--HPD has committed a total of about 171 million dollars of funds from that affordable housing trust fund to cover 29 projects that had 3,671 units. Okay? There is another 29 million in the trust fund that is scheduled to be spent this fiscal year, and is estimated that that will produce about another 1,016 units. All of those units are completely affordable. So--

CHAIRPERSON WILLIAMS: [interposing] What's the breakdown of affordability?

COMMISSIONER BEEN: I don't--I can get that for you for the 29 projects. I don't have that off--I mean, I'm sure it varies, and I don't have that information, but we can provide it.

CHAIRPERSON WILLIAMS: Alright. I mean it's--the crux of thing's affordability, so it'd be good have.

COMMISSIONER BEEN: Well, by definition, if I'm saying that they're affordable, they're all under 165, but my guess is that they're all centered around 60, but we can provide the specifics. So, but I want to make clear that that is what is called the 421-a Trust Fund, that is not the 421-a program, right? And so were you asking me the total cost of the trust fund?

CHAIRPERSON WILLIAMS: Just give me both, the trust fund and the program.

COMMISSIONER BEEN: Well, the program cost is a billion dollars, right? The trust--

CHAIRPERSON WILLIAMS:[interposing] That's in the foregone taxes.

COMMISSIONER BEEN: In the forgone taxes.

CHAIRPERSON WILLIAMS: Got that, okay.

COMMISSIONER BEEN: The 421-a Trust Fund is 171 plus 29, which I believe is 200 million.

CHAIRPERSON WILLIAMS: Besides the taxes that are foregone, is there any other cost?

COMMISSIONER BEEN: There really--besides the taxes that are foregone on the 421-a tax exemption program, are there any other costs?

CHAIRPERSON WILLIAMS: Yeah.

COMMISSIONER BEEN: There may be instances in which a building is both getting a 421-a exemption and HPD or HDC or HFA are providing other subsidies. Right? There may be instances in which that is happening.

CHAIRPERSON WILLIAMS: Outside of the trust fund?

COMMISSIONER BEEN: Yes, completely separate. The Trust Fund is really off to the side here. It's not, you know, it's not paired with the 421-a tax exemption, right? So we can use the money in the 421-a Trust Fund for something that doesn't necessarily get a 421-a tax exemption. Those aren't paired together.

CHAIRPERSON WILLIAMS: Help me understand the relationship between the Battery Park City [sic] funds and the Trust Fund.

COMMISSIONER BEEN: So, there are actually two trust funds. One is what I just described, what we call the 421-a Trust Fund. I don't actually know what it's called that. Maybe somebody with history can tell me that. The other one is called the Battery Park City Trust Fund. Okay, my understanding is that both are actually funded with money from the Battery Park Authority? You know, Brad--sorry, Council Member Lander was here when this was all done and I wasn't. So maybe he could shed some light on this. But there are two different trust funds often mushed together, okay? So I'm talking about what is called the 421-a fund, and we use that money to subsidize affordable housing, totally separate from the 421-a Tax Exemption Program, which the 421-a Tax Exemption Program doesn't have to have any other subsidies. Sometimes it does, most of the time it doesn't. So that's--they're two separate things.

CHAIRPERSON WILLIAMS: And so, what do you use the Battery Park City Trust Fund for?

COMMISSIONER BEEN: For affordable housing. So that's the--

CHAIRPERSON WILLIAMS: [interposing] But not necessarily connected either to 421-a?

COMMISSIONER BEEN: No. I mean, usually if we're subsidizing a building depending obviously where exactly it's located, but usually if we're subsidizing a building, it is getting 421-a exemption, because that is part of the subsidy that’s going into it.

CHAIRPERSON WILLIAMS: So, there were new areas added to the GEA in 2006. First, do you have any idea how the areas were chosen? Like, the one that jumped out of me most surprisingly was East New York. Like, I can imagine adding that now. I was surprised to see that added in 2006. Do you know what the--how they chose the different areas?

COMMISSIONER BEEN: How to say this politely? There was a boundary review commission that was composed of people who were thought to be experts in the real estate market, affordable housing, etcetera. They recommended boundaries that they believed made sense in terms of the strength of the market to where building was happening, etcetera, right? Those boundary recommendations, those boundary--you know, the boundaries that that review Commission recommended were then amended in the legislative process in Albany. I don’t--can’t speak to what was in the minds of the people voting for amendments in Albany, right?

CHAIRPERSON WILLIAMS: I see.

COMMISSIONER BEEN: And so the amendments, and with the original boundaries being recommended, and then the amendments some people would argue left a bit of a mess.

CHAIRPERSON WILLIAMS: How many units have been developed in the new areas since 2006?

COMMISSIONER BEEN: Okay, in the areas, so let me just--sorry, let me look for my chart here. Alright, in the--well, I don’t have it broken down by new areas versus old areas. We could combine several of those slides that you saw showing what was happening inside the GEA and outside of the GEA and where it was happening, but that would require a fair amount of GIS matching up. So, I don’t have it broken down in exactly that way. I mean, I can--you know, that--let me go back to--

CHAIRPERSON WILLIAMS: Do you know how many units were built inside the GEA as a whole?

COMMISSIONER BEEN: Yes. So, whoops--sorry. So, this shows--I mean, these are the changes that were really made. These are the applications that are really coming in after those changes were made. And so what you see in the red is the units that were inside that were--for which we are receiving applications where the units are inside the GEA, right? And if you add that up, it's about 300 to 350 units applied for--I'm sorry, 3,500 units applied for inside the GEA versus the total units, which is the amount in blue.

CHAIRPERSON WILLIAMS: How much is the total units?

COMMISSIONER BEEN: Pardon? So I'm sorry, I don't have the little thing. So I can add it up eyeballing it, but it's about 12,500 in 2009, about 8,000--and somebody be adding this up, please, Baaba. So about 12,500, about 8,000, about 5,000, about 7,000, and about 5,000 over the years. So, that is 20, 27, 34, about 39,000.

CHAIRPERSON WILLIAMS: So, 39,000?

COMMISSIONER BEEN: Total units.

CHAIRPERSON WILLIAMS: And 3,500 inside the GEA?

COMMISSIONER BEEN: And, okay. So let me add that up again. So, 5,000, about 3,000, about 2,000, so that's 10,000. So I'm sorry, I--10,000 and then back up to about 14, 15 in the GEA.

CHAIRPERSON WILLIAMS: 14,000?

COMMISSIONER BEEN: So, okay, so here's my numbers, 20--42,000 total produced between 2009 and 2014, which this graph doesn't include. So 42,000 units were produced and I don't have the number of those that were in the--specifically in the GEA, but I do have the number that resulted in affordable units, and generally speaking if they are in the GEA they're producing affordable units. Sometimes outside of the GEA are also producing affordable units, so it's not quite exact match or an exact comparison and there were about 7,600 of those since the boundary changes.

CHAIRPERSON WILLIAMS: So, of the 42,000, only 7,600 were affordable units.

COMMISSIONER BEEN: Were affordable.

CHAIRPERSON WILLIAMS: And the definition you know is under 165--

COMMISSIONER BEEN: [interposing] No, no, no.

CHAIRPERSON WILLIAMS: So it's 60 percent?

COMMISSIONER BEEN: No, for--if it's in the GEA and it's being built without our subsidies, without substantial governmental assistance, then it has to be at 60 percent AMI. If it’s being built with our subsidies it can be up to 120 percent of AMI. If it is onsite and less than or equal to 25 units, if it’s onsite and more than 25 units, then it has to be at or below 120 percent of AMI, but with an average of 90 percent AMI.

CHAIRPERSON WILLIAMS: So, it says that most of these--if it has substantial government assistance the average was about 90 percent AMI, is that correct?

COMMISSIONER BEEN: Not--yeah.

CHAIRPERSON WILLIAMS: So a family of four, that’s roughly about 80,000 dollars?

COMMISSIONER BEEN: Yes. If I can get my handy dandy cal--chart. For a family of four, yes. A 100 percent of AMI is 83,900, so 90 percent of AMI is going to be 75,510.

CHAIRPERSON WILLIAMS: Okay. That’s from 2009. So you don’t have the numbers from 2006?

COMMISSIONER BEEN: So, as many people will recall, in anticipation of the law changing, the projects were grandfathered into the old system. If they had, were in the ground, if they had footings in the ground by June of 2008, and so in those first years they were mostly--what was coming through the pipeline were things under the old rules. So, that's why what you see coming online under the new rules is really 2009 and beyond.

CHAIRPERSON WILLIAMS: But--so I don't want to keep repeating. You don't have breakdowns of AMI for any of the units, of how much was built at what AMI, is that correct?

COMMISSIONER BEEN: No, I do. I just didn't bring that chart for the 20--or for any of these, or for the 29 that were financed that you asked me about under the housing finance--under the trust fund.

CHAIRPERSON WILLIAMS: Do you have a breakdown--

COMMISSIONER BEEN: [interposing] I can provide that, but I don't--it differs for each project. We're happy to give you those numbers.

CHAIRPERSON WILLIAMS: Wait, it's--I think it's critical to the question of what's being well--what's being built at what AMI.

COMMISSIONER BEEN: I'm happy to provide that, but I just want to emphasize that by law if they're getting the 421-A benefit, which is what we're talking about here, if they're inside the GEA, then if they are getting the 20 year benefit, then by definition it's at or below 120 percent of AMI. If they're getting substantial governmental assistance, they're smaller than 25 units. If they're bigger than 25 units by definition, it's under 120 with an average of 90. If they're not getting any substantial governmental assistance, then it's required to be 60 or below.

CHAIRPERSON WILLIAMS: So do you have a breakdown of--so two things. One, do you have a breakdown how many had the SGA and how many didn't?

COMMISSIONER BEEN: So--

CHAIRPERSON WILLIAMS: [interposing] And then two, that is still a bandwidth that they can choose in between those.

COMMISSIONER BEEN: Sure.

CHAIRPERSON WILLIAMS: So, if we're talking about either ending it or reforming it, it'd be good to know what exactly has been built?

COMMISSIONER BEEN: I can, like I said, I can give out that chart for each of the projects.

CHAIRPERSON WILLIAMS: And do you have the breakdown of which has SGA and which didn't?

COMMISSIONER BEEN: I have that breakdown. I don't have that with me. You mean, the question is of all of the units that got a 421-a benefit, how many of them also receive substantial governmental assistance?

CHAIRPERSON WILLIAMS: Yes, because that would help me figure out at least a little bit of the AMI, but we don't know that. You don't have that with you now?

COMMISSIONER BEEN: I do not have that with me.

CHAIRPERSON WILLIAMS: Okay. Okay. In your view, has the program been successful?

COMMISSIONER BEEN: We are reviewing that. I think it's very clear that the program can be made more efficient and more effective. The question, has it been successful is--one had to unpack that question, right? Because as I mentioned at the beginning, the program initially was not meant to be an affordable housing program, right? So, we have to separate out in terms of affordability and looking more recently, then the question can be, are we getting enough bang for our buck, right, in terms of affordability, and I think those are the kinds of issues that we are using, you know, modeling to try to--to really understand better. But I think it's clear that the program can be made more effective and efficient, the production of affordable housing.

CHAIRPERSON WILLIAMS: As the program exists now, should it be renewed?

COMMISSIONER BEEN: We are looking at that. I think that's a hard question to answer in the abstract. I think that if it could be improved to be efficient and effective and produce the kinds of affordable housing and neighborhoods that we want, then, you know, we're analyzing do we really need it. Is it the most effective tool to reach that? And those are the kind of questions that we're still analyzing.

CHAIRPERSON WILLIAMS: So, what I'm--I'm trying to make it less abstract. So, I'm trying to say as it exists right now, if there were no changes made, should the program as it exists right now be renewed knowing what you know about the program?

COMMISSIONER BEEN: Well, that depends on lots of factors that I can't answer in the abstract.

CHAIRPERSON WILLIAMS: Like which factors?

COMMISSIONER BEEN: What else is in the balance and in negotiation that undoubtedly will take place over whether or not it is renewed.

CHAIRPERSON WILLIAMS: Okay. Okay. I'm going to probably come back with questions. I'm going to ask my colleagues to have five minutes this round and we'll see how long it goes. So if we can ask the sergeant to put five minutes for questions for each Council Member, and the list that we have now for questions is Council Member Rodriguez, Reynoso, Rosenthal, Cumbo, Lander, and then Levin. So, first we have Council Member Rodriguez.

COUNCIL MEMBER RODRIGUEZ: Thank you, Chairman. Commissioner, first of all, we need to understand the, you know, the level of frustration of so many New Yorkers on this program. I believe that, you know, what they believe is that in many cases, the only requirement for developer to get 421-a was donate money to politicians or commit not to build affordable housing. And we believe that that perception is something that we inherit. I believe in this administration, I believe in this leadership, and I believe that you are committed to expand the plan to build affordable housing through the whole city, and we will be here working with you with that plan.

COMMISSIONER BEEN: Thank you.

COUNCIL MEMBER RODRIGUEZ: However, we think that especially the real estate, the business community who are behind the real estate, even if they are here or not, they should know that we don't look at them as the enemy. We look at them as partners, and we know that there's many of them that they can go to sleep in peace at night, but we have to clean the house everywhere, and there has to be clean in the finance world, have to be clean in government, have to be clean in the whole community. So for me it is like as someone that represent one district that we have Community Board 12 that has the highest regulated unit in the whole state of New York, and in the last administration, we only received 250 affordable housing. That's all we got in 12 years of the previous administration. In the least, we can see that there are 20 developers who benefit from 421-a in my district, and yet they did not create one unit of affordable housing. That's a fact. So the question is, how can we now trust that this program can work? And my question to you is, and I, again, as I say it's coming from a place where--and I can give you the name, the addresses. I know that you have it there. It has some condo that benefit. We had 136 Kingston [sic] Avenue, Nadie Nagel [sic] Avenue. We have 210 Bennett Avenue. We have 4467 Broadway Avenue. We have 636 West 187th, and we have at least other and other. Those address of building that they benefit from 421, however, they were not accountable to build affordable housing in the previous year. My question is, with the reform and the changes that we expect to see, where--in which direction you think that the public should be invited to give their feedback? What should be the recommendation that we expect to get from the public in order to build a trust on this problem? Can you take us to some ideas about even though you cannot on the specific on what are the changes that we should see on the 421, can you give us some ideas?

COMMISSIONER BEEN: So, is your--I don't--sorry. I don't remember is all or part of your district outside of the GEA?

COUNCIL MEMBER RODRIGUEZ: We got zero on the map.

COMMISSIONER BEEN: So--

COUNCIL MEMBER RODRIGUEZ: But we did not get affordable housing.

COMMISSIONER BEEN: And they are getting 421-a benefits for projects that they built before you were inside the GEA, or we don't--So, first of all we should--

COUNCIL MEMBER RODRIGUEZ: [interposing] From--they didn't not build. They did not use a 421 to build. They got benefit from the 421 on those building that I mentioned, in 20 building in my district--

COMMISSIONER BEEN: [interposing] Oh, I see, you mean--

COUNCIL MEMBER RODRIGUEZ: [interposing] but they did not build any affordable housing. Neither they keep affordable housing in those building.

COMMISSIONER BEEN: Okay. So I want to get those 21. I want to understand exactly what happened, but to your broader--and so let's talk about those 21 and I'll get that list from you. But I think the broader question is, so there's lots of criticisms of this program. There's lot--and I want to make clear, it's not a program that I asked for.

It’s not a program that, you know, was on this administration’s watch. It’s a program that was, you know, legislated from Albany, obviously with the city’s involvement. So I’m not here to defend the program. I’m here to ask how could it be made better. How could it be made more efficient? How could it produce the kinds of affordable housing that we want to see happen? So, in terms of building trust that that will happen, I think we would really need to explore the kinds of changes that would say where you build, whether or not you build affordable housing shouldn’t depend upon some random boundary change or some GEA that may have made sense at one point, but may not make sense over time, doesn’t have any--you know, doesn’t--hasn’t been changed, etcetera. So, I think that would be the first question that I would ask is why did they not have to produce affordable housing. If it’s a problem with the GEA, then that needs to be changed. If it’s a problem with the certificate program, which might be implicated here, the certificate program has been shut down. Should we revise it? That’s a question that, you know, that we’re working through. It is a problem of lack of enforcement, if they were supposed to build affordable housing and they didn't, then you know, that's a major problem and we should put into play steps to make sure that that never happens. I don't think that's the case, but you know, but we should analyze those 21.

CHAIRPERSON WILLIAMS: Thank you, Council Member. Commissioner, just to follow up, are you aware of buildings that are--421-a projects that will build in the GEA that did not produce any affordable units?

COMMISSIONER BEEN: No.

CHAIRPERSON WILLIAMS: Alright. Because we have some maps that were given that do show some projects. So we want to reconcile.

COMMISSIONER BEEN: That were supposed to produce? Yeah, so we got to peel this apart, because of all of those complexities. I'm sorry, I don't know what happened here. But if we got back to the chart that showed the different time period, you know, the different exemption periods, sometimes a project could be in a GEA and be getting negotiable certificates.

CHAIRPERSON WILLIAMS: Cause it was built before GEA was--

COMMISSIONER BEEN: Right? So, they wouldn't be building onsite, but they would be in theory, financing the production of affordable housing elsewhere through that negotiable certificate program.

CHAIRPERSON WILLIAMS: How many negotiable certificates are still in existence?

COMMISSIONER BEEN: I wish I knew. The problem is that that was a private program, right? Private developers could build, could sell those negotiable certificates and could hold them. My understanding--so we have no way of tracking them. That was the way the program was designed, was to be a free market program that we have no involvement in. So, we have no record that shows us how many if any negotiable certificates are outstanding.

CHAIRPERSON WILLIAMS: We have no idea?

COMMISSIONER BEEN: We have--I mean, anecdotally people tell me that if there are any, there are very few, but we have--it's a free market, just like I don't know how many boxes of Cheerios are on the shelves in groceries stores, I don't know how many negotiable certificates developers might have out there.

CHAIRPERSON WILLIAMS: Alright. I don't know if it's the best comparison.

COMMISSIONER BEEN: Sorry. I had to have my Cherries this morning, you know, so sorry.

CHAIRPERSON WILLIAMS: Do you know how many certificates were given?

COMMISSIONER BEEN: I know that 68--let's see. So, these again, this after the law changed, so projects after June 30th, 2008, which was the grandfathering period, there were 68 projects that used negotiable certificates for 2,528 units.

CHAIRPERSON WILLIAMS: SO those units could have been built with no affordability?

COMMISSIONER BEEN: No, onsite affordability.

CHAIRPERSON WILLIAMS: But the offsite was to build later at a later take? So, in fact, they could have been built within the GEA, and to this date we may not have any affordability because they weren't use, those certificates weren't used for another project. Is there a time frame in which the offsite units have to be built?

COMMISSIONER BEEN: The offsite, in order--Nancy, maybe you could help. Nancy Batterman is our legal expert on all this. The certificates had--the CFO for the unit, providing the certificate had to be completely before the market rate. So, those 2,528 units we know that there is an affordable unit offsite that matches that certificate.

CHAIRPERSON WILLIAMS: Okay.

COMMISSIONER BEEN: What we don't know is were there affordable units built that generated certificates, somebody bought those certificates and is holding them. That is what we don't know.

CHAIRPERSON WILLIAMS: Say that again, because that second part is what I was thinking, that somebody's holding them.

COMMISSIONER BEEN: Right.

CHAIRPERSON WILLIAMS: The first part sounded like somebody can't hold them. So say that again.

COMMISSIONER BEEN: No. Okay, so if I am a developer in, you know, let's say south of 110th Street and I want to buy a negotiable certificate, right? I have to use a certain number of negotiable certificates for every unit in south of 110th Street that I'm going to get a 421-a exemption for. When I buy a certificate, that certificate is for a unit that has already--an affordable unit offsite that has already gotten it's C of O, okay? However, there could be certificates. So, a unit let's say was built in, you know, wherever in another area. It was built. Somebody got a certificate for that, but is now just holding that certificate hoping that somebody will want to pay a lot of money for that certificate so that they can build south of 110th Street and get the 421-a exemption. Right? So, it is possible that there are those unused certificates still out there. Anecdotally, I hear that if any, it is very few. But I have no way of knowing that because it is a private market transaction.

CHAIRPERSON WILLIAMS: There's been a change in the question order because two Council Members asked for a change. So the order is now Reynoso, Lander, Cumbo, Rosenthal, and Levin. Council Member Reynoso?

COUNCIL MEMBER REYNOSO: Thank you, Chair and thank you, Commissioner for being here with us today. This is very important, especially I'm from--my district encompasses Williamsburg, and I was looking at the Brooklyn, your slide eight. Can we get to slide eight, can that happen?

COMMISSIONER BEEN: It may test my technical ability, but let me see.

COUNCIL MEMBER REYNOSO: Right there, right there. SO, when I looked at that and I saw Brooklyn, I thought that that was--the rate of displacement in Williamsburg by year, not necessarily the use of 421-a tax credits. Just to be perfectly honest, we've lost over 14,000 Latino residents, specifically residents over the last about 12 years. So, it's pretty consistent with the development of market rate housing how fast the people are displaced from Williamsburg. And if there's ever a statistic or a slide or something that we can visually see that speaks to the correlation there, I think this it. And I just want to be clear, this is a HPD graph, not a New York City Council graph or something that I put together. 421-a was made to assist in the development of housing or the development of housing in areas where there was a lack of development in like the 1980's maybe where we didn't see--it was almost at a standstill I heard somebody say at one time. But now, in this age, especially in Williamsburg, there is absolutely no need for 421-a in Williamsburg. People develop--

[applause]

COUNCIL MEMBER REYNOSO: We can do this, guys. People develop at astonishing rates, and we're netting the same amount of affordable housing in Williamsburg that we're doing in, you know, in East New York for example where the value or the real estate market are completely different. There's almost no--it's black and white with 421-a. there's no middle area, no grey area to go through, and I just feel a little--I just want to say I'd appreciate if there was something from the administration that would have outright said that absolutely, the way 421-a is right now is not working, and we need to do something about it. Instead, it's almost like you're going through the motions, and that's concerning because 421-a has failed my community. It has displaced many residents in my community while allowing for developers to outright steal the show. There's luxury development happening left and right. Studio apartments for 3,500 dollars in Williamsburg, and all through the use of 421-a tax credits. My community is in need of more affordability and more affordable housing. 421-a is not the way to do that in my community. It is absolutely not the way we're getting it done, and I just hope that this administration really puts forth an effort to use new programs or new incentives to make it happen and that 421-a doesn't continue to be the way that you guys move. And I would like to speak to Williamsburg now, my question, with the two minutes that I have left. My question is, in places like Williamsburg, what value does 421-a have?

COMMISSIONER BEEN: Okay, so again, I think I actually made very clear that I'm not here to defend or apologize about the program. I articulated our goals for reform. I think I've actually been quite clear in saying that the program needs to be improved. So, I think we're on the same page about that Council Member. In terms of Williamsburg, I think one thing that we have to--the thorniest, one of the thorniest issues about 421-a is whether or not 421-a is--how important 421-a is to rental buildings. Right? There is a concern that I think has some merit, although we are still running the numbers and really trying to understand the market and the way that it's interacting with the market, but there is some concern that without 421-a, which in part may address some of the inequities in the way that rental buildings are assessed and taxed, that you would end up with only condos in Williamsburg and in many other areas, and I think that’s the hard question. Right? I don’t--as I said, we’re trying to figure that out. It’s a very complicated question because it’s really a question about sort of land prices and the counterfactuals, but I think that’s the hard issue about 421-a in a place like Williamsburg.

COUNCIL MEMBER REYNOSO: I think my time is going to be up in a couple of seconds. I just really want to reassess what we’re trying to do here, and when we have a tale of two cities and 421-a has contributed to that, and it speaks directly to the foundation of--or to the principles that Mayor de Blasio ran on that he’s trying to address, and 421-a has probably been like a virus that has infected the city of New York, that he should look to cure not improve. So, thank you.

COMMISSIONER BEEN: Okay, I do--may I just answer that? I do want to say though that certainly this administration is very, very committed to try to address the displacement problem that you raised, which we think is very, very serious and we are committed to trying to do everything that we can through the kinds of tools that we're developing. And so one of the reasons why, you know, we are--I can't tell you, the team both at HPD and HDC that have been working for months trying to figure really what 421-a is doing, how it's working, how it's being made to work better. We've looked at a gazillion different levers, and we're still in that process, but also at the same time, we're really trying to improve and design new tools to try to prevent the kinds of displacement that you're worried about and that we're worried about. That's why we formed the neighborhood strategies unit. That's why we have neighborhood partnership division within that unit that is really just trying to focus on those displacement issues. So, I very much hope that we can work together on that.

COUNCIL MEMBER REYNOSO: Thank you. And working together is important. I haven't been--you know, I would have appreciated some calls or maybe even have some input as to how that's working, given that my district has suffered the most displacement in the City of New York over the last 10 years.

COMMISSIONER BEEN: You will get those calls. The Assistant Commissioner in charge of the neighborhood partnerships has been on the job, I think, three and a half weeks. So we're gearing up and trying to get our way around to districts that are seeing a lot of displacement. So you will be getting that call.

CHAIRPERSON WILLIAMS: Just to clarify, I think we are--we seem to agree on some, which is that we're both kind of saying the program isn't working and needs some reforms at minimum, but to the Council Member's point, I think many of us at least are willing to say now that as the program is currently constituted, it should not be renewed, and I don't think that's something that the administration seems to be in agreement with, if I understand correctly the answer to the question I posed.

COMMISSIONER BEEN: I am neither going to agree nor disagree with that statement. I'm going to say that I don't think that's a productive way to think about the issue right now. We're entering into discussions obviously with Albany, with a lot of stakeholders and to, you know--I just don't think that it's a productive, you know, line in the sand to draw.

CHAIRPERSON WILLIAMS: I think it's productive because we're seeing the way it exists right now, I don't think anybody says that that's good. So I might have been talking about whether it's not reformed or what the reform should be. But I think everybody could agree right now as it is constituted, just the way it's constituted without changing. I haven't even got to what the changes should be. I don't think if there are no changes. I think it might be safe to say, you know, if there are no changes or some qualifying statements that you can add, but to say that we can't say the way it exists is bad and shouldn't be renewed doesn't seem to be a line in the sand. It seems to be something that makes sense. So I think it is productive, and also for productivity, it would be good to have some more of the information that we need to have the conversation about what the reforms might be. So, there are--I think we try to communicate some of the things that we may be interested in, and we're going to try to do a better job of giving more time, but I think there are some information on some of these hearings that kind of make sense. So it'd make sense if we're going to have a 421-a hearing to have a breakdown of the AMI’s in the projects if we’re going to talk about reforms. So that also makes sense to me, and I think would help lead a more productive conversation. I just want to acknowledge Stan Negowski [sp?]. He started with WNYE and is retiring with the Mayor’s Office of Media and Entertainment. NYC Media, after 33 years, he’s in the Chamber right now. Stan where are you? Stan?

[applause]

CHAIRPERSON WILLIAMS: He’s covered many, many council and mayoral events, and I just want to say thank you for your service, and congratulations and enjoy your retirement. Next, we have Council Member Lander, then Cumbo, then Rosenthal, then Levin.

COUNCIL MEMBER LANDER: Thank you, Mr. Chairman. Thank you, Commissioner. And I do want to say thank you. You know, I think that the way you outlined the concerns expressed about the program in your testimony, maybe we could go back to that slide for a minute, you know, is a good fair assessment of concerns many of us have been expressing for a long time that it doesn’t produce enough affordable housing to justify the one billion dollar expense, that it is largely in places where it's not needed to spur production, that they are at enormous number of places where we give the benefit solely for market rate housing without any affordability and that the double dip especially in areas where inclusionary is applied doesn't make any sense. So, you know, you hear the frustration, but I think I want to, you know, appreciate what I think is a fair presentation and articulation of the concerns. You know, I served as you know on the 2006 taskforce and I'm having a lot of flashbacks. I think I can clarify just a couple of things. The trust fund, the idea was in 2006 that the reforms we made to the program would result in the city collecting more tax revenue on market rate development that would have received 421-a benefits. That was why 200 million dollars of city capital was sort of put aside. I was partially to replace the certificates program as well, which was radially inefficient, 15 cents for affordable housing for one dollar of foregone tax revenues. But we don't really know how much revenue we have collected as a result of the changes we've made. You know, whether that's 200 million dollars that was one time on the annual one billion dollar loss. So, you know, I think that's a lot of uncertainty we bring.

COMMISSIONER BEEN: Right.

COUNCIL MEMBER LANDER: A second problem I think we have is how long it took for those changes to go into effect. So I think to Councilman Rodriguez's question, took us a year after we made the changes at the city level before they were in effect. Then we gave people an initial three year construction period, and then it was extended another three years administratively in the prior administration by HPD and a few of us protested that decision at the time, but that means since we made those reforms in 2006 an enormous amount of solely market rate housing has been built within the geographic exclusion area, not necessarily through cheating, but through a seven year essentially grandfathering program. And so I think actually we've seen very few units of affordable housing created through the GEA or 2006 reforms, and that's without reference to the five buildings that got a special 421-a up in Albany, and you know, in a matter that's being investigated as we all know. SO, that's just a lot of skepticism people bring to the table.

And then as you also know, I think what people feel like we're left with are two programs, one which is a subsidy for all market rate development in gentrifying neighborhoods. So that's Council Member Reynoso's concern. They might look like at a board city wide scale we need more housing production, but in the neighborhoods where we're mostly subsidizing it, those are gentrifying communities where new production is far beyond what people can afford, and then on the 80/20 side it's a very expensive way of producing 80/20 units. All that said, I really appreciate the data you're bringing to the table and hope as the Chair said we'll get more of it. And I guess my questions really go to how we're going to evaluate whether under any circumstances we need it. You started to address this and it's very difficult to figure out, but I guess one--my primary questions are around how we understand, even if you buy the argument that we want to see more market rate housing production in the city as part of increasing units overall, which a lot of people here really don't feel. There's a good argument the vast majority of market rate units getting 421-a don't actually need it. And so--and one challenge is even understanding where the benefits go. Are they winding up in the hands of an end-user or a tenant or a condo owner who's paying less in taxes? Are they winding up in the hands of a developer who is able to produce something they might not? Or are they simply subsidizing the land price escalations that are, you know, part of the affordable housing problem, in which case it totally makes no sense. We're paying land owners to raise the cost of their hand. So how are you looking at this set of questions? What is its real value to housing production at all in the current market?

COMMISSIONER BEEN: As you point out, it's an extremely complicated question, because you're essentially asking a counterfactual. What would have happened over this period of time had we not had 421-a, and would that I had both a crystal ball to do the kinds of projection that you all like and also a retroactive crystal ball to reinvent in the world and see how it played out, but I don't. So, how do we think about that? I mean, the way that we're really trying to think about it is we're going back. We're looking at actual deals that got done, and we're saying--we're running the numbers. We're doing all the analysis to say, okay, would this have worked had there been no 421-a? Right? And so then that at least gives us some clue about whether or not the existence of 421-a actually made a difference. Now, of course, you're very smart, and you're going to say back to me, "But if there had been no 421-a, maybe land prices would have been cheaper." You know, there are so many variables that would be changing if we had to, you know, if we could run a perfectly experimental world and have a New York City that had 421-a and a New York City that didn't, we'd know all those things, but we don't have that. So, trying to peel that all apart is really what we're trying to do, but it's very imperfect.

COUNCIL MEMBER LANDER: I'll stick around for a second round to follow up on questions.

COMMISSIONER BEEN: And obviously, any ideas that you or others have about exactly what kind of analysis would help us get to that. I mean, we are dealing with a counterfactual. What would have happened had we not had 421-a, and therefore, what can we project would happen in the future if we didn't have 421-a, and both of those are very difficult questions.

COUNCIL MEMBER LANDER: And I'll save my questions for the second round. I do think that land price escalation is such a, you know, that is such a big part of our affordability problem and the concerns that we're spending a billion dollars a year in a way that largely fuels it, you know, it's something to sit with on a program that costs a billion dollars.

COMMISSIONER BEEN: Absolutely, and that goes back to, you know, some of what we were talking about earlier because one of the issues is if we were to end 421-a tomorrow, would land--how if at all would land prices adjust? And in part, that has to do with the difference in the way that rentals and condos are treated by Albany and that is something that is just in the mix.

COUNCIL MEMBER LANDER: And I'll ask my questions about that on the--I mean, it sounds to me like you share, not saying it out loud, but the argument for 421-a in the condo market. I have to say it doesn't make any sense to me at all at this point, but I'll ask my questions about that on the next round. I apologize, Mr. Chair.

CHAIRPERSON WILLIAMS: Thank you.

COMMISSIONER BEEN: Sorry.

CHAIRPERSON WILLIAMS: I know Council Member Cumbo has requested to go a little later. So, we have Council Member Rosenthal and then Council Member Levin.

COUNCIL MEMBER ROSENTHAL: Thank you, Chair, and thank you, Commissioner Been, for coming today. You know, I really want to express my appreciation to you and to the advocates for bringing out all the historical issues that sort of got us to the place where we are now, and what I'd like to talk about are two issues that we're dealing with on the Upper West Side. The first one has to do with the length of time for the affordability. So--sorry. I want to appreciate your offer to take suggestions from the Council Members and to hear what our experiences in our districts. So in your crafting of what you're bringing to Albany for a redo, here are my two thoughts.

COMMISSIONER BEEN: Okay.

COUNCIL MEMBER ROSENTHAL: One is, has to do with the length of time for affordability. Right now, on the Upper West Side we're looking at because of the Trump Tower buildings that went up 20 years ago, we're looking at roughly 2,500 units coming out of affordability within the next five years.

COMMISSIONER BEEN: I'm sorry, how many?

COUNCIL MEMBER ROSENTHAL: Roughly 2,500. I'm happy to verify that with your office. So let's say a large number of units where we have tenants now calling our office and telling us that they're being harassed now in a variety of ways, all of which are illegal and we're certainly pursuing that in our office, out of their apartments already in anticipation. You know, the landlords are--the owners are licking their chops. So the first thing that I want to impress on you is anything less than permanent affordability wont' work for us.

COMMISSIONER BEEN: Got it.

COUNCIL MEMBER ROSENTHAL: Let the record note that the Commissioner is nodding with enthusiasm.

COMMISSIONER BEEN: No, I heard you and that I understand, believe me, the call for permanent affordability.

COUNCIL MEMBER ROSENTHAL: Well, and also it goes to the point that was made earlier that the money that we're losing now in tax abatements, we could be using that money to help those tenants who are going to be and are currently being harassed out of their homes, and we don't have the money for it in the city's budget. So we're sort of stuck with what we have. The second point in want to talk about is to pick up on the point that Council Member Lander just raised and what Council Member Levine dubbed this morning as the billionaire boondoggle, and I really want to emphasize that over the past five years the building that's been going on in the West Side, it's just been ridiculous that any subsidy has been granted to these developers at all. So, as you think about affordable housing and what the tax credit might look like going forward, you know, there was no need for the developer at One West 57th [sic] Street, for example, to get--you know, they were allowed as you described to purchase the affordable housing certificate, and because of that and because of what they're allowed to do, you know, we have the situation that was reported this week and has been reported over the last six months where somebody building a 100 million dollar apartment will only be paying roughly 13,000 in taxes when they should be paying, you know, 100,000 or so in taxes every year.

And that's the one example what is resulting in the billion dollar loss to the city. So I want to emphasize that as you fix it, please keep in mind, you know, that areas that don't need it, don't need to incentivize developers. We should be instead downzoning and then through our negotiations I believe, you know, requiring that affordable housing be put in these building without any tax subsidies whatsoever. So that brings me to my question. In 2010 we know that five developers were slipped in under, you know, in the 11th hour because they purchased these tax credits to build and get, you know, a tax--be able to sell the apartment with the property tax abatements. Do you know how many of those five buildings have now asked for those abatements to go through? How many of the five? I hear it's two buildings.

COMMISSIONER BEEN: That--my team that does the 421-a applications is headed by a wonderful person, Miriam Cologne [sp?] and Elaine Toribio [sp?] who is the head of the 421-a program, and through their nodding they are telling me that two is correct.

COUNCIL MEMBER ROSENTHAL: Okay, can you get us the addresses of those two and can you get us the addresses of the three other? And do you have a sense of the timing for when the other three will come on? No?

COMMISSIONER BEEN: We have no way of knowing when the other three would come on. It's not--right, it's not within our control.

COUNCIL MEMBER ROSENTHAL: Okay.

COMMISSIONER BEEN: So, but I want to be very clear, Council Member Rosenthal, that legislation was something that was, you know, is attributed to Albany. We had no role in that.

COUNCIL MEMBER ROSENTHAL: Oh, absolutely.

CHAIRPERSON WILLIAMS: Council Member?

COUNCIL MEMBER ROSENTHAL: Yeah, just--I'm sorry. Just--getting that evil eye. So wrapping it up. Yes, I wasn't saying it was the city at all. I mean, I very expressly said it was Albany in the 11th hour. But just as you are working with Albany, we want to make sure that that doesn't happen again, because those subsidies were just not needed.

COMMISSIONER BEEN: Well, I couldn't agree more, and I would nod until my head fell off, but I want to be also clear that we implement the program according to what the statute tells us to do, and we--

COUNCIL MEMBER ROSENTHAL: [interposing] Oh, sure, sure.

COMMISSIONER BEEN: have no control over what--if Albany decides to do something and tells us to do it, we have no power to say, "Sorry, we don't agree with that tax exemption."

COUNCIL MEMBER ROSENTHAL: Let the record show my head is nodding as well.

COMMISSIONER BEEN: Okay, great.

CHAIRPERSON WILLIAMS: Thank you, Council Member. We have Council Member Levin and then--Council Member Cumbo's not back, so Council Member Levin is the last one for now, and we'll--I think we have time for some second round and then Council Member Lander.

COUNCIL MEMBER LEVIN: Thank you, Mr. Chair. Thank you, Commissioner. I just have a couple questions about--I wanted to try to get a sense of whether the program is worth the tax revenue that we forego. Right? So, I mean, when it comes down to it, the justification for the program is affordable housing, right? So, are we creating--at least for me, the justification for the program is affordable housing. So are we creating enough affordable housing to make the value of the foregone tax revenue worth it? So, in order to do that, I'd like to ask you the most recent year where we could have like a clear snapshot, clear data of what was happening? Calendar year 2013, do we have enough data on 2013 calendar year or fiscal year 2013? Most recent year with kind of like current market conditions.

COMMISSIONER BEEN: Well, tell me what kind of data you're looking for, and then I can tell you whether we have it for fiscal year 13.

COUNCIL MEMBER LEVIN: I want to know how many affordable units were created in a single year with the 421-a, using the 421-a program. So taking out the other subsidies or other programs, how many 421-a affordable units were created in the most recent year that you have the data for?

COMMISSIONER BEEN: Okay. So, I can unpack the charts that we brought in the way that you described. I don't have it unpacked in that way.

COUNCIL MEMBER LEVIN: Okay.

COMMISSIONER BEEN: So, but I want to--so, there was a whole bunch in that question, and let me--

COUNCIL MEMBER LEVIN:[interposing] Okay, but I only have five minutes.

COMMISSIONER BEEN: Okay. But I have to say, right, it's very--your premise that the program is only about affordable housing, right, is not the premise of the people who made the program.

COUNCIL MEMBER LEVIN: But that's my premise.

COMMISSIONER BEEN: Okay. So, for your premise is it, you know, is the program let's say in 2013--so you're really asking the additional, the tax expenditure--

COUNCIL MEMBER LEVIN: [interposing] Right.

COMMISSIONER BEEN: for projects that went online in 2013.

COUNCIL MEMBER LEVIN: Correct.

COMMISSIONER BEEN: Versus the number of affordable units--

COUNCIL MEMBER LEVIN: [interposing] Right, and you could--

COMMISSIONER BEEN: [interposing] that those projects produce.

COUNCIL MEMBER LEVIN: And because my second question then is what is the value then of those projects that went online in 2013, their tax breaks, those specific project's tax breaks over the course, the lifetime of the tax break. So, as HPD is--

COMMISSIONER BEEN: [interposing] The value over time.

COUNCIL MEMBER LEVIN: Right.

COMMISSIONER BEEN: Yes. Okay, so we can construct that for you.

COUNCIL MEMBER LEVIN: Great, great. That's really--to me, that would be a way to look at it, because say it's 3,000 units and its 500 million dollars, right? Just I mean, just say. Then we could say our 3,000 units of affordable housing are they worth spending 500 million dollars on.

COMMISSIONER BEEN: Right.

COUNCIL MEMBER LEVIN: And so that's actually, I think, a really important way to look at it because there are advocates saying do away with the program, right? And if we do away with the program, that will save our city money. It will bring in additional revenue presumably. I mean, there'll be--

COMMISSIONER BEEN: [interposing] That is the 64,000 dollar question, right?

COUNCIL MEMBER LEVIN: Well, right. I mean, look, I don't buy the premise that developers, private developers, will not build without the 421-a tax break. I think if you--I mean, we know in 2008 developers sought to get in the ground prior to June 30th when there was a deadline, you know, and before that date they'll get the tax break and without doing affordable housing, and after that date they'll have to do affordable housing. We know which one they'll pursue if those are their two options. But if, in other words, if they have the option of doing without the affordable housing component, they'll rush to get in the ground before that date.

COMMISSIONER BEEN: Sure. But that doesn't tell you the question that you're asking. You're assuming--

COUNCIL MEMBER LEVIN:[interposing] No, no, right. The question that I'm asking--I believe that developers will still continue to build private housing in New York City if there's a 421-a or there's not, because the money's still there. I mean, developers, the real estate market's getting better than it was five years ago or four years ago. I mean, it continues to get better. I see building going on in my district at a considerably higher rate, and my district is ground zero for this. I represent Green Point and Williamsburg and downtown Brooklyn, ground zero for this issue, and I see every morning on my way to work I am an extra five minutes late because more people have cranes out in the middle of the street. So, it is happening right now. So, I think if we can follow up on that issue of how many units, affordable units, are created in a single calendar year, the most recent data, versus how much tax revenue predicted over the lifetime of those projects, that's something that I would like to see because we could get a clear picture then of what the, you know, what we're weighing this against. And then I do have one follow up question--

CHAIRPERSON WILLIAMS: [interposing] Council Member?

COUNCIL MEMBER LEVIN: on the second round.

CHAIRPERSON WILLIAMS: Sure.

COUNCIL MEMBER LEVIN: Thank you.

CHAIRPERSON WILLIAMS: We have been joined by Council Member Cumbo, so she will ask her questions if she'd still like to. We were joined briefly by Council Member Ulrich. We have been joined by Council Member Cornegy. For the second round so far we have Council Members Lander, Rosenthal and Levin.

COUNCIL MEMBER CUMBO: Thank you. I'm glad I made it just in time. I only have a few brief questions, and I apologize if this question was answered before. In reviewing 421-a and thinking about how we're going to revamp it, in that, the units that are already scheduled or the agreements that were made to schedule out in year 10, 15 years from now, 25 years from now, in revamping the program, what room or flexibility would you have to to turn those that are going to transition out in 10, 15, 25, 30 years, what room would you have to make those permanent, or is it that those would still be held to whatever contractual agreements were made, but moving forward you would work towards making it permanent?

COMMISSIONER BEEN: So, actually both. I mean, the units that received a tax exemption in the past, and that tax exemption is still, you know, they're still within their regulatory period we couldn't undo that. Obviously, that was a contract or a promise that was made. We couldn't undo that. The question though is going forward for those units, we could try to keep those affordable units, if they provided affordable units which we know they didn't, many didn't, but if they provided affordable units we can try to use our preservation tools to keep those affordable units affordable over time, right? Just like we do when a Mitchell-Lama expires out or those kinds of things, right? In addition, one of the things certainly that we would be looking at to Council Member Rosenthal's point is whether or not if 421-a were to be extended and improved, would it require permanent affordability going forward, right?

So we will do everything we can to make sure that units that are reaching the end of their regulatory agreement that could go market, those affordable units that could go market will be preserved as affordable. Right?

COUNCIL MEMBER CUMBO: What would you be able to do to legally make that happen because a landlord could opt to say, "I've transitioned out of the program? I simply don't want to continue." What recourse would you have or powers would you be able to say to keep those units within the program?

COMMISSIONER BEEN: So, I want to make clear, under the existing program, if there was a affordable housing provided, they are required to extend rent stabilization to those tenants for 35 years, or if it's a--if a tenant is in there during, you know, at those 35 years for as long as that tenant stays in. So, I just want to make clear, nobody would--even if the--even if the project reached the end of its tax exemption, those tenants in the affordable units may still enjoy the protections of rent stabilization. So just want to clear that up, because I may have confused that issue. Okay, so what do we do? We can't force any owner to stay in the program. However, we can provide incentives to try to keep them, keep the affordable units in the building, right? And so the kinds of things that we provide like we do for preservation across the board, is many times those units need rehabs, so we provide loans. We provide financing to help with the rehab in exchange for them staying in the program. We use incentives. We use moral suasion. We use persuasion about the headline risk of ending the affordability. We use persuasion about the role that the building plays in the community and its need for community support. We use every guilt trip, etcetera, that we have in addition to incentives.

COUNCIL MEMBER CUMBO: As persuasive as it is, it seems like a lot of these guilt trips have been effective at times, but also ineffective at other times, particularly in my district. I’m in Fort Greene, Clinton Hill, Prospect Heights, Crown Heights, Bed-Stuy which has become the epicenter of situations were landlords are not only even waiting for the program to expire, but are doing everything in their power to move tenants out.

COMMISSIONER BEEN: Right, and those goes to the need for, importance of some either longer affordability periods or permanent affordability. What I call real permanent which means that there's some cross-subsidies so that the city isn't constantly on the hook to infuse money into the program, into the project.

COUNCIL MEMBER CUMBO: Other question is why are developers permitted to double dip and triple dip by counting the same units towards the requirements for different subsidy programs?

COMMISSIONER BEEN: So, great question. That is something that we have said we are looking very hard at. And certainly we know because we took a very hard look at this in our projects that we just closed over the past calendar year. Sometimes there are projects depending upon the needs that we're trying to serve, the level of affordability that we're trying to reach, the depths of affordability that we're trying to reach. Sometimes there ae situations in which one incentive is not enough, and they have to be layered in some way. However, it is the position of this administration; it's certainly the position of HPD that when there is layering there should be some either additional percentage of affordability or additional depths of affordability achieved in answer to that layering. But there are some programs. So for example, if you are layering both, you're getting some inclusionary housing bonus and you're getting 421-a, our modeling shows that they are not equal. Right? So, you might not be able to say 20 percent for inclusionary and 20 percent for--or whatever the percentage is, and I just use those as examples. That there may have to be some overlap, but we are working very hard to try to figure out how that layering should work so that we're giving absolutely no more subsidy than is required to get that building done.

COUNCIL MEMBER CUMBO: Okay, thank you. And just in conclusion, this is a very quick question, when do you think your taking into account all of the hearings, all of the discussions, the--when do you think you're going to come out with your revised, revamped 421-a program where given all the conversations and the communications and the hearings and the articles, and the--

CHAIRPERSON WILLIAMS:[interposing] Council Member?

COUNCIL MEMBER CUMBO: proposals that have been submitted, when do you think you will see a revised 421-a program? And that's it.

COMMISSIONER BEEN: Yeah. I mean, we're working on it as hard as we can. We're working on it as fast as we can, but there are, as you know, a lot of moving parts and a lot of moving parts in Albany that we're trying to figure out. So, you have my commitment, we're doing it. We will get something as quickly as we think it makes sense in terms of what all is happening in Albany.

CHAIRPERSON WILLIAMS: Thank you, Council Member. I know Council Member Cornegy has some questions on the first round. I know Commissioner has requested, and we're going to be happy to try to honor to get you out by 12:30. I have some additional questions as well, so for the second round there are now three Council Members. We're going to drop it to three minutes, and that will be Lander, Rosenthal and Levin. Council Member Cornegy, five minutes.

COUNCIL MEMBER CORNEGY: Good morning, Commissioner Been.

COMMISSIONER BEEN: Good morning.

COUNCIL MEMBER CORNEGY: Thank you so much for coming. I, at the risk of these questions being asked prior to my arrival, I'm going to ask them anyway. Please bear with me. I'm just curious as to whether or not HPD itself has resources to assist tenants having issues or are all of the resources outside of the purview of HPD?

COMMISSIONER BEEN: I'm sorry. You mean tenants that are facing displacement, or?

COUNCIL MEMBER CORNEGY: Yes, tenants that are being forced out by all of these alternative methods by landlords.

COMMISSIONER BEEN: Okay. So we have, you know, both our Enforcement in Neighborhood Services Unit and our Neighborhood Strategies Unit are working very hard to try to prevent displacement to protect tenants. So, for example, one of the things that we know that landlords sometimes use, some landlords sometimes use, is they use--they let the unit fall into disrepair or indeed sometimes they create the disrepair by knocking out kitchens and horrific things like that. Our Code Enforcers are in those buildings writing violations, fixing those problems if they come up, if they can't get the landlord to fix them, taking those landlords to court often in cooperation with tenant's lawyers, the tenant advocacy groups. So, all of those things we are working very hard on. Similar, we try to watch the-- and we're watching very carefully, the abuse of the eviction process where we are trying to work with neighborhood groups. That's the work of the new Neighborhood Strategies Unit, which I think I described before you came. But that is the work, is really trying to work with the Legal Aid, Legal Services, all of the tenant advocacy groups, the neighborhood groups to work to make sure that displacement does not happen in particular neighborhoods.

COUNCIL MEMBER CORNEGY: And just so for mem, I don't know if tenants are getting that information. I had the, I'm going to say, pleasure of sitting on a two hour panel last night at Brick Arts [sic] about gentrification and this topic came up about landlords having their units in disrepair and those kinds of things. So, I heard from countless number of tenants who didn't seem to have the information on what they could do and who they could turn to. So I'm wondering what kind of outreach if any does HPD do to make tenants aware of their rights in this process?

COMMISSIONER BEEN: So--my office will follow up with you about that particular forum, which I didn't hear about, so I don't know that we were invited, but we certainly should have been there. We do tenant's nights. We do tenant protection sort of seminars. We work with the community groups, but as I said earlier, the--I'm very proud that we have a new Assistant Commissioner Brent Meltzer who comes from the tenant advocacy world who is heading our Division of Neighborhood Partnerships. HE's been on the job for three and a half weeks, so maybe you haven't seen him yet, but he is making the rounds, and he's hiring and staffing up so that we can have a very vibrant tenant protection and anti-displacement work. We have a Housing Litigation Division within the Office of Neighborhood--of Enforcement in Neighborhood Strategies that works very closely with the tenant organizations and tenant's rights group to try to address some of these systemic problems, but if there was a group that was talking about this and we weren't' there, we should have been.

COUNCIL MEMBER CORNEGY: My last question is, those of us Council Members who find ourselves, like Council Member Cumbo at the epicenter of this, what is your expectation of those members? What would you like to see from us as partners in this?

COMMISSIONER BEEN: On 421-a or on tenant displacement more generally, or both? Let me give you both. So, on 421-a, right, I really look to you all as the, you know--because of your incredible connections with the community to tell us what are the kinds of things that you're seeing happening on the ground, what are the kinds of abuses that sometimes occur that we need to be careful about as we think about whether to extend the program, how to improve it, all of those things, that kind of information is incredibly valuable to us. Similarly, on the displacement front, it's incredibly helpful for us to hear from you and for you to connect to your tenants to us so that we are hearing what's happening, so that we're figuring out strategies to deal with it. We're trying to work much more closely both with the tenant advocates community, which I have enormous respect for, and with our sister agencies. We've been working with the Department of

Buildings, with the Attorney General's Office, with the Tenant Protection Unit of the State, really trying to come up with new strategies and new tools for dealing with some of the kinds of displacement that we're seeing. The most important thing there, I just can't let go unsaid, is obviously what happens with rent regulation. And so, I need every Council Member to be working alongside HPD and working alongside the tenant community on the rent regulation issues.

COUNCIL MEMBER CORNEGY: So, myself and probably some of my colleagues will be reaching out to you on logistics as to how you'd like to get that information very shortly, offline.

COMMISSIONER BEEN: Terrific. Thank you.

CHAIRPERSON WILLIAMS: Thank you, Council Member. Just so I know for sure, there are three Council Members who want a second round, Lander, Rosenthal, Levin. Is that correct? So I want to close off the second round so that we can get the Commissioner out. So the second round we only have Lander, Rosenthal, Levin, and then that will be it, and I'll ask some closing questions. Can we set the clock for three minutes? And then we have Council Member Lander.

COUNCIL MEMBER LANDER: Thank you very much, Mr. Chairman. I'll try to go quickly. First I just want to pick up on this question of condos, which you sort of alluded to. It sounds to me like you're saying that when combined with an array of other factors, 421-a has essentially served to provide, to tip the balance toward condo development, and in some ways make it more challenging in similar situations to make rental buildings work, even though the rental buildings have 421-a on offer to them as well. Am I understanding you correctly?

COMMISSIONER BEEN: I think it's more than 421-a that's made, that's created an imbalance between condos and rentals. It's the tax system. It's a lot of things.

COUNCIL MEMBER LANDER: Yes. No, I said in combination.

COMMISSIONER BEEN: Yeah.

COUNCIL MEMBER LANDER: And obviously especially in the for sale circumstance where there's a good reason to believe that for the buyers what happens is that the price if you have a 421-a, the price is going to wind up at a higher level, at the maximum amount that the--you know, that the unit can be sold for. So, I just want to flag that as well, and as I said previously, to me, you know, the argument that there are some cases where rental development needs support makes sense. I find it hard to understand why we would be subsidizing market rate condos without any affordability through 421-a anywhere in the city, but I'm glad to know at least the analysis is taking place. A little more about the exits, because you spoke to this issue of 35 years with protections for tenants who are in place at the end of that period, but that's relatively more recent that HPD is requiring those things, right? We are still dealing with some buildings that were developed through 421-a long time ago who that had shorter requirements than 35 years and where if landlords put a particular lease rider in, they can evict the in-place tenant at the end of the regulatory period, and that even though those were a long time ago, their expirations are taking place today, right?

COMMISSIONER BEEN: That is my understanding, yes.

COUNCIL MEMBER LANDER: Alright. SO we have an old situation that creates real jeopardy for tenants. HPD has then changed the rules to provide better protections on units going forward, and now we’re debating whether we need even stronger protections in place.

COMMISSIONER BEEN: So I think I seem to have said something wrong.

COUNCIL MEMBER LANDER: If anything, I said something wrong.

COMMISSIONER BEEN: Okay. So I stand corrected. The 35 percent rent stabilization apparently applies even to those older units. But they’re--not 35. [Off mic] Alright, sorry. The tenants who are in place are still protected by rent stabilization, but the--for the affordable units not for the--remember, under 421-a both the market rate units and the affordable units were rent stabilized. The sitting tenant was protected, but the time changed, the length of the period changed over time.

COUNCIL MEMBER LANDER: But isn’t it true that in some cases, if landlords put a rider in the leases for the market rate units only.

COMMISSIONER BEEN: The market rate.

COUNCIL MEMBER LANDER: So you do have tenants even in place who can be evicted, but those were tenants in the market rate units. In all cases the affordable tenants--you have to come--

COMMISSIONER BEEN: I'm sorry.

COUNCIL MEMBER LANDER: Fair enough. It's a subtle distinction between--

COMMISSIONER BEEN: But--

COUNCIL MEMBER LANDER: being evicted and not having your lease renewed.

COMMISSIONER BEEN: But you know, lawyers are into--

COUNCIL MEMBER LANDER: [interposing] Fair enough. Okay. Okay. Alright, and then I just--my final comment just had to do with the politics here, and I think you alluded to it by noting that in Albany, you know, the 421-a renewal is going to be tied up with the rent regulation renewal, something that I was very glad to hear and I could see a lot of folks in the audience glad to hear that the administration is committed to ensuring our strong and preserved. You know, I have anxiety, you know, you've talked about developing a proposal for reforms to this program, and honestly, if you got to design and implement the reforms to the program I would have a lot more confidence than if it got done up in Albany, but that's not how it works. This is going to be done in a big ugly up in Albany, and there's no reason to be confident that what's going to come back to us--

CHAIRPERSON WILLIAMS: [interposing] Council Member?

COUNCIL MEMBER LANDER: is what you designed or what we want, and so I just want to flag, there is a city decision. Albany can make the changes. Then there is a city decision to be made about whether we want that program or not, and we can't make it today because we don't know where it's going to land in Albany, but I just want to make clear at least for myself, after Albany does its business, we're going to look again at whether what comes back is worth having or not worth having, and you know, hopefully it'll be a lot better.

CHAIRPERSON WILLIAMS: Council Member?

COUNCIL MEMBER LANDER: But if not, then I think it'll be responsible for us to consider whether we need to turn it off. So, thank you very much. Thank you, Chairman.

CHAIRPERSON WILLIAMS: Thank you. Council Member Rosenthal?

COUNCIL MEMBER ROSENTHAL: Thanks--

CHAIRPERSON WILLIAMS: [interposing] And then Council Member Levin.

COUNCIL MEMBER ROSENTHAL: Three quick questions. One is--I'm sorry. So we have the ability to not implement something that the state--okay. Yes. Alright, moving on. So that'll be another hearing after it comes back, I imagine. Just really quickly, first of all, can we send you--I'm a little confused about the conversation about the extension of the 35 years. So, can I send you a list? I think we're already doing this at a staff level, but can I send you a list of the buildings that I'm really worried about?

COMMISSIONER BEEN: Absolutely.

COUNCIL MEMBER ROSENTHAL: And you can tell me what tools might be available to help extend affordability for these tenants.

COMMISSIONER BEEN: Please. Every Council Member--any Council Member who's concerned about any building that might be reaching the end of its regulatory period under any programs should reach out to us and make sure that we're on it. We should be on it, but please make sure that we're on it, and let's work together to make sure that it doesn't leave affordability.

COUNCIL MEMBER ROSENTHAL: Great. Thank you for that. And then in the bucket of ideas for moving forward, would you consider making an adjustment to 421-a for the properties that are then purchased by people for whom it's a second home and not allowing a tax abatement for those units? So in other words, in--

COMMISSIONER BEEN: [interposing] So, we are considering everything and combinations of everything. So that suggestion has been made that if 421-a were to be available to condos, that it not be available to condos that are not--for which it is not the primary home or some definition of that.

COUNCIL MEMBER ROSENTHAL: And is that some--yeah. Is that something in a way this is to DOF, to the Department of Finance, but is that something where the Department of Finance now could call out that data so we could know even as of today which units are getting tax abatements even though its somebody's second--not their primary residence?

COMMISSIONER BEEN: So, we--I will make sure that the Department of Finance answers that question. I do not know the answer to the question, and unfortunately, the person who is the expert on this, whom the Department of Finance, is on jury duty, which is not unfortunate because that is an obligation that all of us have as citizens, but it's unfortunate for the timing of this hearing. So we will get back to you about the specific DOF questions. DOF is represented here, and but it's unfair to ask somebody without the expertise.

COUNCIL MEMBER ROSENTHAL: Sure, fair enough. Let's say the answer is yes, is that information that you would regularly get from the Department, could regularly get from the Department of Finance so you could know that information as you evaluate the potential 421-a program?

COMMISSIONER BEEN: So, the issue here, and I don't want to get in the weeds, Council Member Rosenthal, but the issue here would really be how would we enforce it? Because how would--you know, how would we--what would require as proof that it is the primary residence? How often would require that proof? What if it's not the primary residence at the time that they apply for the 421-a, but then they sell it to somebody who's--you know, I haven't puzzled all of that out in terms of the enforcement, but I think those would be the issues.

COUNCIL MEMBER ROSENTHAL: Yeah, I appreciate that. I think those kinds of weeds, I think, are not hard for Department of Finance. So, next time we talk about it, let's do include the person who thankfully is serving on jury duty, as well that person should, but it strikes me that that's no so difficult, and so it shouldn't be a stumbling block in doing the negotiations. Thank you.

COMMISSIONER BEEN: I continue to be amazed, Council Member Rosenthal, at how I think something is easy, and then when I try to do it, it turns out to be hard, but I take your point, and we will try to figure that out.

CHAIRPERSON WILLIAMS: Council Member Levin?

COUNCIL MEMBER LEVIN: Thank you very much, Mr. Chair. Thank you, Commissioner. How much does HPD--how much does it cost HPD to subsidize an affordable unit at 60 percent of AMI to an HPD program?

COMMISSIONER BEEN: So, I’m sorry, I can’t answer that question without knowing a gazillion things. So, first of all, we have to figure out is it my land or somebody else’s land. What did they pay for the land? What are they going to have to pay in taxes if they didn’t have the 421-a? So, that’s the underwriting that we do. I can give you some of the ranges.

COUNCIL MEMBER LEVIN: Yeah, ranges.

COMMISSIONER BEEN: So--

COUNCIL MEMBER LEVIN: [interposing] Private land.

COMMISSIONER BEEN: Pardon? But, I’m sorry, I’m never good at giving numbers off of the top of my head, because I always get something wrong. So let me get back to you with--

COUNCIL MEMBER LEVIN: [interposing] Okay.

COMMISSIONER BEEN: the range of numbers. You want to compare that number to the number--

COUNCIL MEMBER LEVIN: [interposing] With how much--

COMMISSIONER BEEN: that you asked me for earlier, right?

COUNCIL MEMBER LEVIN: Right.

COMMISSIONER BEEN: And--

COUNCIL MEMBER LEVIN:[interposing] I'm wondering whether--

COMMISSIONER BEEN: [interposing] So, I get it.

COUNCIL MEMBER LEVIN: Right. Whether we would have to spend more for a direct subsidy for affordable units or whether that number is higher or lower than the foregone tax revenue.

COMMISSIONER BEEN: I get the question, you know.

COUNCIL MEMBER LEVIN: Okay.

COMMISSIONER BEEN: We may disagree about the premise, but I also just want to flag one additional issue that you need to be thinking about there, which is if the taxes were--if the tax expenditure were not expended, in other words, if there were no 421-a, would that money come to HPD that it could use for subsidies for affordable housing?

COUNCIL MEMBER LEVIN: I think that's a decision that the administration could make based on how it allocates its budget. I mean, there's--

COMMISSIONER BEEN: [interposing] The--

COUNCIL MEMBER LEVIN: [interposing] The tax revenue comes in and we decide collective. I mean, it's a negotiation between the administration and the City Council as how to allocate our tax revenue and that would be a decision, you know, if there's a billion dollars more say, then we should decide how to--collectively, how to allocate that billion dollars.

COMMISSIONER BEEN: Right. And that--All I'm saying is, in that--going back to Council Member Lander's point about the trust fund, that is one of the issues in the mix.

COUNCIL MEMBER LEVIN: Okay. One other question. With the certificates, right, HPD issues those certificates in the first place, and then HPD collects those certificates from a private developer in exchange for a 10 or 15 year tax abatement, correct? I mean, and they generated the certificates in the first place.

COMMISSIONER BEEN: The--somebody builds a building that is, that qualifies as affordable, right? That--they generate the certificate.

COUNCIL MEMBER LEVIN: They could generate themselves or they get the certificates from HPD?

COMMISSIONER BEEN: I don't know how it worked. Is there anybody here? We issue it.

COUNCIL MEMBER LEVIN: You guys issued it, right.

COMMISSIONER BEEN: We issue it. We did issue it in the past.

COUNCIL MEMBER LEVIN: Right, right, but you issued in the first place.

COMMISSIONER BEEN: Right.

COUNCIL MEMBER LEVIN: Right? You did.

COMMISSIONER BEEN: Yes.

COUNCIL MEMBER LEVIN: HPD issued them in the first place.

COMMISSIONER BEEN: Yeah.

COUNCIL MEMBER LEVIN: And then you collected them when--when a private developer wants to exchange the certificates--

COMMISSIONER BEEN: [interposing] Yes.

COUNCIL MEMBER LEVIN: for the tax break.

UNIDENTIFIED: It's submitted with the private developers.

CHAIRPERSON WILLIAMS: Can you speak into the--

COUNCIL MEMBER LEVIN: It's submitted with the private developers.

CHAIRPERSON WILLIAMS: You have to give your name.

COUNCIL MEMBER LEVIN: Right.

CHAIRPERSON WILLIAMS: Wait.

COUNCIL MEMBER LEVIN: Sorry, sorry, sorry, sorry.

COMMISSIONER BEEN: Do you want to just answer. Do you want to just answer?

COUNCIL MEMBER LEVIN: So--

COMMISSIONER BEEN: Yeah, yeah, you can just answer. You just want me to consult with my lawyer. Okay. When the affordable building is built, it generates the certificates. We approve those certificates, right?

COUNCIL MEMBER LEVIN: Right.

COMMISSIONER BEEN: We issue and say you built--

COUNCIL MEMBER LEVIN: [interposing] And you log how many certificates were approved.

COMMISSIONER BEEN: We--

COUNCIL MEMBER LEVIN: [interposing] Count them.

COMMISSIONER BEEN: Yes. We log how many certificates were approved. And so your point is since we in theory collect them back.

COUNCIL MEMBER LEVIN: Right.

COMMISSIONER BEEN: WE do collect them back when they are spent, and we issued them in the first place, then we should take the difference and that's how many--

COUNCIL MEMBER LEVIN: [interposing] Exactly.

COMMISSIONER BEEN: Yes. In a wonderful world that is the way it would work, right? In a world where HPD and the prior administration did not invest sufficiently in basic technology that would allow you to subtract one number from another--

COUNCIL MEMBER LEVIN: [interposing] Right.

COMMISSIONER BEEN: then we--our records are not sufficiently good that I can under oath say to you here's how many are outstanding.

COUNCIL MEMBER LEVIN: Okay.

COMMISSIONER BEEN: Okay? That's the way it is.

CHAIRPERSON WILLIAMS: Thank you Council Member.

COUNCIL MEMBER LEVIN: Cool, thank you.

COMMISSIONER BEEN: We are investing very heavily so that next year, the year after you won't be able to stump me with any of these kinds of questions, alright?

COUNCIL MEMBER LEVIN: Thank you very much, Commissioner. Thank you, Mr. Chairman.

CHAIRPERSON WILLIAMS: Thank you. Just on that really quickly, is there a number that you have that would not necessarily be held against you under oath? Like that you have a feeling of how many are out there?

COMMISSIONER BEEN: My understanding is that both our records and the anecdotal evidence suggests that there are very few, but can we say that there is not some out there, no. But everybody, the brokers, the--there were only a few developers who really specialized in this. It's not in their interest to necessarily disclose to me whether they have them.

CHAIRPERSON WILLIAMS: So for a framework, is a few 50, 100, 1,000?

COMMISSIONER BEEN: Certainly less than 1,000. I think we're talking in hundred at most.

CHAIRPERSON WILLIAMS: Okay.

COMMISSIONER BEEN: We are not, you know, there's not a huge supply of certificates out there that could, you know, that could rear their ugly heads at some point.

CHAIRPERSON WILLIAMS: Okay. So the number I think that you gave me earlier, I was trying to get the numbers from '06 to now, and I think I got the numbers from 09 to now, which is 42,000 units, 7,600 which are affordable, is that correct?

COMMISSIONER BEEN: Uh-hm. Uh-hm.

CHAIRPERSON WILLIAMS: Can you just explain to me why we don't have from '06?

COMMISSIONER BEEN: Because of the grandfathering period.

CHAIRPERSON WILLIAMS: I see.

COMMISSIONER BEEN: Right?

CHAIRPERSON WILLIAMS: Of those, how much tax was foregone on those 42,000?

COMMISSIONER BEEN: So that has to be separated out and I do not have that number. So, we can provide you that number. We have the total and the total added every year, but we can't separate it out in terms of--we have not been able yet to separate it out in terms of how much those 42,000 in total cost in the years that they went into service and then you have to calculate as somebody asked me earlier. You really have to think about the expenditure over time. That's actually a complicated question.

CHAIRPERSON WILLIAMS: But you said you do have--what was it that you said that you might have?

COMMISSIONER BEEN: We can calculate that and break it out in that way.

CHAIRPERSON WILLIAMS: So right now there's no way to really tell as of this hearing how much money we've spent, how much of the billion dollars roughly per year has been from those units?

COMMISSIONER BEEN: I do not have that figure with me. We can work with--that is a DOF, you know, a Department of Finance issue and we can work with them to try to break it out in the way that you're describing.

CHAIRPERSON WILLIAMS: I know someone mentioned the double dipping earlier, do you know how many units were used to allow the developer to qualify for other subsidy programs, just on the units that we discussed.

COMMISSIONER BEEN: On the 7,600, we can match that up. Can we match that up? We can match that up, and yes, we can get that for you, what other subsidies, what other kinds of substantial governmental assistance they used.

CHAIRPERSON WILLIAMS: We've been joined by the Finance Chair Council Member Julissa Ferreras. Can we put five minutes on the clock for Council Member Ferreras?

COUNCIL MEMBER FERRERAS: Thank you, and I apologize. I was actually at a tax expenditure task force. So, good morning. Is it morning? Good afternoon. I just, I have a few questions and because of time I'll just ask them, and then if you can answer them. And I apologize if I'm repeating anything. But how much it's changed over the past years, can you speak to some of the history of where we've seen some changes. What is the average annual increase of 421-a's cost the tax payers in foregone revenue. And what would this money have otherwise gone to? What is the breakdown of how much various city services missed in funds, and is there any analysis on 421-a's impact on the overall city's budget?

CHAIRPERSON WILLIAMS: For the first question, she just gave a pretty detailed--

COUNCIL MEMBER FERRERAS: [interposing] Presentation? Okay. So I'll look into that. Thank you. But if maybe we can start with the last one and go back.

COMMISSIONER BEEN: So I don't--I'm sorry, I didn't break it out in terms of an average annual increase. We can show you the, you know, the trajectory of the program and how much it is each year. It shot--you know, it has shot way up because remember that the tax exemption moves as the value of the property moves. And so as property prices increase dramatically in the, you know, early 2000's and throughout, then the cost of the program is--has increased dramatically, but we can show you that.

COUNCIL MEMBER FERRERAS: Yes, please.

COMMISSIONER BEEN: Where would it otherwise go, well that is--that was one of the maybe 128,000 thousand dollar questions that we were talking about earlier, right? If we were to close down the program tomorrow and let's--and obviously, if we close down the program tomorrow, we would not be saving a billion dollars, because that's already committed. We'd be saving whatever it is that we would be otherwise putting into the program new, right? If we were to use that money, then it would go into the general treasury. It would be budgeted by the administration, negotiated with the council and I have no idea where it would go, right?

COUNCIL MEMBER FERRERAS: Well we have some ideas here in the Council, right, of where--

COMMISSIONER BEEN: [interposing] Sure, I would hope so.

COUNCIL MEMBER FERRERAS: it could potentially go. Okay. And when we talk about--and I know that you said you'll get the number, is there any analysis that you've done on the foregone revenue?

COMMISSIONER BEEN: So it costs about a billion--last year it cost us a billion dollars in foregone revenue. In revenue that would have been paid by those buildings had they not had 421-a. Part of the issue is as we were talking about--and is sort of underlying the whole question about the extension of the program is would each of those buildings have been built had there been no 421. If they weren't built, they wouldn't be paying taxes even if there was no program, right? So that's the question.

COUNCIL MEMBER FERRERAS: Right, except in areas kind of mine in Corona when I looked at the map and the overlay of where 421-a has invested, it actually has incentivized the taking down of one family homes and building eight families, not necessarily affordable and completely changing the context and actually feeding the overcrowding issue that we have in the district. So, when I have to deal with the voters that are saying, "How can this one family be ripped down and an eight family go up?" What they fail to realize is that they're also an eight family that's not paying taxes because of this advantage. Yet, I have a senior who lives in East Elmhurst who is paying property taxes on a fixed income. So that's a challenge that we are faced with today, and it's not that there--yes, granted, there wouldn't be a building, but there would be a house that's paying property tax and now there's a building that's not paying property tax.

COMMISSIONER BEEN: I understand. That's the central question.

COUNCIL MEMBER FERRERAS: Thank you Very much, Chair. Thank you, Commissioner.

COMMISSIONER BEEN: Thank you.

CHAIRPERSON WILLIAMS: Thank you. There was a bunch of questions that I did have, but I'm pretty sure you're going to say you were considering all of them, so I'm going to forego some of them. I did want to ask one--

COMMISSIONER BEEN: Council Member Williams, it's helpful for us to know what it is that you want to know and we will get it for you.

CHAIRPERSON WILLIAMS: Well, this is about what you're thinking going forward.

COMMISSIONER BEEN: Okay.

CHAIRPERSON WILLIAMS: So, some of those I'm not--

COMMISSIONER BEEN:[interposing] As soon as we figure that all out, you--

CHAIRPERSON WILLIAMS: [interposing] I got you.

COMMISSIONER BEEN: will be, yeah.

CHAIRPERSON WILLIAMS: So those I'm not going to--some of them I can guess what the response may be. But there's one I do want to know if you have thought about which was the GEA, have you thought about whether it should be expanded? Have you thought about any of the areas that should be expanded to?

COMMISSIONER BEEN: We have certainly thought about that. I think that's a major question that has to be answered in any--if the 421-a were to be extended, that is central to any improvement, right? Whether you want to make any unit that receives, any building that receives a 421-a exemption have to provide affordability no matter where it is. That's one approach. Change the boundaries, I'm, you know, I'm reluc--I think the problem with boundaries as history has shown us is you never get them right. They get changed for reasons that aren't appropriate, etcetera. But should we have a system where if you get a 421-a exemption you have to provide affordable housing, I think that's one of the main questions.

CHAIRPERSON WILLIAMS: Do you know were there any units that were built lower than 60 percent?

COMMISSIONER BEEN: it's up to 60 percent. My--I am almost sure that yes, there were, because many--sometimes the program involved, you know, low income housing tax credit which requires that they be under 60, but often they're 50 sometimes even lower.

CHAIRPERSON WILLIAMS: And that's some of the numbers that we'll get another time. The--I know it goes from depending if you're in the GEA with or without SGA--

COMMISSIONER BEEN: [interposing] Uh-hm. That's confusing.

CHAIRPERSON WILLIAMS: This is the exclusionary area and the substantial government assistance, it goes from 60 percent to 120 percent AMI. Was that the state's doing or the city's doing?

COMMISSIONER BEEN: The state's. I mean, it's all--that's statutory. What we do by rule is very, very limited.

CHAIRPERSON WILLIAMS: Do you know how many developers qualify in FY 14? Or actually, FY '14 and of the numbers you gave from 2009. Do you know how many developers qualified for 10 year exemption, 15 years, 20 and 25?

COMMISSIONER BEEN: Yes. So, in fiscal year '14, I think this is through December or it's all the way through? I think all the way through fiscal year--oh, fiscal year ’14, sorry. In fiscal year ’14, 831 received the 10 year exemption, 2,734 received the 15 year exemption, 897 received the 20 year exemption, and 1,857 received a 25 year exemption.

CHAIRPERSON WILLIAMS: That’s for 2014?

COMMISSIONER BEEN: For 24--fiscal year 2014.

CHAIRPERSON WILLIAMS: Do you have any AMI breakdowns for those?

COMMISSIONER BEEN: No. I mean, if--so, no. The 20 year and 25 year obviously have affordability, but I do not--and they either have 60 or 120, but they may have different bands in there, and we’ll get that to you.

CHAIRPERSON WILLIAMS: And some of the other questions, do you have more information on these, or you have to get back also? Like, whether they’ve double dipped, things of that--

COMMISSIONER BEEN: [interposing] In the fiscal year 2014, I do not have that with me. We can break that out in terms of other subsidies that they might have been receiving.

CHAIRPERSON WILLIAMS: Okay. Does HPD ensure that lease riders for 421-a rental developments include info about rent stabilization rights?

COMMISSIONER BEEN: Okay, so there are different sets of buildings here. So, those that are market that do not receive any other subsidy from us would be enforced by DHCR, and I'm not sure what DHCR if anything requires. Those for which we put subsidy in, right, our regulatory agreements, I believe require--is that correct? Our regulatory agreements would require that the lease take a certain form? Okay, I'm sorry. I misunderstood earlier. So, we--any 421-a unit, we are required to notify. We are required to make the--to tell the owner that they must notify all tenants of their rent stabilization rights. When it is the building that we have not subsidized, the enforcement of that is with DHCR, but the law requires, and we do order all owners to let their--to provide a notice to their tenants that they are rent stabilized tenants because of the 421-a benefits.

CHAIRPERSON WILLIAMS: Thank you. And just a couple--if you can stay with me about five minutes. Just a couple of your understanding of what we can do municipally. So, can we write--do you understand that right now we can--let's say the Council's voted to end it, we'd be able to end it right now or not end it right now, or do we have to wait for the state to act and then we have to act? What's your understanding of what we municipally could do today?

COMMISSIONER BEEN: Could the--you're asking me could the Council end 421-a today?

CHAIRPERSON WILLIAMS: Yes, my understanding is that what's in effect now is state regulations, because we did not vote on it.

COMMISSIONER BEEN: Right, right.

CHAIRPERSON WILLIAMS: So, would we be able to end it if we wanted to end it today?

COMMISSIONER BEEN: So, Council Member Williams, I would advise that you get an attorney who specializes in these issues rather than relying on the following legal advice. However, my understanding of the law is that once the state passes 421-a legislation, that the city can choose to impose something more restrictive, that if the city said we want 421-a to be more restrictive, and what that means would be a legal question, right? If the city said we want something to be more restrictive, then a year passes before what could--the more restrictive law, the more restrictive City Council program could take effect, and in that year period, the state legislature could say, "Sorry, city, we're taking--we're overruling you." Okay? So for them to can--so, your question was could 421 be ended by the City Council today, and the law allows you impose something more restrictive. So you'd have to argue about whether imposing something. Ending is imposing something more restrictive. Then there'd have to be this year period during which the state legislature could overrule the City Council.

CHAIRPERSON WILLIAMS: Thank you very much. And thank you for the testimony. I did find the power point to be helpful, and I like--I think Council Member Lander said, I think you did capture a lot of the concerns that people have. I was a little disappointed that we didn't have some more information that I thought would be fairly intuitive to what we're going to ask about in terms of reforms, some of the breakdowns, and so hopefully we can have that without necessarily another hearing or before another hearing so we can have a better conversation on it. I do believe we have to partner on this as we're going forward in June [sic]. Thank you for raising the rent regulation issue which I know is in everyone's mind, and it's even more of a scary thought now because of what's going on up there. So, I know everyone is concerned. I do just want to point out again, hoping--there are some folks who are pushing reforms. Some folks are pushing we should end it now. My hope is that as you're moving forward with the reforms, at minimum you'd be willing to say that if these reforms don't happen, we're not going to renew or we're not going to support renewing what exists now. So that was my point earlier. I think everyone could agree that what exists now even without all the full information is a debacle. We're spending way too much, not getting the rate of return, not getting the depth of affordability, if we're getting affordability, not getting it necessarily where we want it and for as long as we want it. And so I think that in and of itself says that this program as currently constituted does not exist, and we have to question whether or not we should renew it. And I do agree, also with Council

Member Lander. I'm very concerned of who has, you know, who's going to have the final decision on what the reforms are. So, hopefully, we can have a ongoing better and real conversation about what those reforms are that the administration are pushing so we can have input, and we can help in pushing it if that's the decision that people make, they want to do.

COMMISSIONER BEEN: Okay. I appreciate the opportunity to discuss it with you all. We're always available to discuss it. I think that we share the goals that if 421-a were to be extended, it needs to be more efficient, more effective and better targeted to the kinds of affordable housing policies that we are working hard to implement. And I look forward to working with the City Council on that. Unfortunately, I do have to leave, but my team is-- parts of my team will remain so that we can hear the concerns that other folks have, and of course, we're always willing to discuss that. So, thank you very much.

CHAIRPERSON WILLIAMS: Thank you. We're going to take about five minute break, and then when we come back we're going to have the Borough

President Gale Brewer and Brooklyn Assembly Member Walter Mosely on the panel, and see you in five minutes.

[break]

GALE BREWER: So, good morning.

CHAIRPERSON WILLIAMS: Can you both raise your right hand please?

GALE BREWER: Sorry. I'm sorry.

CHAIRPERSON WILLIAMS: Do you affirm to tell the truth, the whole truth and nothing but the truth in your testimony before this committee and to respond honestly to Council Member questions?

GALE BREWER: I do.

WALTER MOSELY: I do.

CHAIRPERSON WILLIAMS: Thank you.

GALE BREWER: So, I'm Gale Brewer and I'm the Manhattan Borough President, and I want to thank Council Member and Chair Williams. So we all know that the 421-a tax benefit was created to incentivize new construction, started in 1971. I was around then. And it was supposed to spur development. But 421-a as we've heard today as it was initially introduced did not restrict the tax benefits to the location or the affordability of new units being developed. Times have changed. Data shows that New York City had 7,191 new construction starts between November 2013 and October 2014. January of this year, Mayor de Blasio announced that the city has exceeding Housing New York's first year goals with the financing of 17,400 affordable units in 2014 and 6,191 units were new construction starts. So we no longer face a lack of development as we all know. Given that spurring development was the original intention of 421-a, we must ask ourselves whether giving tax breaks to developments that would take place anyway, especially those receiving 421, an as-of-right basis, is worth foregoing the hundreds of dollars, millions of dollars that we would have collected in property tax revenue, which again has been discussed. Another question to consider is whether 421-a ought to be retargeted to incentivize different housing issues facing us today, obviously the development of affordable housing be number one. In Manhattan, my office has spent the past two years gathering data about the 421-a program in my then council district, District Six, and later throughout Manhattan. The goal is to better understand the reach and impact that 421-a has had in two areas. Number one, how much is 421-a costing New Yorkers, and two, how many low and middle income families are benefitting from the program? I want to thank many people for making this possible, certainly HPD and their good testimony earlier, individuals from the New School Graduate Program whom we asked to involve themselves in this issue, and IBO because their Housing Policy Unit has done a lot of work on this issue, and of course, Furman Center and RPA, the Regional Plan Association. According to IBO data there are 701 developments in Manhattan receiving 421-a tax benefits in the current fiscal year. By granting 421-a tax exemptions to these developments, the city foregoes collecting 673.8 million in property taxes for FY 2015 alone. This amount is spread across 6,738 residential units averaging just over 11,000 dollars each in foregoing tax revenue per unit in FY 2015. If we assume no change in exempted tax revenue, a single unit receiving a 25 year 421-a tax exemption would “cost the city” over 277,000 dollars in uncollected tax revenue over the lifetime of the tax exemption. Unfortunately, no single data set exists. And I know that the Chair has asked about this. It can definitely show how many affordable units have been constructed under 421-a. Prior to 2008, as we know, Manhattan developments outside of what we call the GEA, the geographic exclusion area, could receive 421-a in an as-of-right tax benefit without any affordability requirement. We remember those days. And then 2008 came, and Manhattan was designated under the GEA and the tax incentive was tied to the 80/20 program, 20 percent affordability. We don't know for sure whether a developer would choose to apply the 20 percent requirement to a fifth of the total number of units or to the total residential square footages without a building. Both are allowed. In fact, even HPD doesn't seem to have information on how many affordable housing units were constructed under 421-a as we know because we heard that earlier. They estimate 1,709 affordable units out of 8,432 within Council District Six as of May 2013 or around 20 percent, and that's only because I badgered and bugged and harassed the last HPD Commissioner to get me that information and it took four months of one person searching at HPD. Applying this to IBO's FY 2015 tax year data, we can only estimate that approximately 12,000 units within Manhattan buildings that actively received 421-a tax benefits can be classified as affordable housing and we don't know if they're all onsite or offsite. Even I don't have that information, except anecdotally for the Sixth Council District. Finally, the high cost of construction in Manhattan often necessitates developers to combine multiple tax and other financing incentives to make the creation of residential units viable. If affordable units are part of a project, then a larger amount of subsidies needed to ensure the project yields a sustainable baseline return on equity, known as an ROE, for the developer which ranges from eight percent to 12 percent. It is not unusual for a project receiving 421-a to also receive low income tax credits as we heard earlier, also zoning bonuses under the inclusionary housing or other HUD programs, HPD programs or HDC financing. IN fact, according to Furman at NYU, all projects in Manhattan classified as receiving 421-a subsidies also take advantage of other financing options. So we have some numbers here. The database shows 12 developments in Manhattan are under the inclusionary housing. So with this data, I have some recommendations.

CHAIRPERSON WILLIAMS: And Madam Borough President, can you summarize your recommendations?

GALE BREWER: Sure. I'd be glad to. So there are three very important. One, of course, is to end the double dipping of overlapping subsides. We heard about this earlier, and I will say that's a very strong recommendation if anything is continued under 421-a. Second, create affordable units that are truly affordable to low income residents in the community. I have in my testimony the data of the average income in Community Board's above 96th Street. None of them fit. They're all lower than the 44,000 which would be what would be eligible under 60 percent AMI, every single one. So nobody in that neighborhood on average is able to qualify in terms of the AMI. So that doesn't make any sense. And increase transparency and accountability, 421-a data, especially the number of affordable units created under each project must be made publicly accessible in a matter that is understandable to the public. I just want to indicate that I've attached to the testimony the only, to the best of my knowledge, material that is specific to a council district, which I got when I was working on this in 2012/2013.

It lists all the projects. It lists per unit the cost, and it lists a number of affordable units that each 421-a building was able to access. It took me, like I said, four months to get this from HPD. There's also a map that includes it, and I would say what should also be included is the overlay which does not hear of any other abatements or any other programs so that you would know citywide how the program has or has not been instituted. Thank you very much. The testimony is longer I have submitted, and I thank you for this opportunity.

CHAIRPERSON WILLIAMS: Thank you, very much. Assembly Member?

WALTER MOSELY: first and foremost, I'd like to thank Chairman Williams and members of the City Council Committee on Housing and Buildings for allowing me this opportunity to testify before you today. My name is Walter Mosely, New York State Assemblyman from the 57th Assembly District. I represent the neighborhoods of Fort Greene, Clinton Hill, Prospect Heights, parts of Bedford-Stuyvesant, and Crown Heights, and I currently sit on the Housing Committee for the State Assembly. As many of you know here in this room, the rent stabilization laws are set to expire this June. Those laws which govern hundreds of thousands of tenants in New York City are inextricably linked or tied to the tax incentive programs offered to real estate developers. In this case, our focus for today is the 421-a tax abatement program. Now, this abatement program which was started in 1970-71, depending on who you ask was created to incentivize residential developments in what was then a city on the brink of economic and fiscal collapse. So when President Ford issued his infamous statement to the city mayor at the time, Mayor Lindsey, and said, "drop dead upon the request of financial assistance for the city of New York" civic leaders had to come together and formulate a fiscal plan and policy that would entice developers to reinvest in the city that was on its last legs. In the 1980's, as the economy saw an uptick in resurgence in the housing market in Manhattan, city officials decided to take advantage of Manhattan's growing prosperity to generate affordable housing by designating an exclusion zone roughly between 14^{th} and 96^{th} Streets. Within the zone, developers became eligible for 421-a tax abatement program only if they agreed to build affordable units for low income families, commonly known as 80/20. Since then, the 421-a program has been used not to spur an economic development and increase our affordable housing stock, but to subsidize luxury real estate development at the price of hardworking city residents and their tax dollars. The 421-a program has subsidized over 100,000 units since the programs' inception. However, accepting--according to--I'm sorry. According to a recent report published by Pratt Institute in conjunction with Habitat for Humanity, citing a 2003 report by the independent budget office, only about eight percent of the units are affordable to low or moderate income families. In that same time frame, average tenant incomes were down 5.6 percent, but average rents were up 8.7 percent citywide. In the communities of Central Brooklyn, whom I represent, the average household income is roughly 35,000 dollars a year which has stagnated for over a decade. And in fact, recent rents this year have also spiked with an average apartment in Brooklyn going for 2,800 dollars in October of 2014, up almost six percent from the previous year according to the real track report. In light of these drastic numbers, the affordable housing crisis in the city is at a peak, and we as elected officials have turned to programs like 421-a to urge private sector growth of affordable housing only to realize that costs far out exceeds the actual benefits. I will tell you that this program, which costs the city of New York 320 million dollars this past year alone is shifting the burden of taxation unjustly on those who can least afford it, the hardworking families of New York City. I am here today to declare that this program is outdated, and if it is not eliminated, must be revised to be more equitable in an effort to benefit those who are impacted the most by this housing crisis. As a result, I fully endorse three basic concepts towards reforming the 421-a tax abatement program. One, the inclusion of all five boroughs within the exclusionary zone which requires developers to build mandatory affordable housing in order to receive 421-a benefits and not under as-of-right inclusion. Two, the redistribution of the 80/20 model of market rate to affordable units ration and change it to a 50/30/20 model with 50 percent market rate, 30 percent moderate income, and 20 percent low income. And three, the permanent placement of those affordable units created by the 421-a tax abatement program into the state’s rent stabilization program. After the expiration of the tax exemptions, affordable units that fall under the rent stabilization program because of the abatement are automatically discharged from the program regardless if the current rent levels are not at the decontrolled market rate of 2,500 dollars a month. This puts undue burden on tenants in places so many families have risk of losing their affordable units to a loophole in the current law. I firmly believe that if this system of incentives within the 421-a program is to be kept, there needs to be a drastic change in this program and its core design. Another large area of concern is the income bands that are used to calculate affordability in the city. Using the HUD calculated income bands for New York metropolitan area which includes parts of Westchester County drastically skews the aggregate numbers and misrepresents vast portions of people who reside in the city. So I issue this challenge to myself and to my fellow colleagues and the state legislator that we must come up with a better system that tracks state resident income brackets and ties state affordable housing programs to those numbers. This will finally help many of us answer the question that we hear all too often in our city and throughout our districts, what is affordable. Going forward, I pledge to assembly members of the City Council, my fellow state legislators, and more importantly, the citizenry of New York that I will work tirelessly with my Assembly colleagues and those in the State Senate to reform 421-a and its program in an effort to make it more equitable to individual tax payers and to create a permanent affordable housing program throughout our city. again, thank you Chairman Williams and the Committee for this opportunity, and I'd personally like to thank my staff member, Mr. Joseph Yannis [sp?] for helping us prepare these statements in lieu of my tight schedule over these past couple of days.

CHAIRPERSON WILLIAMS: Thank you very much for both your testimony. What have you been busy with?

WALTER MOSELY: The people's work.

CHAIRPERSON WILLIAMS: Assembly Member, you said that the program has a cost of 320 million dollars this past year. Do you know where those numbers came from? Because the administration seemed to not be able to give us numbers.

WALTER MOSELY: We got these numbers from an advocacy group that many of us are well aware of Pratt Area [sic] Community Council, PACC. It's just based out of Brooklyn, and we're able to get that pretty easily.

CHAIRPERSON WILLIAMS: Okay, thank you. Madam Borough President in some of your testimony, I just wanted to make sure I was clear, you were mentioning that, I guess the Community District Nine, the average neighborhood--

GALE BREWER: [interposing] Six, I think. Oh, no. Yeah, yep, nine.

CHAIRPERSON WILLIAMS: The average income was lower than the 60 percent. I think--so--

GALE BREWER: [interposing] Yes, what I'm trying to say is many people in the neighborhood can't even afford to be in these units.

CHAIRPERSON WILLIAMS: I see. I see. Okay, so because technically it's supposed to be up to 60 percent, so technically they should--

GALE BREWER: [interposing] Some, but I'm just saying it still doesn't include a lot of people.

CHAIRPERSON WILLIAMS: I got you. It's not--the income band, the ceiling should be a little lower.

GALE BREWER: Correct. That's what you asked earlier, I think, of the HPD Commissioner.

CHAIRPERSON WILLIAMS: Yeah.

GALE BREWER: Right.

CHAIRPERSON WILLIAMS: So, just to both of you, do you feel the program as currently constituted should be renewed in June?

GALE BREWER: Well, I mean, I don't. I can say that we all have, I think, similar suggestions about how it could be improved, and I do want to add that when we had the New School Graduate students looking at the rate of return, there are lots of ways that the AMI ceiling, we talked about that, could be lowered and there are ways in which for instance have been done on Esseck [sp?] Street Seward Park development where it is a combining of programs that end up with a very affordable and at the same time you do not lose your rate of return, because that's what we're always going to hear from the developers is ROE. So, I do believe that this program should absolutely not be constructed in the same way, but I do think that if we are looking at every possible way of having affordable housing, if there are ways to include it and not double dip and have transparency, and figure out a way that it is something that is permanent into the future, that it's something that should be looked at But it has to be looked at very carefully, and I am only too aware of the five development that were included in the budget discussion that was hidden in the middle of the night in Albany. I was very aware of them at the time. They're all Manhattan developments. That kind of shenanigans should never happen again. So it has to be very, very transparent.

WALTER MOSELY: I'm going to keep mine very brief. No, it should not be renewed as constituted.

CHAIRPERSON WILLIAMS: Thank you. Council Member Cornegy?

COUNCIL MEMBER CORNEGY: First of all, Madam Borough President, it's always a pleasure to see you back here in the chambers. It seems like we're always embroiled in some kind of fight, though. Maybe we can just go out and have some coffee or something and every time I see you it doesn't have to be a fight.

GALE BREWER: That's very nice of you, but it will always be a fight for your lifetime and my lifetime.

COUNCIL MEMBER CORNEGY: Unfortunately. Assembly Member, you mentioned the 50/30/20 model. That's a model that I'm familiar with and have been championing. In my district, the middle class are finding it unaffordable to be there. So our teachers, our firefighters, our police officers are finding no place to be within the city. But when speaking to developers, they're saying that there's no way what they'd ever agree to that particular ration because it doesn't allow them the earning potential that they need to exist in terms of subsidies. What is your--what has been your experience in even trying to shop that model?

WALTER MOSELY: Well, thank you again, Councilman. You're Councilman for a portion of my district, so thank you for being here. To me, the question always arises, because you get multiple answers form whatever, from multiple developers. And to me, I think depending on how solvent a developer is, he or she is going to be less likely to want to cave into those demands. The more solvent or the more they can absorb those costs, the more they're willing to listen to those. So, I think it's--we have to ask the much bigger issue is how are we as a city going to do business with developers and whether or not we hold developers to a higher standard if we're going to make this more transparent, this program more inclusionary and more affordable as we look to create, you know a housing stock that you know, middle class and lower middle class and even poor folks can live in, because if we do not, ultimately we will be cutting off our nose to despite our face, if use the old adage, because ultimately everybody can't be a developer in New York City. Let's just be real about it. You know, you can be a developer maybe in New Jersey or somewhere else in Pennsylvania, but if you don't have the ability to meet our demands for all the citizens and all of our constituents that maybe you're not the right person to develop. And ultimately I think what's happening is that we've opened up the doors to anyone who wants to develop, and because of their shortfalls we suffer as a city.

COUNCIL MEMBER CORNEGY: Thank you. But I do have to--I'd be remiss if I didn't mention that as the Chair of Small Business, some of our minority and women owned contractors are some of the biggest complainants in this. Not that they don't want to be good citizens and participate in the development of affordable housing, but they're finding it very difficult to get in a lane with this fast paced development industry as is going. So, I find myself as the Chair of Small Business in a very unique position where I'm advocating for the ability for MWBE's to compete in this tough market while we're fighting for affordable housing, and I believe that you don't have to give up one to get the other. So I'm hoping that we can come to, with the state, a very good mix that allows growth and development with MWBE contractors, but good solid permanent affordable housing simultaneously.

WALTER MOSELY: Well, I think that's thinking out of the box, and in lieu of our upcoming joint budget hearings with next Thursday being our Housing joint budget hearing, that those sentiments need to be heard by not only our down state legis-- from our downstate municipal legislators to use as downstate state legislators but throughout, to the legislators throughout our state who will be having a say so on this issue.

GALE BREWER: Now, I just want to add that in some out of the box thinking, you can--we would like to see as its happening. I know with some organizations, some nonprofits and for profit partnering together, that helps bring some of the costs down and some of the ROE's down. Second, things like land trusts, which are and have been used in the past. Change the way in which some of the financing works. So, I do think the rate of return has to be looked at very carefully. I would like to see more low income as well as firefighters and police, but we have to plan for both. So, I mean, the folks as I indicated, Esseck Street on the old Seward Park are doing what you just listed. So it is possible, but it takes--that was a little bit easier because its city owned land, which is different than having to pay for the cost of the land. But we need to think very much out of the box and certainly include the individuals you just described.

COUNCIL MEMBER CORNEGY: Thank you.

CHAIRPERSON WILLIAMS: Thank you both for your testimony.

WALTER MOSELY: Thank you.

CHAIRPERSON WILLIAMS: I appreciate you being here on this important issue. Next up we have Maritza Silva-Farrell, Real Affordability for All, Sarah Desmond, Housing Conservation Coordinators, Barika Williams from ANHD, and Tom Waters from Community Service Society. That is the next panel. The panel after that will be Edna Lenquest [sp?], Banana Kelly [sp?], Jean Folkes, 1616 New Kirk [sic] Avenue, Flatbush Tenants Council, Esteban Girón, Crown Heights Tenants Unit, Keisha Jacobs, Crown Heights Tenants Unit. Please stand on deck. Thank you. Thank you. If you don’t mind, if you can all raise your right hand, please. Thank you. The other right, yeah. Do you affirm to tell the truth, the whole truth and nothing but the truth in your testimony before this committee and to respond honestly to Council Member questions? Okay, and we’re going to set the clock for three minutes, and you can start whichever way you prefer. And I want to say thank you all to my former Housing colleagues, for all the work that you do.

TOM WATERS: Thank you, Mr. Chairman. I'm Tom Waters from the Community Service Society, and we're always happy to have an opportunity to testify on housing policy issues of this magnitude. I'm not going to say everything that's in my written testimony. It would be, some of it would be repetitive from what you've already heard from Commissioner Been and others. But I do want to say once again, like everyone has to say, a billion dollars for 10 or 15,000 units of affordable housing, and that's not 10 or 15,000 units of new affordable housing each year. It's more like 1,000 units of new affordable housing a year. A billion for a thousand, that's not a very good deal. It couldn't possibly be defended as a housing program. The Commissioner was right to say you have to look at it as something else. I certainly don't believe that you need this kind of incentive to get people to build in New York City of all places. You know, the other cities around the country mostly don't have programs like this. And in many of them, people build there too. Also, look at the price that people pay for buildable land. Right? The price for buildable square foot has gone through the roof in recent years. So, you'd have to think that the profitability of developing in New York is so marginal that the, you know, that the 421-a program is needed to make it profitable, and at the same time that it makes sense for the price for buildable square foot in some part of town to go from 100 dollars a foot to 500 dollars in a few years. Okay, the difference, the value of the 421-a is much less than 100 dollars a foot, maybe 50 dollars a foot. I don’t know. It probably depends what part of the city it’s in. So, you know, the price went up by much more than the value of 421-a. That’s because building in New York City is incredibly profitable with or without tax incentives. There are some places in the city where the price per buildable square foot is low, and one could concede that in those places the incentive is needed. I see I’m running out of time. But those places don’t get much building even with 421-a unless they get other substantial government assistance like HPD’s programs. That’s what works in those neighborhoods. There’s some neighborhoods where you don’t need it. There’s some neighborhoods where you need a different subsidy. Those are the two kinds of neighborhoods in New York. I also wanted to touch briefly why the kind of tinkering around the edges that some people propose won't work. And I'm just--darn it. I should stop looking at the clock. You know, if you make the geographic exclusion area cover the whole city and you get rid of double dipping and you do all these other reforms, you're still only going to get to like 20,000 units per billion dollars or 2,000 new units a year. You're going to make it twice as efficient as it is now at best. But 500,000 from subsidy to create one affordable apartment for middle income people, right, for 45,000 dollar a year household, it's not for people, that doesn't make sense. Other HPD programs do much better than that. There's no question. You don't need to do any math to know that.

CHAIRPERSON WILLIAMS: Alright.

TOM WATERS: Don't fix it, end it.

CHAIRPERSON WILLIAMS: Thank you.

BARIKA WILLIAMS: Good? Thank you Chairman Williams and to the committee for allowing me to testify this afternoon. So, I likewise am going to not read through my, the entire content of my testimony, but start by just saying that we, ANHD--my name's Barika Williams. I'm the Deputy Director at

ANHD, the Association for Neighborhood and Housing Development. We believe that this is a flawed and outdated program that cannot continue to exist as it exists today. One of the challenges, as you guys have communicated both to Commissioner Been and HPD, DOF, as well as the Borough President, is that there's a lot of difficulty in getting information about this program. ANHD's understanding is that there is neither a city or state database that has all of the 421-a units, how much we forego in tax revenue for each of the units, where they're located, whether or not there's affordable housing in them, and when the affordability expires. And so that creates challenges for both communities and residents and housing advocates as well as city officials to know what this program looks like in our neighborhoods and in our communities. ANHD did an analysis to the best of our ability to say what can we find out from the data that we do have, what can we--what do we know about this program and what it really looks like. So we took the DOF data and mapped all of the 421-a parcels across the entire city, put them onto tax lots to see where they were geographically, spatially, and then combined their year built data with their GEA location to determine whether or not they theoretically would have been required to build affordable housing and then assume 20 percent of affordable housing if they were. From that we concluded that there are approximately 153,000 units that received a tax exemption in fiscal year ’13, and of those a maximum likely of affordable units of about 12,600 units. So that’s eight to nine percent affordable housing from a program that as we’ve heard today costs a billion dollars a year, and that’s not 12,600 new production each year. That is 12,600 units that we were paying for that were affordable in one snapshot year in time in a 1.1 billion dollar total cost of 153,000 units in that one fiscal year. So, clearly this is a fiscally inefficient program, not an affordable housing production based program as the Commissioner testified to you before. The use of the program has also drastically increased over time. We’ve seen a tripling on the number of properties that have taken the exemption from 2004 up until now in 2014. There’s many concerns about the affordability, about the length of affordability, about the location of units. Specifically the program is currently put at 60 percent AMI with a 20 percent set aside. The Commissioner testified that average is actually 90 percent, which would be a 1,900 dollar rent for a two bedroom, and a third of New Yorkers earn less than 35,000--34,000 dollars a year. So there's a huge mismatch in need as opposed to how the program is currently structured.

MARITZA SILVA-FARRELL: Good afternoon. Well, my name is Maritza Silva-Farrell. I am testifying on behalf of the Real Affordability for All Coalition. We are a 50 plus--organizations are part of our Coalition. Well, first, thanks so much for allowing us to testify today. I know it's been a long day. Well, you know, as we've heard it's clear that the 421-a tax program is quite simple an enormous transfer of tax dollars from working New Yorkers to billionaire developers. IT is the worst example of well distribution in the city, because it goes from the poor and middle class to the ultra-wealthy people in the city. We understand that. So, we believe that it needs to end. As we see, making matters worse the subsidies are primarily funding the construction of luxury housing, which is leading to displacement of entire neighborhoods. These luxury buildings inflate real estate prices and create a market pressure that leads to higher rents and pushes out residents in neighborhoods like downtown Brooklyn, Western Queens and Harlem, among others as we've heard today. None of the things is more striking than the infamous 157 development that we've heard as well. The new cornerstone of billionaire's row from just a single penthouse recently sold for more than 100 million, more money than 99.9 percent of New Yorkers will ever see. It's costing the city 359,000 and a little bit more of that. So this is only for one single unit. So if we think about numbers, you know, we can actually create affordable housing, real affordable housing with that amount of money. A report that we put together in our coalition last year actually focuses on the impact of the program in downtown Brooklyn. This study shows that the average building that was constructed in this neighborhood between 2008 and 2012 gave a subsidy of almost 650,000 per affordable units. For that money, the city could simply buy each of the people living in the affordable units a condo of their own. It is clear that 421-a is a means guided tax policy that must end. The idea that we give tax subsidies for luxury development is quite frankly a slap in the face of all New Yorkers who work and pay their taxes. There are many other ways to spend it. 1.1 billion The city gave away to billionaires, billionaire developers last year, including on an affordable housing program that is actually helping the people who need it. WE ask the Council to end this corporate welfare and work with New Yorkers to develop an affordable housing program that meets the needs of our city. So, since you as Council Members have the power to end this program, we are asking you to help end it, not reform it. And we would like for you also to advocate in the city Mayor's Office to do that. Thank you.

SARAH DESMOND: Good afternoon. My name's Sarah Desmond. I'm the Executive Director of Housing Conservation Coordinators. We're a legal services agency that serves low income tenants on the west side of Manhattan. As our organization is located smack in the middle of the GEA, we've seen a number of developments over the years. And so since my colleagues have so effectively testified as to the effectiveness or lack of effectiveness of the program and the numbers, I'm going to focus my testimony today on the ground things that we see and problems it creates both with the tenants that are living in the units and for the community as a whole. So, the west side of Manhattan has seen over the years both the ten year and the 20 year tax abatement. The 10 year abatements were done with negotiable certificates and they were done offsite in other districts and other communities, or even other boroughs. With the 20 year we've seen the development of the affordable housing on site. When we tried to actually categorize the number of units that were built, we tried to focus on those that would be expiring and would be lost to the community. We've seen a number of the double and triple dips that include the low income housing tax credits, the inclusionary, and the 421-a, but if you look at buildings that were just built that are subject to exploration without the inclusionary housing bonus, we're facing upwards of more than 3,000 units that we see will expire on the west side in the two Council Districts. It's going to have a massive effect on our communities, and at the point that these units expire, it's also driven real estate prices up so high that the tenants who are looking for affordable units, those units will never be replaced, because it's too cost ineffective at that point to build more affordable housing. So you're going to have increasing polarized communities where it's going to be all market rate units. Then with all due respect to Commissioner Been when she testified that the affordability remains beyond the--the tenant occupancy has a right to remain until they leave. The 2006 reforms that took effect in 2008, that's very clear. It's--well, you know, we hope that that's true for the pre 2006 tenants. It's not clear in what you see in the lease riders. And we see a whole range of lease riders that tenants receive. They have different dates. They have--each lease rider may have three different dates on which the--you know, depending on how many programs were overlapped. If you have an inclusionary and you have a 421-a, you'll have, you know, different terms that are directly conflicting. So, that it's--I've had tenants come to us thinking that they were going to be evicted on a certain date, and it turns out the unit is actually an inclusionary housing unit, and it's subject--it's permanently affordable. I mean, I have a lease rider here with me today that I'll share with you that I--the copier here was broken, so we couldn't make copies for you, but I will--I'll share with you and I'll put copies in the record as well, but it's incredibly confusing. And then finally, just following on the heels of the illegal hotels hearing that we had last week that was the longest marathon, the day after the hearing the Office of Special Enforcement filed a court case at 440 West 41st Street. That building was--they were alleging that it was I think up to 86 percent transient occupancy, of the units were being used for transient occupancy at any given time, and that building in 1991 to 2010 received 421-a tax abatement. So, it's clearly--a lot of those tenants got pushed out at the expiration of the tax abatement to facilitate the illegal hotel use. So, just kind of to give you an idea of what we're seeing, there's many other things that we've seen on the ground and will be in my written testimony as well. Thank you.

CHAIRPERSON WILLIAMS: Thank you all for your testimony. Just so I'm clear, are you saying it should be ended or reformed?

SARAH DESMOND: So we--we're standing here together to tell you that we believe that the program needs to be ended. It clearly hasn't--it's creating unintended effects within our community as it is, and it's--you know, you have 3,000 units are going to be lost without it.

CHAIRPERSON WILLIAMS: So everyone there is saying that it should be ended, not reformed. Is that correct?

BARIKA WILLIAMS: I guess, ANHD is saying that it should not be continued in its current form in any way, shape or form.

CHAIRPERSON WILLIAMS: I see. Okay. And everyone else is saying that even if there are changes it still should be ended. Is that correct?

MARITZA SILVA-FARRELL: I mean, there has been reforms in the past and we haven't seen good results of that. So we believe ending is the way to go.

SARAH DESMOND: I would share that, you know, that the reforms would--in order for the program to actually work, the reforms would have to be very deep. And so in its current form it should not be continued. As, you know, we're not getting additional units for the triple dips as well.

TOM WATERS: I think to have a tax incentive to promote affordable housing, you would have to get rid of the as of right exemption philosophy that's represented by 421-a. The fundamental problem is that the amount of the benefit is based on the value of the property, not what you did to promote affordability. It's not really technically feasible to somehow craft an as of right exemption that will direct that developer an amount of money that's proportional to what they actually did to get--to create affordability. So you're never going to be able to make the affordability and the subsidy relate to each other with that approach. So, what you could do instead, which I think would be a good idea, would be to have a tax credit where this City Council and Mayor create a law that says, you know, we're going to give away let's say a billion dollars in tax credits, or you know, 100 million dollars in 10 year tax credits each year, and we'll give them to developers who--so we're saying how much it's going to be. We're allocating it, and then instead of as of right it's given to developers who promise to do something for it, and you're going to get--you know, then they'll compete like they do for the federal low income housing tax credit. They will compete to come with good proposals that actually use the money efficiently, use the benefit efficiently, and you'll get the amount of housing that is proportional to the benefit you're handing out, just like the federal low income housing tax credit does. So, that's still a tax incentive, but it's not the 421-a program, and I think that's really how far you would have to go to make a good program.

BARIKA WILLIAMS: I mean, I think building on that, the challenge of an end it or reform it question is that fundamentally it wasn't an affordable housing program, right? And so it's original inception, it was a "we want people to build" program at a time when the market was very cool and there was a lots of concerns about whether or not there'd be new multifamily residential construction that is in no way, shape or form reflects the current housing market of New York City. And so, a reform question is very different if we're talking about tinkering around the edges reform or if we're talking about real fundamental structural reform that takes it from a anything production program to a actual commitment affordable housing program that ties the affordability requirements to what people are getting in terms of benefits. Those are vastly different things and there's a big sort of polar swing that has to happen.

CHAIRPERSON WILLIAMS: So there were some numbers given out, and I just wanted to be clear, because I know the one billion versus however many units you say are built isn't actually accurate because some of that one billion is from credits given even before 2008 or even before 2006. Does anyone have a number that kind of lets us know? Let's say from 2006 or even 2008 how many--how much additional tax credits have been given.

TOM WATERS: Actually, I don't know how much additional credits, but the thing to realize is that most of the buildings that have been finished and are now become occupied since 2008, virtually all of them, I think, were done under the old rules. Those were essentially grandfathered in. Council Member Lander talked about this. I don't think anyone has analysis to show how much it is, but I think it's generally understood. Virtually all of them were done under the old rules. So we don't--we haven't seen the affordable housing that might eventually be created through the geographic exclusion area expansion of 2008. When you look at that, you know, 10 or 15,000 units of affordability resulting from the billion dollars, that's an average over the effectiveness of the program over the last 10 to 25 years. Most of the last 10 rather than a point in time.

CHAIRPERSON WILLIAMS: So--

BARIKA WILLIAMS: Sorry, to clarify, so the 1.1 billion dollars is the price tag that we did not collect in property taxes because of 421-a in just fiscal year 2013. It is a single year's--

CHAIRPERSON WILLIAMS: [interposing] But it's also cumulative.

BARKIA WILLIAMS: So, that's--no, that's just that one year's loss of property taxes.

CHAIRPERSON WILLIAMS: I'm saying that loss of property taxes come from projects approved even 20 years ago.

BARIKA WILLIAMS: Right, right, correct. So it comes from any project that has been in the pipeline that would have in that. So, each year, as a property you would have an amount of money that I as a developer, theoretically--

CHAIRPERSON WILLIAMS: [interposing] So from what point is that 1.1 million?

BARIKA WILLIAMS: That is just any--so that could be used--building that got built as far back as what, 20 years before hand, theoretically. Right, so--

TOM WATERS: [off mic]

BARIKA WILLIAMS: Right.

TOM WATERS: And it reflects the policy averaged over that 10 year period.

CHAIRPERSON WILLIAMS: And so what--if I was to build a unit right now, any idea of how much tax will be foregone off of one unit?

TOM WATERS: It depends on the value of the building. So, let's say the apartment is worth 500,000 dollars and you know, Department of Finance has an assessment procedure and they estimate the market value as 500,000 dollars. They may get it too low, but we'll start from there, 500,000 dollars. Then 45 percent of that is called the assessed value, 225,000 dollars, and then you pay a 14 percent tax on that, which is around 30,000 dollars, and you're not paying that because of 421-a. So that's a 30,000 dollar benefit for that year.

CHAIRPERSON WILLIAMS: For that apartment--

TOM WATERS: [interposing] You still have to pay tax on the land value underlying the building. So maybe you're only getting a 20,000 dollar break or something, 25,000 dollar break.

BARIKA WILLIAMS: So, for example, there is a 40 unit rent regulated rental building in Williamsburg that was built in 2008, and on their 2014 quarterly tax bill, their taxes that they did not pay in 421-a was 233,000 dollars.

CHAIRPERSON WILLIAMS: For one year?

BARIKA WILLIAMS: Yes, I think so, for one year. So that times the life of the project. However, you can't just take that number and say that it's that number times 20, because as the value of the building increases, that number changes year after year.

CHAIRPERSON WILLIAMS: So, you're saying that most of the 1.1 billion in tax that we forego, that forewent--is that the past tense of forego?

TOM WATERS: I just avoid using it in the past tense.

CHAIRPERSON WILLIAMS: You just avoid using it in the past tense. So, the money that we missed in let's say 2014, the 1.1 billion comes from units that were built primarily in the past 10 years?

BARIKA WILLIAMS: Yes.

CHAIRPERSON WILLIAMS: And how many units were that in the past 10 years?

TOM WATERS: Three thousand [sic].

BARIKA WILLIAMS: One hundred and fifty-three, I think. So we had a 153 resident--oh, so residential units. We had 153 residential--

CHAIRPERSON WILLIAMS: [interposing] And how many of those in your opinion were affordable?

BARIKA WILLIAMS: Our calculation is that there are about 12,600 affordable units within those 153,000 units receiving a 421-a tax break.

CHAIRPERSON WILLIAMS: So, in the past--

TOM WATERS: [interposing] And I estimated it a different way from them and came up with about the same number. So I think that should count double.

CHAIRPERSON WILLIAMS: So the past 10 years, roughly 12,000 units and over a billion dollars in tax abatement?

BARIKA WILLIAMS: Well, if you're doing it over the past 10 years, it would be a billion dollars times almost 10.

CHAIRPERSON WILLIAMS: SO 10 billion dollars?

BARIKA WILLIAMS: Roughly.

CHAIRPERSON WILLIAMS: So we got--so, in your assessment, for the past 10 years we built 12,000 in affordable units and we lost 10 billion dollars in tax credits? I mean, in taxes.

TOM WATERS: Yes.

BARIKA WILLIAMS: Yeah, it's close.

CHAIRPERSON WILLIAMS: Terrible.

TOM WATERS: That's about how bad it is, yeah.

CHAIRPERSON WILLIAMS: Would HPD agree with those numbers?

TOM WATERS: From what I took from what the Commissioner said is that they would agree with those numbers, but they would say that people who like 421-a would say that we got other benefits other than the affordable housing that might justify.

CHAIRPERSON WILLIAMS: What else?

TOM WATERS: That's the claim that the city wouldn't have been built without tax incentives. You wouldn't get built, you know.

CHAIRPERSON WILLIAMS: Yeah, but it would have been built.

TOM WATERS: That's based on the assumption that you need incentive, extra incentive to build at all in New York.

CHAIRPERSON WILLIAMS: That might have been true in 1971. I don't know if it were true 10 years ago.

TOM WATERS: I heartedly agree with that.

BARIKA WILLIAMS: I think the other challenge would be that I'm not sure those are numbers that HPD alone has. So, HPD may or may--may have the number of units that got certified over the past 10 years as 421-a units. DOF has the bill of how much we pay over that same 10 year period. Those two things are by in large not put together on top of which then there's the rent--the units that are affordable that then once as the Commissioner testified, once--if the city hasn't put any money into them became the state's responsibility and the city no longer tracks them.

CHAIRPERSON WILLIAMS: As--who from HPD is still here? No one? No one from HPD is here? Is anyone from the administration here? I thought they said they were leaving someone to stay behind. Can we find out where HPD is right now and why they are not here? And I specifically want to know what their numbers are for the past 10 years, how many units they built, how many were affordable and how many, how much tax do they believe were gone [sic]. Okay, thank you. I think Council Member Rosenthal has some questions.

COUNCIL MEMBER ROSENTHAL: Thanks, Chair, and I want to thank you guys for testifying. In fact, I'd like to sort of role with Council Member Williams' point that he was just making. Hypothetically, wouldn't HPD or Department of Finance say they are getting in additional taxes, yes? We're down that 10 billion, but we're up net/net because we have additional property tax owners who are now paying property taxes, but then I would argue back that because we've given up that 10 billion dollars with those tax abatements we haven't gotten enough money to pay for the city services that those new property owners would require, streets, subways, police, sanitation, schools. You know, that ongoing property revenue is supposed to pay for ongoing city services, and we haven't been getting the full amount that we should be getting hypothetically to pay for city services. Is that a fair statement? Anyone?

TOM WATERS: Yes, I think the argument there is that, you know, so people who like this program say it's a good use of money because it causes stuff to be built that otherwise wouldn't have been built.

COUNCIL MEMBER ROSENTHAL: Absolutely.

TOM WATERS: And we benefit from that. So, I don't believe that argument, but even if I did, I would still be concerned about the cost associated with their being built, right? Having more buildings might be great because its property taxes 10 or 25 years from now or for other reasons, but it still costs money to provide the services for it. So, you know, people who like these programs like to say that it doesn't really cost anything because you're foregoing taxes on stuff that wouldn't otherwise have been built, but it does cost something because those taxes correspond to needs that are created by building and the people who live and work there, and therefore, it does still cost a billion dollars even if you accept their argument that otherwise that stuff wouldn't have been built.

COUNCIL MEMBER ROSENTHAL: Right, and also I think I would agree with you that were the tax benefits not there, that these buildings would be built anyway.

TOM WATERS: I think that's--

COUNCIL MEMBER ROSENTHAL: [interposing] And so--

TOM WATERS: obvious.

COUNCIL MEMBER ROSENTHAL: It is obvious, thank you. So, I'll just state it again for the record that, you know, these jobs, we're going to get improvements to the economy. We're going to get the jobs because these buildings would be built anyway, and what we really need to do is have a program that requires affordable housing from the developers who would be building the buildings anyway.

TOM WATERS: And you can't do that with a tax exemption.

COUNCIL MEMBER ROSENTHAL: Correct. So, can I actually, just Sarah, can you explain this one more time? You were talking a little bit about the connect to the Office of Special Enforcement and if you could explain that a little bit better, because I didn't--you were rushing at the end. I couldn't quite follow you.

SARAH DESMOND: So, the Office of Special Enforcement filed an enforcement case. I think it was in seeking an injunction against the owner of 440 West 41st Street for renting I think it was upwards of 86 percent of the units as transient, for transient rentals. It turns out when we looked back at that building and in our records in the office that that building had received a tax abatement for a period of time. It's actually--this building's actually interesting. It's kind of a slight aside, whereas the owner alleged that they were not subject to rent stabilization at this property because they had not fully completed the tax abatement application and filed, I think, it was a 2,600 dollar fee, filing free. However due to some clerical error or some odd [sic], they were awarded the tax abatement. So even though they actually had never finalized the paperwork for it, they got the benefit of the tax abatement for 20 years, and the court ruled in a separate case that the tenants were, you know, the receipt of the tax abatement conferred that rent stabilized status upon the tenants. So, and it, you know, in theory I think that tax abatement should have fully expanded probably in about 2010, but clearly, you know, if they're renting upwards now, upwards of 86 of the units transiently, those tenants all turned over. So, where the Commissioner stated that the tenants had the right to remain in occupancy until they voluntarily vacate, I think for that level of turnover in that building, you would have to see that the tenants were pushed out and probably denied their benefits.

COUNCIL MEMBER ROSENTHAL: You're saying a couple of different points, but I agree with you. I'm definitely seeing that in a little farther north as well, where in anticipation of the tax abatement running out, the landlords are pushing out the tenants. I was also confused by her testimony where she seemed to imply that the tenant, as long as they stayed, would be afforded rent regulated rates.

SARAH DESMOND: So, we were actually--

COUNCIL MEMBER ROSENTHAL: [interposing] I don't think that's happening.

SARAH DESMOND: And I think that's exactly it. I think the oversight of what you see on the ground and what the tenants are perceiving, it's very different from what is the perception about the program. It's different from what the DHCR fact sheets state about the program. I mean, it's all over the map. We had a building that came to us, a tenant came to us at One River Place on 42nd Street in which it had a 2018 expiration date saying that the benefits ended and that the building, the unit would no longer be subject to rent regulation. This unit was only developed with using 421-a benefits. There were no inclusionary, no other, no tax credits attached to it, and you know, we wrote a letter saying that the--pursuant to the program, they had a right to remain in citing the section of the law until vacancy, and as a result, every tenant in that development was given a corrected lease renewal, that it said that they had the right to remain. So, clearly, they concurred as well that that is a legal record.

COUNCIL MEMBER ROSENTHAL: So, Sarah, one of the other thing that I heard loud--

CHAIRPERSON WILLIAMS: [interposing] Council Member?

COUNCIL MEMBER ROSENTHAL: and clear--this is the last question--from the Commissioner was that she'd be willing to take addresses, specific addresses from us and help us look into. I mean, it sounds like the building that you mentioned, in a way, it's already gone. You know, the disaster has already happened, but where there are buildings that you know that these--that people are getting pushed out or there are questions about the end of the rent regulation, that she'd be willing to take those addresses, go back and investigate those for us. So, if you could give the--I'd be happy to send that list in. I planned to send that list in. If you have other addresses, I'd be happy to take those.

SARAH DESMOND: Sure, also our Community Board, Community Board Four, the Housing Committee has actually already addressed this issue with Commissioner Been in a separate letter, and I'll get you a copy of that correspondence.

COUNCIL MEMBER ROSENTHAL: Great. Thank you very much.

BARIKA WILLIAMS: To follow up, I think one piece to connect sort of both of your questions, I think one of the challenges is that we often sort of frame the cost of not having 421-a in terms of new development from the city but also failed to look at the fact that there's a cost to having it, and that these displacement pressures still cost the city money in some way, shape or form, right? So, we are still--these affordability pressures that happen when these big market rate units are going up on the West Side or in downtown Brooklyn, in Flatbush, wherever they are are creating affordability crisis and furthering the affordability crisis in the city, which is costing the city money. So, the program costs the city a 1.1 billion dollar bill and then also costs the city money in terms of furthering the affordability crisis. Those two things can't be separate.

CHAIRPERSON WILLIAMS: Thank you, Council Member. Just for clarity, there is a IBO fiscal brief that was done, and in 2002 the--it was 40,000 residential units and the abatement at that point was 130 million. So it wasn't a billion a year. So now it's 1.1 billion at 167, you said, 167 units roughly?

So we're probably more to around the tune of four billion dollars as opposed to 10 billion dollars, but still--

TOM WATERS: [off mic] very rapidly during the boom years and then leveled off at billion, roughly a billion.

CHAIRPERSON WILLIAMS: It rose rapidly. So it may not be four, but it may not be 10, but it's still a lot of money for a little bit amount of units. Sarah, that was--that example you gave, did you give two examples, or that was one example, one building?

SARAH DESMOND: There are two examples. There are actually are--I have a host of them.

CHAIRPERSON WILLIAMS: So you have also examples? Do you have--both of them are people getting evicted or are they examples of public noncompliance?

SARAH DESMOND: So one example was on One River Place, they were given incorrect lease renewals that said they had to--their rent stabilized status would terminate as of this date. That was subsequently corrected and CC'd to like all the elected officials and I have a copy of that lease renewal as well, and where they notified the tenants they had the right to remain until beyond the termination of the tax benefit until they voluntarily vacated. Then there was another example where I don't know what happened with it, where I know that during the tenure of the tax benefit they tried to issue non-renewal leases for the tenants and to evict them for holding over stating that they were not subject to rent stabilization. The court ruled exactly the opposite, that because they received the tax benefit, the tenants were subject. I don't know what happened after the expiration of the tax benefit. We haven't seen the tenants since that time.

CHAIRPERSON WILLIAMS: Does anyone else have examples of noncompliance with the tenants in particular?

BARIKA WILLIAMS: So, ANHD has in collaboration with our 100 member groups found that this is the case in different places. We've had communication with HDC and on the West Side, but it is a big concern. One of the challenges, though, I mean, I know the Commissioner testified that people haven't--that they don't have any complaints, but one of the challenges is it's very hard as a tenant when and if you should complain. So, if you get a lease that has the terms for inclusionary zoning, but you're a 421-a unit, do you know that? Do you know the difference? Do you know that your rent stabilization is supposed to extend beyond the term of the affordability? Are they giving you a 2006 421-a lease as opposed to a 2011? There's a lot of confusion that unfortunately leaves tenants in the dark and very vulnerable to tenant abuse.

SARAH DESMOND: Council Member, if I can, I can give you an example of like three of the conflicting terms that are in the lease rider. If you have--this one lease rider, and this is a triple dip program that has the inclusionary 421-a, and what the lease rider does is it states the provisions, the expiration provisions for each of the programs. So even though they directly conflict. So, one of the--at one point it will say, "You must remain rent stabilized for at least 35 years." Then it says it's subject to rent stabilization and the code indefinitely. And then it says, "The rent stabilization requirements for SGA affordable units pursuant to Section 421-a will expire on or about

June 30th, in this case, 2046. After such date, the apartment will not be regulated as to the amount of rent that may be charged for the apartment nor will the owner be legally obligated to renew the lease." And it says all three of those things in the same lease, and then saying, you know. And it's clearly--I mean, this isn't affordable units that under the inclusionary housing program should be affordable indefinitely.

CHAIRPERSON WILLIAMS: Have the examples you've given and the examples that you may know of, has that been given to HPD?

SARAH DESMOND: Yes. In this example, this--the letter, what I just read to you was something that was sent to them.

BARIKA WILLIAMS: And I think we're working with our groups to compile some of them. It does, I mean, the Commissioner's testimony also suggests there's some confusion as to where they go, because some of those complaints if they're just 421-a are supposed to go to the state and others are supposed to go to the city and so also there's the concern of like where the complaint should be directed.

CHAIRPERSON WILLIAMS: Alright. Thank you very much.

SARAH DESMOND: Thank you.

CHAIRPERSON WILLIAMS: Thank you so much for your testimony. So, we are going to call the next panel. So what I learned from this panel, we're going to get a lot of back and forth into what people are thinking, so I'm going to drop the testimony time from three minutes to two minutes, and we'll get more information out during the Q & A if you've missed something during your testimony time. So, we have Edna Lenquest from Banana Kelly, Jean Folks from 1616 New Kirk Avenue [sic], 951 Carol Street Crown Heights Tenant Union, and Keisha Jacobs, Crown Heights Tenants Union. 1616 sounds like Flatbush Tenants Coalition or Flatbush Development Corporation. And then after that we'll have Santos Rodriguez, Building and Construction Trades Council, Mike McGuire, Mason Tenders, Ruben Colon, New York City District Council of Carpenters, Lenore Friedlaender, SEIU Local 32 BJ, and Kevin Galarza, SEIU Local 32 BJ. So, let's see. Esteban Girón from Crown Heights Tenant Union? Keisha Jacobs? Jean Folkes? Edna Lenquest? Is Samuel Vasquez here? You want to come up? Good old

Lower East Side. Can you each raise your right hand, please? Do you affirm to tell the truth, the whole truth and nothing but the truth in your testimony before this committee and to respond honestly to Council Member questions?

UNIDENTIFIED: Yes.

CHAIRPERSON WILLIAMS: You each have two minutes, and you can begin at your leisure.

KEISHA JACOBS: I'll speak first. Good afternoon. Thank you to the Committee for seeing us this afternoon. I just want to speak a little bit to what the tax incentive programs look like for the most vulnerable of New Yorkers. My name is Keisha Jacobs. I'm from the Crown Heights Tenants Union. We're a group of tenants associations in our community that are using a collective bargaining strategy to deal with landlords in our neighborhoods. A few years ago, about 40 percent of the apartments in my building have been turned over to families in crisis. They're homeless shelters. They're part of the city's cluster site shelter system. These individuals who lost their advantage subsidy when we discuss 421-a in my tenant meetings are angry. They can't imagine how the city can give money to developers to subsidize luxury housing at the same time very many, many families, thousands of families were re-entered into the shelter system, costing the city upwards--they're almost 60,000 families, 60,000 people in shelter, many of which are children, and this costs the city a lot of money every night every year. The city is wasting money housing families in crisis. The families that I represent in my building struggle to understand why the developers get subsidies to build and profit when families are out on the street. My neighbors are angry when we discuss 421-a at our tenants meetings. The wastefulness of housing homeless families in formerly rent stabilized apartments mind you at market rate rents when simply subsidizing rents for the lowest income levels at rent stabilized rates would save thousands of families in crisis and from chronic homelessness.

JEAN FOLKES: Good afternoon. Thanks for having me. I'm Jean Folkes, and I'm from Flatbush Tenants Coalition. Let's cut to the chase. This 421-a tax abatement has outlived its purpose. Its introduction in 1970 was to spur new construction for whole [sic] housing when the housing, it was very--people were moving out to the suburbs, and it was scarcity of housing and money was not around. But at the building 157 Street has been explained. That landlord, developer sold an apartment for 90 million dollars. That, I'm sure, that owner does not live in the city. So what is the city getting back from them as to jobs, as to all of the things that the Commissioner says we get back? We don't get anything back. They have houses all over the country, all over the world, and meanwhile, these ruthless landlords and developers are driving rent stabilized tenants out of their homes by all means, mainly for old [sic] ones. We need to preserve the affordable housing and the council and Mayor must think hard about the tax abatements that housing, affordable housing needs. The only thing driving these developers to use this 421-a tax abatement is greed, pure greed. The billionaire build homes all over the world, do not need any subsidies from the hard-working, relatively poor residents of New York State. Those taxes are needed for schools, after school programs, daycare centers, senior housing, recreation centers and real affordable housing. We know in Flatbush, that's the new place that they have found and they harass the tenants in our buildings, and they’re pushing out the tenants affordable and they’re just making new buildings, not repairing, not keeping them in good repair. And the Commissioner is finding it hard to navigate this law. This law has been patched and patched and repatched. It doesn’t need to be patched any more. It needs to be thrown out and if anything, something new put into place. This doesn’t need another patch. Thank you.

ESTEBAN GIRON: Good afternoon. Good afternoon everyone. Thank you Chairman Williams. I apologize. Members of the City Council Land Use Committee for the opportunity to come before you and testify today on the 421-a development tax break program. Since 9/11 the New York housing industry have utilized the 421-a tax exempt incentive to construct new housing developments across the entire city, but the practice has not benefitted all New Yorkers. This is especially true in the community I live in, which is the lower Manhattan community known as the East Village, China Town, and the Low East Side because of the unaffordability so many of these residents. These units, many have remained empty and are currently being warehoused with no residents living in them. Why is that? The true intent of the

421-a tax exempt law is to aid in their construction of new housing for all New Yorkers. This includes low and moderate income groups here in the lower Manhattan neighborhoods and across the entire city. A question I put forward to this committee, to the committee members, has the 421-a development tax break program really benefited all socioeconomic groups in New York City? The reality is the practice of the 421-a law has worked in a very opaque manner and has not, I repeat, has not benefitted all New Yorkers. This committee will have the opportunity in the coming months to review, to revise and consider the changes to the 421-a tax exemption law. At this time, I'd like to remind you all that low and moderate income families throughout New York City communities need you, their representatives to act on behalf of your communities, and hold developers accountable as a 421-a tax exempt law come before you more modification. The people of New York City are calling on you to do the right thing this time around. At this time, I certainly do not believe this law has benefitted ethnic, cultural and socioeconomic groups within New York City legion. Moving forward, my hope is for committee members to take steps to tie the loose end that currently exist within the law. In turn, all New York City, all New Yorkers despite their socioeconomic status can live in a borough of their choosing. That is the true intent of the 421-a--

CHAIRPERSON WILLIAMS: [interposing] Going to have to ask you to wrap up, please.

ESTEBAN GIRON: Okay.

CHAIRPERSON WILLIAMS: You can make your final statement.

ESTBEAN GIRON: Okay. In addition, I just call upon the Land Use Committee members and the colleagues on the City Council legislative body to make the necessary changes to correct this tax break law. Once again, I thank you for the time and the opportunity to speak on behalf of GOLES, Good Old Low East Side. Thank you.

CHAIRPERSON WILLIAMS: Thank you.

EDNA LENQUIST: Thank you for allowing me to testify. My name is Edna Lenquist. I live in the Bronx for over 50 years. I've bene a resident of Banana Kelly for 25 years, and am a Leader in the Banana Kelly Resident Council. I live in a rent stabilized affordable housing. As a member of the

Resident Council, we are concerned about the losses of affordable housing in our community. We are here today to call for an end to the 421 subsidy. Primarily it creates no public benefit for our community. Our neighbors of Hunt's Point, Longwood, remains out of the geographic exclusive areas, despite having one of the highest rent burdens in the city. This means that developers are not building housing affordable to residents in the community. While they continue to receive a 25 year tax break, in the past five years, 2,053 units has been constructed in zip codes 10455 and 10459 and buildings receiving 421-a. None of these units was affordable or rent regulated. At Banana Kelly, 81 percent of our total waiting list over 800 families are below 30 percent of the area median income and cannot meet the affordable needs without, affordable needs with the housing available in our community. In our zip code of 10459 median income is 24,461 for a household of four. The 421-a program has done nothing to ease the rent burden in our community. It has not delivered units that match our affordable needs. We're working to ensure that our neighborhood doesn't lose any more affordable housing. 421-a as is will continue to push our neighborhood closer to gentrification by subsidizing developments without affordable housing. If developers are to receive tax breaks, we need a program that requires too affordable and real public benefit for long term residents of our neighborhood because of the GEA [sic] and a failure to meet our affordable requirements. 421 has not and will not accomplish this in our neighborhood. We therefore call upon you to end the program this year. Thank you.

CHAIRPERSON WILLIAMS: Thank you very much. We also were joined briefly by Council Member Torres. I just want to say thank you very much for coming and sharing your testimony with us today, and speaking on behalf of I'm sure of yourselves and the organization. I do have to give a special shot out to Ms. Folkes in Flatbush Tenant Coalition, and Aggar [sic] who is in the audience. You do a lot of great work in and around my district, as I'm sure you do in areas that you represent as well. So, thank you so much for your testimony. I appreciate it. We've been joined again by Jordan Press from HPD. Thank you so much for coming back. There was some good testimony that was given in the last two panels before. One in particular, there was some numbers given about how much it might cost, and so I'm hoping that HPD can get back. And I think if I remember correctly they were saying over the past 10 years, I think we came up with maybe between four and 10 billion dollars in taxes were foregone, and I think it was 167,000 units sold. I wanted to see if HPD with DOF had similar numbers in the past 10 years. So the numbers that we had were 167 units in the past 10 years, and in the past 10 years it was roughly between four and 10 billion dollars of taxes that were foregone just for those years alone. So, I'd like to know those--I mean, obviously you can't give it to me now, but I just wanted to make sure that went back to HPD. Thank you. Santos Rodriguez, Building and Construction Trades, Mike McGuire, Mason Tenders, Ruben Colon, Council of Carpenters, Lenore Friedlaender, SEIU 32 BJ, Kevin Galarza, SEIU 32 BJ. They will be followed by the last panel of all the people who've signed up, Ellen Davidson, the Legal Aid Society, Ed Josephson, Legal Services, and Katie Goldstein, Tenants and Neighbors. So we have Santos Rodriguez?

SANTOS RODRIGUEZ: Yes.

CHAIRPERSON WILLIAMS: We have Mike McGuire? We have Ruben Colon?

RUBEN COLON: Yes, sir.

CHAIRPERSON WILLIAMS: We have Lenore Friedlaender. I'm sure I butchered that up, sorry. And Kevin Galarza.

UNIDENTIFIED: She's a translator. Going to speak in Spanish.

CHAIRPERSON WILLIAMS: I see. So, if everyone can raise their right hand, please? Do you affirm to tell the truth, the whole truth and nothing but the truth in your testimony before this committee and to respond honestly to Council Member questions?

PANEL: Yes.

CHAIRPERSON WILLIAMS: did the person need translating understand what I said?

UNIDENTIFIED: [off mic]

CHAIRPERSON WILLIAMS: Okay. So everybody will have two minutes and you can begin at the order you prefer.

SANTOS RODRIGUEZ: My name is Santos Rodriguez. I am speaking on behalf of the Building Trades, the Building and Construction Trade Council of New York, representing unionized construction workers of which approximately 52,000 are New York residents and as some--and as someone that was a graduate of construction skills at BCTC, a Building Trade Construction Council pre-apprenticeship program, I want to also say that 75 percent of all buildings trades apprentice work--excuse me--working New York City are city residents. And as recent analysts of just the first year apprentice showed that 88 percent of building trades apprentices were city residents. I want to start by thanking Housing and Building Committee Member Chair Council Member Williams for the oversight of the hearing today on 421-a. While we have historically supported programs incentivizing development and therefore construction opportunities, we want to assure that these programs result in more affordable units and good jobs. This January, the Fiscal Policy Institute issued a report on New York City taxes that described the 421-a program as one that still grants exemption in many parts of the city without any affordable housing requirements and provides reduced benefits in exchange for a commitment of only 20 percent affordable units in high demand neighborhoods in Manhattan and in parts of the other boroughs. Thus, 421-a tax breaks ends up subsidizing thousands of luxury residential units. The 1.1 billion annual costs of 421-a tax breaks has soared by over 11 percent since 1998, more than six times the growth in the city's property tax collections over a 16 year period. Therefore--

CHAIRPERSON WILLIAMS: You can give a closing sentence.

SANTOS RODRIGUEZ: So, just as a building and construction trade's person, I've been in the business for over 17 years. I come from Williamsburg, Brooklyn. I've heard Williamsburg mentioned here quite often, and today I've been displaced almost 14 years ago, and we talk about affordability and good wages. These things need to be implemented also for something like 421-a to work.

CHAIRPERSON WILLIAMS: Thank you. Who'd like to go next?

MIKE MCGUIRE: Good afternoon, Chairman. Mike McGuire, Mason Tenders District Council. I'm going to-- Council Member Rosenthal mentioned jobs, because obviously as a worker's advocate, my main concern is the jobs created by this billion dollar subsidy. Make no mistake about it, that's what it is. It's a subsidy and good jobs should be to benefit the city as a whole from this. First and foremost, as developers--sorry, lost my place. First and foremost, as developers are receiving a public subsidy, prevailing wages, and benefits as determined by the Comptroller of the City of New York should apply. Contrary to what opponents of prevailing wages will tell you, current prevailing wages do not make anyone rich. One of my members working an average of about 1,400 hours per year would earn around 56,000, roughly half the salary of a member of the City Council. At best with a working spouse, there's a lower middle class income in New York City. Secondly, apprenticeship requirements should be put in place. Building Trades journey persons who have completed a New York State certified apprenticeship come away with a skill set that is exportable anywhere in the world, allowing a person to earn a decent living anywhere they go. Again, despite what opponents will tell you, apprenticeship programs are not as it's been said, union protection programs. The truth of the matter is that about half the programs in New York State are non-union programs. But here's a stat that I will put up against any non-union program anytime. Most of the members of the New York City Building Trades Construction Trades Council apprenticeship classes are both city residents and people of color. My program, for instance, the Mason Tenders District Council Training Fund is more than 90 percent city residents and 84 percent women or people of color. As a matter of fact, our program is nine percent women of color. This is 450 times the national average for non-union construction, not 450 percent, 450 times. And finally, there should be a local hiring component in exchange for the subsidy. New York City residents are ponying up more than a billion dollars in subsidies every year to developers who are allowed to hire workers from Suffolk and Sullivan Counties, or are free to import workers from Tennessee and Texas. How about the New York City tax subsidy going to hire New York residents? With these three recommendations in place, even more local residents could garnish spots in certified apprenticeship programs, learn skills that twill support them the rest of their lives, and earn wages that will move them up the economic ladder. You’re giving away that billions of dollars--billion dollars every year anyway, why not demand these life improvements for citizens of the city of New York. The Mason Tenders District Council supports the re-enactment of 421-a program, but only with the recommendations outlined. It's time for the city of New York to turn this boondoggle into a boon for its residents. Thank you.

CHAIRPERSON WILLIAMS: Thank you. There used to be a commercial where they would talk really fast at the end.

MIKE MCGUIRE: Joe Isuzu [sic].

CHAIRPERSON WILLIAMS: Yeah.

MIKE MCGUIRE: Yeah, I've been working. I'm trying to become an auctioneer so I can do the testimony.

CHAIRPERSON WILLIAMS: Thank you very much.

RUBEN COLON: Good afternoon, Mr. Williams. Thank you for having us today. My name is Ruben Colon. I represent the New York City District Council of Carpenters. We're eight locals in New York City with 25,000 members. The Carpenters Union represents rights of workers, raising the standard for not only our members, but for all construction workers in New York City metropolitan region. We are here today on behalf of workers that build the structures subsidized by the 421-a tax benefit program. There are no current prevailing wage protections for workers that are tasked with building the projects granted 421-a funding. Developers are receiving significant funds to construct these multiple dwelling buildings, yet no labor standards for the construction are attached. Workers could be receiving poverty level wages with no benefits on jobs where there is a significant public subsidy. We should be demanding more from developers receiving this subsidy. We should be requiring they provide good middle class jobs with family sustaining wages. The 421-a program in its current form is not promoting quality careers, but is subjecting workers to low paying, temporary jobs. Some positive steps have been taken with respect to the building service workers. It is already mandated that a large number of building service workers receive a prevailing wage if they are working in a building that receives 421-a funding, yet those same protections are not extended to the construction workers. In order to ensure greater economic opportunity for an even greater pool of workers, prevailing wage protections for construction workers must be included in any proposal for 421-a reform. There have been a number of studies emphasizing the need for greater oversight and accountability in the 421-a program. The Pratt Institute issued a report in 2006 highlighting a number of deficiencies that remain today. The fought [sic] decries [sic] the fact that developers qualifying for these programs are paying substandard wages while receiving these subsidies. Many of the projects that qualify for 421-a are not included in the exclusion zone and therefore do not create any additional affordable units.

CHAIRPERSON WILLIAMS: You want to give a final statement, a final sentence?

RUBEN COLON: We are for reform. We are for requirements that--a living wage at the very least, a prevailing wage at best be required on these job sites.

CHAIRPERSON WILLIAMS: Sure. Just so you know, we have--I did have some questions on reforms to job requirements and wage requirements, but my assumption was that since they were saying they'd look into all things that are said, that that would be the response that we got. So, I skipped over some of the questions that we had, but that is definitely something that's in our mind. Thanks.

LENORE FRIEDLAENDER: Okay. I'm going to go next. Good afternoon, Chairperson Williams. My name is Lenore Friedlaender. I'm the Assistant to the President at 32 BJ. I appreciate the opportunity and you hanging in to listen to all voices. And we are here today specifically to talk about issues that have not been as addressed sufficiently which are the good jobs provisions requirements of the 421-a, and also enforcement mechanisms about 421-a. We strongly believe that where developers get a public benefit, a subsidy, a tax abatement, a pilot, or any other form of public benefit, that they should have to give back in terms of good jobs that build strong communities. And so that's kind of the principle that we think is really critical here. And as people know, the prevailing wages determine that it is based on the rate that we negotiate with the real estate industry and it provides family sustaining wages, family healthcare, training opportunities, and a secure retirement, and that's really critically important in these times of tremendous instability. Without jobs tied to the prevailing wage, as you will hear from

Kevin Galarza who will speak after me, that workers often are forced to work at poverty level wages without those kinds of benefits, and good jobs contribute to a growing middle class, support local businesses, create a path to more vibrant economy and create a level playing field for responsible employers. So the specific recommendations that we have for reforms that are very needed are to eliminate the carve outs both for small buildings, and there's some high end luxury buildings that are smaller, and there's no economic reason to exempt them as well as other buildings that have specific carve outs and to strengthen enforcements so that developers who are in violation of the labor standards, there's really significant consequences that could include losing the tax, the privilege of the tax abatement for employers who violate and don't pay the established standards. Thanks for the opportunity to testify.

CHAIRPERSON WILLIAMS: Thank you.

KEVIN GALARZA: [speaking Spanish]

TRANSLATOR: Good morning. My name is Kevin, and I work in a luxury building called Packard

Square Number Three in Long Island City. This is a building that receives the 421-a tax benefits.

KEVIN GALARZA: [speaking Spanish]

TRANSLATOR: I started to work at the building almost a year ago earning eight dollars an hour, which was the minimum wage at that time. I didn't have any health insurance, vacation days or sick days.

KEVIN GALARZA: [speaking Spanish]

TRANSLATOR: When myself or my co-workers are sick we have to take the day off without any pay. In addition, we have to find someone who can cover us for the day, which sometimes mean that we need to give them a little extra from our own pockets to make sure that we are covered.

KEVIN GALARZA: [speaking Spanish]

TRANSLATOR: I have a three year old son and my wife is pregnant with another child. We have to pay for our rent, our food and all of our bills with my salary of eight dollars an hour. I'm always behind on my bills. I either have to ask for extra time to pay or I have to decide which bills not to pay in that month.

KEVIN GALARZA: [speaking Spanish]

TRANSLATOR: With a wife who is three months pregnant, I was worried. Another baby is coming and it will be impossible to support my family on minimum wage.

KEVIN GALARZA: [speaking Spanish]

TRANSLATOR: When I found out that the company was supposed to be paying much more according to law, I decided to fight for what I deserved, thinking about what was good for my family.

KEVIN GALARZA: [speaking Spanish]

TRANSLATOR: After delivering a letter that stated my rights along with my coworkers, they fired me and my brother. This week I received my last check of 61 dollars.

KEVIN GALARZA: [speaking Spanish]

TRANSLATOR: This week I have to pay my rent. How am I going to pay my rent with 61 dollars? Thank you for listening to me. I’m asking for your support because I know that I’m not the only one who is facing these problems. There are many of us.

CHAIRPERSON WILLIAMS: Thank you very much for all your testimony. Particularly thank you, Kevin, for giving your personal testimony and being brave enough to come forward. The--just for the changes that are seen to be made with the wages, are you saying it should be higher than what already exists in the statute or it should be expanded to more than to what’s already covered?

MIKE MCGUIRE: So, what we’re saying is--well, are you talking about the maintenance worker wages or construction worker wages?

CHAIRPERSON WILLIAMS: Well, two people talked about--

MIKE MCGUIRE: Right, so on the construction workers side, we’re saying because this is a public subsidy, the 1.1 billion dollars, the prevailing wage should apply. I don’t know what these folks are paying, but something tells me the prevailing wage would be higher than what they are paying. Yeah, what we find on these non-union sites is construction labor is making somewhere between minimum wage and 12 dollars an hour versus the prevailing wage, which the envelope pay for labor is about 39.

LENORE FRIEDLAENDER: I think on the property service side, we support the idea that it is the prevailing wage as determined by the comptroller or the current system, but we’d also support the inclusion of all other classifications of work tied to the appropriate prevailing wage for those classifications of work. So, for construction we would support the prevailing wage rates as established in the industry, which tend to be the rates that are negotiated with the real estate industry and rates paid by responsible employers.

CHAIRPERSON WILLIAMS: And Kevin, the work that you did, you were a building service worker or you were doing construction?

KEVIN GALARZA: [speaking Spanish]

TRANSLATOR: He’s a doorman.

CHAIRPERSON WILLIAMS: Doorman. Yeah, so then you should have been getting paid. Do you know what the prevailing wage was in that area that you were working, what you should have been getting paid?

KEVIN GALARZA: [speaking Spanish]

TRANSLATOR: Twenty-two dollars an hour.

CHAIRPERSON WILLIAMS: Are you working? Do you have an attorney? Working with an agency, and organization?

KEVIN GALARZA: They fire me.

LENORE FRIEDLAENDER: No, he’s working with 32 BJ.

CHAIRPERSON WILLIAMS: I see.

LENORE FRIEDLAENDER: We're proceeding to the Labor Board, but the situation we think isn't unique to Kevin in his situation, but to lots of other workers who are in similar situations, and he was brave enough to come forward, stand up, and you know, go with a group of his coworkers to his employer to say we should be making the prevailing wage.

CHAIRPERSON WILLIAMS: So, is this--the building that he was in, would you have to deal with DHCR or HPD?

LENORE FRIEDLAENDER: So, by law, the responsibly falls to HPD to enforce the prevailing wage requirement for 421-a.

CHAIRPERSON WILLIAMS: And is HPD aware of his situation?

LENORE FRIEDLAENDER: HPD has said in the past that they are not currently enforcing the prevailing wage requirements for 421-a.

CHAIRPERSON WILLIAMS: I don't even know what that means. What--did they--I mean, I don't understand.

LENORE FRIEDLAENDER: So, the law states that the, that HPD is the agency that is required to enforce 421-a, the prevailing wage requirement of the 421-a law, but they have not put in the enforcement mechanisms in order to make that a reality.

CHAIRPERSON WILLIAMS: and that was their public response?

LENORE FRIEDLAENDER: yeah.

CHAIRPERSON WILLIAMS: Did they give that to you in writing?

LENORE FRIEDLAENDER: I can double check and see if we can get that.

CHAIRPERSON WILLIAMS: Yeah, I'd like to see that also. Can you make sure you speak to Mr. Press after your testimony so he has that information, and then I would like a response from HPD if possible on what's happening with that case and those cases in general?

LENORE FRIEDLAENDER: One of the things that's in the written testimony that I didn't touch on is that we have surveyed a number of the buildings that we believe are 421-a and the vast majority of those that aren't currently, where the workers currently aren't represented by 32 BJ are out of compliance, and we're happy to supply that list to you, to HPD, to anybody who's interested.

CHAIRPERSON WILLIAMS: Yes, please. Thank you. Thank you very much for your testimony. Thank you.

RUBEN COLON: Thank you.

CHAIRPERSON WILLIAMS: Last, but definitely not least, Ellen Davidson, Legal Aid Society, Ed Josephson, Legal Services, Katie Goldstein, Tenants and Neighbors. Ed left? Okay.

UNIDENTIFIED: Are we getting sworn in?

CHAIRPERSON WILLIAMS: Can you both raise your right hand? Thank you. Do you affirm to tell the truth, the whole truth and nothing but the truth in your testimony before this committee and to respond honestly to Council Member questions?

ELLEN DAVIDSON: I do.

KATIE GOLDSTEIN: I do.

CHAIRPERSON WILLIAMS: Thank you so much. You each have two minutes. You can begin at your--

ELLEN DAVIDSON: I'll go first. I've submitted written testimony. I'm Ellen Davidson from the Legal Aid Society. I'm a staff attorney in our Law Reform Unit, and I've submitted testimony which I will not read. But it is basically the position of the Legal Aid Society that specifically for us and our clients that even the so-called affordable units are not affordable to our clients. They never have been. We represent people at 30 percent of AMI and under, and the--even the most affordable units that are created, which as we have heard today are very small amount of the actual units produced from this program have never been affordable to our clients, and even when we have clients who have vouchers and other sort of subsidies, they find it hard to get into these buildings. But you know, so this is, again, never been a program that was--that did anything for any of the people I represent. But, you know, from a public policy point of view, to have--I think this is what Council Member Levine called it, a billionaire boondoggle. We certainly think we have quite enough of those, and if there are going to be tax subsidies for affordable housing we would like--or subsidies for affordable housing, we would like to see those subsidies go directly to the low income tenants who are struggling so hard in our city to afford to pay not only their apartments, but also the other necessities in their life which they often can’t because their rents are so high. And so we call upon the council to actually end this program. There may be a way to provide affordable housing through some sort of tax credit that’s not as-of-right, but this program isn’t it, and there’s no way to make it work. So, we ask you to, we’re calling on you to end the program. Thank you.

KATIE GOLDSTEIN: And my name is Katie Goldstein from Tenants and Neighbors. I know Chair Williams, you’re very familiar with the work of Tenants and Neighbors, so it’s good to be here today. We are adding our voice to the chorus calling for the end of the 421-a program and for many reasons that have already been articulated today, but just to reiterate a few of them, the fact that it wastes billions of dollars of tax payer funding. It produces very little affordable housing units. The affordable housing units that are produced are not for low income tenants, and also, in research that was shown by the Real Affordability for All Coalition, that many of the affordable units that are created are actually layered with additional subsidies. So it’s not the 421-a tax abatement that’s providing the affordability that is so sorely needed in many communities. So we are calling on the Council to end this program, and then also to say as everybody knows, when it expires June 15th, that is the same time that the rent laws also expire. So we are looking forward to working with the Council to be pushing for the repeal of deregulation, to really preserve affordable housing, rent regulation as the largest source of affordable housing for low income tenants in the city, to really be pushing forward our preservationist agenda around housing policy that does put low and moderate income tenants first. Thank you very much.

CHAIRPERSON WILLIAMS: Thank you. What do you say to some folks when they say even if we end it, the state within the year that we--well, end it, we'd have to make it a little bit more stricter. We're still not clear if we can just outright flip it on and off, but we can make it so constrictive that it might end it. What do you say to folks who may say that if we did that within the next year, the state can just override everything that we do?

ELLEN DAVIDSON: You know, I have not been up in Albany to talk about 421-a since the US Attorney for the Southern District made public the complaint against Speaker Silver which talked very much about Albany and 421-a. So, I don't know what--how much of an interest Albany has to override the city right now and do the bidding for special interests. I'd be sort of interested to see that, but they would have to basically say, pass a law that was specifically toward New York City and nowhere else in the state on behalf of a program that has been in the media and that is currently being investigated by the US Attorney, and I guess that's possible. One is never surprised by what happens in Albany, but it seems unlikely.

KATIE GOLDSTEIN: And I'm not a lawyer, but I will say that I think that what has really been shown here today at this hearing is about why this is really a failed policy, both in the past and also I think many of the folks here that were testifying today are really showing a unified force from the affordable housing and tenant movement that this program should end.

CHAIRPERSON WILLIAMS: Thank you very much for your testimony. Of course, I got to give a shout out to Tenants and Neighbors.

KATIE GOLDSTEIN: Thank you.

CHAIRPERSON WILLIAMS: Great work that you do. But thank you so much for your testimony both of you, Ellen as well.

ELLEN DAVIDSON: Thank you.

CHAIRPERSON WILLIAMS: For the record, we received testimony from Gotham Nysafa [sp?], Architects Council of NYC, NYLAG, REVNY, Urban Green. So, I want to thank everybody who came out. Thank you, staff, everybody. We have now adjourned the hearing.

[gavel]

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.

Date February 8, 2015