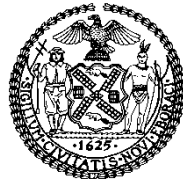


Staff: Housing & Buildings Committee
Jennifer Wilcox, Counsel
Shijuade Kadree, Counsel
Guillermo Patino, Legislative Policy Analyst
Jose Conde, Legislative Policy Analyst
Sarah Gastelum, Legislative Financial Analyst

Community Development Committee
Alex Paulenoff, Counsel
Jose Conde, Legislative Policy Analyst
Kenneth Grace, Legislative Financial Analyst

Land Use Committee
Raju Mann



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November 17, 2014

Oversight: Building Homes, Preserving Communities:
A First Look at the Mayor's Affordable Housing Plan

Introduction

On November 17, 2014, the Committee on Housing and Buildings, chaired by Council Member Jumaane D. Williams, the Committee on Community Development, chaired by Council Member Maria del Carmen Arroyo, and the Committee on Land Use, chaired by Council Member David Greenfield, will hold a joint oversight hearing entitled “Building Homes, Preserving Communities: A First Look at the Mayor’s Affordable Housing Plan.” The Committee expects to receive testimony from representatives of the Department of Housing Preservation and Development (“HPD”), the Department of City Planning (“DCP”), housing advocates, legal service providers, members of the real estate industry, and other interested members of the public.

Background

DCP predicts that the City’s population will grow by an additional million people by 2030, with approximately 96,000 of those residents needing affordable housing units.¹ In order to meet this demand, the City will be required to produce housing at a significantly higher rate than has previously been achieved.

A challenge to meeting this need for affordable housing units is that New York City suffers from a perpetual strain on its permanent housing stock. Initial Findings from the 2011 Housing Vacancy Survey conducted by HPD indicate that the City continues to suffer from a housing crisis with an apartment vacancy rate of just 3.12%.² Further stressing the housing

¹ See WHERE WILL NEW YORKERS LIVE? OVERHAULING NEW YORK CITY’S HOUSING POLICY, OVERHAULING NEW YORK CITY’S HOUSING POLICY, May, 2012, Hunter College Department of Urban Affairs and Planning *available at* http://www.hunteruap.org/wp-content/uploads/2012/05/HunterUAP_Where-Will-New-Yorkers-Live.pdf; *see also*, “The Next Mayor of New York Must Plan for the City’s Future Housing Needs,” Barika Williams, October 14, 2014, *available at* <http://nyti.ms/1q0lwF6>.

² See SELECTED INITIAL FINDINGS OF THE 2011 NEW YORK CITY HOUSING AND VACANCY SURVEY, February 9, 2012, *available at* <http://www.nyc.gov/html/hpd/downloads/pdf/HPD-2011-HVS-Selected-Findings-Tables.pdf>.

market is the fact that in the past decade alone, rents across New York City have continued to rise while income levels have stagnated or declined. For example, in 2010, over 50 percent of New York City renters were rent-burdened, meaning that they paid more than 30 percent of their household income in rent, and 30 percent were severely rent-burdened, meaning they paid more than 50 percent of their household income in rent.³

Housing New York: A Five-Borough, Ten Year Plan

To address this housing crisis, Mayor Bill de Blasio has put forth a Plan – *Housing New York: A Five-Borough, Ten-Year Plan* (“the Plan”) – to create 200,000 affordable housing units in the next 10 years. The Plan proposes to preserve 120,000 housing units and to support the construction of 80,000 new units throughout the City. Though a detailed budget has not been proposed, the projections are that the implementation of this ambitious Plan will cost approximately \$41 billion dollars. At today’s hearing, we will focus on some of the main issue areas within the Plan.

New Construction

As noted above, the Plan’s goal is to create 80,000 new affordable units in New York City, some of which are intended for currently underserved populations.⁴ The Plan put forward a number of ideas for creating such units including mandatory inclusionary zoning, tax benefits, and the identification of underdeveloped properties.⁵

³ See THE CITY OF NEW YORK, HOUSING NEW YORK: A FIVE-BOROUGH, TEN-YEAR PLAN 29 (2014) [hereinafter Mayor’s Housing Plan], available at http://www.nyc.gov/html/housing/assets/downloads/pdf/housing_plan.pdf

⁴ *Id.* at 29.

⁵ See generally *id.*

One of the most controversial ideas in the Plan is to establish a mandatory inclusionary zoning program.⁶ This program would allow for rezonings in currently built up areas in order to increase their density.⁷ As part of the rezoning, the City would require a portion of any housing developed, the percent of which is currently unknown, to be permanently affordable.⁸ The Committees are interested in learning more about this idea, including which neighborhoods would be targeted and how and when the communities would be consulted.

The Plan also proposes to stimulate new affordable housing units and to provide such housing for underserved populations by changing the 421-a program.⁹ The 421-a program provides a multi-year exemption from New York City property taxes for new construction of multiple dwellings.¹⁰ The 421-a tax exemption was created in 1971 and originally intended to boost residential development at a time when development in New York City was floundering.¹¹ As the market for new residential development grew, the program was changed to include Geographic Exclusion Areas (“GEA”) in which no 421-a tax benefits are provided unless the developer agrees to set aside at least 20% of their units as affordable.¹² The 20% set aside generally only benefits the same subsection of people who are targeted by other affordable housing programs – those earning between 50% and 60% of the Area Median Income (“AMI”).¹³ But there are approximately one million households that earn less than 50% of AMI and only 425,000 rental units are affordable to these households.¹⁴ When mandatory inclusionary zoning is put into effect, the Plan suggests altering 421-a so that it is only available to developments

⁶ See *id.* at 30-31.

⁷ See *id.*

⁸ See *id.* at 31.

⁹ See *id.*

¹⁰ See N.Y. REAL PROP.TAX L. § 421-a.

¹¹ See N.Y. CITY DEP’T OF HOUS. PRESERV. & DEV., OVERVIEW OF 421-a PROGRAMS, *available at* <http://www.nyc.gov/html/hpd/downloads/pdf/421aoverviewtfreport.pdf>.

¹² See N.Y. REAL PROP.TAX L. §§ 421-a (7), (11).

¹³ See N.Y. REAL PROP.TAX L. §§ 421-a (6)(b), (7)(c).

¹⁴ See Mayor’s Housing Plan at 18.

inside GEAs if the developer agrees to produce more affordable housing than would otherwise be required under inclusionary zoning, or agrees to target otherwise hard to reach income levels (those below 50% of AMI) or household sizes.¹⁵

In addition to proposing a modification of the 421-a tax exemption, the Plan also calls for the creation of a task force to explore reforms to the J-51 and 420-c tax incentive programs.¹⁶ The J-51 program authorizes municipalities to enact local laws providing a reduction or abatement of real property taxes as an incentive to rehabilitate multiple dwellings.¹⁷ The 420-c program provides tax exemptions for low-income housing developments financed through tax credits and controlled by charitable organizations.¹⁸

The Plan also requires the City to identify new areas for development of affordable housing. Two constraints on residential developments are record-high land values and a limited amount of space.¹⁹ The Plan calls on the City to identify vacant and underdeveloped publicly-controlled properties in order to convert such properties, where appropriate, into affordable housing developments.²⁰ In addition, the Plan calls on the City to identify underused privately-owned sites and encourage development through strategic partnerships and the pooling of development rights.²¹ The Council is interested in learning more about the census of publicly-owned properties and how many of those properties are currently considered ripe for development. The Council would also like to learn about the identification of, and outreach to,

¹⁵ *See id.* at 88.

¹⁶ *See id.*

¹⁷ *See* N.Y. REAL PROP.TAX L. §§ 489.

¹⁸ *See* N.Y. REAL PROP.TAX L. §§ 420-c

¹⁹ *See id.* at 22.

²⁰ *See id.* at 65.

²¹ *See id.* at 66.

private owners of underdeveloped properties, and the types of incentives the Administration plans to offer those owners to develop affordable housing.

Finally, the Plan includes several ideas about increasing the levels of affordability in existing affordable housing programs. While the idea of using 421-a was discussed above, the Plan also calls on the City to require units for households below 50% of the AMI in all affordable housing programs.²² The Plan proposes that this increase in affordability would be made financially viable for developers by increasing subsidies and allowing developers to cross-subsidize low income populations through mixed-income programs.²³

Preservation of Existing Units

The Mayor has stressed that maintaining the quality and affordability of the housing stock is a priority in the design and implementation of the Plan. The current proposal is that 60% of the housing units, or 120,000, will be preserved either through preventing such units from falling into disrepair or preventing large increases in rents.²⁴

The Plan outlines a number of ideas to ensure that affordable housing units remain in good condition. First, the Plan calls on the City to perform a comprehensive review of the Housing Maintenance Code (“HMC”)²⁵ and to create a new, separate building code for existing buildings.²⁶ Second, the Plan would require the City to develop and implement a tenant awareness campaign to increase tenants’ knowledge of the HMC in order to assist with the reporting of violations.²⁷ Third, the Plan recommends offering training for building owners to

²² See *id.* at 15-26.

²³ See *id.* at 38.

²⁴ See *id.* at 45.

²⁵ See *id.* at 46.

²⁶ See *id.* at 46-47.

²⁷ See *id.* at 46.

ensure that owners are aware of the best practices for maintaining their properties in a safe and habitable condition.²⁸ Fourth, the Plan requires the City to explore regulating “unsanctioned” housing units – such as those located in basements or garages – and bringing them into compliance with either the current or a potentially revised code.²⁹ Finally, the Plan calls for an increase in the number of buildings participating in three programs: the Tenant Interim Lease Program, which helps existing tenant associations in City-owned building set up cooperatives; the Affordable Neighborhood Cooperative Program, which uses Housing Development Corporation (“HDC”) funds to promote the development of affordable housing cooperatives; and the Real Estate Owned Program, where a third-party will acquire and renovate foreclosed homes for moderate income households.³⁰

The Plan recognizes that preserving the affordability of units largely requires State action. In New York City there are two rent-regulation schemes: rent control and rent stabilization.³¹ Both programs limit the amount of rent that may be charged and restrict the right to evict tenants. While rent regulation was previously administered by the City, the Urstadt laws gave New York State authority over the rent regulation programs.³² Since 1993, New York City has lost 250,000 housing units to rent deregulation as a result of decontrol provisions.³³ The State law governing rent stabilization and rent control is scheduled for renewal in 2015.³⁴ The Plan calls for the City to strenuously advocate for the State to strengthen the protections afforded to rent stabilized residents, as well as to work towards a repeal of the Urstadt Law, which

²⁸ *See id.* at 47.

²⁹ *See id.*

³⁰ *See id.* at 55

³¹ New York State Homes & Community Renewal, About Office of Rent Administration Operations and Services, <http://www.nyshcr.org/rent/about.htm> (last visited 11/14/14).

³² *See id.*

³³ *See* Mayor’s Housing Plan at 52

³⁴ *See id.* at 52.

significantly limits the City's participation in the State's rent regulation scheme.³⁵ The Plan also suggests a new tax incentive program to provide rental building owners with a tax exemption in exchange for entering into a regulatory agreement to ensure affordability for the life of the exemption, but this would arguably require State action.³⁶

Outside of limiting the loss of rent-regulated units, the Plan calls for reaching out to former Mitchell-Lama buildings³⁷ to try to bring them back into affordability agreements³⁸, expanding HPD's year 15 program and HUD's Multifamily Program, and creating an energy and water utility cost-reduction program.³⁹ The Council will want to learn more about how many units are expected to be preserved via these mechanisms, and what additional programs will have to be put in place to meet the target preservation goal of 120,000 units.

Preventing Homelessness

The Mayor's Housing Plan seeks to decrease homelessness by preventing it from happening in the first place.⁴⁰ The Plan proposes that by enhancing existing homelessness prevention programs by increasing funding and access, a certain percentage of the currently homeless population can be successfully aided. To accomplish this goal, the Administration plans to expand programs such as the "one-shot" payment program, which provides a lump sum

³⁵ *See id.*

³⁶ *See id.* at 54.

³⁷ The Mitchell-Lama program was intended to incentivize the production of affordable housing for middle-income New Yorkers. The program provides developers with low-interest mortgage loans and real property tax exemption in exchange for limitations on profits and limited income limit on tenants.

<http://www.nyshcr.org/Programs/mitchell-lama/>

³⁸ *See* Mayor's Housing Plan at 50-51.

³⁹ *See id.* at 51.

⁴⁰ *See id.* at 78.

payment to landlords to help tenants clear rent arrears and avoid eviction.⁴¹ The Administration also plans to enhance anti-eviction legal services, neighborhood based housing stabilization services, such as the Homebase program, and work to prevent re-entry into homelessness by providing aftercare services for families who have recently moved from a shelter into permanent housing.⁴²

The Plan proposes supporting currently homeless households through the creation of a pilot rental subsidy program, targeting individuals and families who earn less than 30% of AMI (\$25,150 for a family of four).⁴³ Approximately 90% of the clients served by the Department of Homeless Services (“DHS”) fall into this range, however, HPD’s housing programs tend to be geared towards families who earn between 40 and 60 % of the AMI.⁴⁴ According to the Plan, a rental subsidy for residents who earn closer to 30% of the AMI may bridge this gap and help decrease homelessness.⁴⁵

The Plan also outlines an approach for targeting particularly vulnerable populations, such as veterans⁴⁶ and families with children⁴⁷ (over 22,000 members of the current shelter population are children⁴⁸). Many of these families are on various waiting lists to access permanent housing, but significant “bottlenecks” in the housing application process can delay access to affordable housing.⁴⁹ The Plan requires the City to convene a “bottlenecks working group” which will be charged with creating a method for reducing the time it takes for households to move from

⁴¹ *See id.*

⁴² *See id.*

⁴³ *See id. at 79.*

⁴⁴ *See id.*

⁴⁵ *See id.*

⁴⁶ *See id. at 80.*

⁴⁷ *See id. at 79-80.*

⁴⁸ *See id. at 77.*

⁴⁹ *See id. at 79.*

application to placement in permanent, affordable housing.⁵⁰ The Plan also commits the City to meeting the national goal to end veteran homelessness by 2015.⁵¹ In order to do so, the Administration plans to continue coordinating with national agencies such as HUD and the Veteran's Administration and to strengthen local programs such as the Veteran's Affairs for Supportive Housing and Supportive Services for Veterans.⁵²

While the Plan seeks to decrease entry into shelters in the first place, it also recognizes a need for exploring new shelter housing models, including tax abatements for shelter operators who devote a portion of their space to creating permanent housing for shelter residents.⁵³

Increased Access to Supportive and Assisted Housing

Supportive Housing

Supportive housing programs combine affordable housing with on-site services, such as mental health counseling or home health aides. The programs are seen as cost-effective, as research has shown that for every unit of supportive housing in New York City, taxpayers save more than \$10,000 per year in public resources often relied upon by potential supportive housing residents, such as emergency rooms, jails and psychiatric facilities.⁵⁴

New York State and New York City have a series of collaborative commitments, referred to as the "NY/NY" agreements, regarding the development and operation of supportive housing.⁵⁵ The current agreement, "NY/NY III," provides that the City will work to create 9,000 supportive housing units.⁵⁶ Even with that goal accomplished, there will still be a shortage of

⁵⁰ See *id.* at 79-80

⁵¹ See *id.* at 80

⁵² See *id.*

⁵³ See *id.* at 78.

⁵⁴ See *id.* at 80.

⁵⁵ See *id.*

⁵⁶ See *id.*

supportive housing, in part because it is difficult to ascertain when, if at all, to transition an individual out of the supportive housing network.⁵⁷ The Plan requires the City to create a process to assess how to move supportive housing “graduates” into safe and affordable housing.⁵⁸

Housing for Seniors

New Yorkers over the age of 65 are the most rapidly growing population in the City.⁵⁹ The Plan calls for increasing senior services and building additional affordable housing units dedicated to seniors.⁶⁰ In order to help senior citizens avoid homelessness and age in place, the Plan would have the City provide Project-Based Section 8 vouchers to seniors and supportive services to seniors living in NYCHA housing projects.⁶¹ In addition, the Plan proposes that the administration of the Senior Citizen Rent Increase Exemption (“SCRIE”) be administered solely by the Department of Finance (“DOF”), rather than the current model where HPD and DOF both manage the program, in order to increase efficiency and make it more accessible to seniors.⁶²

Housing for Individuals with Disabilities

There are already several programs designed to provide financial housing assistance for individuals with disabilities, such as the Nursing Home Diversion Waiver, Medicaid Redesign Team vouchers and Individual Supports and Services grants from the Office of People with Developmental Disabilities.⁶³ However, these programs are often not aligned with HPD’s timing

⁵⁷ See *id.* at 81.

⁵⁸ See *id.*

⁵⁹ See *id.* at 82.

⁶⁰ See *id.*

⁶¹ See *id.* at 82-84.

⁶² See *id.* at 82.

⁶³ See *id.* at 84.

and requirements for affordable housing applications, increasing the likelihood that these applications will not be accepted.⁶⁴ The Plan requires the City to coordinate with disparate agencies in order to streamline the application process, increase efficiency and ensure access to affordable housing stock.⁶⁵

The Administration also plans work to increase the utility of the Americans with Disabilities Act (ADA) and Section 504 coordinators,⁶⁶ who are charged with ensuring that City programs and facilities are accessible for persons with disabilities.⁶⁷ These positions are currently staffed part-time.⁶⁸ Under the Plan, the City would take a more proactive response to addressing the housing needs of people with disabilities by making these full-time positions and assigning individuals to coordinate with the City's housing agencies.⁶⁹

Financing the Plan

Current estimates are that implementing the Plan would cost at least \$41 billion dollars.⁷⁰ The Plan calls on the City to convene a task force for the purposes of developing a thorough City, State and Federal legislative agenda for financing and implementing the program. Preliminary recommendations from this task force are due in December, 2014.⁷¹

While this Plan cannot be implemented without the assistance of State, Federal and industry partnerships, the Administration does have several proposals for financing the Plan at

⁶⁴ *See id.*

⁶⁵ *See id.* at 82.

⁶⁶ The coordinator is a designated agency employee who is charged with ensuring compliance with Section 504 of the Rehabilitation Act, which prohibits discrimination against individuals with disabilities. *See* 29 USC § 794. This employee can provide assistance, as well as respond to allegations of discrimination based on disability.

⁶⁷ *See* Mayor's Housing Plan at 85.

⁶⁸ *See id.*

⁶⁹ *See id.*

⁷⁰ *See id.* at 12.

⁷¹ *See id.* at 87.

the local level. One such proposal involves expanding existing financing tools.⁷² According to the Plan the New York City Pension Funds have contributed hundreds of millions of dollars to financing long term, permanent debt associated with affordable housing projects.⁷³ Under the Plan, the City would expand upon this contribution by working with the five pension funds to increase pension investment in housing, commit capital to fund construction loans for rehabilitation purposes, fund workforce housing and reduce the City's pension fund mortgage insurance requirements so that more projects will be eligible for the HDC's Real Estate Mortgage Insurance Corporation.⁷⁴

Another key financing strategy described in the Plan is strengthening public-private and philanthropic partnerships.⁷⁵ The Administration plans to work with the Economic Development Corporation to establish a development finance "toolbox" which will contain centralized information on all available development finance programs.⁷⁶ The Administration hopes this toolbox will provide the development community with the information necessary to maximize potential funding sources and make affordable housing projects a reality.⁷⁷

Finally, the Plan would require HPD and HDC to undergo a systemic review of their programs to maximize housing subsidy dollars.⁷⁸ According to the Plan, this review will focus on enhancing the production of affordable housing across a larger range of incomes, leveraging private financing resources and minimizing the amount of public dollars spent on achieving the

⁷² See *id.* at 92.

⁷³ See *id.*

⁷⁴ See *id.* at 92-93.

⁷⁵ See *id.* at 94.

⁷⁶ See *id.* at 96.

⁷⁷ See *id.*

⁷⁸ See *id.*

goals of the Plan.⁷⁹ The Council is particularly interested in learning about proposed budget plans and the timeline for implementing the Plan.

Conclusion

The Committees are looking forward to exploring the details of the Plan and how the Administration envisions it will reach the goal of creating or preserving 200,000 affordable housing units. The Committees are particularly interested in hearing more about: (1) which neighborhoods the Administration is targeting for increased affordable housing and how the community has been involved in making such decisions; (2) what economic strategies the Administration is considering to expand the stock of affordable housing; (3) details of the Administration's proposed programs to combat homelessness; (4) how and where the Administration anticipates developing more supportive housing for senior citizens; and (5) how the Administration plans to finance the proposed \$41.1 billion cost of the Plan. The Committees are also interested in hearing what role the Administration envisions the Council will play in the implementation of the Plan.

⁷⁹ *See id.*