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Furman Center Report Explores Market for Transferable Development Rights in NYC

Analysis of development right transfers in New York City reveals a complex market, which has implications for the city's Midtown East rezoning proposal

New York, NY—A new report issued today by the [Furman Center for Real Estate and Urban Policy](#) at NYU analyzes development right transfers in New York City between 2003 and 2011, looking at the prices paid, number of rights transferred, location of the sending and receiving parcels, and legal mechanisms used, in order to shed light on an important, but hard-to-track market.

Almost a third of the large residential and commercial buildings recently constructed in Manhattan below Central Park used development rights acquired from other lots, but tracking the transactions is difficult. The report, [Buying Sky: The Market for Transferrable Development Rights in New York City \(PDF\)](#), examines 242 arms-length transactions for which complete data is available, and finds wide variation in the price paid per square foot of development rights, even for sales within the same neighborhoods, programs, and time periods.

The findings are relevant to the city's East Midtown rezoning plan, which would allow the owners of some sites in East Midtown to build larger buildings in exchange for cash contributions to a District Improvement Fund that would finance local pedestrian and transit infrastructure improvements in the area. The proposed rezoning sets the contribution rate at \$250 per square foot for commercial uses and \$360 per square foot for residential uses on the basis of appraisals of the current market value of development rights.

The [Furman Center](#) report finds significant variation in the prices paid for development rights transferred over the past decade, however, even for sales in the same neighborhood, in the same year, using the same legal mechanism. Accordingly, the report argues, the uniform contribution rates the rezoning sets for commercial and residential development rights are unlikely to accurately reflect the value those rights would command on the market.

“Using a single contribution rate for the density bonus may be administratively efficient and provide certainty,” said [Vicki Been](#), Director of NYU’s Furman Center for Real Estate and Urban Policy. “However, if the city’s goal is to reflect the market value of the density bonuses, our data suggests the proposal may miss the mark by using a single number.”

“Getting the contribution rate right is important in the East Midtown rezoning, and more generally, given the city’s reliance upon development rights mechanisms in a wide number of rezonings. Overpricing risks impeding the goal of encouraging new construction, while undercharging limits the funds available to finance area infrastructure improvements needed to support additional density,” said Been.

The [report](#) suggests that more market-oriented mechanisms, such as the auctions commonly used in when the government grants rights to the airwaves needed for telecommunications, or to oil, gas or mineral resources on public lands, might be more efficient.

Citywide, the average price paid for transferable development rights from 2003-2011 was \$181 per square foot (in inflation-adjusted 2013 dollars). However prices ranged from less than \$50 to more than \$500 per square foot.

In Midtown, for example, the average price was \$203 per square foot. Yet, 11 transfers were priced at less than \$100 per square foot, and six were priced at more than \$300.

“Determining how to raise funds for infrastructure improvements necessitated by new development is a complicated and critically important question,” said Been. “The controversy engendered by the East Midtown proposal suggests that it is time for a wider-reaching public debate about the tools the city should be using to raise those funds and to distribute density in rezoned areas, including what role density bonuses and TDRs should play.”

[Buying Sky: The Market for Transferrable Development Rights in New York City \(PDF\)](#) is now available.

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The [Furman Center for Real Estate and Urban Policy](#) is a joint center of the New York University School of Law and the Robert F. Wagner Graduate School of Public Service. The Furman Center is the leading academic research center in New York City devoted to the public policy aspects of land use, real estate, and housing development, and is dedicated to providing objective academic and empirical research. More information on the Furman Center can be found at www.furmancenter.org and [@FurmanCenterNYU](https://twitter.com/FurmanCenterNYU).