



**Testimony of the New York City Department of Housing Preservation
and Development to the New York City Council Committee on Housing
and Buildings**

**Basement and Cellar Apartment Conversion Pilot Program and Intro
1004**

November 13, 2018

Good morning, Chair Cornegy and members of the New York City Council Committee on Housing and Buildings. My name is Kim Darga, and I am the Associate Commissioner of Preservation with the New York City Department of Housing Preservation and Development (HPD). With me today are my colleagues Matt Murphy, Deputy Commissioner for Policy and Strategy at HPD; Julian Bazel, Code Counsel at the New York City Fire Department (FDNY); Gus Sirakis, Assistant Commissioner for Technical Affairs and Code Development at the Department of Buildings (DOB); and Christopher Holme, Senior Planner at the Department of City Planning (DCP).

I am excited to testify today on Intro 1004 and the City's demonstration program to facilitate the renovation and creation of apartments in basements and cellars of certain one- and two-family dwellings in Brooklyn Community District 5 (CD5). Basement and cellar apartments have been a topic of interest for at least 90 years in New York City. Today is an important step to address their existence and explore how they may be converted to legal, safe housing.

Introduced by Council Members Lander, Espinal, and Barron at the request of the Mayor, this bill reflects the efforts of a two-year working group and joint recognition between the City Council and Administration that innovative tools are needed to address the city's affordable housing crisis. In conversations during the East New York rezoning process, the community specifically called for a pilot program to look at converting basement and cellar apartments. I especially thank Council Member Espinal for his leadership on this issue.

Affordable housing is one of the biggest concerns that New Yorkers face and one of the top priorities of Mayor de Blasio's Administration. The estimated population growth in New York City between 2010 and 2017 was around 400,000 people – this is a population larger than New Orleans or Miami. To confront this migration, we are making every effort to add housing at a variety of income levels. This helps provide relief in the rental market, which holds a stubbornly low vacancy rate of 3.63 percent according to the 2017 Housing & Vacancy Survey. The Mayor's comprehensive housing plan, accelerated and expanded through *Housing New York 2.0* to finance 300,000 affordable homes by 2026, is a critical pillar of a broader agenda to keep the city affordable, competitive, and sustainable.

We are here today to take the first steps to enable and encourage homeowners to turn their basements into legal and safe apartments. While New York City remains a majority renter city, it is vital that homeowners have the tools to participate in the housing solutions we need to confront our housing, especially affordable housing, shortage.

Although the economy has improved since the foreclosure crisis and recession, many New York City homeowners struggle to cover basic home expenses, including mortgage payments and needed repairs, and still make ends meet. Because of New York City's high value real estate market, it is not unheard of for aggressive speculators to barrage vulnerable owners with cash offers, knowing that those with significant maintenance issues will be tempted to accept—even if it means leaving the neighborhood where they hold vital social networks and even if it is not enough for them to secure another home or apartment they can afford.

In some cases, homeowners have converted their existing cellars or basements into informal rental units for additional income to pay the bills. While renting a basement or cellar can reduce financial vulnerability for the homeowner, conditions in these units are often far from ideal. They can leave renters in unsafe units that do not provide adequate light, ventilation, and egress or meet certain noncombustible construction requirements. Chhaya Community Development Corporation estimates that over 100,000 households live in illegal basement and cellar apartments across the city, many without leases and in conditions that fail to meet the minimum safety standards in the City's housing and construction codes.

Tenants and owners do not always know that existing regulations and laws have requirements making many of those basement or cellar units illegal to be inhabited. Many of these mandates are the result of an era in which one of the largest housing issues was the connection of negative health outcomes and poor housing conditions. Today, these unregulated units are often occupied by some of the city's most housing unstable populations, or those less likely to engage with government agencies regarding their housing conditions.

It is in these situations that tenants are likely not calling 311 for peeling paint, lack of smoke detectors, or other potentially serious conditions. If a complaint is made

and a City inspector sees an unauthorized, below grade unit that is deemed unsafe—for example, because it lacks means of emergency escape and rescue openings in case of a fire—the City must order the tenant to vacate the unit.

I want to take a moment to note that these homeowners are often doing what they can to take care of their families and may be otherwise well-intentioned landlords. Because they are not in the business of large-scale development or property management, many homeowners may not know that these basic safety requirements exist at all. Even if they do, major obstacles to creating legal basement and cellar apartments in existing one- and two-family homes include complexities of overseeing and managing construction, and the prohibitive costs of bringing such apartments into compliance. Modifying certain code requirements in conjunction with requiring additional safety measures specific to basement and cellar apartments would protect and promote the health and safety of tenants in these units.

In order to provide a stable income stream to homeowners and add safe, quality apartments to the housing stock, the City is proposing modified standards for homeowners to legalize the occupancy of these basements or cellars. Too often these apartments exist in the shadows, and there is much to be learned to make sure that the City is offering the right forms of assistance and protection.

As such, we seek approval of a demonstration program with these goals in Community District 5 (CD 5):

1. To evaluate modified housing standards that do not compromise resident or responder safety while increasing the number of viable below-grade units.
2. To identify and engage willing homeowners to participate in creation or renovation of below-grade housing units.
3. To produce public financing instruments and identify private financing opportunities to develop or conduct renovation on below-grade housing units.
4. And ultimately, from this work, determine if the approaches can be implemented city-wide by examining the impact and feasibility of basement and cellar housing standards, engagement approaches, and public and private financing opportunities.

The geographic location for this demonstration program is ideal because of the physical and economic factors of the area.

Brooklyn's CD5, including East New York and Cypress Hills, asked for such a program during the East New York rezoning conversations, which is reflected in the East New York Commitments Tracker. It is the ideal location for the launch of the demonstration program because of the housing stock and the presence of knowledgeable community-based organizations. It includes a uniquely concentrated stock of older

buildings with diverse zoning and housing types, but most importantly, of all community districts in Brooklyn, illegal basement occupancy is estimated to be the most common in this area.

The community was also one of the New York neighborhoods hardest hit by the foreclosure crisis. Today, ten years after the foreclosure crisis, CD 5 has the fourth highest rate of new mortgage foreclosure actions among small homeowners in the city. Additionally, 59% of homeowners in the district are cost burdened, 47% are low-income, and 140 of every 10,000 one-to-three family homes has had their tax liens sold in 2016 and 2017, suggesting homeowner financial distress.

HPD is deeply committed to providing struggling homeowners with the resources and services they need to stay in their homes and neighborhood. As part of *Housing New York 2.0*, HPD announced the Home Fix Program to help existing low and moderate income homeowners in one to four-family properties fund home repairs. There is high demand for these relatively small loans to help families who do not have access to the private lending market. Through the new program, financial assistance will be paired with financial counseling to address the full spectrum of needs of families struggling to cover basic expenses and mortgage payments, while also paying for home repairs.

The Center for New York City Neighborhoods (CNYCN, or the Center) is a non-profit organization created in 2008 in response to the foreclosure crisis through the collaborative efforts of the Mayor, HPD, the New York City Council, community advocates, foundations, and corporate leaders. The Center and its Network Partners offer high quality housing counseling and legal services, free of charge, to meet the diverse needs of New York homeowners. HPD manages contracts with CNYCN to procure foreclosure prevention services via network partners, local Community Based Organizations (CBOs) who deliver financial and legal counseling in neighborhoods. In addition, CNYCN attends Homeowner Resource Fairs that HPD hosts in different neighborhoods

Further, the East New York Homeownership Helpdesk is run by the Center for New York City Neighborhoods, under contract with HPD, in collaboration with the Office of Council Member Espinal. Launched in 2017, helpdesk offers a range of services, including advice and assistance with foreclosure prevention, guidance on scam avoidance, advice on home repair, and other programs like weatherization loans. As part of this program, the Center has conducted outreach to over 3,000 homeowners, hosted 12 outreach events, educated 2,000 homeowners with foreclosure prevention, financial and legal counseling.

Today's proposed legislation will build on this important work by allowing for the conversion of a current basement or cellar in an existing single-family home in CD5 into a new legal apartment through the modifications of current code requirements. Each proposed modification to the standards regulated by the City's codes took into account the safety of the occupants of these apartments. These modified standards include added health and safety mandates such as sprinklers, radon testing, and waterproofing.

To complement the legislative modifications, the City has allocated funds for a HPD financing program that will assist homeowners in undertaking these renovations. Existing low to moderate income homeowners will have access to financial and technical assistance through HPD's Basement Apartment Conversion Program. Through the program, HPD will provide low- to no --interest loans to renovate a basement or cellar into a validly habitable apartment.

This spring, the Mayor's Public Engagement Unit (PEU) conducted outreach to 420 homeowners in East New York and Cypress Hills to understand the viability of and homeowner interest in a potential basement conversion pilot program. Six bilingual outreach staff did door-to-door and phone outreach to homeowners and collected basic self-reported information on household income, household size, and existing basement or cellar conditions. PEU had a 90% response rate among contacted homeowners, over 30% of which expressed interest in participating in a potential future pilot program. Homeowners reported the potential for earning income from renting their converted basement or cellar as the primary motivating factor for participating in a future program.

In addition to funding renovations, HPD will oversee a contract with a non-profit program administrator to assist participating homeowners. Based on a Request for Expressions of Interest, HPD has identified a consortium of community based organizations (CBOs) to administer the pilot program on behalf of HPD for 40 homeowners and is in the process of negotiating a contract with this group. This includes working with homeowners to apply for and close on financing from the agency and access other appropriate assistance. With help from the CBOs, the owners will work directly with qualified contractors to renovate their basements in compliance with modified standards from the local law.

The CBOs will also help any existing tenants residing in currently illegal units by providing guidance and financial resources if temporary relocation is required during construction.

As the head of all residential preservation programs in the city, I focus on keeping people in affordable homes every day. I want to be clear: I do not want this program to result in the eviction of existing tenants. At HPD, protecting tenants is at the core of our work. Looking at our experience with other single family homeownership programs, I am committed to finding a path that balances the financial stability for the homeowner with tenant protections. We have had a number of conversations with homeowners, Council Members, advocates, and the contracted CBOs in developing the requirements of this program. We will continue those conversations to strike the right balance of flexibility and support of all participants. Flexibility is important to quickly respond to situations that arise during this pilot, which will present both challenges and opportunities along the way.

In order to find program participants, the Mayor's Public Engagement Unit (PEU) will perform additional outreach to homeowners in East New York and Cypress Hills to

inform them about the basement conversion program, determine interest in the program, and connect potential participants to the CBO and HPD who will conduct further screening to determine feasibility and eligibility.

PEU will employ multilingual specialists with fluency in key languages to do outreach over the course of approximately 12 weeks to over 8,000 homeowners identified by the Department of City Planning. Based on the initial outreach earlier this year, the City expects a smaller number of homeowners will be interested in the program and complete an initial home assessment, from which the CBO and City will identify 40 final participants. Outreach may include in-person door knocking, phone calls, and mailings, and will be coordinated with relevant stakeholders, including community-based organizations and council members.

At the end of the three-year pilot, we will evaluate the program and have a better understanding of best practices and challenges for adapting this program or potentially considering other conversion programs at a greater scale. This evaluation will be key to providing facts to a debate that has been underway for more than eight decades – whether we can or should look underground to help us create yet another source of affordable and decent housing.

Because we are always looking for innovative solutions that meet the needs of New Yorkers where they live, today we hope to shed light on unregulated basement and cellar units, and outline a path to more easily convert these spaces into safe, habitable apartments. It is my hope that the basement and cellar demonstration program within Community Board 5 will provide important information about the impacts of legalizing these units on a wider scale, while providing a stable income stream to homeowners and adding safe, quality apartments to the housing stock.

Thank you for your time and I look forward to any questions.



HARVEY EPSTEIN
Assemblymember 74th District

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FOR THE RECORD

**Testimony on Int. No. 1004, A Local Law to establish a demonstration program to facilitate the creation and alteration of habitable apartments in basements and cellars of certain one- and two-family dwellings
Office of Assemblymember Harvey Epstein
Tuesday, November 13, 2018**

Good morning Chair Cornegy and members of the committee. My name is Harvey Epstein and I am the Assemblymember representing New York's 74th Assembly District, which includes the neighborhoods of the Lower East Side, East Village, Stuyvesant Town/Peter Cooper Village, Murray Hill, Tudor City and the United Nations. Thank you for the opportunity to testify today.

Hundreds of thousands of New Yorkers live in an estimated 250,000 illegally converted basement units. These units are essential additions to the city's housing stock but because they are unregulated, tenants, homeowners, and neighbors are subject to risks to their safety and financial wellbeing. Intro 1004 would address these serious issues by providing a much needed pathway for existing units to be brought up to code while also creating a regulatory framework for future conversions that would add to the city's affordable housing stock, provide a source of income for middle class homeowners, generate tax revenue for the city, and ensure neighborhoods are getting the level of city services they need.

Because tenants have had to bear the most negative impacts of illegally converted basement units, including substandard living conditions and a lack of basic rights that legal tenants enjoy, they should be the greatest beneficiaries of a program laid out in Intro 1004. Accordingly, tenants in existing units should be assured residency after a retrofit and be protected against displacement with a lease. Tax benefits extended to homeowners should come with stipulations that guarantee long term affordability for newly created units.

Homeowners who elect to retrofit existing basement units or undertake a legal conversion should be provided with technical and financial assistance to offset initial costs and to plan for future tax consequences. They should be given a reasonable grace period where they are able to bring units up to code without fear of incurring penalties. Homeowners should also be required to take property management classes offered by the Department of Housing Preservation and Development to ensure they understand a landlord's responsibilities to tenants and the city.

I am pleased to see movement on this issue in the form of a strong pilot that will benefit tenants, middle class homeowners, and the city. Moving forward, I am eager to work with



HARVEY EPSTEIN
Assemblymember 74th District

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partners in the city to address the issues with the Multiple Dwelling Law which would prevent the implementation of a program like this in other places in the city and state where communities are struggling to find affordable housing. If this program can be implemented successfully, I hope that it will lay the basis for legislation to create an Accessory Dwelling Unit category to add to the building code so our city can unlock additional affordable housing for all New Yorkers. Without bold and creative action on this front, thousands of families will continue to live without a roof over their heads. We cannot stop here. We must do more to tackle the lack of affordable housing for the lowest income New Yorkers that perpetuates the crisis of homelessness in our city.

Thank you once again for the opportunity to testify.

**TESTIMONY OF ROBERT SANDERMAN ON BEHALF OF LEGAL
SERVICES NYC REGARDING INTRO. NO. 1004**

November 13, 2018

I am the community economic development attorney at Queens Legal Services—a borough office of Legal Services NYC.

Legal Services NYC is a non-profit organization that fights poverty and seeks racial, social, and economic justice for low-income New Yorkers. LSNYC is the largest civil legal services provider in the country, with deep roots in all of the communities we serve. Our staff members assist more 80,000 low-income New Yorkers each year and, along with other legal services providers in the City, Legal Services NYC is at the forefront of the fight to prevent evictions, preserve affordable housing, and ensure that our clients' apartments are safe and they are not subject to harassment in their homes. We also offer a range of other civil legal services to assist with family law, immigration, public benefits, foreclosures, consumer, and employment law issues.

Thank you for the opportunity to speak today on Intro. 1004 and the importance of creating affordable units and helping homeowners avoid foreclosure. A significant part of Legal Service NYC's work is in the areas of tenant rights, eviction defense, and foreclosure defense. In fact, we have a dedicated Tenant Rights Coalition office in Brownsville, which serves Community District 5 where the Intro. 1004 pilot would take place.

This is also an important bill for us, because Legal Services NYC is part of the Basement Apartments Safe for Everyone (BASE) coalition. BASE is a coalition of community groups working to ensure basement apartments are safe, legal, and affordable for NYC tenants and homeowners. BASE includes community members, activists, organizers, advocates, lawyers and other service providers. BASE works on behalf of communities where many members are tenants living in unsafe, unregulated apartments because it is the only option they have for an affordable roof over their head. BASE is striving to establish a program that would permit the conversion of basement apartments that are currently off the grid into legal dwellings.

There are thousands of basement apartments in New York City's affordable housing stock. In New York City, single-family homes account for 16 % of all housing units. But many NYC homeowners experience financial stress, with 46.8% of owners with mortgages paying over 30% of their income on housing costs. 95% of dwelling units that have not been legalized are located in the outer boroughs such as Queens, Bronx, and Brooklyn.

Based on decades of working with tenants and homeowners, we at Legal Services NYC know that legalizing basement apartments would afford greater protections for both homeowners and renters. I myself have represented many tenants who lived in horrible conditions, did not have the protection of a lease agreement, and who were afraid to

request basic repairs that directly affected their quality of life in the apartment. Rents in NYC have sharply increased in the last decade. It is increasingly difficult for working class New Yorkers to find affordable apartments. Even many basement apartments in the outer boroughs are increasingly becoming out of reach for our very low income clients. As for homeowners, especially in south east Queens where our Queens office works, many homeowners are facing foreclosure because of difficulties keeping up with their mortgages. Creating a program through which these homeowners can convert their basement apartments into lawful dwelling units, will give homeowners a legal option to subsidize their mortgages and avoid foreclosure. By supporting homeowners through the conversion process, it provides low-income communities and communities of color with the opportunity to build individual and collective equity, have direct involvement in building the resources of their community, and remain in neighborhoods that are increasingly becoming too expensive for low to moderate income families throughout the city.

Intro. 1004 is an important step towards creating a comprehensive citywide program for the lawful conversion of basement apartments, which will both augment our city's safe and affordable housing stock, as well as ensure the rights of tenants occupying those units. As with any pilot or demonstration program, monitoring and evaluating the program will be critical. The success of the pilot will also depend upon close collaboration

between the city and community organizing groups in Community District 5, which have deep roots in the community and are best-positioned to ensure that CD 5 homeowners learn of this program and successfully participate in it.

Throughout this pilot, monitoring the impact on tenants will also be essential. It would not be a good outcome if homeowners were permitted to improve and legalize basement units, only to then displace their tenants or raise rents beyond affordability. BASE has advocated for a program that also provides tenants with the protections they need and provide long-term affordable housing, including by giving tenants protections that would dis-incentivize harassment by landlords and frivolous housing lawsuits. This is something that might also be explored in this demonstration program.

To close, the Intro. 1004 demonstration is an important step forward for NYC. A program to enable the legal conversion of basement units makes good sense for our city because more than ever we need to preserve affordable housing as well as the diversity that makes NYC great.



**Testimony before the New York City Council Housing and Buildings Committee
Regarding Int 1004-2018: Establishing a program for basement legalization in East New York**

November 13, 2018

Good morning. My name is Braden Listmann, and I am Deputy Director in Homeowner Services at the Center for NYC Neighborhoods. I want to thank Chair Cornegy and the members of the Housing and Buildings Committee for holding this hearing on this exciting pilot program and for allowing us the opportunity to provide testimony.

About the Center for NYC Neighborhoods

The Center promotes and protects affordable homeownership in New York so that middle- and working-class families are able to build strong, thriving communities. Established by public and private partners including the City Council, the Center meets the diverse needs of homeowners throughout New York State by offering free, high quality housing services. Since our founding in 2008, our network has assisted over 50,000 homeowners. We have provided more than \$30 million in direct grants to community-based partners, and we have been able to leverage this funding to oversee another \$30 million in indirect funding support. Major funding sources for this work includes the New York City Council, the New York City Department of Housing Preservation and Development, and the Office of the NYS Attorney General, along with other public and private funders.

The Need for Basement Legalization

The Center for NYC Neighborhoods is a strong supporter of safe basement legalization. There are an estimated 100,000 illegal basements in New York City.¹ These units are attractive to many New Yorkers because they are significantly cheaper than legal rental units, with one study finding they are as much as one-third cheaper than market-rate rental units.² However, because they are illegal, they are unlikely to conform to modern safety standards, raising the potential for dangerous and health-hazardous conditions. Their illegal status makes renters hesitant to complain about health and safety issues for fear of receiving a vacate order and jeopardizing their housing. Meanwhile, homeowners with illegal basement units are unable to receive City funding for much-needed home repairs, and as a result risk substantial fines.

We also believe that East New York is an ideal neighborhood for this pilot program. East New York has historically been one of the most affordable neighborhoods in New York City, where tens of thousands of working- and middle-class families own homes. 86 percent of East New York homeowners are Black or Hispanic, and their

¹ "Renting Cheap Apartments Can be a Cheap Solution, But It's Often Too Risky," New York Daily News, April 23, 2016. Available at:

<http://www.nydailynews.com/new-york/renting-illegal-apartments-cheap-risky-solution-article-1.2612256>

² Chhaya CDC and Pratt Center for Community Development, *New York's Housing Underground*, March 2008. Available at: <http://chhayacdc.org/wp-content/uploads/2014/05/New-Yorks-Housing-Underground.pdf>.



median household income of \$63,000 is lower than New York City’s median homeowner income of \$78,000. Last year, we released a report on homeowner and tenant stability in East New York, which highlighted that current residents are facing high levels of housing instability.³ We found that 63 percent of East New York homeowners had unmet repair needs, and that a quarter of homeowners had missed a mortgage payment in the last five years. Our study also found that many homeowners depend on income from basement units to remain in their homes. While there is no definitive count of homes in East New York with unapproved basement dwelling units, anecdotal evidence and limited data from the City suggest that a substantial number of homes contain these units. Since 2010, 2,085 one-to-four unit buildings in Brooklyn Community District 5 (East New York/Cypress Hills) have received complaints to the Department of Buildings that are likely related to illegal basement units.⁴ Five percent of single-family homes in the community district have received such a complaint, along with 15% of two-family buildings, and 17% of three-family buildings. We estimate that at least a third — and possibly as many as one-half — of small homeowners have an illegal basement unit.⁵

The Basement Legalization Demonstration Program

When illegal basement units are converted to safe, legal, and affordable apartments, both tenants and homeowners will benefit. The basement legalization pilot will provide an important opportunity for homeowners with illegal basement units to access financing to improve the safety of these units. Additionally, it is a great way to preserve naturally occurring affordable housing by incentivizing homeowners who do not currently rent out their basements to create a new housing unit that is more likely to be affordable than other options. We commend the City Council and the de Blasio administration for their leadership in creating this demonstration program that creates a path forward for preserving affordability.

Ensuring a Successful Demonstration Program

We believe the Basement Legalization Demonstration Program will provide an important opportunity for the homeowners and tenants in East New York, and inform efforts to expand the program citywide. Because of this program’s great potential, it is important that we get this right. Therefore, we encourage the City Council and the de Blasio administration to take the following recommendations into consideration:

- **Limit basement conversion resources and eligibility to owner-occupiers:**

East New York is a major source of one of the most valuable resources in New York City: affordable housing. Yet rising prices and an onslaught of real estate investors puts this affordability at risk. Our East New York study found that the neighborhood has one of the highest rates of flipping activity in New York. We also found that flipping leads to dramatic price increases for both prospective homeowners and tenants. With such high levels of investor activity, we are concerned that the temporary easing of

³ Center for NYC Neighborhoods, East New York: Preserving Affordability in the Face of Uncertainty, October 2017. Available at: <https://cnycn.org/eastnewyork/>

⁴ The most frequent Department of Building complaint implicating illegal conversions is “Illegal Conversion of Residential Building/Space.”

⁵ Center for NYC Neighborhoods, East New York: Preserving Affordability in the Face of Uncertainty, October 2017. Available at: <https://cnycn.org/eastnewyork/>



basement restrictions could lead to even more flipping. Therefore, to the extent possible, we urge City Council to limit program resources and eligibility to owner-occupiers.

- **Ensure that project timing is set up for success:**

With basement conversions, as in any major housing construction program, the devil is in the details. Our experience with past programs like Build it Back has shown that these type of projects are often more complicated than planned for. Providing housing counseling and processing financial information for homeowners, coordinating logistics for homeowners and tenants, meeting language access needs of program participants, and navigating unexpected regulatory hurdles can lead to longer timelines than anticipated. For this reason, we urge City Council and the de Blasio administration to ensure that statutory time frames are reasonable to accommodate challenges both foreseen and unforeseen. This work should not be rushed.

- **Ensure that neighborhoods citywide will eventually benefit:**

For the reasons discussed here we are enthusiastic about the program and especially about the choice of East New York as the location for the basement legalization pilot. However, we know that homeowners and renters in many other New York City neighborhoods would benefit from this program as well. Therefore, we believe that this demonstration program will be an excellent first step towards an eventual citywide expansion.

Thank you very much for the opportunity to testify today. We look forward to working with you to promote affordable homeownership in New York City.



CHPC TESTIMONY: Council Hearing on INT 1004-2018, 11-13-18

Committee: Committee on Housing and Buildings

Summary: Establish a demonstration program to facilitate the creation and alteration of habitable apartments in basements and cellars of certain one- and two-family buildings

Sponsors: Lander, Espinal, Cabrera, Barron, Yeger, Rivera

Good morning Chair Cornegy and members of the subcommittee. My name is Katherine Leitch and I am a Policy Analyst at the Citizens Housing & Planning Council. Thank you for the opportunity to testify.

CHPC is a nonprofit, independent, housing research organization that has studied the topic of basement conversions for several years.

We have reviewed the proposed legislation and applaud the Council's innovative and forward-thinking efforts to establish this demonstration program. We are in support of the proposed bill.

This program signifies a critical step towards opening a new supply of rental housing without having to increase permitted density, change zoning, increase the height of buildings, or pay for land. Basement apartments inherently rent for less than comparable above-grade apartments and they provide a secondary source of income for homeowners. Many cities like London, Toronto, and San Francisco, have embraced similar programs to unlock this vital source of rental housing.

Furthermore, due to our housing pressures, New Yorkers are already living in basements whether we want to accept it or not. Homeowners who want to bring basements up to code face a tangle of technical requirements. Even the cost of evaluating the existing conditions and assessing the feasibility of a conversion can be prohibitively complicated and expensive. We must offer a clearer, simpler path for homeowners to provide safe and habitable conditions for their tenants.

CHPC research has estimated that there are between 10,000 to 38,000 basements in single family homes in New York City, outside of flood zones, that could be converted into rental apartments. This legislation encompasses two-family homes as well as cellars, so the potential supply citywide is likely even greater.

CHPC enthusiastically supports the proposed legislation, which will directly address barriers faced by homeowners by providing administrative and code relief, financial assistance, and technical support. Crafting this initiative as a demonstration program, the City will be able to assess how effective the code relief and homeowner support are in expanding the supply of housing and fostering safe conditions for tenants. Though starting small has merit on such a complex topic, we must not stop with a few dozen units in a single neighborhood; this demonstration's successes and challenges must inform future efforts to make basement apartments legal, habitable, and above all, safe.

We are grateful to the many City agencies, non-profit organizations, and stakeholders that have collaboratively enabled this program's creation. CHPC offers its full support to this effort and its services as a housing research organization. We have researched this topic extensively and are submitting, for the record, our report and analysis of the regulatory hurdles faced by homeowners who seek a basement conversion. This winter we are hosting an event, called the Housing Innovation Lab, that will showcase new ideas, approaches, and technologies that can improve the safety and habitability of basement apartments. We invite you all to take part.

Thank you very much for inviting us to testify at this hearing, and please reach out if you would like to learn more about CHPC's research on this topic.

Please contact:

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Still a Refuge and Resource: Basement Conversion

Testimony before the New York City Council, Committee on Housing and Buildings

Elena Conte, Director of Policy, November 13, 2018

Cornegy
Chair ~~William~~, Council Members, thank you for the opportunity to testify. I am Elena Conte, Director of Policy at the Pratt Center for Community Development.

Pratt Center is pleased to support the proposed legislation, which would pave the way for a groundbreaking pilot program to convert existing informal units into safe, healthy, affordable housing with legal status, providing protection and support for homeowners and tenants in the neighborhood of East New York. This legislation and the pilot that it will enable are the long- and hard-fought products of steadfast organizing and advocacy of visionary community-based organizations Chhaya CDC, Coalition for Community Advancement/Progress East New York, and Cypress Hills LDC, among others.

We have been partners in their efforts for more than a decade, co-publishing New York's Housing Underground: A Refuge and A Resource, which revealed that there are an estimated more than 100,000 tenants citywide that are living in informal units in basements and cellars across the city, especially concentrated in the immigrant and communities of color in the eastern reaches of Brooklyn, Queens, and the Bronx. Since then we have looked closely at New York's housing stock, drawn on the experience of other jurisdictions nationally, and those of other experts in the field, to develop and call for solutions that would stabilize these communities. These community efforts, joined by partners in the City Council, resulted in the 2016 commitment from Mayor de Blasio to advance a pilot.

After participating in more than two years of inter-agency and community collaboration with Council Member Espinal and the Administration, we can affirm firsthand that developing a pilot is detailed, painstaking work that has required deep conversation, collaboration, and compromise. This effort is still very much in process.

We are glad to note that the proposed legislation allows for several very important changes:

- Elimination of unnecessary code restrictions that prohibit the conversion of units, including unnecessary restrictions for units based on grade instead of safety features such as light and air

- The provision of financing and other administrative assistance to facilitate the participation of lower income homeowners who would otherwise not be able to take advantage of code changes
- Recognition and the resourcing of existing community-based organizations with deep roots in the community to perform outreach, education, and counseling for the pilot

At the same time, there are several features that are very important to the success of the pilot in East New York and an eventual citywide program that are outside the scope of legislation. These include:

- Homeowner incentives and protections
 - Additional measures to increase the ease of participation
 - Policies that guard against the destabilizing threat of predatory speculators
- Protections and rent regulation for tenants
 - For many inhabitants, their informal unit is the only thing standing between them and homelessness; ensuring their ability to remain in their housing is essential to preventing displacement and tackling the housing crisis
- Easier and streamlined processes for converting the most common and most commonly inhabited housing stock
 - Pathways for converting 2 family homes into 3 family homes, and 3 family homes into 4 family homes are essential for meeting community need
- Additional code changes, as enabled by City and State rules and laws, that increase feasibility and reduce conversion costs
 - Allowing for the international standard of 7-foot ceiling heights in all units
 - Removing unnecessary limitations imposed by the Multiple Dwelling Law

The potential for impact on the housing crisis for the city's most vulnerable New Yorkers – homeowners and tenants alike – is tremendous, and requires that we get this right. We look forward to continuing to work with the City Council, the Administration and its agencies, and of course our community-based partners to create a meaningful program in East New York, and to take advantage of the opportunity to derive lessons that will inform a more comprehensive program locally and citywide.

For more information, please contact: Elena Conte, econte@prattcenter.net, 718-399-4416



chhaya CDC

Sustaining Homes
Strengthening Communities

Good morning Council Members Lander, Cabrera, Espinal and Barron – the prime sponsors of Int. No. 1004 and your esteemed colleagues on the City Council's Housing & Buildings Committee

My name is Will Spisak, I am the Director of Programs at Chhaya CDC, based in Jackson Heights, Queens. Our mission is to build the power, housing stability, and economic well-being of South Asian and Indo-Caribbean communities in New York City. We also lead the Basement Apartments Safe for Everyone (BASE) Campaign and I am excited to be here today to speak with you about the promise and potential of basement apartments.

Before I speak as the Program Director of Chhaya, I want to share a personal story. I was born and raised in Queens, the son of immigrant parents who worked hard all their lives and became homeowners when I was young. They bought a single-family home where I lived during my high school and early college days. However, in my late teens my father left the family and paying the mortgage fell to my mom, who worked part-time at a corner store, and me, a college student with a part-time gig at a hardware store. We considered renting out our basement to help us pay the mortgage. However, on our block two other families were fined for doing just that. We assumed whoever reported them would report us as well, and the fear of financial ruin caused us great anxiety, so we opted against it. We tried to hold out for a couple of years with the hope that I would graduate and get a good job. But we couldn't last that long. Two months after losing the house, and avoiding homelessness only by pleading with a landlord that I would soon get a better job, I found decent employment that could have saved my home. Today my family has no wealth or assets to speak of, and it hurts me to think how it all could have been avoided if I had an opportunity to rent out my basement, at least to hold us over until I got a better job.

There are thousands of homeowners who find themselves in similar situations across New York City today, many willing to take risks I was not, and rent out their basements illegally. Likewise, there are thousands of tenants that depend on such units for affordable housing in a city that is prohibitively expensive to live in and becoming worse every year. We believe the city should establish a program to support the legal conversion of as many basement apartments already in use as possible, while adhering to reasonable safety standards, and encourage low-to-moderate income homeowners who have yet to rent out their basements to explore the possibility of doing so with public support. The East New York pilot program and legislation is an important step in that direction.

Chhaya CDC started the BASE Campaign because a large number of community members that we work with are dependent on basement apartments. As New York's population continues to grow, demand for housing has led to a dramatic expansion of the city's informal housing market. Housing advocates estimate that there are at least 114,000 apartments that are not reflected in the official number of certificates of occupancy granted by the City and are, therefore, not approved for use as living spaces. This number is likely a low estimate.

The use of basements as living space for low-income families is a reality. People are living there, whether the units are legal or not. These are the low-income workers, many of them immigrants, that make the city run. These units provide affordable housing for tenants, vital income to homeowners, and give low-income families access to neighborhoods that would otherwise be out of reach. While some need rehabilitation, many are actually decent living spaces.



However, the lack of legal status of these units presents many challenges for both tenants and homeowners. Tenants living in basement apartments are vulnerable to poor living conditions and face a high risk of displacement. Because these units are illegal, tenants must avoid using the court system when seeking improvements or assistance with harassment issues. Nearly 10% of Chhaya's tenant counseling clients experiencing harassment live in basement apartments and have no legal recourse for addressing these issues. When they do seek justice through the courts, they are often evicted by way of a vacate order.

Similarly, homeowners renting basement apartments are vulnerable as well. Many are low-to-moderate income (LMI) homeowners who need rental income to make ends meet. However, they face the constant threat of crippling fines of around \$15,000. In the event that homeowners have legitimate reason to seek legal action against a tenant, most of the time they cannot do so through housing court because they will be fined for having the illegal unit. It is clear that the status quo is not good for anyone.

We cannot ignore basement apartments anymore. With the housing crisis we face today, we cannot afford to ignore the real potential basements have for creating affordable units of housing, needed rental income for LMI homeowners, and neighborhood stabilization. We cannot ignore the thousands of New Yorkers who depend on these units. It is time we create a clear, easy, and accessible path to legalization.

What will legal basement conversions do for New Yorkers?

1. **It will protect tenants:** Tenants in basement units are highly vulnerable. Allowing for the legalization of safe basement apartments would provide additional protections for these tenants, who currently have no recourse in housing court. To ignore the stock of basement apartments in use today is to relegate the most vulnerable New Yorkers, many immigrants and low-wage workers, to a precarious tenancy with the constant threat of eviction, harassment, and poor living conditions hanging over their heads. Not only is this bad for housing stability, it is bad for the health of the tenants. A three year study Chhaya conducted of our counseling clients found that tenants who feel insecure about their housing stability experience mental and physical health ailments at a much higher, statistically significant rate than tenants with secure housing arrangements.

Tenants we work with that are evicted from basements are some of the lowest earners in our community. I have witnessed families weigh their options between finding a new illegal unit or enter the shelter system. Nearly every client I meet in this situation has already applied for the affordable housing lottery through Chhaya, and waits month after month for an interview that may never come. This is why we believe it is essential that there be protections for current tenants in any program implemented by the city. There should also be basic tenant protections provided including right to lease renewals and predictable, modest rent increases. This will preserve tenant stability and protect the neighborhood from speculators who can easily capture the subsidies from the program and flip the house for profit. It should be noted that 15% of one-and-two family houses sold last year in East New York were house flipping scenarios, indicated by a house being sold more than once in a 12-month period.

2. **It will increase affordable housing:** New York City is facing a housing crisis, we desperately need real affordable housing that people at 50%, 40%, 30% AMI, etc. can actually afford. Over 11 percent of all rental housing is considered overcrowded. Twenty percent of households spend



over half their income on rent. Basement units are the largest source of safe, affordable, and sustainable housing to accommodate our city's growing population, particularly in outer borough neighborhoods that were designed for suburban-level populations with one and two family houses, but are now home to hundreds of thousands of New Yorkers.

3. **It will help LMI homeowners:** Owners who illegally rent their basement units can face crippling fines. Many of these homeowners are victims of predatory lending whose homes are at risk of default. Predatory lenders will often convince a family they can afford to buy a home on the premise that they can rent out the basement. In neighborhoods such as Jamaica, Richmond Hill, and across South Queens, loss of rental income has contributed to a rise in mortgage defaults. Allowing homeowners to rent out basement units would supply owners with rental income that would prevent foreclosures and stabilize neighborhoods. I have personally seen clients cry in my office because they are facing fines that will financially ruin their family. Add on top of that the fact they also lost a needed source of income that they will be unable to start collecting again unless they invest a small fortune trying to bring their basement up to code, some of those codes we consider unnecessary and arbitrary. For example, in a report conducted by Chhaya and the Pratt Center we highlight the case of Winneth Chand, a Guyanese immigrant and homeowner that was fined because her basement was slightly less than 50% above curb level, despite having two doors, two egresses, seven windows, and plenty of light and fresh air.
4. **It will stimulate economic activity in LMI neighborhoods:** Creating more affordable housing where rental income goes to LMI homeowners instead of corporate landlords will provide an economic stimulus to LMI communities. It is well established in the economics literature that lower-income households have a higher propensity to consume, and local residents living in one-to-four family, owner-occupied homes are likely to spend and reinvest their money in their neighborhoods rather than taking rental income from residents and investing or spending it elsewhere, in many cases outside of New York altogether. In a time of growing income and wealth inequality, we should support affordable housing plans that generate wealth for our working-and-middle class families instead of real estate investors, speculators, and private equity firms.

It is clear that the benefits of a basement conversion program outweigh the costs. This legislation makes common-sense adjustments to building codes that would allow for more basement apartments to be converted into legal units at a lower cost. We believe this legislation needs to be passed and the pilot project needs to commence so we can learn how to efficiently convert the city's stock of basements into legal living spaces for families to enjoy.

Chhaya CDC wants to see this pilot project in East New York happen successfully but we are determined to make sure it does not end there. This is a program that should become citywide. We believe there are many other neighborhoods that can benefit tremendously from a basement conversion program. As housing counselors and advocates, we see many cases in Richmond Hill, Jamaica, Jackson Heights, East Elmhurst, and all over Queens, and know the role basements play in the lives of LMI homeowners and tenants. We know that people depend on these units. Chhaya looks forward to working with the city to bring these units out of the shadows and grant the tenants and homeowners the dignity, rights, and protections they deserve.

Thank you for your time and I am happy to answer any questions.



Testimony of the Partnership for New York City

New York City Council Committee on Housing and Buildings

Int. 1004, establishing a demonstration program to facilitate the creation and alteration of habitable apartments in basements and cellars of certain one- and two-family dwellings

November 13, 2018

Thank you Chair Cornegy and members of the committee for the opportunity to testify on Int. 1004, a bill that would authorize a pilot program in East New York to facilitate the creation and alteration of habitable apartments in basements and cellars of certain one- and two-family dwellings. The Partnership for New York City represents the city's business leaders and largest private sector employers. We work together with government, labor and the nonprofit sector to enhance the economy of the five boroughs of New York City.

The Partnership played a historic role in affordable homeownership development in communities across the five boroughs during the 1980s and 1990s. We understand community concerns about overcrowding, safety and excess demand on neighborhood services that are frequent objections to the legalization of basement apartments. This pilot project is an excellent way to construct a program that addresses those concerns and allows the city to develop a prototype that can be scaled to create thousands of new housing units and provide extra income for large numbers of homeowners, especially seniors who are struggling to maintain their homes.

We urge the Council to pass Int. 1004. With a vacancy rate of only 3.63 percent, New York City suffers from a shortage of housing. This is especially true for affordable housing. In 2017, the vacancy rate for low-rent housing was just 1.15 percent and one-third of households had to pay 50 percent or more of their income for rent. Many New Yorkers pay too much for illegal, overcrowded housing units.

New York City desperately needs to add new housing to address these problems and legalizing basement apartments is a promising resource. One estimate suggests that tens of thousands of basement apartments could be legalized with simple changes to codes. This would provide additional housing supply while also reducing the dangers caused by illegal and substandard housing. Other cities, including San Francisco and Boston, facing the same housing shortage and affordability problems are using this strategy.

The demonstration program that would be authorized by Int. 1004 is a good start. The Partnership urges the city to enact this law, to evaluate and learn from the pilot program and to use the experience to push for permanent changes that would encourage further development of these units on existing properties that are currently underutilized.

Thank you.



Testimony of Michelle Neugebauer in support of Int. No. 1004

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Good morning Council Members Lander, Cabrera, Espinal and Barron – the prime sponsors of Int. No. 1004 and your esteemed colleagues on the City Council’s Housing & Buildings Committee. My name is Michelle Neugebauer and I am the executive director of the Cypress Hills Local Development Corporation, a not-for-profit community development organization that has built and preserved affordable housing, provided housing counseling to homeowners, tenant services and organizing to renters and an array of human services programs to the residents of Cypress Hills and East New York for the past 35 years. Our organization is also a member of the Coalition for Community Advancement – a grassroots coalition of houses of worship, community based organizations and residents who advocated during the rezoning of East New York for deeper affordability levels, stronger displacement prevention policies, local hire and for more community facilities. I have also served on the city-wide basement legalization task force.

Throughout the public review process for the East New York Plan – we brought to the attention of elected and public officials the dire straits that low and moderate income homeowners are living under in East New York and the very real threats to displacement that they would be facing if robust displacement prevention policies were not implemented as part of the area wide rezoning. The annual income of local homeowners is \$15,000 lower than that of the average New York City homeowner and a high percentage (roughly 45%) for our homeowners are senior citizens who are living on fixed incomes.

Most small homes in Cypress Hills and East New York were constructed prior to the 1920s and have major capital repair needs. Further, our community has been hard hit by predatory lending and the subprime mortgage crisis and we consistently have high percentages of our homeowners who have problems paying their mortgages and water bills and who are in the lien sale. House flipping and homeowner harassment are more recent and equally troubling threats to homeownership in our neighborhood.

But our homeowners also have a lot of grit and are determined to preserve their piece of the American Dream. During the rezoning, we worked closely with Council Member Rafael Espinal to demand that the City address homeowners’ needs. We advocated for a Good Neighbor Tax

Credit, investments in subsidized home repair programs, a Cease & Desist order, a moratorium on tax lien sales for owner occupied 1-4 family homes, funding for organizing and counseling to educate and work with homeowners on their challenges and for a pilot to convert basements into safe and legal apartments. We believed then and now that basement conversions can serve a dual purpose: stabilizing the homeownership of low and moderate income owner occupants and providing safe and below market rate affordable housing to low income renters.

There is strong neighborhood support among homeowners for such a pilot program. A high percentage of homeowners now (with estimates ranging from a third to a half) rent out their basements at below market rents but live in fear of DOB enforcement units slapping them with exorbitant fines. Homeowners genuinely want to legalize existing basement units but lack the expertise and the capital to make the necessary repairs. Renters would benefit as well from safe, healthy and habitable units where they have rent protections and predictable rental increases.

The City's design of the basement legalization pilot is promising and we urge you to support the legislation. The City's RFEI for an administrator for the Pilot had many of the program components that we had been advocating for: strong outreach, involvement of local partners, homeownership and financial education and counseling, tenant relocation supports and technical assistance for homeowners with retrofitting basements. The City - with HPD at the helm, has been enlisting the support and cooperation of other City agencies that will review and sign off on homes that go through the Pilot. We encourage the Council to monitor the Pilot, troubleshoot with HPD any obstacles that may arise, reflect upon lessons learned and **implement a well-funded and permanent basement legalization program in the future.**

We have seen the preliminary term sheet for the Pilot and are excited that, for the lowest income homeowners, subsidies will be funneled through in the form of forgivable loans. Our only qualm is that the program does permit owners, earning up to 165% of AMI to participate in the Pilot - we believe this is too high for our neighborhood. The income of ENY homeowners is currently at 75% of AMI.

We are also concerned that any property owner in CB5 - including investors - can use this legislation to legalize basement apartments and continue to flip properties (now ~~we~~^{with} another legalized unit) and contribute to the escalation of sales prices in the community. Our organization urges the City Council to investigate ways to restrict the use of the legislation only to owners participating in the Pilot program.

Lastly, we feel strongly that tenant protections and rental restrictions must be a part of the Pilot. We have recommended the City adopting regulatory

agreements that would inform the owner of their obligation to keep units affordable, provide leases and comply with reporting requirements; inform tenants of their rights and protections under the program, and provide for an affirmative means for tenants and prospective tenants to enforce the agreement in court if it is not being followed.

I thank you for your time and hope you will be able to support this important legislation.



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November 13, 2018

Int. No. 1004, A Local Law to Establish a Demonstration Program to Facilitate the Creation and Alteration of Habitable Apartments in Basements and Cellars

**Presenters: Tyrone McDonald, Government & Community Relations Manager
Byron Todman, Program Manager, Construction Services**

Neighborhood Housing Services of Brooklyn CDC is a community based not for profit housing organization dedicated to promoting economic empowerment and neighborhood sustainability since 1982. We accomplish our mission through providing homebuyer education, financial literacy, low-cost home improvement financing, foreclosure intervention, and advocating for resiliency and sustainability as a solution to address issues of climate change in coastal communities.

We are led by local residents and community stake holders. We partner with businesses and government to advance the best interest of the communities we serve. We have offices in East Flatbush and Canarsie and we cover neighborhoods such as East Flatbush, Canarsie, East New York, Flatbush, Crown Heights, Flatlands, Mill Basin, Brownsville, and Kensington to name a few.

Our home improvement service was our flag ship program since our inception to address the issue of redlining where thousands of low to moderate income homeowners, mostly African-Americans and Caribbean immigrants, who were locked out of financing to meet the basic needs of repair and up keep. Our home improvement program, with the help of our partners, in addition to our tenant services, has brought our organization face to face with the repair needs of homeowners in Brooklyn.

A basement/cellar legalization program offers a great deal of opportunities to homeowners and the City as a whole. The obvious being that it creates additional housing opportunities where none existed before among 1-4 unit homeowners. We know all too well about the housing crisis, one of the largest



Helping Our Neighborhoods Buy, Repair, And Keep Their Homes

the City has faced since the Great Depression, leaving shelters swollen with families and a record number of human souls languishing in the streets. According to an Oct 15, 2018, New York Times article titled Homeless in New York Public Schools Is at a Record High, one out of ten public school students lived in temporary housing during the last school year. We don't expect the basement/cellar legalization to cure the housing crisis; however, it's yet another tool to address a multi-layered problem. Additionally, the program potentially, allows homeowners already renting homes illegally to come out of the shadows. As a consequence, this program has the ability to improve the health and safety of first responders, renters and homeowners if it's owner-occupied. Owners will be required to furnish once illegal units with smoke/carbon monoxide detectors, have two points of egress, and meet other fire codes.

In 2014, we can't forget the horrific fire at 1434 Flatbush Ave. not that far from our Church Ave. location where one person died and 16 were injured. The three-unit mixed use building with a church on the ground level had illegal apartments subdivided on the top floors and the fire was caused by an electrical overload. While a basement/cellar program was not involved in this instance it illustrates the potential safety and health dangers when illegal apartments are kept hidden.

The legalization program offers additional income to homeowners, especially seniors who are already cost burdened. According to the Furman Center's 2016 State of New York City's Housing and Neighborhood report, half of homeowners in the City are cost burdened meaning they spend more than 30% of their gross income toward mortgage and other housing related expenses.

We at NHS Brooklyn hope the City would expand the current program proposed in East New York to include neighboring communities in Canarsie, Brownsville, East Flatbush, Flatbush and other neighborhoods throughout Brooklyn. The expansion will hopefully allow NHS Brooklyn to be an administer for the program. We also encourage that rental units remain affordable to renters within the

respective neighborhoods, and urge that homeowners, like first-time homebuyer education, are offered landlord training by community-based organizations so homeowners are fully prepared for the responsibility of being a landlord.

Admin

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in favor in opposition

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I represent: _____

Address: _____

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Name: Det Julian Barrett, Code-Counsel

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I represent: _____

Address: _____



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I represent: _____

Address: _____

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Date: 11/13/18

(PLEASE PRINT)

Name: William Spisak

Address: 142-46 56th RD Flushing, NY 11355

I represent: Chhaya CDC

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Name: Elena Contz

Address: _____

I represent: Pratt Center For Community Development

Address: _____

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I represent: Citizens Housing + Planning Council

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Date: 11-13-18

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Name: Robert Sanderman

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Name: Tyrone McDonald

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I represent: NHS Brooklyn CDC

Address: 2806 Church Ave.

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in favor in opposition

Date: 9/13/2018

(PLEASE PRINT)

Name: Byron Todman

Address: 2806 Church Ave 11226

I represent: NHS Brooklyn CDC

Address: " "

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in favor in opposition

Date: 11/13/18

(PLEASE PRINT)

Name: Michelle Neugebauer

Address: 625 Vanauca Ave Bklyn 11228

I represent: Cypress Hills LDC & Coalition for

Address: Community Advancement

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Date: 11/13/18

(PLEASE PRINT)

Name: Bea den Listmann

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I represent: Center for NYC Neighborhoods, Inc

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Date: 11/13

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Name: Julian Razel, Code Counsel

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I represent: EDNY

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