WHERE WILL NEW YORKERS LIVE?
OVERHAULING NEW YORK CITY’S HOUSING POLICY
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The following content and conclusions of this report are the sole responsibility of the authors and are not necessarily reflective of the views of interviewed individuals or their accompanying organizations.
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Executive Summary

This Studio seeks to reframe housing policy in New York City, to better meet the needs of current and future residents. Today, housing is unaffordable to far too many New Yorkers. In 2010, over half of all New York City renters were rent-burdened (paying more than 30% of their household income in rent), and about a third were severely rent-burdened (paying more than 50% of their household income in rent). Further, New York City’s population is growing--while housing that is affordable to low and middle-income New Yorkers continues to decrease. The New York City Department of City Planning has projected an additional one million residents by 2030. Therefore, New York City must create an additional 318,500 housing units in the next eighteen years--a rate of production the City has never achieved. Further, 95,550 units will be needed for New York City’s lowest income families.

Housing policies in New York City have increasingly over-commodified the production and distribution of housing, shifting the focus from the residents’ needs. In addition, housing policy in New York City is not integrated into a comprehensive planning process. The Studio recommends that New York City rethink housing policy by:

• Limiting the over-commodification of housing by strengthening existing programs, including rent regulation.

• Increasing housing production by reducing development costs and creating a new/evolved transfer of development rights program.

• Implementing housing preservation and housing production through a comprehensive and community-based planning process.

The Studio envisions safe, comfortable, and affordable housing for all New Yorkers--an outcome that can only be achieved through a participatory planning process.
Introduction

Client

This report was prepared for New York Assemblymember Robert J. Rodriguez, a Democrat, elected to the New York Assembly in 2010. Assemblymember Rodriguez represents the 68th District, which includes East Harlem in Manhattan. He has been a lifelong resident of the neighborhood, and served as Chair of Community Board 11. He has a B.A. in history and political science from Yale University and an M.B.A. from New York University. Prior to his election, Assemblymember Rodriguez worked as Vice-President of a minority-owned public finance firm.

Assemblymember Rodriguez is committed to improving New Yorkers’ access to affordable housing, jobs, and education. He charged our Studio with investigating improvements to the housing system. Informed by the historical trajectory of New York City’s housing policy, the Studio is concerned with both housing preservation and production.

Methodology

The Studio focused on structural impediments to housing production by analyzing the system of housing provision, and by examining citywide housing policy. The Studio’s methodology included:
WHERE WILL NEW YORKERS LIVE?

- A historical analysis of housing policy at the local, state, and federal levels
- An assessment of current New York City housing programs
- A demographic analysis of New York City’s current population
- An assessment of growth projections for the city
- An evaluation of current zoning regulations
- A review of best practices in other American cities

Further, to develop an understanding of existing proposals to change the system, the Studio met with a range of housing professionals. Among those interviewed were non-profit and for-profit real estate developers, staff at the New York City Department of Housing Preservation and Development (HPD) and the Department of City Planning (DCP), and representatives from the Real Estate Board of New York (REBNY), community boards, and community development corporations (CDCs). Their insights steered our research and recommendations.

**Conceptual Framework**

New York City’s housing system is broken and in need of a reconceptualization. The current system fails to provide adequate housing for New Yorkers across the income spectrum. Housing policy privileges economic institutions and considerations over housing’s importance to people’s lives. Discrete programs and initiatives do not begin to address the housing crisis— a holistic approach is necessary.

The Studio recognizes that the need for housing can only be addressed in concert with an address of other concerns tied to health, education, employment, transportation, and policing. However, these policy spheres have been separated from each other in practice. Further, they are developed with limited input from the people they serve. This isolation promotes an abstracted, reductionist understanding of housing, where the people policy is supposed to serve fall increasingly out of focus. Housing policy should prioritize people through comprehensive community-based planning.
The Studio seeks to transform how housing policy is discussed and implemented in New York City. Housing is the biggest sector of the United States economy, the physically dominant land use, and the largest expenditure of almost all American families. New York City has been at the forefront of housing policy innovation since its creation of the first housing quality law in the nation, in 1879. Despite local government’s proactive involvement, New York City has faced a perpetual affordability crisis. While housing was always clearly important to New York City’s social stability, it was rarely treated as a priority in its own right by decision-makers. Rather, housing provision was often approached as a strategy to achieve other policy goals, particularly economic development.

The recent fiscal crisis laid bare how inadequate market-based solutions are to meeting the housing needs of the majority of New York City’s population. It also highlighted just how much of the government’s historic function has been ceded to private interests, which makes finding solutions to the current crisis extremely difficult. New York City is a dynamic place with a growing population with changing housing needs. Therefore, it is essential that policy-makers and public officials embrace significant changes as current approaches are not only failing, but in some cases exacerbating housing production and affordability problems.

There is a great opportunity to stop relying on reactive, short-term fixes to address structural inadequacies. The recent economic recession caused by the over-commodification of housing and real estate speculation has led to a renewed call for equity. The recognition of widening wealth
disparities supports a re-evaluation of housing’s over-commodification. Following Mayor Bloomberg’s 3-term tenure, New York City has an opportunity to reprioritize how housing is addressed. This Studio’s thesis proposes to build on this context.

The increasing commodification of housing results in inequitable burdens among New Yorkers, which will deepen if policy does not prioritize housing as a human need.

**Commodification** is the process by which goods, services, or ideas that may not be recognized as having economic value are turned into entities that can be bought and sold in a market. The commodification of housing is as old as the creation of private property and can serve useful purposes. However, within the past 100 years the importance of housing as an economic investment has superseded its importance as a social good in the realm of politics and public policy. The commodification of housing exists on a policy continuum with one end entirely outside of a market and the opposite entirely for its exchange value.

A **human need** is essential for an individual or community to maintain their existence and fully participate in larger society. Many needs are absolute, such as the need for a minimum level of nutrition and shelter from the elements. However, in our contemporary urban society many needs are contextually determined. The point at which human needs transcend the rudiments of physical survival involves a subjective dimension that requires a qualitative understanding of community standards and human aspirations.

As it relates to the human need for housing, our definition of need goes beyond the simple right to shelter. Indeed, New York has a “right to shelter” provision in the state constitution.\(^2\) However, mere shelter from the elements is inadequate. Our definition of the human need for housing includes:

- Decent and safe housing conditions
- Affordability
- Stability (rights of tenure)

The Studio intentionally adopted the language of needs over rights.
The discourse of “Housing as a Human Right” has been a powerful tool for mobilizing marginalized communities, however the creation of new rights in the legal system does not ensure that the needs they reference will be adequately met through policy. Using a rights framework requires continued political pressure and a reprioritization of public and legal values. A human right to housing approach can easily get enmeshed in a legal regime with contradictory pressures. For instance, private property rights can interfere with housing as a right. The difficulty of rectifying these differences in law can lead to government cooptation of the language of rights, masking the underlying problem.

ENDNOTES


New York City Context

New York City is densely populated, predominantly occupied by renters. In price, tenure, and style, the City’s housing stock spans the spectrum from opulent to impoverished, reflecting the drastic economic disparities that exist among the New York City’s residents. New York City has varied housing in close proximity: public housing next to brownstone blocks and single-family homes alongside luxury condo towers. The City’s major housing tenure laws are unique. The largest portion of rental units are rent-regulated, while owner-occupied housing includes many condominium and co-op units. New York City’s dense public transportation network, and rapid inflow and outflow of domestic migrants and foreign immigrants, add to the unique nature of the city’s housing market.

Current Rental Housing Stock

In 2010, there were approximately 3.4 million residential units in the New York City. Two thirds were occupied by renters, and one-third was owner-occupied. Of the rental stock, 47% or 1.025 million units were rent-regulated. Unregulated market rentals made up the second largest portion of the city’s rental stock at 39% or 849,800 units.

Current Public And Subsidized Housing Stock

Public and subsidized housing, including New York City Housing Authority (NYCHA) units, the Department of Housing and Urban Development
HUD subsidized housing, and Mitchell-Lama rentals comprised of 14% of the total rental stock or 297,620 units. Of this portion of the housing stock, there were 178,000 (59.8%) NYCHA units, 46,000 (15.5%) project-based Section 8 units, 35,000 (11.8%) Mitchell-Lama rentals, and 17,000 (5.7%) Section 202 units for seniors. [For further explanation of each program, see Appendix A.]

**Homeownership**

According to the most recent homeownership data available – the 2008 Housing Vacancy Survey – there were 1,046,000 owner-occupied units in the City; 61% were conventionally owned, 26% were private cooperatives, 9% were condominiums, and 3% were Mitchell-Lama cooperatives. Despite the importance of the owner-occupied housing sector in the discourse about over-commodification – especially in light of the 2008 foreclosure crisis – the Studio primarily focused on rental units. Housing policy in New York City has historically focused on the rental sector. Further, information and data relating to rentals is tracked with greater detail by city agencies, than information about owner occupied units.

**Income: Renters vs. Owners**

The median income for all households was $48,040 in 2010. As illustrated in figure 6, homeowners earn nearly twice that of renters. Households in condominium units had the highest income, at $82,800, followed by that of households in private cooperative units, at $82,000. The income of households in conventional owner units was $66,600, while the income of households living in Mitchell-Lama cooperative units was $36,532, the lowest income among homeowner household groups. The contrast between the income of households living in conventional owner-occupied units, and co-ops/condos is striking.

In 2010, the median income of rent-regulated households was $37,000, significantly lower than $52,260, the income of market rental households. The income of rent-regulated households is comparable to the income of households living...
in Mitchell-Lama cooperatives. Households residing in public and subsidized housing had a median income of $17,716, the lowest across all tenure types.11

A Rent-Burdened City

As illustrated in Figure 3, 47% of residential units in New York City are either rent-regulated or subsidized. Despite this, New Yorkers across all income brackets struggle with their housing costs. In 2010, over half of all New York City renters were rent-burdened (paying more than 30% of their household income in rent) and about a third were severely rent-burdened (paying more than 50% of their household income in rent).12

The effects of high rent-burdens are experienced on an individual level, but also affect the neighborhood and the city. One by-product of rent-burdens is overcrowding, which is unsafe for both residents and the surrounding community. In 2010, 12% of renter households lived in overcrowded conditions.13

Chronic rent-burdens can have long-term consequences for households. According to Tom Waters of the Community Service Society, “if your household is under greater strain because of high rents, you’re going to have less ability to do things in the long term that lead to increasing income.” It is difficult for rent-burdened households to pay for education, childcare or job training opportunities.14 As result – for both low and middle-income households – high rent-burdens can trigger a descent into poverty.21 Further, high rent-burdens may cause complete displacement from New York City. According to a 2006 Bloomberg Administration study, 64% of recent domestic migrants out of New York City considered the cost of housing to be a key issue for them.15

A Failed Response to the Crisis

New York City has struggled to find an appropriate response to the lack of affordable housing. Major housing subsidy programs – including NYCHA, Section 8, and Mitchell-Lama – are no longer producing housing (see figure 7). Active subsidy programs – including Low-income Housing Tax Credits (LIHTC) and Inclusionary Zoning –are not meeting the overwhelming demand for affordable and middle-income housing. As a result of both market pressure and deregulation, the supply of both
private and subsidized affordable and middle-income housing has also declined, further exacerbating the crisis.

The private market has also failed to meet New Yorkers’ housing needs. According to a number of experts interviewed by our Studio – including developers and a representative of REBNY – luxury housing production has been by far the most viable for developers in the last fifteen years. High land costs, a complex building code, and unpredictable tax assessments increase housing production costs such that the construction of non-luxury housing is not profitable. At the same time, New York City’s worldwide appeal creates a global market for newly produced luxury units. Housing for people who need it most – rent-burdened low and middle-income households – simply does not get produced.

**A Growing Concern**

In 2007, PlaNYC, Mayor Bloomberg’s sustainability plan for New York City, the New York City Department of City Planning (DCP) projected one million new residents would inhabit New York City by 2030. For

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**Fig. 7. Decreasing Affordable Units**

Source: Housing Vacancy Survey 2008; Affordable Housing Handbook by CUP; NYCHA Factsheet 2011
PlaNYC 2030 projection of one million new residents by 2030, DCP used data from 1980-2005 as the baseline for trends—a period of high-level sustained growth.¹⁶

According to current census data, New York City has gained about 175,000 residents since this 2007 projection. To accommodate for the additional 825,000 new New Yorkers, the City needs to add roughly 318,500 units in the next eighteen years. The units needed calculation is based on 825,000 residents divided by the current household size rate of 2.59 (2010 Census).

Fig. 8. Population Growth Projection by New York City Department of City Planning
Source: U.S. Bureau of the Census, New York City Department of City Planning
ENDNOTES

2. Ibid.
3. Ibid.
10. Ibid.
11. Ibid.
12. Ibid.
13. Ibid.
15. Ibid.
Commodification of Housing

New York City’s current housing stock composition is the direct result of the interaction between housing policy and the market. Despite heavy public investment in housing during the 1940s to 1960s, the U.S. in general, and, New York City in particular, did not develop a comprehensive and integrated housing policy.

In the 1970s, the public sector’s role in housing provision shifted from direct participation to facilitation of private development. Market-based responses to the housing crisis were fully entrenched by the 1980s, as a result of policy reprioritization on the city, state, and federal level. Overrepresentation of private interests in housing policy, minimal public oversight of housing provision, and the national shift towards neoliberal economic policy approaches resulted in the over-commodification of New York City’s housing stock. The failure of current housing policy to address the underlying problem of over-commodification has further exacerbated the housing crisis, as illustrated by the wave of predatory equity investment in the mid-2000s.

Early Public Housing Policy

New Deal legislation set the groundwork for 20th century American housing policy. According to planner, academic, and author Lawrence Vale, Americans, unlike the Western Europeans, resisted the notion of putting significant government subsidies into housing. It took the Great Depression to force the issue, and even then, housing production was simply a part of a job-creation scheme.¹ The Housing Acts of 1934 and 1937 created the Federal Housing Administration and the Federal
Housing Authority (FHA), respectively. FHA provided funds to local housing authorities (LHA) for public housing construction. The 1949 Housing Act expanded the City’s slum clearance program, and extended federal money to build more than 800,000 public housing units.\(^2\) The act also expanded the federal role in mortgage insurance, precipitating sweeping subsidies for homeowners.\(^3\) Despite the housing-related New Deal legislation, resistance to government interference in the real estate market restricted the implementation of a comprehensive housing policy on either the national or local level.

New York City was a major recipient of federal housing funding. In addition, both New York City and New York State introduced subsidies for affordable and middle-income housing production, through NYCHA and the Mitchell-Lama program. Further, New York State directly intervened in the real estate market, by extending war-time rent regulatory controls in the late 1940s.\(^4\) A large portion of New York City’s existing affordable housing stock was built during this time period.

### New York City’s Fiscal Crisis

As the federal government radically restructured its housing programs in the early 1970s, New York City entered a fiscal crisis. The root causes of the crisis were complex, including the changing nature of New York City’s economic ties to the rest of the world, the global financial recession, and...
the failure of the federal government to support the City proportional to its population’s needs. Further, author Kim Moody argues that the tax-free office development boom of the early 1970’s contributed to the depletion of city revenues, leading to the desperate practice of short-term borrowing by the City to ensure the basic welfare of low – and middle-income residents.

The fiscal crisis devastated New York City, resulting in major disinvestment in the city’s neighborhoods, wide scale property abandonment resulting in further revenue loss, and a major population decrease. To encourage tax collection, HPD initiated in rem foreclosure proceedings on tax delinquent landlords. Rather than encourage payment, the strategy left the City owning tens of thousands of vacant lots, and distressed occupied and vacant buildings. Further, the disparity between median incomes and median rents surged in the 1980s post-crisis period, contributing to an increase in homelessness.

The crisis presented an opportunity for the City and State’s financial and real estate industry leaders to restructure governmental priorities. Influential business interests attacked staples of the pre-1974 housing landscape as being causal factors for the City’s fiscal woes. At the same time, the widespread capital withdrawal laid the groundwork for aggressive housing speculation, which started as early as the 1980s on the Lower East Side, and in other disinvested neighborhoods.

As a result of housing policy reprioritization on the local and national level, market-driven projects became the preferred housing development model, with private interests taking an increased role in project planning. The 80/20 and 421a programs were both created to encourage private housing development through tax incentives. On the federal level, the Reagan administration introduced the Low-income Housing Tax Credit (LIHTC) in 1986. Enacted in the context of tax reform, LIHTC incentivized private investment in the production of housing, creating equity for developers to cover the costs of construction or rehabilitation.

**New York City’s Rebound**

In the early 1990s, the City began its rapid rebound from the fiscal crisis. New York City reasserted itself as a global power, with the FIRE (finance, insurance, and real estate) industries supplanting manufacturing and port activity as major economic generators. The luxury housing market
grew rapidly, bolstered by the wave of investment in pied-à-terre apartments by international elites. In 2005, Department of Housing Preservation and Development (HPD) released The New Housing Marketplace: Creating Housing for the Next Generation. The report detailed a “10-year plan [2004-2013] to create and preserve 165,000 units of affordable housing,” which focused on the production of affordable units with developer incentives like inclusionary zoning. As the city focused on the production of new units through market subsidies, predatory equity – a newly developing crisis directly linked to over-commodification – rapidly eroded the city’s private and subsidized housing stock.

Predatory Equity

Predatory equity is a primary example of the increasing over-commodification of New York City’s housing. Leading up to the 2008 financial crisis, speculative private equity firms secured large bank loans to buy low and middle-income multi-family buildings in neighborhoods including Harlem, Washington Heights, the Lower East Side, North and Central Bronx, Sunnyside, Corona, Jamaica, Rego Park, Bedford Stuyvesant, Ft. Greene, and others. The developers then overleveraged the buildings with additional mortgages, from banks or other lenders. The end goal was to rapidly convert the buildings to higher income housing, and resell it for a quick profit. Frequently, tenants of overleveraged buildings faced harassment, as predatory equity landlords sought to displace them.

Predatory equity practices began to unravel in the wake of the financial crisis. The result has been a wave of mortgage defaults on multi-family affordable housing buildings. An additional 100,000 affordable units are currently “overleveraged”, and at risk of foreclosure. Tenants in foreclosed and overleveraged buildings face deteriorating conditions, as operating expense budgets are used to pay unsustainable mortgages. The aggressive over-commodification of buildings as a result of predatory equity had a devastating effect on residents, effecting familiar relationships and mental health, and neighborhoods, as their homes deteriorated.

The prospect of converting subsidized and regulated housing to the free market spurred highly speculative investment by private equity firms which had previously ignored the affordable housing market.
Unless housing policy addresses over-commodification head on, New York City will indefinitely play catch up to an ever deepening housing crisis.

ENDNOTES

10. Ibid. 66-67.
16. Ibid.
18. Ibid.
21. Ibid.
Planning & Trajectory

History of Zoning in New York City

Zoning is a planning tool that regulates the use and form of the built environment. Zoning controls the location, scale, and type of housing created. Health and safety concerns resulting from rapid population growth and industrialization were the main impetus for the creation of zoning ordinances across the nation in the early 20th century. Early advocates of zoning in New York City, cited the need for light and open space to combat infectious disease. However, public welfare was secondary to the centralization of power, allowing to plan the city as a whole. Zoning sought to address civic beautification, rationalizing transportation infrastructure, segregating populations, and introducing predictability into property markets.¹ Urban Planner and designer, Todd Bressi, has commented, “a key factor in the enactment of zoning was the depressed state of the real estate industry.”² After more than twenty years of debate the “decisive factor in the passage of (zoning) legislation in 1916 was the desire to protect property values, especially the high and extremely vulnerable values of commercial land in Manhattan.”³

Zoning as Comprehensive Plan

New York State currently has comprehensive plan requirements for cities, villages, and towns which have zoning enabled statues.⁴ Comprehensive plans may include, but are not limited to: land use planning, transportation planning, environmental planning, utilities and infrastructure planning, and planning for housing.⁵ Ideally, different planning sectors are addressed in coordination, creating a comprehensive or master plan for
a municipality. Over the years, New York State courts have determined that a singular comprehensive document with the elements described above, is not necessary to fulfill the condition of a comprehensive plan. A zoning resolution can act as a substitute for a comprehensive plan, as long the resolution contains "zoning that is calculated to serve the community’s general welfare." Thus, with the current Zoning Resolution, New York City is in compliance with state requirements for comprehensive planning. However, New York State’s legal definition of comprehensive planning is outside of the norm. New York is the only large city in the U.S. which does not currently have a comprehensive plan “to guide land use, siting, and economic development decisions.” A lack of a comprehensive plan accounts for the poor coordination between policy addressing housing and other needs.

**Zoning Under Bloomberg**

Under the current administration, DCP has undertaken 115 separate rezonings since 2002. There have been more rezonings under the Bloomberg administration than the previous six mayoral administrations combined. These rezonings have affected one fifth of the city’s landscape. The Bloomberg administration has chosen to use alterations to the zoning code as one of its primary methods for achieving policy goals such as neighborhood preservation, or facilitation of economic development. Many of the rezonings changed the restrictions on older manufacturing districts to enable more residential and commercial uses.

The Furman Center report “How Have Recent Rezonings Affected the City’s Ability to Grow?” sheds light on rezonings’ effects on the neighborhoods in which they are situated, and on the city as a whole. The report distinguishes between three types of rezonings, in the context of residential capacity: up-zonings, downzonings, and contextual-only rezonings. They analyze the change in residential capacity by measuring floor area ratio (FAR), which is the dominant bulk regulation on buildings; the FAR is the ratio between the building’s total floor area and the zoning lot the building sits on.

The report finds that the rezonings were not equally distributed among neighborhoods. Poorer neighborhoods with residents of color were more likely to be up-zoned to make room for intensified development, while more affluent neighborhoods were more likely to be downzoned, or preserved through contextual-only zoning. The report notes that contextual district
restrictions often limit or reduce potential growth in difficult to measure ways. For instance, part of the Dyker Heights, Brooklyn contextual rezoning eliminated the possibility of row house or apartment building construction, in favor of the existing detached and semi-detached scale.\textsuperscript{11} Other parts of the city requested downzoning as a way to deal with perceived “run-away” development. For example, in Queens, Bayside and Cambria have been re-zoned to control development out of scale with the neighborhood.\textsuperscript{13} Other areas such as Downtown Brooklyn have been up-zoned to encourage commercial office space development, but in fact led to increased luxury housing production. All of these rezonings show that a segmented, uncoordinated rezoning process is likely to intensify structural inequalities, as communities mobilize their vastly unequal resources with different outcomes.

**PlaNYC Fills the Void?**

PlaNYC 2030, presented by Mayor Bloomberg on Earth Day of 2007, mimics a comprehensive plan, without engaging in a comprehensive planning process. Throughout the Plan’s latest 2011 update, there are individual testimonies from residents about the plan’s importance. However, the administration did not undertake a larger planning process to formulate the content and goals of the plan.

Throughout PlaNYC, community participation is implied. The first line in the 2011 update states, “four years ago we asked what we want our city to look and feel like in 2030.”\textsuperscript{14} However, the public’s participation in the plan was an \textit{ad hoc} process. The Bloomberg Administration identified the focus and goals of PlaNYC and later asked the public to help with initiatives, based on the Plan. PlaNYC has been instrumental in educating New Yorkers about energy use and environmental stewardship. However, it is not an example of a community led planning process. As the Pratt Center explains, PlaNYC “provides an important framework for reducing carbon emissions, accommodating growth, and improving infrastructure,” but is not an “instrument for land use planning or public participation.”\textsuperscript{15}

PlaNYC does not fully address many important planning challenges facing New York City today, including the housing crisis. According to WNYC producer Paige Cowett, PlaNYC does not address economic and social equality.\textsuperscript{16} She adds, “PlaNYC conspicuously omits planning for economic development and job growth and instead suggests
that improving the physical city will necessarily lead to economic opportunity.”¹⁷ Columbia University Professor Peter Marcuse reinforces this critique highlighting that the plan is “a product of the Deputy Mayor for Economic Development.”¹⁸

According to PlaNYC’s “Global Economy” subsection “today’s mobility of people and capital has created a fierce competition among cities. We’re competing for the best ideas and the most capable and highly-trained workforce.”¹⁹ The Plan’s focus is on attracting a speculative workforce. In other words, the plan is concerned with the needs of those that the administration wants to come to the city, rather than those who already live here.

In PlaNYC 2030, the Bloomberg administration puts forth its vision for the city, premised upon the projection of one million more residents by year 2030. In the context of housing, the Plan asserts that the city is not only concerned with adding more housing units, but also with sustainability and affordability. For example, the Plan states that development should be focused near transit hubs, However, the Furman Center has found that this goal was not always coordinated with rezonings. The Plan also links affordability with supply, stating that, “increasing the affordability of housing for New Yorkers is directly connected to increasing the supply of housing. When supply cannot keep up with the demands of a growing population, housing becomes less affordable, as residents bid higher to live in existing units.”²⁰ PlaNYC does not deeply delve into an analysis of the housing crisis.

Community Involvement in New York City Planning

In the years following the 1961 Zoning Resolution, criticism of the Board of Estimate led stronger mayoral land-use powers, and enhanced community participation via Community Boards. The Goodman Charter of 1975 created a system in which the Board of Estimate, the Mayor, Borough Presidents, the City Planning Commission Chairman/Director of City Planning, Department of City Planning, newly created Community Planning Boards, Department of Buildings, Board of Standards and Appeals, Landmarks Preservation Commission, and the Department of Environmental Protection were all involved.²¹ The new City Charter created two significant innovations regarding development: the Uniform Land Use Review Procedure (ULURP), and a process for community
based planning under Section 197-a. A ULURP application must be filed when a development project involves changes to the city map, the designation or change of a zoning district and special permits granted therein, disposition or acquisition of city-owned land, or the citing of capital projects.22

Problems with ULURP and 197-a plans

The City Charter implemented ULURP and 197-a plans to include residents in the planning process. Further, ULURP ensures a systematic role for all agencies involved in land use matters.23 Land use professionals in both the private and public sectors deemed ULURP successful in public testimony, during the 2010 charter review hearings.24 However, Hunter College Professor Tom Angotti has written that community members engaged with local development believe otherwise. He has argued that the lengthy environmental review process encourages developers to negotiate side agreements with certain community members prior to the ULURP process, curtailing truly representative public input.25 Citizens Housing & Planning Council advocates for coordination between the Environmental Review Process and ULURP, and the allocation of greater resources to Community Boards to hire professionals to navigate these procedures.26 Further, the Pratt Center for Community Development charged that the advisory position of Community Boards, “is so limited as to rarely impact on subsequent review by the CPC”, and “has often forced them to take obstructionist positions to get attention and compel a compromise”.27

Section 197-a of the Charter created a formal process for community-based plan implementation, for “the development, growth, and improvement of the city and of its boroughs”.30 The Mayor, CPC, DCP, and Borough Presidents also have the authority to sponsor 197-a plans. However, local community boards most commonly initiate them.29 Neighborhood and civic groups may also initiate 197-a plans, but must receive the sponsorship and approval of the local community board.30 Once created, the plans are submitted to CPC for approval and then must be adopted by the City Council. To date only 13 such plans have been created and finalized.31 197-a plans are completed rarely because they take an immense amount of resources and time, and do not have legal authority beyond the ability to “guide future actions.”32 After a 197-a
plan is adopted, it is the responsibility of the sponsors to work with “city agencies to ensure that the 197-a plan goals are met.”

To exemplify the role the community should play after a 197-a plan is adopted, DCP notes that if the 197-a plan recommended zoning changes, “the sponsor may encourage the Department of City Planning to initiate a zoning map change application.” Community Boards have informal access to city agencies, regardless of 197-a plan existence. 197-a plans lack enforcement mechanisms. City actions can directly undercut their provisions, regardless of having received prior public approval. For example, the Williamsburg/Greenpoint and West Harlem rezonings followed the final approval of their respective Community Boards’ 197-a plans. In both cases, the final rezoning contradicted much of the substance of the sponsoring communities’ recommendations.

In summary, land use and housing development in New York City is determined through a piece-meal planning processes, that lacks effective enforcement.

### Uniform Land Use Review Procedure (ULURP)

<table>
<thead>
<tr>
<th>CITY MAP CHANGES</th>
<th>DEPARTMENT OF CITY PLANNING</th>
<th>COMMUNITY BOARD</th>
<th>BOROUGH PRESIDENT and BOROUGH BOARD</th>
<th>CITY PLANNING COMMISSION</th>
</tr>
</thead>
<tbody>
<tr>
<td>MAPS OF SUBDIVISIONS, PLATTINGS, ZONING MAP CHANGES, CPC SPECIAL PERMITS, REVOCABLE CONSENTS, FRANCHISE RFP’S, MAJOR CONCESSIONS, NON-CITY PUBLIC IMPROVEMENTS, HOUSING AND URBAN RENEWAL PLANS, LANDFILLS, DISPOSITION OF REAL PROPERTY, ACQUISITION OF REAL PROPERTY, SITE SELECTION.</td>
<td>Receives application and related documents.</td>
<td>Notifies public.</td>
<td>BP submits recommendation to CPC, BP and CC.</td>
<td>Holds public hearing.</td>
</tr>
<tr>
<td></td>
<td>Forwards application and documents within 5 days to CB, BP, and CC.</td>
<td>Holds public hearing.</td>
<td>88 (if project affects more than one CB) may hold a public hearing and submit recommendation to CPC or waive right to do so.</td>
<td>Approves, modifies or disapproves application.</td>
</tr>
<tr>
<td></td>
<td>Certifies application as complete.</td>
<td>Submits recommendation to CPC, BP (and BB).</td>
<td>Can waive rights on franchise RFP’s and leases.</td>
<td>Files approvals and approvals with modifications with City Council.</td>
</tr>
<tr>
<td>PROCESS TAKES</td>
<td>No Specified Time Limit (after 6 months, applicant or BP in some cases, may appeal to CPC for certification).</td>
<td></td>
<td></td>
<td>Disapprovals are final, except for zoning map changes, special permits, and urban renewal plans.</td>
</tr>
<tr>
<td>Clock = 1 Year</td>
<td>60 Days</td>
<td>30 Days</td>
<td>60 Days</td>
<td>SEE FLOW CHART BELOW FOR THE PROCESS FOR CITY COUNCIL AND MAYORAL REVIEW (Charter Section 197-d)</td>
</tr>
<tr>
<td>TOTAL DAYS</td>
<td>60 Days</td>
<td>90 Days</td>
<td>150 Days</td>
<td></td>
</tr>
</tbody>
</table>

---

Fig. 10. Uniform Land Use Review Procedure (ULURP)

Source: New York City Department of City Planning
mechanisms for community input. In this context, it is unsurprising that the housing system fails to meet the needs of many New Yorkers.

Fig. 11. Uniform Land Use Review Procedure (ULURP)
Source: New York City Department of City Planning
ENDNOTES

3. Ibid.
5. Ibid. 3-6.
6. Ibid.
12. Ibid.
13. Ibid. 5.
17. Ibid.
22. Ibid.
2010 New York City Charter Revision Commission, Appendix B-10-B-13, accessed April 26, 2012, (please clarify this citation, include website).


30. Ibid.

31. Ibid.

32. Ibid.

33. Ibid.

34. Ibid.

35. Ibid.

As discussed in Section 3 – despite a robust network of rent-regulated and subsidized housing – affordability remains a critical problem for a large sector of the population. In 2010, over half of all New York City renters were rent-burdened (paying more than 30% of their household income in rent) and about a third were severely rent-burdened (paying more than 50% of their household income in rent). Further, rent-burdens have grown in New York City steadily over the past fifty years. As illustrated in figure 13, there has been a 68.4% increase in median gross rent/income ratio from 1960 to 2008, paired with stagnation in median incomes. As rents rise, but wages do not, many New Yorkers have to spend a larger portion of their total income on rent.

Increasing rent-burdens have affected all income levels. However, Housing and Vacancy Surveys show a clear correlation between income and rent-burden. As illustrated in figure 15, 90% of households falling in the 0-30% AMI category, and 81% of 31-50% AMI households are rent-burdened. On the other hand, only 20% of 81-120% AMI households are rent-burdened. Collectively, the HVS statistics demonstrate 1,077,562 or 79% of households within 0-120% of AMI are rent-burdened.

As discussed in Section 4, New York City will need roughly 318,500 units to accommodate projected population growth over the next 18 years. As illustrated in figure 12, 318,500
units is the equivalent of all residential units south of 59th Street in Manhattan. The New Housing Market Place plan, which aims to create and preserve 165,000 units of affordable housing, does not come close to meeting the need for affordable units. More importantly, there are not provisions to adequately connect need with production. If 318,500 units are broken down by HUD income categories presented in figure 15, 95,550 units will fall into the lowest income category (0-30% AMI), 49,686 for 31-50% AMI, 57,012 for 51-80% AMI, 48,412 units for 81-120% AMI, and 61,841 units for 120% AMI (see figure 12). In other words, the AMI break down is almost the 80/20 program in reverse.

As illustrated by increasing rent-burdens, there is a latent demand for low and middle income housing, which is not being met by market or subsidized housing. An effective response to the housing crisis faces two sets of constraints:

- Current housing programs – including rent regulation, federal, state and city subsidy programs – are fragmented in nature and weakened as a result of over-commodification of housing. This constraint has
Where Will New Yorkers Live?

Resulted in significant losses of the city’s low and middle income housing stock in the last twenty years.

- Barriers to new affordable and middle-income housing production, both in the private and subsidized housing sector.

Programmatic Constraints

The over-commodification of housing has put pressure on existing housing programs, resulting in a slow, but constant, loss of affordable units. Mitchell-Lama, HUD subsidized, Project Based Section 8 and LIHTC units all face privatization, as a result of expiring subsidies or mortgages. Rent-regulated units are in danger of deregulation as a result of various measures, including high rent vacancy destabilization. As illustrated in figure 16, the city has lost 16% of units, affordable to individuals and families earning below 80% AMI, in six years between 2002 and 2008. The loss of subsidized and regulated units was sped up by predatory equity investment, and skyrocketing rents in the private rental market. Without a push for preservation of existing subsidized and
rent-regulated housing stock, the severely rent-burdened city will face a major exacerbation of the existing housing crisis.

Landlords of Project-Based Section 8 and other federally subsidized developments may opt out their HUD subsidy programs after 20 years. Mitchell Lama unit owners may also buy out of the program, after their mortgage expires. After a federal, state or city subsidized housing development passes the 15-20 year threshold, there is little incentive to remain in the program, especially in a tight housing market. Limited protection for HUD-subsidized and Mitchell-Lama units exists – rental units built before 1974 become rent stabilized upon privatization. However, privatization of subsidized developments frequently results in skyrocketing rents, putting tenants in danger of displacement. LIHTC developments face similar length of affordability issues.

From 1990-2008 New York City lost 31% of Project-based Section 8 units and a 47% of Mitchell-Lama rental units. Although this loss has been abated somewhat in the wake of the financial crash of 2008, no meaningful policy changes have been enacted that assure this housing will stay affordable, in the event of a market upturn.

Another major source of affordable unit loss has been the deregulation of rent-regulated units. Beginning in 1993, with the passage of the Rent Regulation Reform Act, rent regulation has faced steady erosion. The act instituted “high-rent” vacancy destabilization, triggered when a tenant vacates and the in-coming tenant is charged $2,000 or more in rent. In 2011, the Rent Act of 2011 raised the rent vacancy destabilization threshold to $2,500.

DHCR keeps records on rent-regulated units, but at the same time, does not investigate deregulations. In addition, landlords are not required to report deregulations. Lack of agency oversight opens up

| Vacancy Deregulation Scenario: Allowable Rent Increases for Tenant Paying $1,300 |
|-----------------------------------|-----------------|
| Stabilized Rent Paid by Vacating Tenant | $1,300 |
| Vacancy Bonus on New Two-Year Lease | $260 |
| Landlord Spends $18,000 in Renovations to Apartment (IAR = $18,000 x 1/40) | $450 |
| Legal, Destabilized* Rent for Incoming Tenant | $2,010 |

Fig. 17. Vacancy Deregulation Scenario: Allowable Rent Increases for Tenant Paying $1300

the deregulation process to landlord abuse, and makes the true number of deregulated units difficult to determine. According to the Community Service Society, upwards of 105,000 rent-stabilized apartments may have been lost through deregulation between 2002 and 2008. The 2002, 2005 and 2008 Housing Vacancy Surveys estimated about 51,000 units lost during that same period.

Production Constraints

While the preservation of the existing housing stock is important, the needs of both the existing rent-burdened population, and the future residents of New York City can only be met with an increase in production of housing affordable to the low – and middle – income population. According to a range of for and non-profit developers interviewed by the Studio, the primary obstacle to non-luxury housing construction in New York City is extremely high production costs, resulting from high land costs, agency inefficiencies, unpredictable tax rates, and a needlessly complex building code. The production obstacles can only be met with an overhaul of the residential construction process, paired with a major new funding stream.

New York City’s development costs are 39 percent higher than the national average, and 8 percent higher than the next most expensive city, San Francisco. If land acquisition prices were to be included, these differentials would widen substantially. Land acquisition in particular has been identified as a major obstacle throughout our expert interview process. Land costs are especially limiting to non-profit developers, who do not have major capital availability up front. Other factors contributing to high production costs include a slow and inefficient permit approval process, tax assessment unpredictability and a complex building code.

In addition to addressing existing production constraints, New York City needs a new major funding stream, or a new method of land acquisition for affordable housing development. Without an influx of either funding or land, large scale affordable housing production will not occur. Over-commodification is not the primary cause of most production obstacles outlined by the Studio. Despite this, the recent history of housing over-commodification should not be ignored when addressing production costs or considering new funding streams to avoid further exacerbation of the housing crisis. Policies that ease development can heat up the market, driving up the cost of existing affordable housing.
ENDNOTES

2. U.S. Bureau of the Census, 2008 New York City Housing and Vacancy Survey
Current housing policy in New York City fails to address the interconnectedness of housing and related aspects such as employment, educational attainment, and health. Many studies show that low-income communities are facing adverse impacts as a result of the symptoms of over-commodification of housing. Rent-burdens and stagnant wages are impeding these households, primarily in communities of color, from obtaining other basic needs such as decent education and good health. This section will discuss how rent-burdens and substandard housing conditions have severe deleterious social impacts on low-income residents of color in New York City.

Race and Income Affects Access to Quality Housing

As illustrated in Section 7, the over-commodification of housing in New York City contributes to the concentration of rent-burdens and sub-standard housing conditions in low-income communities. In 2011, Community Service Society released “Housing the City of Immigrants,” which presented an analysis of housing conditions of recent immigrants by ethnic group, in comparison with second – third – and later generation households.¹ Findings indicate that most low-income first-generation immigrant groups, including European and former Soviet immigrants, are rent-burdened. Chart A illustrates the severity of this burden, and the various groups impacted.

Though most groups experience similar levels of rent-burden, it is important to note that living conditions are starkly different between white
and non-white immigrants. According to figure 18, 4% of first generation Western European immigrants live in over-crowded conditions, and 3% live in a unit that has reported 3 or more maintenance deficiencies. This is in stark contrast, with the 44% first generation Mexican immigrants who live in overcrowded conditions, and 18% who live sub-standard housing conditions.

Furthermore, the study illustrates how rent-burdens change throughout generations. Surprisingly, third generation and higher white immigrants are found to face the heaviest burden, yet the majority live in higher quality housing. The Community Service Society study concludes that rent-burdens experienced by whites are a result of their decision to live in more expensive, predominately white neighborhoods.

<table>
<thead>
<tr>
<th>Housing Stresses for Low-Income Households (poor and near-poor)</th>
<th>Median rent burden</th>
<th>Percent with burden over 50 percent</th>
<th>Percent overcrowded</th>
<th>Percent with 3 or more maintenance deficiencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>First generation</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dominican Republic</td>
<td>54 %</td>
<td>50 %</td>
<td>17 %</td>
<td>27 %</td>
</tr>
<tr>
<td>Mexico</td>
<td>58 %</td>
<td>62 %</td>
<td>44 %</td>
<td>18 %</td>
</tr>
<tr>
<td>Former Soviet Union</td>
<td>56 %</td>
<td>53 %</td>
<td>7 %</td>
<td>12 %</td>
</tr>
<tr>
<td>China, Taiwan, or Korea</td>
<td>49 %</td>
<td>44 %</td>
<td>21 %</td>
<td>6 %</td>
</tr>
<tr>
<td>Caribbean, not P.R. or D.R.</td>
<td>59 %</td>
<td>56 %</td>
<td>15 %</td>
<td>23 %</td>
</tr>
<tr>
<td>Central or South America</td>
<td>50 %</td>
<td>49 %</td>
<td>24 %</td>
<td>13 %</td>
</tr>
<tr>
<td>India, Pakistan, or Bangladesh</td>
<td>55 %</td>
<td>52 %</td>
<td>49 %</td>
<td>23 %</td>
</tr>
<tr>
<td>Europe, not Former Soviet Union</td>
<td>64 %</td>
<td>62 %</td>
<td>4 %</td>
<td>3 %</td>
</tr>
<tr>
<td>Total first generation</td>
<td>55 %</td>
<td>52 %</td>
<td>20 %</td>
<td>16 %</td>
</tr>
<tr>
<td>Second generation</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Europe, not Former Soviet Union</td>
<td>65 %</td>
<td>66 %</td>
<td>6 %</td>
<td>4 %</td>
</tr>
<tr>
<td>Total second generation</td>
<td>67 %</td>
<td>59 %</td>
<td>9 %</td>
<td>12 %</td>
</tr>
<tr>
<td>Third generation or higher</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Latino</td>
<td>46 %</td>
<td>42 %</td>
<td>9 %</td>
<td>26 %</td>
</tr>
<tr>
<td>Black</td>
<td>45 %</td>
<td>42 %</td>
<td>11 %</td>
<td>27 %</td>
</tr>
<tr>
<td>White</td>
<td>77 %</td>
<td>65 %</td>
<td>5 %</td>
<td>12 %</td>
</tr>
<tr>
<td>Total third generation or higher</td>
<td>51 %</td>
<td>47 %</td>
<td>9 %</td>
<td>22 %</td>
</tr>
<tr>
<td>GRAND TOTAL, all generations</td>
<td>54 %</td>
<td>50 %</td>
<td>14 %</td>
<td>18 %</td>
</tr>
</tbody>
</table>

(Groups are included only if the survey sample included at least 95 low-income households in that group.)

Fig. 18. Immigrant and Non-Immigrant Households by Borough
Source: “Policy Brief: Housing the City of Immigrants,” Community Service Society, March 2011, http://www.cssny.org/userimages/downloads/HousingCityofImmigrantsPolicyBriefMarch2011.pdf. As explain in the paper, the comparisons of various ethnic and racial groups from one generation to the next were not symmetrical due to variations in census data.
For black (primarily African-American) and Latino (primarily Puerto Rican) third generation and higher households, the rates of housing burdens are similar to one another, and the rates of those living in substandard conditions nearly double the rates of whites. Substandard housing units are frequently concentrated in low-income neighborhoods of color. The symptoms of the over-commodification of housing, rent-burdens and substandard living conditions, impact both communities of color and whites. Yet communities of color face greater exposure to substandard living conditions and the social issues linked to these conditions, such as limited education attainment and poor health outcomes.

In order to understand how low-income communities of color can gain greater access to quality housing and to mitigate the effects of rent-burdens, it is important to address wages in New York City. Tim Collins, a housing attorney in private practice and the former director of the Rent Guidelines Board, writes that one of the biggest long-term threats to the housing affordability has been the stagnation of wages over the past thirty years.\(^2\) New York State has one of the largest gaps between high and low-income earners. Between 1987-2006, the income of the lowest fifth of New York households rose by 5.4 percent, while the highest fifth of New Yorkers rose by 69.9 percent. The wages of the lowest fifth of New Yorker households were not sufficient to keep up with the increasing housing costs. As a result, tenant incomes were less likely to meet rental costs.\(^3\) After establishing the correlation between rent-burdens and stagnant wages, Collins concludes: “Chronic affordability problems translate into evictions.”\(^4\) From 1991-2001, 250,000 tenant households were evicted through New York City housing courts.\(^5\) In 2010, there were 25,701 evictions.\(^6\)

The current New York State minimum wage is far below the cost of living.\(^7\) The gross annual salary of an individual working full-time at $7.25 an hour is approximately $15,100.\(^8\) Penn State University’s Living Wage Project declared that a New York City single adult must earn a minimum of $24,662 after taxes per year to meet their basic expenses,\(^9\) with the bulk of that income going to monthly housing cost. In addition, calculations show that a family of four’s yearly expenses equals $63,014.\(^10\) This analysis suggests that the minimum wage in New York State needs to be doubled in order for two full-time, low-wage, working adults to shelter a household of four in the current housing market.
Education

There is a causal relationship between low educational attainment and lack of affordable housing. Access to quality schools, housing conditions, and housing stability play an important role in fostering a child’s educational experience. However, many studies illustrate that the educational experience in low-income communities in New York City is insufficient.

Students in New York City public schools overwhelmingly come from lower-income households. More than two-thirds come from homes with income levels below 130 percent of the poverty level. In addition, The New York City Independent Budget Office reported that in 2009-2010, the average share of New York City elementary to high school level students living in poverty ranged from 66.1% to 77.2%.

Frequently, low-income families are relegated to neighborhoods that lack educational resources such as experienced teachers and administration. Quality of schooling is important to both test scores and future economic success. Low-poverty New York City high schools tend to have more experienced principals than do medium — and high poverty high schools. Public resources for academic achievement and economic success are distributed in a way that reinforces existing geographies of poverty.

Overcrowding is strongly correlated to poor academic achievement amongst children. The Citizen’s Housing and Planning Council found that New York City children living in crowded conditions are less likely to graduate from high school than their peers.

Studies also find that children affected by housing burdens experience frequent moves. According to the Poverty and Race Research Action Council, the lack of affordable housing leads U.S. residents of low-income communities to move three to four times a year. Frequently relocated children fall behind half a year compared to stable students in stable classrooms, and are less likely to obtain high school degrees.

While directly comparable data is not available in New York City, correlations are clear. As noted by former RGB director Tim Collins, evictions in New York correlate strongly to lack of housing affordability. In 2008, 25,109 New York City households were evicted through housing court. While housing court data does not reveal the household makeup of litigants, it is certain that children are among those households.
Additionally, the Coalition for the Homeless reports that each year more than 40,000 New York City children spend at least one night in the municipal shelter system. Given the concentration of poorly performing schools in low-income areas of New York City, the disproportionate rent-burdens faced by low-income households and the national research on housing instability and academic achievement, the local correlations between rent-burdens and educational outcomes can be made.

Affordable housing may facilitate greater parental involvement in their children’s education by reducing parental stress and the need to hold multiple jobs. Parents who have time to dedicate to involvement in their children’s education may positively impact children’s school performance by encouraging completion of homework and studying for exams. This form of support would reduce the chance of poor school performance and being left a grade behind regardless of parental income. This support is necessary for low-income children who are already at a disadvantage due to the quality of schools they are likely to attend.

**Health**

Housing conditions influence the development of individuals. Good physical and mental health depends on housing, that is free from physical hazards and that provides individuals with a sense of privacy, security, stability, and control. Inadequate housing contributes to health problems such as infectious and chronic diseases, injuries, and poor childhood development. Low-income individuals and families are more likely to live in inadequate housing, and are thus disproportionately exposed to conditions correlated with mental and physical health problems.

**Mental Health**

Studies show individuals and families who live in substandard conditions experience heightened levels of stress, symptoms of depression, and other psychological disorders. Substandard housing can have adverse effects on an individual’s social mobility, including the ability to keep a job, succeed in school, and build personal relationships. Mental health coupled with housing stresses can negatively impact the relationship between parents and children.

The ever-rising rents in New York City, coupled with low-wages, often leave families pressured by high rent-burdens, and threats of eviction.
Though it is common for people to relocate, the American Housing Survey indicates that poor and near-poor families tend to move much more frequently than the general population. The Survey shows that the substantive reasons for housing instability are due to rising housing costs and housing conditions. This constant movement presents challenges to children’s socio-emotional development. Children undergo stress from being uprooted from their homes and have difficulty in new classroom settings, while parents have difficulty supporting their children during transitory periods as they are occupied with details related to the move.

**Physical health**

Low-income rent-burdened individuals and families frequently have to decide between housing costs, and health insurance, medication, and healthy food. Further, low-income households frequently live in substandard housing conditions, which have been linked to chronic diseases, poor childhood development, and poor nutrition.

The link between poor housing conditions and asthma is well researched. Lower-income households are more likely to live in units with mold, dust mites, cockroaches, and rodents — allergens that cause asthma and other respiratory illnesses.

According to the New York City Department of Health, areas with high concentrations of black and Hispanic residents tend to have higher rates of poverty and asthma relative to other areas of the City. These same areas also had higher concentrations of housing conditions that “trigger” asthma, such as cockroaches and rodents. The health effects of asthma can take a toll on education, as asthma is a leading cause of missed school among New York City students.

Overcrowding, prevalent among low-income households, has been linked to physical illnesses, such as tuberculosis and respiratory infections among both adults and children. Children living in overcrowded conditions may have poorer cognitive and psychomotor development or may display symptoms of anxiety, be socially withdrawn, stressed, or aggressive. The location of a home can also have dramatic effects on health. Low-income neighborhoods often lack safe parks and community facilities, leading to lower levels of physical activity among residents. Research indicates that inner-city residents are more “overweight, less physically
active, and less healthy overall than the general population. Moreover they suffer higher rates of diseases associated with obesity, namely diabetes and cardiovascular disease." In addition, supermarkets and fresh food vendors are less likely to locate in low-income neighborhoods, contributing to poorer nutrition.

Low-income households are frequently restricted from good housing conditions. Their lack of choice results in unstable and unhealthy conditions, which in turn leads to inequitable education and health outcomes. Low-income residents’ rent-burdens limit their social mobility and contribute to the perpetuation of long-term poverty. In order for transformative change to occur, it is essential for housing policy and programs to reconnect housing to health and education.

Summary

Current housing policy in New York City fails to address the interconnectedness of housing and related aspects such as employment, educational attainment, and health. Issues of rent-burdens and stagnant wages are impeding households, disproportionately within communities of color, from obtaining their basic needs such as adequate education, health, and employment, and positive health outcomes.
ENDNOTES

1. “Policy Brief: Housing the City of Immigrants,” Community Service Society, March 2011, http://www.cssny.org/userimages/downloads/HousingCityofImmigrantsPolicyBriefMarch2011.pdf. As explain in the paper, the comparisons of various ethnic and racial groups from one generation to the next were not symmetrical due to variations in census data.


3. Ibid.

4. Ibid.

5. Ibid.


9. Living Wage Project lists basic needs as: food, child care, medical, housing, transportation, other and taxes.

10. Living Wage Project, Penn State University


WHERE WILL NEW YORKERS LIVE?
New York City’s housing crisis is multi-faceted. Gaps in existing housing policies have led to a rapid loss of affordable housing units creating a crisis of preservation. There is also a crisis of production. Without a new stream of affordable housing units, New York City will not be able to alleviate existing high rent-burdens. Further, the City will not be able to meet the housing needs of future New Yorkers. The City’s crisis can only be addressed with a dual set of preservation and production focused solutions.

The uncoordinated nature of New York City’s housing policy has exacerbated the housing crisis. For example, during a six-year period in the 2000s, the City preserved 52,756 of affordable units through the New Housing Market Place plan. However, New York City also lost 50,322 units to deregulation, as a result of New York State legislation. The preservation and production focused solutions outlined in the following section must be coordinated, through a comprehensive planning process. To prevent further housing over-commodification, the planning process has to include a meaningful community participation component.

When applied in tandem – preservation and production strategies, contextualized in a comprehensive planning process – can move the housing system from its over-commodified trajectory toward a course that better responds to the needs of New York City’s residents.

The following section is divided into three major sub-categories: Preservation of Existing Housing Stock, Reduction of Production Costs,
and Strengthening Planning. Some of these recommendations are relatively easy. Some may seem politically impossible. They are options that we recommend considering that can be used to solve the formidable affordability problems in New York City.

**Preservation:**
- Preserve existing HUD, Mitchell-Lama, and City-Subsidized Housing
- Preserve Rent Regulation
- Permanent Affordability
- Expand Special Districts
- Reform LIHTC
- Reform Code Enforcement
- Address Predatory Equity

**Production:**
- Create Transfer of Development Rights
- Revamp Land and Unit Acquisition
- Reduce costs

**Planning:**
- Plan Comprehensively
- Plan with the Community
Preservation of Existing Stock

Rapid erosion of affordable units has contributed to high rent-burdens among New Yorkers. The majority of New York City’s affordable housing stock is in danger of privatization or deregulation, resulting from the over-commodification of housing. In order to preserve housing affordable to low – and middle – income New Yorkers, existing housing programs must be strengthened. Below, the Studio examines a number of changes to existing housing policies.

Preservation of Existing HUD, Mitchell-Lama, and City-Subsidized Housing

Project-based Section 8 preservation efforts have generally fared better than Mitchell-Lama in large part due to federal incentives. At the municipal level, some preservation has been achieved by extending the City-subsidized units that used Low-income Housing Tax Credits from expiration at 15-years to expiration at 30-years. The lead City agencies—HPD and HDC—can and should use their leverage to keep these units affordable further into the future, and convert them to permanent affordability where possible. The preservation of HUD, Mitchell-Lama, and City-Subsidized developments is not possible without the involvement of federal, state, and city governments, since these developments originate from active housing policies.

RECOMMENDATION:

• Pass “Right to Purchase” legislation for subsidized housing tenants and their chosen “preservation partners.”
• Prioritize ownership for current tenants, community development corporations, or other non-profit corporations.

• Coordinate between New York City and New York State in the development of a “right to purchase” program.

• Rent stabilize for all developments exiting the HUD-subsidized and Mitchell-Lama programs.

• Increase real property transfer tax for former Mitchell-Lama, HUD, and City-Subsidized developments that fail to preserve affordability.

Rent Regulation Preservation

Rent stabilized housing represents the largest affordable housing resource in New York City. Rent stabilization rents are significantly lower than market rents. Median rent-stabilized monthly rent in 2011 was $1,050, whereas the median rent for market units was $1,369. However, destabilization measures described in chapter 7, if unaddressed, will result in the death of the system by attrition. The minor changes made to the rent laws in 2011, including the raising of the vacancy destabilization rent threshold from $2,000 to $2,500, do not address this basic problem. Further, the process of rent increases for rent-regulated apartments lacks oversight, and is open to landlord misuse. Currently, rents may be raised if there have been increases in: 1) lease renewals 2) vacancy bonuses and 3) apartment or building-wide improvements.

The New York City Rent Guidelines Board (RGB) determines lease renewal rent increases annually. A report by former Public Advocate Mark Green found that “…the RGB has nearly always been more generous to landlords than its calculations of increased costs would direct.” Although annual reports by the RGB examine tenant income, rent levels, poverty, homelessness and rent-burdens, the Board has never suggested basing rent increases on tenant need. The reports routinely observe rising rent-burdens among rent stabilized tenants as an almost abstract phenomenon. A Vacancy Bonus is a rent increase imposed upon incoming rent-stabilized tenants. Prior to 1997, vacancy bonuses were voted on by the RGB. As part of the Rent Regulation Reform Act of 1997, vacancy bonuses were made statutory, imposing automatic rent hikes of 20% for two-year leases. The result has been a rise in rent levels, and incentivized turnover in rent-stabilized housing.
Individual Apartment Increases (IAIs) and Major Capital Improvement Increases (MCIs) allow landlords to pass the cost of improvements onto tenants. The structure of these increases suggests amortization. However, the increase becomes a permanent part of the base rent. Tenants, thus, pay for new equipment in excess of its actual cost, and subsequent rent increases are compounded by a higher base rent.

**RECOMMENDATION:**
- Eliminate all deregulation measures for rent stabilization.
- Utilize the rent-burden ratio as a guideline for rent increase recommendations.
- Repeal statutory vacancy bonuses.
- Reconfigure individual apartment increases (IAIs) and major capital improvement increases (MCIs) as surcharges separate from the base rent.

**Rent Regulation Expansion**

Current rent stabilization laws only cover buildings prior to 1974 with six units or more. With the exception of those post-1974 buildings that accept J-51 and other tax abatements in exchange for temporary rent stabilization, new housing is exempt from rent limitations and tenant protections. Rent regulation has proven to be a valuable resource to both low – and middle-income New Yorkers, partially because there are no qualification criteria for rent-regulated apartments.

It is important to note that returning home rule over New York City’s rent laws is a political precursor to expanding or improving rent regulation locally. Currently, New York State is responsible for rent-regulation oversight, due to the 1971 Urstadt Law.

**RECOMMENDATION:**
- Repeal the 1971 Urstadt Law.
- Expand rent stabilization to all buildings with six or more units, with initial rents set by comparing comparably sized rent-stabilized apartments in the area. In instances where such a rent setting results in a rent role lower than a fair rate of return, the Studio recommends a secondary formula to set a rent that allows landlords to realize a fair rate of return. Administration of the rent
regulations for this new class of apartments would otherwise be identical to apartments regulated under the 1974 Emergency Tenant Protection Act, with annual rent increases set by the New York City Rent Guidelines Board. “First rents” set under the current or future systems of rent stabilization should set rents on the basis of need or 30% of the monthly median renter income.

- Institute a tax-abatement program similar to 421-a, for rent-regulated buildings. New buildings entering rent regulation, should receive a tax abatement, for the duration of rent regulation.

**Permanent Affordability**

The difficulties faced by HUD and Mitchell-Lama developments illustrate the need for permanent affordability for future City – and State-subsidized developments. The post-crash housing bust rendered growth based policy and temporary affordability impractical. The current moment, defined by a soft real estate market and an ongoing economic recession, is the best time to adjust subsidy policy to insure that every public dollar that is spent for housing be captured to the fullest degree possible.

**RECOMMENDATION:**

- Require permanent affordability for all City – and State-subsidized rental properties as a *quid pro quo* for the subsidy.
- Institute an “option to Purchase” mechanism for all City – and State-subsidized buildings in the event of foreclosure or mismanagement by private landlords.
- Require leasing, rather than selling City-owned land.
- Establish a citywide land trust.
- Introduce sustainable underwriting practices, which support a commitment beyond the initial regulatory period, and provide savings at the point of recapitalization or preservation.
- Require permanent affordability as part of Request for Proposals.
- Expand resources for asset management for community development corporations.
LIHTC Reform

The Low-income Housing Tax Credit (LIHTC) is the nation’s primary program for the development and preservation of affordable rental housing. Such abatements, however, should be reformed to improve the depth and permanence of affordable housing in New York City and beyond. Strengthening incentives for mixed-income housing would improve LIHTC’s ability to aid the poorest households by balancing market-rate units with very-low-income housing.

In cases where a LIHTC building needs additional income to become financially stable, LIHTC and housing voucher programs can be layered. If a certain number of units are set aside for voucher holders, the development will receive a steady stream of federal funding. Generally, Section 8 voucher and LIHTC program layering should be avoided, because it produces one affordable unit, instead of two.

LIHTC properties’ capital needs increase after the 10th year in operation, requiring a cash infusion for continual operation. Unless the property is transitioned to higher market rents, capital available through refinancing is scarce compared to resources for market-rate properties. ANHD has proposed a 60-year commitment with the city. The city could have the option to back out at 30 years if lost tax-revenue is too great. The regulatory agreement would be paired with a partial abatement of equal length or with the option of regular renewal throughout the life of the agreement. At present, the maximum tax abatement for LIHTC is 60 years. ANHD is advocating that the tax abatement and affordability restrictions be extended as a package.

RECOMMENDATION:

- Expand the depth of affordability, by better incentivizing mixed-income housing, which does not have to satisfy the current requirement that 40% of units reach 60% AMI and 20% reach 50% AMI.
- Avoid the LIHTC and Section 8 voucher layering, unless a building needs additional funding to achieve financial stability.
- Expand affordability by matching and extending the lengths of a developer’s commitment to the city and the life of the LIHTC abatement (presently 60 years).
Code Enforcement Reform

A more consistent and rigorous code enforcement system could help ensure the physical preservation of New York City’s housing stock. The current system of code enforcement has not been successful at keeping rental properties, especially in lower income neighborhoods, from falling into disrepair.

**RECOMMENDATION:**

- Institute a more regular and thorough code enforcement system, with more robust fines for code violations. The fines could be used as a mechanism to pay for the cost of enforcement.

Addressing Predatory Equity

Lax oversight of global market flows contributed to the development of predatory equity. According to ANHD, underwriting standards were ignored by “a chain of parties, including the developer, the private equity partner, the first loan lender, the mezzanine debt lender, the security pool underwriter and the credit rating agency.”

A problem of this scale can only be addressed on a federal level, through stronger bank and credit agency regulation, and enforcement of underwriting standards. However, there are approaches that can be used on the city and state level to curb predatory equity, and ensure protection for buildings that may be at-risk for predatory equity in the future.

**RECOMMENDATION:**

- Stabilize overleveraged buildings that are in physical disrepair or at risk for foreclosure.
- Expand HPD’s Overleveraged Property Initiative, which targets distressed property headed into foreclosure or prone to speculative ownership. Federal and city subsidies are used to make repairs, maintaining affordability, and encourage stable long-term ownership.
- Introduce a more comprehensive approach to addressing predatory equity, including loan modifications in exchange for affordability regulations for overleveraged buildings.
- Short sell effected buildings to government-approved owners committed to responsible long-term management.
**Special District Expansion**

Special districts represent an evolution in the City’s approach to planning, as a strategy to find coordinated and targeted solutions to the negative effects of housing over-commodification. When implemented properly, the designation has been successful in protecting tenants, preserving neighborhood character, preserving affordable housing and, in some cases, creating affordable housing. Special zoning districts are already in use, albeit in a very small capacity. There are two basic dimensions to these districts: 1) a no-demolition (sound housing) component and 2) an anti-harassment component. Two districts with both components, the Clinton Special District and the Hudson Yards Special District, are contiguous to one another on the west side of Manhattan. There are two other special districts with just anti-harassment components in Greenpoint/Williamsburg and West Chelsea.

**RECOMMENDATION:**

- Explore and expand special purpose districts, especially in rapidly growing real estate markets.
Increase Production

Proposals that make housing production less expensive and, thus, more attractive are risky but important. Decreasing production costs could lead to more production, but also could create displacement pressures. These measures should be considered in tandem with tenure protections for existing residents, and comprehensive planning efforts that consider development’s aggregate effects. Visioning a future New York, with more people, and more equity, is a process that should be undertaken with the full participation of New Yorkers, as outlined in the following section. Funding these changes is a real issue, and New York City has options. Beyond raising taxes or lobbying the federal government for more funding, other possibilities exist. Below, the Studio examines three strategies for increasing production: the transfer of development rights, land and unit acquisition, and the reduction of production costs.

Transfer of Development Rights

Transfer of Development Rights (TDR) programs are a flexible policy tool, that encourages development in one locale in exchange for the cessation of development in another locale, through the literal transfer of development rights. The policy is most commonly used to preserve undeveloped areas, but was first implemented in New York City to mitigate the economic impacts of the landmarking process. Current zoning in New York City also allows for TDR “by zoning lot merger, by certification or special permit, or through the Inclusionary Housing Program.” In New York City development potential is often stymied, as existing sites developed short of their zoning capacity are unprofitable to
redevelop. Further, partially built-out sites may contain public purposes that the City and communities want to maintain, including affordable housing and religious institutions.

Seattle has a TDR program with an affordable housing component, which maintains 50 years of affordability on sites that sell their development rights above existing low-income housing. Preliminary analysis indicates that the Seattle TDR program is correlated with a positive effect on market affordability. TDR has been coordinated with affordable housing in other municipalities.

New York City has already experimented with adding value to the City for public benefit. In the Hudson Yards/7 Train project, bonds were issued for the 7 train extension, against the future revenue of the newly marketable buildings. TDR could be used to transfer capacity from existing or new zones over buildings that are unable to use “leftover” FAR, as part of a comprehensive re-evaluation of New York City’s zoning. If implemented correctly, TDR can generate income for sites that the City wants to preserve, and to create greater economies of scale through transferred FAR capacity.

The implementation of a TDR program risks cooptation of public processes by those looking for profit. At the same time, the City can...
create a significant new funding stream to address affordability in more than a piecemeal way, by agreeing to relax height and transfer of development rights restrictions. To prevent cooptation, widespread TDR implementation must democratically leverage new value for the public good.

**RECOMMENDATION:**

- Study the feasibility of of new city-operated TDR bank.
- Implement a TDR program, as part of a comprehensive plan with a community based component.
- Expand TDR rights in phases, with a stall option, if the program fails to expand affordable housing production. The city could start with non-profit owned sites, and permit a transfer of 2 FAR, pooling the resulting square footage citywide with an allowable 10%-40% bonus for buyers, depending on the area.
- Allow for variation in the TDR program based on land use, as use-based zoning. HPD will control the price of development rights, and use the difference toward housing production.
- Require permanent affordability on the seller side, and mandatory inclusionary housing on the buyer’s side.
- Expand the program citywide, after a 5-10 year trial period.

If implemented incorrectly, TDR can exacerbate the problems identified in this report by increasing land-value commodification and instigating neighborhood change that causes displacement. However, if implemented carefully this strategy could make physical and financial room for a bigger, better, more affordable New York City.

**Land and Unit Acquisition**

The prohibitively high cost of land in New York City is a major obstacle to housing development. Land costs drive up the overall construction price, making it difficult to build anything other than luxury housing without subsidy. The public sector can contribute to the development of non-luxury housing – which is desperately needed in the city – by playing a more active role in land acquisition and land transfers.

Long-term vacant buildings are an underutilized resource, and can constitute a sizable source of land for future housing development. Some
long-term vacancies are in the public realm and should be converted into housing. However, much of City-owned land is not suitable for residential use.

The majority of vacant lots and buildings are privately owned. Some existing residential vacancies are a direct result of overbuilding in the luxury sector leading up to the 2008 foreclosure crisis. The City and the State have attempted to address the problem of luxury vacancy with Housing Asset Renewal Program (HARP) and Project Reclaim, respectively. According to HPD, “HARP is a $20-million pilot program to convert failed market rate properties at risk of contributing to blight and lowered property values into affordable housing.” With only two projects active, HARP has not gained much traction because it requires voluntary developer participation. Many developers have opted to keep their properties vacant, and wait for the market to rise. 

While most of the vacant luxury condos are a product of the recent downturn, other units and lots have been held vacant for decades. Some privately owned empty lots are a result of landlords waiting for the market to pick up, or for a neighborhood to gentrify. Another frequently occurring example are long term vacancies in rent-regulated residential units over commercial spaces.

Vacant residential units over commercial spaces, vacant luxury condos, and vacant lots in low-income neighborhoods have the potential to go from being a public nuisance to a public good. However, the creation of legislation to transfer vacant private land into the public domain is a major policy leap and can function as a challenge to the concept of individual land ownership. One possible approach is advocated by the grassroots organization Picture the Homeless, which proposes a City policy limiting the amount of time a residential unit can remain without tenants to three years. Another possible approach is suggested by the Right to City Coalition, which advocates for the use of eminent domain to seize long-term vacant land. Similar policies have been enacted in other cities. The Boston Redevelopment Authority conveyed the power of eminent domain over 30-acres of land to the Dudley Street Redevelopment Initiative. All real estate obtained by the Dudley Street Redevelopment Initiative was turned into a community land trust.

If misapplied, eminent domain can be destructive to communities, and like TDR has to be implemented as part of a comprehensive, community based plan. The use of eminent domain with the final goal of constructing
non-luxury housing will be a major departure from the mission of the Empire State Development Corporation (ESDC), the primary body with the power to condemn and take over land in New York City. ESDC has largely focused on using eminent domain to build large-scale, luxury development.\textsuperscript{29}

**RECOMMENDATION:**

- Impose tax penalties for properties that are vacant for 3 or more years.
- Explore the use of eminent domain for seizure of long-term vacant land, to be used for housing development within a community-based comprehensive planning framework.

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**Third Party Transfer**

Since the introduction of the Third Party Transfer program in 1996, the City has transferred tax-delinquent multifamily rental properties to developers, rather than retaining them as it did in the past.\textsuperscript{30} In rem stock is minimal compared to the 1980s, and the majority of buildings in the Third Party Transfer program return to the private market. However, a small percentage are transferred to non-profit developers, or directly to the tenants and converted to Housing Development Fund Companies (HDFC). HDFCs are limited equity co-ops, incorporated under Article XI of the New York State Private Housing Finance Law. Article XI allows the City to sell distressed and foreclosed buildings directly to tenant or non-profit developers. As of 2008, over 1,000 HDFC cooperatives have been developed in the city, though most prior to the inception of Third Party Transfer.\textsuperscript{31} Tenants operate under an interim lease (TIL), before receiving full title over the building. However, the HDFC incorporation process is difficult, bureaucratic, and time consuming.

While the impact of the Third Party Transfer program is small, it provides a good model for the de-commodification of housing.

**RECOMMENDATION:**

- Prioritize existing tenants and non-profit developers in the transfer of ownership rights of tax-foreclosed and distressed properties.
- Simplify the HDFC creation process.
• Increase regulation and general commitment from the City to the Third Party Transfer program.

Reduce Production Cost

Housing production costs drive the development of housing, influencing the frequency of production, as well as the housing type, location, and cost. High production costs delay the production of housing. The reduction of production costs, provides cost savings, encouraging housing production, while maintaining profitability for developers.

Permit Approval Process

The New York City Buildings Department (DOB) ensures the safety of building construction. Despite the implementation of the NYC Development HUB – designed to expedite the DOB review process “from months to minutes,” according to Mayor Bloomberg32 – developers complain of lost paperwork and slow responses. Currently, it can take months to attain construction approvals. Further, there are a number of management-related problems, including an absence of coordination between the various borough offices, and a failure to address applications expediently. Resulting delays in obtaining permits and certificates of occupancy add to the cost and uncertainty of housing development in New York City.

RECOMMENDATION:

• Increase DOB staff
• Standardize staff training and policies across the five boroughs.
• Track and publish reporting response time and the number of permit applications processed in relation to the number of applications filed.
• Automate and simplify the application submission and permitting process.

Taxes and Fees

New York City’s system of property taxation discourages the construction of new housing, by taxing vacant land at the lowest rate, and multifamily
housing at the highest rate. In addition, newly constructed housing is assessed based upon construction costs that are the highest in the nation. Tax assessment unpredictability complicates development cost estimates for new construction. The city needs to structurally overhaul the tax code to encourage non-luxury housing.

RECOMMENDATIONS:

• Reduce tax burdens on residential apartment buildings compared to single-family homes.
• Tax vacant land at a higher rate to promote the development of housing.
• Establish clear and consistent guidelines for imposing fees and fines during the construction process.

Building Code

New York City’s building code is complex, with many redundant provisions. The code’s complexity creates conflicts in interpretation, confusion and lengthy delays, increasing the cost of construction.

RECOMMENDATION:

• Eliminate redundancies in the building code.
• Remove minimum parking requirements, and establish parking maximum requirements in areas outside the Manhattan CBD. Unbundling parking costs changes parking from a required purchase to an optional amenity, so that households and employers can choose how many spaces they wish to lease. Especially among households with below average vehicle ownership rates (e.g., low-income people, singles and single parents, seniors on fixed incomes, and college students), allowing this choice can provide a substantial financial benefit.
• Introduce a Change of Use Exemption, when minimum parking requirements interfere with the ability of the owner/occupant to change the use of their property.
Strengthen Planning

Comprehensive Community-Based Planning

Housing policy is not integrated into the larger context of city functions. A comprehensive planning process, with a strong community-based planning component can aid in the de-commodification of housing by reprioritizing residents, and increase production by encouraging inter-agency communication and accountability. Further, comprehensive planning will change how policymakers and New Yorkers conceptualize housing.

Comprehensive planning has its roots in the urban reform movements of the early 20th century. In *Community Planning: Introduction to the Comprehensive Plan*, Eric Damian Kelly describes the comprehensive plan as a framework for planning functions coordination, to “provide a context for making well considered public decisions.” To qualify as a comprehensive plan, the following minimum conditions are needed:

- **Geographically comprehensive**: The plan should include the entire jurisdiction of the municipality.
- **Comprehensive in subject matter**: The plan should address all aspects that will physically affect the community in the future, including land use planning, transportation planning, environmental
planning, planning for utilities and infrastructure, and planning for housing.\textsuperscript{36}

- **Long-range:** The plan should have a planning horizon of 20 years or more.

In addition to these minimum criteria, a comprehensive plan is typically a multi-year process; a culmination of municipal inter-agency collaboration and citizen input; and a binding legal document adopted by the municipality.\textsuperscript{37} As described earlier, comprehensive planning is *technically* already in place in the city in the form of the Zoning Resolution.

The integration of all facets of planning into a coherent and coordinated effort is possible with a comprehensive plan. However, *how* a comprehensive plan is created is almost as important as its contents. In PlaNYC, citizen participation is encouraged primarily on an *ad hoc* basis. 197-a plans are a lengthy and resource intensive process that results in a document that lacks legal authority. New approaches are necessary to make community-based planning a reality in New York City. In *New York for Sale*, Tom Angotti, advocates that those who live in a community should have input as to how land is used.\textsuperscript{38} Seattle and Portland have integrated community-based processes into their comprehensive plans, providing a framework that New York City can adopt.

**Seattle and Portland: Community-Based Comprehensive Plans**

Unlike New York State, Washington State’s requirements for a comprehensive plan go beyond a zoning resolution. In 1990, Washington State passed a state law requiring planning for anticipated growth, entitled the Growth Management Act (GMA). The purpose of the GMA was to involve “citizens, communities, counties, cities, and the private sector” to help prevent “uncoordinated and unplanned growth.”\textsuperscript{39} The GMA requires that counties of a certain size and growth rate—and the cities within these counties—adopt comprehensive plans and development regulations dedicated to what the GMA describes as the five core “elements”: land use, transportation, housing, capital facilities, and utilities.\textsuperscript{40} Expanding beyond the five “elements” required by the state, Seattle added
additional considerations to satisfy County requirements and public demand, including:

- Economic development
- Neighborhood planning
- Human development
- Environmental
- Urban Village
- Cultural Resource

In contrast to the *ad hoc* public participation described in PlaNYC, ULURP, and the 197-a plan process, Seattle’s Comprehensive Plan, provided residents of Seattle with an active role in the creation of the Plan and its continuing updates. As the plan explicitly states, residents of Seattle are encouraged to “participate in planning for the future of their area within the context of the City’s Comprehensive Plan.”

After a five-year planning process, 33 neighborhood plans were adopted and incorporated into the Plan. For each neighborhood, goals and policy recommendations were put forth. Although not adopted as city policy, these neighborhood plans are part of the official Comprehensive Plan and viewed as the “continued vision and desires of the community.”

Seattle’s example is a model for community-based planning: residents and the city working together to create a vision and a plan for the future. The Permanent Land Use Map created through the process is developed with the Seattle Department of Planning and Development and the neighborhoods. Once adopted, the map is a legal document and any sites that desire a change in land use contrary to the Permanent Land Use Map must go through a lengthy process of review. The Seattle Department of Planning and Development considers specific requests within neighborhoods, such as for more parks or bike lanes, alongside the neighborhood plans. If funding is available for certain types of projects, and those project recommendations are contained within the accepted neighborhood plan, they are given priority status in the application process.

In Portland, a community-based comprehensive plan is still in the making, with a recommended draft adapted by the Portland
City Council on April 25, 2012. Much like Seattle, community-based planning is integral to the formulation of Portland’s comprehensive plan. A portion of the Portland Plan’s stated purpose demonstrates why a comprehensive plan should utilize community-based planning:

“The Portland Plan’s approach is different. It started with Portland’s people: How are Portlanders faring today and how can we improve their lives and businesses over the next 25 years? What do (and will) Portland residents and businesses need? What kind of place do Portlanders want to live in today and in 2035? Then we asked: How do we get there? Through outreach to each Portland household and business, Portlanders helped answer these questions and responded with more than 20,000 comments and ideas for the plan.”

What New York City can Learn From Seattle and Portland

The most important lesson from the Portland and Seattle plans is the planning process itself. The scope, conclusions, and recommendations reflect meaningful community involvement.

The adaptation of a community-involvement process in New York City would be a complex, politically difficult task. To move in this direction, the City should consider amending the City Charter to strengthen the Community Board’s official planning role as well as simplifying the 197-a plan process and making it legally binding. Complementary to this, ULURP review should feature greater community involvement, especially in cases of large-scale neighborhood change. These changes should be contextualized in larger government reforms.

RECOMMENDATION:

• Develop a New York City comprehensive plan, with housing as one of many integrated parts

• Restructure the strength and role of the community boards to act as a forum for community-based planning in formulation of the comprehensive plan

By making community participation integral, the focus of policy will shift. People at the center of a comprehensive plan’s implementation can
better prioritize housing as a human need. New York City should start with the following priorities:

- Encourage affordability for low – and middle-income families
- Focus on the needs of current tenants
- Empower community development corporations to administer housing

ENDNOTES

13. Ibid. 4.
19. Ibid.
23. Ibid. 52-63.
27. Ibid. 26.
34. Ibid. 3
35. Ibid. 7.
36. Ibid. 3-6.
37. Ibid.
42. Ibid.
43. City of Seattle Department of Planning and Development, “Seattle’s Comprehensive Plan:


45. Ibid.
Conclusion

New York City is in a housing crisis. New Yorkers of all incomes are burdened by housing costs. However, these impacts are unevenly distributed throughout income ranges, with low-income families hit hardest. New York City’s piecemeal, top-down planning process and increasingly over-commodified housing policies have failed to meet New Yorkers’ housing needs. The anticipated population growth threatens to exacerbate that housing policy failure without any plans to address the housing needed. Therefore, there is an urgent imperative for structural policy change.

To move beyond this broken system, New York City needs a housing policy that is integrated in a comprehensive, community-based planning process that prioritizes New Yorkers’ needs. Production and preservation strategies must be applied together to address the existing and future housing demand.

Preservation Recommendations

**Preservation of Existing HUD, Mitchell-Lama, and City-Subsidized Housing**

- Pass “Right to Purchase” legislation for subsidized housing tenants and their chosen “preservation partners.”
- Prioritize ownership for current tenants, community development corporations, or other non-profit corporations.
- Coordinate between New York City and New York State in the development of a “right to purchase” program.
• Rent stabilize for all developments exiting the HUD-subsidized and Mitchell-Lama programs.

• Increase real property transfer tax for former Mitchell-Lama, HUD, and City-Subsidized developments that fail to preserve affordability.

RENT REGULATION PRESERVATION

• Eliminate all deregulation measures for rent stabilization.

• Utilize the rent-burden ratio as a guideline for rent increase recommendations.

• Repeal statutory vacancy bonuses.

• Reconfigure individual apartment increases (IAIs) and major capital improvement increases (MCIs) as surcharges separate from the base rent.

RENT REGULATION EXPANSION

• Repeal the 1971 Urstadt Law.

• Expand rent stabilization to all buildings with six or more units, with initial rents set by comparing comparably sized rent-stabilized apartments in the area. In instances where such a rent setting results in a rent role lower than a fair rate of return, the Studio recommends a secondary formula to set a rent that allows landlords to realize a fair rate of return. Administration of the rent regulations for this new class of apartments would otherwise be identical to apartments regulated under the 1974 Emergency Tenant Protection Act, with annual rent increases set by the New York City Rent Guidelines Board. “First rents” set under the current or future systems of rent stabilization should set rents on the basis of need or 30% of the monthly median renter income.

• Institute a tax-abatement program similar to 421-a, for rent-regulated buildings. New buildings entering rent regulation, should receive a tax abatement, for the duration of rent regulation.

PERMANENT AFFORDABILITY

• Require permanent affordability for all City – and State-subsidized rental properties as a *quid pro quo* for the subsidy.

• Institute an “option to Purchase” mechanism for all City
– and State-subsidized buildings in the event of foreclosure or mismanagement by private landlords.

• Require leasing, rather than selling City-owned land.

• Establish a citywide land trust.

• Introduce sustainable underwriting practices, which support a commitment beyond the initial regulatory period, and provide savings at the point of recapitalization or preservation.

• Require permanent affordability as part of Request for Proposals.

• Expand resources for asset management for community development corporations.

Production Recommendations

LIHTC REFORM

• Expand the depth of affordability, by better incentivizing mixed-income housing, which does not have to satisfy the current requirement that 40% of units reach 60% AMI and 20% reach 50% AMI.

• Avoid the LIHTC and Section 8 voucher layering, unless a building needs additional funding to achieve financial stability.

• Expand affordability by matching and extending the lengths of a developer’s commitment to the city and the life of the LIHTC abatement (presently 60 years).

CODE ENFORCEMENT REFORM

• Institute a more regular and thorough code enforcement system, with more robust fines for code violations. The fines could be used as a mechanism to pay for the cost of enforcement.

ADDRESSING PREDATORY EQUITY

• Stabilize overleveraged buildings that are in physical disrepair or at risk for foreclosure.

• Expand HPD’s Overleveraged Property Initiative, which targets distressed property headed into foreclosure or prone to speculative ownership. Federal and city subsidies are used to make repairs, maintaining affordability, and encourage stable long-term ownership.
• Introduce a more comprehensive approach to addressing predatory equity, including loan modifications in exchange for affordability regulations for overleveraged buildings.33

• Short sell effected buildings to government-approved owners committed to responsible long-term management.34

• Insure longer-term affordability in rent-regulated buildings through the repeal of deregulation measures.37

• Closely monitor rent-regulated and Mitchell-Lama developments by DHCR, HPD, or the City Council.39

**SPECIAL DISTRICT EXPANSION**

• Explore and expand special purpose districts, especially in rapidly growing real estate markets.

**TRANSFER OF DEVELOPMENT RIGHTS**

• Study the feasibility of of new city-operated TDR bank.

• Implement a TDR program, as part of a comprehensive plan with a community based component.

• Expand TDR rights in phases, with a stall option, if the program fails to expand affordable housing production. The city could start with non-profit owned sites, and permit a transfer of 2 FAR, pooling the resulting square footage citywide with an allowable 10%-40% bonus for buyers, depending on the area.

• Allow for variation in the TDR program based on land use, as use-based zoning. HPD will control the price of development rights, and use the difference toward housing production.

• Require permanent affordability on the seller side, and mandatory inclusionary housing on the buyer’s side.

• Expand the program citywide, after a 5-10 year trial period.

**LAND AND UNIT ACQUISITION**

• Impose tax penalties for properties that are vacant for 3 or more years.

• Explore the use of eminent domain for seizure of long-term vacant land, to be used for housing development within a community-based comprehensive planning framework.
THIRD PARTY TRANSFER

- Prioritize existing tenants and non-profit developers in the transfer of ownership rights of tax-foreclosed and distressed properties.
- Simplify the HDFC creation process.
- Increase regulation and general commitment from the City to the Third Party Transfer program.

PERMIT APPROVAL PROCESS

- Increase DOB staff
- Standardize staff training and policies across the five boroughs.
- Track and publish reporting response time and the number of permit applications processed in relation to the number of applications filed.
- Automate and simplify the application submission and permitting process.

TAXES AND FEES

- Reduce tax burdens on residential apartment buildings compared to single-family homes.
- Tax vacant land at a higher rate to promote the development of housing.
- Establish clear and consistent guidelines for imposing fees and fines during the construction process.

BUILDING CODE

- Eliminate redundancies in the building code.
- Remove minimum parking requirements, and establish parking maximum requirements in areas outside the Manhattan CBD. Unbundling parking costs changes parking from a required purchase to an optional amenity, so that households and employers can choose how many spaces they wish to lease. Especially among households with below average vehicle ownership rates (e.g., low-income people, singles and single parents, seniors on fixed incomes, and college students), allowing this choice can provide a substantial financial benefit.
- Introduce a Change of Use Exemption, when minimum parking
requirements interfere with the ability of the owner/occupant to change the use of their property.

**Planning Recommendations**

**COMPREHENSIVE COMMUNITY-BASED PLANNING**

- Develop a NYC comprehensive plan, with housing as one of many integrated parts
- Restructure the strength and role of the community boards to act as a forum for community-based planning in formulation of the comprehensive plan
- Prioritize housing as a human need by prioritizing affordability for low– and middle-income families; focusing on the needs of current tenants; and empower community development corporations to administer housing.
Appendix A - Programs

New York City Housing Authority (NYCHA)

During the 1930s, New York City used NYCHA to secure a large share of the federal funding available for the construction of public housing. The City built the first public housing project in America, the First Houses on the Lower East Side in 1935, and the largest public housing complex in the U.S., Queensbridge, in 1939.¹ No new NYCHA construction has occurred since 1972. Unlike St. Louis, Philadelphia, or Chicago, New York City has not dismantled its public housing program. Today, New York City maintains the “largest and best-managed” public housing inventory in the United States.² According to NYCHA, there are 403,995 authorized residents in its Conventional Public Housing Program.³ Some experts estimate the actual public housing population to be closer to 650,000.⁴ There are 161,000 families on the waiting list for public housing, with a vacancy rate of 0.6%.⁵

Today, NYCHA faces a serious fiscal crisis. Federal funding for LHAs was cut under Presidents Nixon, Reagan, Bush, and Clinton. While the federal government only reduced public housing funding, the state and the city ended their subsidies completely. The result is a structural operating deficit and a $13 billion capital shortfall through 2015.⁶ In order to sustain itself into the future, NYCHA needs new financing options. In January of 2012, NYCHA released its 5-year strategic plan called Plan NYCHA: A Roadmap for Preservation. The long term financing plan for NYCHA is based in public-private partnerships, the development of mixed-income housing on NYCHA sites, the “maximization” of NYCHA land, buildings and development rights, utilization of tax credits, and inclusionary zoning.

Rent-Controlled and Rent-Stabilized Stock

Rent control and rent stabilization are rooted in federal regulation of prices wartime. In 1942, the Emergency Price Control Act (EPCA) created a nationwide price regulatory system.⁷ The legislation was passed with the implication that the price controls would be lifted after the end of the war. However, the Housing Act of 1949 gave states the authority to
continue, eliminate, or modify the federal rent regulatory system. New York State took over the rent regulatory system in 1950, because of a fear of a post-war price inflation and pressure from the labor and tenant movement. Rent stabilization was established in 1969 to regulate rents in post-World War II buildings, and further extended under the Emergency Tenant Protection Act of 1974. Rent regulation programs are contingent on a low vacancy rate, defined as less than 5%. In the 1970s, New York City established the Senior Citizen Rent Increase Exemption (SCRIE) program, to protect low-income seniors from rent increases in rent-regulated apartments. The protection was extended to disabled tenants in 1995, with the institution of the Disability Rent Increase Exemption (DRIE).

Today, all rent regulation laws are administered by DHCR, a New York State agency. However, the New York City Rent Guidelines Board (RGB) sets the rates for rent increases every year. Rent Control is fully administered by DHCR. The two programs are a product of layers of federal, state, and local legislation, some dating back to the 1920s.

According to DHCR, rent control generally applies to buildings built before 1947. Rent stabilization generally applies to buildings built after 1947 and before 1974, and apartments removed from rent control. It also covers buildings that receive J-51 and 421-a tax benefits and certain buildings that have existed in the Mitchell Lama program, for the duration of the subsidy.

**Project-Based Section 8**

The passage of the Housing and Community Development Act of 1974 introduced the Tenant – and Project-Based Section 8 programs. In Project-based Section 8, landlords enter into rental agreement contracts with HUD to restrict rent levels below the fair market rent for the area for twenty years. Eligible tenants pay 30% of their income towards rent, with HUD paying the difference between the tenant’s contribution and the fair market rent. Units remain affordable upon vacancy. The program is designed to target low – and very-low-income tenants.

Many project-based developments also receive 40-year, federally insured, below market rate mortgages for initial construction or rehabilitation, as well as tax benefits. However, they often have prepayment options after 20-years, allowing for early deregulation. The program is also vulnerable
to political shifts in federal housing policy. From 1974 until 1983, when new Section 8 construction ended, over 92,000 units were constructed or rehabilitated in New York City through the program. Since the 20-year threshold was reached for many of these developments in the early 2000s, approximately 10% of units have been deregulated due to opt-outs or federal unwillingness to renew contracts for physically distressed properties.

**Tenant-Based Section 8**

Tenant-based Section 8 is a demand-based subsidy, which provides eligible households with a voucher to spend on the private housing market. Similar to Project-based Section 8, the voucher holders were originally required to pay no more than 30% of income in rent, with HUD paying the difference up to the area’s determined fair market rent. Tenants that receive vouchers must locate an apartment on the private market. If tenants are unable to locate suitable housing within the timeline set by the issuing agency they forfeit the voucher.

In New York City, HPD and NYCHA have their own separate supplies of vouchers. NYCHA administers the largest pool of vouchers in the nation, with approximately 100,000 households currently receiving the subsidy, and a closed waiting list of over 122,000 applicants. Only applicants that are survivors of domestic violence, participants in witness protection programs, or special referrals from the Administration for Children’s Services can receive vouchers today. HPD is the fourth largest issuer of vouchers in the nation, responsible for 29,000 vouchers. The agency awards vouchers to tenants displaced due to unsafe building conditions, or government-sponsored rehabilitation, and to tenants of federally and state assisted developments whose landlords are opting-out of affordability programs.

**Mitchell – Lama**

The Mitchell-Lama program came into existence after the passage of the New York State Limited-Profit Housing Companies Law of 1955. This program encouraged the construction of moderately-priced rental buildings and limited-equity cooperatives, by giving developers access to tax exemptions and below market rate mortgages from the city and state. The program was designed with an opt-out option, generally after 15-20 years.
The congruence of union, private, city, and state interests made this program very successful, producing 138,000 new housing units over the span of 20 years.\textsuperscript{21} For New York City officials and Governor Rockefeller financing of middle-income housing was a tool to counterbalance the FHA underwritten affordable suburban homes that were luring the middle class out of the city.\textsuperscript{22} The development of new Mitchell-Lama co-ops came to an end in the 1974, as the city entered into a fiscal crisis.

**Community Development Block Grants (CDBG)**

The Community Development Block Grant program was also a result of the 1974 Housing and Community Development Act. Under CDBG, funding is granted directly to large municipal governments, which have wide latitude in the type of programs they spend the money on. Funds may be used for the acquisition, disposition, or rehabilitation of residential buildings, but not for new construction unless as ‘housing of last resort’ (housing for the homeless), or if carried out by a non-profit as a part of a community revitalization plan.\textsuperscript{23}

The majority of New York City’s CDBG funds have been spent on low-income housing through HPD. Over the last decade CDBG monies have supported approximately half of HPD’s entire staff.\textsuperscript{24} Support for CDBG has waned; cuts began in 2003.\textsuperscript{25} This trend has continued to present. The recently approved budget for the federal fiscal year has significant cut to the program nationally, and New York City lost 8% of its previous year’s funding.\textsuperscript{26} This could seriously impact the agency’s ability to ensure the health and safety of residents in physically distressed properties.

**Low-income Housing Tax Credits (LIHTC)**

LIHTC was created under the Reagan Administration as a part of the Tax Reform Act of 1986. The program incentivizes private investment in the production of affordable housing, creating equity for developers to cover the costs of construction or rehabilitation. The cost of the subsidy is reflected in the loss of income tax revenue to the federal government.

The Internal Revenue Service grants tax credits to state and local allocation agencies, based on state population—a method, which doesn’t properly account for the city’s density of low-income residents and high rent-burdens. Granting agencies have broad leeway to
determine the priorities for which projects will receive credits. Investors can use these credits to reduce their federal income taxes dollar-for-dollar for every credit received. The credit is available to the investor for 10 years, in exchange for maintaining the affordability of covered units for a minimum of 15 years and a maximum of 60 years. These credits are often syndicated by both for-profit and non-profit entities that sell the credits to corporations, typically in the financial services sector. Between 1987 and 2003 approximately 42,000 units have been created or renovated in New York City using LIHTC. LIHTC targets households with incomes at or below 50% or 60% of local area median incomes. Those who face greater financial burdens (i.e. those with 30% of local AMI) are not directly reached by LIHTC without additional layers of subsidy.

**Division of Alternative Management (DAMP) & Tenant Interim Lease Program (TIL)**

During the 1970s and 1980s, New York City experienced a property abandonment crisis. Municipal government initiated in rem foreclosure proceedings on delinquent landlords to encourage tax collection. Rather than encourage payment, the strategy left the city owning tens of thousands of vacant lots and distressed occupied buildings. In 1986, HPD’s portfolio of in rem properties topped 53,000 units.

To manage this crisis HPD created the Division of Alternative Management (DAMP) to oversee the channeling of these properties to private ownership. The Division became the administrator for the **80/20 and 421a Programs**

The 80/20 and 421a programs were created in New York City during the 1970s and 1980s to supplement the loss of federal funding for affordable housing construction.

The 421A program is a state and local property tax exemption on new construction. It was started in 1971 to encourage the production of new housing at a time when virtually no housing was being produced in New York City. Over time the exemption has been reworked to encourage production of affordable units. In order to receive the exemption in these exclusion zones, developers must set aside 20% of the total units built to be affordable to households at 60% AMI, or they could purchase...
certificates to build affordable units offsite. Commonly developers took the latter option, building affordable units in lower income neighborhoods in the outer boroughs. While this exemption has subsidized over 110,000 units of housing since its inception, less than 10,000 (8%) of these have been made affordable. The program has cost local government an average of $300 million per year in foregone taxes.

The 80/20 Program was created in 1980. It packages property tax breaks and low-interest loans to developers that reserve 20% of units for households making less than 50% of AMI or 25% making less than 60% of AMI. NY HFA, NYC HDC, and HPD administer the program, which is funded through the sale of tax-exempt bonds. Participating units must remain affordable for the life of the bonds, which is usually 15 to 30 years.

**Third Party Transfer Program**

Starting in 1996, the Third Party Transfer program provided a new approach to in rem properties. Local Law 26, “permitted the Commissioner of Finance to sell the tax liens of properties which have tax arrears, but are not distressed;” The goal of the new law was to expedite the transfer of properties from the city to new responsible owners, allowing the City to cut costs in maintaining and managing the properties. At the same time, the Department of Finance (DOF) and Office of Management and Budget (OMB) wanted to create a system to maximize real estate tax collection of the foreclosed properties. Between 1996 and 2008, “436 properties were subject to the Third Party Transfer Program. Neighborhood Restore transferred ownership of 363 properties with 4,600 units of housing to new qualified owners with rehabilitation financing.”

**Inclusionary Zoning Bonus Program**

Inclusionary Housing allows an FAR bonus for the construction or preservation of permanently affordable housing. Currently, the New York City Inclusionary Housing Program has a number of drawbacks that limit its utility. First, it is optional. Many developers chose not to participate because it is costly and cumbersome. Second, it can only be used in a fraction of the city, in designated corridors. Third, even when developers use it, inclusionary housing is only a small fraction of the overall development, and less than the full bonus FAR. Although New York City continues to grow, only a relatively small percentage of
that growth is composed of affordable units through developer-incentive policies like the Inclusionary Housing Program. The economics of pegging affordable housing to the profitable development of market housing relegate this strategy to a peripheral role in the overall production of affordable housing.

The Inclusionary Housing Program started in 1987 and was initially limited to high density zoning distribution in Manhattan, and gradually expanded to other designated areas starting in 2005. To maximize the appeal of the program, “the Inclusionary Housing Program combined density with affordable housing finance tools, including City, State, and federal subsidy and financing programs, as well as 421-a tax benefits.” 

According to the New York City Department of Planning, the current parameters of the Inclusionary Housing Program allow new construction which allocates at least 20% of their residential floor area to affordable housing in residential districts with the R10 zoning designation and commercial districts with R10 density, “to receive a floor area bonus of 33 percent above the base floor area permitted.” Under the New Housing Marketplace Plan, the expanded Inclusionary Housing Program aims to “create 6,000 units of housing in recently re-zoned neighborhoods.”

Appendix B – Acronyms

80/20 Program – tax-exempt financing to multifamily rental developments in which at least 20%

197-a – Process for community based planning

421-a – Tax exemption program administered by HDP and DOF

ANHD – Association for Neighborhood and Housing Development

AMI – Area Median Income

CDBG – Community Development Block Grants

CDC – Community Development Corporations

CPC – City Planning Commission

DAMP – Division of Alternative Management

DCP – Department of City Planning

DOB – Department of Buildings
DOF – Department of Finance
DRIE – Disability Rent Increase Exemption
DHCR – Division of Housing and Community Renewal
EPCA – Emergency Price Control Act of 1942
FAR – Floor Area Ratio – the ratio between the building’s total floor area and the zoning lot the building sits on
FHA – Federal Housing Authority
FIRE – Finance, Insurance, and real estate industries
HPD – Housing and Preservation Department
HUD – Department of Housing and Urban Development
HVS – Housing and Vacancy Survey
J-51 – Tax exemption program administered by HDP and DOF
LHA – Local Housing Authority
LIHTC – Low-income Housing Tax Credit
OMB – Office of Management and Budget
RGB – New York City Rent Guidelines Board
NYCHA – New York City Housing Authority
SCRIE – Senior Citizen Rent Increase Exemption
SRO – Single Room Occupancy
TIL – Tenant Interim Lease Program
ULURP – Uniform Land Use Review Procedure
ENDNOTES

2. Jackson, 914. (first time used, please include citation information)
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6. Ibid.
9. Ibid.
10. Ibid.
13. Ibid. 164.
15. Ibid. 6.
17. Ibid.
18. Ibid
21. Ibid. 839.
22. Ibid. 841.
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27. Ibid. 105.
28. Schwartz, 121.
30. Braconi, 101.(First time used, please include all citation information)
32. Pratt Center for Community Development, "Understanding the NYC "421-a Property Tax

33. Burd and Robinson “Tax Breaks for Affordable Housing.”
34. Ibid.
35. Ibid.
37. CUP, 72 (first time used, please include all citation information)
38. Ibid.
41. Ibid, 20.
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44. Ibid.