



DEPARTMENT OF CITY PLANNING  
CITY OF NEW YORK

Testimony of the Department to City Planning to the New York City Council Committee on  
Land Use on Introduction 1572-A

January 11, 2021

Good morning, Chair Salamanca and members of the Committee on Land Use. I am Anita Laremont and I am Executive Director of the Department of City Planning. Thank you for the opportunity to testify at this hearing on Intro 1572-A which would require applicants submitting certain land use applications to prepare a racial disparity report. This is an important discussion. We are wholly committed to advancing Fair Housing in New York City, ending the legacy of discrimination and ongoing discrimination, and addressing the inequities that plague our city.

We understand that when considering land use in a neighborhood, it is critically important to have an understanding of demographic trends and changes underway, housing supply and affordability, and existing patterns of inequity. For this reason, the City and City partners have created extensive information resources that provide this information and context, which DCP, HPD, and others use to inform our engagement and all the discussion that leads up to rezonings. These resources include DCP's Community District Profiles, which include data on race, poverty, educational attainment, rent burden, unemployment, and other resident characteristics, with borough- and citywide context to highlight disparities, as well as information about land use, coastal flood risk, and more. The Mayor's Office of Economic Opportunity produces the annual Report on Social Indicators and Equity, which describes disparities in poverty, economic opportunity, housing conditions, public safety, and more, along with an inventory of policies and programs seeking to address them. The Furman Center compiles an annual report on demographic and other data in the State of New York City's Housing and Neighborhoods, and maintains the City Council-funded Coredata.nyc data hub, which inventories subsidized housing throughout

the city along with data on rents, housing prices, and more. All these data sources are available to the public in readily accessible formats.

With the extensive resources already directed to maintaining these data sources, it is important to clarify the problem we are trying to solve, so we can work together to solve it.

Racial disparities are the product of systemic racism, made up of ongoing practices as well as a legacy of explicit and implicit racism in prior decisions and practices. As acknowledged in *Where We Live NYC*, progress toward eliminating racial disparities requires holistic evaluation, focus and cooperation across government and non-governmental partners. Concerns about displacement and disparate outcomes are by no means limited to rezoned areas – only one to two percent of the city’s land has been rezoned since 2014 – but require a broader and more holistic focus. Analyzing disparities within a neighborhood does not provide an adequate understanding of disparity, nor does an individual land use action necessarily provide a vehicle for addressing it. The greatest disparities in NYC exist across and between neighborhoods, rather than within them, and the lack of sufficient housing for all people who need it is a root cause of displacement pressure in neighborhoods throughout the city. While we acknowledge the very tangible concerns about displacement that emerge during discussions of rezoning, we also caution against attributing a causality between rezoning or new construction and demographic change, or suggesting that future demographic patterns can be predicted, with or without zoning changes. New York City’s diverse residents move and the composition of communities changes over time because of a variety of factors, in ways that cannot be forecasted with accuracy. Policies such as rezoning with Mandatory Inclusionary Housing are intended to ensure that planned growth expands the range of housing options available to all low-income populations, including those who may be at risk of displacement.

This Administration is fighting displacement with record levels of affordable housing, free legal services, rent freezes, and programs to combat harassment and enforce anti-harassment laws. Through *Where We Live NYC*, we are advancing fair housing initiatives to fight discrimination and build more inclusive neighborhoods. We are making tangible

progress in ensuring all neighborhoods are carrying their weight in providing affordable housing opportunities by advancing proposals to rezone SoHo/NoHo and Gowanus.

We are continuing to try to do more to make sure inequities are properly understood and addressed. We want to work with you to understand what information, in your view, is missing, how that information could be useful in the process of formulating policy and making decisions, and to work together to test and refine approaches to providing this information.

The Where We Live NYC plan released this past fall includes new commitments to data disclosure and analysis, to more thoroughly describe current conditions and enable a candid and informed discussion of needs and concerns and the extent to which these can be addressed through a wide range of policies.

The first commitment Where We Live NYC spelled out is to analyze citywide trends in housing growth and loss, the availability of low-cost housing, and demographic changes, in order to provide an equity-oriented basis for further policy and decision making. To enable this analysis, DCP has recently created a new Housing Database, available through the OpenData portal, describing all permitted additions and subtractions to the housing stock since 2010. Further detailed analysis and comparison among neighborhoods will provide important context for broader policy as well as individual land use decisions. The Department will be issuing additional data and analyses over the course of this upcoming year that investigate current trends and illuminate the impact zoning and other factors have on housing production.

The second commitment is to require all land use applications – not only upzonings – to disclose readily available demographic information about the surrounding neighborhood so all parties commenting on or participating in a decision understand characteristics of the population living nearby.

This commitment has commonalities with Intro. 1572-A and we look forward to working to align the two proposals further. We want to work together to ensure that accurate and informative data is available to decision makers and the public while avoiding potential unintended consequences.

The data and analyses themselves are one aspect of Intro. 1572-A that we believe would benefit from further consideration. As we have found in conducting our own data analyses, there are significant technical challenges in evaluating issues of disparities in a highly localized way. Proposed privacy-oriented changes to the way the U.S. Census Bureau discloses data may make this even more challenging in the future. We want to work so that the data that would be required is available and statistically reliable, an issue especially significant for small geographic areas. We also want to thoughtfully examine the analyses required to avoid the potential for inferences and predictions that cannot be done in a credible way.

We look forward to further conversations on how this proposal can be aligned with and can build upon other efforts to use data to advance fair housing. For instance, this proposal should apply not just to upzonings but to downzonings as well.

We appreciate the Public Advocate and the Council's strong interest in advancing this conversation and look forward to working with you to continue to further Fair Housing in New York City.

Testimony of the  
New York City Department of Housing Preservation and Development  
to the New York City Council Committee on Land Use

January 11, 2021

Good morning, Chair Salamanca and members of the Committee on Land Use. I am Lucy Joffe, Assistant Commissioner of Housing Policy at the Department of Housing Preservation and Development. Thank you for the opportunity to provide testimony on Intro. 1572-A here today.

The de Blasio Administration is deeply committed to making this city more fair and affordable for New Yorkers. We are now experiencing one of the toughest crises New York City has ever seen. The Covid-19 pandemic has exacerbated the challenges faced by New Yorkers who do not have a stable, safe, and affordable home. As the City responds to the pandemic and works toward recovery, it is vital that we take a multi-faceted approach to ensuring New Yorkers have increased access to high-quality, affordable housing and can remain in the city they love and in the neighborhoods they have worked so hard to keep together.

Before the pandemic, the City released a draft version in January 2020 of the *Where We Live NYC Plan*, a blueprint for fair housing that was the culmination of a two-year planning process led by HPD and the New York City Housing Authority and in close partnership with the Department of City Planning and dozens of governmental agencies. The City engaged hundreds of residents, over 150 community-based and advocacy organizations through the *Where We Live NYC* process to discuss difficult fair housing issues, including persistent discrimination in the housing market, segregation in our neighborhoods and schools, and unequal access to amenities and resources on the basis of race, disability, and other characteristics protected by fair housing laws. The draft plan received considerable public comment through formal testimony and public events across the five boroughs, and the City finalized the plan in October 2020.

Over the past year, our city has gone through a dramatic transformation. As the plan details, the disproportionate impact the pandemic has had on low-income communities of color is inextricably linked to the historical and ongoing exclusion of people of color from housing, job opportunities, and access to capital. Black and Latinx New Yorkers are the most likely of our residents to have pre-existing health conditions, have the least access to paid sick leave and health insurance through employers, and have fewer healthcare resources to draw from in the neighborhoods in which they live. At the same time, the brutal murders of Ahmaud Arbery, Breonna Taylor, and George Floyd were repeated horrible reminders of the importance of working to undo the legacy of segregation and systemic racism in our city. Intentional policies and practices over centuries created segregation and inequity across the country and in our city, and it will take concerted effort from all levels of government, working with our partners in the private and non-profit sectors, to undo that legacy. *Where We Live NYC* reflects the City's commitment to look at all of our work through a fair housing and equity lens.

Through *Where We Live NYC*, the City of New York lays out a comprehensive approach, including metrics, strategies, policy proposals, and new priorities to break down barriers to opportunity and build more integrated, equitable, and inclusive neighborhoods. The *Where We Live NYC Plan* included extensive analysis looking at where New Yorkers with different personal characteristics – including race, income, national origin, and disability – live in relation to each other and how this impacts their:

- Experiences in their homes—from the amount they pay in rent each month to the likelihood that they will experience maintenance problems;
- Available housing options – based on the location of new development, the distribution of affordable housing, and the persistence of discrimination in the housing market; and
- Access to resources and opportunities.

The plan reflects the City’s commitment to combat persistent housing discrimination with expanded resources and protections, facilitate equitable housing development in New York City and the region, preserve affordable housing to prevent the displacement of long-standing residents, enable more effective use of rental assistance benefits, create more independent and integrated living options for people with disabilities, and make equitable investments to address the neighborhood-based legacy of discrimination, segregation, and concentrated poverty.

The City will work across agencies to better incorporate racial equity and fair housing at every stage of a project’s development. Already at HPD, we are looking to incorporate data and metrics from *Where We Live NYC* in the processes through which we allocate our annual capital funding and new project-based Section 8 vouchers each year. These new procedures will be aimed at achieving broader geographic distribution of affordable housing across the five boroughs. And we look forward to partnering with DCP and other agencies to ensure that growth not only achieves greater affordability but is centered in equity and racial justice.

In neighborhoods that have historically experienced disinvestment, when this administration seeks to expand the range of housing options available through planned growth strategies such as Mandatory Inclusionary Housing, HPD has instituted new policies to couple newly-affordable housing with critical investments in services and amenities. We have created new community engagement tools to ensure that development plans, at their earliest phases, are informed by a diversity of local perspectives. And we have conducted community-based planning processes like the Brownsville Plan and the Resilient Edgemere Community Plan to promote equitable distribution of service and infrastructure investments in neighborhoods to combat historic disinvestment and discrimination.

HPD is in the business of protecting tenants. The Council’s partnership in all of these areas has been vital to the Administration’s efforts to keep people in their homes and provide broader access to safe, high-quality affordable housing. As the pressures causing displacement evolve and change, we look forward to further conversations with the Council about data-driven, targeted approaches to effectively work at combatting these effects.

Thank you for the opportunity to testify and I look forward to answering any questions you may have.

## Testimony Intro 1572-A To Require the inclusion of Racial Disparity Reports

For the Committee on Land Use

January 11, 2021



Good afternoon, and thank you Chairman Salamanca, and members of the Committee on Land Use for the opportunity to testify today.

My name is Alex Fennell and I am the Senior Housing Organizer at the Association for Neighborhood and Housing Development (ANHD). ANHD is a nonprofit organization whose mission is to build community power to win affordable housing and thriving, equitable neighborhoods for all New Yorkers. Our members include more than 80 neighborhood-based affordable housing and equitable economic development organizations across New York City, and we use capacity-building, organizing, and policy advocacy to advance our mission.

I am so excited to sit before you today and offer our support of Intro 1572- A to require “racial disparity reports” be submitted with all land use applications requesting an increase or change of permitted use over 50,000 sq ft. This legislation is a significant step towards equity in planning that our communities have been calling for for decades. Throughout the dramatic changes made under the Bloomberg administration, low-income communities of color were repeatedly targeted for rezonings that resulted in the racialized displacement of residents as well as significant losses of industrial jobs and small businesses. Under the current administration, the vast majority of proposed Rezoning areas, and all of the Rezonings that were approved through ULURP (East New York, downtown Far Rockaway, East Harlem, Inwood, the Jerome Avenue corridor in the Bronx, and the Bay Street corridor in Staten Island) were sited in low income communities of color.

In addition to being a member of the Racial Impact Study Coalition, ANHD has provided technical assistance and support to our member groups organizing around neighborhood and private rezonings. We’ve seen firsthand the concern and understanding from communities as to the threat of racialized displacement that these rezonings can bring and the egregious reality that race is never explicitly discussed or analyzed as part of the land use process. Addressing this is of central concern to our members and the communities they represent.

This is especially true in this moment in particular: when ANHD’s analysis has demonstrated that historic inequities, such as overcrowding and rent burden in communities of color, have been a significant factor in the spread of COVID-19. Decisions about investment and land use have shaped our current landscape; planning without regard to race and historic disinvestment has left our communities of color most vulnerable to health risks, adverse economic impacts, and housing insecurity. This legislation is a first and necessary step to disclose those factors before land use decisions are made, and a step towards encouraging projects that undo decades of harm rather than exacerbate existing inequities. This disclosure would create an opportunity to challenge and transform projects that would predictably cause significant

racialized displacement of residents, workers or businesses and also an opportunity to bolster and build public support to encourage development in affluent communities that have historically blocked construction of affordable housing. With accurate information about which groups stand to benefit, and which groups may be harmed, we can develop plans that spread both the burdens and the benefits of development and growth more equitably across all communities.

This legislation is an important first step, and we look forward to working with the council and other members of the Racial Impact Study Coalition to ensure that this bill is as strong as possible. To that end we propose 3 ways in which the bill can be strengthened to have the greatest efficacy and community benefit.

1. The current proposal does an excellent job at projecting forward and disaggregating by race what types of housing and businesses may come into a community – that is, projecting who they will likely primarily serve. It is vitally important that this legislation include the **same robust analysis disaggregated by race in looking at which current residents are at risk of displacement**. Even if a project offers future benefit, it is of no use to current residents if they are all displaced. Including a risk analysis of current residents, disaggregated by race, is a central pillar of the spirit of this bill and a very high priority for the Racial Impact Study Coalition.
2. Historically rezonings (particularly private applications) have relied on available subsidies to project the number of “affordable units.” The use of these subsidies is voluntary, and the programs often change, meaning that the quantity and affordability of constructed units often differs greatly from the projections in the ULURP process. For this reason, the RIS coalition asks that the Racial Disparity Reports require the existing disclosures and the additional disclosure of housing created with tools that **guarantee permanent affordability**, such as community land trusts, public housing, and zoning text requirements.
3. **Racial Disparity Reports should disaggregate by race both workers and industry sectors, and independently owned businesses at risk of displacement.** Racial disparity reports should assess whether the risk of business displacement will disproportionately affect minority-owned businesses which are often rooted in their communities and would not be able to easily relocate. Similarly, land use changes can affect industrial sectors that provide jobs and stability for community residents. Racial disparity reports need to evaluate whether sectors that support workers of color are at risk.
4. **If the Racial disparity report addresses** “potential measures that may address any identified disparities or displacement risk” then it must address whether those measures are adequately funded and their effectiveness in curbing displacement so that including discussion of those measures does not provide a de-facto automatic mitigation of identified risk factors.

New York has the opportunity to fulfill promises made by the 1968 fair housing act and NY’s own Where We live NYC, to ensure that our recovery from the COVID-19

pandemic is a just one, and to look toward to a more equitable future. Creating tools to have honest discussions about race and the future of our city have never been more essential. Racial disparity reports would be a fundamental piece of this approach and would work in complement with other vital new tools like a comprehensive planning framework. If we hope to truly build a New York that is for every resident, then including racial disparity reports in the land use process are a fundamental first step towards capturing the information needed to root decision making in equity at both the neighborhood and citywide level. Thank you for the opportunity to submit comments.

**From:** [Cheryl Pahaham](#)  
**To:** [Land Use Testimony](#)  
**Cc:** [Alexandra Fennell](#)  
**Subject:** Disparity Report Hearing  
**Date:** Monday, January 11, 2021 1:07:09 PM

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I am Cheryl Pahaham, Co-Chair of Inwood Legal Action and a member of the Racial Impact Study Coalition. Many thanks to Public Advocate Jumaane Williams, Land Use Chair Rafael Salamanca, and all of the Councilmembers for sponsoring Intro. 1572-a, a strong step toward equity in planning. During the Inwood rezoning, we asked the City to examine the racial impacts of its proposed plans, but our concerns were ignored, including by our Councilman. We knew that most people in our community, who are largely Dominican, could not afford the new planned housing. We knew that many renters were experiencing displacement pressures such as harassment, large MCIs, lease denials, and sudden large rent increases. If a racial disparity report had been required during the Inwood rezoning, we could have held our Councilmember and involved City agencies to account. More importantly, we would have been able to engage in a more transparent process to plan our community's future. We might even have reached consensus on the Inwood rezoning and might have avoided the litigation that occurred. My one suggestion to strengthen this legislation is to be more explicit about the racial impacts of proposed land use actions and planned development. This bill should define displacement for the purposes of examining racial disparity in proposed land use actions and require the disaggregation by race of residents who risk displacement. To advance racial equity in land use, the public needs the right data and the right analysis. Before being asked to support land use proposals, the public needs to fully understand which demographics planned land use actions will support, and whether a project threatens to disproportionately displace people of color. Finally, despite the denials of City officials, it is possible to predict who is likely to be displaced. There are models already in use in City government to build on, such as the work done by the Mayor's Office of Data Analytics, which has identified where tenant harassment is likely to occur and where rent stabilized units are likely to be lost, or efforts by the Tenant Support Unit to examine whether AI models can more efficiently predict where tenant harassment is occurring. Thank you for listening and I look forward to working with the Racial Impact Study Coalition and all of you to improve this bill.

**From:** [Leigh Behnke](#)  
**To:** [Land Use Testimony](#)  
**Subject:** Proposed Int. No. 1572-A  
**Date:** Sunday, January 10, 2021 5:38:08 AM

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To the Council

Re: proposed legislation No. 1572-A

The proposed legislation is a strong step towards equity in planning.

I urge you to support this and to consider as part the building of a strong database that will move us to a more equitable future.

It should require disaggregation by race of those facing displacement or are workers or members of industries at risk of displacement, including independently owned businesses..

Please consider how it will affect the loft law, and the elderly who are aging in place.

It should take into consideration that the housing meets the needs of people of color, and should be guaranteed to be permanently affordable . It should include context on all of these issues to make sure they are affective.

Thank you for your consideration of these important points.

Leigh Behnke

543 Broadway NYC 10012

**From:** [Miranda Sielaff](#)  
**To:** [Land Use Testimony](#)  
**Subject:** Proposed Int. No. 1572-A  
**Date:** Sunday, January 10, 2021 9:57:31 PM

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Dear Councilmembers,

I would like to offer my strong support for Proposed Int. No. 1572-A, the bill requiring the city to utilize racial impact studies when evaluating land use applications. As a member of Voice of Gowanus, I have worked to organize with my neighbors and educate our community about the effects of the proposed Gowanus rezoning. We believe that if New York City looked at the demographic information from the area proposed for rezoning rather than data from Community Board 6's larger area which includes Park Slope and Carroll Gardens, we would see that communities of color and low-income communities will be disproportionately affected by this rezoning.

In addition to affecting the analysis of the Gowanus rezoning, we have clearly seen that rezonings over the past decade have accelerated displacement of people of color and low-income residents. We strongly support a community-driven land use process that acknowledges the needs of current and future residents, and we are organizing with groups around the city to prevent unjust rezonings that displace people and hurt small businesses. **We need racial impact studies to make responsible, informed decisions about development and make sure that major land use actions are helping to create a more equitable New York City.** Having a clearer picture of the impact of new housing on different racial groups will enable the City to make decisions that advance racial equity. For example, in some cases, proposed new housing will create a foothold for low-income people of color in areas that are largely inaccessible to them today. In other instances, racial equity reports may show that new housing will facilitate the entrance of wealthier white residents into historically under-resourced communities of color - underscoring the importance of deploying additional strategies to ensure the stability of such communities.

It is my hope that you will take this important step to make New York City's land use process more equitable by passing this legislation.

Sincerely,  
Miranda Sielaff

## TESTIMONY

### The New York City Council Committee on Land Use

Rafael Salamanca, Chair  
Monday, January 11, 2021  
Remote Hearing  
(Virtual Room 2)

Note: This testimony reflects  
the position of Pratt Center for  
Community Development and not  
Pratt Institute.

### Intro. 1572-A Re: Racial Disparity Reports

I am Paula Crespo, Senior Planner at the Pratt Center for Community Development, and I appreciate the opportunity to testify in support of Intro 1572-A, requiring neighborhood Racial Disparity Reports alongside certain zoning actions.

In partnership with many communities of color throughout the city, as an active member of the Racial Impact Study Coalition, and through our technical assistance practice and research, we have repeatedly pointed out the need for intentionally prepared and publicly accessible information that looks explicitly at the racial and ethnic impacts of all planning and policy decisions. The devastating impacts of our sky-rocketing and long-unaddressed levels of racial segregation and socioeconomic disparity have never been more obvious than as we grapple with the effects of COVID-19. In land use, the need to examine racial impacts is made clear by the woefully inadequate current system of environmental review, a point which we detail in our extensive explorations of the measures of indirect residential and commercial displacement risk, "[Flawed Findings Part 1](#)" and "[Flawed Findings Part 2](#)."

In these reports, we point to the need for planning and policy processes – before and after zoning actions – to aim squarely for equitable outcomes and to create multiple reinforcing mechanisms to evaluate progress and course correct. **Racial Disparity Reports are an essential and important complement to Equitable Comprehensive Planning and Reform of the CEQR Technical Manual.**

Importantly, 1572-A goes beyond a siloed approach to understanding racial impacts by requiring the collection and presentation of information that provides important neighborhood context. By looking at historic trends in the neighborhood, including a neighborhood-wide study area, and considering the cumulative impact of changes that affect residential and commercial activity, the Racial Disparity Reports that it will generate will be a critical tool for community members, Council Members, and the public to better understand the people and places that a land use application may affect.

As we consider the ways that the Racial Disparity Reports can have the greatest impact, there are some additional measures that can strengthen the reports as well as the process for making it available to the public. For example, when considering the impacts of commercial use changes, it will be important not just to evaluate the average wages and number of the jobs potentially created, but also to look at the average wages and demographics of workers in sectors of use before the proposed action. Additionally, designing for community input into the questions examined in the reports would yield relevant information that might otherwise be missed, as well as facilitate ways for the public to engage in understanding the questions at hand before the report is published.

In short, we look forward to working with you closely to further strengthen and advance the bill, and as part of the Racial Impact Study Coalition we will be submitting more detailed comments. Thank you to the Public Advocate Jumaane Williams, Chair Salamanca, and all the other Council sponsors for their leadership in developing and proposing this Intro.

Links to relevant Pratt Center reports: "[Public Action, Public Value](#)" details how the current system of public action and investment misses the mark in advancing equity within neighborhoods. Building on "Public Action, Public Value", "[Our Hidden Treasure](#)" details what is lost by untempered speculation, ill-considered zoning changes divorced from planning, and privatization of public land.

For more information, contact:

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January 11<sup>th</sup>, 2020

Written Testimony: Advance Racial Equity in City Planning

Samuel Stein

Hearing on a proposed Racial Disparity Report for rezonings before the NYC Council Committee on Land Use

Thank you to the bill sponsors for introducing this important legislation on racial equity in rezonings, and thank you to the Land Use Committee for the opportunity to testify today. My name is Samuel Stein. I am a senior policy analyst at the Community Service Society of New York (CSS), a nonprofit organization that seeks to address the most pressing problems facing low-income New Yorkers, including the city's combined and continuing crises of housing unaffordability and racial discrimination.

Planning and development dynamics have never been race-neutral in New York City, and certainly are not so today. From the colonial roots of this city to the redlining of neighborhoods, and from "urban renewal" to "planned shrinkage," City Planning and development actions have disproportionately displaced and disinvested from people of color in this city. And while the social and economic context sections of Environmental Impact Statements, which have been mandated in New York City since the mid-1980s, document some of these dynamics, their warnings too often go unheeded until their effects are already in place.

Racially disparate planning and development activity takes many forms in the contemporary city but are most visible in the way the city channels growth to particular locations: a pattern of downzoning wealthy and predominantly white homeowners communities while upzoning poorer and predominantly Black, Latino and Asian communities, which increases displacement pressures while simultaneously constraining opportunities for mobility. This practice was firmly established – if never stated as policy – under the Bloomberg administration, and it was not undone under the de Blasio administration, which had until recently only advanced one rezoning in a wealthy, white neighborhood – the commercial rezoning of Midtown East, which created no affordable housing. In fact, until Gowanus and SoHo were broached, the neighborhoods rezoned by the de Blasio administration were collectively just 16% white, whereas the city as a whole is 32% white. This pattern was reproduced in developer-initiated upzonings under de Blasio, which, under Mandatory Inclusionary Housing rules, were supposed to produce affordable housing. However, according to a forthcoming CSS study, 89 percent of the apartments approved through developer-initiated MIH rezonings would be unaffordable to the average neighborhood resident without additional subsidies. Even among those projects' "affordable" units, 75 percent were targeted toward people making more than the neighborhood average. This suggests that the new housing produced would more likely serve white New Yorkers than New Yorkers of color in the communities being rezoned.

The Racial Disparity Report proposed in Intro 1572-A would be an important tool in identifying these disparities before they are written into the zoning map. By forcing the applicant to study and explain the current and historical social context of the development area, as well as the populations likely to be served, unserved and made vulnerable to displacement by the type of development being

proposed, this tool would give city planners, community members, elected officials, and advocates an important tool to understand how a proposed land use action would either contribute to or hinder the pursuit of racial equity in our city.

These key words – racial equity – point to an important way the legislation can be improved. Section 6 of Intro 1572-A calls on the applicant to outline the ways any identified disparities or displacement risks might be mitigated in the pursuit of “greater racial and ethnic equity.” This, of course, is the cause that brings us all together today, but it is important to be as specific as possible in that pursuit. While the bill defines several key terms, such as “affordable housing” and “rent burden”, it does not define “racial and ethnic equity.”

This is not a minor point. Not defining racial and ethnic equity opens up the proposed Racial Disparity Report to misuse by those who would draw a false equivalency between gentrification and integration, whereas the intent of the law is to combat gentrification in majority people of color communities and promote integration in majority white areas. If not carefully defined, an applicant might be able to argue that a large-scale, largely luxury development in a predominantly low-income community of color represents a move toward greater racial and ethnic equity because it would facilitate the integration of an area that currently lacks diversity, if diversity is conceptualized as a roughly equal proportion of people from various ethnic and racial backgrounds. Such a case would go against the spirit of this law, but perhaps not its letter.

Take, for example, the 2003 rezoning of Fredrick Douglas Boulevard in Harlem, which upzoned two major corridors while downzoning brownstone blocks. That rezoning has been critiqued for putting African American tenants at risk both along the corridors, where landlords were incentivized to sell their buildings to developers for demolition and reconstruction, and in the mid-blocks, where landlords were incentivized to convert apartments to single-family homes. Between 2000 and 2013, while the overall population in the rezoning area rose 18%, the white population increased 455% as the Black population declined 5% and the Latino population dropped 13%. A cynical interpretation of racial and ethnic equity could spin this as integration, but it would more reasonably be characterized as gentrification.

While there are many ways the bill’s authors could address this problem, one potential solution lies in the landmark 1968 Fair Housing Act. The Fair Housing Act aims to outlaw discrimination in housing, essentially mandating that people should be able to live wherever they want without fear of discrimination based on protected classes (including most prominently race). A similar approach can be applied to the question of “greater racial and ethnic equity” in this legislation: the measure of equity can be the ability to live where one wants, without fear of either displacement or discrimination. The addition of high-income housing in a low-income, predominantly people of color neighborhood – as in the Fredrick Douglas Boulevard case – does not allow one group access to a neighborhood they were previously excluded from, it only adds more options for those who already had entre before. The addition of low-income housing in high-income, predominantly white neighborhoods would, on the other hand, expand the options available to people who have previously been excluded from those areas. This is a crucial distinction, which can be added to the bill in order to prevent it from being misused.

With this addition, we at the Community Service Society believe this important bill can become even more powerful, and can create a crucial tool to advance racial equity in New York City. We urge you to consider including CSS’s recommendations, and to pass Intro 1572-A.



**Monday, January 11, 2021**

The Municipal Art Society of New York (MAS) has long been one of the city's strongest advocates for reforming the City Environmental Quality Review (CEQR) process. The past year has underscored the disparities across our city that are measurable on the basis of race, as evidenced by the impact of COVID-19 on health, housing, employment, and access to opportunity. We are confident that increasing disclosure on race and social vulnerability in combination with a review of mitigation measures and programs would move public review towards more equitable outcomes.

We applaud Public Advocate Williams for his work bringing Intro 1572-A before the Council. It as a critical component in reforming New York City's public land use review procedures. Requiring a racial disparity report for all applications over 50,000 square feet formally embeds the consideration of race and vulnerability into discretionary land use decisions that affect the built environment. As laid out, the assessment provides a solid basis for evaluating characteristics, trends, and community needs of a project area, while also providing criteria to consider impediments to future housing, jobs, and community services. The required disclosure of potential mitigation measures, including City programs and policies, assists in identifying strategies to further racial equity.

Intro 1572-A can be further strengthened by better aligning anticipated housing and employment impacts. Disproportionate housing needs persist based upon a history of unenforced fair housing laws, tenant harassment, and other factors that limit housing choice. The racial impact report should disclose the extent to which the application will address the most critical local housing needs and expand choice for communities of color. With regard to employment, the analysis must more fully account for sectors at risk of displacement alongside anticipating future job opportunities. This is especially important when land use applications seek to shift commercial and manufacturing uses to residential ones.

As the City seeks to foster substantial new development and introduce a massive influx of residents, it has the dual responsibility to maintain an area's demographic and business diversity, preserve historic character, and ensure infrastructure is in place to accommodate growth. While Intro 1572-A assists in those goals, additional reforms are needed to effectively overhaul land use review, including updating *CEQR Technical Manual* methodology, increasing transparency with regard to the availability of important data and mitigation measures, and strategies to increase accessibility and public participation in public review that more fully gives neighborhoods a seat at the table.

As the City considers a more comprehensive approach to land use planning, leading with race is critical.

Thank you for the opportunity to provide comments on this important bill.

Sincerely,

**Spencer Williams, AICP, Assoc. AIA**  
Director of Advocacy  
The Municipal Art Society of New York

REBNY Testimony | January 13, 2021

## **The Real Estate Board of New York to The New York City Council Committee on Land Use Intro. 1572 – Requiring a Racial Disparity Report for Certain Land Use Actions**

The Real Estate Board of New York (REBNY) is the City's leading real estate trade association representing commercial, residential, and institutional property owners, builders, managers, investors, brokers, salespeople, and other organizations and individuals active in New York City real estate. REBNY supports the goals of Intro 1572 to require a racial disparity report for certain land use actions. The impact of zoning on racial disparities warrant attention by the legislative body and study by the City. Thank you to the Council for the opportunity to offer technical comments on the methodology and proposed data sources for such a study.

New York City's success depends upon increasing our supply of housing, strong infrastructure, and a skilled workforce. Yet, the city has not kept pace with the housing needs of our existing population. The Department of City Planning's 2019 report *The Geography of Jobs*<sup>1</sup> found that job growth has outpaced housing production by a rate of .28 housing units permitted for each net new job in the last decade, which has resulted in the city adding 362,900 more net new jobs than new housing units produced over two decades. This pressure on existing supply has driven up housing costs throughout the New York City region, which has impacted various races differently, due to disparities that include educational attainment and income. While it is important to study zoning's impact on racial disparities, it is imperative that their examination does not lead to the suppression of housing construction, which will create further distance between the available supply and demand of housing, in turn increasing housing costs and decreasing opportunities for neighborhood integration. Academics have noted that housing development is not the cause of residential displacement, but rather the symptom of larger economic trends.<sup>2</sup> Importantly, research from the Upjohn Institute and Philadelphia Federal Reserve Bank found that new market-rate buildings lower nearby rents 5 to 7 percent and cause more people from lower-income neighborhoods to move in, fostering more integrated and economically diverse neighborhoods.<sup>3</sup> It is clear that this academic evidence proves that neighborhood construction can be a force for good if it allows for integration, access to greater employment opportunities and support of local businesses,

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<sup>1</sup> <https://www1.nyc.gov/assets/planning/download/pdf/planning-level/housing-economy/nyc-geography-jobs2-1019.pdf>

<sup>2</sup> [https://www.theatlantic.com/ideas/archive/2021/01/anti-growth-alliance-fueled-urban-gentrification/617525/?utm\\_source=facebook&utm\\_medium=social&utm\\_term=2021-01-02T11%3A30%3A44&utm\\_content=edit-promo&utm\\_campaign=the-atlantic&fbclid=IwAR2VMxqgLM1EuMHJvh-xDLuJbDK-8XyUuXXMi-5CiEvuY8s2Exp\\_2IFSTE8](https://www.theatlantic.com/ideas/archive/2021/01/anti-growth-alliance-fueled-urban-gentrification/617525/?utm_source=facebook&utm_medium=social&utm_term=2021-01-02T11%3A30%3A44&utm_content=edit-promo&utm_campaign=the-atlantic&fbclid=IwAR2VMxqgLM1EuMHJvh-xDLuJbDK-8XyUuXXMi-5CiEvuY8s2Exp_2IFSTE8)

<sup>3</sup> [https://research.upjohn.org/cgi/viewcontent.cgi?article=1334&context=up\\_workingpapers](https://research.upjohn.org/cgi/viewcontent.cgi?article=1334&context=up_workingpapers)

which should be considered in a racial disparity report. Conversely, we encourage the Council to also consider potential racial disparities caused or perpetuated by restraining housing construction through downzoning's and historic district designations alike, and how those actions impact residential displacement.

REBNY believes that policy makers should make decisions based on facts and data, and the proposed bills are a step in the direction to make better informed decisions about the City's growth and equitable development. US Census Bureau Data, including the American Community Survey (ACS), is provided by several surveys at varying geographies and currencies. Some examples of data the US Census Bureau releases that capture different lengths of time or are collected at varying frequencies are ACS 1-year estimates, and ACS 5-year estimates. ACS 1-year estimates include 12 months of collected data and is the most current, but less reliable data, whereas ACS 5-year estimates, are 60 months of collected data and is the most reliable but the least current of all ACS's.

The US Census Bureau also releases the US Decennial Census, which is released every 10 years. As previously stated, the US Census Bureau releases the Decennial Census and ACS at different levels of geography for different metrics. These geographies capture vastly different numbers of households. Relevant to the bill being heard today, depending on the survey used, information may be available at the block group level or Census tract level. Census tracts, according to the U.S Census Bureau, are "relatively permanent statistical subdivisions of a county or equivalent entity... [that] generally have a population size between 1,200 and 8,000 people." Comparatively, block groups are not actual city blocks, but are also determined by population size and generally contain between 600 and 3,000 people, and are divisions within a Census tract. In order to protect individual's privacy, Census data is not available at a household or building level. This restriction makes it impossible to draw an exact half mile radius boundary around a development site, and capture the desired demographic indicators within that boundary.

Instead, due to the fact that both block group and Census tract data are mapped as polygons, any radial boundary will capture households outside of that boundary. The smallest geography available, the block-level data, would allow for the closest precision to a half-mile radius, however it poses the issue of relevancy, as some of the requested metrics are made available by block group only every ten years at the release of the Decennial Census, including median income by race, which is critical to this report. If the Council would prefer more relevant data, such as that distributed in the ACS, the smallest geography median income by race is available by is Census tract. As previously identified, Census tracts can contain between 1,200 and 8,000 people. This means that drawing a half mile radius around a tax lot will in some cases lead to several surrounding Census tracts containing up to 8,000 individuals being captured within the reported data, when only hundreds, or less, individuals live within the half mile radius of the development site. Therefore, given that any analysis should utilize data from the same time period, and that time is relevant to these reporting requirements, it may be preferable to use ACS data, however the geographies cannot be precise to the half mile radius requirement, as thousands of additional households outside of that boundary will be captured. It may be advisable for the Council to utilize the methodology of CEQR's Environmental Assessment Survey (EAS) to rectify this technical challenge. The

EAS process analyzes population demographics by Census tracts that are 50% within the radial boundary surrounding the development area.

In regard to rent stabilized building data, the most recently available data is provided by the Department of Homes and Community Renewal with a two year delay in PDF format. While the list does include buildings that contain rent stabilized units at an address level, it does not include how many units are rent stabilized within each building, and historic files are not made publicly available. Additionally, PDF files are not mappable, and even if the file can be converted to a CSV to match with a SHP file, the list does not currently contain a BBL field, making the process extremely arduous. An alternative source of data on rent stabilized units is The New York City Housing and Vacancy Survey (HVS), which is released every three years, making it impossible to report on rent stabilized units every four years as required by the text of this bill. Furthermore, the smallest geographic area the HVS is released by is sub-borough areas, which are neighborhoods that map to collections of Census tracts, presenting the same issue of radial boundaries posed by other Census data.

As proposed in the bill and given the aforementioned disconnect between the geocoding and update cycles between the various data sets, the current framework is not conducive to accurate and consistent reporting metrics across development proposals, and does not follow best practices in data truth and reporting. The lack of a consistent standard also leaves individual projects open to litigation on such, which would further delay necessary housing units or preclude them altogether. The obligations outlined in this report will require highly technical expertise and abilities to produce, and it is imperative that the Council meaningfully engage with technical experts at the relevant agencies and in the field in order to establish the data available to developers and at what geographic levels and time periods. This data should be standardized across all reports, and not structured in such a way that each developers consultant create their own unique methodology, so that no two reports can be compared. The input of specialists will be instrumental when determining the value of precision versus currency as it pertains to data, and the implications these decisions will have on the veracity of these reports. One possible solution would be for the City to hold a competition among graduate students obtaining degrees in public policy, urban planning, sociology, statistics, or another related field, in order to generate possible standardized frameworks from individuals who are familiar with the data being discussed presently. For the relevant technical experts to develop an appropriate methodology, we recommend that the effective date of the bill be delayed for six months minimally.

REBNY fully supports the goal of studying the impact of zoning on racial disparities. We recommend that the bill be amended so that the intended goal can be technically attained.

Thank you for the opportunity to provide our comments to the committee.

**CONTACT:**

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Real Estate Board of New York

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**From:** [Zishun Ning](#)  
**To:** [Land Use Testimony](#)  
**Subject:** Testimony for RIS bill  
**Date:** Wednesday, January 13, 2021 2:33:22 PM  
**Attachments:** [Testimony on RIS bill--Zishun Ning.docx](#)

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Dear City Council,

This is Zishun Ning from Coalition to Protect Chinatown and the Lower East Side. Please see attached for my testimony in support of the Racial Impact Study bill.

Best,  
Zishun

Zishun Ning

#### Coalition to Protect Chinatown and the Lower East Side

It is no secret that the City's rezoning plans have impacted communities of color. Chinatown and the Lower East Side, for example, were left out of the East Village Rezoning in 2008 that protected the White, middle-class neighborhood of East Village from luxury high-rises and displacement. Since then, Luxury developments poured into Chinatown and the Lower East Side, neighborhoods of predominantly Chinese, Blacks and Latinos, displacing tenants, workers and small businesses. When our community came up with the Chinatown Working Group Rezoning Plan that seeks equal protection as East Village, it was rejected by Mayor de Blasio as "too ambitious."

How can a City government that claims to fight for racial justice be so obviously racist and discriminatory when it comes to zoning and displacement? It is long overdue for it to take a look at the racism in its policies and correct its mistakes. Therefore we urge the City to pass the Racial Impact Study bill and demand it pass community-led rezoning plans that give protections to communities of color from displacement, like the Chinatown Working Group Rezoning Plan.



January 13, 2021

On behalf of the NYU Furman Center, thank you for the opportunity to provide comment on this important legislation.

Ensuring that land use systems promote racial equity is a goal of paramount importance. Since zoning's very inception, land use laws have been used, both intentionally and as a reflection of deep structural racism, to exclude and to entrench racial hierarchy. And still today, our land use system contributes to profound disparities in housing quality and affordability, in health and exposure to environmental risks, in education and access to opportunity. New York City is not exempt from this history, or this present reality. Determining how best to reform our housing and zoning systems to promote racial equity is a question that policymakers must not shy away from.

The NYU Furman Center advances research and debate on housing, neighborhoods, and urban policy. This includes providing essential data and analysis that helps policymakers, community organizations, and many others to examine pressing policy issues. As researchers committed to empirically-informed policymaking, we strongly support this legislation's goal of bringing facts and data to bear in studying and identifying the racial disparities in our land use and housing system. Based on our research on land use law and fair housing, we offer the Council a few suggested principles for how to most effectively assess the relationship of zoning and racial equity and a comparison to other efforts to study the racial impacts of land use. These may suggest avenues for alternative methodologies to the one set forth by this bill.

First, to fully understand the racial impacts of land use decision-making, it is critical to understand the fair housing implications of not only a proposed rezoning, but also any decision *not* to rezone. In many circumstances, a failure to act can produce worse disparities than action. Neighborhoods will still change in the absence of a rezoning. Those changes, which can include sharply rising rents and increased displacement, may be more racially inequitable than the outcomes had a rezoning occurred. The proposed legislation increases scrutiny of proposed rezonings while not measuring the disparities caused by preserving existing zoning. This risks creating a false impression of the racial impacts of land use changes, by spotlighting and quantifying only the harms of action and not the harms of inaction. Where the status quo is itself the source of racial inequity, this could make matters worse by discouraging zoning changes altogether. The Council should consider how to study the racial impacts of maintaining current zoning, whether in a particular project area or in broader geographies, as well as of proposed rezonings. The Council should also consider how land use changes that restrict new development, like downzonings or the designation of historic districts, affect racial equity.

Second, fair housing is a complicated and context-sensitive goal. Thus, under the Obama administration, HUD recognized that fair housing requires a "balanced approach" that includes "taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and

balanced living patterns, [and] transforming racially and ethnically concentrated areas of poverty into areas of opportunity.” A racial impact report of land use law should allow for an analysis of each of these aspects of fair housing, as relevant in context.

To offer a few examples, a rezoning predicted to attract businesses that will employ higher-wage workers than the residents of the surrounding neighborhood might be a harbinger of gentrification, but might also be a badly-needed effort to bring better employment opportunities to local residents. A housing development predicted to rent exclusively to low-income households in a low-income neighborhood might be seen as serving existing residents and preventing displacement, but might also be seen as concentrating poverty and entrenching segregation.<sup>1</sup> This legislation, at points, appears to suggest that all new development should be at current neighborhood rents and wages and serve a population with the same racial composition as existing neighborhood residents—but doing so will not always best promote equity.<sup>2</sup>

A racial disparity analysis which cannot account for the nuances of context, or which suggests that all new development should only be at the rent or wage levels of existing land use, risks distorting the fuller fair housing story and perpetuating the entrenched segregation and disparities that fair housing seeks to redress. Moreover, insofar as this legislation calls out “displacement risk” but not other fair housing issues (like segregation), it further risks identifying one type of harm while implicitly excusing another. The Council should examine whether its legislation could facilitate a broader examination of the racial equity implications of a rezoning, in a manner that allows for different fair housing goals to be brought to bear and weighed in context.

Third, and relatedly, an approach based on comparing the predicted demographics of users of new development to existing neighborhood and citywide demographics will miss other important effects of a rezoning, especially those related to the benefits of increased housing supply. Take, for example, a rezoning expected to create substantial amounts of new luxury housing in a predominantly white and wealthy neighborhood. The new housing might be predicted to serve residents who, like the neighborhood’s existing population, are disproportionately white and high-income. The analysis required by this legislation would have little to say about such a rezoning. But significant research has shown that at the citywide level, an influx of new housing supply can help meet demand pressures and mitigate rent increases. Such a rezoning might be extremely important for racial equity in one sense—as one tool in a broader anti-displacement strategy—that this kind of disparity report is not designed to capture. Once again, a broader look

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<sup>1</sup> For example, [Furman Center research](#) has demonstrated the significant benefits to NYCHA residents of living in higher-income neighborhoods, or neighborhoods where incomes are increasing.

<sup>2</sup> Communities recognize these complexities. In its [most recent statement of district needs](#), for example, Bronx Community District 4 called for preserving and building affordable housing for low-income families, but also highlighted the need to invest in housing for moderate- and middle-income households to achieve “economic diversity,” foster “prosperity and growth,” and ensure that upwardly mobile community members remain in the district.

at racial impact—broader in geography, time, and in mechanisms for addressing or exacerbating racial inequities—is important.

Fourth, the effects of land use development are dynamic. The use of a building changes over time. This legislation’s suggested strategy for producing a racial disparity report requires predicting the rent levels of future residential development and the type of tenant for non-residential development, with a fair degree of precision. Land use law and real estate markets do not lock in uses in such a prescriptive way—even where initial tenant mix can be predicted, which is not always possible, especially in the non-residential context. As a result, it may prove exceedingly difficult to produce a disparity report that relies on such predictions with sufficient accuracy, especially over the long periods the new zoning may remain in effect.

Finally, a racial impact analysis should use easily-accessible and reliable data. An important aspect of the Obama administration’s “affirmatively furthering fair housing” planning process was the provision of such data to local governments, and it is no coincidence that the Trump administration moved quickly to take down those data. If the data are not readily available, applicants will spend their time and money on assembling the facts rather than analyzing or addressing them—or simply may not be able to generate the required analysis at all. The impact analysis could turn into a slow and costly exercise that serves as precisely the kind of process barrier to development—development of all kinds—that the City’s Where We Live report recently identified as a major barrier to fair housing in the city. Here, the specific breakdowns of data that the bill currently calls for analyzing are not reliably available at the granular geography required by the legislation. Most likely, the smallest geography feasible to produce these metrics with reasonably small margins of error is the community district level.<sup>3</sup>

These concerns are not a reason for inaction. No effort to predict the effects of land use policies on racial equity can be perfect. Mere imprecision must not be an excuse not to strive to understand, as best as possible, how our land use system can be made a tool to reduce disparities and promote justice. But if a racial impact analysis risks masking or downplaying important mechanisms by which land use generates racial inequities, while simultaneously adding additional cost and delay to the development process, that analysis will not achieve its critical goal, and may even make matters worse.

Other models of analyzing land use law through a fair housing lens may be helpful in identifying paths to improving this legislation. The federal “affirmatively furthering fair housing” process, and New York City’s own attempt to comply with its obligations through the Where We Live report, provides one model. That process does not attempt to study racial impacts at the level of individual rezonings, but rather to identify issues more strategically and holistically so as to

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<sup>3</sup> We further note that projecting the income of residents—much less their race—based on a distribution of rents is a methodologically complex undertaking that would require some technical refinement from the process contemplated by the current bill.

include the multiple aspects of fair housing, the impacts related to both action and inaction, and the impacts of development both on-site and off-site. The Council (which has already taken steps to require such analysis, such as the enactment of Local Law 133 of 2018) may consider whether this approach could be expanded in the land use context.

New York City may also consider studying the approach taken in Boston, which recently enacted a requirement that large-scale residential projects go through a fair housing assessment. That approach, which shares the potential pitfalls of any analysis limited to the individual project level, nevertheless takes a different approach to the required analysis, studying both displacement and integration as fair housing issues and including more open-ended questions and less extensive data collection. This approach has its advantages and disadvantages, but may highlight the choices available for consideration.

New York City faces immense inequities in its housing system: in who is evicted; in who is unsheltered; in who must double up in crowded housing; in whose homes have mold and pests; in access to good schools, good jobs, and good transit. As researchers, we believe strongly in the importance of information to address those inequities, and have worked to help generate that information about New York City's land use system. But to be useful in guiding land use policy, that information must encompass the full breadth of racial equity issues implicated by our land use system.

An analysis of racial equity in land use should include the costs of inaction; the importance of integration, neighborhood revitalization, and other fair housing issues, as well as the risk of displacement; and the ways that rezonings interact systemically rather than in isolation, including through their effects on citywide housing supply. We hope our suggestions related to this proposal can help the Council to consider how to most effectively identify and address housing disparities and avoid unintended consequences.

Thank you again for the opportunity to submit testimony. We would be happy to provide any additional analysis or information that would be helpful to the Council.



Matthew Murphy  
Executive Director



Noah Kazis  
Legal Fellow



Mark A. Willis  
Senior Policy Fellow



## Regional Plan Association Comments regarding Racial Disparity Report proposal - Intro 1572-2019 (Version A)

January 13, 2021

Recent land-use decisions and rezonings in New York City seeking to facilitate new housing development have disproportionately affected low-income communities of color. The public remains in the dark about why these places were chosen, how other neighborhoods will contribute to the citywide goal of addressing the affordable housing crisis, and whether sufficient resources exist to aid communities in accommodating growth without displacement.<sup>1</sup>

The current New York City land use and environmental review procedures lack the necessary information and are based on methodologies that do not accurately disclose displacement impacts of residents and local businesses, particularly those in low-income communities of color. In essence, these procedures ignore that social factors are often interrelated and compound over one another, creating different levels of vulnerability and displacement risk.

The proposed legislation requires reporting that would address assessment gaps by disclosing disparities through an examination of different socioeconomic and housing factors that can determine displacement risk levels.<sup>2</sup> These include but are not limited by race and ethnicity, labor force, household composition, housing market trends, overcrowding and eviction rates, among others. Having access to such information would proactively remedy some of the issues raised by RPA in the past.

In 2017 RPA issued *Pushed Out: Housing Displacement in an Unaffordable region*. The report found that all across the tri-state area, low and moderate-income residents are being replaced by wealthier populations in walkable neighborhoods with good access to jobs. Moreover, neighborhoods that are both home to significant vulnerable populations and are walkable, job-accessible neighborhoods are 69% Black and Latinx, compared with 26% Black and Latinx in the rest of the region. In this report we recommended incorporating displacement risk into decision making, including land use, grant funding, housing subsidies and tax benefits.<sup>3</sup> More recently, we have continued to articulate these ideas in comments to the Mayor's Office and City Council regarding modifications to the City's Environmental Quality Review process

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<sup>1</sup> Regional Plan Association, January 2018 ["Inclusive City: Strategies to achieve more equitable and predictable land use in New York City"](#)

<sup>2</sup> New York City Council, January 2020 ["Intro 1572-2019 Version A: Requiring a racial disparity report for certain land use applications"](#)

<sup>3</sup> Regional Plan Association, March 2017 ["Pushed Out: Housing Displacement in an Unaffordable Region"](#)

(CEQR).<sup>4</sup> In its current form, we find that the proposed legislation is consistent with these conclusions and recommendations.

We also believe that a racial disparity report could facilitate proactive planning in ways that support equitable growth-oriented goals articulated in the city's fair housing plan *Where We Live*.<sup>5</sup> The proposed legislation would ensure that these long-term planning efforts move beyond the current administration and are considered priorities into the future. The proposed racial disparity reports could disclose needed information to determine whether a land-use change under consideration would meet local and citywide housing needs that promote integration, and minimize displacement risk of vulnerable residents. Relative to New York City, projects that would seek to facilitate development in wealthier and amenity-rich areas, tend to have lower displacement risk levels, and thus would be more likely to gain support and cross-acceptance if such findings are clearly communicated in the type reports proposed by this legislation.<sup>6</sup> By analyzing the racial impacts of proposed land use actions, New York will be better-positioned to increase housing opportunities across the city as a whole and ensure that low-income people of color can remain in their communities, even in the face of neighborhood change.

Finally, the proposed racial disparity reports are largely aligned with the policy intent of the recently introduced legislation that seeks to implement a comprehensive planning framework. If comprehensive planning moves ahead as currently proposed, racial disparity reports should be incorporated into the analysis of the borough-wide or district wide land-use scenarios that would be required by such a framework. In addition, given that the proposed racial disparity reports would not be part of environmental assessment procedures, action types aligned with citywide goals, and that do not warrant a full review required by CEQR, would continue to be expedited and streamlined as intended by the proposed comprehensive planning framework.<sup>7</sup>

We appreciate the effort the City Council has made seeking to improve transparency and equity in our land use process. It is a good first step in a much larger discussion involving the public, and stakeholders to arrive at critical solutions.

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<sup>4</sup> Regional Plan Association, May 2019 "[Comments to the New York City Council Oversight Hearing Regarding CEQR](#)" and December, 2020 "[Comments to the New York City Mayor's Office Regarding CEQR](#)"

<sup>5</sup> Mayor's Office for Housing and Economic Development, October 2020. "[Where We Live NYC, Fair Housing Together](#)". New York Housing Conference, December 2020. "[United for Housing: From the Ground Up 2021](#)".

<sup>6</sup> Regional Plan Association, March 2017 "[Pushed Out: Housing Displacement in an Unaffordable Region](#)" & "[RPA Displacement Index](#)"

<sup>7</sup> New York City Council Speaker, December 2020 "[Planning Together: A New Comprehensive Planning Framework for New York City](#)"

## **Testimony in support of Racial Disparities Report bill (Int. 1572-A)**

My name is Sarah Ahn. I am a member of the Flushing Workers Center. We write in strong support of the Racial Disparities Report Bill, Int. 1572-A, and urge the City Council to go even further to realize the intent to stop the disparate displacement of people of color from our city. We believe requiring a study on the racial demographics of an area before land use decisions are made is a step in the right direction.

For too long, land use decisions have been made without proper study and evaluation on the impact it will have on the existing residents, workers and small business owners. A recent example of this is the Special Flushing Waterfront District rezoning plan. Flushing is a very diverse community and home to many immigrant communities as well as a historic African American community. It serves as a hub of businesses, services, and religious and cultural gatherings for community members even beyond the borders of Flushing. Our diverse community is threatened and we have seen our businesses close down only to be replaced with large chains, our churches sold and demolished, and our neighbors evicted or forced to move due to rising rents. In the last decade and half, large predatory landlords have bought many of our rent-stabilized buildings and used both legal and illegal tactics to displace many long-time residents of Flushing.

Despite the displacement our community had already seen, we were denied an Environmental Impact Statement for the Special Flushing Waterfront District rezoning plan and the plan was approved by the City Council. As a result, Flushing shares in the experience of many other communities where we see our neighborhood changing and decisions being made without having access to the information on how proposed developments will impact our everyday lives.

As anyone can see, the past decade of rapid development in New York City, particularly in communities of color that were rezoned and marked by the city for development, people of color have been displaced at an alarming rate. If our City Council is genuine in its commitment to racial justice and to righting the wrongs of the past that contribute to systemic racism, there should be no question in approving and furthering this bill. It simply requires study, for our communities to know how we are being affected. For the bill to really be meaningful and for our city to realize the intent of the bill to stop the disparity in displacement along racial lines, land use decisions would have to consider the findings and projects that perpetuate racist displacement would have to be stopped. I would urge the City Council to take additional steps to make sure we stop the displacement of people of color, preserving and protecting the existing tenants, homeowners, jobs, and businesses in our communities, and start supporting an agenda that puts people first.

Submitted by: Sarah Ahn, Flushing Workers Center

**From:** [Meyers, Kat](#)  
**To:** [Land Use Testimony](#)  
**Cc:** [Goldiner, Judith](#); [Holder, Adriene](#)  
**Subject:** Land Use Committee Hearing Testimony Submission  
**Date:** Wednesday, January 13, 2021 1:42:52 PM  
**Attachments:** [LAS Intro 1572A Testimony FINAL.pdf](#)

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Good afternoon,

Please see the attached testimony from The Legal Aid Society regarding Intro. 1572-A, which was addressed during the Monday, Jan. 11, 2020 Land Use Committee Hearing.

If you have any problems with the attached document, please let me know.

**Kat Meyers**

Staff Attorney

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*Pronouns: she/her*



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Testimony of

**The Legal Aid Society**

on

Intro. 1572-A: Local Law requiring a racial disparity report for certain land use applications

presented before

The New York City Council's Committee on Land Use

Kat Meyers  
Staff Attorney  
The Legal Aid Society

January 13, 2021

The Legal Aid Society's Civil Practice welcomes the opportunity to submit this testimony to the New York City Council's Committee on Land Use.

## **Who We Are**

The Legal Aid Society, the nation's oldest and largest not-for-profit legal services organization, is more than a law firm for clients who cannot afford to pay for counsel. It is an indispensable component of the legal, social, and economic fabric of New York City – passionately advocating for low-income individuals and families across a variety of civil, criminal, and juvenile rights matters, while also fighting for legal reform. This dedication to justice for all New Yorkers continues during the COVID-19 pandemic.

The Legal Aid Society has performed this role in City, State and federal courts since 1876. It does so by capitalizing on the diverse expertise, experience, and capabilities of more than 2,000 attorneys, social workers, paralegals, and support and administrative staff. Through a network of borough, neighborhood, and courthouse offices in 26 locations in New York City, the Society provides comprehensive legal services in all five boroughs of New York City for clients who cannot afford to pay for private counsel.

The Society's legal program operates three major practices — Civil, Criminal, and Juvenile Rights — and receives volunteer help from law firms, corporate law departments and expert consultants that is coordinated by the Society's Pro Bono program. With its annual caseload of more than 300,000 legal matters, The Legal Aid Society takes on more cases for more clients than any other legal services organization in the United States. And it brings a depth and breadth of perspective that is unmatched in the legal profession.

The Legal Aid Society's unique value is an ability to go beyond any one case to create more equitable outcomes for individuals and broader, more powerful systemic change for society as a whole. In addition to the annual caseload of 300,000 individual cases and legal matters, the Society's law reform representation for clients benefits more than 1.7 million low-income families and individuals in New York City and the landmark rulings in many of these cases have a State-wide and national impact.

The Legal Aid Society's Civil Practice provides comprehensive legal assistance on a vast array of legal matters involving housing, foreclosure and homelessness; family law and domestic violence; income and economic security assistance (such as unemployment insurance benefits, federal disability benefits, food stamps, and public assistance); health law; immigration; HIV/AIDS and chronic diseases; elder law; low-wage worker problems; tax law; consumer law; education law; and community development opportunities to help clients move out of poverty. Last year our Civil Practice worked on more than 40,000 individual case and legal matters, benefiting more than 103,000 low-income children and adults.

## **Land Use Processes**

All land use decisions in New York City are required to be evaluated for their potential environmental impacts pursuant to state and city law. Environmental impacts include impacts on socioeconomic conditions such as residential displacement. The New York City Charter contains the procedure that Community Boards, the Borough Presidents, and the City Council must employ when considering land use decisions – the Uniform Land Use Review Procedure (ULURP). ULURP does not contain

substantive requirements; to the extent that such requirements exist, they are imposed by the State and City Environmental Quality Review laws (SEQR and CEQR, respectively).

Legal Aid’s housing attorneys fight for the rights of tenants across all five boroughs every day, taking on thousands of cases each year. As such, we are intimately familiar with the pressure experienced by tenants in the current and developing housing market. We have seen firsthand the effects of neighborhood rezonings under Mayor de Blasio’s Housing New York<sup>1</sup> policy in East New York, East Harlem, Jerome Avenue, Far Rockaway, and Inwood on our clients. Despite the fact that these rezonings are part of the Mayor’s plan to increase the number of affordable housing units across the City, they have been subject to intense scrutiny by tenants and advocates for their potential to accelerate development and speculation in low-income communities of color, thereby increasing rents and forcing long-time tenants to leave. In each neighborhood rezoning thus far, the community’s response has been dominated by anxiety over potential displacement, and unfortunately, many of these fears have been well-founded; tenants in these neighborhoods are facing increased displacement pressure through rising rents and harassment by their landlords.<sup>1</sup>

### **Shortcomings of the CEQR Methodology**

Intro. 1572-A seeks to address a fundamental flaw in the CEQR Technical Manual’s method for estimating socioeconomic impacts. The manual directs analysts to examine solely specific population characteristics, such as income and household size, but does not assess other demographic information such as race and ethnicity, gender, age, education, and language.<sup>2</sup>

By failing to track demographic shifts based on race and ethnicity, the CEQR methodology assumes that displacement affects all low-income tenants equally, ignoring the fact that displacement occurs inequitably in different communities, often following longstanding trends of racial discrimination and segregation. This is especially problematic in the context of neighborhood rezonings, which have largely targeted low-income communities of color for development. While income is certainly one very important factor in determining tenants’ risk of displacement, tracking additional factors, such as race and ethnicity, age, gender, housing voucher status, language, and education, is necessary to holistically evaluate the impact of neighborhood rezonings on communities.

### **Rent Regulated Tenants**

In seeking to identify an “at-risk” population, the CEQR methodology includes only low-income renters in unregulated units, and excludes rent regulated tenants, voucher holders, NYCHA tenants, and tenants displaced through illegal tactics. This means that the City considers only a very small subset of the population that could possibly be displaced when assessing how a proposed project would impact a study area. Furthermore, nearly one-third of rent regulated apartments have preferential rents,<sup>3</sup> meaning that the tenant is not being charged the full legal regulated rent of the apartment, but rather is paying a lower “preferential rent” set by the landlord. Preferential rents are growing more common, and the gap between the preferential rent and the maximum legal rent is also steadily increasing. Between 2008 and

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<sup>1</sup> Churches United for Fair Housing, Zoning and Racialized Displacement in NYC, [Zoning+and+Racialized+Displacement+in+NYC.pdf](https://www.cufh.org/wp-content/uploads/2016/03/Zoning+and+Racialized+Displacement+in+NYC.pdf) (squarespace.com)

<sup>2</sup> CEQR Technical Manual, Chapter 5.

<sup>3</sup> 2014 Independent Budget Office (Flawed Findings source #31) 21 Cezary Podkul and Marcelo Rochabrun, Rent Limits Just a Fiction for Thousands of NYC Tenants, Record Discloses, PROPUBLICA (March 10, 2016), <https://www.propublica.org/article/rent-limits-just-a-fiction-for-thousands-of-nyc-tenants-records-disclose>.

2015, the gap increased 55 percent, from \$286 to \$444.22 In Manhattan, the average difference between preferential and maximum legal rent is over \$800.<sup>4</sup> Landlords have an incentive to remove tenants with preferential rents in order to re-rent the unit at a higher price.

The potential displacement of rent regulated tenants should be considered in the socioeconomic impact analysis, as well as the racial impact report proposed by Intro. 1572-A. Rent regulated apartments are one of the last sources of “affordable” housing in New York City and tenants in these apartments are predominantly people of color, who are otherwise excluded from the socioeconomic impact assessment.<sup>5</sup>

### **Conclusion**

Currently, the City is not required to consider the potential racial impact of a rezoning plan. Communities and policymakers should be given every tool necessary to make thoughtful and careful land use decisions. Too often rezonings are proposed in communities that have been subjected to decades of divestment. If we fail to assess our history, we are ignoring the ways in which we continue to perpetuate these inequalities. Requiring a racial impact report will give policymakers the tools necessary to look at our past in order to make a more equitable future. Thank you for the opportunity to submit this testimony.

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<sup>4</sup> Cezary Podkul, New York Landlords Exploit Loophole to Hike Rents Despite Freeze, ProPublica (April 25, 2017), <https://www.propublica.org/article/new-york-landlords-exploit-loophole-to-hike-rents-despite-freeze>.

<sup>5</sup> Rent Regulation Memo, Sociodemographics of Rent Regulated Tenants [rent-regulation-memo-1.pdf \(nyc.gov\)](#)

**From:** [Paul D. Epstein](#)  
**To:** [Land Use Testimony](#)  
**Subject:** Testimony For 1572-A Racial Disparity Reports  
**Date:** Wednesday, January 13, 2021 11:51:22 PM  
**Attachments:** [13Jan21 Epstein Council LU 1572A Written Testimony.pdf](#)

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Thank you for the opportunity to testify at the Jan. 11, 2021 City Council Land Use Committee hearing on Int. 1572-A to require Racial Disparity Reports. Please also accept the attached written testimony which provides additional details that would not fit in my 2-minute oral testimony. While I support the bill I also want to recommend a series of improvements to strengthen the bill and make it more effective. My expanded written testimony includes more recommendations for improvement, with additional explanation, than I could provide at the hearing.

Sincerely,  
Paul Epstein

Co-chair, Inwood Legal Action  
212-349-1719

**Jan. 13, 2021 Expanded Testimony of Paul Epstein to the NY City Council Land Use Committee on Intro No. 1572-A: a Bill to Require a Racial Disparity Report for Certain Land Use Actions**

*This statement includes the oral testimony I gave at the Jan. 11<sup>th</sup> hearing and expands on it, including additional recommendations to strengthen the bill.*

I am Paul Epstein, Co-chair of Inwood Legal Action, on the Leadership Council of Northern Manhattan is Not For Sale, and a member of the Racial Impact Study Coalition. Please accept this testimony in support of Int. 1572-A to require racial disparity reports for land use actions larger than one or more of the size thresholds in the bill. In addition, please consider the improvements to the bill I recommend below to strengthen the effect racial disparity reports will have in the land use process by providing useful information on additional types of disparities land use changes can bring, or providing additional context for items already required in the bill.

Inwood Legal Action led the lawsuit for Northern Manhattan is Not For Sale against the Inwood rezoning, claiming, among other things, that the City should have studied the racial impact of residential displacement and impact on minority- and women-owned businesses. The trial judge agreed. While that was reversed on appeal, the appeals court said if we want those studies to be required, we should raise them with our legislative body. Thus courts disagree and have punted the issue to City Council. So it is appropriate for the Council to consider this bill, and I commend Public Advocate Williams, Land Use Chair Salamanca, the co-sponsors, and the Black, Asian, and Latino Caucus for their efforts to craft and support this bill and get it moving through the legislative process.

A bill such as 1572-A is badly needed. The City and developers often claim wonderful benefits will arise from land use actions, without saying who will benefit, and what populations will be put at risk. But too often, results are not what land use change applicants claimed, and benefits and risks are not equally distributed among racial and ethnic groups. Yet, nowhere in the current land use process, whether in ULURP or the environmental review, are there any requirements to report on likely impacts or outcomes by race or ethnicity.

I support the reporting mandates already in the bill (with one exception, noted near the end of this testimony) and I recommend additional requirements below. I appreciate that 1572-A will require that reports show which racial and ethnic groups are likely to benefit from new housing and jobs, and which are not. That information is badly needed if we care about equity.

**RECOMMENDED IMPROVEMENTS TO STRENGTHEN INT. 1572-A**

**Require reports to go beyond disparities in population groups that can afford new housing, to include racial disparities of people at risk of residential displacement.** As the obfuscated testimony of HPD and especially DCP made clear in the Jan. 11<sup>th</sup> Land Use Committee hearing, administration officials jump through hoops to avoid relating land use actions to displacement. However, there should not be an issue with projecting *risk* of residential displacement, disaggregated by race. Rent burden and severe rent burden, often cited in reports such as “Where We Live,” are obvious risk factors. Also, the Speaker’s proposed Comprehensive Long Range Planning bill anticipates a displacement risk index, using rent burden and other factors available from existing data sources. Likely changes in risk levels due proposed

land use actions should be straightforward to determine, even if actual displacement is not. It is important for the public and decision makers to see likely racial and ethnic disparities in residential displacement risk when considering proposed land use actions.

**Require disparity reports to examine, by race, risks to independently-owned businesses.** Please add a mandate that disparity reports disaggregate, by race, independently-owned businesses at risk of displacement. Inwood, like other minority neighborhoods, has an ecosystem of small businesses owned by residents of color which keeps income circulating in the community rather than being extracted. Business ownership also builds wealth. Racial disparity reports should assess whether the risk of business displacement will disproportionately affect minority-owned businesses thereby worsening the vast racial wealth gap.

**Require disparity reports to examine industry sectors at risk of displacement and disaggregate related potential job and compensation losses by race of workers.** Inwood, in Northern Manhattan, has an automotive-related business sector that the rezoning puts at risk. Jerome Avenue in the Bronx had an even larger concentration of automotive businesses before the rezoning there. Both have largely employed people of color. As the build-out from these rezonings move forward, this sector is highly likely to be completely wiped out in both neighborhoods. When workers lose these jobs, they are very likely to have to take steep pay cuts to work in other sectors or they may end up among the long-term unemployed. This phenomenon will not only affect automotive businesses, but any existing industry sector that will provide less return to land owners than new uses that a land use action makes possible, such as when manufacturing zones are changed to commercial, residential, or mixed-use. Often, as in Inwood and Jerome Avenue, workers have spent years developing specialized skills and expertise for where they work, and it is unrealistic to expect that large numbers of them can quickly change to become employable in new fields. Racial disparity reports should indicate when a land use action puts one or more industry sectors at risk, disaggregate workers in those sectors by race, and describe what is likely to happen to those workers with respect to future job prospects and changes in compensation.

**Either drop from the bill “6. Identification of potential measures that may address ... disparities” or require that context be included on whether those measures are likely to be adequate.** I am leery of this provision in 1572-A because it seems a bit like a “get out of jail free” card for applicants proposing land use actions that can create significant risks of harms to particular racial or ethnic groups. Recent rezoning plans or environmental reviews have cited programs such as right to counsel, certificate of no harassment, housing preservation, or workforce development without providing evidence that these programs are effective or have the resources to meet the level of disparities that may occur. Also, judging effectiveness and adequacy of resources will be different for different programs. For example:

- While tenants fighting eviction do better in court if they are represented by attorneys, is there funding for enough tenant attorneys to meet the citywide need? It is important to examine funding with respect to needs citywide, and not just in the area of the proposed action, because it is unfair to pull tenant attorneys from, say, East Harlem, in order to assist tenants put at risk in, say, Inwood. And why approve land use actions in the first place if they are likely to cause significant displacement risks, especially if those risks fall disproportionately on people of color? Telling

tenants whose displacement risk is increasing, “don’t worry, there’s a lawyer out there” is like telling soldiers being sent to a dangerous battlefield, “don’t worry, there’s a medic out there.”

- For workforce development programs, issues include not just whether the programs are effective in training and placing workers in new jobs, but also how much they will earn in their new jobs compared with what they have been earning in jobs that have been put at risk.

So, there are a lot of issues that need to be examined in this section of racial disparity reports to provide context. Simply citing programs that might help address disparities is totally inadequate. My preference would be to drop this part of the bill. But if “identification of potential measures that may address ... disparities” is kept in the bill, then it is imperative also to require that reports include evidence of program effectiveness and whether the programs are adequately funded to fully address all projected disparities of the proposed land use action *without* simply moving program resources from other communities where they are also needed.

In closing, I want to thank Public Advocate Williams, Land Use Chair Salamanca, the co-sponsors, and the Black, Latino, and Asian Caucus for getting 1572-A this far, and I look forward to working through the Racial Impact Study Coalition to help the Council improve the bill as it goes through the legislative process.

–Paul Epstein, Co-chair, Inwood Legal Action

**Testimony of The Racial Impact Study Coalition  
Before the Committee on Land Use  
In Support of Int 1572-A**

As members of the Racial Impact Study Coalition, we the undersigned, thank the Chair for accepting our written testimony in support of Int 1572-A, and we ask that you take up the opportunity to make the bill even stronger in the ways we indicate below. We are a coalition of neighborhood, community-based, and planning groups who came together to ensure that the City of New York meaningfully considers racial impacts in making major land use decisions. Collectively, we represent all five boroughs, most of the communities that have been impacted by City-initiated rezonings in recent years, and a wide spectrum of New York residents. We share a commitment to protecting our communities from racialized displacement and expanding permanently affordable housing to all neighborhoods, and we are excited to support the legislation proposed by the Public Advocate and allies on the Council and hope to work collaboratively with the council to strengthen the bill. This legislation would make New York City a trailblazer in fulfilling the promises of the federal Fair Housing Act of 1968, and the City's own recent Where We Live NYC process. Requiring racial disparity reports to be prepared before major decisions about land use are made will strengthen the City's ability to plan for, and build, a more equitable City. Importantly, when the City adopts a comprehensive, long-term planning process, the reports will help evaluate how proposed land use actions are likely to contribute to or detract from citywide goals to eliminate disparities.

**I. Knowing Who's at Greatest Risk and Who Stands to Benefit Will Help Us Avoid the Mistakes of the Past**

Under the Bloomberg and de Blasio administrations, neighborhood rezonings have disproportionately targeted low-income communities of color. This has resulted in destabilization and displacement of Black, Latinx and Asian New Yorkers, *and* missed opportunities to create affordable housing in white communities that don't have much of it today. We believe we can do better, and that this legislation will help get us there.

The proposed report will paint a detailed picture of the community that stands to be impacted, and the racial disparities in housing security that are already present. Disaggregating information by race will help ensure that land use actions do not further burden groups that are already in crisis. Importantly, the legislation will require disclosure of critical factors that are not adequately considered, or not considered at all, within the City's current environmental review processes, such as eviction filing rates and new construction permits - both important indicators of a community's existing housing risks.

The proposed report also requires the City to determine which racial groups are most likely to benefit from *new* housing. This will help stakeholders more easily understand who the proposed residential projects - both market-rate, and affordable - are intended to benefit, and whether additional housing strategies are needed to serve those most in need. Having a clearer picture of the impact of new housing on different racial groups will enable the City to make decisions that advance racial equity. For example, in some cases, proposed new housing will create a foothold for low-income people of color in areas that are largely inaccessible to them today. In

other instances, racial equity reports may show that new housing will facilitate the entrance of wealthier white residents into historically under-resourced communities of color - underscoring the importance of deploying additional strategies to ensure the stability of such communities or adapting the proposal to better align with the needs of the existing community and the City as a whole.

The thought of addressing race so explicitly within the decision-making process may feel uncomfortable to some - but avoiding difficult realities doesn't make them go away. Today, New York is one of the most segregated and unequal cities in the country, the result of generations of policies that explicitly drove people of color to under-resourced communities and facilitated wealth-building for white families. Making land use decisions with a "colorblind" approach hasn't gotten us any closer to ending this "tale of two cities." Even so, when communities of color have objected to planned rezonings and voiced concerns that new development will not benefit them, they have too often been dismissed as unsophisticated or anti-development. At the same time, many white communities have been left out of the conversation altogether - not because the contributions they could make are unimportant, but because the option of building more affordable housing within wealthier white communities is too rarely put on the table, even when inclusionary housing could produce it at no cost to the City.

## **II. Examining the Impact on Employment Is Critical**

The Coalition fully supports the proposal to require disclosure of the intended impacts of proposed commercial projects, in addition to residential ones. Many projects promise to bring new jobs into communities. However, for commercial projects to advance equity, they must create jobs that are accessible to current community members and New Yorkers with a variety of skills and experiences. Requiring the disclosure of projected industry sectors and occupations, coupled with a disaggregation by race of households working in those sectors, will enable decision makers to understand whether the types of jobs a commercial project envisions will offer meaningful opportunities to those who need them most.

## **III. To fully realize the legislation's intended impact, the report should get more specific about residential and business displacement and highlight the extent to which planned housing meets the disproportionate housing needs of New Yorkers of color within and beyond the neighborhood.**

The Coalition supports the proposed legislation, and we believe it represents a key opportunity to shift the way land use decisions are made. To fully realize its intended impact and vision for equity, we propose several additions as outlined below. Most of these additional areas of analysis can be performed using data the City already collects, and we strongly believe their inclusion will strengthen both the City's ability to plan for equity, and - over time - the degree to which the City's decisions are viewed as equitable by the communities that stand to be impacted by them.

- **Require disaggregation by race of residents who are at risk of displacement.** There are many flaws in the City’s current processes for projecting potential displacement, most of which are beyond the scope of the legislation at hand. But one thing racial disparity reports can, and must require is disaggregation by race of all residents at risk of displacement. The current legislation offers a clear picture of who will benefit from incoming residential development, and a parallel review of who is at risk of displacement is at the core of the spirit of this legislation and an important priority for the Racial Impact Study Coalition and the communities its members represent.
- **Differentiate between housing that is *guaranteed* - not merely promised - to be permanently affordable.** The City has a variety of tools at its disposal to create affordable housing, but some of these tools are stronger than others. Major land use actions introduce changes that unfold over the course of generations, and promises for subsidized housing that require private partners may or may not ever come to fruition. The report should describe future housing that will be constructed with tools that guarantee permanent affordability, such as cooperative housing, community land trusts, public housing, and zoning text requirements . This will also help to address the concerns of residents of historically under-resourced communities of color who are promised long-overdue investment if they accept new development, by creating assurances that they will be around to enjoy the benefits that come.
- **Require disaggregation by race of workers and industry sectors at risk of displacement.** Looking at potential future jobs and sectors, as the existing legislation proposes to do, is important - but it’s not enough. In many communities, people of color have spent years working and developing specialized expertise in sectors that may be threatened by new development, and it is unrealistic to imagine that if their jobs disappear, they will be able to instantly pivot, en masse, to new fields. Racial disparity reports need to evaluate whether sectors that support workers of color are at risk. Such potential impacts must be considered not only when commercial projects are proposed, but also when rezonings seek to permit residential development on land previously limited to commercial and manufacturing uses. It must look at residential and commercial impacts on both current workforce and projected jobs by industry, including factors such as wages and benefits.
- **Require disaggregation by race of independently-owned businesses at risk of displacement.** Communities of color often have their own local ecosystem of small businesses owned by local residents of color, which keeps local income circulating in the community rather than being extracted. Business ownership is also an important form of wealth and asset building. Racial disparity reports should assess whether the risk of business displacement will disproportionately affect minority-owned businesses, thereby worsening the already vast racial wealth gap.
- **Evaluate whether proposed housing meets the disproportionate housing needs of people of color, wherever they live in the City today.** Generations of structural racism

have created a landscape in which people of color experience, by every measure, disproportionate housing needs. The report should disclose not only whether proposed housing is available to people of color on an equal basis, but - just as important - the extent to which it will address the most critical housing needs of communities of color in the City as a whole. Assessing the extent to which proposed projects meet the greatest needs will help to ensure that these needs are centered - and in some way addressed - within every residential project.

- **If the report identifies “measures that may address ... disparities” it should be required to include context on whether those measures are likely to be adequate.** Recent rezoning plans or environmental reviews have cited programs such as right to counsel or workforce development without citing evidence that these programs are effective or have the resources to meet the level of disparities that may occur. If racial impact reports are expected to identify such programs, they should also include evidence of program effectiveness and whether the programs are adequately funded to fully address all projected disparities of the proposed land use action *without* simply moving program resources from other communities where they are also needed.

The racial disparity report will surface the potential racial impacts of planned actions - for better and worse. Either way, this knowledge is powerful. If the pandemic has shown us anything, it is the consequence of breeding segregation and inequality, and doing too little to change it. We can begin to shift the landscape now, and the proposed legislation is a critical step. We, the undersigned members of the Racial Impact Study coalition, thank you for the opportunity to submit testimony and look forward to working together to produce a bill that will set us on a path towards equity in New York City Land use decision making.

Sincerely,

**The Association for Neighborhood and Housing Development (ANHD)**  
**Banana Kelly Community Improvement Association**  
**Communities Resist (CoRe)**  
**Community Action for Safe Apartments (CASA)**  
**Hester Street**  
**Inwood Legal Action**  
**Laborer’s Local 79**  
**Met Council on Housing**  
**Pratt Center for Community Development**  
**Staten Island Urban Center**  
**We Stay/Nos Quedamos, Inc.**  
**The Municipal Art Society of New York**

I am Cheryl Pahaham. I serve as co-Chair of Inwood Legal Action, am a member of Northern Manhattan Is Not For Sale and am a member of the Racial Impact Study Coalition, a citywide volunteer association of not-for-profit, community, and tenant organizations led by Alexandra Fennell. I am grateful to the Public Advocate Jumaane Williams and the Land Use Chair Rafael Salamanca and all of the Council sponsors for advancing Int. 1572-A 2019, which levels the playing field by giving communities the critical information to make decisions about land use actions; increase transparency and accountability in the public review of land use proposals and could facilitate a more rapid consensus on land use actions. I respectfully request that each one of you obtain the commitment of one other member to sponsor this bill so that it can be adopted as a stand-alone bill, veto-proof, in early 2021. Many thanks to all of the sponsors of Int. 1572-A for this strong step toward equity in planning and land use processes. There are some ways to strengthen the positive impact of this bill with improvements, as suggested below.

**First, Int. 1572-A should be revised to explicitly define displacement for the purposes of evaluating the racial disparity in land use actions. Int. 1572-A should define displacement as any involuntary move of residents or businesses for any reason.**

**Second, Int. 1572-A should require New York City to disaggregate by race, the numbers of residents and businesses that are at-risk of displacement for any reason.**

These two changes would require that New York City analyze the numbers of residents and businesses at-risk of displacement for any reason, even when New York City determines, according to various thresholds specified in the City Environmental Review Quality Act Technical Manual (CEQR Manual) that a full assessment of displacement is not necessary. To move toward equity in planning and land use, New York City must recognize and address its intentional and unintentional role in any displacement.

**Third, Int. 1572-A should be revised to require New York City to propose measures to mitigate or remedy the racial disparity in displacement for residents and businesses. Specifically, the proposed measures should explicitly include that New York City facilitate a public review of potential funding options that could be used to meet the affordability needs of the people identified as being at-risk of displacement.**

This change will avoid what occurred in the Inwood rezoning, where community residents unsuccessfully pushed for deeper affordability in proposed housing, only to discover after the rezoning was enacted that New York City had been planning to take advantage of Opportunity Zone funds for Inwood. Communities should have information about the mix of available potential funding sources to better understand how to meet the needs of residents who are vulnerable to displacement.

**Fourth, I urge the sponsors of Int. 1572-A to reject statements by New York City officials that it is too complicated to project displacement into the future. Int. 1572-A should be revised to require New York City not only to analyze the impact of prior rezonings but also to hire qualified experts with experience in relevant fields such as the social sciences or planning and quantitative analysis to model the displacement effects of New York City housing and land use policies and practices.**

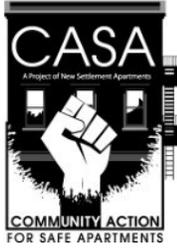
New York City government is already well aware of who is at-risk of displacement and of indicators of displacement, as judged in the *New York City Where We Live Plan* and in the work of the Mayor's Office of Data Analytics, which has identified risks indicating where tenant harassment is likely to occur and where rent stabilized units are likely to be lost, or efforts by the Tenant Support Unit to examine whether Artificial Intelligence models can more efficiently predict where tenant harassment is occurring. It can build on that knowledge by collecting data on past rezonings and working with qualified consultants to model displacement effects into the future.

**Fifth, to enhance accountability to the public, Int. 1572-A should be revised to require not only the disclosure of methods of racial disparate impact analyses, but also the credentials and qualifications of the individuals or entities that conducted the analyses.**

With these five enhancements, Int. 1572-A will provide even more valuable information about racial disparities that Council Members can use to make land use decisions more equitable.

Thank you for the opportunity to provide this testimony.

Cheryl Pahaham  
1/14/2021  
cpahaham@gmail.com



**January 14, 2021**  
**Written Testimony to Committee on Land Use**  
**Submitted by CASA-New Settlement**

**TESTIMONY OF CASA-NEW SETTLEMENT BEFORE THE COMMITTEE ON LAND  
USE IN SUPPORT OF INT. 1572-A**

As a member of the Racial Impact Study Coalition, we thank the Chair for accepting our written testimony in support of Int 1572-A, and we ask that you take up the opportunity to make the bill even stronger in the ways we indicate below. We are a coalition of neighborhood, community-based, and planning groups who came together to ensure that the City of New York meaningfully considers racial impacts in making major land use decisions. Collectively, we represent all five boroughs, most of the communities that have been impacted by City-initiated rezonings in recent years, and a wide spectrum of New York residents. We share a commitment to protecting our communities from racialized displacement and expanding permanently affordable housing to all neighborhoods, and we are excited to support the legislation proposed by the Public Advocate and allies on the Council and hope to work collaboratively with the council to strengthen the bill. This legislation would make New York City a trailblazer in fulfilling the promises of the federal Fair Housing Act of 1968, and the City's own recent Where We Live NYC process. Requiring racial disparity reports to be prepared before major decisions about land use are made will strengthen the City's ability to plan for, and build, a more equitable City. Importantly, when the City adopts a comprehensive, long-term planning process, the reports will help evaluate how proposed land use actions are likely to contribute to or detract from citywide goals to eliminate disparities.

**I. Knowing Who's at Greatest Risk and Who Stands to Benefit Will Help Us Avoid the Mistakes of the Past**

Under the Bloomberg and de Blasio administrations, neighborhood rezonings have disproportionately targeted low-income communities of color. This has resulted in destabilization and displacement of Black, Latinx and Asian New Yorkers, *and* missed opportunities to create affordable housing in white communities that don't have much of it today. We believe we can do better, and that this legislation will help get us there.

The proposed report will paint a detailed picture of the community that stands to be impacted, and the racial disparities in housing security that are already present. Disaggregating information by race will help ensure that land use actions do not further burden groups that are already in crisis. Importantly, the legislation will require disclosure of critical factors that are not adequately considered, or not considered at all, within the City's current environmental review processes, such as eviction filing rates and new construction permits - both important indicators of a community's existing housing risks.

The proposed report also requires the City to determine which racial groups are most likely to benefit from *new* housing. This will help stakeholders more easily understand who the proposed residential projects - both market-rate, and affordable - are intended to benefit, and whether additional housing strategies are needed to serve those most in need. Having a clearer picture of the impact of new housing on different racial groups will enable the City to make decisions that advance racial equity. For example, in some cases, proposed new housing will create a foothold for low-income people of color in areas that are largely inaccessible to them today. In other instances, racial equity reports may show that new housing will facilitate the entrance of wealthier white residents into historically under-resourced communities of color - underscoring the importance of deploying additional strategies to ensure the stability of such communities or adapting the proposal to better align with the needs of the existing community and the City as a whole.

The thought of addressing race so explicitly within the decision-making process may feel uncomfortable to some - but avoiding difficult realities doesn't make them go away. Today, New York is one of the most segregated and unequal cities in the country, the result of generations of policies that explicitly drove people of color to under-resourced communities and facilitated wealth-building for white families. Making land use decisions with a "colorblind" approach hasn't gotten us any closer to ending this "tale of two cities." Even so, when communities of color have objected to planned rezonings and voiced concerns that new development will not benefit them, they have too often been dismissed as unsophisticated or anti-development. At the same time, many white communities have been left out of the conversation altogether - not because the contributions they could make are unimportant, but because the option of building more affordable housing within wealthier white communities is too rarely put on the table, even when inclusionary housing could produce it at no cost to the City.

## **II. Examining the Impact on Employment Is Critical**

CASA-New Settlement fully supports the proposal to require disclosure of the intended impacts of proposed commercial projects, in addition to residential ones. Many projects promise to bring new jobs into communities. However, for commercial projects to advance equity, they must create jobs that are accessible to current community members and New Yorkers with a variety of skills and experiences. Requiring the disclosure of projected industry sectors and occupations, coupled with a disaggregation by race of households working in those sectors, will enable decision makers to understand whether the types of jobs a commercial project envisions will offer meaningful opportunities to those who need them most.

**III. To fully realize the legislation’s intended impact, the report should get more specific about residential and business displacement and highlight the extent to which planned housing meets the disproportionate housing needs of New Yorkers of color within and beyond the neighborhood.**

CASA-New Settlement supports the proposed legislation, and we believe it represents a key opportunity to shift the way land use decisions are made. To fully realize its intended impact and vision for equity, we propose several additions as outlined below. Most of these additional areas of analysis can be performed using data the City already collects, and we strongly believe their inclusion will strengthen both the City’s ability to plan for equity, and - over time - the degree to which the City’s decisions are viewed as equitable by the communities that stand to be impacted by them.

- **Require disaggregation by race of residents who are at risk of displacement.** There are many flaws in the City’s current processes for projecting potential displacement, most of which are beyond the scope of the legislation at hand. But one thing racial disparity reports can, and must require is disaggregation by race of all residents at risk of displacement. The current legislation offers a clear picture of who will benefit from incoming residential development, and a parallel review of who is at risk of displacement is at the core of the spirit of this legislation and an important priority for the Racial Impact Study Coalition and the communities its members represent.
- **Differentiate between housing that is *guaranteed* - not merely promised - to be permanently affordable.** The City has a variety of tools at its disposal to create affordable housing, but some of these tools are stronger than others. Major land use actions introduce changes that unfold over the course of generations, and promises for subsidized housing that require private partners may or may not ever come to fruition. The report should describe future housing

that will be constructed with tools that guarantee permanent affordability, such as cooperative housing, community land trusts, public housing, and zoning text requirements . This will also help to address the concerns of residents of historically under-resourced communities of color who are promised long-overdue investment if they accept new development, by creating assurances that they will be around to enjoy the benefits that come.

- **Require disaggregation by race of workers and industry sectors at risk of displacement.** Looking at potential future jobs and sectors, as the existing legislation proposes to do, is important - but it's not enough. In many communities, people of color have spent years working and developing specialized expertise in sectors that may be threatened by new development, and it is unrealistic to imagine that if their jobs disappear, they will be able to instantly pivot, en masse, to new fields. Racial disparity reports need to evaluate whether sectors that support workers of color are at risk. Such potential impacts must be considered not only when commercial projects are proposed, but also when rezonings seek to permit residential development on land previously limited to commercial and manufacturing uses. It must look at residential and commercial impacts on both current workforce and projected jobs by industry, including factors such as wages and benefits.
- **Require disaggregation by race of independently-owned businesses at risk of displacement.** Communities of color often have their own local ecosystem of small businesses owned by local residents of color, which keeps local income circulating in the community rather than being extracted. Business ownership is also an important form of wealth and asset building. Racial disparity reports should assess whether the risk of business displacement will disproportionately affect minority-owned businesses, thereby worsening the already vast racial wealth gap.
- **Evaluate whether proposed housing meets the disproportionate housing needs of people of color, wherever they live in the City today.** Generations of structural racism have created a landscape in which people of color experience, by every measure, disproportionate housing needs. The report should disclose not only whether proposed housing is available to people of color on an equal basis, but - just as important - the extent to which it will address the most critical housing needs of communities of color in the City as a whole. Assessing the extent to which proposed projects meet the greatest needs will help to ensure that these needs are centered - and in some way addressed - within every residential project.

- **If the report identifies “measures that may address ... disparities” it should be required to include context on whether those measures are likely to be adequate.** Recent rezoning plans or environmental reviews have cited programs such as right to counsel or workforce development without citing evidence that these programs are effective or have the resources to meet the level of disparities that may occur. If racial impact reports are expected to identify such programs, they should also include evidence of program effectiveness and whether the programs are adequately funded to fully address all projected disparities of the proposed land use action *without* simply moving program resources from other communities where they are also needed.

The racial disparity report will surface the potential racial impacts of planned actions - for better and worse. Either way, this knowledge is powerful. If the pandemic has shown us anything, it is the consequence of breeding segregation and inequality, and doing too little to change it. We can begin to shift the landscape now, and the proposed legislation is a critical step. We look forward to working together to produce a bill that will set us on a path towards equity in New York City Land use decision making.

Sincerely,

Pablo Estupiñan  
Co-Director of CASA



## HOUSING RIGHTS INITIATIVE

### **Written Testimony to the Committee on Land Use Submitted by Housing Rights Initiative**

#### **Written Testimony by Housing Rights Initiative In Support of Int 1572-A**

Housing Rights Initiative thanks the Chair for accepting our written testimony in support of Int 1572-A. We are a non-profit housing watchdog group that has filed close to 70 class action lawsuits against predatory landlords. We are also strong advocates for fair and affordable housing. Our organization has seen the impact that crucial land use decisions and predatory real estate practices have had on disadvantaged communities and communities of color. Racial impact studies on these land use decisions would have undoubtedly impacted their outcomes. To increase equity in our city, we strongly support Int 1572-A.

Throughout the past twenty years, we have seen the housing landscape radically shift in our city, but one thing has remained the same: white, wealthier communities have been downzoned and low-income communities of color have been upzoned. [A groundbreaking study](#) by researchers at NYU revealed these empirical truths about zoning during the Bloomberg era:

- Areas that were over 80% white were more than seven times more likely to be downzoned than areas that were less than 20% white
- Areas with high rates of homeownership (which are typically whiter areas) were 43% more likely to be downzoned, and 25% less likely to be upzoned
- Areas in high-performing school districts were 43% more likely than other areas to be upzoned. *But*, these same areas were 392% more likely to be downzoned
- Areas with high voter turnout were 230% more likely to be downzoned, and 53% less likely to be upzoned

These upzonings during the Bloomberg era were masked as rezonings meant to maintain the “neighborhood’s character,” which really meant maintaining their homogeneity. The interests of white, wealthy homeowners have been placed above all else, especially above communities of color.

While Mayor de Blasio has not had this downzoning policy, both him and Mayor Bloomberg focused their upzonings in neighborhoods of color, selling them out to the highest bidder and accelerating displacement and gentrification. These rezonings, like the ones in Inwood, East



## HOUSING RIGHTS INITIATIVE

Harlem, and Flushing come with the promise of affordable housing. But, the key question is: affordable for whom?

The city has not done its due diligence in answering this question, and has instead flagrantly continued to execute this failed policy over and over again. Mandating racial impact studies would be a massive positive shift in demanding accountability and responsibility from the city in areas where affordability and displacement for residents often go ignored.

These disastrous zoning policies are coupled with New York City's history of perpetuating segregation to create a uniquely unequal city. [A study by Yilin Wu](#) found that:

- Neighborhoods that have higher Black and immigrant populations are more likely to receive higher density (meaning less restrictive) zoning
- Neighborhoods that are high-income are more likely to receive restrictive density zoning
- This zoning pattern led to high levels of segregation in the city

Segregation is not a thing of the past—it is alive and well in our city. High-income, white neighborhoods with homeowners are more likely to be restrictively zoned, meaning that it is difficult if not impossible for anyone who is not white and wealthy to move there, if they wanted to.

It is important that New York City faces its history of failed zoning policies and segregation in order to make a more equitable city. Passing Int 1572-A is the first step in this process. We have a unique opportunity to change the face of what the rezoning process looks like in our city, and to make it work for our most vulnerable. We thank the Chair for the opportunity to submit written testimony, and look forward to working together further to make New York City a better and more equal place.

Sincerely,

Housing Rights Initiative

**CHPC Written Testimony on Proposed Int. No. 1572-A  
Committee on Land Use Remote Hearing  
January 11<sup>th</sup>, 2021**

**Dear Hon. Chair Salamanca & Members of the Committee on Land Use:**

On behalf of Citizens Housing & Planning Council (CHPC), thank you for the opportunity to provide comments on Proposed Int. No. 1572-A, a local law to require a racial disparity report for certain land use applications. Since 1937, CHPC's research and education work has helped shape housing policy and planning in NYC to better meet the needs of New Yorkers.

CHPC offers its support for the proposed legislation and thanks Council Member Salamanca and Public Advocate Williams for your work in moving it forward. It is clear that the good intentions of colorblind policy are inadequate to overturn systemic racism. The proposed bill is an example of the type of proactive, deliberate solutions that are needed to make real progress towards racial equity.

CHPC would also like to suggest some ways in which the legislation could be strengthened, to solidify and expand its impact. CHPC recommends requiring racial disparity reports to assess risks and opportunities for racial equity beyond displacement, and to ensure that this analysis also examines the racial equity costs of doing nothing.

The legislation identifies displacement as a core racial equity concern, yet land use actions can carry many other implications for racial equity that are not currently discussed in the bill, such as impacts on exclusion, segregation, and access to opportunity. The racial disparity reports should actively measure risks and opportunities for racial equity beyond displacement, to ensure they cannot be co-opted by NIMBY efforts to prevent development citywide.

The current process to rezone SoHo/NoHo demonstrates why these broader assessments are needed, and why displacement is not the only framework for racial equity in land use. In the absence of clear, unbiased data, wealthy communities have been known to oppose upzonings in their neighborhood, where the addition of desperately needed housing supply would further fair housing goals. Many SoHo/NoHo residents have repeatedly made such claims, despite the fact that their neighborhood is one of the Whitest and most expensive areas in the city. Community members have resorted to citing celebrities of color who may or may not own homes in SoHo/NoHo, in an attempt to prove that the neighborhood is racially inclusive enough.

In reality, providing affordable housing opportunities in areas like SoHo/NoHo would increase access to opportunity for hundreds of New Yorkers of color and reduce exclusion in a neighborhood that has long been reserved for predominantly White and affluent residents. The conversations around the rezoning would clearly benefit from data and analysis to highlight these opportunities, demonstrate the racial equity risks of *not* upzoning SoHo/NoHo, and allow for the debunking of unsubstantiated claims. By including additional risk and opportunity assessments in the legislation, the City can better ensure that racial impact reports broadly serve their intended goals.

CHPC also recommends requiring the reports to measure the costs of doing nothing to better incorporate the racial equity impacts of housing need. New Yorkers of color are disproportionately affected by the city's lack of housing supply and unmet affordability needs, comprising 92% of residents experiencing homelessness. Housing need and homelessness are both racial equity issues, and *not taking* land use actions that would allow affordable housing needs to be met anywhere in the city inherently comes at an equity cost.

Assessing the racial equity impacts of public policy is paramount, yet it is crucial to ensure that our analysis cannot be leveraged in ways that prevent affordable housing needs from being met. New York faces a severe need for additional housing stock. It is critical to ensure that the proposed process serves its intended purpose of advancing racial equity goals, and does not merely create opportunities to delay or oppose needed development that would advance those goals.

WRITTEN TESTIMONY IN SUPPORT OF INT. 1572-A  
NEW YORK CITY COUNCIL, COMMITTEE ON LAND USE  
Susanna Schaller: [s.f.schaller@gmail.com](mailto:s.f.schaller@gmail.com) \* (646) 321-0906  
Submitted on January 14, 2021

My name is Susanna Schaller. I am an associate professor of Urban Studies, Planning and Administration at The City College of New York. I am also a member of Inwood Legal Action and Northern Manhattan Not for Sale. The positions I take here on the Proposed Int. No. 1572-A, a local law to amend the New York City Charter in relation to a racial disparity report for certain land use applications, are mine alone and not that of the CUNY College with which I am affiliated.

I applaud Public Advocate Williams, Land Use Chair Rafael Salamanca and the City Councilmember, co-sponsoring Int. No. 1572-A, and I commend the City Council for their leadership in developing a legal mechanism to require a racial disparity analysis for certain land use and zoning actions.

Inwood Legal Action as you know sued to compel the City to conduct this kind of analysis. But, the City refused. Although we won our initial case, the Appellate Court reaffirmed the City's discretion in its use of the CEQR manual. Further, the Appellate Court indicated that legislative action would be necessary to require the City to study the racial impacts of proposed land use actions on residents and small businesses, and particularly minority- and women- owned businesses. Intro. 1562-A is a step in that direction.

The proposed law will align the City's land use planning with the planning profession's aspiration, embedded in its code of ethics, to "seek social justice by working to expand choice and opportunity for all persons, *recognizing a special responsibility to plan for the needs of the disadvantaged and to promote racial and economic integration.*" This aspiration as the proposed legislation recognizes is only achievable if the City is required to comprehensively evaluate the potential impacts of their plans. Given the history of planning, which has been used by privileged forces to create as per *policy* inequitable racialized neighborhood geographies, a racial disparity analysis of the type proposed in Intro. 1572-A is the only way to confront and begin to slow down and halt the reproduction of these disparities and eventually redress the historical inequities that land use planning, especially, has wrought.<sup>1</sup>

As we know even in recent history, since the Bloomberg administration rolled out its rezoning plans, communities of color have seen disproportionately high displacement trends. Yet, even the de Blasio administration has refused to study the relationship between the City's past and own proposed land use actions and the racially disparate

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<sup>1</sup> Richard Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America*, First edition (New York ; London: Liveright Publishing Corporation, a division of W. W. Norton & Company, 2017).

outcomes they have induced. Instead, the City has preferred to plan blindly, without examining the specific impacts of its plans or the actual outcomes. This legislation finally requires the City to illuminate the specific context onto which its planning strategies are layered, a context shaped by policies that explicitly employed tools (restrictive covenants, redlining, urban renewal, zoning more broadly, etc.) to benefit whites and “white” places and limit the opportunities of non-white neighborhoods. A racial disparity report, by showing the interaction between past actions and projected future development, might finally inform the implementation of planning strategies that are designed to proactively achieve racial equity goals.

The de Blasio administration’s Mandatory Inclusionary Housing (MIH) program, a city-wide program, as community advocates have noted, is likely to reinforce racial segregation. Inclusionary Housing programs were developed to integrate white, wealthy suburbs to redress the impacts of racially exclusionary planning policies.<sup>2</sup> Instead, the City’s plans targeted neighborhoods whose demographic characteristics and development trends already indicated gentrification was a serious threat. MIH has created a dynamic where neighborhoods, like Inwood, have been prepped for the development of a disproportionate number of market rate housing, while the MIH program ignored how the little affordable housing it proposed might relate to the neighborhood’s local AMI. Moreover, as The Furman Center in its report on MIH had noted, the zoning incentive structure is designed to work in hot property markets; in other markets, it would require additional government subsidy to ensure affordable housing production.<sup>3</sup> The City’s approach inverted the original intent of MIH programs, namely to integrate largely white, wealthy areas and instead targeted neighborhoods where racially disparate displacement trends are likely to accelerate due to its land use actions. In addition, the City failed to provide the subsidies needed to create truly affordable housing in the neighborhoods it targeted.

The City also does not look at its analysis holistically where neighborhood economies are concerned.<sup>4</sup> Thus, our call to analyze the impact the rezoning of Inwood might have on its minority- and women-owned businesses fell on deaf ears. The problem here is that the City views small business displacement as the loss of abstract and discrete economic entities and categories of products and services. But small businesses are also entities that

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<sup>2</sup> Marc Seitles, “The Perpetuation of Residential Racial Segregation in America: Historical Discrimination, Modern Forms of Exclusion, and Inclusionary Remedies,” *Journal of Land Use and Environment* 12, no. 1 (1998): 89–124; Samuel Stein, “Progress for Whom, toward What? Progressive Politics and New York City’s Mandatory Inclusionary Housing,” *Journal of Urban Affairs* 40, no. 6 (August 18, 2018): 770–81, <https://doi.org/10.1080/07352166.2017.1403854>.

<sup>3</sup> [http://furmancenter.org/files/NYUFurmanCenter\\_GentrificationResponse\\_26OCT2016.pdf](http://furmancenter.org/files/NYUFurmanCenter_GentrificationResponse_26OCT2016.pdf)

<sup>4</sup> Shawn L. Rickenbacker, John Krinsky, and Susanna Schaller, “Inwood Rezoning Proposal: Review and Report” (The City College of New York, CUNY, July 25, 2018).

build economic resiliency through interdependent economic relationships (supply chains) that are likely more closely tied to and contribute to local and regional economies<sup>5</sup> as well as through the social relationships and cultural neighborhood ties that they sustain and strengthen.<sup>6</sup> Finally, in ignoring and not studying the potential loss of minority- and women-owned businesses, the City through its land use actions may in fact be destroying the existing and endogenously produced capital in communities of color, thereby contributing to the destruction of actual wealth in these neighborhoods and the erosion of future wealth-building opportunities.

Notably, the City's failure to scrutinize its land use plans in relation to one another or in the broader context leads to fragmented analyses. This means the City's analysis is unlikely to accurately reflect the likely development scenario to emerge on the neighborhood level or to capture city-wide trends public policy and planning actions are propelling.

For example, in the Inwood case, before the plan was approved by the City Council and before the Environmental Review was finalized, the census tracts inside the proposed rezoning area were designated an Opportunity Zone (OZ), which allows investors in local real estate development projects to shelter their capital gains taxes.<sup>7</sup> It was disingenuous of the City to not take into consideration how an OZ designation might impact "market trends" and future development in interaction with a rezoning (changing land use designations) and upzoning (allowing additional FAR). An administration, like the de Blasio's administration, which built its campaign image around the pursuit of racial equity, should have opened up a planning process in response to the OZ designation in order to develop strategies and tools to channel the development in ways that would ensure equity goals, including deeper housing affordability and affordable street-level commercial spaces, might be realized.<sup>8</sup> One way could have been to target the income bands under

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<sup>5</sup> Civic Economics, "Independent BC: Small Business And The British Columbia Economy," February 2013. This is only one study. San Francisco, Austin and US cities have contracted with Civic Economics to assess how independently owned business contribute to the economy as compared with formula stores. Small businesses also add to neighborhood resiliency in the face of neighborhood hardships or outright disasters. Stacy Mitchell, "Locally Owned Businesses Can Help Communities Thrive – and Survive Climate Change," June 12, 2013, <http://grist.org/cities/locally-owned-businesses-can-help-communities-thrive-and-survive-climate-change/>

<sup>6</sup> Eric Klinenberg, *Palaces for the People: How Social Infrastructure Can Help Fight Inequality, Polarization, and the Decline of Civic Life*, First Edition (New York: Crown, 2018).

<sup>7</sup> Rejane Frederick and Guillermo Ortiz, "Promise and Opportunity Deferred: Why the United States Has Failed to Achieve Equitable and Inclusive Communities" (Center for American Progress, February 20, 2020), <https://www.americanprogress.org/issues/poverty/reports/2020/02/20/480640/promise-opportunity-deferred/>.

<sup>8</sup> Adam Looney, "Will Opportunity Zones Help Distressed Residents or Be a Tax Cut for Gentrification?" (Washington, D.C.: Brookings Institution, February 26, 2018), <https://www.brookings.edu/blog/up-front/2018/02/26/will-opportunity-zones-help-distressed-residents-or-be-a-tax-cut-for-gentrification/>.

MIH more closely to the local AMI given that public action was providing a windfall through 1) the land use action and 2) through the Opportunity Zone designation.

Instead, by not transparently analyzing the various public policies that might impact development in a given geographic area, the City only continues both to underestimate racially disparate displacement trends and to forego opportunities to leverage tools, like the OZ, to pursue racial equity goals.

This proposed legislation is a great first step. Policy makers and city councilmembers will no longer be left to make decisions blindly with regard to the potential racially disparate impacts these land use plans might unleash. No longer will the City be able to fall back on liberal tropes, like “colorblindness” and decontextualized economic arguments, in advancing its land use plans.<sup>9</sup>

The City’s current planning approach which has privileged land use and zoning plans fails to capture the complex interactions between land use changes, governing partnerships, and tax districts (like opportunity zones, tax increment financing districts, etc.), for example, that shape development as well as gentrification and displacement trends.<sup>10</sup> The next step will be to require the City to plan more comprehensively and to tie this comprehensive planning 1) to the pursuit of specifically articulated racial equity **goals** and 2) to governance tools and mechanisms designed to achieve racial equity **outcomes**.

I thank you for your service and for the opportunity to submit this testimony to you today.

Sincerely,

Susanna Schaller, PhD in City and Regional Planning  
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(646)-321-0906

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<sup>9</sup> Eduardo Bonilla Silva, *Racism without Racists: Colorblind Racism & Racial Inequality in Contemporary in America*, 3rd Edition (New York: Roman and Littlefield, 2010).

<sup>10</sup> Tom Angotti and Sylvia Morse, eds., *Zoned out! Race, Displacement, and City Planning in New York City*, Urban research (UR) 7 (New York City: Terreform, 2016); Susanna Schaller, *Business Improvement Districts and the Contradictions of Placemaking: BID Urbanism in Washington, D.C.* (Athens: University of Georgia Press, 2019).



## Testimony of Summer Sandoval

### Energy Democracy Coordinator, UPROSE

New York City Council Committee on Land Use

Hearing on Proposed Int. No. 1572-A

January 11th, 2021

Thank you for the opportunity to submit testimony today regarding the proposed Int. No. 1572-A requiring a racial disparity report for certain land use applications. My name is Summer Sandoval and I am here on behalf of UPROSE and NYC Environmental Justice Alliance to share our position and concerns about the proposal. Founded in 1966, UPROSE is Brooklyn's oldest Latino community-based organization and is located in Sunset Park.

UPROSE is an intergenerational, WOC-led organization working at the intersection of racial justice and climate change. UPROSE led the fight against the recently defeated Industry City rezoning application that threatened residential and small business displacement, social cohesion, creation of thousands of well-paid climate jobs, and the ability of NYC's largest Significant Maritime Industrial Area (SMIA) to be utilized for climate adaptation, mitigation, and a just recovery. On the heels of our community-led victory, we must look critically at and amend the land use review processes that have allowed countless private developers such as Jamestown Properties to harass, displace, and undermine community planning and leadership and use outdated development models that do **NOT** allow communities to utilize the few and invaluable industrial sectors to build for our climate future or economic resilience.

We strongly support Intro 1572-A, and it's intention to analyze and allow for racial impacts to help make land use decisions for NYC. This proposal is a first step in reforming the city's land use review process that has historically helped private profit at the expense of community needs and leadership and resulting in repeated patterns of massive displacement. Our testimony outlines the important questions and areas to strengthen the proposal in promoting equity in planning.

Intro 1572-A is a necessary attempt to capture some of the analyses and areas that CEQR and the ULURP process fails to address. But the proposal must integrate more

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community leadership for it to be an effective tool to protect communities and community priorities in the era of climate change and COVID-19.

### ***Implementation***

We have concerns around implementation and accountability of the reporting. There needs to be more clarity in regards to who will be responsible for completing the reporting, how the quality and transparency of the results will be ensured, the entity that will be responsible for verifying and approving the results, how this reporting requirement complements the CEQR technical manual and Environmental Review process, and how the results of the report be determined and interpreted. The clarity and transparency of implementation will be the difference between a checklist item and an effective community tool.

### ***Definitions***

We need clear and strong thresholds and baselines for what determines a “significant impact” and how those results will be enforced. The terms “trend” and “displacement risk” also need further definition to address displacement and loss of social cohesion threats over time. We must have a collaborative process to help determine what type of data and how the data will be used to build a reporting procedure that is able to capture cumulative impacts that threatens environmental justice communities across NYC.

This proposal cannot be informed by conventional metrics such as Area Median Income that have failed to meaningfully support communities. AMI hurts low-income communities of color the most because it does not capture local “affordability” issues. The sole 30% income metric to determine “rent burden” is also insufficient and does not take into account vast disparity between low and high income households and their financial ability to afford basic needs such as food security and healthcare.

### ***Impacts***

1572-A must help de-silo review processes by including the impacts of health, climate change, pollution, and COVID-19 to the findings, and how results will not only look at mitigation, but be proactive in supporting community needs.

The ½ mile radius metric is not adequate in reflecting project impacts. Larger and unique projects may not only threaten the community they are sited in, but adjacent neighborhoods. The ½ radius must be a minimum, with community district as an added category.

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The report mainly focuses on residential displacement and needs to include small local businesses that play an integral role in social cohesion and local economic wealth building.

Thank you for the opportunity to testify. We support the 1572-A proposal, and look forward to being a part of making the necessary modifications in order to realize its intentions of centering racial justice in NYC land use review and becoming a tool that won't only protect but SUPPORT community-led projects and processes.

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