

SUBCOMMITTEE ON PLANNING, DISPOSITIONS AND

CONCESSIONS

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CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

SUBCOMMITTEE ON PLANNING, DISPOSITIONS AND
CONCESSIONS

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September 17, 2018

Start: 3:05 p.m.

Recess: 4:42 p.m.

HELD AT: 250 Broadway-Committee Rm, 16th, Fl

B E F O R E: BEN KALLOS
Chairperson

COUNCIL MEMBERS:

CHAIM M. DEUTSCH

RUBEN DIAZ, SR.

VANESSA L. GIBSON

ANDY L. KING

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

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2
3
4 Genevieve Michel
Executive Director of Governmental Affairs for
5 Planning, Land Use and Development at the New
York City Department of Housing Preservation and
6 Development, HPD

7 Kerry LaBotz
Assistant Commissioner of Preservation Finance at
8 The New York City Department of Housing
Preservation and Development, HPD

9 Robert Horsford
10 President and COO of APEX Building Group, Inc.

11 David Dishy
12 President of Development and Acquisitions and
Partner at L and M Development Partners

13 JaVonna James
14 Vice President, Real Estate Development at APEX
Building Group

15 Judy Jarina
16 Connected to Community Organizations to Promote
MWBE Hiring

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[gavel]

SERGEANT AT ARMS: Quite please.

CHAIRPERSON KALLOS: Good afternoon and welcome to the Subcommittee on Planning, Dispositions and Concessions. I'm Council Member Ben Kallos, the Chair of this Subcommittee on what I like to call affordable housing committee. Today we'll be holding hearings on one project with three applications; the Land Use Items 223, 224, and 225 in Council Member Perkins's district in Manhattan. If you're here to testify please fill out a white speaker slip with the Sergeant At Arms and indicate the, the land use number of the item you wish to testify on, on that slip. If you are watching at home and you would like to submit you don't actually have to show up here in person, you can email us in your testimony, working folks email that testimony..

[off mic dialogue]

CHAIRPERSON KALLOS: ...legislative documents at council dot NYC dot gov. Before we begin our hearings, we will vote on some items however we do not have a quorum to do so as you may notice from the strong attendance at this meeting. I hope I do

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1
2 not end up on... John Oliver did a show on government
3 and how many people are involved in certain items.

4 [off mic dialogue]

5 CHAIRPERSON KALLOS: We'll now start our
6 public hearing on Land Use Items 223, 224 and 225.
7 The project is at 95 Lenox Avenue in central Harlem
8 section of Manhattan. The project known as Canaan IV
9 Towers is a Section 8 buildings comprised of 161
10 apartments on 11 floors with two elevators, it was
11 built in 1981 and it was granted an exemption from
12 taxes under Article V of the private housing finance
13 law as part of a plan and project which will expire
14 in 2021. The project's Section 8 contract is
15 currently set to expire in 2033 which is quite a lot
16 of affordability that is baked into this project
17 already. The first action is Land Use Item 20... 223,
18 which is a modification pursuant to Section 115 of
19 the private housing finance law of the planned
20 project for Canaan IV Towers on block 1824, lot 16
21 and 155 by removing from the plan and project block
22 1824, lot 155 currently containing a parking lot and
23 open space. Lot 16, which contains the aforementioned
24 existing building will remain in the plan and project
25

1
2 until it expires. The second action is for approval
3 contingent on the...

4 [off mic dialogue]

5 CHAIRPERSON KALLOS: Got it, on recording
6 a restrictive conveyance of a conveyance of the
7 parking lot and open space from the current owner to
8 a new owner who will develop with two new buildings
9 at a 40 percent income restricted and 60 percent
10 market rate building containing approximately 288
11 dwelling units assuming a future rezoning and a 100
12 percent income restricted ELLA building potentially
13 containing approximately 209 dwelling units if a
14 portion of lot 155 is combined with HPD owned lots
15 19, 20, and 21. The third action, Land Use Item 225
16 is the approval of pursuant to, to Section 123,
17 subsection four of the private housing finance law,
18 the voluntary dissolution of the current owner of
19 Manhattan block 1824, lot 16, the existing buildings
20 will remain and approval of a new tax exemption
21 pursuant to Section 577 of Article XI, the private
22 housing finance law. I now open the public hearing on
23 Items... on 95 Lenox, I would like to invite HPD to
24 present its testimony. We have Genevieve Michel and
25 Kerry LaBotz from HPD and I will instruct the

1
2 Committee Council to swear in the panel. I'm also
3 hoping to invite the two development partners to the
4 table and if those folks could please join the table
5 now. We'll need folks to fill out their speaker
6 slips, there should be one for the existing developer
7 on site and one for the proposed new developer.

8 COMMITTEE CLERK: Before responding
9 please make sure the button is pushed on your mic and
10 state your name. Do you each swear or affirm that the
11 testimony that you're about to give will be the
12 truth, the whole truth and nothing but the truth and
13 that you will answer all questions truthfully?

14 KERRY LABOTZ: I do.

15 ROBERT HORSFORD: I do.

16 KERRY LABOTZ: Oh, excuse me, Kerry
17 LaBotz, Assistant Commissioner of Preservation
18 Finance, HPD.

19 GENEVIEVE MICHEL: Genevieve Michel, HPD,
20 also I do.

21 ROBERT HORSFORD: Robert Horsford, APEX,
22 I do.

23 DAVID DISHY: David Dishy, L and M
24 Development, I do.

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CHAIRPERSON KALLOS: You may begin, and I

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believe you have a digital presentation. Okay, if we

4

can work with the Sergeant At Arms to get it on both

5

screens.

6

[off mic dialogue]

7

GENEVIEVE MICHEL: Yeah for them, not for

8

me.

9

CHAIRPERSON KALLOS: Okay. So, HPD will

10

testify but we will need to get the second screen on...

11

not working. If we can please have IT come.

12

Government has to do better as should my agency.

13

DAVID DISHY: Yeah, we have hard copies.

14

CHAIRPERSON KALLOS: Please begin.

15

GENEVIEVE MICHEL: Land Use Numbers 223,

16

224, 225 consists of three actions related to a

17

project known as Church Homes, 95 Lenox Avenue in

18

Manhattan council district nine. The development is a

19

low-income Section 8, HUD multifamily building

20

currently owned by an Article V housing redevelopment

21

company that was approved for disposition on July

22

17th, 1980, calendar number 11 by the Board of

23

Estimate, along with the plan and project within the

24

Milbank Frawley Urban Renewal Area as a designated

25

urban renewal plan site, site 29. The original

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1
2 approval provided for the construction of an eleven-
3 story elevator building with 161 units including one
4 non-revenue generating superintendent's unit, 35
5 parking spots and a tax benefit set to expire in
6 2021. Currently, the owner is proposing to redevelop
7 the project area by converting from an Article V
8 housing company to an Article XI HDFC to facilitate
9 preservation of the low-income housing unit and
10 convey land that is currently part of the exemption
11 area in order to construct new mixed income rental
12 housing, housing. Land Use Number 225, 20195049 HAM
13 is related to the original Article V multiple
14 dwelling unit known as Canaan IV Towers, located
15 within an exemption area at block 1824, lot 16. The
16 building comprises of 161 units as mentioned before
17 and the unit mixture includes 63 one bedroom, 88 two
18 bedrooms and nine three bedrooms as well as a
19 superintendent's unit. under federal guidelines for
20 the housing assistance contract, which is known as a
21 HAP, the maximum household income at initial
22 occupancy is 50 percent of AMI. This land use item
23 seeks to help preserve affordability of the low-
24 income rental units by allowing the sponsor to
25 voluntarily dissolve their status as an Article V

1 housing redevelopment company and convert to an
2 Article XI HDFC requiring them to enter into a 40-
3 year regulatory agreement restricting the use of the
4 development to low income rental housing and convey
5 lot 155 for the purpose of providing mixed income
6 affordable housing. The project currently benefits
7 from a HAP contract which expires in August of 2033.
8 The owner will be required to renew and maintain the
9 HAP contract for the entire 40-year regulatory term.
10 Land Use Number 224, C20195047 HAM is related to the
11 conveyance and development of block 1824, lot 155 and
12 Land Use Number 223, C20195048 HAM seeks to delete
13 block 1824, lot 155 formerly known as part of lots
14 16, 18, 22, 23, 25, 26, 27, 29, 30, 31, 32, 33, 34,
15 35, 36, 38, 41, 42, 45, 46, 47, 48, 49, 50, 51, 52,
16 53, and 54; sorry and then as part of lot 16 from the
17 original plan, plan and project. The new owners will
18 comply with the restrictive covenant placed on the
19 development parcel requiring that the proposed
20 construction of a minimum of 288 dwelling units
21 estimated to include at least ten percent of the
22 units be affordable to persons at or below 70 percent
23 of area median income, an additional ten percent of
24 the dwelling units will be affordable to persons at
25

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2 or below 80 percent of AMI, and an additional 20
3 percent of the dwelling units will be affordable to
4 persons at or below 130 percent of AMI. The unit
5 types have yet to be determined and funding for the
6 new project will be through private equity and a
7 conventional loan. In order to facilitate the
8 preservation of 95 Lenox and the development of the
9 mixed income affordable housing project on lot 155,
10 HPD is before the Planning Subcommittee seeking
11 approval for the housing redevelopment company to
12 voluntarily dissolve their status as an Article V,
13 terminate, terminate their current tax exemption,
14 convey lot 155 to the new LLC owner, convey lot 16 to
15 the HDFC owner and enter into an Article XI tax
16 exemption for lot 16 for a term of 40 years
17 coinciding with the regulatory agreement. As part of
18 the dissolution of the Article V, two things will
19 occur: Lot 16 on which the residential building is
20 located, will be conveyed to Church Home Rental HDFC
21 and the property will receive an Article XI tax
22 exemption for 40 years. The estimated cumulative
23 value of the Article XI tax exemption on the
24 preservation project is 17,357,437 dollars with a net
25 present value of 5,984,549 dollars. On lot 155, on

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2 which the parking lot is located, will be conveyed to
3 a 115th Street Holdings LLC and subject to a
4 restrictive declaration for a four-year period. HPD
5 is requesting council consider approval of the tax
6 exemption for lot 16 to incentivize the LLC to
7 develop additional affordable housing on a site which
8 will exit use restrictions in 2021. The current tax
9 exemption will be further reduced contingent upon the
10 sponsor delivering new affordable units on lot 155.
11 An estimated, cumulative value of the tax exemption
12 when considering the reduction resulting from the new
13 mixed income construction component is 76,119,333
14 dollars with a net present value of 18,425,448
15 dollars.

16 CHAIRPERSON KALLOS: Thank you. We will
17 hold the hearing on Land Use Items 223, 224 and 225.
18 We will now open Land Use Item... [cross-talk]

19 [off mic dialogue]

20 CHAIRPERSON KALLOS: And we are taking a
21 vote on Land Use Item 184 which is related to
22 property located at 638, 640 Riverside Drive in the
23 Hamilton Heights neighborhood of Manhattan. HPD seeks
24 approval for a new Article XI tax exemption for a
25 period of 40 years pursuant to section 577 of the

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2 private housing finance law to replace a 40-year
3 Article XI tax exemption previously granted in 2003
4 so that the term of the new tax exemption coincides
5 with the term of a 30-year construction loan that was
6 closed this year for much needed rehabilitation. The
7 property is an existing partially occupied 12 story
8 building with 133 rental units which includes 99
9 occupied units and 34 vacant units. The building is
10 anticipated to convert to cooperative ownership in
11 the future. The 34 vacant units would have income
12 restrictions of 120 percent of AMI and rent
13 restrictions of... at 100 percent of AMI. Council
14 Member Levine is supportive of this application. Land
15 Use Item 185 is related to property located at 642,
16 644 Riverside Drive also in Hamilton Heights in
17 Manhattan. HPD seeks approval of a new Article XI tax
18 exemption for a period of 40 years pursuant to
19 Section 577 of the private housing finance law to
20 replace a 40-year Article XI tax exemption granted in
21 2003 so that the term of the new tax exemption
22 coincides with the term of the permanent financing..
23 permanent financing loan that the owner is seeking.
24 The property which recently went through substantial
25 rehabilitation and is an existing partially occupied

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2 12 story building with 93 rental units which include
3 78 occupied and 15 vacant units. The building is
4 anticipated to convert to cooperative ownership in
5 the near future. The 15 vacant units will have income
6 restrictions of 70 percent of AMI and rent
7 restrictions at 60 percent of AMI. Council Member
8 Levine is supporting of the application. I would love
9 to see deeper levels of affordability in these
10 buildings, I would love to see things far below the
11 100 percent of AMI, with that being said we support
12 our local members and I will now ask Committee
13 Council to call the vote.

14 COMMITTEE CLERK: Vote to approve Land
15 Use Items 184 and 185, Chair Kallos?

16 CHAIRPERSON KALLOS: Aye.

17 COMMITTEE CLERK: Gibson?

18 COUNCIL MEMBER GIBSON: [off mic] I vote
19 aye.

20 COMMITTEE CLERK: Deutsch?

21 COUNCIL MEMBER DEUTSCH: [off mic] Aye.

22 COMMITTEE CLERK: The Land Use Items are
23 approved by a vote of three in the affirmative, zero
24 negative and zero abstentions and referred to the
25 full Land Use Committee.

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2 CHAIRPERSON KALLOS: Is there additional
3 testimony on Land Use Items 223, 224, and 225 95
4 Lenox Avenue?

5 [off mic dialogue]

6 CHAIRPERSON KALLOS: If you can hand the
7 hard... if, if, if you're... yeah, if you could hand the
8 hand copy... hard copies to the Sergeant At Arms and
9 you may please begin. For folks watching at home you
10 can go to council dot NYC dot gov, by clicking
11 legislation you can go to the calendar for today's
12 hearing on September 17th, 2018 and you can follow
13 along to watch and, and read through this
14 presentation, it is not posted live so if you are
15 watching a rerun this will be there for you, if not
16 we will do our best to describe what's in here.

17 [off mic dialogue]

18 CHAIRPERSON KALLOS: Is your microphone
19 on?

20 DAVID DISHY: It is on, thank you very
21 much.

22 CHAIRPERSON KALLOS: You may start over
23 please.

24 DAVID DISHY: I am David Dishy, I'm a
25 partner in Presidential Development at L and M

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2 development Partners, we are partners with the APEX
3 Group and to my left here is Robert Horsford of APEX
4 and there'll be several other speakers as well. We
5 are... I won't go into a lot of detail, you've heard,
6 Genevieve presented the overview of the action. We
7 will walk briefly through the primary actions before
8 us today and then we will speak a little bit about
9 the future rezoning action that was mentioned since
10 we sort of view this as a comprehensive approach and
11 a comprehensive development... redevelopment project.
12 So, I will... just to orient you a bit, the, the
13 project as you may know sometimes referred to as 95
14 Lenox, Canaan IV, we'll use 95 Lenox today, is
15 located between 114th and 115th Street just West of
16 Malcolm X, Lenox in central South Harlem. You can see
17 it there, it takes up approximately three quarters of
18 the block. The building itself... I'll go to the next
19 image, you can see in the center there is the
20 existing 95 Lenox building, 161 unit Section 8 and
21 then for future part, I can just orient you a bit,
22 you look to the left of that parking lot and then
23 some open area and that consists of both privately
24 owned parcels as well as HPD parcels which we'll talk
25 about in a moment. So, as I mentioned we sort of view

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2 this as a comprehensive project, it's something we've
3 been working on as a team for quite a long time and
4 trying to create something that both preserves the
5 existing Section 8 building which as you mentioned
6 the Article V is coming up in 2021 and the Article..
7 and the Section 8 HAP is in 2033 and so there was a
8 conversation both about that unit... about, about the
9 building itself as well as about the balance of the
10 land which under the Article V in 2021 ostensibly
11 would be released and not subject to their
12 regulatory... to a regulatory agreement and so there
13 was discussions. So, we thought that presented an
14 opportunity. Similar to work we've done elsewhere, we
15 were able to both do a preservation on an existing
16 building and combine that with redevelopment and
17 affordable housing production on the out parcels
18 connected to that land so basically we worked with
19 HPD and, and discussed ways to both preserve,
20 transfer the Article V to an Article XI and then
21 create a plan that both was viable, these are private
22 land owners out in the market, trying to figure out
23 what to do with their land. To some extent there was
24 the prospect of that land being lost from regulatory..
25 from a regulatory agreement and so there was

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2 conversation on how to retain that, how to keep that
3 and how to do something that was viable that HPD was
4 comfortable with. So, we spent a fair amount of time
5 going through that process and trying to create a, a,
6 a strategy that produced affordable and also ensures
7 the wellbeing for the existing tenants as far as the
8 nature and the quality of the existing project and
9 also that which would be built around them. So, again
10 that is our formal action today, out of today
11 essentially this action will... is actually the gateway
12 into that next phase of work. As you know we're
13 converting into... Article V... we're terminating Article
14 V and replaces it with an Article XI, so I won't go
15 into detail on that, it's a 40-year regulatory
16 agreement with an Article XI with a tax exemption
17 under 57... 577. In addition, as part of that we will
18 be committing to extend the Section 8 HAP contract
19 for the full duration of the 40-year regulatory
20 agreement or essentially renew it as it rolls and
21 then... and addition spend approximately 2.75 million
22 dollars on renovation of both public areas and select
23 apartments within the existing building. So, that's
24 the, the bundle of goods that we're... that we're doing
25 and then as... in connection with that the parcel then

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2 becomes viable... the remaining parcel becomes viable
3 for what we'll call through the phase two portion of
4 this. So, I'm going to ask Robert, our partner Robert
5 Horsford from APEX to talk about the scope and nature
6 of the renovation as this is something that their
7 firm will be handling.

8 ROBERT HORSFORD: Thank you David. So, as
9 David was describing the renovations will involve
10 common areas, we'll be renovating the community room
11 as well as the lobby and common areas to the... to the
12 property. The... in terms of the apartment interiors,
13 apartment renovations as needed we will be replacing
14 kitchen cabinets, appliances and kitchen flooring. In
15 the bathrooms the... we'll be replacing, replacing the
16 vanities, we'll be doing work on the tubs, replacing
17 tiles and replacing medicine cabinets in the
18 bathrooms. As David mentioned the... we're expecting
19 that cost to be somewhere in the neighborhood of 2.75
20 million dollars. In terms of how we're coming up with
21 the scope of work, we're conducting surveys and we're
22 pretty far along in terms of the process of
23 conducting those surveys, we're documenting the
24 existing conditions and we also met with the
25 residents back on July 26th to kind of give them a

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sense of what, what we're planning on doing and to express some of the importance of getting, getting access to the apartments, that was definitely helpful because we're... at this point we're down to maybe about 15 to... 15 to 20 apartments left to do surveys and to assess the apartment conditions. So, the next steps from here we're going to... looking to finalize the scope of work and then that scope of work as we mentioned is going to be apartment renovations, target, targeted work in the certain common areas and of course up, upgrading the, the community room. In... during the process we will have... will hold meetings with the... with the residents from time to time to go over the schedule, we'll meet with them up front and give them an idea of exactly what's going to happen and when we'll need to gain access to the units, we'll try to minimize the disruption to the lives of the residents so we'll try to minimize the amount of times we'll need to access those units and we'll make sure that the... our plan schedule is clearly communicated to all of the residents. As it relates to the workers, just to give you a little description of, you know the, the construction workers and all of our employees will be paid a living wage. In terms of

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the building services, currently at the building they are part of 32 BJ and the building is also currently, it's, it's handicaps accessible and it will continue to comply with all of the HUD rules and regulations as it relates to accessibility. From here I'll turn it over to JaVonna James from the APEX, she's going to talk a little bit about the affordability and the development side of the deal.

CHAIRPERSON KALLOS: Was she sworn in?

[off mic dialogue]

CHAIRPERSON KALLOS: We, we are... we are running short on time, I think if you can skip ahead..

DAVID DISHY: We can do a... we'll do a very quick overview on the new development, two minutes and... is that useful or no?

CHAIRPERSON KALLOS: If you can do two minutes, I'm particularly interested in pages 11 and 12.

DAVID DISHY: Javonna you want to..

JAVONNA JAMES: Sure.

CHAIRPERSON KALLOS: And I will ask Committee Council to swear you in, please state your name for the record.

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2 JAVONNA JAMES: Sure, JaVonna James,
3 APEX.

4 COMMITTEE CLERK: Do you swear or affirm
5 that the testimony you're about to give will be the
6 truth, the whole truth and nothing but the truth and
7 to answer all questions truthfully?

8 JAVONNA JAMES: Yeah. So, quickly to run
9 through the, the AMI levels that we're proposing for
10 the new buildings; so, for the ELLA building on 115th
11 Street... [cross-talk]

12 CHAIRPERSON KALLOS: Sorry, if, if you
13 can start on nine, sorry with the financing.

14 JAVONNA JAMES: Sorry, page nine.

15 CHAIRPERSON KALLOS: I care about nine
16 through 12, it's all about the money.

17 JAVONNA JAMES: The most important part.
18 So, the north building on 115th Street as we
19 mentioned will be... will be approximately 209 units,
20 we are contemplating ELLA financing for that through
21 HPD and HDC. The estimated TDC for the projects is 78
22 million. For the mixed income building; 60 percent
23 market, 40 percent affordable. We contemplate 288
24 units with no city subsidy, we will use conventional
25 financing and developer equity. TDC is estimated at

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2 117 million. So, as we mentioned before we're
3 committed to living wage rates on the construction
4 workers and an increased wage will be paid for those
5 who are not operator or decline health insurance. A
6 living wage will also be provided for the building
7 service workers. On page ten we go quickly over the,
8 the site plan. So, the North building as mentioned
9 before is on 115th Street which will have the 209
10 units. The mixed building with the 60 percent market,
11 40 percent affordable be on 114th Street. And the
12 total square footage for the lots of... 16 and 155 and
13 the HPD lots is about 88,302 square feet, nine
14 percent of that is in the HPD lots, 91 is the prior
15 lots. On page 11 we go over the unit mix detail. So,
16 for the ELLA, the North building on 115th Street we
17 are going from shelter rents, our space rents of up
18 to 80 percent AMI. So, we have 30 percent at 80
19 percent AMI, 30... sorry, yeah, 30 at 80 percent AMI,
20 30 percent at 57 percent, ten at 47, ten at 37, ten
21 at 27 and ten at shelter. For the proposed mixed
22 income building on 114th Street we have...

23 CHAIRPERSON KALLOS: You're fine.

24 JAVONNA JAMES: Okay, 60 percent at
25 market rate, 20 percent at 130 percent AMI, ten

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percent at 75 percent AMI and ten percent at 65

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percent AMI. So, overall, we are creating or

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preserving 657 units of, of housing, 485 of that will

5

be affordable or 74 percent. So, 100... as mentioned,

6

160 units at 95 Lenox will be preserved and 497 units

7

of new housing will be built on the remaining lots.

8

CHAIRPERSON KALLOS: Thank you, I will

9

start. So, the city's currently dealing with a lead

10

crisis in our affordable housing with the resignation

11

of republican Housing Chair in a recent report that

12

HPD has affirmably found lead in Section 8 housing,

13

has HPD inspected 95 Lenox for lead?

14

GENEVIEVE MICHEL: So, this project the

15

Section 8 voucher is here, are funded through a

16

program-based assistance program, I might have messed

17

up that acronym but in these cases where you have

18

Section 8 funding HUD is responsible for the... for

19

those inspections through their, let me get the exact

20

name for you, through their real estate assessment

21

center. So, this is not... these are not Section 8

22

units where HPD is responsible for the inspections.

23

CHAIRPERSON KALLOS: Once the property

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moves into... from Article V into Article XI will HPD

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2 become responsible for these properties in any way,
3 shape or form?

4 GENEVIEVE MICHEL: My understanding is it
5 stays under HUD, but I will confirm that and let you
6 know.

7 CHAIRPERSON KALLOS: And then just
8 citywide, somebody's home, they're in a rent
9 regulated apartment or market rate, they're concerned
10 about lead, is HPD the agency that responds to lead
11 concerns in housing?

12 GENEVIEVE MICHEL: If someone has a
13 concern then they certainly can call, you know 3-1-1
14 and we can figure out who is responsible for dealing
15 with that concern but the inspection regime I... as my..
16 as I understand it is determined based on where the
17 funding stream comes from so again in some of those
18 cases if, if someone has a Section 8 voucher that
19 goes through HPD, HPD might be responsible for the
20 inspections, if... you know there are cases where HUD
21 is responsible, there are cases where other agencies
22 are responsible so unfortunately it is a, a
23 complicated system but if someone watching at home is
24 concerned then, you know I think we would recommend
25

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2 starting with 3-1-1 and then trying to sort it
3 through there.

4 CHAIRPERSON KALLOS: Does APEX
5 Development currently operate at the site at 95
6 Lenox?

7 JAVONNA JAMES: No.

8 CHAIRPERSON KALLOS: Who currently
9 operates the site at 95 Lenox?

10 DAVID DISHY: The Seavey Organization
11 who's actually going to stay with the project with
12 us, he's away today unfortunately, they currently
13 operate it and this team will be handling the work,
14 but they will sort of stay in the ownership.

15 CHAIRPERSON KALLOS: In the scope of work
16 have you done any testing of the units to determine
17 what your scope of work might actually be?

18 DAVID DISHY: So, we've done... do you
19 want... we've done... we've done preliminary... we've done
20 had initial conversations obviously as Robert said,
21 the first step is to really sort of do a detailed
22 survey of every apartment, realistically some
23 apartments have more, more, more recently renovated
24 so work is not necessary, we wouldn't do it in that
25 case, some are less recently renovated and so we

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2 basically do an apartment by apartment survey..

3 [cross-talk]

4 CHAIRPERSON KALLOS: Have you surveyed
5 any apartments whatsoever yet?

6 DAVID DISHY: We have.. [cross-talk]

7 ROBERT HORSFORD: We've, we've, we've
8 surveyed.. [cross-talk]

9 CHAIRPERSON KALLOS: Come on up. I, I
10 would just pull an extra chair..

11 DAVID DISHY: Yeah, here, did you want
12 to.. [cross-talk]

13 ROBERT HORSFORD: We've done visual
14 surveys for scope of work, we have not done any lead
15 testing as of yet.. [cross-talk]

16 CHAIRPERSON KALLOS: I recall the lead
17 test is literally a marker, is that correct?

18 ROBERT HORSFORD: The lead test.. there's
19 different types of lead tests, some involve x-ray,
20 others involve testing dust, we have not used markers
21 for, for the, the actual lead testers as far as I
22 know have been using either the x-ray or the dust
23 test.

24 CHAIRPERSON KALLOS: Is that planned for
25 the site?

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2 ROBERT HORSFORD: I would imagine that's
3 going to be done, typically when we... when we engage
4 in a project at some point the lead testing is part
5 of... part of the process so I would imagine that will
6 be part of our process as well...

7 CHAIRPERSON KALLOS: In your testimony
8 you mentioned being... having meetings with tenants in
9 July, when do you anticipate doing the lead testing?

10 ROBERT HORSFORD: We have, have to go
11 back to the development team, we haven't gone through
12 that yet. At... I would imagine prior to closing that
13 would occur.

14 DAVID DISHY: Yeah, I mean... [cross-talk]

15 ROBERT HORSFORD: ...but maybe you could
16 expand on that... [cross-talk]

17 DAVID DISHY: I will say and, and again
18 obviously we... 9cross-talk0

19 CHAIRPERSON KALLOS: When is closing
20 scheduled?

21 DAVID DISHY: Shortly... in... within the
22 next eight weeks we would expect. I would say on the
23 lead testing a couple of things, this building was
24 built in 1981 so obviously we do a fair amount of
25 work around the city and we take lead testing

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2 extremely seriously and it's sort of a paramount
3 issue for us, certain buildings are more likely
4 candidates for lead concerns than others, obviously
5 ones that are constructed following a lead change to
6 the law in the late 70's or less likely to be a case,
7 it doesn't diminish the significance and importance
8 of it but it's obviously less of an issue than some
9 of the older Section 8 properties that are 50's and
10 60's and turned into Section 8 projects so we will do
11 that testing. As you know there's sort of fairly
12 specific protocols about when to do it, how to do it,
13 how disruptive to be in that testing with pros and
14 cons of each approach so we will take that with the
15 utmost seriousness.

16 CHAIRPERSON KALLOS: With regards to the
17 total project cost, the new building is 78 million
18 dollars according to your testimony, 117 million
19 dollars for the second building and how much is the
20 total project cost on the existing building?

21 DAVID DISHY: Total project cost and
22 existing building is roughly 17 and a half million
23 dollars.

24 CHAIRPERSON KALLOS: And how much of that
25 is soft costs?

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2 DAVID DISHY: Well we're doing two
3 points... I'm sorry, the work that's being done, I was
4 combine... we're doing 2.75 million dollars, of that
5 probably about seven and a half percent is soft
6 costs, we try to keep the soft costs low in the
7 renovation work, it's basically just architectural
8 and scoping and some engineering work.

9 CHAIRPERSON KALLOS: Is the number 7.5
10 million or is it a different... what is the.. [cross-
11 talk]

12 DAVID DISHY: 2.75. You're asking about
13 the scope of work allocated to the 95 Lenox
14 renovation?

15 CHAIRPERSON KALLOS: Yes.

16 DAVID DISHY: Yeah, 2.75.

17 CHAIRPERSON KALLOS: Okay, that is
18 different than the term sheets we received, we will
19 update, and we will follow up with you on that.

20 [off mic dialogue]

21 CHAIRPERSON KALLOS: Will there be any
22 commercial units... [cross-talk]

23 DAVID DISHY: Well that's... [cross-talk]

24 CHAIRPERSON KALLOS: ...on this site...
25 [cross-talk]

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2 DAVID DISHY: ...that's, that's actually I
3 guess... that was when I said... I think what you may be
4 looking at is a combine... combination of the
5 acquisition and the renovation work.

6 CHAIRPERSON KALLOS: Right... [cross-talk]

7 DAVID DISHY: I think that... the offering,
8 right, so that's the 2.75... [cross-talk]

9 CHAIRPERSON KALLOS: And so, you're
10 spending 17 million dollars buying the parking lot
11 space from the existing developer?

12 DAVID DISHY: Correct, 16...

13 CHAIRPERSON KALLOS: It's, it's 16 or 17?

14 DAVID DISHY: 16.

15 CHAIRPERSON KALLOS: Okay and does anyone
16 know whether or not the existing developer remained
17 compliant with the zoning code when they no longer
18 have open space or parking?

19 DAVID DISHY: Yes, very much so and we
20 spend a fair... we spend a lot of time... well there will
21 be parking as part of the project so the parking
22 space... so, we are basically obviously been spending a
23 fair amount of time doing all the rezoning analysis
24 and obviously it's all subject to ULURP being
25

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2 reviewed and being successful but it will full... be
3 fully compliant.

4 CHAIRPERSON KALLOS: Okay, so we have an
5 existing developer who for whatever reason... so, when...
6 so, did, did HPD schedule this hearing, did, did HPD
7 apply to the council to put this specific item on the
8 calendar for September 17th?

9 DAVID DISHY: I mean to be fair
10 realistically all the actions... I'm sorry.

11 GENEVIEVE MICHEL: I don't understand the
12 question.

13 DAVID DISHY: I think the question is
14 about the actions... [cross-talk]

15 CHAIRPERSON KALLOS: What, what I'm just
16 trying... [cross-talk]

17 DAVID DISHY: We're stepping into the
18 ownership... [cross-talk]

19 CHAIRPERSON KALLOS: ...to tell you... I'm,
20 I'm not... [cross-talk]

21 DAVID DISHY: ...we're stepping... [cross-
22 talk]

23 CHAIRPERSON KALLOS: ...that's not it, just
24 when HPD goes to the city council and says we'd like
25 to put something on the calendar, do you let the

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2 development partners know that the item... their item
3 will be on the calendar?

4 GENEVIEVE MICHEL: Yes.

5 CHAIRPERSON KALLOS: So, and, and they
6 are confirmed that they are available?

7 GENEVIEVE MICHEL: I'm, I'm, I'm not
8 understanding what you're getting at.

9 CHAIRPERSON KALLOS: Where is the
10 existing developer for 95 Lenox?

11 DAVID DISHY: So, the... so, the answer is
12 we are... I mean realistically we are stepping in to
13 the... sort of... we, together are stepping into the
14 ownership and in full position on the redevelopment
15 and the new development at the site and so Avery
16 Seavey, whose been a very dedicated developer and
17 owner for a long time is a part of that team,
18 realistically we have... we collectively have been
19 taking the lead on that effort, he's out of... he's
20 away and couldn't make it on this day, I think
21 because of the timing we thought we should have the
22 meeting anyway and at some level we've been
23 coordinating the conversations with HPD so that
24 seemed logical to us... [cross-talk]

25

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2 CHAIRPERSON KALLOS: So, in, in eight
3 weeks the, the developer who is missing today will no
4 longer have any ownership interest in 95 Lenox?

5 DAVID DISHY: He will have... he will
6 continue to have ownership in 95 Lenox.

7 CHAIRPERSON KALLOS: Okay... [cross-talk]

8 DAVID DISHY: By the way, he also... by the
9 way he's got partners as well so in theory there
10 could be not... I mean like, like all of our projects
11 we have multiple partners... [cross-talk]

12 CHAIRPERSON KALLOS: So, so just moving
13 forward if HPD can ensure when scheduling that all
14 partners... all, all parties are available on the
15 specific date and just for the land use team if we
16 can make sure that if folks aren't available to
17 testify on their own projects and we're unable to get
18 any answers then we, we need to schedule for... [cross-
19 talk]

20 GENEVIEVE MICHEL: I think... [cross-talk]

21 CHAIRPERSON KALLOS: ...a different day.

22 GENEVIEVE MICHEL: Sir, I think the, the
23 only point I want to raise to that is I think often
24 when you're looking at real estate ownership you
25 might have a lot of different parties that have

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2

ownership over a property, we are not necessarily

3

going to be able to come every time we're being...

4

bringing an Article XI with every party that has an

5

ownership stake, I think, you know our focus is

6

trying to figure out how we can preserve and push for

7

long term affordability, I don't think we necessarily

8

want to get held up in trying to lock down every

9

person who has an ownership stake.

10

CHAIRPERSON KALLOS: I'm not asking for

11

the one percent owners, I'm asking for the folks with

12

the controlling interest who can answer simple

13

questions like do you have lead in your building. So,

14

okay... [cross-talk]

15

DAVID DISHY: Well we can... by the way on

16

his behalf again and he is sorry not be here... [cross-

17

talk]

18

CHAIRPERSON KALLOS: Yeah... [cross-talk]

19

DAVID DISHY: ...I can affirmatively answer

20

for you guys, no reason to believe that he's got lead

21

in his building.

22

CHAIRPERSON KALLOS: Okay, in terms of

23

the nine... page nine of your sheet, so we've got 17

24

million dollars in acquisition costs for the lot and

25

the open space, you're doing two and half million

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dollars in repairs, those two and half million dollars in repair have a 7.5 percent soft cost and then the two new buildings, the, the 100 percent affordable building has a total cost of 78 million dollars for 209 units, the next one has 117 million, under the subsidies I really appreciate you breaking it out, you, you indicate no city subsidy for the mixed income building, so is that lot not going to have any Article XI tax abatement?

DAVID DISHY: It's a fair... it, it will have an Article XI, there's no capital subsidy is what's meant, meant there, that's a... that's basically an... the Article XI covers both that lot as well as the existing 95 Lenox building.

CHAIRPERSON KALLOS: Okay, so, so the 40 percent that is affordable is being underwritten by the fact that you will not have to pay taxes on the 60 percent of the units that are at market rate?

DAVID DISHY: In some respects, the reality if you were doing this you would probably be under a 421A and it would be... you'd have less affordability so all I'm saying is like the benchmark against what you're making that evaluation is not... it's not a full market thing because you'd otherwise

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2 probably be like ineligible for other existing tax
3 abatements with different levels of affordability.

4 CHAIRPERSON KALLOS: So, you planned the
5 new building... the mixed income building to be a 421A
6 building?

7 DAVID DISHY: No, the new building is
8 actually... has more affordability than would be under
9 a 421A.

10 CHAIRPERSON KALLOS: Okay, so in, in
11 terms of the existing housing so you're on a block,
12 95 Lenox has 160 units, they range from... I've never
13 seen zero percent of AMI on anything... [cross-talk]

14 DAVID DISHY: Well as you... [cross-talk]

15 CHAIRPERSON KALLOS: ...but... [cross-talk]

16 DAVID DISHY: ...as you know residents in
17 Section 8's, those... [cross-talk]

18 CHAIRPERSON KALLOS: Uh-huh... [cross-talk]

19 DAVID DISHY: ...I think... I believe in this
20 building over 65 percent of the residents have AMI's...
21 incomes equivalent to an AMI below 20 percent...
22 [cross-talk]

23 CHAIRPERSON KALLOS: Okay... [cross-talk]

24 DAVID DISHY: ...so technically the HAP
25 contract is a 50 percent AMI thing, but the reality

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2 is the vast majority of the residents in our... in
3 your... in the city's Section 8s have incomes
4 significantly below that.

5 CHAIRPERSON KALLOS: Okay, so if they're
6 at 30 percent of AMI that means a person is living in
7 a one bedroom, they're one individual so they're
8 making between 21,930 dollars and 29,240 and they are
9 paying rent on a one bedroom between 471 dollars a
10 month and 667 dollars a month and the units could go
11 up to somebody making 36,000 dollars a year with a
12 rent of 865 so given that that's whose currently
13 living there is that representative market rate in
14 the area or is market rate above or below that
15 amount?

16 DAVID DISHY: Significantly above.

17 CHAIRPERSON KALLOS: What is the market
18 rate on 115th and Lenox?

19 DAVID DISHY: Depending on... wear, wearing
20 my developer hat for that answer or the analytic hat
21 I would say it's probably in the high 40's, low 50's
22 for market rate is where... per square foot.

23 CHAIRPERSON KALLOS: What does that
24 translate into a per month for a one bedroom?

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2 DAVID DISHY: So, that translates in a...
3 per... in a... roughly 2,500 dollars for a one bed... 24...
4 25 to 3,000... 2,850 something like that, depending on
5 the sizing of the units.

6 CHAIRPERSON KALLOS: You're telling me
7 that this part of central Harlem is more expensive
8 than the Upper East Side for a one bedroom?

9 DAVID DISHY: It's true... the harms...
10 there's a... there are certainly a product on the Upper
11 East Side that would be below that, there is... there
12 are units in Harlem that are at that level, I would
13 say it is likely to be... again I'm giving you sort of
14 the... what a market aggressive one would be, more
15 realistic right now in the market is probably in the
16 low 40's and again this is a project... I'm giving you
17 numbers also that are three to four years out in our
18 sort of projections but for a current product...
19 current project at three and a half unit... three and a
20 half bucks a foot, somewhere in that range so that's
21 in the low twos...

22 CHAIRPERSON KALLOS: I'm... I just hopped
23 on street easy, I, I don't mean to pick on them or
24 promote them more than... [cross-talk]

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2 DAVID DISHY: No, that's good... [cross-
3 talk]

4 CHAIRPERSON KALLOS: ...anybody else...
5 [cross-talk]

6 DAVID DISHY: ...that's good... [cross-talk]

7 CHAIRPERSON KALLOS: ...but I, I am seeing...
8 I'm seeing several hundred units below... I'm seeing
9 units starting at 1,600 dollars for a one bedroom in,
10 in a luxury... extensively luxury building with
11 elevators and other fun amenities based on the
12 pictures that I'm seeing.

13 DAVID DISHY: Yeah, I mean look again all
14 markets work, I work in markets where side by side
15 the rents could be significantly different, I would
16 say right now that market rent... again there is
17 certainly product in the high ones, in the mid high
18 ones and there's product in the low twos.

19 CHAIRPERSON KALLOS: And, and so the, the
20 building for the extremely... the, the ELLA building
21 which is 100 percent affordable housing I'm very
22 happy with, you have ten percent homeless set asides,
23 you have AMIs at 27, 37, 47, 57 but in terms of the
24 mixed income building... [cross-talk]

25 DAVID DISHY: Yep... [cross-talk]

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2 CHAIRPERSON KALLOS: Your affordable
3 housing in the mixed income building starts at 58...
4 is, is 58,480, 75 percent of AMI, right, up to 80
5 percent, 80 percent of AMI is housing for people
6 earning 58,000 dollars a year which is nearly twice
7 as much as their neighbors and... seems like a, a lot,
8 that's a... that's a rent of 1,509 dollars a month
9 which is actually the existing market. How, how is
10 that affordable if I can go out and get the housing
11 for the same price now?

12 DAVID DISHY: So, I think a couple of
13 things, I think as I mentioned... [cross-talk]

14 CHAIRPERSON KALLOS: And, and that's not
15 to mention that your affordable housing for market
16 rate goes up to 165 percent of AMI which is you're
17 building affordable housing in central Harlem for an
18 individual making 120,615 dollars a year.

19 DAVID DISHY: So, the answer on that is a
20 couple of things; one of which is... [cross-talk]

21 CHAIRPERSON KALLOS: And, and, and
22 they're going to pay... [cross-talk]

23 DAVID DISHY: ...there are... [cross-talk]

24 CHAIRPERSON KALLOS: ...2,487... [cross-talk]

25 DAVID DISHY: No, that is... [cross-talk]

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2 CHAIRPERSON KALLOS: ...dollars a month...

3 [cross-talk]

4 DAVID DISHY: I hear the question...

5 [cross-talk]

6 CHAIRPERSON KALLOS: ...which is twice the,
7 the... almost twice the market in the area which I
8 think has a gentrifying effect, correct me if I'm
9 wrong.

10 DAVID DISHY: So, I think... look, we
11 struggle with these issues every day and to some
12 extent we... you're grappling with a site and we often
13 do this where you're... this is not an H... this is
14 primarily a privately owned site so you're trying to
15 combine the viability of getting control of the site
16 which honestly could otherwise possibly be developed
17 as a luxury condo, I'm not... I'm just... [cross-talk]

18 CHAIRPERSON KALLOS: A luxury condo would
19 have lower rates at market. The, the luxury condos
20 that have just been built on the... like they, they are
21 being rented for, for less than you're going to rent.

22 DAVID DISHY: I don't know... I'm not sure
23 the building to which you're referring, I'm just...
24 I'm, I'm speaking to the reality of the market that
25 we are aware of and that we spend every day in but

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2 leaving that aside for a second, all I'm saying is
3 part of the logic here is you're combining the
4 opportunity to both acquire and get control of that
5 site so you got a private land owner who basically
6 says I've got the site, I'm waiting till 2021, I want
7 to see what I can do with it, we say hey listen you
8 know what instead of that let us go to HPD, let us
9 figure out something which combines the opportunity
10 to create the ELLA so you have a standalone all
11 affordable building and also make something that's
12 viable enough to make us able to in fact say to them
13 let's transact because otherwise they would say I'll
14 go to five other people who have no interest in
15 talking to HPD or no interest in sort of doing the
16 more complicated deal and so clearly in that
17 circumstance you have a range of incomes, right, if
18 we had the opportunity to do all affordable, we'd do
19 all affordable all the time, we love to do that but
20 sometimes it's unrealistic to be able to get the
21 ability to control the site and redevelop the site
22 without having the mixed incomes. It is true that on
23 the 6040 those middle-income units or the moderate-
24 income units are higher incomes than the lower
25 portion of the ELLA but the reality is it's a broad

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2 range of incomes combined with the Section 8 and so
3 we actually think the overall composition there is a
4 stabilizing positive income mix.

5 CHAIRPERSON KALLOS: And, and, you, you
6 would argue that somebody make... so, so does somebody
7 making 120,000 dollars a year need affordable
8 housing, city subsidized affordable housing?

9 DAVID DISHY: And again, in that
10 circumstance the answer is as a part... the answer... you
11 know this is not a... this is a... this is part of the
12 Article XI that is consistent with what would
13 otherwise be built under a 421A so there's... you have
14 market units, I think... we don't want to spend a lot
15 of time... [cross-talk]

16 CHAIRPERSON KALLOS: So, my, my last... for
17 HPD, does, does somebody earning 120,000 dollars a
18 year... like, like members of the city council were
19 making less... making less than 120,000 dollars four
20 years ago so should, should a, a city... should a
21 person making 120,000 dollars a year get city
22 subsidized affordable housing, is that the affordable
23 housing we should be building?

24 KERRY LABOTZ: So, I think I've... one of
25 the benefits I think of this execution is that we are

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using the tax exemption to deepen the affordability where they would otherwise be able to do a 421A as of right so although I understand you're using subsidy I assume in a broader context meaning city capital dollars versus a tax exemption, we are using subsidy via the tax exemption, we are able to get that deeper affordability without tapping into scarce city subsidy to be able to accomplish that. We're also looking 35 years out for the mixed income project so while today we have the... you know we have our AMI assumptions this is also a project that's going to be restricted for 35 years so we're looking at today but we're also going to be looking towards the future as well in the mixed income new construction project.

CHAIRPERSON KALLOS: Will the

affordability at 165 percent of AMI that 120,000 be frozen in time for the day in which we pass it or in 30 years when somebody looks at it and says, okay this is the eligibility is it 165 percent of what people are making in New York and Westchester in 2048?

KERRY LABOTZ: We're restricting by AMI.

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2 CHAIRPERSON KALLOS: So, is the... does the
3 AMI change over the next 30 years or is it frozen in
4 time to this date?

5 KERRY LABOTZ: The AMI number stays the
6 same, but AMI is informed by, you know things that
7 are changing and can be responsive to, you know
8 increases and decreases.

9 CHAIRPERSON KALLOS: And, and has the AMI
10 increased in this area over the past four years?

11 KERRY LABOTZ: Yes, it has.

12 CHAIRPERSON KALLOS: So... [cross-talk]

13 KERRY LABOTZ: As... [cross-talk]

14 CHAIRPERSON KALLOS: ...even though we're
15 setting it at 120,000 dollars now 30 years from now
16 it could be 140, 150, 180,000 dollars a year?

17 KERRY LABOTZ: That's also going to track
18 with assuming a certain... like 100 percent AMI is
19 going to be much higher than that as well so that'll
20 still be substantially less than complete market or
21 100 percent AMIs, we're talking kind of relatively,
22 relative restrictions.

23 CHAIRPERSON KALLOS: Would, would you
24 agree that at 165 percent of AMI which is... give me
25 one second, the, the rents for 130 percent of AMI is

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2 2,487 dollars for a one bedroom that that seems to
3 exceed the market rate for the area.

4 DAVID DISHY: Just to be clear the, the
5 income is a 156 but the... but the units are restricted
6 to 130 so the rents themselves... [cross-talk]

7 CHAIRPERSON KALLOS: Sure, so... but at...
8 [cross-talk]

9 DAVID DISHY: ...and the income adds...
10 [cross-talk]

11 CHAIRPERSON KALLOS: ...2,000... [cross-talk]

12 DAVID DISHY: ...eligibility for the
13 renter, I'm just saying just to... just to... we're on
14 the same page, it doesn't lessen the issue that
15 you're raising it's just to be clear on that.

16 CHAIRPERSON KALLOS: Okay. Okay, so we
17 just wanted to clarify. So, the building that has
18 mixed income will that be getting an Article XI or
19 not?

20 DAVID DISHY: Yes.

21 CHAIRPERSON KALLOS: Okay, so... [cross-
22 talk]

23 KERRY LABOTZ: Excuse me... [cross-talk]

24 CHAIRPERSON KALLOS: ...on the restrictive
25 declaration that was shared with us by... on the

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2 application we... for tax exemption I'm, I'm being
3 advised by counsel that you will not... you are not
4 applying for a tax exemption on the mixed building?

5 KERRY LABOTZ: That's correct. Right now,
6 it's the restrictive... [cross-talk]

7 DAVID DISHY: Correct... [cross-talk]

8 KERRY LABOTZ: ...declaration... [cross-talk]

9 DAVID DISHY: ...it doesn't... yeah, I
10 apologize, it doesn't exist right now so you're
11 asking... you were asking in the future... [cross-talk]

12 CHAIRPERSON KALLOS: So, you'll be
13 coming... [cross-talk]

14 DAVID DISHY: Current action... [cross-
15 talk]

16 CHAIRPERSON KALLOS: ...back to the council
17 for lot 16?

18 KERRY LABOTZ: Lot 155, depend... I mean
19 we're looking at...

20 GENEVIEVE MICHEL: Sorry, I was just... I
21 think the expectation from everyone sitting here is
22 that there will be a future ULURP action which is
23 where these, you know potential plans on this mixed
24 income building would be. What we have set forth, you
25 know in the event that something happens and that

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1 CONCESSIONS

2 ULURP action doesn't happen or you know the council
3 says we're not voting on any ULURPs anymore, you know
4 any number of things that could happen in the future,
5 we wanted to ensure that with the restrictive
6 declaration there was some level of guaranteed
7 affordability and so you have, you know that as part
8 of the Article XI application today but then, you
9 know these affordability levels that we're talking
10 about are what the intention is about a future ULURP
11 action that this council will have the opportunity to
12 weigh in on.

13 CHAIRPERSON KALLOS: Okay and, and just
14 let the record reflect I just went on street easy, I
15 did a search for central Harlem as the neighborhood
16 and I capped it at 2,500, can't afford to pay more
17 than 2,500 and there's 102 properties right now that
18 are vacant that can be rented and this is extensively
19 at market rate as far as I can tell, there may be
20 rent regulated units in there but that, that is just
21 what I can do as a private citizen so I just would
22 give folks good counsel that the affordable housing
23 should actually be more affordable than the
24 communities that they're being built in versus more
25

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2 expensive especially given the fact that these are
3 citywide lotteries.

4 GENEVIEVE MICHEL: Sir, can I respond to
5 that quickly?

6 CHAIRPERSON KALLOS: Of course.

7 GENEVIEVE MICHEL: I just... I think... I, I
8 totally hear you, I think the one thing that we would
9 add there is, you know this is a little bit different
10 than what... you know you're just getting as a renter
11 going into a market rate housing where it is up your
12 landlord to determine what your annual increase is
13 going to be so I think that even if you're looking at
14 rents that might be equivalent to some of the market
15 rate apartments that you're finding on street easy,
16 we are providing tenants with additional protections
17 than they would otherwise get just going out on the
18 market.

19 CHAIRPERSON KALLOS: If, if only there
20 weren't such a thing as a preferential rent where a
21 landlord knows that they're going into a market where
22 their rents are higher than the market rate and then
23 offers the tenant a lower rent than the actual legal
24 rents where they can do whatever they want and I've
25 seen preferential rents for units that the city's

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1 CONCESSIONS

2 been involved in that are like 5,000 a month and the
3 person's paying far less and then one day they get
4 told they now have to pay 5,000 a month and they're
5 out so I, I see this as similar especially if market
6 rate is 1,600 so you end up charging 1,600 and then
7 all of the sudden you're like oops we want to charge
8 you the full rent now. Will you be offering
9 preferential rents on any of the units in this
10 project?

11 DAVID DISHY: Generally, not.

12 CHAIRPERSON KALLOS: Does, does L and M
13 currently offer preferential rents anywhere in the
14 city?

15 DAVID DISHY: The only circumstance in
16 which we would is if we on an occasion acquire an
17 existing building that we might be do... pursuing a
18 preservation strategy on that has in them
19 preferential rents and so we would be sort of
20 inheriting a preferential rent roster and essentially
21 dealing with those tenants, I mean technically those...
22 they're then living there pursuant to preferential
23 rent. The process that you describe is not what we do
24 as part of our business practice, but I understand
25 that it exists.

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CHAIRPERSON KALLOS: With regards to this project, so usually on the 45 or so Article XI's that have come before this community but... the committee but who's counting the parties applying for the Article XI's are already vested in the property, is L and M or APEX already... have an ownership interest in this property?

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DAVID DISHY: We are contract... we basically have control contractually, but we are not yet partner... we're not yet owners.

12

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CHAIRPERSON KALLOS: And what about APEX?

ROBERT HORSFORD: We're not owners yet

either.

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DAVID DISHY: I was saying we together there.

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CHAIRPERSON KALLOS: Okay. So, given the fact that this... so, I guess for HPD why we are doing this ahead of purchasing, in, in business there's risk and, and so why aren't we waiting until the parties have acquired the property to take these steps that usually... yes, why, why are we... [cross-talk]

24

25

DAVID DISHY: I'm, I'm actually happy to answer that since we... [cross-talk]

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1 CONCESSIONS

2 CHAIRPERSON KALLOS: Let, let me let HPD
3 and then... and then I'll expect you to answer as well.

4 GENEVIEVE MICHEL: I mean I... you know I
5 think that we certainly recognize this is a little
6 bit unorthodox from the applications we usually come
7 before you with, but I think that means it's... may,
8 maybe it... maybe that's not... [cross-talk]

9 KERRY LABOTZ: Yeah, it's unorthodox but...
10 [cross-talk]

11 DAVID DISHY: Yes, it's actually not
12 particular... sorry... [cross-talk]

13 KERRY LABOTZ: It is not unusual for us
14 to be... to do Article XIs both at the time of
15 acquisition for a partner that's stepping in and then
16 also for an existing... an existing owner so I would
17 say... sorry to interrupt... [cross-talk]

18 GENEVIEVE MICHEL: No, no, please...
19 [cross-talk]

20 KERRY LABOTZ: ...you but I would say that
21 in general that we have... we see both of these
22 scenarios and that there has to be a certain
23 assurance and you know and folks can speak to this
24 but there has to be a certain assurance that there
25 are assumptions in place in terms of tax exemptions

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to be able to make a financing work and induce a... and induce a project.

CHAIRPERSON KALLOS: If, if you can help refresh my, my memory as I track these 45 different projects, it... since 2018 how many times has HPD come to this committee with a, a buyer as part of a, a contract for a process versus a... just helping an existing owner?

KERRY LABOTZ: To this committee I would have to go back and check, I can't tell you off the top of my head and I don't want to be inaccurate.

CHAIRPERSON KALLOS: I, I appreciate that if you can help answer that into the record as, as one of the official questions, the record closes in 24 hours... 72 hours and so how does HPD decide when to engage with a prospective purchaser, we, we had a third party transfer happen and there was apparently the party who purchased a property from a, a, a marshal who wanted to work with HPD and my understanding is that HPD declined so why this purchaser but not an existing owner?

KERRY LABOTZ: I guess I would also just to revisit your earlier question, we bring Article

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2 XIs both to, to this committee and to the Finance
3 Committee... [cross-talk]

4 CHAIRPERSON KALLOS: Yes... [cross-talk]

5 KERRY LABOTZ: So, I would say broadly
6 speaking we are doing Article XIs at moments in time
7 for both committees, so I do just want to make that
8 distinction. In terms of... [cross-talk]

9 DAVID DISHY: Sorry... [cross-talk]

10 KERRY LABOTZ: ...when we are engaging we
11 are often engaging at the point where a borrower is
12 entering into a contract of sale or a future
13 potential borrower, purchaser is entering into a
14 contract of sale and working with them to kind of
15 size the Article XI to... you know engage in the
16 preservation transaction.

17 DAVID DISHY: Yeah, which I think is
18 important, two things let me just also note not
19 withstanding... [cross-talk]

20 CHAIRPERSON KALLOS: So, so yes, the
21 question is why, why L and M?

22 DAVID DISHY: Right, so not withstanding...
23 [cross-talk]

24 CHAIRPERSON KALLOS: And how, how did you
25 get... how did you get this great deal?

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2 DAVID DISHY: So, whether it turns out to
3 work out I'm not yet sure we'll see. One thing let me
4 just go back Avery Seavey, our partner in the Seavey
5 Organization, he is a part of this endeavor so in
6 term... in fact he is... even though he's not in... sitting
7 here with us he is a part of the effort and a part of
8 the application and is obviously fully supportive of
9 it so from that respect it is not technically the
10 contract... dynamic alone that being said... [cross-talk]

11 CHAIRPERSON KALLOS: But there's any
12 number of affordable housing developers... [cross-talk]

13 DAVID DISHY: Yeah... [cross-talk]

14 CHAIRPERSON KALLOS: ...he could have...
15 [cross-talk]

16 DAVID DISHY: And we do it... well and
17 that... well let me answer the... first go on, on the
18 issue of... in any circumstance which you're combining
19 the pursuit of affordability and preservation with
20 what I'll call kind of competitive private market
21 place which is in part what we're dealing with, the
22 reality is you often have buyers and like for L and M
23 this is where... what we spend a lot of time doing,
24 going, trying out different... projects where we can
25 either bring them in or keep them in preservation or...

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in an affordable status and so we're often competing with folks who may not necessarily have those objectives and so to some extent the conversations whether it's us or someone else going to HPD and saying we are trying to be competitive in this private market place of sale over transaction in order to be effective and to do what... the, the thing that we want to do together we sort of want to have a conversation about the viability of that prior to its actually occurring and so I think that that's actually an incredibly important part of helping the city preserve and or recapture buildings into preservation which would otherwise wouldn't have if you essentially said to folks good luck, buy it and call us when you're done so I think that's actually strategically a good decision on the... on the city's part. For us as I mentioned we spend a fair amount of time, we are partners... like partner and colleague who's sitting here, Eben Ellertson is a... we've... we're partners, we have elements of the existing ownership, they went out to market for a fully competitive sale there was conversations about 2021, you had bidders who had no interest in any of the kinds of things we're talking about today, we crafted this, we

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2 approached APEX with whom we've done other work with
3 and have been looking at other projects together and
4 sort of said listen this might be an opportunity, we
5 had a dialogue with HPD and we said there's both an
6 existing building and there's the outstanding parcels
7 we would like to try to figure out a way in lieu of
8 those parcels being released to do an affordable
9 execution, there's an HPD out parcel, this seems like
10 a nice opportunity for us to combine those parcels
11 into one comprehensive execution mixing both
12 extremely low... you know low and very low
13 affordability with more sort of moderate
14 affordability and also some market units in order to
15 be able to actually do the execution and purchase
16 this site and so we kind of crafted that package and
17 we went to the owners and we sort of said listen this
18 may not be your greatest execution but we think this
19 would... works and has some degree of certainty and to
20 Avery Seavey's credit the Seavey Organization,
21 they're an affordable owner, that care about that,
22 they were very sympathetic to us trying to sort of
23 create and craft this kind of execution and so we did
24 that and that's what we've been working on for a long
25 time and that's what brings us here.

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2 CHAIRPERSON KALLOS: In, in terms of for
3 the existing building, the status quo if we did
4 nothing how long would these units remain affordable?

5 KERRY LABOTZ: The contract... the HAP... the
6 current HAP contract expires in 2033 however the
7 tenants would be... you know the HAP contract could
8 expire, the tenants in place at that time would have
9 no... would have limited protections, by putting our
10 regulatory agreement in place at this time we're
11 requiring the extension of the HAP contract past 2033
12 and bringing it out to the 40 years and we're also
13 inducing the affordability on the new construction
14 site.

15 CHAIRPERSON KALLOS: Why not do that in
16 2033 versus now?

17 KERRY LABOTZ: The, the... lot 155 will,
18 will become unregulated in 2021 when the Article V
19 expires so, the... they are contingent, they are linked
20 together in order to preserve 2020... in order to
21 preserve lot 155 we're doing the extension of the
22 Article XI now on lot 16 on the building.

23 CHAIRPERSON KALLOS: And HPD is
24 transferring land that it has had, how, how long has
25 HPD had that land vacant?

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1 CONCESSIONS

2 KERRY LABOTZ: That... the transfer of the
3 land is not part of this action, that would be a
4 future ULURP.

5 CHAIRPERSON KALLOS: Got it. Okay, at
6 APEX you mentioned living wage, is your definition of
7 living wage a minimum wage or is it a different
8 number?

9 ROBERT HORSFORD: Living wage I think is
10 defined... [cross-talk]

11 CHAIRPERSON KALLOS: I need you to speak
12 into the microphone please.

13 ROBERT HORSFORD: Living wage we believe
14 to be above; above minimum wage and I think... I think
15 it's defined in the HPD guidelines or... I'm not sure
16 but I believe it's... [cross-talk]

17 CHAIRPERSON KALLOS: HPD can... [cross-
18 talk]

19 ROBERT HORSFORD: ...defined somewhere...
20 [cross-talk]

21 CHAIRPERSON KALLOS: ...tell us what the
22 living wage is for this project?

23 GENEVIEVE MICHEL: I actually don't know
24 off the top of my head, but I will certainly get that
25 to you.

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2 CHAIRPERSON KALLOS: It... is... do you know
3 if it... so back to APEX do you know if it is more or
4 less than 15 dollars an hour?

5 ROBERT HORSFORD: I'm not exactly... I, I'm
6 not sure, I believe... I believe it is... [cross-talk]

7 CHAIRPERSON KALLOS: More, more or...
8 [cross-talk]

9 ROBERT HORSFORD: ...more... I believe it is
10 more but I'm not sure on that position... [cross-talk]

11 CHAIRPERSON KALLOS: More or... more or
12 less than 10 dollars an hour?

13 ROBERT HORSFORD: I'm not sure.

14 CHAIRPERSON KALLOS: Okay. Will the folks
15 who are building this building be able to afford it
16 to live in the community at market rate or afford to
17 live in the affordable housing that they are
18 building?

19 ROBERT HORSFORD: I didn't look at it
20 from that perspective, I'd have to... I'd have to...
21 [cross-talk]

22 CHAIRPERSON KALLOS: Do you think it's
23 important for... [cross-talk]

24 ROBERT HORSFORD: ...find out... [cross-talk]

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CHAIRPERSON KALLOS: ...people to be able
to... [cross-talk]

ROBERT HORSFORD: Absolutely, absolutely,
I mean in, in this, this development is running the,
the gambit in terms of affordability so I would
imagine they definitely would have an opportunity
given the fact that we have a, a huge range of
affordability and AMI levels in the development, I,
I'd be pretty confident in saying that there, there
would be an opportunity for them and it also.. you
know it also depends on what, what trade they're
doing, I mean at.. some of those trades make quite a
bit so I would think there would be an opportunity
for them to live in the development.

CHAIRPERSON KALLOS: Are.. in, in your
reference to trades I think what you're referring to
is that different industries so if for instance a
person is a carpenter they may have a, a prevailing
wage which might be set by the comptroller, but I
don't believe that this.. [cross-talk]

ROBERT HORSFORD: NO, no... [cross-talk]

CHAIRPERSON KALLOS: ...project has..
[cross-talk]

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1 CONCESSIONS

2 ROBERT HORSFORD: ...it's not... it's not
3 prevailing wage, when I say trades I mean, you know
4 carpenter... [cross-talk]

5 CHAIRPERSON KALLOS: Yeah... [cross-talk]

6 ROBERT HORSFORD: ...you know a plumber
7 makes more than a carpenter, so their wages would
8 probably... potentially more than... [cross-talk]

9 CHAIRPERSON KALLOS: You get to determine
10 how much you pay so I guess the, the question is; I,
11 I, I understand that on some L and M projects people...
12 carpenters are making \$18.50 an hour so I, I would...
13 not sure if I would consider that to be a, a living
14 wage for a person who is a skilled trades person.

15 ROBERT HORSFORD: Well I mean I could...
16 [cross-talk]

17 CHAIRPERSON KALLOS: That's like 33,000
18 dollars a year.

19 ROBERT HORSFORD: Yeah, I could speak
20 for, for APEX and I would imagine largely for L and M
21 as well... [cross-talk]

22 DAVID DISHY: Yeah... [cross-talk]

23 ROBERT HORSFORD: ...we don't hire the
24 trades directly, we hire subcontractors so... [cross-
25 talk]

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1 CONCESSIONS

2 CHAIRPERSON KALLOS: And L and M, correct
3 me if I'm wrong about that \$18.50 an hour?

4 DAVID DISHY: I don't... 18.50 is a number
5 that we actually have an internal policy above
6 minimum wage that we pay, I don't... I'm actually...
7 it's, it's possible that someone in... I don't believe
8 in the carpentry category that that would be the
9 wage, I think it's higher but I... [cross-talk]

10 CHAIRPERSON KALLOS: I, I have a
11 document... [cross-talk]

12 DAVID DISHY: ...but you may be
13 referencing... [cross-talk]

14 CHAIRPERSON KALLOS: ...it turns out from
15 some... [cross-talk]

16 DAVID DISHY: ...something so... [cross-talk]

17 CHAIRPERSON KALLOS: ...carpenters about an
18 EDC project... [cross-talk]

19 DAVID DISHY: I'm guessing you're looking
20 at something so I would have to see what that is and
21 its possible that some category within the quote,
22 unquote 'carpenters' muse which is otherwise what
23 I'll call sort of the standard laborer category which
24 again L and M internally actually pays higher than
25

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2 minimum wage toward that category but that may be
3 what that is. I'd have to... happy to do some research.

4 CHAIRPERSON KALLOS: Sure. So, so you
5 were saying so you wouldn't do prevailing wage but
6 what would be the rate for, for a carpenter?

7 ROBERT HORSFORD: When we said that it's
8 a living wage and it, it all depends on, you know the
9 entire process, I mean we haven't begun the process
10 of selecting subcontractors and figuring out who's
11 going to work on the job, we hire subcontractor to do
12 the work and often times it depends on who, who's
13 working on the project so the... those, those wages
14 could range tremendously but you know... [cross-talk]

15 CHAIRPERSON KALLOS: So, so... [cross-talk]

16 ROBERT HORSFORD: ...we're... if we're
17 talking about... and we'd, we'd have to go back and,
18 and look at the definition of a living wage and we...
19 you know our agreement with our subcontractors would
20 be that they would make an excess of living wage.

21 CHAIRPERSON KALLOS: So, I'll, I'll just...
22 [cross-talk]

23 DAVID DISHY: Oh, sorry... [cross-talk]

24 CHAIRPERSON KALLOS: ...put it out there
25 that if... let's just say you're being generous so the

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1 CONCESSIONS

2 current minimum wage is 11 dollars an hour, it
3 changes to 15 dollars an hour on December 31st, 2018
4 in New York City only, there are some parts of New
5 York State that may never see... will, will not see it
6 for quite some time, there isn't actually a date set
7 yet but at 15 dollars an hour that translates to if
8 they're working 35 hours a week every single week not
9 taking a day off, not being sick just working nonstop
10 that's 27,300 dollars which coordinates to about 35
11 percent of AMI which would mean that you... out of the
12 several hundred units that you're planning to do
13 there would only be like 21 units available and I
14 imagine you'll have more than 21 people working on
15 your site.

16 ROBERT HORSFORD: Correct.

17 CHAIRPERSON KALLOS: So, so I guess what
18 I would just say is every single... would, would you
19 agree that everyone who's doing the work on this site
20 or... whether its building it, maintaining... or
21 maintaining it should be able to afford to live in
22 the neighborhood that they work and, in the building,
23 they might be building and maintaining?

24 DAVID DISHY: Yeah, I mean look I...
25 clearly the sentiment you're expressing is a positive

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2 one and we support it, right and the idea is you have
3 a range of folks working on different projects, I
4 will say and actually one of my colleagues is here
5 today and we were going to talk about it but I think
6 we're going to have the time, you know we spend a
7 fair amount of time as does APEX on local hiring
8 initiatives, outreach, education, training, we take
9 it very seriously, it's a lot of what we do,
10 throughout our projects we are trying to create
11 exactly the opportunities that I think you're
12 inferring as being extremely important. It is true
13 that the range of people working on a given project
14 are paid a wide... a range of incomes and some may be
15 precisely eligible for some part of that building and
16 some may not but I will say that we take the issue
17 seriously and we spend a, as I said a lot of
18 outreach, coordination in both these... you know this
19 in Harlem and throughout the city and so we would
20 hope to continue to be able to do that and make it
21 possible so that as many people work on our project
22 will be at the income levels that they could afford
23 either that building and or in the neighborhood.

24

CHAIRPERSON KALLOS: Okay, so just to...

25

the, the number I'm, I'm hoping to give my, my

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2 residents, the people living in the city who pay the
3 taxes is just what the all in bill is to the
4 taxpayers to, to move these projects forward, so
5 we've got the, the... and I want to thank HPD because
6 they've become so much more transparent around this,
7 so we have 17 million... 17.3 million dollars... sorry,
8 17.4 million dollars on the Article XI total and then
9 they have a net present value of six million and then
10 on lot 155 there's 76.1 million and then they have a
11 net present of 18.4 and I think if you can submit for
12 the record just what your valuation is and what rates
13 you're calculating to get your net present value that
14 would be helpful and then we have another item in
15 this... you are a different council, great, we have
16 another... we have another lot on this which you're
17 coming back on where you will be seeking a tax
18 exemption, do you have an estimate of how much that
19 total tax exemption will be?

20 KERRY LABOTZ: No.

21 CHAIRPERSON KALLOS: Okay and then we
22 have HPD will be providing financing and... in
23 accordance with the ELLA term sheet which is how much
24 per unit on the 209 units?

25

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2 KERRY LABOTZ: I'm sorry, I can't speak
3 to the ELLA, I... in terms of the term sheet, that's
4 not part of... I, I only say that only because that's
5 not part of the actions that we're, we're talking
6 about today... [cross-talk]

7 CHAIRPERSON KALLOS: Okay... [cross-talk]

8 KERRY LABOTZ: ...so, I'm not prepared to
9 answer that question.

10 CHAIRPERSON KALLOS: And then we... [cross-
11 talk]

12 KERRY LABOTZ: ...represent new
13 construction.

14 CHAIRPERSON KALLOS: And then there's the
15 federal low-income housing tax credit, do you have an
16 estimate of... [cross-talk]

17 DAVID DISHY: Yes... [cross-talk]

18 CHAIRPERSON KALLOS: ...how much subsidy
19 you're expecting from the government and federal,
20 state and city per unit?

21 DAVID DISHY: I could tell you... again
22 since it's speculative in terms of when it's going to
23 occur I'm, I'm wary of... given your precision about
24 numbers I'm wary about being imprecise with you...
25 [cross-talk]

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1 CONCESSIONS

2 CHAIRPERSON KALLOS: I'm, I'm less
3 worried about... [cross-talk]

4 DAVID DISHY: I will... [cross-talk]

5 CHAIRPERSON KALLOS: I'm not worried
6 about precision... [cross-talk]

7 DAVID DISHY: I will say that... [cross-
8 talk]

9 CHAIRPERSON KALLOS: ...ballpark is
10 helpful.

11 DAVID DISHY: The, the, the capital cost
12 on the new construction units is in the range of
13 three to 400,000 dollars and so that's often covered
14 by a variety of... HPD, HDC, tax credits, loans, you
15 know so that's, that's the general order of magnitude
16 on the cost of a... of an affordable new construction
17 unit.

18 CHAIRPERSON KALLOS: Okay, so you have...
19 so... [cross-talk]

20 DAVID DISHY: That doesn't... that doesn't
21 include... [cross-talk]

22 CHAIRPERSON KALLOS: So, the three to...
23 [cross-talk]

24 DAVID DISHY: ...the tax... [cross-talk]

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CHAIRPERSON KALLOS: ...400,000 is that,

3

that's your cost to build it or is that the subsidies

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all in that you're expecting to get?

5

DAVID DISHY: I mean basically in the all

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affordable world as you know you're balancing sources

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and uses so you're basically dealing with tax credits

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and subsidies to make those units available and the..

9

and the incomes are such they're generally just

10

covering operating expenses and a portion of the

11

existing subsidy so the answer is both meaning its'

12

both the cost and the amount of.. and it's the capital

13

stack making that construction possible.

14

CHAIRPERSON KALLOS: And at 95 Lenox

15

there's two and a half million dollars of work being

16

done, what, what is the nature of the work that's

17

going to happen there?

18

DAVID DISHY: So, that's what Robert was

19

talking about before so.. [cross-talk]

20

ROBERT HORSFORD: Sure, and in terms of

21

the work that's going to be happening at the.. at 95

22

Lenox it involves work in the kitchens; kitchen

23

floors, replacing cabinets, the bathrooms replacement

24

of tiles and we're going to be doing upgrades in the

25

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1

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2

lobbies and we're also going to be looking to upgrade

3

the common areas.

4

CHAIRPERSON KALLOS: And do you have any

5

pictures of the different areas and, and what the

6

upgrades might look like or...

7

DAVID DISHY: I believe we do but we

8

don't have them... [cross-talk]

9

CHAIRPERSON KALLOS: If you can submit

10

that to, to the record and... [cross-talk]

11

DAVID DISHY: We can certainly do that.

12

CHAIRPERSON KALLOS: My, my other piece

13

is just in terms of which, which building is going to

14

be on lot 19, 20 and 21, the ELLA building or the

15

mixed income building?

16

DAVID DISHY: The North building is, is

17

the ELLA building probably in, in the image you're

18

looking at and the South building would be the 6040.

19

CHAIRPERSON KALLOS: South, South

20

building is the ELLA building?

21

DAVID DISHY: South is the mixed income

22

and the North is the ELLA.

23

CHAIRPERSON KALLOS: Okay, so the... just

24

to update your sheet on nine, so you have a

25

prospective Article XI and then in order to build

SUBCOMMITTEE ON PLANNING, DISPOSITIONS AND

1 CONCESSIONS

2 that building you need to build it on lots 19, 20 and
3 21, do you... does... so I know that you're not prepared
4 to testify on that but have you put a valuation on
5 that property and how much that's worth?

6 DAVID DISHY: Are you talking about the
7 H... our... the, the... [cross-talk]

8 CHAIRPERSON KALLOS: The HPD lots.

9 DAVID DISHY: We haven't yet, and I think
10 HPD would do that as a normal course as part of the
11 disposition.

12 CHAIRPERSON KALLOS: Be careful they
13 might... you might have to pay the millionaires tax,
14 that is a joke about a different property that we had
15 to deal with. The buildings, both buildings will have
16 amenities?

17 DAVID DISHY: I hope so, yes.

18 CHAIRPERSON KALLOS: And they will have
19 the same amenities in the ELLA building and the mixed
20 income building?

21 DAVID DISHY: Each building... we, we look
22 at this as... we look at this as a comprehensive
23 development, realistically since we're not even into
24 ULURP yet, haven't... we haven't fully designed the
25 buildings yet... [cross-talk]

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1 CONCESSIONS

2 ROBERT HORSFORD: Right... [cross-talk]

3 DAVID DISHY: ...but I'm happy to show you
4 some of... our buildings are generally extremely well...
5 [cross-talk]

6 CHAIRPERSON KALLOS: So, has L and M ever
7 had occasion to have separate entrances based on
8 incomes?

9 DAVID DISHY: No.

10 CHAIRPERSON KALLOS: Is there a
11 commitment not to do that?

12 DAVID DISHY: Yes, I mean let me just be
13 clear the buildings have separate entrances so by
14 definition there will be different levels... [cross-
15 talk]

16 CHAIRPERSON KALLOS: Don't get me
17 started... [cross-talk]

18 DAVID DISHY: ...of affordability... [cross-
19 talk]

20 CHAIRPERSON KALLOS: ...on rich building to
21 a poor building...

22 DAVID DISHY: Right, no, no, I just want
23 to be... [cross-talk]

24 CHAIRPERSON KALLOS: ...I was referring to...
25 [cross-talk]

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1 CONCESSIONS

2 DAVID DISHY: ...again like I said I
3 appreciate the... [cross-talk]

4 CHAIRPERSON KALLOS: ...what's locally
5 referred to as the poor door.

6 DAVID DISHY: Right.

7 CHAIRPERSON KALLOS: The other piece is
8 like will... so, there's going to be a community room
9 in, in... will... if there's a community room will they
10 both have community rooms, will they be of the same
11 nature in quality, if one of the community rooms has
12 a fireplace will both have a fireplace so on and so
13 forth?

14 DAVID DISHY: We've never built one with
15 a fireplace but my... I'm, I'm happy to commit to you
16 that if there are two fireplaces there would... if
17 there are fireplaces in one... [cross-talk]

18 CHAIRPERSON KALLOS: But you, you get
19 what I'm saying, that the amenities... [cross-talk]

20 DAVID DISHY: Yes... no, again... [cross-
21 talk]

22 CHAIRPERSON KALLOS: ...will be... [cross-
23 talk]

24

25

SUBCOMMITTEE ON PLANNING, DISPOSITIONS AND

1

CONCESSIONS

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DAVID DISHY: ...that is our... we... all the

3

projects that we do are completely of that spirit so

4

by short end... my answer... my simplistic answer is yes.

5

CHAIRPERSON KALLOS: And tenants will not

6

be treated differently based on access to that there

7

won't be a fee for using the spaces or a, a fee for

8

using any amenities like HM or what have you?

9

DAVID DISHY: Again, I only want to be

10

careful because there are two buildings and often you

11

may have separate fitness center... we're not yet sure...

12

sometimes we share amenities across two buildings if

13

they're large... part of a larger complex, maybe one...

14

[cross-talk]

15

CHAIRPERSON KALLOS: Okay... [cross-talk]

16

DAVID DISHY: ...has the fitness and one

17

has the common room so... [cross-talk]

18

CHAIRPERSON KALLOS: But you, you're

19

committed to... [cross-talk]

20

DAVID DISHY: ...but the answer is... [cross-

21

talk]

22

CHAIRPERSON KALLOS: ...to some sort of

23

equity where... [cross-talk]

24

DAVID DISHY: Correct, yes.

25

SUBCOMMITTEE ON PLANNING, DISPOSITIONS AND

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CONCESSIONS

CHAIRPERSON KALLOS: Because I, I have buildings which are affordable and the, the gym membership is 100 dollars a month for people making 30 percent of AMI and like that's just not happening for them.. [cross-talk]

DAVID DISHY: It's not something.. [cross-talk]

CHAIRPERSON KALLOS: So.. [cross-talk]

DAVID DISHY: ...that we do.

CHAIRPERSON KALLOS: That's great. In terms of hiring, in the presentation materials that you did not present because we were trying to move quickly you mentioned participation in Hire NYC and HPD's Build Up Program, you also shared information about the MWBE makeup I believe of APEX... [cross-talk]

ROBERT HORSFORD: Yes.. [cross-talk]

CHAIRPERSON KALLOS: ...but I do not know if you shared any makeup on L and M's MWBE.. [cross-talk]

DAVID DISHY: Well.. [cross-talk]

CHAIRPERSON KALLOS: ...whether you have that status or whether or not you have executives that are minorities or women.

SUBCOMMITTEE ON PLANNING, DISPOSITIONS AND
1 CONCESSIONS

2 DAVID DISHY: You're asking about the
3 composition of the L and M staff or you're asking
4 about our... [cross-talk]

5 CHAIRPERSON KALLOS: Yes... [cross-talk]

6 DAVID DISHY: ...MWBE hiring practices?

7 CHAIRPERSON KALLOS: Both. So, I already
8 have what you said here which is you're committed to
9 the HPD... [cross-talk]

10 DAVID DISHY: I feel bad because... [cross-
11 talk]

12 CHAIRPERSON KALLOS: ...Build Up Program...
13 [cross-talk]

14 DAVID DISHY: ...I drag jury... I dragged
15 jury here to sort of talk on... we have an extensive
16 internal... we have a six-person staff focused solely
17 on compliance and MWBE, local hiring, it's very much
18 a part of... in the DNA of the firm but I realize
19 that's... [cross-talk]

20 CHAIRPERSON KALLOS: If, if you've got
21 two minutes we'll, we'll take it if you don't mind
22 saying but I... [cross-talk]

23 [off mic dialogue]

24

25

SUBCOMMITTEE ON PLANNING, DISPOSITIONS AND

1

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CHAIRPERSON KALLOS: I've got it, the,

3

the big question I like to ask for folks watching at

4

home is where do they call or email to get a job?

5

DAVID DISHY: That's an excellent

6

question.

7

JUDY JARINA: So, my name is Judy Jarina

8

[sp?], sorry about this. So, we do extensive work

9

within the community to do some outreach, we... as far

10

as where they call we do have fliers on the site for

11

our partners in buildings skills to help the

12

candidates get ready for hire, candidates call us at

13

the office all the time if they're interested in a

14

particular job and as I mentioned before we try to

15

make connections with community organizations, with

16

the community board to make sure that we're in touch

17

with the beat of the community and whoever is looking

18

for a job is able to reach us one way or another.

19

CHAIRPERSON KALLOS: What's the phone

20

number for somebody to call for a job?

21

JUDY JARINA: Sure, so that's 914-833-

22

3000, that's our L and M phone number and it gets

23

directed directly to our compliance managers.

24

CHAIRPERSON KALLOS: Okay and in terms of

25

the MWBE makeup of... is L and M an MWBE?

SUBCOMMITTEE ON PLANNING, DISPOSITIONS AND
1 CONCESSIONS

2 JUDY JARINA: No, we are not.

3 CHAIRPERSON KALLOS: And what is the MWBE
4 make... sorry, how, how many executives at L and M are
5 minorities and women?

6 DAVID DISHY: I'm only hesitating because
7 I, I don't actually know the precise answer to that,
8 I will tell you of the... of... but I'll... founders are
9 not, I'm not... [cross-talk]

10 JUDY JARINA: We do have a lot of women...
11 [cross-talk]

12 DAVID DISHY: We have Debbi... let's be
13 clear, our COO Lisa Gomez I think would fit both of
14 those criteria, Debbi Kenyon who was previously our
15 COO and head of development and now runs all of our
16 philanthropy and is our Chief Legal Officer...

17 JUDY JARINA: Amy Condone, Vice President
18 of Operations...

19 DAVID DISHY: Amy Condone is our... runs
20 operations of the construction side. We have an
21 extensive... I'm happy to give you the number... right,
22 we're actually... we spend a lot of our effort and
23 energy on this and so I apologize for not giving you
24 more detail but like we do extensive outreach on both
25 diversity issues, gender, ethnic, I mean so that's an

SUBCOMMITTEE ON PLANNING, DISPOSITIONS AND

1 CONCESSIONS

2 important part of what we do so basically.. [cross-
3 talk]

4 JUDY JARINA: Our entire complaint..
5 [cross-talk]

6 DAVID DISHY: ...across the board..

7 JUDY JARINA: Yeah and our entire
8 compliance.. [cross-talk]

9 DAVID DISHY: ...compliance.. [cross-talk]

10 JUDY JARINA: ...team is minority women,
11 it's made up of minority women.

12 CHAIRPERSON KALLOS: Okay and then I, I
13 may have spoken too soon for APEX, you gave us a
14 breakdown based on your 34 employees, do you have any
15 breakdowns on executives, we, we've, we've been
16 putting an emphasis on.. it's, it's about the
17 executives and the leadership and that's both.. and
18 the Mayor's done so at nonprofits all over the city
19 and so we're also focused.. yeah..

20 ROBERT HORSFORD: Sure, the, the partners
21 are.. Lee and I were both male of color and the.. in
22 terms of our, our senior staff Javonna is head of
23 development, she's VP of Development, she's a female
24 and then we have Gary Gardine whose also of color
25 and, and he's our Director of construction.

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1 CONCESSIONS

2 CHAIRPERSON KALLOS: And are you an MWBE
3 or...

4 JUDY JARINA: Yes...

5 ROBERT HORSFORD: We are and we're a city
6 and state MWBE.

7 CHAIRPERSON KALLOS: Great, thank you.
8 And, and are, are... thank you. Okay, you mentioned
9 that you had... you gave health insurance?

10 ROBERT HORSFORD: Yes.

11 DAVID DISHY: All of our staff have... we
12 have health insurance in our firm.

13 CHAIRPERSON KALLOS: And in terms of the
14 folks that you will be doing contracting with in
15 terms of the, the workers, will they have health
16 insurance?

17 ROBERT HORSFORD: The... in terms of our
18 subcontractors some do, some don't, I don't have a
19 percentage... [cross-talk]

20 CHAIRPERSON KALLOS: Do you think it's
21 important that if somebody gets hurt on your
22 construction site that they can go to a hospital
23 without going bankrupt?

24 ROBERT HORSFORD: Absolutely, I think it
25 is important.

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1 CONCESSIONS

2 CHAIRPERSON KALLOS: So, so will you
3 commit to providing health insurance?

4 ROBERT HORSFORD: That's something I'm
5 not sure... we haven't looked into and based on our
6 contracts with our subs we're not sure what those
7 numbers are, we'd have to look into that.

8 CHAIRPERSON KALLOS: In terms of on, on
9 a... construction is one of the most dangerous jobs in
10 the city, I actually wrote a law on this and, and now
11 get reports on every single construction injury and
12 these are preventable... [cross-talk]

13 ROBERT HORSFORD: Yes... [cross-talk]

14 CHAIRPERSON KALLOS: ...in terms of...
15 [cross-talk]

16 ROBERT HORSFORD: And we... I mean we have
17 a full safety program in place and we work closely
18 with all the subs as well as all the workers in terms
19 of making sure safety is in place, everyone has
20 workers compensation both subs... [cross-talk]

21 CHAIRPERSON KALLOS: That's a state
22 requirement... [cross-talk]

23 ROBERT HORSFORD: ...and on our... [cross-
24 talk]

SUBCOMMITTEE ON PLANNING, DISPOSITIONS AND
1 CONCESSIONS

2 CHAIRPERSON KALLOS: In terms of just
3 training do folks get training, do they get
4 certification so if they're going to do carpentry
5 work do people have carpentry certification and
6 experience on the job before they're put into place
7 with other folks who are like they... on the job
8 training?

9 ROBERT HORSFORD: Right, I mean typically
10 with all of our subcontractors they have... [cross-
11 talk]

12 CHAIRPERSON KALLOS: And, and forgive me
13 for... [cross-talk]

14 ROBERT HORSFORD: ...they have the... [cross-
15 talk]

16 CHAIRPERSON KALLOS: ...focusing on...
17 [cross-talk]

18 ROBERT HORSFORD: ...experience... [cross-
19 talk]

20 CHAIRPERSON KALLOS: ...carpentry, there's
21 so many other trades out there.

22 ROBERT HORSFORD: Right, they're, they're
23 all experienced trades that are on our job and most
24 of the subcontractors if not a majority of the
25 subcontractors that we work with we've worked with

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for a long period of time and they, they all have a

3

very high... [cross-talk]

4

CHAIRPERSON KALLOS: And if, if somebody

5

gets hurt on the job and goes to the doctor and, and

6

they just can't get back do they have disability

7

insurance so that they can... not end up being taken

8

care of by our tax dollars but can... [cross-talk]

9

ROBERT HORSFORD: Yes, disability as

10

well.

11

CHAIRPERSON KALLOS: So, you do provide

12

disability to all of your construction workers?

13

ROBERT HORSFORD: Yes.

14

CHAIRPERSON KALLOS: That is... that is

15

good news so you're not sure about the health

16

insurance but definitely disability to your... [cross-

17

talk]

18

ROBERT HORSFORD: Workers comp and

19

disability, correct.

20

CHAIRPERSON KALLOS: That's, that's

21

better than most and then do you have any folks

22

who've worked with you on more than one... and, and

23

also L and M I, I need these answers from you too...

24

[cross-talk]

25

SUBCOMMITTEE ON PLANNING, DISPOSITIONS AND
1 CONCESSIONS

2 DAVID DISHY: Yes, as to what Robert
3 said, I mean we've got some subs where, where you
4 don't have direct access to that sub, where we
5 require them or sort of depending on the nature of
6 the job but... [cross-talk]

7 CHAIRPERSON KALLOS: So, so you can't
8 speak to health insurance, but you do know that every
9 single construction worker on your sites will get
10 disability of anything happens not just workers comp
11 but disability?

12 DAVID DISHY: I believe the answer...
13 [cross-talk]

14 CHAIRPERSON KALLOS: Not, not so... and I'm
15 not talking social security disability, I'm talking
16 about a separate disability insurance.

17 DAVID DISHY: I'm virtually positive the
18 answer is yes, I will... I'm, I'm happy to check and
19 we'll confirm within the... [cross-talk]

20 JUDY JARINA: Yeah, so our insurance
21 department does extensive reviews of each individual...

22 CHAIRPERSON KALLOS: Okay and on... from
23 APEX I see you nodding but I need you... [cross-talk]

24 ROBERT HORSFORD: Workers comp and
25 disability, correct.

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1 CONCESSIONS

2 CHAIRPERSON KALLOS: Okay, insurance not
3 just social security?

4 ROBERT HORSFORD: It's a disability
5 policy that we have.

6 CHAIRPERSON KALLOS: For all workers on
7 the site, that is great and then have you had
8 occasion to have construction workers who've worked
9 with you on more than one project who might have a
10 career of working on building affordable housing and
11 might want to retire one day, do you assist people
12 with making sure all of them have access to a 401K or
13 other pension?

14 DAVID DISHY: I'll answer for L and M and
15 I don't want to sound overly sappy about this but at
16 the annual... and, and only because I'm been at L and M
17 for ten years but the firms been around for 35 years,
18 it's in... basically part of the... very much the DNA of
19 the company is folks who come to work particularly
20 who we sort of recruit to work on the construction
21 sites stay with the company often for their lives,
22 they often bring other family members in to join the
23 company and there is... it's very much one of the
24 things... I would say it's actually one of the things
25 that the founders of the company are most proud of is

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1 CONCESSIONS

2 the extensive tenure for the... for guy... largely guys
3 with increasing the amount of women on the
4 construction sites who spent their careers here or
5 who've made careers out of their lives here and have
6 done well and have families and come up and, and say
7 to them... and again I don't want to be sappy about
8 this but it's a noteworthy thing of sort of saying
9 you've, you know you've changed my life, you've given
10 me an opportunity, I've built a career here, I've
11 built a viable sort of income, I've got a family that
12 now is supported from that work and I can... you know
13 they work on multiple jobs and we have a large...
14 [cross-talk]

15 CHAIRPERSON KALLOS: And they have a, a
16 pension device that you contribute to?

17 DAVID DISHY: Yes, I mean we're an
18 employee stock ownership company so they're all
19 participants in that.

20 CHAIRPERSON KALLOS: I, I... it, it would...
21 you're the first developer I think in 45 maybe one or
22 two others to, to have a, a pension device of some
23 sort.

24 DAVID DISHY: Yeah, I know it's something
25 we're... again we... our founders... [cross-talk]

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1 CONCESSIONS

2 CHAIRPERSON KALLOS: And, and... [cross-
3 talk]

4 DAVID DISHY: ...can be proud of.

5 CHAIRPERSON KALLOS: And, and that's
6 every worker on your construction site has that?

7 DAVID DISHY: The only thing I want to be
8 careful, careful about is there are folks on both of
9 our sites who are not employees of L and M, right,
10 they are workers on subcontractors so often on our
11 sites you have subcontractors who are not direct L
12 and M employees, so I obviously can't speak to what's
13 going on... [cross-talk]

14 CHAIRPERSON KALLOS: If you can... [cross-
15 talk]

16 DAVID DISHY: ...we try to employ... we try
17 to encourage certain practices within those folks..
18 [cross-talk]

19 CHAIRPERSON KALLOS: Do you know who the
20 subcontractors are likely to be?

21 DAVID DISHY: For this job?

22 CHAIRPERSON KALLOS: Yeah... [cross-talk]

23 DAVID DISHY: Not yet.

24 ROBERT HORSFORD: Not at this point.
25

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CHAIRPERSON KALLOS: Is there... is there

3

some sort of legal device you could use to make sure

4

that... it, it sounds like we, we have a meeting of the

5

minds that health insurance is important, disability

6

insurance is important, pensions are important is

7

there... is there a, a legal device you could use to

8

make sure that your subcontractors have the same

9

values as you do for yourselves and your staffs?

10

ROBERT HORSFORD: I, I don't know the

11

answer to that and that's not something we've, we've

12

done...

13

CHAIRPERSON KALLOS: Is there things you

14

can bargain with, are there documents that

15

contractors or subcontractors can sign saying that

16

they will follow those rules?

17

DAVID DISHY: I will say it's something

18

we haven't talked about, it's something we've been

19

working on and exploring... [cross-talk]

20

CHAIRPERSON KALLOS: Uh-huh... [cross-talk]

21

DAVID DISHY: ...and we started exploring

22

having wage levels and basically saying to the subs

23

if you don't have health insurance... [cross-talk]

24

CHAIRPERSON KALLOS: Uh-huh... [cross-talk]

25

SUBCOMMITTEE ON PLANNING, DISPOSITIONS AND
1 CONCESSIONS

2 DAVID DISHY: ...then we want a wage level
3 that's got in incremental above this, this base wage
4 in order to allow the workers to buy health insurance
5 directly which is often the case, some of the smaller
6 contractors don't carry health insurance policies I
7 the same way so the answer is, that is a... it's an
8 obviously incredibly important issue and it's one
9 that we are continuing to work on...

10 CHAIRPERSON KALLOS: Sure, I, I guess...

11 [cross-talk]

12 DAVID DISHY: ...and I think... [cross-talk]

13 CHAIRPERSON KALLOS: ...there, there are
14 some other folks... so... the device I'm speaking of
15 that, that I'm aware of but there may be other tools
16 is there, there's things called project labor
17 agreements where, where you say these are the
18 standards for a job and, and that folks who come
19 before the city council often talk about having done
20 so I know that that tool exists, it may not be the
21 only tool and I'm not espousing that a project labor
22 agreement or a collective bargaining agreement is the
23 end all be all because I'm not legally allowed to but
24 I, I do know such documents do exist and could be

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1 CONCESSIONS

2 used to guarantee the rights for workers on a
3 construction site and there may be other ways.

4 ROBERT HORSFORD: And some... one of the
5 things I worry about sometimes is when, when we add
6 restrictions currently our, our workforce and, and
7 the folks that work for us in terms of
8 subcontractors, I mean we're probably over 80 percent
9 people of color, not all of them are certified MBEs
10 and a lot... you know the process is often times
11 difficult to get their certification but they are of
12 color and the owners are of color and then when we
13 start to add some of these requirements it, it puts..
14 it puts a lot of those potential contractors, local,
15 small, minority firms out of position to participate
16 so as we start to load on those requirements... [cross-
17 talk]

18 CHAIRPERSON KALLOS: Uh-huh... [cross-talk]

19 ROBERT HORSFORD: ...we start to weed out
20 the smaller firms so how do you balance those two?

21 CHAIRPERSON KALLOS: So, I guess just you
22 have... you... have you had an occasion where you've been
23 required to have a prevailing wage where you felt
24 that local, smaller firms were thereby disqualified
25 but when they tried to sign an agreement with an

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1 CONCESSIONS

2 organization that might help them qualify ended up
3 being rejected to do so?

4 ROBERT HORSFORD: No, I've, I've found
5 often times that the pool of MBEs that I can select
6 from they start to shrink when... one, when you... often
7 times when you add prevailing wage... [cross-talk]

8 CHAIRPERSON KALLOS: Uh-huh... [cross-talk]

9 ROBERT HORSFORD: ...then when you start to
10 add requirements... [cross-talk]

11 CHAIRPERSON KALLOS: Well like anyone can
12 pay the prevailing wage, right?

13 ROBERT HORSFORD: Right but the, the
14 complexity of dealing with prevailing wage many of my
15 subcontractors are... they're concerned... the, the
16 accounting practices and the, the different... the, the
17 supervision required they can't afford to take, take
18 on those responsibilities so they find that to be
19 challenging, these are the subcontractors that I work
20 with for many years that are of color... [cross-talk]

21 CHAIRPERSON KALLOS: I would... if, if, if
22 you've got folks that you're working with who are
23 having challenges with the payroll I'm happy to try
24 to bring SBS or, or whomever to try to figure out how
25 we can get around saying, okay, instead of it being

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2 five... 15 an hour or 11 an hour it's going to be 29.97
3 an hour plus... I, I actually... so I'm, I'm very
4 familiar with payroll so... but what are some of the
5 other challenges...

6 DAVID DISHY: And then...

7 CHAIRPERSON KALLOS: ...and we are so far
8 upfield it's not even funny... [cross-talk]

9 ROBERT HORSFORD: Right...

10 CHAIRPERSON KALLOS: ...the, the door has
11 been open. Sure, sure... so... we're, we're almost done
12 we're wrapping...

13 ROBERT HORSFORD: The other challenge
14 that often times when, when we start laying on
15 responsibilities of, of much higher insurance levels
16 or, or even if you start adding health insurance a
17 lot of our subcontractors just don't have the
18 financial means to, to carry those things and you
19 know it's finding a way to keep them inclusive in the
20 process as well as adding on some of these layers
21 that we believe are, are, are needed especially when
22 you start going to the, the, the direction of...

23 CHAIRPERSON KALLOS: And as, as we're
24 looking at this project and moving forward I think
25 and, and sometimes these conversations wouldn't

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2 happen in, in public on T.V. and what have you, but I
3 think it's helpful I believe in transparency. One of
4 the things we saw in the student loan area and, and
5 I... Ben Kallos and I have student loans and I will
6 never finish paying them off is President Obama
7 looked at it and said okay, you've got the federal
8 government and we're loaning money to banks which are
9 loaning money to student loan companies which are
10 loaning money to students and America all of us
11 students are going bankrupt and can't afford our
12 student loans and, and again won't be able to pay
13 them off so he cut out the middle man so I guess is
14 there an opportunity, you're, you're an MWBE working
15 with some of the people I, I imagine you're willing
16 to pay enough to make sure folks can have health
17 insurance, you've already told me you're willing to
18 do that for your existing employees so maybe if the
19 GC is taking too much off the top the subcontractors
20 need to be direct contractors with you so that
21 they're not losing as much and they can afford to pay
22 health insurance.

23 ROBERT HORSFORD: I mean I think... I think
24 the, the issue is maybe a little more complex than
25 that, I mean I think we've got to look it up, there's

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2 a lot of different layers that relate to MWBE being
3 able to, to provide all of the levels that are
4 required, I mean I, I don't think it's that simple, I
5 mean often times it comes down to not having the
6 support staff to, to do a lot of these things, right...
7 [cross-talk]

8 CHAIRPERSON KALLOS: Uh-huh... [cross-talk]

9 ROBERT HORSFORD: ...so, it's not having
10 the CPA that could do all the things needed for
11 bonding for example or not having the CPA in place to
12 deal with all of the prevailing wage requirements
13 and, and filing those things and making sure that
14 they don't get, get themselves in a predicament where
15 they're not following all the, the required
16 procedures, making sure that they have, you know all
17 of their accounting practices in place, I mean
18 there's a lot involved in those processes but I want
19 to make sure that we still have the ability to use
20 the large pool of MWBE that are out there... [cross-
21 talk]

22 CHAIRPERSON KALLOS: Sure, I, I, I guess
23 with just all, all due deference I, I imagine as a
24 business owner you do want to be doing business with
25 folks who have CPAs and proper accounting practices

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and, and, and what have you and I, I understand you may have relationships but this is... this is the first I've heard of a business owner wanting to work with folks who, who may not have their finances at a level that could handle being, being audited because genuinely you want to avoid risk and you want to know you've got somebody who's on top of their books and when you give them a check they're going to be able to do that work and not go out of business that night because somebody who wasn't a CPA wasn't properly balancing the books that day.

ROBERT HORSFORD: Right but I guess my point is that it's... when you move to prevailing wage it becomes more complicated, right, so they can handle the basic... [cross-talk]

CHAIRPERSON KALLOS: Okay, I, I... [cross-talk]

ROBERT HORSFORD: ...accounting practices but I think it goes to another...

CHAIRPERSON KALLOS: Okay. And, and so on the management side, the building management, the people working in the building will have a, a wage that will allow them to afford to live in the

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buildings, they will have access to a pension, health insurance and disability insurance?

DAVID DISHY: Again, that was a large bundle of things, but I think... I believe the answer is yes.

CHAIRPERSON KALLOS: And the restrictive covenant is that... so, we have a restrictive covenant is... that was provided to us, is that something we can enter into the record?

DAVID DISHY: I think... is that the... that would be an HPD think, I don't... [cross-talk]

GENEVIEVE MICHEL: Yeah, I mean it... that's, that's part of this, I imagine, you know there's still some ongoing conversations with the local council member and there might be some changes made to that but certainly can be entered in as part of... part of that... [cross-talk]

CHAIRPERSON KALLOS: When, when does the restrictive covenant expire?

KERRY LABOTZ: In four years from the, the point of execution.

CHAIRPERSON KALLOS: Four years?

KERRY LABOTZ: Four years.

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3 CHAIRPERSON KALLOS: I guess one question
4 and we'd, we'd asked this at a different project but...
5 so, I'm, I'm actually a fan of, of covenants and, and
6 deed restrictions and what have you, I, I did a
7 little bit of oversight on them, why doesn't HPD...
8 why, why have this expire at four years, why not let
9 this just become a deed restriction that runs with
10 the land and says in exchange for this over 100
11 million dollars in, in different types of tax
12 subsidies that this should be permanently affordable
13 and be in a situation somewhat riveting where if a
14 developer wants to leave the public use in this case
15 affordable housing they would have to come to the
16 city for approval?

17 KERRY LABOTZ: So, I guess I, I do just
18 want to be clear, so this is... [cross-talk]

19 CHAIRPERSON KALLOS: I know... I know that
20 it's... [cross-talk]

21 KERRY LABOTZ: ...a restrictive... [cross-
22 talk]

23 CHAIRPERSON KALLOS: ...not the same as a
24 deed restriction...

25 KERRY LABOTZ: Okay, so the reason that
the four year time frame I think addresses a couple

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2 of scenarios, I think ultimately the plan and the,
3 the hope is that we are able to identify this entire...
4 or develop this entire site however the four year
5 time frame gives us a proper horizon for
6 understanding if the ULURP is going to pass and if
7 we're going to be able to... and have to only move
8 forward with the 60/40 so the, the way that these
9 actions are laid out and kind of talking as sort of
10 the larger context of the ULURP this is a scenario
11 and this... the restrictive deck with the development
12 of the 60/40 basically assumes that the ULURP is not
13 able to move forward for whatever reason and we're
14 only able to build the mixed income project and the
15 adjacent site but the four years gives flexibility
16 because it doesn't bring us too much beyond the
17 existing 2021 time frame.

18 CHAIRPERSON KALLOS: In terms of the
19 ULURP will there be any additional floor area ratio
20 granted?

21 KERRY LABOTZ: There will be a rezoning.

22 DAVID DISHY: Yep.

23 CHAIRPERSON KALLOS: How much additional
24 FAR will be created?

25 DAVID DISHY: I believe...

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2 [off mic dialogue]

3 DAVID DISHY: Right, basic, basically
4 you've got... you've got roughly 130,000 under the
5 existing zoning and it would become under the
6 rezoning including transfer of development rights
7 from over the 95 Lenox piece, what Laura... that's...
8 what's that total number? two...

9 [off mic dialogue]

10 DAVID DISHY: 360 it includes... including
11 95 Lenox...

12 [off mic dialogue]

13 CHAIRPERSON KALLOS: Do you... do you have
14 a valuation on that FAR?

15 DAVID DISHY: Valuation on that FAR... in
16 what... as affordable housing or as market, what's the...

17 CHAIRPERSON KALLOS: However, you want.

18 DAVID DISHY: Let me just... let me
19 understand this important question because at some
20 level the rezoning is only occurring in order to
21 facilitate 100 percent affordable building... [cross-
22 talk]

23 CHAIRPERSON KALLOS: So, so, so why not
24 both, what would be the market rate of FAR in that,
25

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2 that part of the city and what would be the valuation
3 for affordable housing?

4 DAVID DISHY: The mark... again, since it...
5 since, since this is not... because we don't think it's
6 occurring in the context of a regulated site I, I
7 hesitate to, to introduce numbers that, that have
8 nothing to do with this site, right but that market
9 sites outside of this location... [cross-talk]

10 CHAIRPERSON KALLOS: Uh-huh... [cross-talk]

11 DAVID DISHY: ...that are being sold for a
12 luxury condo development sale at certain numbers that
13 are, you know in excess of 150 dollars as the... ZFA,
14 right, if not more, that's... you know and that's in
15 theory what this site might sale for in 2021 if this
16 process that we're currently discussing today
17 wouldn't... didn't transpire. For affordable housing
18 and, and to some extent part of the logic of being
19 able to acquire this site from the existing owners is
20 to sort of... this part as we discussed before, the
21 mixed income allows us to be able to basically get
22 control of the parcel to do this larger project. In
23 terms of the value on the affordable piece... I guess I
24 don't... in terms of... like when land is contributed in,
25 you know it's... I would say it's at fractions of what

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2 I just described so it's sort of under... often under
3 50 dollars a foot but sort of somewhere in that 30 to
4 50-dollar range depending on the nature of what's
5 going on as far as the land component in a affordable
6 housing development.

7 CHAIRPERSON KALLOS: So, so assuming...
8 [cross-talk]

9 DAVID DISHY: Is that fair...

10 CHAIRPERSON KALLOS: Assuming an
11 additional 200 FAR it's anywhere between ten million...
12 [cross-talk]

13 DAVID DISHY: I, I knew you were going to
14 do this, I, I'm saying that, that that... [cross-talk]

15 CHAIRPERSON KALLOS: No, ten million...
16 well if you want to get a, a better number for us
17 we'll take it, you got 72 hours but just in terms of
18 as you're doing the all in calculation and if, if you
19 can just update that sheet in the presentation that
20 we'll be entering into the record to reflect the ELLA
21 term sheet numbers and the land value numbers and the
22 FAR numbers, I'm really just trying to get to the all
23 in... [cross-talk]

24 DAVID DISHY: Right... [cross-talk]

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2 CHAIRPERSON KALLOS: ...what is the tax
3 payer contribution, what does it really take to get
4 this kind of stuff done, we are... we are over the, the
5 time that we promised, I know that you stayed an
6 additional 40 minutes, I want to appreciate that, I
7 want to thank HPD for submitting testimony that is
8 getting longer and longer and more and more
9 technical, I'm a big fan of plain language for folks
10 so to the extent we can say whatever legalese we need
11 to for public disclosure but then also just say it
12 in, in plain language so folks can follow along and
13 it would help not only the public but me too.

14 GENEVIEVE MICHEL: Me too.

15 CHAIRPERSON KALLOS: So, I, I want to
16 thank you. I will ask if there are any members of the
17 public who wish to testify, seeing none I will now
18 close the public hearing on Land Use Items 223, 224,
19 and 225 and the applications will be laid over. If
20 you are watching at home and you can email us at
21 legislative documents at council dot NYC, it is
22 September 17th, 2018 so that offer is valid until
23 September 20th. This will conclude today's hearing,
24 I'd like to thank the council, Deputy Council and
25 land use staff for preparing today's hearing and

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members of the public and my colleagues for

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attending. This hear... meeting is hereby adjourned.

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[gavel]

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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

October 3, 2018