Reducing the Cost of New Housing Construction in New York City

A Report to
The New York City Partnership and Chamber of Commerce
The New York City Housing Partnership
and
The New York City Department of Housing Preservation and Development

Prepared by:

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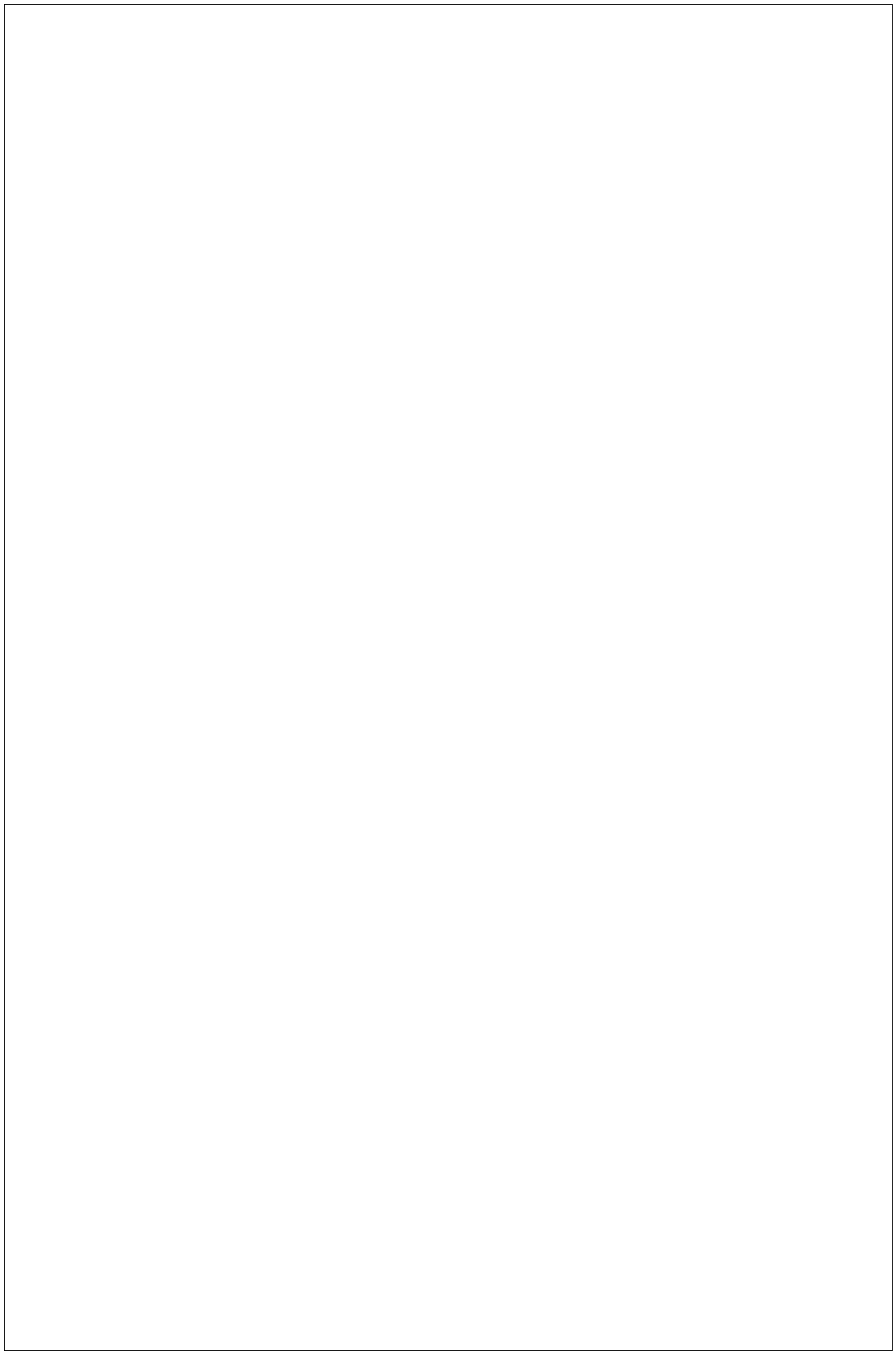
The New York University School of Law
Center for Real Estate and Urban Policy



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This study required assembling a team of researchers that had expertise in housing policy, the residential real estate industry and public finance. I am extremely pleased that Jerry Salama and Martha Stark were able to sign on as co-Principal Investigator and Project Director, respectively. Both are lawyers with years of experience in government and the private sector. Mr. Salama, was until 1996, the Deputy Commissioner for Housing Management and Sales of the New York City Department of Housing Preservation and Development. Since 1996, he has been an Adjunct Professor at New York University School of Law and a developer and manager of low and moderate income housing in Harlem. Martha Stark, a graduate of New York University School of Law, was formerly an Assistant Commissioner of the New York City Department of Finance and then served as the Director of Policy and Development for the Manhattan Borough President until 1998. Rounding out our team was Jason Hayter, a recent graduate of the University of Texas and a 1998-1999 New York City Urban Fellow, and Kimberly Staggs, a 1998 graduate of the University of Alabama Law School.

Mr. Salama and Ms. Stark join me in expressing our gratitude to the numerous professionals who we consulted in New York, as

set forth in Appendix A. These men and women donated countless hours of their time advising us and providing valuable information for our research. In addition, we would like to thank the government officials, developers and other members of the real estate community in Chicago, Dallas and Los Angeles also listed in Appendix A. We would also like to thank Michael Cooper and Michele Chabonneau of the Nelson A. Rockefeller Institute of Government who oversaw the publication of this report.

Of course, all of the opinions expressed in this study are those of the authors and do not necessarily represent the views of the people who advised us, the New York City Partnership and Chamber of Commerce, the New York City Housing Partnership, HPD, the funders or New York University School of Law.

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Preface

In 1997, the New York State Assembly and Senate were paralyzed for several months as the future of rent regulation was being debated. Within the city, angry debates between representatives of landlords and tenants escalated out of control as what was commonly referred to as the "rent wars" came to look more and more like the real thing. In the end, the New York State Legislature passed and the Governor signed a bill that extended rent regulation for six years and loosened up some of the restrictions that landlords found to be most onerous. Virtually lost in the fray, however, was any serious debate over why rent regulation has become such a flashpoint in New York politics. New York City has been in a self-proclaimed housing "emergency" since the end of World War II. While the rest of the nation responded to postwar housing shortages with a construction boom that left all but low income households appropriately housed, in New York City developers have not even been able to produce enough housing to satisfy the needs of the middle class.

Against this backdrop, in 1998, the New York City Partnership and Chamber of Commerce and the New York City Department of Housing Preservation and Development requested that the New York University School of Law Center for Real Estate and Urban Policy conduct a study to examine why the private real estate industry fails to produce enough new housing each year to keep up with demand. The Report set forth herein has two main components. Primary and secondary data from New York City and several other large American municipalities are used to illustrate the nature of housing problems in New York. One of the primary housing problems that has plagued New York for much of the past decade has been its relatively low rate of new housing production. Data are analyzed to demonstrate that one of the reasons for this low rate of production is the relatively high cost of new housing construction in New York City. The remaining sections of the Report examine why housing construction is so expensive and what might be done to reduce costs. A variety of interventions are discussed; some are

new while others have been proposed in the past, but merit adoption today.

Like any major change, many of the policy prescriptions contained in this Report will be controversial. The authors have sought to take a comprehensive approach and have developed their recommendations to encompass a broad variety of players in the public, private and nonprofit sector. One set of policies often recommended to deal with New York's housing problems— increased governmental subsidies— are explicitly not covered by the Report. It is the view of the authors that while some level of subsidy will almost certainly be required to provide housing to low income households, these scarce public resources should be targeted to meet the housing needs of those whom a smoothly functioning housing market cannot serve. The housing market does not function smoothly in New York. These impediments— whether they be caused by government regulations or by industry practices— must be cleared away. That is the scope of this Report.

Executive Summary

In 1998, the New York City Partnership and Chamber and Commerce and the New York City Department of Housing Preservation and Development requested that the New York University School of Law Center For Real Estate and Urban Policy examine two related questions: (1) to what extent does the cost of building housing in New York City exceed the cost of construction in other large American cities and (2) what steps can government and the private sector take to reduce the cost of housing development. This Executive Summary highlights some of the findings and recommendations contained in the full report.

At present, the lion's share of housing development in New York City receives some form of government subsidy either directly through capital grants or loans or indirectly through property tax abatements and exemptions. Whereas in most American cities, only housing for low-income households is subsidized, in New York subsidies are utilized for households across the income spectrum. Particularly in the current environment of scarce public resources, it is vital that tax dollars be targeted to those who need them the most. If the recommendations contained in this Report were to be adopted, the cost of construction would decline across the board. While the city's poor would, no doubt, still require assistance, the cost savings would enable the private market to adequately provide market rate unassisted housing to many more New Yorkers than it does today, thereby allowing government to target scarce subsidies to those who are most needy.

Brief Description of Housing Problems in New York City

The major housing problem facing residents of New York concerns affordability (rather than physical conditions). According to the 1996 Housing and Vacancy Survey, 525,736 households or more than one-quarter of all renters in New York City have severe rent burdens, paying over half of their incomes for rent. Another 68,000 homeowners paid more than 60 percent of their incomes for housing. Although most households with severe affordability problems

earn low incomes, a substantial number of moderate and middle-income families also pay a disproportionate amount of their income for housing.

One of the principal causes of affordability problems is the high cost of housing in New York. Rents in New York are the highest in the nation. Home sales prices, while not the highest, are among the highest. One of the principal reasons why the cost of housing is so high is that for much of the past two decades, demand has outstripped supply. For example, although the number of households in New York City rose by roughly 120,000 from 1980 to 1996, its housing stock grew by only 53,516 units. Therefore demand outstripped supply by a ratio of approximately $2^{1}/_{4}$ to 1.

The Cost of Residential Construction in New York City

One of the main reasons why the supply of housing in New York City has lagged behind demand is because the cost of residential construction is the highest in the nation. The data in this Report consistently demonstrate that the cost of housing construction in New York City is higher than in comparable American cities. According to the data from R.S. Means, the hard costs of construction in New York is between 21 and 55 percent higher than in Los Angeles, Chicago and Dallas, three cities selected as control cities. More detailed cost estimates obtained from an estimator retained by the Center for this study, Zaxon, Inc., indicate lower, yet substantial, differentials. Depending on the type of construction, the cost per square foot in New York is estimated to be between 4 and 9 percent higher than in Los Angeles, between 10 and 11 percent higher than in Chicago and between 22 and 29 percent higher than in Dallas. If soft costs and land acquisition prices were to be included, these differentials would widen substantially.

The Availability and Cost of Vacant Land

Approximately, 70 percent of the vacant land in New York City is zoned for residential use, but less than 15 percent is zoned for as-of-right development of mid- and high-rise apartment buildings. In the boroughs outside of Manhattan, less than one percent of residentially zoned vacant land can be used for high-rise buildings.

Therefore, the price of vacant land in New York that is suitable for housing development is very expensive.

Many of the recommendations contained in this Report, particularly those in the chapter on zoning regulations (see below), are designed to increase the amount of land that can be devoted to housing and thereby drive down its price. In addition,

- ❖ The city and state should make obsolete or underutilized properties available for private housing development.
- ❖ The city should strategically plan to assemble developable sites by combining its stock of abandoned properties with private properties condemned through the power of eminent domain or foreclosed through Local Law 37 proceedings.
- ❖ The state should adopt laws that limit the potential liability of developers who build housing on appropriate brownfields sites and both the state and the city should provide financial and zoning incentives to offset the cost of remediation.

Rent Regulation

Contrary to the allegations of some members of the real estate industry, rent regulation is unlikely to impede new construction because developers are concerned that the law will be amended one day to include buildings constructed after 1974. Nevertheless, in some parts of the city, particularly in Manhattan, the ability of tenants to hold out and demand extremely high sums of money to move, makes it infeasible for owners to demolish or renovate buildings and construct additional housing. The costs attributable to delay and the windfalls to individual tenants reduce the supply of housing, drive up rents and harm all residents of the city.

- ❖ The New York State Legislature should amend the rent regulation laws to permit owners of buildings who commit to constructing 20 percent more floor area to evict tenants provided that the existing zoning permits such additional bulk and that the tenants affected are shielded from sudden increases in rent. All tenants

should be entitled to relocation assistance paid for by the owner. In addition, the owner should be required to either rehouse the tenant in a suitable apartment on-site at a rent comparable to the prior regulated rent or provide the tenant with a stipend equal to the present value of the difference between the tenant's existing rent and the average rent for a comparable apartment of suitable size in the same community district for a period of six years. The Department of Housing and Community Renewal (DHCR) should be required to process applications for eviction in a timely fashion according to prescribed time limits.

Environmental Regulation

Environmental review under the State Environmental Quality Review Act (SEQRA) and the City Environmental Quality Review (CEQR) are triggered by discretionary public actions (e.g. zoning and land use changes, financing approvals) rather than by the magnitude of the development or its likely environmental consequences. CEQR review delays projects and generates significant expense and uncertainty. In addition, the threat of non-meritorious lawsuits also impedes the development of housing.

- ❖ The New York State Legislature should amend SEQRA to exempt the actions of local legislative bodies in adopting comprehensive land use measures.
- ❖ The State Department of Environmental Conservation should expand the list of Type II projects not subject to rigorous review to include single developments of (a) no more than 90 housing units and (b) up to 150 units in the case of affordable housing developments built with governmental assistance.
- ❖ The New York State Legislature should further amend SEQRA to limit the ability of private individuals to bring lawsuits under the statute and should accelerate those actions which are brought.

Zoning Regulations

The current Zoning Resolution was drafted in 1961 and reflects planning principles that are now, in many instances, obsolete. The City Planning Commission has, over the years, adapted the Resolution to changing conditions, but this herculean task has been accomplished at the expense of increasing complexity. The code, as currently constituted, imposes burdensome requirements regarding open space, parking, height and bulk. Furthermore, substantial land that would otherwise be suitable for residential development is currently zoned for manufacturing uses. Rezoning this land on a project-by-project basis is expensive and creates delay. In recent years, the City Planning Commission has taken a proactive role and has made significant progress in re-zoning parts of the city to facilitate residential construction. However, additional opportunities for re-zoning and higher density residential development remain.

- ❖ The Mayor should establish a Task Force headed by the Chair of the City Planning Commission to comprehensively redraft the Zoning Resolution.
- ❖ The City Planning Commission should continue its efforts to re-map manufacturing districts for residential use and to increase densities for housing.
- ❖ The City should adopt, without delay, the proposals contained in the Department of City Planning's report entitled, *Zoning to Facilitate Housing Production*.

Land Use Review Processes

Proposed changes in zoning and dispositions of publicly owned land typically require approval pursuant to the Charter-mandated Uniform Land Use Review Process (ULURP). Although most of the entities that must review these discretionary actions pursuant to the ULURP process have time limits, some projects may encounter significant delays in being certified for ULURP either because the developer failed to provide needed information or because of the enormous workload of the Department of City Planning. Under state authorizing legislation, disposition of city-owned property for one-to-four family homes may be achieved through an expedited

process called the Urban Development Action Area Project (UDAAP). Nevertheless, the Accelerated UDAAP process has recently been undermined by the failure of the City Council to act on applications because of unrelated matters.

- ❖ The New York City Planning Commission should examine the feasibility of transferring approval of certain zoning changes with localized impacts from the City Planning Commission to the Board of Standards and Appeals. This would save several months in predevelopment processing because approvals by the Board of Standards and Appeals are not subject to ULURP.
- ❖ The Chair of the City Planning Commission should have the power to grant discretionary relief from use and bulk restrictions to permit the development of affordable housing. Applicants would be required to show that the relief will not alter the essential character of the neighborhood, that the advantages of granting the relief exceed any disadvantages to the community and that the proposed development is "affordable housing" that is consistent with the city's overall housing program.
- ❖ New York State should amend the UDAAP statute to include within its scope the disposition of properties for housing with five or more units provided that the parcels are at least 50 percent owned by the city. If the City Council fails to act upon Accelerated UDAAP applications within 60 days after submission, they should be deemed approved.
- ❖ ULURP applications concerning housing developments which do not present substantial planning issues (e.g. disposition of vacant land) should be certified by the Department of Housing Preservation and Development rather than the Department of City Planning. This delegation of functions would free up resources at the Department of City Planning and at the same time not interfere with sound planning. Both agencies

should be required to certify ULURP applications within appropriate time periods.

The Building Code

New York City's building code is stringent, voluminous, detailed, complex and arcane. The code adds to the cost of new construction in several ways. Many of its provisions are redundant or the product of special interests and serve no legitimate public safety function. In addition, the code's complexity leads to conflicts in interpretation, confusion and lengthy delays and provides an opportunity for bribery and extortion. Finally, the code's idiosyncratic nature discourages developers from entering the New York City market.

- ❖ New York City should adopt the Model Building Code with certain modifications to take into account the unique density of the city.
- ❖ To insure that a newly adopted Model Building Code does not quickly become littered with special interest provisions, New York State should extend the oversight it already exercises over other cities to include New York City's building code. Deviations from the model code should require justification based upon special local conditions, not be unduly restrictive and be reasonably necessary for public safety.
- ❖ New York City should examine and eliminate redundancies in the building code that have resulted from the recent adoption of fire sprinkler requirements.
- ❖ New York City should change the Materials and Equipment Acceptance Procedure in a number of important respects. Responsibility for changing standards for acceptable construction materials should be vested in the DOB and not shared with the City Council. Except in certain specifically identified areas, New York City should automatically adopt innovations in reference standards adopted by the model national code organizations. For those areas in which the DOB retains authority to review reference standards, technical consultants should be retained. The Reference

Standard Advisory Committee should be abolished and views on changes should be solicited through public hearings.

Permitting Approval Process – The Buildings Department

The New York City Buildings Department currently has enormous responsibilities. It has made some important strides in recent years to streamline its procedures. Nevertheless, a number of management-related problems persist including an absence of coordination between the various borough offices, conflicting interpretations of the building code, over-reliance on paper records and a failure to make good use of new technology. Housing developers routinely encounter delays in obtaining permits and certificates of occupancy which add to the cost and uncertainty of housing development.

- ❖ New York City should engage an external consultant to conduct a thorough management analysis of the way the Buildings Department does business. Among the areas where efficiencies can be achieved are: (1) the utilization of consolidated or on-line forms, (2) the transfer of certain functions to private entities, (3) the selection of appropriate indicators for inclusion in the Mayor's Management Report, (4) the creation of ways to provide additional information on a fee-for-service basis, (5) enhanced coordination and customer service, (6) additional automation and (7) improved library facilities to safeguard plans.
- ❖ New York City should fund the Department of Building's proposed upgrade of its computer system.

Taxes and Fees

New York City's system of property taxation inhibits 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 rather than by the income capitalization

method. Furthermore, various city agencies impose excessive fines and fees on developers during the construction process.

- ❖ The city should waive or reduce permit fees for affordable housing projects and especially for projects that are part of a Department of Housing Preservation and Development program. The definition of affordable housing would be specified in appropriate administrative regulations issued by the Department of Housing Preservation and Development.
- ❖ The city and state should waive or reduce real property transfer, mortgage recording and sales taxes on all affordable housing projects, especially projects for which the city or state has provided significant funding.
- ❖ New York City should reduce the tax burden on residential apartment buildings and expand the pilot property tax reform abatement program to include rental properties. It should also tax vacant land at a higher rate to promote the development of housing.
- ❖ The city should assess newly constructed properties based upon the income capitalization method.
- ❖ The city should establish clear and consistent guidelines for imposing fees and fines during the construction process.

Labor

Labor costs in New York City are, by far, the highest in the nation. Because labor is the single largest component of construction costs, high wage rates have the effect of making the cost of housing prohibitive, particularly in parts of the city outside the central core of Manhattan where market rents are much lower. High wage rates are compounded by inefficient and wasteful work rules.

- ❖ Labor unions and builders must negotiate agreements that eliminate wasteful work rules and jurisdiction requirements that drive up the cost of construction and do not contribute to worker safety. In many instances,

these work rules serve no rational purpose other than providing make-work for union members. Among the work rules that should be eliminated are inconsistent work weeks, minimum staffing requirements and many material and equipment restrictions

- ❖ Builders and labor unions should negotiate a lower wage rate for construction outside the central core of Manhattan. In addition, wage rates should reflect the complexity of construction and should vary depending upon whether the development is low-, mid- or high-rise.
- ❖ Builders and labor unions should negotiate a residential agreement that promotes coordination among all trades unions involved in the process of construction.

Extortion and Illegal Practices

Extortion, bid rigging, bribery and other illegal practices are pervasive in the construction industry and add to the cost of new construction. These illegal practices often take place because organized crime has infiltrated labor unions and construction companies. Efforts by federal, state and local law enforcement agencies to investigate and prosecute corruption in the industry have made progress, but much more needs to be done to ameliorate the problem and safeguard the gains that have been made.

The New York City Council should adopt the contractor licensing proposal put forward by the Mayor in 1998. This proposal should be modified to take into account the legitimate concerns of the construction industry. Specifically, the scope of the licensing requirement should be limited to construction managers and general contractors, fees should be capped at a fixed proportion of applicants' gross revenues, the factors justifying denial should be expressly delineated and the licensing body should be required to make its decisions within a set time period absent exigent circumstances.

Estimates of Cost Savings Attributable to Recommendations

If the proposals contained in this Report were adopted, a conservative estimate of the amount by which they would reduce the cost of construction would range between 18.8% to 25.1%. They could reduce rents charged by landlords for the units constructed by between 25.8% to 29.3%. These figures likely underestimate the full impact of the recommendations because they do not take into account the supply effects of the proposals to make additional land available for residential use.

Housing Problems and the Cost of Housing Construction In New York City

Part I of this Report describes the conditions that make it necessary for New York City to take steps to reduce the cost of housing construction. Specifically in Chapter 1, data are presented to demonstrate that large proportions of all households in the city pay extremely high shares of their income for rent or the costs of homeownership. Importantly, high housing cost-to-income burdens are not only a problem of the city's poor families; instead they affect households throughout the income spectrum. One of the principal causes of unaffordable housing is the fact that the supply of housing in New York City has not kept up with demand. The high cost of construction in the city is one of the prime culprits behind this.

Chapter 1:
A Brief Description of
Housing Problems in New York City

Since the end of World War II, New York City has been in a self-proclaimed state of housing emergency.[1] In this chapter, the nature of this housing emergency is explored. Data are presented that describe the city's housing problems and that allow comparisons with other large central cities. The remainder of the chapter discusses one culprit in the city's seemingly never-ending tale of housing woe— the low level of housing production it has experienced for over a decade. One of the principal reasons why the increase in housing supply in New York has been so low relative to demand is the high cost of construction, the reasons for which are analyzed in later sections of this Report.

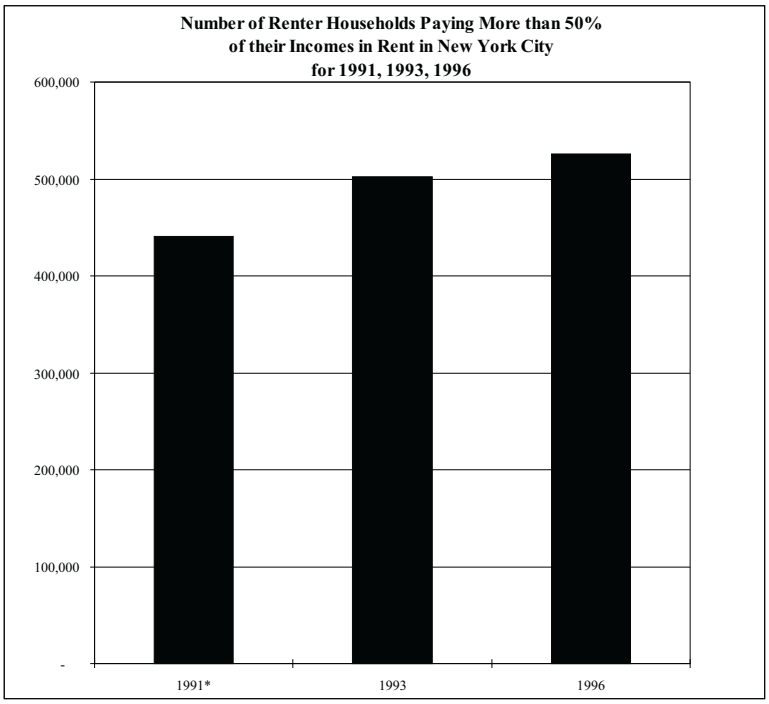
Problems of Affordability

Although the average quality of housing in New York City is probably the best it has ever been,[2] problems of affordability have worsened in recent decades. According to the Housing and Vacancy Survey, in 1996, the median contract rent-to-income burden for households in New York City was 28 percent, up a fraction of a point from 1993. Over one-quarter of all renters (525,736 households) paid more than half their incomes in rent, despite the fact that well over two-thirds of the city's rental housing stock is comprised of rent regulated or subsidized housing. An additional 68,000 homeowners paid more than 60 percent of their incomes for hous-

1 The declaration of emergency can be found in the laws establishing the city's rent regulation system. N.Y. Unconsol. Laws, sec. 26-501.

2 A small, but not insignificant segment of the population lives in housing that can be characterized as "substandard." According to the New York City Housing and Vacancy Survey, in 1996, the last year for which data are available, 4.5 percent of all city households— 123,773 households— lived in apartments or houses with five or more maintenance deficiencies such as heating equipment breakdowns, rodent infestation, cracks or holes in the wall and water leaks. Over 30,000 households lived in units that Census Bureau enumerators classified as "dilapidated" because they failed to provide minimally safe and adequate shelter. See Michael H. Schill and Benjamin P. Scafidi, "Housing Conditions and Problems in New York City," in *Housing and Community Development in New York City: Facing the Future* 30 (M. Schill, ed., 1999).

Figure 1



ing costs. As Figure 1 indicates, problems of affordability have increased throughout the decade.

Although the bulk of households bearing these extreme housing cost burdens have very low incomes where targeted subsidies might address this issue,[3] it is important to note that affordability problems are not isolated among the city's poor. In 1996, one out of every five middle income tenants earning between 80 percent and 200 percent of the area median income,[4] paid over 30 percent of his or her household income in rent; among middle income owners, the proportion paying over 40 percent of income for housing was almost identical.

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3 Over 94 percent of the households paying more than half their incomes in rent earn very low incomes (below 50 percent of the area median income). Among owners paying over 60 percent of their income for housing, 69 percent are very low income households.

4 Selecting income breaks for defining the middle class is essentially arbitrary. This definition of middle income is the same as used by the City Council in its 1998 report, *Hollow in the Middle: The Rise and Fall of New York City's Middle Class*.

Table 1
Housing Affordability: New York City Compared to Other Cities (1995)

	New York City	*All Central Cities*	*Chicago*	*Dallas*	*Los Angeles*
Renter Households					
Median Monthly Housing Costs	$632	$515	$528	$494	$625
Median Housing Cost Burden	32%	30%	29%	27%	36%
Proportion of Households Paying More than					
30% of Income for Housing	50%	47%	45%	36%	59%
50% of Income for Housing	27%	24%	21%	16%	30%
Owner Households					
Median Monthly Housing Costs	$742	$575	$681	$605	$873
Median Housing Cost Burden	19%	19%	21%	18%	23%
Proportion of Households Paying More than					
30% of Income for Housing	31%	25%	30%	18%	37%
60% of Income for Housing	11%	7%	9%	4%	12%

Source: American Housing Survey (1994, 1995)
Note: All data are from 1995 with the exception of Dallas.

Affordability Problems in Context

Residents of New York, particularly renters, pay more for housing, both in absolute and relative terms, than do households in virtually any other city in the nation. A recent study by E&Y Kenneth Leventhal found that out of 75 urban areas throughout the nation, "mid-management" quality single family homes and apartments in New York were the least affordable.[5] Data from the 1994 and 1995 American Housing Surveys are set forth in Table 1 for New York City, all American central cities, Chicago, Dallas and Los Angeles.[6] These data indicate that despite the ex-

5 Mid-management housing is defined to include "amenitized four-bedroom homes and large, luxury apartments." A close second was the city of San Francisco. *See* E&Y Kenneth Leventhal Real Estate Group, *1998 Study of Housing Costs* (1999).

6 The three cities included in Table 1 are the same cities for which data for our construction prototypes analyzed in the next section were collected.

istence of a disproportionate share of rent regulated and subsidized dwelling units in New York City, the median monthly housing cost for renters of $632 was the highest in the nation, 23 percent above the average for all central cities, 20 percent higher than in Chicago and 28 percent higher than in Dallas. Among the three cities in Table 1, only Los Angeles came close to New York. With respect to owner-occupied housing, the monthly housing cost in New York was also much more expensive (29 percent more) than the average for all central cities, although costs in Los Angeles were even higher.

Of course, households in New York City have higher incomes, on average, than those who live in other American cities. Therefore, Table 1 also compares housing cost burdens in New York to the three cities and the nation, as a whole. The results are consistent for both owners and renters. Housing in New York City is significantly less affordable than the average for all American cities, Chicago and Dallas. Only Los Angeles has a somewhat higher housing cost burden.

The Impact of Unaffordable Housing on New York City and its Residents

The high cost of housing in New York City has important effects on individual households forced to pay high proportions of their incomes for housing as well as for the economy of the city as a whole. The 525,736 households who pay over half of their incomes for rent, are largely composed of poor people. The fact that housing consumes such a large proportion of their income means that they have fewer resources left over for life's other necessities such as food and clothing. Recent research suggests that high housing cost burdens may also have an important effect on the health of urban households. For example, one study showed that the children of mothers who received housing assistance had significantly greater body weights than those of unassisted families.[7] The clear implication of this research is that the high cost of unassisted housing consumed such a large proportion of household income that appropriate nutrition was not possible. High housing costs may

7 *See* Alan Meyers et al., "Housing Subsidies and Pediatric Malnutrition," *Archives of Pediatrics and Adolescent Medicine*, vol. 149, at 1079 (1995).

also force households to live in areas that negatively affect their social mobility. Furthermore, high housing costs contribute to the spatial concentration of poverty.[8]

The impact of high housing prices is not limited to the poor, but threatens the economic viability of the city. Middle income families frequently adapt to the high cost of housing in New York City by moving to the suburbs. In many instances they experience significantly longer commutes to work. In addition to wasting time, these longer commutes consume energy and generate pollution. High housing prices are also correlated with increased wages for employees in cities;[9] households who live within the city need to be compensated for the relatively higher cost of housing, while those who commute in from distant suburbs will require additional pay to compensate them for commuting costs (e.g. transportation and time). Many companies have responded to the high cost of living in New York City by moving away from the city and thereby economizing on wages.

Examining the Causes of Unaffordable Housing in New York City

Housing is such an acute problem in New York City partly because of the existence of a large population of households who earn low incomes. For example, according to the 1994 and 1995 American Housing Surveys, 23.1 percent of New York households had incomes below the federally prescribed poverty level. The poverty rate in New York City was substantially higher than the rates for all American cities (19.6 percent), Chicago (18.9 percent), Dallas (13.7 percent) and Los Angeles (20.4 percent). Although the city's higher share of poor people may explain some of the discrepancy in housing affordability between New York and most other large

8 *See* William J. Wilson, *The Truly Disadvantaged: The Inner City, The Underclass, and Public Policy* (1987) and Ingrid Gould Ellen and Margery Austin Turner, "Does Neighborhood Matter: Assessing Recent Evidence," *Housing Policy Debate*, vol. 8, no. 4 (1998).

9 The precise relationship between housing prices and economic growth has not been clearly determined. High housing prices may reflect the vitality of a city's economy and the high demand for housing within its borders; they may also cause cities to become uncompetitive. *See* William D. Anderson and Kenneth M. Lusht, "Metropolitan Area Cost Competitiveness, Growth and Real Estate Performance," *Real Estate Issues,* Apr. 1995, at 33.

American cities, it does not explain why affordability problems also affect the middle class.

The relatively high rents and home prices in New York City are largely attributable to the laws of supply and demand. Over the past two decades, unlike most large cities in the Northeast and Midwest, New York City has gained population. From 1980 through 1996, according to Census Bureau estimates, New York City gained 309,267 persons compared to losses of 283,500 in Chicago and 210,208 in Philadelphia. This increase in population was almost entirely attributable to immigration from foreign countries.[10]

The addition of over 300,000 persons, or roughly 120,000 households over the 16-year period added to the demand for housing. Yet, during this same period, the supply of housing has not kept up. According to the decennial census, there were 2,941,860 housing units in New York City in 1980 with an overall vacancy rate of 5.2 percent. By 1996, according to the Housing and Vacancy Survey, the total number of housing units had increased by only 53,416 to 2,995,276. Unsurprisingly, the vacancy rate in 1996 was only 3.6 percent.[11]

Figure 2 illustrates one of the main reasons why New York City's stock of housing consistently failed to keep up with demand over the past two decades — the production of new housing has lagged well below historical norms. During the first half of the 1960s, on average, 51,715 units of housing were authorized by building permits each year. During the first half of the 1980s, this number had dwindled to only 9,974; ten years later, the number fell again to less than 6,000. Even in 1998, a year in which the city was experiencing prosperity and a real estate boom, only 10,387 units of housing were authorized.[12]

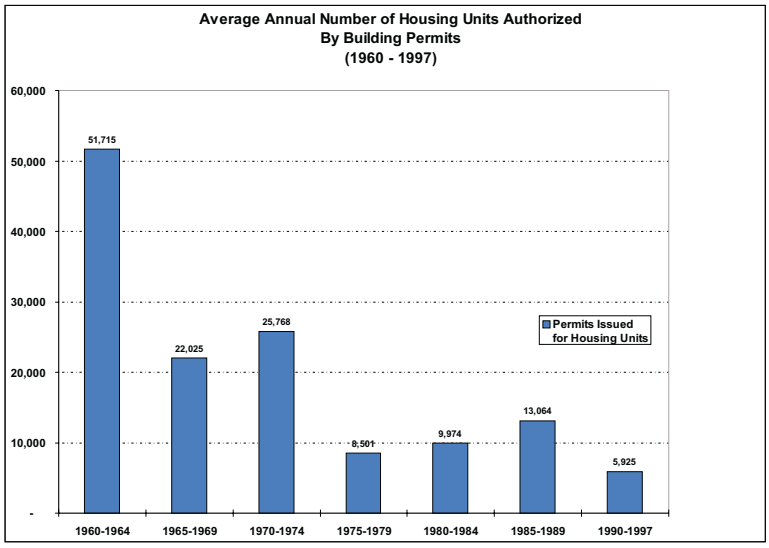
As Table 2 demonstrates, among the twenty largest cities that experienced population growth between 1990 and 1996, the abso-

10 *See* New York City Department of City Planning, *The Newest New Yorkers 1990-1994*; Joseph Salvo and A. Peter Lobo," Immigration and the Changing Demographic Profile of New York," in *The City and the World: New York's Global Future* (1997).

11 Other indications that New York City needs additional housing units are that almost 250,000 families are on the waiting list for Section 8 housing vouchers; and another almost 150,000 families are on the waiting list for public housing.

12 These numbers do not include the number of units rehabilitated in the city. Unfortunately, the Buildings Department does not maintain data to calculate this figure.

Figure 2



Source: NYC Rent Guidelines Board, *Housing NYC: Rents, Markets, Trends '98* (1999).

lute number of new housing units authorized by building permits in New York City (38,409) was the second highest. Only Phoenix had a higher production level (51,742). Other cities with relatively large numbers of housing units authorized during the period were Jacksonville (34,502), Los Angeles (28,726), San Antonio (28,679), Houston (28,610), Dallas (27,673) and San Diego (23,795). When the ratio of new units authorized to population increase is calculated, New York City does not compare unfavorably to most other growing cities as shown in Figure 3. Its ratio of 0.66 units authorized per person added between 1990-1996, is lower than the rates for Seattle (1.76) and Indianapolis (1.66), but somewhat above the 20 city average of 0.57.

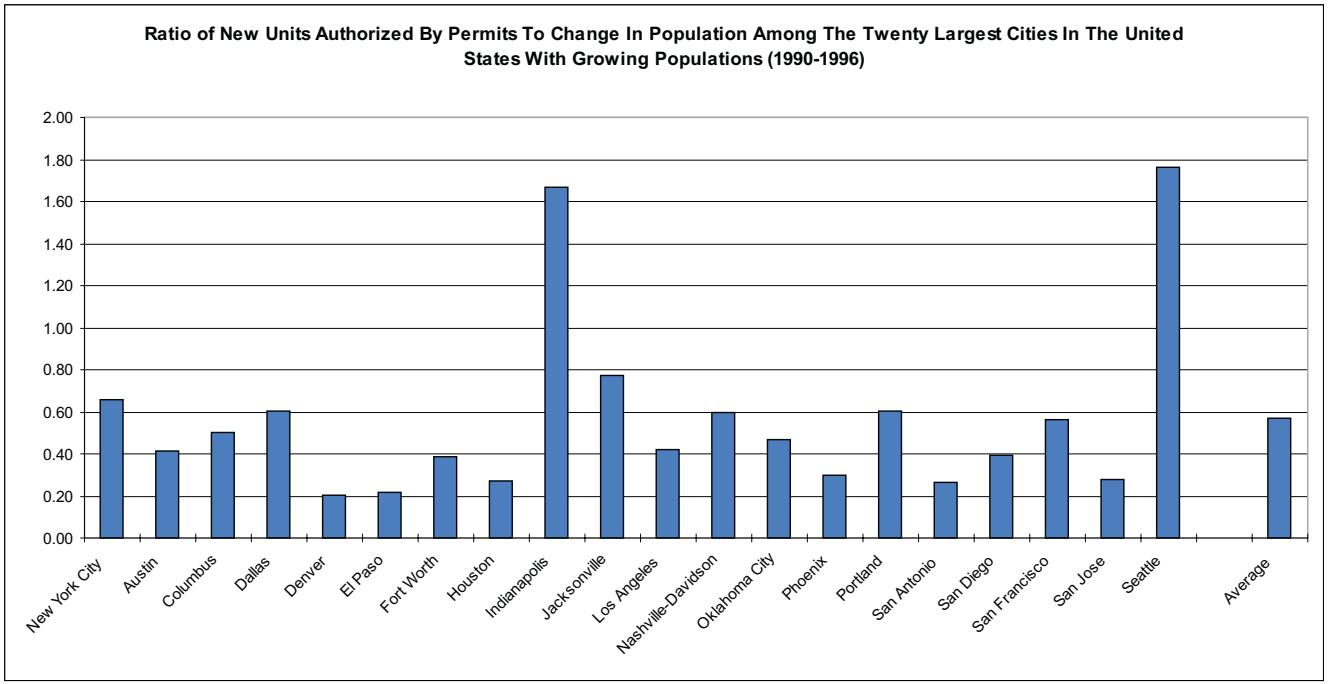
Although these statistics suggest that the rate of housing construction in New York City is not terribly out of line with several other growing cities, it is important to bear in mind that New York's housing stock is older, on average, than all of these cities with the exception of San Francisco. The age of New York City's housing stock means that each year a growing number of units will need to be replaced as they become obsolete and outlive their useful lives.

Table 2
New Housing Construction Among the Twenty Largest Cities in the United States with Growing Populations (1990-1996)

City Name	*Number of New Housing Units Authorized By Building Permits (1990-1996)*	*Absolute Change In Population (1990-1996)*	*Ratio of New Units Authorized By Permits To Change in Population*	*Number of Housing Units Built Before 1939*	*Ratio of New Units Authorized By Permits To Pre-1939 Units*	*Total Housing Units (1990)*	*Ratio of New Units Authorized By Permits To Total Housing Units*
New York City	38,409	58,342	0.66	1,223,797	0.03	2,992,169	0.01
Austin	28,462	69,258	0.41	10,853	2.62	217,054	0.13
Columbus	12,124	24,108	0.50	48,665	0.25	278,084	0.04
Dallas	27,673	45,674	0.61	31,661	0.87	465,600	0.06
Denver	6,176	30,230	0.20	61,586	0.10	239,636	0.03
El Paso	18,442	84,523	0.22	12,478	1.48	168,625	0.11
Fort Worth	12,415	32,097	0.39	21,193	0.59	194,429	0.06
Houston	28,610	106,199	0.27	43,586	0.66	726,435	0.04
Indianapolis	25,733	15,459	1.66	64,636	0.40	319,980	0.08
Jacksonville	34,502	44,562	0.77	18,433	1.87	267,148	0.13
Los Angeles	28,726	68,081	0.42	226,194	0.13	1,299,963	0.02
Nashville-Davidson	13,718	22,897	0.60	20,416	0.67	219,528	0.06
Oklahoma City	11,737	25,128	0.47	22,229	0.53	212,367	0.06
Phoenix	51,742	174,704	0.30	12,239	4.23	422,036	0.12
Portland	10,378	17,190	0.60	78,157	0.13	198,368	0.05
San Antonio	28,679	108,521	0.26	31,426	0.91	365,414	0.08
San Diego	23,795	60,498	0.39	37,128	0.64	431,722	0.06
San Francisco	6,383	11,356	0.56	180,988	0.04	328,471	0.02
San Jose	15,677	56,520	0.28	14,265	1.10	259,365	0.06
Seattle	14,885	8,445	1.76	90,150	0.17	249,032	0.06
Average	21,913	53,190	0.57	112,507	0.87	492,771	0.06

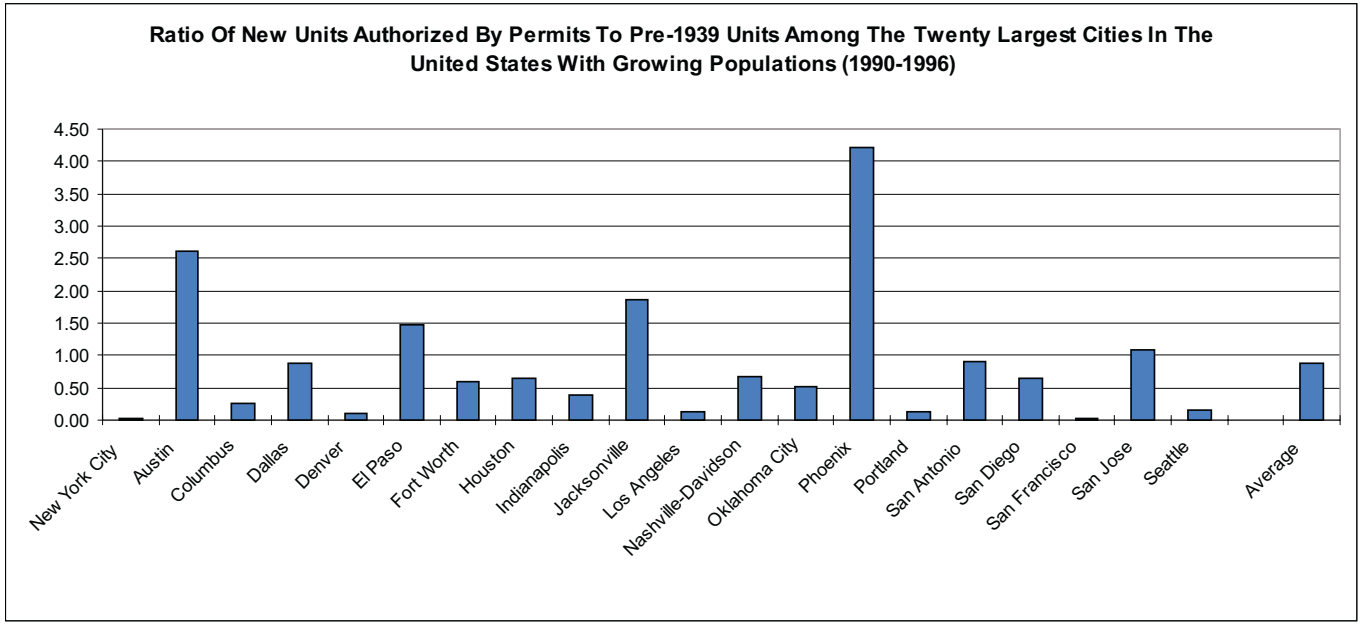
Source: U.S. Bureau of the Census

Figure 3



Source: U.S. Bureau of the Census

Figure 4



Source: U.S. Bureau of the Census

Indeed, Figure 4 shows that New York City has the lowest ratio of newly authorized units to units built before 1939 among the 20 largest growing cities in America. While relatively new cities can just build for incremental population growth, New York City must accommodate growth plus keep up with units lost every year to obsolescence.

Chapter 2:
The Cost of Residential Construction in New York City

One of the reasons why the supply of housing has lagged behind demand in New York City is the high cost of construction. In many parts of New York City outside of midtown Manhattan, developers of housing are unable to build market rate housing without some form of financial subsidy. The reason for this is that the market rents or sales prices in those parts of the city are not high enough to justify the amount it would cost to construct and maintain the housing. For example, according to one developer contacted in connection with this Report, it would cost approximately $135,000 to build a very low cost two-bedroom rental apartment in New York City. Even in today's very favorable interest rate environment, the cost of capital and operating expenses would require a minimum rent of almost $2,100 per month.[1] With the exception of high market rent areas in Manhattan and Brooklyn Heights, few areas will support these rents. In addition, this housing would only be affordable to households earning $83,000 per year, assuming a 30 percent rent to income ratio.

The first part of this section compares data on "hard" construction costs for over twenty large cities in the United States. Hard costs include labor and material, but do not include land or "soft costs" such as architects fees, taxes during construction, appraisals, title insurance, environmental tests and financing costs. The data in this first part are derived from a variety of secondary sources. In an effort to provide more detailed and systematic information about construction costs, the second part of the chapter focuses on comparing costs in New York City to three large cities—Chicago, Dallas and Los Angeles. A combination of primary and secondary data sources are examined. In interpreting all of the data in both parts of

1 This estimate assumes a 1,000 square foot unit with a total development costs of $135 per square foot. The permanent mortgage interest rate for 90 percent of the development cost (the rest is equity) is 8.5 percent for a 25 year term. Operating costs are estimated at $450 per month plus real estate taxes of $500 per month. The return on equity is assumed to be 12 percent.

this chapter, it is important to keep in mind that each source utilized different methodologies in selecting comparison developments, defining costs and estimating differentials. Therefore, estimates of construction costs for the same city will vary depending upon the data source utilized.

Analysis of Secondary Data For Cities Throughout the Nation

Cost construction data from secondary sources suggest that the hard cost of construction in New York City is the highest in the nation (even excluding land costs). Table 3 includes the hard costs per square foot for newly constructed 1 to 3 story residential buildings and high-rise buildings for 22 large cities in 1998. The data are collected by the R.S. Means Co., a firm that publishes standard reference volumes on construction costs. With respect to low-rise construction, costs in New York City are the highest in the nation. The next most expensive city is San Francisco whose price per square foot is 7 percent lower than that in New York. On average, the cost of new low-rise and high-rise construction in the 21 cities is 25 percent lower than in New York City.

In addition to R.S. Means, we reviewed cost data from Merritt and Harris, Inc., consultants to the real estate lending and investment communities, and building valuation data from the International Conference of Building Officials (ICBO), one of the model building code organizations. According to Merritt and Harris, the average hard cost per square foot for a high-rise building is $113 this year. It would cost 36 percent more to construct the building in New York City or $154 per square foot. It would cost $125 per square foot to build the high-rise building in Chicago, almost 19 percent less than the cost in New York City.[2] The ICBO data also shows that it is more costly to build in New York City. According to ICBO, in April 1998 the average cost in the United States to build a higher quality apartment house was $99 per square foot. However, the cost in New York City was 16 percent higher or $115 per square foot.[3]

2 *See* Merritt & Harris, Inc., *M&H Observations*, Spring/Summer 1999, vol. 2, issue 2, at 3.

3 *See* International Conference of Building Officials, Building Valuation Data, July–August 1998, at http://www.icbo.org/Building_Stand…ive&action=Building_Valuation_Data.

Table 3
Median Cost Per Square Foot For New York City and 21 Cities

Location	*RS Means Median Cost/Sq. Ft. 1 to 3 Story*	*RS Means Median Cost/Sq. Ft. High-Rise*
New York City	$69.50	$101.00
Bronx	66.00	95.50
Brooklyn	66.50	96.00
Manhattan	69.50	101.00
Queens	66.50	96.00
Staten Island	66.50	96.50
Atlanta	46.00	66.50
Baltimore	47.50	69.00
Boston	60.50	87.50
Chicago	57.00	83.00
Cincinnati	48.00	69.50
Cleveland	52.00	75.50
Dallas	44.50	65.00
Denver	48.50	70.00
Detroit	54.50	79.00
Houston	46.50	67.00
Jersey City	57.50	83.50
Los Angeles	57.50	83.50
Miami	45.00	65.50
Philadelphia	57.00	82.50
Phoenix	46.50	67.00
Pittsburgh	53.50	77.50
Portland	55.00	80.00
San Diego	55.50	80.50
San Francisco	64.50	93.00
Seattle	54.50	79.00
Washington	49.50	71.50
Average	52.43	75.98

Source: R.S. Means Construction Cost Data

One of the major components of the cost of new construction is labor. Table 4 includes the September 1998 hourly union pay scale for 18 trades involved in construction projects. Consistent with the R.S. Means construction data, pay scales (wages and fringe benefits) in New York City are the highest in the country. For example, the bricklayers' hourly wage rate in New York City of $46.64 is 16.7 percent higher than the next most expensive city, Boston. Bricklayers in New York City earn almost two-thirds more, on average, than the hourly wages for the other 19 cities for which data was available. Differentials between the cities with respect to wage rates for other trades follow a similar pattern.

Comparing Hard Construction Costs in Four Cities

In an effort to obtain more systematic and detailed comparative data on the cost of residential construction in New York City, the Center retained the architectural firm of Castro-Blanco, Piscioneri and Associates to prepare detailed prototypes of three different development projects. One of the three developments has actually been built in New York City in the recent past and another project is in the pre-development stage. A cost estimator, Zaxon, Inc., was retained to estimate the hard costs for each of the components of the three developments on a line item-by-line item basis in New York City and in three control cities, Chicago, Dallas and Los Angeles.

A number of criteria were utilized in selecting the control cities. First, we obtained detailed information about 21 cities, some of which is set forth on Tables 5 and 6, including:

- Population;
- Density;
- Number of housing units overall;
- Number of units in buildings with 5 or more units;
- Number of residential permits issued for two time periods (1990 to 1992 and 1997);
- The estimated cost of construction; and
- Hourly union wage rates for two sample trades — bricklayers and teamsters.

Table 4
Comparison of Wage Rates for Construction Trades

Trade	*Chicago*	*Dallas*	*Los Angeles*	*New York*	*20-City Average*
Bricklayers	$34.50	$18.25	$32.78	$46.64	$29.44
Carpenters	33.97	18.13	30.21	50.96	28.94
Cement Masons	34.44	18.59	32.21	47.39	28.22
Electricians	40.33	N/A	37.70	53.80	34.77
Elevator Constructors	39.22	N/A	38.68	45.27	34.78
Glaziers	34.72	15.80	30.94	41.37	28.67
Insulation Workers	37.66	N/A	35.61	49.95	33.46
Ironworking					
Reinforcing	37.46	19.04	36.12	48.93	31.69
Structural	40.64	19.04	36.12	59.18	32.57
Laborers					
Building	28.82	12.81	27.47	36.19	23.03
Millwrights	33.97	20.66	30.71	53.10	30.59
Operating Engineers					
Crane Operators	38.48	19.75	36.50	52.31	30.99
Heavy Equipment	36.22	19.75	36.50	52.93	30.77
Small Equipment	36.22	18.75	35.75	47.71	28.04
Painters	33.15	N/A	29.03	38.66	27.36
Pipefitters	37.72	22.00	36.65	51.89	33.68
Plasterers	32.71	18.00	31.29	38.69	27.78
Plumbers	37.55	22.00	36.65	55.66	33.90
Roofers	32.52	22.00	28.43	41.88	26.68
Sheet Metal Workers	37.63	22.08	36.51	50.80	33.42
Teamsters (Truck Drivers)	28.32	N/A	31.78	42.91	25.16

Source: Hourly Wage Rates: From *Engineering News-Record*, September 28, 1998. Wage Rates include base rate plus fringe benefits.

Table 5
Factors Utilized to Identify Comparison Cities

Location	*Population*	*Population Per Square Mile*	*Total Housing Units*	*Residential Permits 1990-1992*	*Permits Per Units 1990-1992*	*Residential Permits 1997*	*Permits Per Units 1997*
New York	7,322,564	23,705	2,992,169	15,439	0.5%	8,987	0.3%
Bronx	1,203,789	28,662	440,955	3,532	0.8	1,161	0.3
Brooklyn	2,300,664	32,634	873,671	3,304	0.4	1,063	0.1
Manhattan	1,487,536	52,378	785,127	3,527	0.4	3,762	0.5
Queens	1,951,598	17,839	752,690	1,657	0.2	1,144	0.2
Staten Island	378,977	6,467	139,726	3,419	2.4	1,857	1.3
Atlanta	394,017	2,990	182,754	3,895	3.1	1,704	0.9
Baltimore	736,014	9,109	303,706	848	0.3	22	0.0
Boston	574,283	11,865	250,863	542	0.2	249	0.1
Chicago	2,783,726	12,252	1,133,039	6,263	0.6	3,145	0.3
Cincinnati	364,040	4,716	169,088	1,651	1.0	144	0.1
Cleveland	505,616	6,566	224,311	377	0.2	386	0.2
Dallas	1,006,877	2,941	465,600	8,797	1.9	6,330	1.4
Denver	467,610	3,050	239,636	1,119	0.5	2,261	0.9
Detroit	1,027,974	7,411	410,027	1,281	0.3	115	0.0
Houston	1,630,553	3,020	726,435	8,863	1.2	11,119	1.5
Jersey City	228,537	15,338	90,723	420	0.5	605	0.7
Los Angeles	3,485,398	7,427	1,299,963	20,229	1.6	3,206	0.2
Miami	358,548	10,072	144,550	1,978	1.4	787	0.5
Philadelphia	1,585,577	11,736	674,899	1,363	0.2	863	0.1
Phoenix	983,403	2,342	422,036	13,789	3.3	8,165	1.9
Pittsburgh	369,879	6,653	170,159	458	0.3	290	0.2
Portland	437,319	3,507	198,368	3,518	1.8	2,833	1.4
San Diego	1,110,549	3,428	431,722	13,494	3.1	5,366	1.2
San Francisco	723,959	15,502	328,471	2,693	0.8	1,792	0.5
Seattle	516,259	6,153	249,032	7,496	3.0	2,399	1.0
Washington	606,900	9,884	278,489	833	0.3	15	0.0

All data are from 1990 except as otherwise indicated. Source: U.S. Bureau of the Census.

Table 6
Factors Utilized to Identify Comparison Cities

Location	*Occupied Housing Units*	*Renter Occupied Units*	*Renter Occupied as a Percent of Total Units*	*Vacancy Rate*	*Percent of Units Built Before 1939*	*Percent with Five or More Units in Structure*	*Percent of Families With Income Below Poverty*	*Median Family Income 1989*
New York	2,819,401	2,012,023	67.2%	5.8%	40.9%	62.2%	16.3%	34,360
Bronx	424,112	348,270	79.0	3.8	31.3	74.2	25.7	25,479
Brooklyn	828,199	613,411	70.2	5.2	48.0	51.6	19.5	30,033
Manhattan	716,422	588,385	74.9	8.8	47.2	95.7	17.4	36,831
Queens	720,149	414,576	55.1	4.3	34.7	41.2	8.3	40,426
Staten Island	130,519	47,381	33.9	6.6	24.1	14.8	6.3	50,664
Atlanta	155,752	88,626	48.5	14.8	18.9	40.1	24.6	25,173
Baltimore	276,484	142,060	46.8	9.0	41.2	20.4	17.8	28,217
Boston	228,464	157,920	63.0	8.9	57.6	43.0	15.0	34,377
Chicago	1,025,174	599,915	52.9	9.5	44.6	39.8	18.3	30,707
Cincinnati	154,342	95,170	56.3	8.7	43.1	37.6	20.7	26,774
Cleveland	199,787	104,022	46.4	10.9	52.6	19.7	25.2	22,448
Dallas	402,060	224,755	48.3	13.6	6.8	42.8	14.7	31,925
Denver	210,952	107,187	44.7	12.0	25.7	37.0	13.1	32,038
Detroit	374,057	176,128	43.0	8.8	35.8	16.9	29.0	22,566
Houston	616,877	341,793	47.1	15.1	6.0	40.6	17.2	30,248
Jersey City	82,381	57,981	63.9	9.2	18.9	43.6	16.6	32,785
Los Angeles	1,217,405	737,537	56.7	6.4	17.4	43.3	17.9	34,364
Miami	130,252	87,150	60.3	9.9	11.6	43.3	24.7	19,725
Philadelphia	603,075	229,474	34.0	10.6	51.6	16.7	16.1	30,140
Phoenix	369,921	151,223	35.8	12.3	2.9	27.2	10.5	34,172
Pittsburgh	153,483	73,284	43.1	9.8	55.3	24.1	16.6	27,484
Portland	187,268	88,062	44.4	5.6	39.4	24.6	9.7	32,424
San Diego	406,096	209,943	48.6	5.9	8.6	32.7	9.7	39,318
Seattle	236,702	120,993	48.6	5.0	36.2	36.3	7.4	39,860
Washington	249,636	152,526	54.8	10.4	37.7	49.9	13.3	36,256

All data are from 1990 except as otherwise indicated. Source: U.S. Bureau of the Census.

Second, we reduced the list to three cities using a two-part test. The city had to be building a substantial number of residential units as evidenced by the number of building permits compared to the number of units overall. The city also had to be somewhat similar to New York or present an issue, affecting housing construction costs, about which we needed more in-depth information.

Using this methodology, we identified Chicago, Dallas and Los Angeles (the "Control Cities"). In addition to being the most similar to New York in terms of density, developers in Chicago are constructing a substantial volume of housing. From 1990 to 1992, Chicago issued 6,263 permits for residential construction. Chicago also is a union town, although the wage rate for bricklayers in Chicago is $34.50 per hour, 26 percent less than the bricklayers' wage rate in New York.

Dallas has experienced a phenomenal amount of new residential construction in recent years. From 1990 to 1992, the City of Dallas issued 8,797 permits for residential construction—almost 2 percent of total residential units. Interestingly, developers in Dallas are building dense developments. Almost 32 percent of the units in Dallas are in buildings with 10 or more units. In addition, Dallas is an open shop town, which will enable us to highlight some of the differences between union and non-union labor costs.

Developers in Los Angeles are also building residential units. From 1990 to 1992, Los Angeles issued 20,229 residential permits—1.6 percent of total units. In addition, Los Angeles has in place a rent regulation ordinance. We thought it would be useful to compare New York City's rent regulation provisions to those in Los Angeles.

As was stated in the introduction to this chapter, the analysis compares hard costs only. Although soft costs contribute to the cost of development, they are a much smaller component of total development costs. For purposes of this analysis, soft costs are not included for several reasons. First, comparable data sources do not exist for soft costs. Cost estimators such as Zaxon, Inc. do not typically have information about these types of expenses. In addition, secondary sources do not collect these data. More fundamentally, soft costs tend to be extremely idiosyncratic depending upon the

type of financing used and prevailing interest rates and therefore are quite difficult to compare across jurisdictions.

The estimates presented in this section of how much more it costs to construct housing in New York City compared to the Control Cities should therefore be viewed as extremely conservative. It is virtually certain that soft costs in New York City are much higher than in any of the Control Cities. For example, the cost of professional services is significantly higher in New York City than elsewhere in the country. This soft cost differential is compounded by the fact that, as described in Chapters 6, 7 and 8 of this Report, New York City has public review processes which add to soft costs that the Control Cities do not. Elements of soft costs that could be reduced, leading to a reduction in total development costs, are therefore discussed throughout the Report.

Finally, the cost comparison estimates presented in this section do not include the price of land. Reliable sources of vacant land prices do not exist in a format that would permit inter-city comparisons. In addition, the value of land is likely to vary dramatically within cities depending upon the location selected (e.g. downtown v. periphery). Once again, however, anecdotal information suggests that land values in New York City are among the highest in the nation. Therefore, if land prices were to be included in the development cost comparisons, they would further inflate the amount by which New York City's costs exceed those in the Control Cities.

As the data from R.S. Means in Table 7 indicates, depending on the type of construction, the cost per square foot in New York is estimated to be 21 percent higher than in Los Angeles, 22 percent higher than in Chicago and 56 percent higher than in Dallas.

Because R.S. Means uses a uniform factor to adjust costs in each city, we undertook an analysis to obtain detailed cost estimates for each of the Control Cities. Each of the three prototype developments for which cost estimates were obtained is shown in Appendix B. Following is Appendix C which identifies the breakdown between labor and materials in the total hard costs for each line item. A summary of the cost comparisons is set forth below.

Table 7
Median Construction Costs
1-3 Story Townhouse

	Cost Per Square Foot	*Cost Per Apartment*	*Comparison to New York*
New York	$69.50	$78,000	
Los Angeles	57.50	64,500	20.93%
Chicago	57.00	64,000	21.88
Dallas	44.50	50,000	56.00
Mid-Rise Apartment Building			
	Cost Per Square Foot	*Cost Per Apartment*	*Comparison to New York*
New York	$87.50	$93,000	
Los Angeles	72.50	77,000	20.78%
Chicago	72.00	76,500	21.57
Dallas	56.50	60,000	55.00
High-Rise Apartment Building			
	Cost Per Square Foot	*Cost Per Apartment*	*Comparison to New York*
New York	$101.00	$93,500	
Los Angeles	83.50	77,000	21.43%
Chicago	83.00	77,000	21.43
Dallas	65.00	60,500	54.55

Note: Comparisons indicate the amount by which costs in New York City are more or less expensive than in the control cities.
Source: R.S. Means

St. Mary's Townhouse Prototype

The hard cost of building the three-story townhouse prototype in New York City is $223,489 or $98 per square foot. The cost of building this house in New York City is 9% higher than in Los Angeles, 11% higher than in Chicago and 29% higher than in Dallas.

As Table 8 indicates, the higher cost of construction in New York City is largely attributable to higher labor costs. The townhouse costs approximately $19,293 more to build in New York City than in Los Angeles, $12,781 (66%) of which is attributable to labor costs. When compared to Chicago, the townhouse is $21,957 more expensive; $14,675 (67%) of this difference is attributable to

Table 8
Design Development Estimate – Town Houses
Labor

	Cost Per Square Foot	*Cost Per Town House*	*Comparison to New York*
New York	$43.85	$99,971.00	
Los Angeles	38.24	87,190.00	14.66%
Chicago	37.41	85,296.00	17.20
Dallas	29.84	68,027.00	46.96
Materials			
	Cost Per Square Foot	*Cost Per Town House*	*Comparison to New York*
New York	$54.17	$123,517.00	
Los Angeles	51.32	117,006.00	5.56%
Chicago	50.98	116,236.00	6.26
Dallas	45.98	104,845.00	17.81
Total Cost			
	Cost Per Square Foot	*Cost Per Town House*	*Comparison to New York*
New York	$98.02	$223,488.86	
Los Angeles	89.56	204,195.72	9.45%
Chicago	88.39	201,532.23	10.89
Dallas	75.82	172,872.22	29.28

Note: Comparisons indicate the amount by which costs in New York City are more or less expensive than in the control cities.
Source: Zaxon, Inc.

labor costs. In Dallas, the numbers are $50,617 and $31,944 respectively or 63% of the cost difference.

625 Tinton Mid-Rise Prototype

The hard cost of building the six-story elevator building prototype in New York City is almost $125 per square foot or $183,045 per unit. This is 4% higher than in Los Angeles, 10% higher than in Chicago and 22% higher than in Dallas.

Again, labor is disproportionately responsible for these higher hard costs in New York City. As is shown in Table 9, total hard costs are approximately $6,484 higher per unit in New York City than in Los Angeles whereas the labor costs are $7,036 higher per unit. Material costs are actually lower in Los Angeles than in New York City. The total hard costs are $16,886 higher per unit in New York City than in Chicago; $13,272 or 79% of that higher cost is at-

Table 9
Design Development Estimate ~~-~~Mid-Rise Apartment Building
Labor

	Cost Per Square Foot	*Cost Per Apartment*	*Comparison to New York*
New York	$58.77	$86,384.00	
Los Angeles	53.99	79,348.00	8.87%
Chicago	49.74	73,112.00	18.15
Dallas	42.40	62,315.00	38.62
Materials			
	Cost Per Square Foot	*Cost Per Apartment*	*Comparison to New York*
New York	$65.77	$96,661.00	
Los Angeles	66.14	97,213.00	-0.57%
Chicago	63.31	93,047.00	3.88
Dallas	59.62	87,623.00	10.31
Total Cost			
	Cost Per Square Foot	*Cost Per Apartment*	*Comparison to New York*
New York	$124.54	$183,045.12	
Los Angeles	120.13	176,561.46	3.67%
Chicago	113.05	166,159.03	10.16
Dallas	102.02	149,938.56	22.08

Note: Comparisons indicate the amount by which costs in New York City are more or less expensive than in the control cities.
Source: Zaxon, Inc.

tributable to labor. A similar pattern exists when New York is compared to Dallas. The hard cost of building the mid-rise building in New York is $33,107 higher per unit and 73% of that differential is attributable to labor.

330 East 57th Street ~~-~~High-Rise Prototype

The last prototype is a 15-story luxury high-rise building. It would cost $179 per square foot in hard costs to construct this building in New York City. This is 4% higher than in Los Angeles, 10% higher than in Chicago and 22% higher than in Dallas.

As with the other prototypes, higher hard costs in New York City are largely attributable to labor. As shown in Table 10, materials for the high-rise building are actually more expensive in Los

Table 10
Design Development Estimate ~~H~~igh-Rise Apartment Building
Labor

	Cost Per Square Foot	*Cost Per Apartment*	*Comparison to New York*
New York	$81.42	$155,588.00	
Los Angeles	74.73	142,802.00	8.95%
Chicago	68.73	131,330.00	18.47
Dallas	58.56	111,903.00	39.04
Materials			
	Cost Per Square Foot	*Cost Per Apartment*	*Comparison to New York*
New York	$97.69	$186,673.00	
Los Angeles	98.25	187,750.00	-0.57%
Chicago	93.79	179,223.00	4.16
Dallas	88.63	169,361.00	10.22
Total Cost			
	Cost Per Square Foot	*Cost Per Apartment*	*Comparison to New York*
New York	$179.11	$342,261.08	
Los Angeles	172.98	330,551.92	3.54%
Chicago	162.51	310,552.94	10.21
Dallas	147.19	281,264.75	21.69

Note: Comparisons indicate the amount by which costs in New York City are more or less expensive than in the control cities.
Source: Zaxon, Inc.

Angeles than in New York City, but the higher labor cost of $12,786 per unit in New York City results in an $11,709 total hard cost differential. Of the $31,708 per unit in higher total hard costs between New York City and Chicago, $24,258 or 77% is attributable to labor costs. Similarly, 72% of the total hard cost differential between New York City and Dallas is attributable to higher labor costs for this type of project.

Conclusion

The data in this section consistently demonstrate that the cost of housing construction in New York City is the highest in the nation. According to the data from R.S. Means, the cost of construction in New York is between 21 and 55 percent higher than in the Control Cities. The Zaxon, Inc. cost estimates indicate somewhat lower differentials. Depending on the type of construction, the cost per

square foot in New York is estimated to be between 4 and 9 percent higher than in Los Angeles, between 10 and 11 percent higher than in Chicago and between 22 and 29 percent higher than in Dallas. If soft costs and land acquisition prices were to be included, these differentials would widen substantially.

Part II:
Reducing the Cost of Housing Construction In New York City

Part I of this Report documented that the high price of housing in New York City causes a sizable segment of its population to pay extremely large proportions of their income for shelter. Unaffordable housing threatens the stability of individual households as well as the economic viability of the city. One of the primary reasons why rents and sales prices are so high in New York is because the supply of new housing has not kept up with rising demand and the need to replace old housing that has reached the end of its useful life. This low rate of new construction is partly attributable to the high cost of construction in the city.

The remainder of this Report describes what New York City can do to reduce the cost of new housing construction. In the sections that follow, a variety of substantive areas are addressed ranging from the complexity of the New York City Building Code to the inefficient work practices of labor. Each section contains a set of proposals; some are incremental and will be easy to implement while others are expansive and politically controversial. Importantly, any effort to attack the high cost of construction in New York City will require the joint efforts of government, the real estate industry, labor and the advocacy community.

Many of the proposals recommended in this Part are designed to reduce the costs imposed by labor, government regulation and inefficient industry practices. Even if all of these proposals were to be adopted, the benefits would not necessarily flow through to the ultimate consumers of housing. Instead, given the relatively inelastic supply of vacant land in New York City, many of the cost savings proposed could be capitalized into the value of land. Therefore, at the same time the city attacks burdensome building code and environmental regulations, high labor and material costs and the costs attributable to extortion and illegal construction industry practices, it must also take steps to increase the amount of land available for new development. A number of the

policy recommendations contained in this section are explicitly designed to achieve this objective.

To the extent that the recommendations contained in this Report were to be adopted, some neighborhoods would, no doubt, experience increased demand for public services and infrastructure, most particularly in the area of education and transportation. The way in which the City of New York should accommodate these increased needs is a subject that is beyond the scope of this Report. Nevertheless, although increased development will create additional demand for public expenditure, it is also clear that it will generate tax revenues that can be used to offset the cost.

In devising the recommendations contained in this section, the authors of this Report have benefitted greatly from the work of others who have preceded us. The high cost of housing has been the subject of many excellent reports and studies over the years. The studies that were most useful to us and would be particularly interesting to the readers of this Report are set forth in Appendix D.

Chapter 3:
Availability and Cost of Vacant Land in New York City

I. Statement of the Problem

As an older and mostly built city, there is a limited supply of vacant land in New York City that is appropriately zoned for dense residential development that would make a contribution to housing production. While the vast majority of the remaining parcels of vacant land in the city are zoned for residential use, the land is scattered and is mostly zoned for one-, two- and three-family residential developments. Because the supply of land zoned for multi-family housing is limited, the cost of acquiring vacant land that is appropriately zoned is high.

A. *Availability of Land that is Vacant:* According to the New York City Department of Finance records, there are 47,502 taxable parcels of vacant land on the property tax rolls[1] which are shown by borough distribution and zoning designation in Table 11. The more than 47,000 parcels of vacant land translate into approximately 749 million square feet. As Table 12 illustrates, almost 35,000 parcels, 524 million square feet, representing 70 percent of the square footage of vacant land in New York City is zoned for residential use.[2] Tables 13 through 17 provide a breakdown of this vacant land by borough. Staten Island has the most vacant land that is zoned for residential use. Not surprisingly, Manhattan has only 802 parcels of vacant land that are zoned for residential use.

1 *See* New York City Department of Finance, *Annual Property on the New York City Real Property Tax for Fiscal Year 1998* 6-11.

2 The Department of Finance Operations Research Group ran a special report for the Center. The Report Project Number is 4450.

Table 11
Number and Percent of Vacant Land Parcels in New York City

	Residential		*Non-Residential*		*Total*	
	Number of Parcels	*Percent of Parcels*	*Number of Parcels*	*Percent of Parcels*	*Number of Parcels*	*Percent of Parcels*
Bronx	5,177	14.84%	2,002	15.87%	7,179	15.11%
Brooklyn	9,562	27.41	5,498	43.59	15,060	31.70
Manhattan	802	2.30	1,467	11.63	2,269	4.78
Queens	9,670	27.72	1,893	15.01	11,563	24.34
Staten Island	9,677	27.74	1,754	13.91	11,431	24.06
City-Wide	34,888	100.00	12,614	100.00	47,502	100.00

Source: New York City Department of Finance, Annual Report on the NYC Real Property Tax for Fiscal Year 1998

B. *Availability of Land that Is Appropriately Zoned*[3]*:* Of the land that is vacant and zoned for residential use, only 14.2 percent, 74 million square feet, is zoned R6 and above. These zones allow mid-rise and high-rise development. Most of the vacant land that is zoned for residential use is in fact designated R1 through R5 and therefore only allows for the as-of-right construction of one-, two- and three-family homes. While there are areas outside of Manhattan where high-rise development would be appropriate, less than one percent of the land in these boroughs is zoned R8 through R10 for as-of-right high-rise development.

It follows, therefore, that from 1990 through 1998, the bulk of units authorized by building permits were for small homes, not buildings with more than five units.[4] Table 18 demonstrates that during that period, 53.3 percent of the units in buildings that were constructed had fewer than five units. In

3 New York City's Zoning Resolution includes 10 major residential zones. The residential zones are designated R1 through R10. Low-rise development is allowed as-of-right in the lower numbered R zones, R1 through R5. High-rise developments can be built in R zones with designations higher than R6.

4 *See* Table 17. While there were not enough units built from 1990 to 1998 to change the overall allocation of residential units in each borough, the percent of buildings with more than five units has declined in every borough except Manhattan during that period.

Table 12
Vacant Land by Major Zoning Category

CITY-WIDE		
Zoning Category	*Land Size (Square Feet)*	*Percent of Total*
Commercial	44,914,422	6.00%
Manufacturing	178,559,887	23.83
Residential	524,004,693	69.94
All Other	1,698,403	0.23
Total	749,177,405	100.00
Vacant Land By Residential Sub-Category		
Zoning Category	*Land Size (Square Feet)*	*Percent of Residential*
R1	26,547,732	5.07%
R2	14,164,914	2.70
R3	280,598,503	53.55
R4	87,108,976	16.62
R5	41,321,301	7.89
R6	51,223,201	9.78
R7	17,404,522	3.32
R8	5,443,015	1.04
R9	6,226	0.00
R10	186,303	0.04
Total	524,004,693	100.00
Vacant Land By Manufacturing Sub-Category		
Zoning Category	*Land Size (Square Feet)*	*Percent of Manufacturing*
M1	88,864,088	49.77%
M2	20,209,265	11.32
M3	69,486,534	38.91
Total	178,559,887	100.00

Source: New York City Department of Finance, Operations Research Group Report Number 4450, Square Feet Vacant Land by Zoning

Table 13 Vacant Land by Major Zoning Category		
The Bronx		
Zoning Category	*Land Size (Square Feet)*	*Percent of Total*
Commercial	4,639,611	7.48%
Manufacturing	19,769,352	31.85
Residential	37,533,967	60.48
All Other	119,750	0.19
Total	62,062,680	100.00
Vacant Land By Residential Sub-Category		
Zoning Category	*Land Size (Square Feet)*	*Percent of Residential*
R1	2,021,391	5.39%
R2	1,154,832	3.08
R3	6,883,894	18.34
R4	8,320,789	22.17
R5	3,399,472	9.06
R6	6,581,326	17.53
R7	7,930,553	21.13
R8	1,241,710	3.31
R9	-	0.00
R10	-	0.00
Total	37,533,967	100.00
Vacant Land By Manufacturing Sub-Category		
Zoning Category	*Land Size (Square Feet)*	*Percent of Manufacturing*
M1	6,808,247	34.44%
M2	2,337,357	11.82
M3	10,623,748	53.74
Total	19,769,352	100.00
Source: New York City Department of Finance, Operations Research Group Report Number 4450, Square Feet Vacant Land by Zoning		

Table 14
Vacant Land by Major Zoning Category

Brooklyn		
Zoning Category	*Land Size (Square Feet)*	*Percent of Total*
Commercial	28,328,850	18.60%
Manufacturing	14,570,254	9.57
Residential	109,391,778	71.82
All Other	15,758	0.01
Total	152,306,640	100.00
Vacant Land By Residential Sub-Category		
Zoning Category	*Land Size (Square Feet)*	*Percent of Residential*
R1	51,950	0.05%
R2	300,563	0.27
R3	11,451,534	10.47
R4	51,904,885	47.45
R5	20,779,225	19.00
R6	23,776,064	21.73
R7	1,104,473	1.01
R8	23,084	0.02
R9	-	0.00
R10	-	0.00
Total	109,391,778	100.00
Vacant Land By Manufacturing Category		
Zoning Category	*Land Size (Square Feet)*	*Percent of Manufacturing*
M1	8,989,123	61.70%
M2	1,092,004	7.49
M3	4,489,127	30.81
Total	14,570,254	100.00

Source: New York City Department of Finance, Operations Research Group Report Number 4450, Square Feet Vacant Land by Zoning

Table 15 Vacant Land by Major Zoning Category		
Manhattan		
Zoning Category	*Land Size (Square Feet)*	*Percent of Total*
Commercial	4,132,164	18.15%
Manufacturing	5,644,052	24.79
Residential	12,570,090	55.20
All Other	425,168	1.87
Total	22,771,474	100.00
Vacant Land By Residential Sub-Category		
Zoning Category	*Land Size (Square Feet)*	*Percent of Residential*
R1	-	0.00%
R2	-	0.00
R3	-	0.00
R4	-	0.00
R5	12,850	0.10
R6	42,737	0.34
R7	8,147,610	64.82
R8	4,174,364	33.21
R9	6,226	0.05
R10	186,303	1.48
Total	12,570,090	100.00
Vacant Land By Manufacturing Sub-Category		
Zoning Category	*Land Size (Square Feet)*	*Percent of Manufacturing*
M1	2,117,042	37.51%
M2	3,282,464	58.16
M3	244,546	4.33
Total	5,644,052	100.00
Source: New York City Department of Finance, Operations Research Group Report Number 4450, Square Feet Vacant Land by Zoning		

Table 16
Vacant Land by Major Zoning Category

Queens		
Zoning Category	*Land Size (Square Feet)*	*Percent of Total*
Commercial	4,426,598	1.97%
Manufacturing	24,136,405	10.74
Residential	195,470,458	86.98
All Other	685,670	0.31
Total	224,719,131	100.00
Vacant Land By Residential Sub-Category		
Zoning Category	*Land Size (Square Feet)*	*Percent of Residential*
R1	7,982,363	4.08%
R2	9,665,079	4.94
R3	115,765,322	59.22
R4	25,454,487	13.02
R5	15,674,155	8.02
R6	20,703,309	10.59
R7	221,886	0.11
R8	3,857	0.00
R9	-	0.00
R10	-	0.00
Total	195,470,458	100.00
Vacant Land By Manufacturing Sub-Category		
Zoning Category	*Land Size (Square Feet)*	*Percent of Manufacturing*
M1	18,315,859	75.88%
M2	963,457	3.99
M3	4,857,089	20.12
Total	24,136,405	100.00

Source: New York City Department of Finance, Operations Research Group Report Number 4450, Square Feet Vacant Land by Zoning

Table 17 Vacant Land By Major Zoning Category		
Staten Island		
Zoning Category	*Land Size (Square Feet)*	*Percent of Total*
Commercial	3,387,199	1.18%
Manufacturing	114,439,824	39.83
Residential	169,038,400	58.83
All Other	452,057	0.16
Total	287,317,480	100.00
Vacant land By Residential Sub-Category		
Zoning Category	*Land Size (Square Feet)*	*Percent of Residential*
R1	16,492,028	9.76%
R2	3,044,440	1.80
R3	146,497,753	86.67
R4	1,428,815	0.85
R5	1,455,599	0.86
R6	119,765	0.07
R7	-	0.00
R8	-	0.00
R9	-	0.00
R10	-	0.00
Total	169,038,400	100.00
Vacant Land By Manufacturing Sub-Category		
Zoning Category	*Land Size (Square Feet)*	*Percent of Manufacturing*
M1	52,633,817	45.99%
M2	12,533,983	10.95
M3	49,272,024	43.05
Total	114,439,824	100.00
Source: New York City Department of Finance, Operations Research Group Report Number 4450, Square Feet Vacant Land by Zoning		

Table 18
Number of Permits for Residential Construction From 1990 through 1998
Total and By Number of Units in Building

	Total Units Authorized	*Five or More Units in Building*	*Percent with Five or More Units*	*Percent with Less than Five Units*
New York City	60,409	28,215	46.7%	53.3%
Bronx	10,255	3,513	34.3	65.7
Brooklyn	10,533	3,373	32.0	68.0
Manhattan	18,383	18,239	99.2	0.8
Queens	8,059	2,601	32.3	67.7
Staten Island	13,179	489	3.7	96.3
Source: U.S. Bureau of the Census				

1990, as shown in Tables 19 and 20, the vast majority of buildings in every borough except Staten Island have more than five units; only 37.8 percent of the buildings had fewer than five units. Partly because of zoning that allows only low-density construction, very few units are being developed on available land. The needs of a

Table 19
Number of Residential Units As of 1990
Total and By Number of Units in Building

	Total	*Five or More Units in Building*	*Percent with Five or More Units*	*Percent with Less than Five Units*
New York City	2,992,169	1,861,129	62.2%	37.8%
Bronx	440,955	327,189	74.2	25.8
Brooklyn	873,671	450,814	51.6	48.4
Manhattan	785,127	751,367	95.7	4.3
Queens	752,690	310,108	41.2	58.8
Staten Island	139,726	20,679	14.8	85.2
Source: U.S. Bureau of the Census				

Table 20
Distribution of Units by Building Type in 1990 and 1998

	Percent of Units In Buildings With Five or More Units in 1990	*Percent of Units In Buildings With Five or Less Units in 1990*	*Percent of Units In Buildings With Five or More Units as of 1998**	*Percent of Units In Buildings With Five or Less Units in 1998**
New York City	62.2%	37.8%	61.9%	38.1%
Bronx	74.2	25.8	73.3	26.7
Brooklyn	51.6	48.4	51.4	48.6
Manhattan	95.7	4.3	95.8	4.2
Queens	41.2	58.8	41.1	58.9
Staten Island	14.8	85.2	13.8	86.2

* Assumes that all permits will translate into residential units.
Source: Census Bureau Statistics on the Number of Residential Permits

growing population cannot be met without construction of more units, especially in buildings with more than 5 units.[5]

C. *Cost of Vacant Land:* From January 1996 to November 1998, less than 3 percent of all parcels of vacant land in New York City (1,285 parcels) were sold. As Table 21 illustrates, 82 percent of the sales were of vacant land that was zoned for residential use. The sales in this two year period demonstrate that the price of land represents a significant part of the cost of new housing development in New York. While two-thirds of the vacant residential parcels sold for less than $50 per square foot according to Table 21,[6] the other one-third sold for between $50 and $100 per square foot. Seventy-two percent of the vacant residential land that sold in the higher price cate-

5 *See* Chapter 1 describing the number of housing units that will be needed for New York City to keep pace with its growing population and to replace the aging housing stock

6 These prices represent the sales price divided by the square footage of the vacant parcel of land. However, developers usually talk about land costs per buildable square foot because it takes into account the zoning on the land. The Department of Finance was not able to calculate the sales information per buildable square foot.

Table 21
Vacant Land Sales Prices (January 1996 - November 1998)
By Sales Price Per Square Foot
By Borough and Zoning Designation

	Less Than $50 Per Square Foot			*Between $50 and $100 Per Square Foot*		
	Commercial	*Manufacturing*	*Residential*	*Commercial*	*Manufacturing*	*Residential*
Bronx	6	19	93	1	1	21
Brooklyn	9	49	106	2	2	22
Manhattan	3	0	17	15	11	8
Queens	2	27	174	0	0	49
Staten Island	10	21	307	1	0	258
City Wide	30	116	697	19	14	358
Source: New York City Department of Finance						

gory was located in Staten Island. Presumably, higher housing prices supported these land prices despite the low density of housing in that borough. By contrast, vacant land zoned for multi-family construction in Dallas sells for between $15 and $25 per square foot.[7]

D. *Reuse of Obsolete Institutional Properties:* In addition to vacant land, other facilities may be available for housing development. During the 1980s, New York State began to systematically de-institutionalize the residential population of state-owned psychiatric facilities. As a result of this policy, certain psychiatric facilities in New York City were closed.[8] Many of these properties have remained vacant for over a decade. In addition, the shifting of the health care delivery system away from lengthy in-patient stays towards out-patient treatment has resulted in under-utilized hospital space. Hospitals are consolidating space and this trend will likely continue.

7 Trammel Crow Residential provided sales prices for several parcels of vacant land in Dallas.

8 *See*, for example, Charles V. Bagli, "New York to Sell Mental Facilities," *The New York Times*, May 26, 1997, at 1.

Both of these phenomena have created potential sites for either re-development or demolition and new construction. For example, in Chicago over the last 10 years, the facilities of four unprofitable hospitals were converted into loft apartments. Several other hospitals in prime locations were sold and razed as a result of consolidations in the health-care field.[9] Chicago developers also have converted former churches into condominiums. So far, almost 10 former church properties have been converted to produce almost 800 units of housing.[10] According to one architect, "churches frequently are the last developable parcels in mature areas."[11] Most of the obsolete institutional properties that could be re-developed in New York City are owned by the state. For example, late last year, the Pataki Administration announced plans to sell the site of the Bernard Fineson Developmental Center in Queens to a private development company.[12]

E. *Using the City's Power to Assemble Parcels of Land for Residential Development:* Land and buildings owned by the city represent another resource for housing development. The city's portfolio of properties for sale has been significantly reduced since October of 1994 when the city stopped acquiring property through in rem tax foreclosure actions. However, the city still regularly sells city-owned properties at auction through the Department of Citywide Administrative Services ("DCAS"). Included among the more than 200 properties that DCAS planned to auction in 1999, were almost 180 parcels of vacant land.[13] City

9 *See*, Jill Schachner Chanen, "Converting Obsolete Chicago Hospitals to Housing," *The New York Times,* Nov. 29, 1998.
10 *See* John Handley, "Bless this House," *Chicago Tribune*, Oct. 4, 1998.
11 *Id*.
12 *See* David M. Halbfinger, "Buyers are Selected for State Properties," *The New York Times*, Dec. 24, 1998, at B-7.
13 See City of New York Department of Citywide Administrative Services, *Sales and Lease Auction Brochures*, Dec. 21, 1998.

agencies have the authority to put a "hold" on property before it is sold at auction if the agency can use the property for one of its programs. In the last two to three years, DCAS has made it more difficult for an agency to retain a "hold" insisting that property be auctioned in order to reduce the city inventory of land.

While the general policy of returning land to the private sector is laudable, the housing policy implications have not been entirely thought through. An auction does not insure the development of vacant land because selling the land to the highest bidder does not guarantee the selection of an appropriate owner or the development of housing. In addition, the city does not have an effective mechanism for enforcing development restrictions and in those instances where there are restrictions imposed, the city does not always enforce them.

A significant number of parcels of vacant land are privately owned. As the chapter on Taxes and Fees indicates, the tax burden to a private owner of holding onto vacant land that is zoned residential is minimal. As a result, owners may retain vacant land that could otherwise be assembled with other parcels for development, including city-owned parcels now sold at auction.

II. Past Efforts to Make More Land Available for Residential Construction

The Zoning chapter of this Report describes the numerous efforts that the City Planning Commission (CPC) and City Council have undertaken to re-zone properties to facilitate residential construction. A relatively greater share of the re-zonings have taken place in Manhattan and have sought to allow residential development in former manufacturing zones rather than to increase the allowable density of housing development.

III. Recommendations

Until a new Zoning Resolution is adopted as recommended in the Zoning chapter of this Report, the City Planning Commission should continue to re-zone land especially in the boroughs outside of Manhattan. Re-zoning land to allow more intensive residential development will facilitate the construction of mid- and high-rise buildings and may make these projects more economically feasible. In addition, increasing the supply of land that is appropriately zoned should reduce the cost of acquiring land to develop the kind of housing that New York City needs.

In order to encourage the reuse of long-term vacant psychiatric facilities, closed hospitals and other obsolete institutional sites, the city should create an inventory of these properties and a plan for their reuse. The city, in cooperation with appropriate state agencies, should develop incentives for the renovation of these facilities, where appropriate for residential housing.

City-owned property continues to serve as a resource for housing development. Therefore, the city should complete and regularly update an inventory of vacant land that is privately owned, zoned residential, and would be appropriate for residential development. In addition, the city should adopt the following proposals for creating buildable assemblages:

1. If there is an opportunity for assemblage, DCAS should revive former programs including the "Adjacent Owners Program" where city-owned properties were sold to adjacent owners for the appraised value of the land with a requirement that the city-owned land be developed within two years. Although the city had the right to re-acquire the property if it was not developed within the two-year period, the city rarely did. If this program is revived, the city should enforce the right to re-acquire the property if it is not developed and transfer the property to another responsible owner.

2. If there is no responsible adjacent owner, the New York City Department of Housing Preservation and Development (HPD) should be able to "hold" the

property to determine whether there is an opportunity to create assemblages with adjacent private sites through either condemnation or Local Law 37[14]—the newly enacted third-party transfer law. While the city has been reluctant to condemn properties in the last few years, this tool may be necessary to create buildable sites. Where interest exists among profit-motivated or non-profit developers, the city should more aggressively exercise its power to condemn land adjacent to city-owned land that could be used to assemble larger parcels appropriate for housing development.

14 Local Law 37 was enacted in 1996. The law gives the city the authority to transfer properties from owners who have not paid taxes to a new owner. Prior to the enactment of Local Law 37, the city used to vest the properties and HPD or another city agency was responsible for managing them.

Chapter 4:
Brownfields

I. Statement of the Problem

The United States Environmental Protection Agency (EPA) estimates that New York City has at least 4,000 acres of vacant industrial properties.[1] The properties tend to be on the waterfront and in distressed areas. Some of these vacant industrial properties are contaminated from industrial activities from the early half of the 20th Century. In addition, there are a number of sites that are contaminated by illegal dumping and other unregulated commercial activities. However, once remediated, a large number of these brownfield properties may be appropriate for development, including possibly for residential housing. According to the United States EPA, there are 450,000 brownfield sites nationwide. About one quarter have potential for residential development.[2]

New York is the only industrial state in the Northeast and Midwest United States that does not have a statutory voluntary clean-up program. The absence of a reasonable procedure for dealing with contaminated development sites threatens to slow the pace of redevelopment. Projects are being delayed or derailed by the inability of developers and lenders to gain any certainty with respect to the costs and liabilities of meeting unpredictable procedures and standards of cleanliness. To spur investment, communities, banks, builders, investors and insurers need a new program that reduces costs and provides more certainty and predictability. Such a program would allow and encourage cleanup of sites for redevelopment. The lack of a state statute that encourages private investment in these sites has left New York City lagging behind other cities around the country in developing a strategy to reuse brownfields. For example, two of the three Control Cities in this Report already have brownfield programs in place. In fact, residential develop-

1 *See* United States Environmental Protection Agency, Office of Solid Waste and Emergency Response, Publication 500-F-97-026, (1997).

2 *See* Jim Waymer, "Home Sweet Brownfield, Welcome to Residential Development," *Brownfield News,* Aug. 1998.

ment on several brownfield sites is already underway or completed. For example:

A. *Chicago:* In 1993, Chicago created a Brownfields Initiative. By November 1993, the City had launched a two-year pilot program to clean up five abandoned properties for private redevelopment. Chicago uses tools such as foreclosure and condemnation to acquire sites. In addition, there are several incentive programs for brownfield redevelopment. Finally, Illinois has adopted voluntary cleanup guidelines that promote risk-based site-specific cleanup.[3] Once a site owner completes the program, the Illinois EPA will issue a "no further remediation" necessary letter stating that the cleanup is satisfactory for the site's intended use and the owner has no additional responsibility for completing an approved cleanup plan.

B. *Dallas:* As a result of a $250,000 grant from the EPA, Dallas was able to leverage an additional $53 million in public and private funding toward cleanup and redevelopment of blighted areas. So far, Dallas has built a recreation center in a low-income neighborhood with money donated by basketball player, Larry Johnson (now a New York Knick). In addition, a second vacant Dallas site is being converted into a multi-family housing and shopping development.[4]

C. *Los Angeles:* Of the three Control Cities, Los Angeles has made the least progress. California also does not have a voluntary cleanup statute. In March 1997, the Los Angeles City Council approved the establishment of a $1 million fund to be used exclusively for brownfield redevelopment initiatives. Los Angeles plans to use the money to develop poli-

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3 *See Chicago Brownfields Initiative* at www.ci.chi.il.us/WorksMart/Environment/Brownfields.

4 *See* United States Environmental Protection Agency, Office of Solid Waste and Emergency Response, *Brownfields Success Stories: Revitalization for Downtown Dallas as Idle Properties are Returned to Use* at www.epa.gov/swerosps.

cies that will lower the risk associated with building on potentially contaminated properties.[5]

II. Past Efforts to Address Brownfields

The New York City Partnership and Chamber of Commerce is a leader in New York's efforts to adopt a process that will accelerate the identification, clean up and redevelopment of brownfield sites. The Partnership is the City's cooperative Partner on the EPA-funded New York City Brownfields Economic Development Initiative. An outgrowth of that Initiative is a Partnership led effort to bring disparate groups together in a consensus-building process called the Pocantico Roundtable for Consensus on Brownfields. Environmental groups, environmental justice groups, lenders, businesses, landowners, municipalities and community groups comprise this Roundtable which seeks to reach consensus on key substantive issues. The Roundtable is being convened by a consortium of foundations and New York University's Wagner School Institute for Civil Infrastructure Systems.

The Roundtable, which began meeting in October 1998, is focusing its attention on several issues including:

A. Establishing clearly defined use-based cleanup standards for soil.

B. Enacting liability limitations that track Federal law to protect innocent landowners, lenders, fiduciaries, municipalities and prospective purchasers.

C. Adopting an area-wide approach to brownfields in urban areas with ubiquitous contamination which provides financial incentives, encourages municipal and community group collaboration and planning, integrates infrastructure needs of the area and establishes priorities for environmental remediation efforts that clean up the source of pollutants that affects many parcels of land.

5 *See* Kellee Van Keuren, *An L.A. Story, Brownfields Efforts in Los Angeles are Picking Up Steam*, Brownfield News, June 1997.

D. Creating an expedited and predictable regulatory approval process for agency signoffs on site investigation and remediation efforts.

III. Recommendations

The state should enact legislation that establishes a voluntary cleanup program that encourages the reclamation of brownfield sites. To insure that the state acts, the city should make the adoption of the Pocantico program a part of its State legislative agenda. Once a state program is adopted, the City also should:

A. Apply for federal funding to support brownfield redevelopment from the EPA and the United States Department of Housing and Urban Development.[6]

B. Consider adopting tax and zoning incentives for developers who clean up brownfields and develop projects, especially for housing.[7]

C. Identify and make readily available parcels of land that are good candidates for brownfield redevelopment. For city-owned sites, the New York City Economic Development Corporation (EDC) should offer this land, with necessary redevelopment incentives, through Requests for Proposals. For privately owned parcels, EDC should contact owners to inform them of available benefits. The city should follow Chicago's lead of foreclosing and condemning property to assist in assembling sites for project development.

D. Create a New York City Brownfields ombudsman or office to facilitate cleanup and development on brownfield sites.

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6 HUD provides Community Development Block Grant Section 108 Loan Guarantees. The EPA administers several grant programs including an environmental justice grant for community groups and pollution prevention incentives for states.

7 Owners who redevelop brownfields in Chicago are eligible for two kinds of incentives. First, the State of Illinois provides an income tax credit that is worth between $40,000 and $150,000 per site. Second, Cook County provides a property tax exemption for redeveloped brownfields properties pursuant to which assessments are reduced from 33 percent to 16 percent of value for ten years.

Chapter 5:
Rent Regulation and the Availability of Land for Residential Construction

I. Statement of the Problem

A substantial proportion of New York City's rental stock is subject to rent regulation. Over 1,000,000 units of housing or approximately 52 percent of the rental stock of the city are rent stabilized. These units are typically in formerly rent controlled dwellings that have become vacant, buildings with more than six units that were built between 1947 and 1974 or structures that receive tax abatements or exemptions under a variety of municipal programs. An additional 70,572 units of housing are rent controlled, constituting 3.6 percent of the city's rental stock. Rent controlled apartments are typically found in buildings with three or more apartments that have been occupied by the same tenant since 1970 or in smaller buildings that were built before 1947 and that have been continuously occupied by the same tenant since 1952.[1]

Some commentators and members of the real estate industry have suggested that rent regulation impedes the construction of new housing in the City of New York. For example, one critic of rent regulation argues that rent regulation "depresses the rate of new construction. In New York City this effect has become so strong that virtually no new rental housing is being built by the private sector without subsidization."[2] Although rent regulation does not apply to new private construction unless it receives government subsidies or tax abatements or exemptions, the argument for its continuing impact on new construction is two-fold. First, after rent control was made permanent in the 1940s, new construction was exempted from the program. Nevertheless, in 1969, New York State and New York City instituted rent regulation, thereby "dou-

1 Michael H. Schill and Benjamin P. Scafidi, "Housing Conditions and Problems in New York City," in *Housing and Community Development in New York City: Facing the Future* (M. Schill ed., 1999).

2 Peter D. Salins and Gerard C.S. Mildner, *Scarcity By Design: The Legacy of New York City's Housing Policies* (1992).

ble-crossing" landlords. The second argument is a bit more subtle. Many of the people living in rent regulated apartments according to this view could afford to live in non-regulated dwellings. The fact that they live in apartments with below market rents causes them to remain in place rather than demand new housing. This absence of demand, in turn, leads to a lower level of new construction than would otherwise take place.[3]

Although there may be some truth to these allegations, rent regulation has a relatively modest impact on new construction even though it has a substantial effect on owners of existing properties. Rent regulation only applies retrospectively unless an owner voluntarily participates in a government subsidy or tax relief program. Indeed, partly to allay concerns that New York City might someday amend its laws to regulate post-1974 housing, the Legislature passed and the Governor signed a law in 1997 that allows owners to contractually agree with the state that new developments in municipalities with declared housing emergencies will be free from rent regulation for fifty years.[4] With respect to the second argument regarding dampened demand for housing, data show that tenants of rent regulated apartments are generally not affluent.[5] Furthermore, given the tightness of New York's housing market (see Chapter 1), it is unlikely that insufficient demand caused by rent regulation is the major impediment to new housing construction. In any event, provisions in the 1997 rent regulation law to reduce the income limits for luxury decontrol should further reduce the importance of this factor.[6]

There is one area, however, in which rent regulation does impede new housing construction. As is described in Chapter 3, supra, of this Report, most of the land in New York City is already developed. Therefore, most incremental residential development will, by necessity, require the demolition of existing buildings and new construction on assembled sites. However, under state law, rent regulated tenants have certain rights which make it difficult and

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3 *See* Salins and Mildner, *supra* note 2.

4 Rent Regulation Reform Act of 1997, sec. 27.

5 Michael H. Schill and Benjamin P. Scafidi, *Rent Regulation Supplement to Housing Conditions and Problems in New York City: An Analysis of the 1996 Housing and Vacancy Survey*.

6 Under the Rent Regulation Reform Act of 1997, a rent regulated apartment will be deregulated if its rent is $2,000 or more and the total household income of the tenant is $175,000 or more.

costly for the owners of buildings to gain vacant possession of their properties for redevelopment.

Rent Control. Under New York State Law, an owner of a building with units subject to rent control who wishes to evict a tenant and demolish his or her building must obtain a certificate of eviction from the New York State Department of Housing and Community Renewal ("DHCR"). Among other showings, the owner must demonstrate that (1) the demolition is for the purpose of constructing a new building with 20 percent more housing units and (2) there is "no reasonable possibility" that the landlord can earn an 8 ½ percent net annual return on the assessed value of the building.[7] Because assessed values of properties are typically less than half of market value, most owners simply cannot make such a showing. In the unlikely event that owners can successfully satisfy the 8 ½ percent return requirement, they must also make adequate arrangements to relocate tenants and provide relocation assistance [8]

Rent Stabilization. An owner of a building with rent stabilized units who wishes to evict tenants for demolition must also apply to DHCR although the required showing is different. The owner must only show that he or she seeks in good faith to recover possession for the purpose of demolition and construction of a new building and that the owner is financially able to complete the project.[9] If DHCR grants permission to evict, the owner must provide a minimum of four months notice, moving costs and financial assistance to tenants as designated by DHCR. According to DHCR Operational Bulletin 96-1,[10] the owner has three options: (1) relocate the tenant to a suitable housing accommodation at the same or lower regulated rent in a closely proximate area or in a new apartment on site and pay a stipend of $5,000; (2) relocate the tenant to an apartment with a higher rent in which case the owner must pay the difference in rent for a period of six years; or (3) evict the tenant by

7 NYC Admin. Code, sec. 26-408(b)(5)(a). This requirement was upheld in *Kalikow 78/79 v. State*, 174 A.D.2d 7 (1st Dep't 1992).

8 NYC Admin. Code, sec. 26-408(b)(4)(b).

9 Rent Stabilization Code, sec. 2524.5(a).

10 New York State, Division of Housing and Community Renewal, Office of Rent Administration, Operational Bulletin 96-1, *Procedures Pursuant to the Rent Stabilization Code for the Filing of an Owner's Application to Refuse to Renew Leases on the Grounds of Demolition* (July 31, 1996).

paying the difference between the tenant's current rent and an amount calculated by multiplying $293 per room per month by the actual number of rooms in the tenant's current apartment for six years. The $293 figure is designed to reflect the average rent per room in New York City.

Even if owners were able to make the showings set forth above to justify eviction and could afford to pay the mandated stipends, in most instances the time required to complete the application and approval process would make development infeasible. Notice must first be given to tenants. Under rent stabilization, notice must be given four months before the current lease expires which may be up to 2 years after the date a decision is made to demolish the property. Following notice, applications for both rent controlled and rent stabilized units, together with appropriate filings, must be submitted to DHCR which will schedule a hearing on the matter. This hearing could take place up to 6 months to 1 year later. Following the submission of post-hearing memoranda, the administrative law judge's findings and Rent Administrator's decision will likely not be released for several months. Within 35 days of the Rent Administrator's decision, a Petition for Administrative Review (PAR) may be filed with DHCR's commissioner. A decision on the PAR is likely to take 6 months. Within 60 days of the PAR ruling, an aggrieved party may file an Article 78 proceeding in New York State Supreme Court with appeals possible to the Appellate Division and the New York State Court of Appeals. Thereafter, if the tenant holds over, the landlord must go back to court to file an eviction action.

II. Past Efforts to Facilitate Demolition of Rent Regulated Buildings For Purposes of New Construction

Efforts have made for years to liberalize the provisions of state and city rent regulation laws governing eviction and demolition of buildings when those properties are slated for new construction. For example, in its 1992 set of legislative proposals, the Real Estate Board of New York (REBNY) suggested that fair and realistic stipends to tenants be required, that owners have the option to offer

comparable apartments to relocated tenants at the same rent that they had previously been paying and that the 8 ½ percent maximum profit requirement for rent controlled buildings be abolished.[11]

In fact, the rules with respect to eviction of rent controlled tenants were altered in 1997 by the New York State Legislature. Under the provisions of the Rent Regulation Reform Act of 1997,[12] owners need not meet the 8 ½ percent return requirement in any building in which there remains 3 or fewer occupied apartments that constitute 10 percent or less of the total dwelling units or when the building contains one occupied apartment if the building contains 10 or fewer apartments. Rent controlled tenants evicted under this provision must nonetheless be provided with the stipends and relocation assistance set forth under the Rent Stabilization Code.

A recent interpretation of the 1997 statute by DHCR suggests that the amendment will be of no use to the vast majority of owners of buildings with rent controlled tenants. According to an opinion letter from the agency's Associate Counsel, the term "occupied apartment" refers to all apartments in a building, rather than only rent controlled apartments.[13] This, in effect, requires owners to wait until virtually all tenants of a building are gone, before they can begin the process of evicting rent controlled tenants since any building with more than 3 occupied apartments would not be eligible to take advantage of the relief provided. For buildings with fewer than 10 apartments there could only be one occupied apartment. Few landlords can afford to hold buildings virtually empty while waiting months and in most cases, years, for DHCR to issue a certificate of eviction.

III. Comparisons to Control Cities

Two of the control cities, Chicago and Dallas, do not have rent regulation. Los Angeles does have a rent stabilization ordinance. According to Section 151.09 of the law, a landlord may evict tenants when it plans to demolish the rental unit or perform work on the building, the cost of which exceeds certain thresholds. Tenants are

11 Real Estate Board of New York, *Housing in New York: A Continuing Crisis* 38-39 (1992).
12 Rent Regulation Reform Act of 1997, sec. 38.
13 Warren A. Estis and Jeffrey Turkel, "Sound Housing Act; DHCR Strictly Interprets Recent Demolition Amendment," *New York Law Journal*, Jan. 6, 1999, at 5.

entitled to a $5,000 relocation fee and have a first right of refusal to rent a unit if rental housing is built or renovated on the site. The tenancy shall be on the same terms and conditions of the prior rental agreement except that the landlord may "in good faith" raise the rent to any amount.[14]

IV. Recommendation

Despite the changes contained in the Rent Regulation Reform Act of 1997, owners of properties with rent regulated tenants who wish to assemble properties for new construction still face virtually insurmountable difficulties. In those areas of the city that are zoned for more intensive development than currently exists, the presence of hold-outs demanding exorbitant payoffs in return for leaving deprives the city of additional needed housing units. The inability of landlords to evict rent regulated tenants makes it extremely difficult to build additional needed housing units.

New York State's rent regulation laws should be amended to reduce barriers to land assemblage when existing laws would permit the construction of substantially more housing on site. It is vitally important for all New Yorkers that new housing be built. The law should continue to protect existing tenants, but they should not be able to block land assemblage and new construction of housing, nor should they be able to hold-out for windfalls. The New York State Legislature should amend the rent laws as follows in those instances where (1) an owner commits to a gut renovation or new construction development plan that will create a minimum of 20 percent more floor area than existed prior to the development and (2) existing zoning permits such new density:

1. Rent controlled and rent stabilized properties should be subject to identical rules regarding when owners may evict tenants for demolition.

2. The requirement that landlords earn returns below 8 ½ percent of assessed valuation before being able to evict rent controlled tenants should be eliminated.

14 Los Angeles Mun. Code, ch. xv, art. 1, secs. 151.09.A.9, .G, and .K (1996).

3. All tenants should be entitled to receive actual moving expenses. In addition, evicted rent regulated tenants should be provided with one of the forms of relocation assistance set forth below selected by the owner of the building.

(a) The owner may rehouse the tenant in a suitable apartment in the same building or community district provided that the tenant's rent does not increase or if the rent in the new apartment does increase, he or she pays the tenant the difference over six years between (x) the new rent and (y) the regulated rent for the tenant's existing apartment; or

(b) The owner may evict the tenant and pay the tenant a lump sum payment equal to the present value of the difference over six years between (x) the average rent in the community district for a suitable apartment and (y) the regulated rent for the tenant's existing apartment.

A suitable apartment should be defined as an apartment in the same or better condition as the apartment the tenant occupied in the existing building. In terms of size, the apartment should consist of the smaller of (a) the number of bedrooms contained in the existing apartment or (b) an appropriately-sized apartment defined as a one bedroom for one or two adults, two bedrooms for one or two adults and one child with an additional bedroom for each adult or child in the household at the time of the eviction.

4. If two years have elapsed from the date on which all tenants were relocated from the building and the owner fails to construct a residential building with a minimum of 20 percent more floor area than existed prior to the eviction of rent regulated tenants, he or she should be subject to a fine equal to the product of

the shortfall of floor area times the average rent payable per square foot in the building over a five year period. These funds should be earmarked for a housing trust fund dedicated to the construction of affordable housing in New York City.

5. Owners of buildings should be permitted to commence proceedings at DHCR to obtain permission to evict tenants at any time provided that they give appropriate notice to tenants. All rent stabilized leases entered into after the adoption of this proposal should include a clause notifying the tenant that his or her lease will end 60 days after the owner of its building receives approval from DHCR.

6. Applications to DHCR for permission to evict tenants under this proposal should not require hearings, except in extraordinary circumstances where important factual issues are in dispute. Both tenants and owners should file papers with the Rent Administrator who should be required to issue a decision within 90 days.

7. Parties who are aggrieved by the decision of the Rent Administrator should be required to file applications for a PAR within 30 days. A decision on the PAR should be issued no later than 60 days after the application and responses are complete.

Chapter 6:
Environmental Regulation

I. Statement of the Problem

Adopted in 1975, the State Environmental Quality Review Act (SEQRA) was designed to require governmental decision-makers to take into account the environmental consequences of public actions.[1] The requirements of this statute are fleshed out in regulations promulgated by the New York State Department of Environmental Conservation (DEC). New York City then implements this statute and DEC regulations on a local level pursuant to an Executive Order issued in 1976 known as the City Environmental Quality Review (CEQR). At first blush, the scope of SEQRA/CEQR may appear narrow since only public actions require review. In practice, however, SEQRA requires analysis of the environmental impacts of all privately sponsored projects that need discretionary approvals from a government agency. Given that many projects require discretionary zoning, land use or financing approvals in order to make them feasible, the scope, application and delay inherent in SEQRA/CEQR are important contributors to the cost of developing projects in New York City.

On the other hand because SEQRA review is only triggered by a "public action," the irony is that some very large projects with enormous environmental consequences are not reviewed while insignificant projects must go through this gauntlet of reviews. Witness the proposed development of the 750,000 square feet, 72 story Trump World Tower. This will be the world's tallest residential

1 The State Environmental Quality Review Act is modeled after the National Environmental Protection Act (NEPA) passed in 1969 that requires consideration of environmental consequences of actions undertaken by the Federal government. For this reason, SEQRA is sometimes referred to as a "Little-NEPA" Act. *See* Stewart E. Sterk, "Environmental Review in the Land Use Process: New York's Experience with SEQRA," 13 *Cardozo Law Review* 2041 (1992) [hereinafter Sterk].

building but it requires no environmental review because no discretionary actions are sought.[2]

Of the many builder/developers interviewed for this Report, most simply stated that they would not undertake a project that requires discretionary environmental approvals because of the risks and costs of the review process (and the related process known as the Uniform Land Use Review Process [ULURP] discussed infra). Therefore, in addition to contributing to higher costs for projects which require CEQR review, there is another social cost: projects are simply not developed because of the chilling effect of the review process.

To avoid imposing these costs and impacts on project developers, the city can and does perform comprehensive zoning and land use reviews on its own initiative. By preemptively changing zoning or other restrictions, the City Planning Commission and the City Council can eliminate the need for individual developers to seek discretionary approvals that trigger CEQR and ULURP. Unfortunately, the city's adoption of comprehensive reviews and changes also triggers CEQR and ULURP, subjecting the city to the same costs and delays inherent in this process. In other jurisdictions, comprehensive actions by local legislative bodies are exempt from environmental review.

The costs and delays associated with the environmental review process are attributable to two primary elements. First, the process is administered by a "lead agency," the government agency undertaking the action which triggered the environmental review. For general zoning and planning actions in New York City, the lead agency is the Department of City Planning (DCP). The lead agency or agencies must perform, or request that consultants perform, extensive analyses of all potential environmental consequences. Aside from increasing costs paid by the project sponsor, these analyses can take a substantial amount of time to complete, sometimes

2 *See* Paula Span, "In New York, A Shocking Development; Trump World Tower Isn't Even Built, but It's Raising the Roof," *The Washington Post*, Jan. 7, 1999, at C-1; Charles V. Bagli, "Big Names Line Up Against Trump Tower Near U.N.," *The New York Times*, Section 1, Dec. 20, 1998, at 3.

extending to several years for a complex project.[3] Second, once a lead agency makes its final determination regarding environmental impacts and required mitigation, if any, there is no finality. Virtually any opponent of a project may sue the project sponsor and the lead agencies claiming lack of compliance with the CEQR process.[4] Even if these claims are frivolous, the legal proceedings often last for years, delaying a project (possibly to a time when a downturn in the market makes the project unfeasible) and causing the developer and/or the city to incur large legal and consulting expenses. Often, project sponsors and lead agencies will go to great lengths to perform analyses that assure procedural compliance with CEQR because of the threat of litigation even where these analyses do not improve the quality of environmental review.

II. Past Efforts to Change the Law/Regulation

From the time SEQRA was first enacted, fears and hesitations abounded regarding the potential for abuse of this regulatory regime. Almost twenty years ago, the Construction Cost Task Force (Co-Chaired by Nathan Leventhal and Robert F. Wagner, Jr.) was apprehensive about the recently-effective SEQRA and CEQR processes, especially as they related to coordination with ULURP review. Years later, the Real Estate Board of New York in its 1985 report, "Housing in Crisis" identified the long delays in CEQR reviews as part of ULURP actions. The 1992 update of this report, "Housing in New York: A Continuing Crisis," highlighted the abuses of the SEQRA regulations which have now become prevalent. The study prepared by the New York City Housing Partnership entitled "Recommendations for Improving the Land Use and Development Approval Process in New York," advanced several ways in which SEQRA and CEQR could be reformed to reduce

3 For a listing of specific projects delayed in CEQR review *see* Alan Breznick, "The Name is CEQR, and It's Paralyzing City; Paper Trail Becomes a Deadly Highway," *Crain's New York Business*, Feb. 6, 1989.

4 An increasing amount of litigation in the area of environmental review has been based on violations of "environmental justice" under Title VI of the Civil Rights Act of 1964. Plaintiffs have claimed that noxious uses, such as waste transfer stations, have been discriminatorily sited creating a disproportionate impact of negative environmental effects on members of racial and ethnic minority groups. While this is an important trend to watch on environmental review grounds, these types of claims have typically not been made against the development of new residential projects.

project delays. Two sets of public actions have begun to chip away at the costs and delays associated with environmental reviews:

A. In order to clear up ambiguities about the process and analytical methodologies of a CEQR review, in 1993, the then-Mayor's Office of Environmental Coordination commissioned a two volume loose-leaf binder handbook that is recognized as helpful in setting standards for environmental analysis and review.

B. State DEC amended the SEQRA regulations in September of 1995 to clarify and streamline the review process. These are welcome first steps; more steps should be taken given that the courts have recently upheld DEC's authority to change this process. [5]

Many practitioners and academicians continue to write thoughtful analyses on how to improve the environmental regulation process. These parties recommend ways, the more promising of which are analyzed below, to amend laws and regulations to assure that CEQR safeguards the environment without becoming mired in analysis and litigation of non-environmental issues.[6]

III. Comparisons to Control Cities

Of the four cities analyzed in this report, environmental regulation of development projects is most stringent in New York City. New York and California are among the few states that require environmental reviews not only for government-sponsored projects, but also for projects which require discretionary government permits.[7] Ironically, one might have assumed that California, which has a

5 These amendments included changes in the procedures for establishing the scope of an Environmental Impact Statement, limits on post-scoping changes and expansion of the list of Type II actions. Ironically, DEC was sued under SEQRA for the environmental impact of the change in the SEQRA regulations. *In the Matter of West Village Committee, Inc.* v. *Zagata*, 242 A.D.2d 91; 669 N.Y.S.2d 674 (App. Div. 3rd Dep't 1998); motion for leave to appeal denied, 92 N.Y.2d 802 (Ct. App. 1998).

6 *See*, for example, Sterk, *supra* note 1; Philip Weinberg, "SEQRA's Too Valuable to Trash: A Reply to Stewart Sterk," 14 *Cardozo Law Review* 1959 (1993); Michael B. Gerrard and Monica Jahan Bose, "Possible Ways to 'Reform' SEQRA," *New York Law Journal*, Jan. 23, 1998; Stephen L. Kass and Jean M. McCarroll, "Reforming SEQRA – A Counter-Proposal," *New York Law Journal,* Mar. 31, 1998.

7 *See* Sterk, *supra* note 1.

long history of environmental activism, would have the most demanding regulation in this area. As Appendix E to this Report demonstrates, however, regulations in New York are more stringent. For example, California has fewer triggers for environmental review, a narrower definition of the "environment" affected by a project and more categorical exemptions from environmental review. On the other hand, California has a more liberal standard than New York for which parties have standing to sue under the environmental regulations. Unlike New York, however, aggrieved parties in California are required to exhaust administrative remedies and to raise objections during environmental reviews or are barred from suing. Illinois and Texas have no regulatory regimes for environmental review analogous to SEQRA.

IV. Recommendations for Improvement

There are many ways to improve the environmental review process to insure that effective analysis of environmental consequences is undertaken while eliminating abuses by project opponents unrelated to environmental issues. These changes require amendments to the statute, regulations or procedures of SEQRA and CEQR, as noted below.

A. *Change the Definition of an "Action" which Triggers SEQRA.* The environmental review required by SEQRA is not triggered by the potential size or impact of a project but instead by the existence of public discretionary actions. When environmental regulation was first implemented, the primary concern was projects sponsored by the government.[8] SEQRA expanded this mandate to cover government approval of private projects. A radical revisiting of SEQRA would correlate the trigger of review to the environmental impact of the project rather than the type of action sought. Ironically, because of the burden involved in a SEQRA review, the public actions of the State Legislature and the Governor are explicitly exempted. By the same reasoning, the actions of a local legislative body, such as the New

8 *Id.*

York City Council and the New York City Planning Commission should also not trigger an environmental review. In order to encourage the City to undertake comprehensive reviews of obsolete planning and zoning provisions, SEQRA should be amended to exempt the actions of local legislative bodies as is done in several other states.[9] Actions by these two bodies will still be subject to a full political process, such as ULURP, during which advocates and opponents of any land use changes can express their views and influence public officials. SEQRA would continue to apply to assure an unbiased environmental review of a discretionary public action sought by a private project sponsor for individual requests. Comprehensive public actions such as a rezoning or the grant of special permits for broader areas larger than one or two isolated buildings, however, should not be considered an "action" under SEQRA.

B. *Expand Definition of Type II Projects.* According to the SEQRA regulatory regime, once a project or proposal is deemed to be an "action" that affects the "environment," the lead agency must make an assessment of the potential size of environmental consequences. This assessment determines the types of additional analyses required. If a project is very large, it is presumed to have significant adverse environmental impacts requiring extensive analysis; these are known as Type I projects. At the other end of the spectrum, small run-of-the-mill projects are presumed not to have significant adverse environmental impacts and not to require additional analysis; these are known as Type II projects. All actions that fall between Type I and Type II are "Unlisted Actions" that require further analysis.

Type II actions have historically encompassed only very small or nominal projects. Recognizing that these thresholds had been set unreasonably low,

9 *See id.* at 2090 for a listing of some of the states.

in September of 1995, the State Department of Environmental Conservation amended the SEQRA regulations to recognize other actions which should be classified as Type II.[10] While this is a laudable first step, the regulations should be amended again to recognize the reality that the Type II thresholds are still too low. The New York City Department of City Planning has proposed a more expansive definition of Type II actions which is not yet public. Once released, this change should be reviewed and implemented quickly if it is sufficiently expansive. For example, development of up to a three family house is currently deemed to be a Type II action. Given the built environment and the density of housing in New York, this cut-off is ridiculously low and should be increased to encompass a single development of no more than a certain number of housing units, say 70 to 90. Concerns that lowering the Type II threshold would lead to out-of-scale projects being built are unfounded. All projects would still have to comply, by law, with land use reviews, zoning, landmark, building code and all other regulatory requirements; they would just be deemed to not trigger an additional environmental review.[11]

In addition to an expansion of the Type II definition to recognize the size of a project, the definition should be changed to acknowledge the types of development that the City would like to encourage. For example, the California Environmental Quality Act exempts from environmental review:

10 These include: actions of the Governor, commercial structures up to 4,000 square feet, school building expansions up to 10,000 square feet, one to three-family residences in approved subdivisions; accessory structures, among others.

11 One might consider another reference by which to define the new standard for a Type II project. Currently, projects submitted for environmental review may trigger additional analyses (potentially a full Environmental Impact Statement) if they are deemed to have "significant impacts" on the environment based on thresholds for various factors set in the city's CEQR Manual. The most stringent of these thresholds, that for vehicular traffic to and from a proposed project, is the most likely to trigger extra analyses and reviews. For conformity of process, the city might consider deeming all projects below the CEQR Manual traffic threshold as a Type II project which does not require additional review.

actions to provide financial assistance for the development and construction of housing for low and moderate income people,

projects for affordable housing for agricultural employees (without size limit) and

projects in an urbanized area consisting of not more than 45 housing units that are made affordable to lower-income households.

Because of the social benefits of these developments, California has made the decision that no additional environmental reviews should be required. Certainly, given the shortage of affordable housing in New York City, similar provisions would be appropriate as amendments to SEQRA. Indeed given the larger scale and density of New York, a much higher threshold of affordable housing development, say 150 housing units, should be considered a Type II action provided that the project is built with "governmental assistance," be it federal, state or city financing or tax benefits. This proviso should be defined by reference to the income of the household served, such as a maximum of 165 percent of the area median (through either home sales prices affordable to this income level or rents at or below 30 percent of this income level).

C. *Change the Definition of the "Environment."* The term "environment" is so broadly defined in SEQRA that virtually any action will trigger an environmental review, even on grounds that bear little relationship to the traditional definition of the environment. Of the four cities covered in this Report, only Los Angeles is subject to a law analogous to SEQRA, the California Environmental Quality Act (CEQA). Chicago, Illinois, and Dallas do not have State environmental statutes at all. One might expect a broad definition of the "environment" in the California CEQA, but in fact, the definition is nar-

rower as it does not include two extra components which have spawned a great deal of litigation in New York City:[12]

> existing patterns of population concentration, distribution or growth, and
>
> existing community or neighborhood character

These terms are so expansive and vague that non-environmental arguments become the basis of the environmental review and subsequent litigation. To focus environmental review on the natural environment, these two factors out of the eleven included in SEQRA should be deleted.[13]

D. *Restrict Standing to Sue under SEQRA.* Even with full compliance with the SEQRA process, project sponsors and government agencies may find themselves embroiled in lengthy and expensive litigation. As one commentator notes, "most SEQRA litigants do not want more extensive consideration of environmental issues; what they want is a different decision."[14] With this predisposition, opponents of the project will be able to use the environmental review process to halt the development even though there has been full compliance with SEQRA.[15] This is due to the fact that New York courts have very broadly interpreted who may sue under SEQRA, that is, who has standing to sue. To overcome this problem while maintaining the protections of the environmental statute, two options should be considered:

> amend SEQRA to restrict standing to those parties that are truly aggrieved and suffering be-

12 *See*, for example, *Chinese Staff & Workers Association v. City of New York*, 502 N.E.2d 176 (Ct. App. 1986).

13 *See* Appendix E for a listing of these factors.

14 Sterk, *supra* note 1, at 2075.

15 *See* Gerrard and Bose, *supra* note 6, for a list of New York cases where a lower court has struck down an Environmental Impact Statement, but then been reversed on appeal after time-consuming and expensive litigation.

cause of an environmental harm, rather than a procedural defect, or

eliminate the private right of action so that only a governmental watchdog of the environment (separate from a lead agency, such as the Attorney General) could sue for a potential violation of SEQRA. In essence, only the government decision makers who must vote on a project would be the "aggrieved party" eligible to sue through this watchdog.

The first approach, while more desirable substantively, still requires a developer and/or the city to defend a litigation and argue the question of standing in order to dismiss the lawsuit. There is no easy way for judges to bar access to the court unless hearings are first held to determine whether the plaintiff has the right to bring the lawsuit under this test for standing to sue. These hearings, however, should be more expeditious than a full-blown trial. The second approach overcomes this problem by drawing a bright line about the party authorized to sue, but may be much more difficult to have enacted through the Albany political process. At the very least, SEQRA should be amended to include the California requirements that parties must exhaust administrative remedies and raise objections during the agency review process before being permitted to sue. Again, however, court proceedings (albeit shorter than a full trial) would be required to determine compliance with these requirements before a lawsuit could be dismissed.

E. *Reduce Statute of Limitations and Accelerate Environmental Litigation.* Plaintiffs currently have 120 days to sue a project sponsor and/or lead agency claiming a violation of SEQRA. During this statute of limitations period, a project sponsor (and lender) will typically not take any significant action to move the project forward for fear of the cost and de-

lay associated with potential litigation. This is simply lost time waiting for the expiration of a legal deadline. In California, for example, the statute of limitations is only 30 days[16] and, in order to sue, potential plaintiffs are required to exhaust administrative remedies and to present objections during the environmental review process so they can be aired and considered contemporaneously. This regulatory scheme would lead to a more informed environmental review and would eliminate project delays associated with waiting for lapse of the statute of limitations period. In New York, the statute of limitations for challenging an action of the Board of Standards and Appeals (a related city body) is 30 days,[17] evincing the determination that this is a sufficient period of time to bring an action challenging a project. SEQRA should be amended to provide a 30-day statute of limitations for legal challenges.

In a related context, New York State has also recognized that delays attributable to legal challenges can doom time-sensitive real estate development projects. State law provides for a preference over all other civil actions and proceedings for litigation relating to actions taken by the Board of Standards and Appeals.[18] Recognizing that delay can be tantamount to loss of a project, the legislature has established a procedure to expedite review of these claims. In a similar vein, court review of actions pursuant to SEQRA should have a preference so that litigation delay will not doom a project that eventually wins on the merits.

F. *Provision of Information about CEQR Reviews*. While the standards of review in the State environmental statute and regulations lead to the higher cost of residential development, there are also delays (and costs) associated with the administration of the environmental review process in New York City. A

16 *See* Cal. Pub. Res. Code, div. 13, secs. 21167 and 21167.8.
17 *See* N.Y. Gen. City Law, sec. 82(1)(a).
18 N.Y. Gen. City Law, sec. 82(3).

good portion of this delay is attributable to the back and forth between the City environmental review agencies and the project sponsor/lead agency relating to additional required analyses. To their credit, the environmental review agencies now use a handbook outlining guidelines and protocols which cut back significantly on this source of delay. However, it is impossible to gauge the current causes and length of delays because the Mayor's Management Report (MMR), issued twice a year to disclose indicators of agency performance, no longer provides the actual time elapsed between submission of an application and completion of the review.[19] The Department of Environmental Protection (DEP) also performs environmental reviews for the city. In its MMR sections there is a narrative which only identifies the number of applications that were deemed complete in that fiscal year without detailing the time taken to complete this process. In order to measure progress in shortening the time for this review over time, the MMR should be revised to disclose the median length of time taken to complete the review. In addition, another indicator should be included which provides the reasons, by category, for the delay for any project which takes more than three months to review. These categories will provide government decision makers and the public with the information necessary to monitor and, if necessary, improve the administrative system. If the agencies are unable, over time, to shorten the time necessary for review, other measures must be considered in order to achieve the mandate of encouraging critical housing development. As in other areas, the city should consider a provision that applica-

19 Some experts have advocated a process by which a project sponsor would "self-certify" the completion of an environmental review. This would eliminate delays encountered by staff limitations in certifying agencies. The project sponsor would still have an incentive to assure that the environmental review is complete and accurate to protect against potential legal challenges to the project. While this is a more expansive (and probably more difficult to implement) recommendation than that made in this Report, it is one worth considering if certification delays become a larger problem.

tions would be deemed approved after a certain reasonable time (say 45 days) after a sponsor's submission of all requested information.

Chapter 7:
Zoning Regulations

I. Statement of the Problem

The critical determinant of the availability of land for housing development is proper zoning. If land is properly zoned for residential use, an owner or developer may proceed to build housing "as-of-right." If the land is not zoned for housing, but might be appropriate for this use, a developer must secure a zoning map or text amendment (a "rezoning") or a special permit, pursuant to a public approval process. As noted earlier in the Environmental Review chapter, these actions trigger a review under CEQR and may require approval pursuant to the Charter-mandated Uniform Land Use Review Procedure ("ULURP"). This latter process is discussed and analyzed in the next chapter on Land Use Review Processes. As will be shown, both of these processes impose enormous expense and potential project delays on owners, making it likely that only the largest and most controversial projects will seek these changes. To avoid these costs and controversies, it is important that the city, on its own initiative, review and amend the Zoning Resolution to allow residential and mixed-use development in zones designated for manufacturing uses that are now obsolete.[1]

The second aspect of zoning which may unduly limit the size and layout of a new building, and therefore may make a development unfeasible, are the constraints set on the bulk, height, open space and parking requirements of the code. As Appendix F demonstrates, the New York City Zoning Resolution imposes sometimes inordinate requirements relating to bulk, height, open space and parking. The long and expensive process to obtain relief from these requirements discourages developers from seeking changes, either resulting in inefficient projects or, more likely, a decision not to proceed with the project.

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1 For a comprehensive analysis of the decline of the manufacturing sector in New York City, *see* New York City Department of City Planning, DCP #93-02, *Citywide Industry Study: Industry Trends, Technical Report* (1993) [hereinafter *Citywide Industry Study*].

Third, in an effort to remedy misguided development permitted in the 1961 Zoning Resolution, the City Planning Commission (CPC) and the City Council adopted amendments known as Lower Density Contextual Zoning in 1989 affecting R3 to R5 zones. In medium and high density zones (R6 to R10 zones) the city adopted the Quality Housing Zoning Text Amendments of 1987 which similarly attempted to require "contextual" development. In many cases, these new provisions limited the ability of developers to use their property for cost effective housing projects (except during the most robust of market periods and in the most robust of market areas).

Finally, the New York City Zoning Resolution, as a whole, can only be described as arcane and byzantine.[2] Only experts can wade their way through the multiple levels of regulation that may affect a single piece of property. This discourages new developers from entering the market and expanding the capacity of the city to produce housing. In addition, the sometimes conflicting language and definitions in the Resolution lead to confusion among project sponsors and Department of Buildings personnel who must interpret the Zoning Resolution. This document has evolved over time, from a code in 1916 requiring buildings with a "wedding cake" design to a code in 1961 requiring buildings with a "tower in the park" design to code amendments in the late 1980s and 1990s requiring buildings with "contextual" designs. Changes have been layered on top of the other, resulting in complicated, conflicting and changing rules. In addition, in response to political and community pressures, special zoning districts have proliferated, reaching thirty-four in number as of August of 1998;[3] these districts have been layered on top of general zoning requirements. The city has not performed a comprehensive review of these accreted changes to identify a necessary set of zoning tools to be fairly applied in each neighborhood.

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2 One expert involved in the interpretation of the Zoning Resolution has admitted that it is an "abomination."

3 *See* NYC Zoning Resolution, app. D at www.ci.nyc.ny.us/html/dcp/html/zonetext.html (incorporating changes through August 27, 1998).

II. Past Efforts to Change the Regulations

In the first area, making more land available for the development of multi-family housing in New York City, DCP, CPC and the City Council have exercised admirable leadership over the past five to six years. DCP has undertaken extensive planning reviews to rezone large areas of the City on their own initiative from manufacturing uses. These actions in areas such as Flushing in Queens, Williamsburg in Brooklyn, Sixth Avenue in Manhattan and all along the waterfront of New York have begun to make property available for residential or mixed-use that was formerly designated for manufacturing use. More significantly, in 1997, CPC and the City Council adopted a zoning text amendment creating a new "Special Mixed Use District."[4] In these districts, areas currently zoned for light manufacturing uses (M-1) are paired with a residential zoning designation allowing all uses permitted in either the manufacturing or residential zones. So far, one area in Port Morris of the Bronx has been mapped for this special mixed use. In another initiative that reflects changing uses, the Lower Manhattan Economic Revitalization Plan, advocated by the Mayor, included zoning text amendments that permitted conversion of obsolete office buildings in Lower Manhattan to residential development. As of January 1999, 3,777 housing units comprising over 4.4 million square feet have been converted or were under construction.[5] An additional 1,000 units are planned for development.

In the last three areas of the Zoning Resolution affecting cost, constraints on building size/design and the complexity of the Resolution, the city has begun to take piecemeal efforts at improving this regulation. In July of 1996, the Department of City Planning released for public comment a comprehensive proposal entitled *Zoning to Facilitate Housing Production*. This proposal, still under review, outlined 35 changes to the Zoning Resolution as well as text clarifications and future possible studies, designed to improve and simplify the development of housing in the city. In addition, as a first step in making the Zoning Resolution more accessible, the

4 *See* NYC Zoning Resolution, art. 12, ch. 3, sec. 123.

5 Alliance for Downtown New York Inc., Memo from Tristan Ashby, Director, Economic Incentive Programs, Feb. 19, 1999.

Department of City Planning placed its full text and maps on its Internet web site as of November 1998.

III. Recommendations

In recent years, the Department of City Planning, the City Planning Commission and the City Council have taken very innovative actions to adapt the Zoning Resolution to changing uses in the city and to make more land available for residential development. The following recommendations highlight additional areas in which the city can continue to pursue this agenda. The first recommendation offers a comprehensive approach to revising zoning; the remaining recommendations offer valuable interim initiatives.

A. *Establish a Task Force to Implement a Comprehensive New Zoning Resolution.* The Zoning Resolution was last amended comprehensively almost forty years ago. With the dawning of a new century, it is time for the city to implement a new Zoning Resolution that reflects an expansive vision and replaces this out-of-date code. As one practitioner notes, the 1961 comprehensive amendment to the Zoning Resolution was adopted at the height of the urban renewal movement in the nation's cities.[6] New York's zoning therefore put a premium on building "towers in the park." The 1961 amendment introduced the notion of "open space ratios" (OSR's) and other concepts designed to produce light and air, despite its impact on the context of neighborhoods. Planners also forecast booming population growth and expansion of manufacturing industries, requiring more land for these uses.[7] Almost forty years later, we recognize that this vision of urban design is antithetical to today's concepts of preserving communities and that predictions about population and manufacturing have just not panned

6 Norman Marcus, *Zoning from 1961 to 1991: Turning Back the Clock—But with an up-to-the-minute Social Agenda*, (Todd W. Bressi ed., 1993) [hereinafter Bressi].

7 *See* Richard L. Schaffer, *Reflections on Planning and Zoning New York City*, Bressi, *supra* note 6, at 239 and Peter D. Salins and Gerard C. S. Mildner, *Scarcity by Design: The Legacy of New York City's Housing Policies* (1992).

out. OSR requirements, for example, often lead to unusable and undesirable open spaces and unusable buildings.[8] Similarly, increased parking requirements that have no relationship to the expansion of mass transit services create a drag on feasible development. Consequently, the City Planning Commission and the City Council have tried in the last few years to repair the Zoning Resolution in a piecemeal fashion. For the fortieth anniversary of the comprehensive zoning amendment, the city should adopt a comprehensive amendment that reflects a rational and modern vision of New York City. The new zoning resolution should be guided by the principle of encouraging more housing development whenever consistent with existing or planned infrastructure in order to address the current shortage of housing. The Mayor and the City Council should create a joint Task Force, headed by the Chairman of the City Planning Commission, which will implement this vision beginning in the year 2001.

B. *Adopt Map Changes to Increase Special Mixed Use Districts*. The city's adoption of the zoning text amendment to allow residential development in light manufacturing zones is a farsighted and innovative change. Recognizing that new development of manufacturing uses is highly improbable, given changing technology and the consistent decline in jobs in this economic sector,[9] CPC and the City Council have opened up critical new land for housing development. When this zoning text amendment was approved, the city adopted only one change in the zoning map, in the Port Morris section of the Bronx, to permit this mixed use district and

8 In addition, these new requirements give owners an incentive to retain existing, obsolete, buildings because a new building permitted under the 1961 zoning amendment would have to be much smaller in order to satisfy OSR's and parking requirements.

9 New York City Private Sector Employment in the industrial sector decreased from 1,699,000 jobs in 1958 (just before the comprehensive amendment to the Zoning Resolution) to 826,000 in 1991. *Citywide Industry Study*, *supra* note 1, at 2 (citing New York State Department of Labor, *Current Employment Survey*).

has not adopted any other map changes since then. Many areas zoned for manufacturing uses[10] would be appropriate for a mixed use designation, including Red Hook, Williamsburg and Greenpoint in Brooklyn, Southern and Central areas of the Bronx, including Hunts Point and the West Side of Manhattan from Chelsea to Clinton to West and Central Harlem. The community and political pressures and balancing of interests involved in any of these actions are understandably difficult.[11] However, in order to advance these conversations and effect positive change, the Department of City Planning should set a goal of reviewing appropriate areas for rezoning and proposing no less than four to five "map amendments" each year. This clearly will require additional environmental review and planning staff for DCP, but this would be money well spent. If the changes advocated in the chapter on Environmental Review, supra, relating to exempting municipal actions from CEQR review, are adopted, these zoning changes could be implemented more effectively.

C. *Amend Lower Density Contextual Zoning to Permit Appropriate Housing Density*. Reacting to some clearly inappropriate housing developments in the neighborhoods of the boroughs other than Manhattan, the city amended the Zoning Resolution in 1989 to require "Lower Density Contextual Zoning." These amendments imposed new restrictions on building density, height, setbacks and types of housing that could be built in certain areas of Brooklyn, Queens, Staten Island and the Bronx. In these areas, housing density was reduced by almost 50 percent in R3 through R5 zones. These are pre-

10 In January of 1993, the Department of City Planning prepared a Geographic Atlas of Industrial Areas and completed 59 study area profiles for all five boroughs. These analyses provide the first step for rezoning of many of these areas. *Citywide Industry Study*, *supra* note 1.

11 *See*, for example, Julian Barnes, *More Housing on the Way?*, The New York Times, Real Estate Section, Jan. 17, 1999, at 9.

cisely the zones where medium density multi-family housing can and should be developed in the city, given the availability and affordability of land. The generic adoption of "contextual" protections does not make sense in many communities, especially the extent to which density is reduced. While it is unlikely the city would repeal Lower Density Contextual Zoning (and in limited instances, it is appropriate), restrictions must be revisited in light of changes in the last ten years. A substantial increase, even to 50 percent to 70 percent of what zoning permitted before these amendments became effective could increase housing production by 25 percent to 35 percent.

D. *Increase Density in Medium and High Density Zones*. By the same token, a modest increase in the density permitted in medium and high density zones (R6 to R10) is an easy and unobtrusive way to have a large cumulative impact on housing production in the city. Even if the definitions of floor area ratio (and other zoning limitations) permitted in each of these zones were increased by only 10 percent (provided transportation and school infrastructure is available), this would lead to a significant increase in the number of units produced across the city with an almost imperceptible increase in the size of each individual development. One need not worry that these buildings will be out of place as these are the same zones in which Quality Housing requirements are either mandatory (if mapped) or optional, assuring development of desirable buildings from a planning perspective.

E. *Adopt Department of City Planning's Report "Zoning to Facilitate Housing Production."* The Department of City Planning undertook an extensive review of the Zoning Resolution to determine which provisions require amendment in order to encourage housing production. In July of 1996, DCP published a report listing 35 items "intended to

make residential zoning regulations more compatible with the needs of the marketplace, the precepts of good urban design, and the prevailing built character of the city's neighborhoods."[12] While modest in nature, these proposals are thoughtful and included items such as (1) reducing parking requirements for lower income and elderly housing based on actual needs, (2) facilitating development of assisted housing projects, (3) eliminating density penalties for mixed-use buildings, (4) permitting off-site parking in residential zones and many more. Based on the wealth of experience of the DCP staff in reviewing problematic regulations that increase costs without providing benefits to our communities, these proposals offer the first step in rationalizing provisions of the Zoning Resolution. Recognizing the confusing language of the resolution, the proposal would also clarify definitions and include illustrations to eliminate ambiguities. Staff at DCP expect this proposal to be certified as ready to begin the ULURP process soon. We urge the public bodies reviewing these proposals to approve their implementation as soon as possible. In addition, the DCP report outlined sixteen areas for "future possible studies" again to encourage housing production. The MMR should include significant goals for the Department to continue proposing and adopting these types of changes.

F. *Use Terms Consistently Throughout the Zoning Resolution*. In DCP's proposal "Zoning to Facilitate Housing Production," item 11 of the section on "Future Possible Studies" is an item which deserves to be repeated and listed as a separate recommendation to address part of the byzantine nature of the Zoning Resolution. As stated by DCP: "The Zoning Resolution often describes similar things in different ways, as can be expected from a document that has

12 New York City Department of City Planning, DCP #96-14, *Zoning to Facilitate Housing Production* (1996).

been extensively amended for over 30 years. This has led to confusions and contradictions in some cases, and the application of regulations contrary to the intention of the Planning Commission. Now that the Resolution is computerized, it is possible to conduct a thorough search for similar provisions to insure that exactly the same wording, where appropriate, is used in their descriptions."[13] The importance of this undertaking cannot be overemphasized given the potential for inconsistent interpretations within a Borough office of the Department of Buildings and across different Borough offices that increase costs and delay projects. This is an ideal undertaking to outsource, given limited city personnel, with strict performance deadlines.

G. *Expand the Lower Manhattan Economic Revitalization Plan*. In the short time that it has been in effect, the Lower Manhattan Economic Revitalization Plan has demonstrated the success of flexible zoning and tax incentives to recycle obsolete commercial office buildings into residential and mixed-use buildings. Given the limited availability of land permitting housing development, it is important that initiatives such as this be encouraged and expanded.[14] From the zoning perspective, the Lower Manhattan plan relied on a 1981 amendment to the Zoning Resolution that permitted conversion of office buildings to residential use in certain areas[15] if the building was (a) located in a residential zone or in a commercial zone which permits residential uses (see Appendix F to this Report) and (b) built before December 15, 1961 (the effective date of the Comprehensive Zoning Amendment). When the Lower Manhattan plan was adopted, it delineated a geo-

13 *See id.*

14 In addition, the program expires in 2002 which will require the city to extend these provisions.

15 These areas include Community Districts 1-6 in Manhattan, Community Districts 1, 2 and 6 in Brooklyn and Community Districts 1 and 2 in Queens. *See* NYC Zoning Resolution, art. 1, ch. 5.

graphic area in which buildings constructed as late as 1977 (instead of 1961) could be converted under these conditions. Buildings built after 1977 were not eligible as ostensibly newer buildings were not obsolete and should not be converted.[16] With the rapid pace of changes in telecommunication and computer technology, much newer buildings can in fact be obsolete. In addition, newer buildings may be obsolete based on their small floor plates (rather than their age), making conversion to housing a desirable option. The Lower Manhattan plan should be amended to remove the limitation relating to the age of the building. In addition, the city should examine the geographic boundaries of the 1981 zoning amendment and identify other areas, especially in Brooklyn and Queens, where other commercial or industrial buildings could be reused for housing.

16 We recognize that, now that the commercial vacancy rate in Lower Manhattan has been substantially reduced, there is competition for uses of these buildings between housing and office space for new businesses. This competition is inherent in a conversion concept and is best resolved through flexible zoning that permits project sponsors to select the highest and best use for each building.

Chapter 8:
Land Use Review Processes

I. Statement of the Problem

As noted in the Zoning Regulations chapter of this Report, land that is not properly zoned for residential use requires a discretionary change pursuant to the City Environmental Quality Review process and may require approval pursuant to the Charter-mandated Uniform Land Use Review Procedure ("ULURP")[1]. This latter process may also be required[2] where the Zoning Resolution imposes one or more restrictions limiting the feasibility of a site for housing development from which an owner seeks relief. As projects proceed through the ULURP process, the various parties reviewing the application, the Community Board[3], the Borough President, the City Planning Commission, the City Council and the Mayor, may insist on substantive changes and concessions as a condition of approval of the request. Concessions demanded through ULURP can grow to the point where they render a project unfeasible.

In terms of the time required for approval, ULURP is subject to strict time deadlines limiting the entire process to a total of approximately seven months (see Appendix G for a flow chart of the ULURP process). The ULURP time clock starts, however, only once the application is certified "as complete and ready to proceed" by the DCP. The ULURP process is sometimes delayed in the certification stage, adding significant costs and time to the process and risk to project development. This leads developers to either increase the cost of housing projects to reflect these costs and delays or simply not to pursue some projects because of the uncertainty of the process.

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1 NYC Charter, sec. 197-c.

2 In some cases, a special permit may be granted by the City Planning Commission alone and a variance may be granted by the Board of Standards and Appeals.

3 The Borough Board must also review the application where the project affects more than one Community Board.

In addition to approval pursuant to ULURP for discretionary zoning actions and amendments to Urban Renewal Plans, the sale or other disposition of interests in city-owned property requires approval pursuant to other statutes. Given the city's commitment, through HPD, to create affordable housing, a significant proportion of the total annual production of housing units is in fact developed on city-owned vacant land or in city-owned buildings. One of the statutes, the Urban Development Achon Area Project ("UDAAP") permits accelerated disposition of property which is at least 80% owned by the city for new construction of 1 to 4 unit dwellings or rehabilitation of existing buildings. This accelerated process requires review only by the City Planning Commission and the City Council. This is a very desirable land use review process which could be expanded to other types of projects. The purpose of this expedited review has been undermined recently, however, as many Accelerated UDAAP requests have languished in the City Council without action. Concerns or issues of certain Council Members, some related to the Accelerated UDAAP project before them, and some completely unrelated, have led to stalled action.

II. Past Efforts to Change the Regulations

ULURP which became effective in 1976 has been at the center of many land use battles in New York City and the subject of reports and articles advocating reform. As early as three years after implementation, a 1979 Mayoral Task Force called for design standards and guidelines to minimize the arbitrariness of requirements imposed as a condition of obtaining certification of a ULURP application by the Department of City Planning.[4] The Report of the Real Estate Board of New York (REBNY), "Housing in Crisis: 1985," called for requiring pre-certification of ULURP applications within five working days of submission of a completed application and restricting review of ULURP applications to bona fide land use issues. Neither of these proposals has been adopted. The 1992 REBNY Report called for adoption of "blind ULURP's" for City-owned sites that would permit pre-approval of disposition of this property prior to completion of specific development plans.

4 *See Report of the Construction Cost Task Force* (Co-Chairs Nathan Leventhal and Robert F. Wagner, Jr., Apr. 1979).

This would, in essence, turn a discretionary project into one buildable "as-of-right" provided compliance with all other codes, including zoning, is met. Again, this proposal was not adopted. In the changes to the New York City Charter effective May of 1990, small changes were made requiring the Department of City Planning to disseminate promptly information received as part of a ULURP application and permitting a Community Board to waive its review of an application in less than the 60 day period provided in the charter. The New York City Housing Partnership study entitled "Recommendations for Improving the Land Use and Development Approval Process in New York" advocated improved coordination of the CEQR and ULURP processes and better delineation of development guidelines in special zoning districts to minimize the need for ULURP reviews.

III. Comparisons to Control Cities

No other city reviewed for this Report requires a process similar to ULURP for the review of land use applications.

IV. Recommendations

In order to reduce the risks, costs and delays associated with development of housing, it is important to make as many projects "as-of-right" (rather than "discretionary") as possible. The first three recommendations below therefore seek to limit the number and types of projects which require discretionary approvals. Where that cannot be done, the processes for seeking the discretionary approvals should be streamlined. The next three recommendations therefore seek to set time limits for the process to review the requests for these approvals. While public and community review of these requests may be beneficial in some respects, this must be balanced against a need to produce sufficient numbers of housing units in the city.

A. *The City Planning Commission Should Review the Desirability of Transferring Certain Special Permit Applications With Localized Impacts to the Board of Standards and Appeals*. The Zoning Resolution provides that property owners may seek special per-

mits for waivers of requirements that constrain the development of an efficient or desirable project. The Zoning Resolution allocates responsibility for review of these requests to either the Board of Standards and Appeals ("BSA") or the full City Planning Commission. Conceptually, BSA approves requests that have more localized impact while CPC must approve requests with a broader impact. In performing the comprehensive review of the Zoning Resolution recommended above, the city should reevaluate this division of responsibilities. Some approvals presumed to have broad impacts in fact are more local in nature. These requests could be referred to the BSA. While both BSA and CPC require an environmental review pursuant to CEQR, the BSA process only requires Community Board review and can take as little as two to three months. By contrast, the CPC process requires review pursuant to the ULURP which takes up to seven months once the application is certified as complete by the Department of City Planning. Transferring some of these approvals to the BSA would also free up resources at the CPC for projects with more generalized impact. Therefore the CPC should review whether certain special permit applications with localized impacts should be transferred to the BSA.

B. *Create Discretionary Relief for Affordable Housing.* Currently, to convert an industrial property to residential use, a project sponsor must obtain a special permit from the City Planning Commission, as noted above, or must obtain a variance from the Board of Standards and Appeals. In order for the BSA to grant a variance, the Board must make five rigorous findings:

1. That there are "Unique Physical Conditions" inherent in the parcel that would present "Practical Difficulties" and/or "Unnecessary Hard-

ship" in complying strictly with the terms of the Zoning Resolution.

2. Because of these physical conditions, the variance is necessary to enable the owner to realize a "Reasonable Return" from his/her property.

3. The variance will "Not Alter the Essential Character of the Neighborhood."

4. The "Practical Difficulties" and/or "Unnecessary Hardship" claimed by the owner as a basis for the variance are/is "Not Self-Created."

5. The variance applied for is the "Minimum Necessary to Afford Relief."

As is clear from the language of these required findings, this is a very difficult standard to meet. Before enactment of the 1961 comprehensive amendment to the Zoning Resolution, the BSA was given much wider discretion to vary use and bulk regulations if the Board found that the variance would advance the health, safety and general welfare of the city. While this pre-1961 standard may be excessively broad, the current finding requirements are excessively restrictive. New language should be drafted to allow the Chair of the City Planning Commission to grant discretionary relief on use and bulk regulations to permit more development of affordable housing.

The applicant for discretionary relief from the Chair of the City Planning Commission should be required to make the following showings in its application for relief:

1. That relief will not alter the essential character of the neighborhood or district in which the development is proposed;

2. That the advantages of granting relief exceed any disadvantages to the community at large; and

3. That the housing proposed is "affordable housing" that is "consistent with the city's overall housing program."

   (a) As used in this proposal "affordable housing" should be defined according to the household income that qualifies for the city's major housing subsidy programs. The upper bound of affordable housing should be pegged to the incomes eligible for housing under the New Homes Program of the New York City Housing Partnership.

   (b) An applicant for discretionary relief should be required to submit a certification from the Commissioner of the Department of Housing Preservation and Development stating that the proposed development is consistent with the city's overall housing program.

C. *Expand Projects Eligible for the Accelerated UDAAP Process.* City-owned sites are still an important source of properties for housing development in New York City. With the long delays inherent in ULURP, Accelerated UDAAP is a critical tool in achieving this social mission of creating housing for low, moderate and middle income households. To make this process more effective, the city should seek two changes to the UDAAP statute. First, Accelerated UDAAP should permit disposition of vacant land for development of dwellings with five or more units. This level of density will more efficiently contribute to housing production in the city. These projects would still be subject to the other requirements of the UDAAP statute including the City Council findings that the UDAAP designation and disposition will help the growth and sound redevelopment of the city and that the site will be built in accordance with zoning requirements. Second, under current law, in order to

qualify for UDAAP, the site must be at least 80% municipally-owned. Under UDAAP, the city may also provide real estate tax benefits and subsidized loans for the entire housing project. There may be projects in which a developer owns part of the vacant land and seeks to purchase adjacent city-owned property in order to assemble a site for an efficient development. The UDAAP statute should be amended to permit tax benefits and subsidized loans for projects such as these, built on sites that are at least 50 percent municipally-owned.

D. *Amend the UDAAP Statute to Provide that Projects will be "Deemed Approved" after 60 days.* As described above, the purpose of the UDAAP statute, accelerating disposition of city-owned property to permit construction of affordable housing, has been lost in recent years. In many cases, Accelerated UDAAP project requests approved by the City Planning Commission languish in the City Council while individual Council Members negotiate issues, which may or may not be related to the Accelerated UDAAP project. This has led to very long delays as projects are "laid over" endlessly without action. The City Council should be able to review and approve or disapprove Accelerated UDAAP requests on a more timely basis. The statute should be amended to provide that any request that is not acted upon by the City Council within sixty days of submission would be deemed approved. If there are substantive issues relating to a project, they should be aired and negotiated so as to permit more housing to be developed.

E. *Amend the Mayor's Management Report to Report the Time Taken to Certify ULURP Applications*. The Mayor's Management Report (MMR), issued twice a year by the city, provides indicators of performance for each city agency. In the MMR for the Department of City Planning, there is no disclosure of the time taken to certify applications as "com-

plete and ready to proceed" through the ULURP process.[5] This certification is very highly correlated with the time required for completion of a CEQR review which, as noted in the Environmental Review chapter above, also is not available. While the ULURP process may be lengthy, it is predictable. In a maximum of seven months, an owner will know whether a requested approval is granted, denied or modified. The unpredictable part is the time taken to obtain the DCP certification. Because of the time sensitivity of real estate development, it is vital that developers be able to accurately gauge the time needed to start and complete the ULURP process. Anecdotes[6] from development professionals suggest that the time required to obtain certification can occasionally be substantial. In order to promote greater predictability and to provide an incentive for DCP to shorten the time taken to certify applications they review, this data should be made publicly available.

F. *Delegate Certification of ULURP Applications Which Do Not Present Zoning or Planning Issues to Other City Agencies and Impose Deadlines on All Agencies.* Currently, only the Department of City Planning is authorized to certify ULURP applications as "complete and ready to proceed." Because of limited resources and a heavy workload, some applications may be long-delayed before certification. Where there are no zoning or planning issues requiring DCP expertise, ULURP applications could be more expeditiously processed if the certification burden were delegated to the city agency most motivated to see these projects move forward. For example, ULURP applications for residential

5 The MMR only states that the Department of City Planning certified or referred 47.8 percent of the applications received during the first four months of Fiscal Year 1999 (July through October, 1998). It does not state the average time taken to certify all applications. *City of New York Preliminary Fiscal year 1999 Mayor's Management Report* 288.

6 *See*, for example, Lois Weiss, *NY Housing: You Can't Get It Up Fast Enough*, Real Estate Weekly, Mar. 4, 1998, at 1.

projects not requiring a zoning change (for example, requiring only approval of disposition of city-owned property) should be certified by the Department of Housing Preservation and Development. This is very similar to the regulatory regime established several years ago for "lead agency" review under CEQR. This review was delegated from the Department of City Planning to the city agency sponsoring the proposed action, again the agency with the motivation and expertise to complete the process expeditiously and properly (to avoid eventual litigation). In all events, every ULURP application would still require review by all public bodies in the ULURP process, including the City Planning Commission, and a vote to approve, disapprove or modify. Every agency responsible for any ULURP certifications, be it DCP or HPD, would be required to review applications expeditiously. These certifying agencies would be required to certify or request additional information within appropriate time limits from the date of submission of an initial application. When an applicant submits additional information, the certifying agency would be required to state within a specified time period whether the submitted materials are responsive or additional information is required to respond to the initial request. If an agency fails to comply with these deadlines, the project sponsor would have the option to deem the application certified to proceed through ULURP.

Chapter 9:
The Building Code

I. Statement of the Problem

Building codes are designed to provide minimum standards for building construction to protect the public's health, safety and welfare. Codes attempt to protect the public by regulating the building construction process, building components and the materials used for construction.[1] Throughout history, building code regulations have evolved in response to catastrophes.

In 1850, New York City became the first city to adopt a building code. Since then, the New York City Building Code has been changed and updated regularly including the most recent overhaul that was completed in 1968. While the overall structure of the current New York City Code is based on that document, the Code has been amended several times in the last 30 years. For the most part, the amendments have consisted of adding new regulations and layers to an already complicated document. The New York City Building Code now stands at almost 2,000 pages.

Building Codes affect the cost of construction in three ways. First, the Code dictates which materials a developer can use to build a project. Second, the Code prescribes the kind of buildings that can be built. Finally, the code review process can add significant time to the overall development process.

A. *The Absence of a Uniform Code:* In 1981, New York State adopted a Uniform Building Code based on a finding that the lack of a single, adequate and enforceable State code with minimum standards for fire protection and construction had resulted in the loss of life, injury to persons and damage to property as a result of fire. While the state called this enactment a Uniform Building Code, it is not a model

1 *See* Intro. to Building Codes at www.ncsbcs.inter.net/introto.htm.

code prepared by one of four national organizations.[2]

New York City was not required to adopt the New York State Uniform Building Code. The 1981 State law provided that for cities with a population of over one million, like New York City, the existing codes could continue in full force and effect.[3] The State Legislature charged the State Code Council with overseeing the implementation of the New York State Uniform Building Code provisions. The State Code Council had the authority to require New York City to adopt the New York State Uniform Building Code but only if it found that the New York City Code provisions "were less stringent than the uniform code." Indeed, the New York City Building Code is significantly more stringent than the State Code.

Other cities and local governments in New York State also can adopt more stringent provisions than the New York State Uniform Code. However, to do so, the local government must first petition the State Code Council. The State Code Council must determine whether the local government's proposed code is, in fact, more stringent than the State's standards, and, if so whether such laws are both reasonably necessary because of special local conditions and conform to accepted engineering and fire prevention practices.[4] New York City does not have to meet these standards.

B. *The New York City Building Code:* The New York City Building Code is stringent, voluminous, de-

2 These organizations promulgate uniform building codes that have been adopted by several states. These codes are sometimes referred to as model codes. The Department of State recently forwarded a cover letter to the governor and the senate and assembly speakers for consideration. This letter included a copy of the analysis prepared by a consultant comparing New York State's code to the model codes. *See* Letter from George E. Clark, Jr., Director of the Department of State Codes Division, Nov. 24, 1998.

3 N.Y. Exec. Law, sec. 383.

4 N.Y. Exec. Law, sec. 378.

tailed, complex, cumbersome and arcane.[5] As a result, while the New York City Code contains provisions to protect public health and safety, it is virtually impossible to assure that those provisions are followed because the New York City Code is difficult to enforce and even more difficult for development professionals to interpret.

The New York City Code's complexity has three detrimental effects on residential construction. First, development professionals and New York City Building Department officials often read the Code in conflicting ways. This creates confusion, adds time to the already lengthy permitting process, and may fuel some of the bribes and payoffs described in the Corruption and Extortion chapter of this Report.

Second, because New York City's Code is unique it may reduce the pool of developers from the rest of the state and the country who might have the expertise and interest to build in New York City.

Finally, complying with some of the unique materials requirements in the New York City Code adds to the cost of construction in at least two ways. First, the material may be difficult to acquire and therefore adds time to the construction process. Second, since only a few companies may manufacture the materials required by the Code, the supply of these materials may be limited and their cost relatively high.

The New York State Builders Association claims that construction costs in New York State could be reduced by 5 to 15 percent if the State Legislature were to adopt a Model Building Code drafted by one of four national organizations.[6] Because the New York City Code is even more stringent than the New York State Uniform Code, the construction cost savings in New York City would likely be greater.

5 NYC Admin. Code, tit. 27, secs. 101 to 4283. Reference standards that are a part of the Building Code are set forth in an appendix to title 27.

6 *See* New York State Builders Association, Press Release, Mar. 9, 1998.

Data on hard costs presented in Chapter 2 of this Report show that materials costs in New York City are up to 18 percent higher than the Control Cities examined.

C. *Materials and Equipment Acceptance Process:* All material or equipment used in the construction of a building in New York City must meet a reference standard that is either (a) set forth in the Building Code or (b) promulgated by the Department of Buildings (DOB).[7] If the reference standard is set forth in the Building Code, it can only be changed with a City Council law. If DOB has the authority to specify a reference standard, this is implemented through the Materials and Equipment Acceptance (MEA) process. With this bifurcated structure, certain types of materials and equipment require the more difficult and political process of a City Council amendment while others may be adopted administratively. A manufacturer seeking to introduce the use of a new plumbing fixture in New York City, for example, must obtain a City Council law to amend the reference standard in the Building Code. There are no clear reasons why certain types of reference standards may be changed administratively while others require a legislative amendment. Both processes are complicated, time-consuming and expensive, making it that much more difficult to innovate and introduce less expensive materials and equipment in New York City.[8] The legislative process, however, makes it certain that well-organized lobbying interests can stop innovations that save labor (and by virtue of that, cost) regardless of safety concerns.[9]

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7 *See* NYC Admin. Code, secs. 27-130 to 27-135.

8 The cost for new filings is $600 and is $500 for MEA amendments.

9 In some instances, labor may oppose a product because it is easier to install and will reduce the amount of time that labor will spend on each project thereby potentially reducing wages. In addition, manufacturers of already accepted products might oppose a new product because it will reduce sales of the accepted product.

While an administrative process is preferable to a legislative one, the MEA process at DOB is often long and drawn out. A manufacturer proposing to introduce construction material or equipment must apply to DOB and demonstrate that the product complies with existing reference standards by submitting the results of required performance tests. If DOB confirms that the new material complies with the reference standard, the agency will draft a resolution describing the conditions under which the material or equipment may be used. If the proposed equipment is beyond a certain size threshold or it is unclear whether the item meets the reference standard, DOB may choose to convene its Reference Standard Advisory Committee to review the proposal. This Committee is comprised of representatives of labor, manufacturers, the real estate industry and engineers (or other specialists).

If the proposed material or equipment does not meet existing reference standards, the manufacturer must affirmatively request a change of the standard. As noted above, if the reference standard is in the Building Code, this requires a legislative amendment. If DOB is authorized to amend the reference standard, they may do so by holding a public hearing and promulgating a new standard. As a matter of practice, DOB staff will first review the standards and technical work submitted by the manufacturer and other data available in the field. Staff will also consult volunteer experts in the field. Depending on the complexity of the request, this review can take one to two months or over one year. Once DOB is satisfied with a proposed new reference standard, the agency will present the proposal to the Reference Standard Advisory Committee to vet the change for political concerns and issues. There are no requirements of a majority vote or approval of the Advisory Committee, but DOB seeks consensus on proposals. Individual lobbying interests can therefore hold up requests for change. If consensus

is reached or DOB decides to move the proposal forward, the agency will hold a public hearing, incorporate valid comments into the proposal and may choose to promulgate the changed standard.

While New York City has this tortuous process for updating reference standards for materials and equipment, jurisdictions with a building code based on one of the model national codes may simply specify that innovations will be incorporated into their building codes as they are adopted by these national, professional and non-political organizations. New York City, however, with its stand-alone code, must affirmatively adopt any changes in reference standards in order to keep up with technological changes. The ostensible reason given for this process, which requires extensive political resources, is that New York City is different from other cities.

As a result of the MEA process and the potential need for new legislation, a significant number of materials that could reduce costs are not allowed in New York City residential construction. For example, air admittance valves could be used as an alternative to current Building Code venting requirements for residential buildings with fewer than three stories. These air admittance valves could reduce the cost of the venting system for a single-family home by 70 percent or $2,000. Although these valves have been accepted by organizations that promulgate four model codes[10] and have been developed according to Performance Standards developed by the American Society of Sanitary Engineering (ASSE)[11], they are not allowed in New York City.

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10 Air admittance valves are accepted under the BOCA code, the International Plumbing Code, The CABO one and two family dwelling code and the Standard Plumbing Code.

11 See American Society of Sanitary Engineers Standards Numbers 1050 and 1051 describing performance requirements for air admittance valves. The ASSE is a standards writing organization that is sanctioned by the American National Standards Institute (ANSI); a national organization that is recognized around the world for product standards.

Chicago also requires that new building materials, methods or systems be separately reviewed. However, the process in Chicago is cheaper and simpler. First, Chicago created a ten-member committee consisting of the Commissioner of the Buildings Department, the chairman of the City Council Committee on Buildings and the Chief Fire Prevention Engineer. The remaining seven members are three architects, two structural engineers, and two mechanical engineers all of whom must be licensed in the state.[12] The committee reviews a recommendation that is submitted from the Commissioner of Buildings and if a majority determines that the materials are satisfactory for use in buildings constructed in Chicago, the use of those materials is approved.

The fee for an application in Chicago is only $125, almost 80 percent less than the fee in New York City. In addition, the applicant need only submit an application setting forth the merits of the product, laboratory tests and other supporting data that the applicant may want to furnish.[13] Finally, Chicago relies on national standards organizations for specifications. That means that if the new materials meet national standards such as ANSI or the American Society for Testing Materials (ASTM), then the material will likely be accepted in Chicago.[14]

D. *New York City Fire Standards:* The New York City Building Code provisions differentiate between properties that are "inside" or "outside" the fire district. Manhattan, the Bronx and Brooklyn and parts of Queens and Staten Island are inside the fire district. However, some parts of Queens and Staten Island are outside the fire district.

12 *See* Chicago Bldg. Code, ch. 13-16-010.
13 *See* Chicago Bldg. Code, ch. 13-16-020.
14 *See* Chicago Bldg. Code, ch. 13-16-050 (incorporating specifications from national organizations) and ch. 13-60-060 (prescribing that materials meet ASTM standard specifications).

Different rules govern the type of materials that may be used and type of construction that may be built inside and outside the fire district. The most important difference is that wood may be used to build houses outside the fire district, but not inside the fire district.[15] According to the International Conference of Building Officials, the cost of wood construction is between 5 and 11 percent lower than the cost of masonry.[16] It costs between 25 and 30 percent less to use wood frame for an apartment building than it does to use steel-frame, fire-resistive construction.[17]

In addition, the New York City Building Code relies heavily on fire ratings for materials to contain fires and insure fire safety as well as sprinklers and other fire systems. The higher fire ratings, expressed in hours that it would take for a wall or other partition to burn, are an integral part of the protection of life and property under the New York City Building Code because a fire would be contained within the enclosed area for the specified number of hours.

II. Past Efforts to Change the Building Code

A. *Construction Cost Task Force:* In 1979, the Construction Cost Task Force co-chaired by Nathan Leventhal and Robert Wagner, Jr. reviewed the city's Building Code. The Task Force made several recommendations relating to allowable construction materials. The Codes Subcommittee recommended that: plywood be permitted in lieu of sheet rock for exte-

15 Wood construction is the least expensive type of construction. The construction types from least to most expensive are: wood construction with non-combustible exterior walls; steel frame; masonry load bearing walls with wood joists; steel frame and truss; masonry bearing walls; and concrete plank.

16 The average $61.10 per square foot cost for a wood frame house is 11 percent less than the average $68.70 per square foot cost for a masonry frame house. *See* International Conference of Building Officials, Building Valuation Data, July–August 1998.

17 The average $74.40 per square foot cost of a wood-frame apartment building is 25 percent less than the average $99.10 per square foot cost of a steel-frame apartment building. *Id.*

rior sheathing, Romex be permitted instead of armored cable for electric distribution and that trial mix proportioning of concrete be authorized.[18]

B. *New York Housing Conference Proposal:* The New York Housing Conference recently joined the Citizens Housing Planning Council in forming a Task Force on Middle-Income Housing. The Task Force is concerned about the dwindling supply of affordable rental housing for middle-income New Yorkers. The Task Force developed a proposal with the American Institute of Architects to build additional affordable housing. The proposal would modify the current Building Code to permit four-story single stair multiple dwellings of combustible construction. The building would be fully sprinklered for safety. In addition, the proposal would permit one- and two-family homes of combustible construction in any residential zone. According to proponents, these changes could reduce the cost of building a four-story building by as much as 20 percent.

C. *New York State Uniform Code Comparison:* New York State is considering the adoption of a model uniform building code. To facilitate the process, the State hired a code consultant to provide a detailed comparison of the State's Uniform Code provisions to several model code provisions. The consultant found that, in most instances, the model code provisions provided an acceptable level of safety and facilitated enforcement and administration of the code.

D. *Sprinkler Legislation:* After two tragic fires late in 1998, the Mayor and the City Council adopted a law on March 16, 1999 that requires sprinklers in residential buildings.[19] While amendments to the law

18 *See Interim Report of the Construction Cost Task Force* 6-8 (Apr. 1979).

19 The 1997 Uniform Building Code of the International Conference of Building Officials requires that an automatic sprinkler system be installed throughout every apartment house three or more stories in height or containing 16 or more dwelling units. *See* International Conference of Building Officials, Uniform Bldg. Code, secs. 403.1 and 904.2.9 (1997).

are still being discussed between the Council and Mayor[20], the new law requires sprinklers in new residential buildings with four or more units. Sprinklers are required in every apartment and every common hallway. In addition, sprinklers must be installed in residential properties that undergo renovations that cost 50 percent or more of the building's value. As with past changes and accretions to the Building Code, the tragedy and the possibility that a working sprinkler system might have saved the lives of two New York City firefighters and four New York City civilians, motivated the Mayor's and Council's actions.

III. Recommendations

New York City must recognize the impact that the Building Code has on the cost of residential construction in the city. The New York City Building Code makes it more expensive to develop affordable and safe housing in New York City. The benefits of changing the Code are clear. A simpler code would facilitate the permit approval process. A code based on model codes would make it easier for developers outside of New York City to participate in the residential construction market within the city. In addition, by using a model code, the City's Building Department staff could take advantage of the technical expertise and support from Model Code organizations. As we enter the 21st century, New York City should change its Code in the ways described below.

A. *Abolish Distinction Between Inside and Outside the Fire District Rules.* New York City is one city and the distinction between construction inside and outside the fire district should be eliminated. These provisions add substantial costs to the development of smaller residential properties in the city and contribute little to public safety. Instead, the city should

20 Mayor Giuliani wants to require sprinklers in all new residential buildings and public address systems in all existing buildings with more than six floors. The City Council has said that it needs more time to decide whether to amend the law to require public address systems and the Council was concerned that the cost of new residential sprinklers could be prohibitive for developers of one-, two- and three-family homes.

modify the Administrative Code to allow the same kind of construction for smaller residential properties inside the fire district that is allowed outside the fire district. Allowing the use of wood construction will save money without adversely affecting fire safety.

B. *New York City Should Adopt a Modified Model Uniform Building Code.* New York City should adopt a uniform building code, including uniform codes for fire prevention, mechanical systems, electrical, energy and plumbing.

C. *New York City Should Amend the Model Uniform Building Code.* While the city should use the uniform building code as a model, several amendments may be necessary to insure that the code is coordinated with applicable state and local laws and reflects the unique density issues in New York City. For example, the city may want to add provisions to the model code that address attached housing and that provide for higher building and greater floor area ratios. However, the ultimate objective of city amendments to the model code should be to facilitate safe residential construction, not to inhibit construction.

D. *The State Should Exercise Some Authority Over the City's Model Uniform Building Code Amendment Process.* Special interest groups are frequently successful in inserting provisions in the Building Code that add to costs and generate few public benefits. These provisions have an effect that extends outside the city's limits by impeding flows of population and commerce. To insure that the city does not amend the uniform code requirements in an overly restrictive way, New York State should exercise some oversight. New York State should require the city to show, before amending the uniform code provisions, that the proposed change is needed and that the public safety benefits exceed new costs. Ex-

ecutive Law Section 378 that applies to other local governments in New York State should be made applicable to New York City. The state's main concern, in 1981, was to insure that local governments had a building code with minimum code safety requirements. The state's concern now should be to prevent local governments from enacting overly restrictive provisions that deter competition and make New York a more expensive place to develop residential property. The Executive Law should be amended to provide that no local government can deviate from a model code unless it is reasonably necessary because of special local conditions, the proposed changes are not unduly restrictive, and the provisions are reasonably necessary for public safety.

E. *In Adopting a Sprinkler Law, the City Should Not Adopt Requirements that Unnecessarily Add to the Cost of Constructing Residential Housing and Should Eliminate Redundant Requirements.* The Mayor and the Council must do all that is possible to insure the safety that sprinklers can provide without unduly adding to the cost of building housing.[21] The most recent amendments to the proposed law already reflect some changes that will make it less costly for housing. For example, the law does not require sprinklers in bathrooms and in closets of less than 36 square feet.

At a minimum, the city should amend the law to:

1. Allow the use of plastic pipe for plumbing in residential buildings.[22]

2. Reduce and eliminate some of the fire safety requirements that are duplicative once sprinklers are installed. The sprinkler provisions

21 If automatic sprinklers are installed, the Uniform Building Code allows certain modifications to the fire ratings in buildings. Uniform Bldg. Code, sec. 403.2.2 and table 6-A, at 1-66.

22 Currently, plastic pipes can only be used in one- and two-family homes.

will be enacted before the city will have time to adopt a uniform building code. Among the requirements that should be changed are the provisions governing the fire rating for exterior and interior bearing walls, non-bearing walls, roofs, and emergency windows. For example, the fire rating for exterior and interior bearing walls can be reduced from 4 to 3 hours; the fire rating for interior bearing walls can be reduced from 3 to 2 hours; and the fire rating for the room can be reduced from 2 to 1 hours. In addition, emergency windows should not be required.

F. *New York City Should Approve the Housing Conference Proposal.* The New York Housing Conference proposal, though limited in scope, is a thoughtful proposal that will allow developers to build affordable housing in a cost effective and safe way. Now that sprinklers are required by law, the offer by the Housing Conference to add sprinklers in exchange for approval of a single stair construction model is less compelling to city agencies such as DOB and the Fire Department. These agencies must be more open-minded in considering options such as the Housing Conference proposal to balance redundant safety requirements against high cost.

G. *Reform the Materials and Equipment Acceptance Procedure.* The current process for reviewing requests for compliance with reference standards and for modification of these standards should be changed to encourage innovation and introduction of cost-saving technology.

1. Reference standards for acceptable construction materials and equipment should not be subject to the whims of the legislative process. The Department of Buildings should be charged with interpreting and promulgating

reference standards for all items (not in a shared mode with the City Council).

2. The Department of Buildings should identify specific and detailed areas of the reference standards where New York City is different from other jurisdictions (primarily those related to high density and high-rise construction). These areas would require affirmative action by DOB to adopt changes in reference standards. For all other areas, New York City would automatically adopt (without legislative or administrative action) innovations in reference standards adopted by the national model code organizations. There is no reason why innovations in technology used in two-family houses nationally, for example, should not be implemented immediately in New York City.

3. For those areas where DOB must retain authority to review reference standards because of the uniqueness of New York City, the MEA process should be streamlined. First, the city should fund technical consultants to DOB who can quickly and predictably review technical work and product certifications to determine the suitability of changing a reference standard. Second, the Reference Standard Advisory Committee should be abolished. Rather than delaying proposed changes in reference standards while consensus is developed among diverse lobbying interests, DOB should solicit these opinions in a public hearing. Legitimate concerns can and should be incorporated prior to promulgation of rules without delay.

Chapter 10:
Permitting Approval Process — The Buildings Department

I. Statement of the Issue

The approval process to obtain building permits significantly affects the cost of development in New York City. A developer must work with the Buildings Department ("DOB") in three key areas during construction — to obtain permits to start construction; to schedule controlled inspections of major systems during construction; and to obtain a certificate of occupancy once construction is completed.

The 665 Buildings Department employees have enormous responsibilities. The Department:

1. Oversees building construction and alteration and has jurisdiction over more than 800,000 buildings, with a role that includes the approval, permitting, and inspection of construction work, plumbing, elevators, electrical wiring, and boilers.
2. Enforces the Building and Electrical Codes; the Zoning Resolution; the State Multiple Dwelling Law; and energy, safety, labor, and other laws related to construction activity.
3. Issues licenses for skilled trades people.
4. Regularly inspects major new buildings under construction for compliance with public safety regulations.
5. Protects the public by assuring that work under its jurisdiction meets Code standards and is performed by properly licensed and insured workers.
6. Issues Certificates of Occupancy for completed buildings.

The time that it takes to complete each part of the Buildings Department permit process can significantly add to a developer's construction costs. There are several ways that delays in the permitting process affect the cost of construction. First, developers could have to pay substantial amounts of interest on outstanding loans and could have financing tied up because of delays. Second, delays could mean the loss of workers. Because the construction market is currently very active, trade workers are in short supply and delays could result in workers moving on to other jobs. Third, the cost of materials is always increasing because of inflation. Therefore, delays could mean increased cost for materials and could mean that materials will be unavailable or hard to obtain when the project is ready to move forward. Finally, since the real estate market is volatile, if a project is delayed too long, a developer could miss the real estate market altogether, forfeiting the opportunity to rent or sell units.

Most residential development projects do not require review by other city agencies for discretionary city action. However, all development projects must obtain permits from the Buildings Department. Because the Buildings Department is the single most important agency in the development process, its management and operations need to be as efficient as possible. In fact, the New York City permitting process is not — the process is arcane, cumbersome, confusing, complicated and paper-intensive. While this is only anecdotal, the Center's discussions with builders active in the construction industry for more than 20 years suggest that agency delays are the worst that they have been in years, resulting in inordinate delays in the issuance of permits and especially certificates of occupancy.

According to the Mayor's Management Report, the Buildings Department took, on average, 15 days to examine building permit applications for new construction in fiscal year 1998.[1] However, this figure reflects the time after the DOB receives a corrected and complete application. Several professionals interviewed for this Report said that the DOB always finds "clerical mistakes" in a preliminary application. Therefore, the average does not reflect the number of times that the developer has had to re-file an application

1 *See City of New York Preliminary Fiscal Year 1999 Mayor's Management Report* 159.

or the number of days that have elapsed between each filing. The Dallas Buildings Department, by contrast, issues new construction permits in three business days.

Some of the data reported in the Mayor's Management Report support these allegations. According to the Mayor's Management Report the DOB received 8,411 new certificate of occupancy applications in fiscal year 1998.[2] 7,064 certificate of occupancy applications were pending at the close of the fiscal year due to Buildings Department objections.[3] For the first four months of fiscal year 1999, the DOB has received 2,810 certificate of occupancy applications. There are 7,199 applications already pending because of outstanding objections in the first four months.

There is an autonomous Buildings Department office in every borough. Although the various Codes that the Buildings Department is charged with interpreting and enforcing make few distinctions between boroughs[4], officials in each borough do interpret the Code and regulations differently. In addition, sometimes the DOB officials within the same borough office interpret the Code provisions differently. These inconsistent interpretations within the DOB offices before projects start can lead to project re-design to accommodate the latest interpretations. In addition, determinations that designs previously approved are no longer acceptable can cause major work stoppage and redesign in the middle of construction. In addition, to inconsistencies in interpretation within the DOB, several other agencies also are involved in the permitting process. The agencies involved include the Department of Transportation, the Department of Environmental Protection, the Mayor's Office for People with Disabilities and the Parks Department. The more agencies that are involved in the process the more opportunities that will be presented during the development process for inconsistent interpretations and delays.

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2 *Id.*

3 *Id*. at 160. The number of applications pending due to objections is a cumulative number and includes applications that were filed in prior years. Buildings Department officials claim that in most instances, the delay is the applicant's fault. However, the professionals interviewed for this Report told us during interviews that the certificate of occupancy process has grounded to a halt because of the inadequate clerical capacity at the Buildings Department.

4 The New York City Building Code differentiates between buildings inside and outside the fire district. See the Building Code chapter of this Report. However, the Buildings Department borough offices sometimes read the same rules differently.

The Department's computer capabilities are twenty years behind the times. The Department still uses a DOS-based system that is clunky and difficult to manipulate. For example, the DOB could not provide the Center in a timely fashion with detailed information about certificates of occupancy that had been issued, including a breakdown by residential and commercial permits. In order to provide this information, the DOB would have had to calculate the numbers manually. DOB has developed a broad MIS vision which encompasses necessary systems for (a) paperless remote electronic filings, (b) support of all aspects of paperless filings (c) discontinuance of the use and storage of paper blueprints and (d) integration of all DOB systems. This is a multi-million dollar, multi-year plan which the city has not yet agreed to fund.

Because the Code is so complicated and the permitting process so inefficient, most developers must hire an expediter to file plans and requests for permits with the Buildings Department. Most expediters are former Buildings Department employees who can tap their relationship with former colleagues to get things accomplished. The fees paid to expediters add to the cost of construction in New York City.

Finally, all issues that complicate the permitting process may lead to bribes and corruption in the DOB. Over the last decade, city officials at the DOB have been caught accepting bribes.[5] When developers in the Control Cities were asked about whether they had to bribe government officials to get a project done, the answer was a resounding "no." Although it is not clear how pervasive the problem is, the issue of bribes may be unique to New York City because of our inefficient and complicated building permitting process.[6]

II. Past Efforts to Address the Permitting Approval Process

The 1986 Report of the Mayor's Blue Ribbon Panel on Plan and Building Examinations and Reviews proposed several improvements to the DOB's operations. The DOB has attempted to adopt all of the Panel's recommendations. The most significant recom-

5 *See* the chapter on Extortion and Illegal Practices.
6 *See also*the chapter on the Building Code.

mendation that the DOB adopted was creating a one-stop permitting section for builders and pavement plan reviews and sewer connections[7].

The DOB has made some changes in its operations over the last few years that have helped to expedite the processing of permit applications. Among the important changes that have been made are that the DOB has:

1. Invested in an interactive voice response system that allows customers to search the DOB's database and access information about a project by telephone. A customer can obtain information such as the number of jobs on file, the number of actions that the DOB has taken on an application and the number of open complaints.

2. Allowed developers to file the initial plan work or preliminary approval applications on computer diskette to minimize paperwork and reduce the amount of data entry the Buildings Department staff has to perform on applications.[8]

3. Allowed several opportunities for licensed professionals to self-certify functions formerly performed by Buildings Department staff. Among the functions that professional engineers and registered architects can self-certify are:

a) Building applications and plans for compliance with zoning and Building Code requirements.

b) Final surveys required for building applications.

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7 While this process has been working relatively well, so far, the Department has not been able to meet its proposed target for builders pavement plan reviews in fiscal year 1999. It takes the Department almost 8 days on average to review these plans, not 6.5 days.

8 According to the Mayor's Management Report, from July to October 1998 almost 26 percent of applicants took advantage of the personal computer filing option. Although the Buildings Department touts the PC Filing opportunity as a real innovation, it is not. A developer is only able to complete one form—a Preliminary Work form on a diskette. Developers must still fill out all other forms manually.

c) Plan examination objections on 1-, 2- and 3-family homes seeking a new Certificate of Occupancy.

d) Use of a limited category of building materials.

4. Conducted a customer satisfaction survey in the Manhattan, Queens and Brooklyn borough offices.[9]

III. Comparison to Other Cities

A. In Chicago, the Buildings Department is only responsible for issuing permits that relate to Building Code-related issues. Another agency, the Department of Zoning issues zoning permits. The Department of Zoning is the first stop in the Chicago development permitting process. The Chicago Department of Zoning has dedicated staff focused only on Chicago's zoning rules and regulations. While it adds another layer of review, the Chicago permitting structure allows building department inspectors and staff to focus on the areas that they know well—implementing the Building Code and focusing on the life and safety issues where their expertise is essential to public safety.

B. To assist developers and to maintain consistency in interpretation, Chicago publishes a checklist that describes common errors that are found in preliminary applications. This information is made available to developers and plan examiners. In addition, Chicago allows design professionals to request a preliminary review to get answers to questions of Code interpretation before submitting actual plans for permits. In Chicago the first 30 minutes of review per project are free of cost; thereafter Chicago assesses a special fee for each additional 15 minutes based on the cost of the reviewers' time.

9 The final results of the survey have not yet been determined.

C. In a similar vein, in Los Angeles, developers who would like their projects processed more quickly can pay a 50 percent premium to the city to cover the cost of paying inspectors to work on evenings and weekends. The expedited work is only done after hours and the money is kept within the Los Angeles Buildings Department's budget to cover overtime costs for employees interested in the extra work.

IV. Recommendations

While the Buildings Department has tried to improve its operations and started to take advantage of computer technology, additional managerial and technological changes are necessary to insure that the Buildings Department will be ready to serve the construction industry in the 21st century and not be a needless impediment to development.

As the city has done to improve operations in other agencies like the Vital Records Division of the Department of Health, the city should engage an external consultant to conduct a thorough management analysis of the way that the Buildings Department does business. The city has very successfully used the pro bono assistance of private sector consultants to take on large challenges such as these. The goal of the management consultant study should be to propose changes to the DOB's operations that will make it more efficient and effective. Among the areas where efficiencies can be achieved are:

A. *Forms:* The Buildings Department currently requires developers to complete numerous forms. These forms which often require the same information should be consolidated into one omnibus form for new construction and renovation. All forms should be made available on the Buildings Department's web site. Currently, the only form that is available is the Preliminary Work form that can be downloaded. The Buildings Department should allow developers to submit permit and certificate of occupancy applications on line. In addition, an applicant should be able to check the status of applica-

tions on line. Currently, applicants are permitted to submit applications on PC diskette which minimizes data entry errors and expedites processing. There has been slow acceptance of this option by professionals who file applications; DOB should make this option more attractive by lowering the filing fees for PC filing versus paper forms to accustom applicants to computerization.

B. *Overall Management:* The Buildings Department's workload may be too heavy. The consultant should determine whether some of DOB's functions should be transferred to another agency, whether other agency personnel should be transferred to the DOB to create one permitting office but with staff from additional agencies,[10] or whether some of the functions can be transferred to a private entity.

C. *Changes in the Mayor's Management Report:* The best way to improve management is to understand both the nature and magnitude of existing problems. While the DOB reports several statistics in the Mayor's Management Report, including the average number of days it takes the DOB to examine properties, it has been difficult to get additional information about other important indicators. For example, knowing the number of times that the DOB requests corrections after initial plan review would help determine whether guidelines and instructions are clear. It also would be useful to have an aging report that shows what percent of the DOB workload is completed within 5, 10, 15, 30, 60 days. In addition, none of the indicators in the Mayor's Management Report are presented by borough.

D. *Creative Revenue and Gain Sharing Opportunities:* The Buildings Department is a revenue-generating agency although the fees it receives are not allo-

10 This is how the quasi one-stop permitting shop within the Buildings Department works for builders pavement plans and sewer system reviews. It may also be helpful to have zoning experts and fire department professionals on site to review applications as they are received.

cated to the agency budget. When filing fees were first imposed, one rationale was that those funds would be used to provide necessary staff and equipment. These fees now go into the city's General Fund. Some of the revenues that the DOB receives should be re-allocated to the Department in the city budget and be earmarked to improve service. The city should follow the example of Los Angeles and offer New York City developers the option to pay premium fees to expedite the review process for permit and certificate of occupancy applications.

E. *Coordination and Customer Service:* The city should provide enhanced services to builders to facilitate the development process. The DOB should:

1. Create a one-stop permitting operation for all construction-related permits including landmarks, disabled access, and fire in every borough.
2. Follow-up on the Buildings Department survey results. In addition, conduct another survey to determine whether developers would be willing to pay extra fees for specialized customer services.
3. Allow design professionals to get answers to Code interpretation questions early in the process. The Department might consider adopting Chicago's practice of making a certain amount of assistance free and then charging developers for time thereafter.
4. Assign Buildings Department staff to serve as customer service representatives and point of contacts for people filing applications for residential permits and certificates of occupancy. To underscore the importance of housing development, staff would be respon-

sible for coordinating all permit approvals and other approvals for housing projects.

F. *Clarity and Uniformity:* The Buildings Department's rules need to be as clear as possible. If rules were clear then it would be easier for developers to comply with them. The Department should:

1. Regularly publish the reasons that inspectors return proposed plans for corrections. This would help to address developers' concerns that different boroughs interpret the regulations differently.

2. Interpret rules and regulations consistently across all borough offices. Each borough office should develop a checklist that summarizes, by category of application and type of building, all of the DOB's objections. This analysis will give Buildings Department managers an opportunity to clarify differences in interpretation between boroughs, to amend rules and regulations that are not clear or contradictory and will forewarn developers of typical Department objections.

3. Preclude field inspectors from imposing new requirements on a project after plans have been approved. Field inspectors should only be allowed to make changes if the previously approved requirements are not safe.

4. Hire staff authorized and qualified to resolve inconsistencies in interpretation of Building Department Rules and Regulations. Currently, when there are inconsistencies among the DOB staff, a borough commissioner must resolve the problem, but scheduling an appointment can take several weeks. The DOB should therefore publish the length of time

that it takes to schedule an appointment with borough commissioners in the MMR.

G. *Estimated Waiting Time:* According to the Mayor's Management Report, the DOB is exploring the installation of a queue system in the borough offices. The Department predicts that such a system could eliminate long lines, increase efficiency and provide detailed statistics on waiting times. The city should provide funding for this Buildings Department proposal in the Executive Budget. Information about the time that it will take for applications to be reviewed would help developers plan residential construction projects. In addition to providing information about the amount of time that an applicant will have to wait in the borough office, the DOB should let applicants know how long it will take for their filed applications to be completed based on each borough office's workload at the time of filing.

Currently, the DOB is understaffed and some offices have to close certain hours and days during the week. All offices should be funded to be open at least five days per week from 9 until 5. However, the DOB should also explore whether developers would be willing to pay more to insure that the office is open for extended hours on some days.

H. *Computer Upgrade:* Because of the Buildings Department's importance to the development process, the computer system must be top-notch and state-of-the art. The Department has developed an aggressive plan to upgrade its computer system and the city must fund this innovation. As the 21st century approaches, we will become a more paperless society. The Department must be poised and ready for the challenge and look for opportunities to be a leader in this arena. The Buildings Department should take advantage of new technology that would allow developers to file actual plans and drawings on line. In addition, the Buildings Depart-

ment should issue permits and certificates of occupancy on line.

I. *Project Files:* Because the DOB relies so heavily on paper, folders and microfilm for projects are almost always missing. The DOB should set up a state-of-the art library facility to safeguard plans and keep approval requests moving forward.

Chapter 11:
Taxes and Fees

I. Statement of the Problem

The focus of this Report has been on regulations and industry practices that tend to drive up the cost of new construction. For the most part, operating costs have not been analyzed despite the fact that they influence the decisions of real estate developers about whether to construct new housing. Nevertheless, because taxes and fees are so sizable and because they are linked to the construction process, they are covered in this section.

Taxes and municipal fees affect housing costs in three ways. First, an owner pays taxes on vacant land. The amount of taxes on vacant parcels of land may have an impact on whether or not an owner decides to build on the land or hold it for future use. If taxes on vacant land are high, then an owner will be more likely to either sell the land or build on it to reduce his or her carrying costs.

Second, during construction, various city agencies monitor development projects and assess fees for purported violations of rules and regulations. These fees affect the overall development cost of a project. Finally, after a project is completed, the property taxes on residential buildings are either borne by the renters and buyers, the landlords or, through capitalization, by the seller itself. Because taxes affect the developer's bottom line, they are a key factor in marketing and feasibility decisions about whether to go forward with a residential project.

A. *Taxes on Vacant Land:* Henry George, a self-taught journalist, publicist and author of "Progress and Poverty," was an early advocate of a land taxation policy that would provide an incentive to development. According to George, if improvements were taxed more than vacant land, owners of vacant land would have less of an incentive to develop the land. Over two-thirds of the vacant land in New York

City is zoned for residential use.[1] Vacant land in New York City that is zoned for residential use is considered Class one property[2] which is assessed[3] and taxed[4] at the lowest possible rate. Residential improvements, on the other hand, are taxed at the highest rate. For example, a vacant parcel of land that is zoned for residential use would be taxed at 8 percent of its market value. If that same parcel were developed into a six-story apartment building it would be taxed at 45 percent of its market value. This disparity may make landowners at the margin more likely to hold their properties vacant.

For developments undertaken on city-owned land, taxes are assessed as soon as the land is transferred to a private owner. Therefore, the budget for construction must be increased (typically with city subsidies) to pay these taxes that are, in almost all cases, abated or exempted upon completion of construction.

B. *Fees and Fines during Construction:* The Buildings Department generates significant revenues for New York City. In fiscal year 1998, the Department collected more than $60 million in revenue.[5] The revenue is raised from filing fees for construction projects, license and inspection fees and fines imposed during construction for pur-

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1 *See* Chapter 3 above on the availability of appropriately zoned vacant land.

2 Real Property Tax Law Section 1802 requires New York City to separate properties into four tax classes for property tax purposes. Class one includes one-, two- and three-family homes, small condominiums and certain vacant land. Class two includes all other primarily residential properties like apartment buildings, cooperatives and condominiums. Class three includes property owned by utility companies. Class four includes all other properties such as office buildings, stores, warehouses, hotels and vacant land not classified as Class one.

3 Class one properties are assessed at 8 percent of market value whereas properties in the other classes are assessed at 45 percent of market value. *See* Department of Finance, *Taxpayer Guide to Real Property Assessments* 4.

4 The effective tax rate for vacant land that is zoned residential is 76 cents per $100 of market value. The effective tax rate for residential buildings that are not one-, two- and three-family homes is almost seven times higher at $4.30 per $100 of market value.

5 *See City of New York Preliminary Fiscal Year 1999 Mayor's Management Report*, vol. ii, at 192.

ported violations of Department rules. Almost 60 percent (a little less than $36 million) of the Buildings Department revenue came from construction-related filing fees.

The Buildings Department fees contribute to the cost of housing. For example, according to the Queens Borough President, Claire Shulman, city fees add almost $4,000 to the cost of a new home in Queens.[6]

Several of the developers consulted in the preparation of this Report stated that the Buildings Department has recently been over-zealous in its efforts to find violations and impose fines at construction sites. The Department issued 4,462 construction-related violations in fiscal year 1998. The city budget forecasted that the Department of Buildings would bring in more than $4.2 million in fine revenue for that fiscal year. More than $4.4 million in fine revenue is estimated for the current fiscal year. While there is no explicit quota for Buildings Department fines, the city budget forecasts a 4.5 percent increase in overall fine revenue for the fiscal year that starts July 1st.[7]

C. *Taxes on Housing Developments:* Although most housing in New York City is built with some form of state or city subsidy, these projects still pay significant taxes, undermining the impact of the subsidy. For example, the owner of a residential development project would be liable for real property transfer taxes, mortgage recording taxes and sales taxes at both the state and city levels.

1. *The Real Property Transfer Tax*[8]: Both the city and state impose a tax on each deed that is trans-

6 *See* Queens Borough President's Submission to the Mayor on Issues Affecting New Housing Development, Recommendations on Reducing Costs and Streamlining Process of Housing Development for the Mayor's Cabinet Meeting, Jan. 27, 1999.

7 The Financial Plan does not provide a detailed description of each agency's share of fine revenue. The agency-by-agency fine revenue forecast is typically presented in the Executive Budget.

8 *See The City of New York Executive Budget Fiscal Year 1999* 44.

ferred between a buyer and a seller. The seller is liable for the tax. The city's real property transfer tax rate is one percent for residential transfers of less than $500,000 and 1.425 percent for residential transfers over $500,000. The state tax rate is four tenths of one percent on all residential transfers of less than one million dollars and an additional one percent for transfers over one million dollars. The city expects to raise $301 million in real property tax revenue for this fiscal year.

2. *The Mortgage Recording Tax*[9]: The city and state also impose taxes on real estate mortgages. The combined tax rate is two percent for mortgages under $500,000, two and one-quarter percent for mortgages over $500,000 on one-, two- and three-family homes, and two and three-quarter percent for other mortgages over $500,000. One-half of one percent of the state portion of the tax on mortgages is dedicated to the Metropolitan Transportation Authority and the State of New York Mortgage Agency.[10] Five-eighths of one percent (.625) of the city tax rate component that is raised from mortgages over $500,000 is dedicated to the New York City Transit Authority, Paratransit and Franchised Bus Operators. The city expects to raise almost $250 million from the mortgage recording tax this fiscal year.

3. *Sales Taxes*[11]: A residential developer has to pay sales taxes on building materials. The combined city and state sales tax rate is 8.25 percent. One-quarter of one percent of the tax is dedi-

9 *See id.* at 42-43.

10 Unlike other taxes that the state levies, half of the revenue raised from the mortgage recording tax on transactions in New York City is dedicated to the city's general fund. *Id*. at 65-68.

11 *See id.* at 65-68.

cated to the Metropolitan Commuter Transportation District. In 1998, the city raised more than $60 million in sales tax revenue on construction projects.[12]

Together, these taxes could add more than $20,000 to the cost of a two-family house.[13]

D. *Taxes after Construction is Completed:* According to the Rent Guidelines Board, property taxes make up 23 percent of the operating costs of residential buildings.[14] Therefore, the property tax represents a significant portion of operating costs and the resulting rents that must be charged in residential buildings.

1. *The Property Tax Structure in New York City*: Property taxes on residential buildings with more than ten units are disproportionately high because of the structure of the New York City property tax system. Taxes in New York City are also high relative to taxes on housing in other cities. All residential buildings in New York City are in either property tax Class one or Class two. Class one properties, which include one-, two, and three-family homes, receive two benefits by law[15] that keep taxes relatively low. First, Class one properties are assessed at 8 percent of market value. Second, the assessments on Class one properties cannot be increased by

12 The city expects to raise almost $3.2 billion in sales and use tax revenue this fiscal year. The construction component of the sales tax base was 1.9 percent from March 1996 through February 1997. Therefore, the state will raise another $64 million from sales taxes imposed on construction projects of which $8.5 million is dedicated to the Metropolitan Commuter Transportation District. *Id.* at 65.

13 *See* Queens Borough President's Submission to the Mayor on Issues Affecting New Housing Development, Recommendations on Reducing Costs and Streamlining Process of Housing Development for the Mayor's Cabinet Meeting, Jan. 27, 1999, at 2.

14 Water and sewer charges represent another 5 to 6 percent of the operating costs of residential buildings. See New York City Rent Guidelines Board, *Housing New York City: Rents, Markets and Trends '98*, Appendix C1 and C2. The Center also is working on a study to assess the impact of water metering on affordable housing and to determine what steps, if necessary, should be adopted to reduce the cost of water on multi-family apartment buildings.

15 *See* N.Y. Real Prop. Tax Law, sec. 1805.

more than 6 percent per year nor by more than 20 percent in five years. As a result in 1998, the effective tax rate[16] on one-, two- and three-family homes was 68 cents per $100 of assessed value.

All other residential properties are in Class two. However, buildings with four to ten units also receive favorable tax treatment. Like all Class two properties, buildings with four to ten units are assessed at 45 percent of value. However, like Class one properties, the assessment increases for these smaller Class two properties are limited—they cannot be increased by more than 8 percent per year and 30 percent in five years. The effective tax rate for properties with four to ten units is $2.84 per $100 of value.

For all other Class two properties, including cooperatives, condominiums and rental buildings with more than ten units, there are no limits on assessment increases each year. As a result, the effective tax rate on residential buildings with more than ten units is $4.32 per $100 of value, more than six times higher than the effective tax rate for Class one properties.

2. *Methodology for Assessing New Construction*: New York City compounds the impact of property taxation on the cost of residential properties by computing tax assessments for newly-constructed properties on the basis of construction cost figures. Other chapters of this Report show that New York City's land use and environmental review process, stringent building code requirements, zoning regulations, permit processing inefficiency, labor wage scales and corruption in the construction industry contribute to the high cost of construction. That

16 The effective tax rate is equal to the amount of taxes on the property divided by the market value of the property.

these inflated construction costs are the base on which the city computes tax assessments extends the high development costs over the life of the property.

Even though most new residential construction receives a property tax exemption, using cost numbers to value these properties leads to negative impacts. As these exemptions expire, owners and renters are left with very high base assessments and end up paying higher taxes than they likely anticipated because of the structural factors described above.

3. *Tax Classification:* Oftentimes newly constructed small homes are built on the former sites of property that was taxed at higher rates. As a result, the taxes on newly constructed homes can be very high until the tax rate is changed. Since most new construction is eligible for some kind of tax exemption, new owners do not realize how high their taxes are until the exemption expires several years later. By the time the owner realizes that the tax class is wrong and the Department of Finance changes the tax class, the owner could have accrued an enormous tax liability.

II. Past Efforts to Eliminate or Address Issue

A. *Vacant Land*: In 1989, New York City attempted to raise taxes on vacant land to spur development and penalize owners who held on to undeveloped land. However, the State Legislature stymied the city's efforts in 1991 by requiring that residentially-zoned vacant land outside of Manhattan be transferred to Class one.

B. *Cooperative and Condominium Tax Relief:* In 1996, the city adopted a program to address some of the structural inequities in the property tax system. The

city devised a three-year pilot abatement program to reduce the taxes on owner-occupied cooperative and condominium buildings. That abatement program is scheduled to expire at the end of this fiscal year, June 30, 1999. However, the Mayor and the City Council have agreed to extend the abatement program for fiscal year 2000.

C. *Exemption Programs:* The city has adopted several exemption programs that offset and temporarily reduce the property taxes on newly constructed residential properties. In addition, the city has sought additional exemptions to facilitate HPD's housing agenda. The city spent more than $260 million on residential tax incentive programs for privately owned properties in fiscal year 1997.[17]

III. Comparisons to Control Cities

A. *Fees*: To provide an incentive for the development of affordable housing, Chicago adopted an Affordable Housing Initiative whereby all city and state fees are deferred until a certificate of occupancy is issued and building plans and permits are processed in an expedited way.[18]

17 Almost $90 million was spent to offset the property tax costs for 26,561 new multiple dwelling units. About $10 million offset the taxes for 12,945 new one- and two-family dwellings. The city also provided exemptions to property owners who substantially renovated their properties under the J-51 program. These exemptions totaled $159 million and were provided to 51,029 units.In addition, New York City provides exemptions for several other government-owned projects including housing developments owned by limited profit housing companies, certain redevelopment companies, housing development fund companies, developments that are in Urban Development Action Area Projects and State Assisted Housing. These exemptions totaled an additional $224 million and affected 5,825 properties. Finally, New York City exempts 3,680 residential properties owned by public agencies, including the New York City Housing Authority, that cost $283.9 million. *See* Department of Finance, Office of Tax Policy, *Annual Report on Tax Expenditures*, Fiscal Year 1998, at 12, 16, and 19.

18 *See* Chicago Affordable Hous. Incentives Prog. Ord., no. 170,764. In addition to the deferral of filing fees, the Chicago Ordinance includes parking reduction incentives for affordable units and an up to 25 percent density bonus.

B. *Taxes:* The effective tax rate on multi-family residential properties is substantially lower in two of the three Control Cities. The effective tax rate for multi-family residential properties is $2.43 in Dallas—46 percent lower than in New York City. As a result of Proposition 13,[19] property taxes in Los Angeles also are substantially lower than in New York City. The effective residential property tax rate is $1.00, an amazing 77 percent lower than in New York.

In addition, in these other cities the differential between the effective tax rate for smaller homes and multi-family homes is narrower. In New York City, the owners of residential properties with more than ten units pay approximately six times more in property taxes than the owners of one-, two- and three-family homes. While the effective tax rate for multi-family residential properties ($4.78) in Chicago is higher than in New York, the multi-family effective tax rate is only two times the effective tax rate on small homes. In Dallas, the effective tax rate for single family homes is $1.83, 25 percent less than the effective tax rate of multi-family residential properties. There is virtually no difference between the effective tax rate that smaller homes and multi-family buildings pay in Los Angeles.[20]

19 Even though under Proposition 13 new construction and properties that have recently been sold are taxed much more than properties that have not been sold, the effective tax rate for newly constructed properties is only 1 percent. That means that as a result of Proposition 13, the effective tax rate for all older properties (multi-family residential and single-family homes) is much lower than 1 percent.

20 The only difference in Los Angeles is that homeowners receive a $7,000 exemption. That means a homeowner who owns a house with a market value of $100,000 would pay $930 in taxes ($100,000 minus the $7,000 exemption, multiplied by the one- percent tax rate).

IV. Recommendations

A. *Fees:* The city should waive or reduce permit fees for affordable housing projects and especially for projects that are part of a Department of Housing Preservation and Development program. The definition of affordable housing would be specified in appropriate administrative regulations issued by the Department of Housing Preservation and Development.

B. *Taxes:* In addition to existing exemptions, the city and state should waive or reduce real property transfer, mortgage recording and sales taxes on affordable housing projects, especially projects where the city or state has provided significant funding.[21]

C. *Vacant Land:* The city should remove the bias that exists in the property tax system toward keeping land vacant. The city should create a tax system that encourages residential development.

1. To better understand what land is available, the city should prepare an inventory of the privately owned residentially-zoned vacant land and under-utilized properties in the city as recommended in Chapter 3 of this report on the Availability and Cost of Land.

2. The New York State Legislature should authorize New York City to create a special tax class for vacant land.

3. Vacant land that is part of a city-funded housing program should be exempt from city taxes and fees during construction.

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21 The city and state should collect any part of the tax that is dedicated to transportation services. For example, .25 percent of the sales tax is dedicated to transportation. Affordable housing projects should be liable for that portion of the tax.

D. *Fines During Construction*:

1. The city agencies responsible for imposing fines should establish clear and consistent guidelines that describe when fines will be issued on construction projects.

E. *Taxes After Construction is Completed:*

1. The city should remove the structural inequities in the property tax system by gradually reducing the property taxes on Class two residential rental properties. If the city were able to reduce the residential effective property tax rate to the rate in Dallas, the property tax on rental properties would be almost 45 percent lower. The Class two rate would be 77 percent lower if New York City taxed these properties at the tax rate of Los Angeles.

2. In the interim, the city should expand the pilot property tax reform abatement program, which provides tax reductions to cooperative and condominium owners, to include rental properties in Class two as well.

3. The Department of Finance should not use construction costs to value newly constructed residential properties. Instead, the Department should value these properties using the income capitalization method. If the city valued property for assessment purposes using the income capitalization method rather than the cost method, assessments on multi-family residential properties would be approximately 20 percent lower.

4. The Department of Finance should re-classify property from a commercial to a residential class when residential construction permits are issued. All property that is part of a Department of Housing Preservation and Development pro-

gram should be re-classified as soon as the Commissioner of Housing Preservation and Development certifies to the Department of Finance that the property will be developed as housing.

If New York City were to adopt these property tax recommendations, the tax portion of the operating costs for residential developments could be cut in half.

Chapter 12:
Labor

I. Statement of the Issue

Labor is one of the most significant components of the cost of developing residential construction in any setting, and especially in New York City. Unlike most other parts of the United States,[1] the majority of New York City construction workers belong to one of several trade unions.[2] Unfortunately the existence of almost 20 different trades does not lead to an organized flow of work on construction jobs. Ironically, organized labor's effect on New York's construction trade union environment is to add a certain degree of disorganization. Each trade union has its own set of rules, wage rates, work hours and paid holidays. This disorganization has an impact on construction because it means jobs must be perfectly staged or the entire project could be delayed.

A. *Wage Rates:* As was demonstrated in Chapter 2, the construction trade wage rates in New York are significantly higher than those in other cities.[3] In some respects, the high cost of labor may be justifiable. First, the cost of living in New York City is much higher than in the Control Cities. Second, the New York City climate precludes year-round construction and means that construction workers may only be able to earn wages for 40 weeks each year; while in Dallas and Los Angeles, workers can work 48 weeks. Finally, the

1 *See* AFL-CIO, Building and Construction Trades Dep't, *The Challenge, A Report on Construction Union Membership and Trends* (undated). According to the Report, in 1995 less than 20 percent of construction workers were union members in the United States.

2 *Id.* In New York State, between 30 and 40 percent of construction workers were union members in 1995. According to an official at the New York Building and Construction Trades Council, between 60 and 70 percent of construction workers in New York City are union members. There are 80,000 active members of the New York Building and Construction Trades Council and 25,000 retirees. According to the New York State Department of Labor, there are between 100,000 and 115,000 construction workers.

3 *See* Table 4 comparing the wage rates for 18 trades in New York City and the three Control Cities.

wage rates represent both salary and fringe benefits. In some instances, government rules and regulations requiring certain fringe benefits may add to these costs.[4]

Union pay rates are significantly higher than non-union earnings. According to the Bureau of National Affairs, the union weekly pay rates nationally ($771) are about 40 percent higher than weekly non-union earnings ($484).[5] The Building and Construction Trades Council estimates that in New York City union members fare slightly better than the national average. Union workers earn about $45,000 per year ($937.50 per week based on 48 weeks) whereas non-union workers earn approximately $27,000 ($562.50), still 22 percent more than the average national earnings.

During interviews with professionals in the real estate community, developers, contractors and builders lauded the quality of union work. In fact, several professionals interviewed for this Report, particularly those building luxury housing in Manhattan, noted that New York City construction wages are not outrageously high given the quality of work. However, these wages, along with several other factors, add to the cost of constructing housing in New York City. The irony is that few union workers would be able to afford an apartment in New York City that they constructed because construction costs are so high.

The high cost of labor in New York City is particularly problematic for development outside the borough of Manhattan. Because of extraordinary demand, rents for market rate housing in most parts of Manhattan south of 96th Street are extremely

4 For example, last year the New York State Legislature adopted a law that set limits on workers' compensation premiums for construction classification employers. Since workers' compensation premiums are one component of fringe benefits, the law change will reduce the overall wage rates in New York over time. *See* Assembly Bill 11294, signed into law by Governor Pataki.

5 *See* The Bureau of National Affairs, Inc., *Statistics, Union Membership*, vol. 43 (Feb. 1998).

high thereby making it possible for developers to afford the cost of labor. However, developers who build housing outside of this area using union labor must pay these same wage rates despite the fact that the rents they can charge may be less than one-third as high. Effectively, the uniform high wage rate for union labor throughout New York City strongly contributes to making housing development in most areas outside of Manhattan not financially feasible.

B. *Coalitions:* As the Extortion and Illegal Practices chapter of this Report describes, in the last fifteen years, a new group of workers has emerged in the New York City construction industry—coalitions. Coalitions originally started as groups of local activists who were demanding construction jobs for minorities. These coalitions provided local workers to fill security and other low-skilled jobs on targeted construction projects. However, sometimes the coalitions utilize threats of picketing and/or violence to obtain jobs.[6] In many instances these jobs are either redundant or "no show" positions.

Coalitions ostensibly represent the interests of minority laborers. The underlying claim, that people of color are under-represented in the unionized construction industry, that catalyzed the creation of coalitions, is true. Discrimination and hiring based upon informal networks have contributed to a workforce that does not reflect the diversity of New York[7]

C. *Residential Development:* For the most part, developers of affordable housing who were consulted for this Report do not use union labor for residential construction projects.[8] They attributed the use of

6 *See* Michele McPhee, "Feds Link Wiseguys, Minority Coalition," *NY Daily News*, Jan. 22, 1998, at 65.

7 *See* Timothy Bates and David Howell, "The Declining Status of Minorities in the New York City Construction Industry," *Economic Development Quarterly*, Feb. 1998.

8 The number of union construction workers has declined steadily. In 1970, 42 percent of construction workers were members of trade unions. By 1995 that number declined by almost 60 percent to 17.7 percent. *See* AFL-CIO Building and Construction Trades Dep't., *The Challenge: A Report on Construction Union Membership and Trades* (undated).

non-union labor to the fact that, at present, the construction market is active. As a result, union members are fully employed on more high-paying commercial projects and are less interested in small- and mid-size residential construction projects.

D. *Prevailing Wages*[9]: Even if a developer does not use a union contractor for a residential development project, s/he must pay prevailing wages under the Davis Bacon Act for projects that are financed, in part, by the federal government.[10] Housing projects that are financed in part by funding from New York State are not defined as "public works" and are not subject to the state's prevailing wage law.[11]

Prevailing wage rates are based on union wage scales. As noted above, the New York wage scale is much higher than that in Chicago, Dallas and Los Angeles. Therefore, the prevailing wages that developers must pay in New York on those projects are also high.

In computing the prevailing wage rate, the United States Department of Labor calculates four wage rates, including a residential one.[12] This residential

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9 There are several issues about the impact of prevailing wages on the construction industry. In 1996, the United States General Accounting Office published a report addressing Congress' concern that the Department of Labor's determination of prevailing wage determinations could lead to excessive government construction costs or to large numbers of workers receiving wages and fringe benefits that are lower than required by law. *See* General Accounting Office, Health, Education and Human Services Division, *Davis-Bacon Prevailing Wages* 96-130. In addition, several commentators have suggested that the Davis-Bacon provisions are racist. *See* Scott Hodge, "Davis-Bacon: Racist Then, Racist Now," *The Wall Street Journal*, June 25, 1990. We do not address these issues in the context of this Report.

10 The Davis-Bacon Act (40 U.S.C. 276a) requires workers on federal construction projects valued at more than $1,000 to be paid, at a minimum, wages and fringe benefits that the Secretary of Labor determines to be prevailing in the locality where the contract is to be performed. A prevailing wage is defined as the wage paid to the majority (more than 50 percent) of the workers in the job classification. If the same wage is not paid to a majority of those employed in the classification, the prevailing wage will be the average of the wages paid, weighted by the total employed in the classification. In New York City, for the most part, prevailing wages are based on union pay scales.

11 *See* N.Y. Lab. Law, sec. 220 and *In Re Vulcan Affordable Housing Corp.* v. *Hartnett*, 151 A.D.2d 84 (3rd Dep't 1989).

12 The United States Department of Labor calculates a wage rate for commercial building, highway, residential, and heavy construction.

rate is lower than the other categories but it only applies to small homes.[13] New York State does not calculate a separate residential rate at all.

E. *Work Rules:* Union contracts in New York still include many restrictive and inefficient work rules. While the unions may no longer enforce some of these work rules, they are still on the books and create an unfavorable impression about unions in New York and the cost of doing business here. Similarly, the existence of these work rules has an adverse effect on worker productivity and results in the creation of make-work jobs. The existence of these work rules can also create opportunities for union officials to demand kickbacks from developers in return for relaxing these rules. In addition, there is always the possibility that rules could be enforced either generally or against individual contractors or builders with whom unions have an unrelated dispute.

Although pages of this Report could be filled with examples of overly restrictive work rules, one example will be sufficient to illustrate the point. Local 3 of the International Brotherhood of Electrical Workers requires one of their own separate stickers on all electrical fixtures used in New York City construction. These stickers are required even if the fixture has a universal listing. One of the developers interviewed for this Report described an instance on a job where his contractor had to pick-up a Local 3 worker, drive him to the warehouse with the fixtures and watch the Local 3 worker affix the sticker. While the requirement was originally adopted to insure the safety of the product, that is no longer the case. Instead, this rule seems intended only to create work for Local 3 electricians.

13 Residential wage rates are for the construction of single family houses or apartment buildings of no more than four stories.

II. Past Efforts to Address Labor Issues

Labor unions have taken several important steps to address the various issues described in this Report. A few of the trades have adopted lower wage rates for certain projects. In addition, the Building and Construction Trades Council has been instrumental in negotiating work rules and other union productivity issues in special circumstances.[14]

In addition, the state recently adopted a law to reduce the cost of workers' compensation for construction work, a laudable first step on fringe benefits.

III. Recommendations:

Labor and the effects of unions on the cost of labor are a critical part of the cost of construction in New York City. Labor is an essential partner in any effort to reduce the cost of constructing residential housing. Labor will benefit overall if New York City is able to start building more affordable residential units at a pace that matches expected population growth. In addition to the obvious benefits, such as more jobs for union workers, labor will benefit if its members can afford to live in New York City. To be a partner in this endeavor, labor unions must first and foremost:

A. *Eliminate inefficient work rules that do not affect worker safety including:*

1. The electricians' union requirement to affix a label to electrical fixtures.
2. The electricians' union's hours of work should be changed so that the power cannot be shut on jobs after 3:00.
3. Staffing rules, including minimum numbers of paid standbys, non-working but paid shop stewards, minimum two-person teams on

14 During the Center Team's meeting with the Building and Construction Trades Council, officials cited two instances when they would consider negotiating concessions—if the union is interested in insuring that the work is not done by non-union labor and to secure jobs and projects that had previously been non-union.

light jobs, deputy foremen, mandatory teamsters.

4. Materials and equipment restrictions.

B. *Address, clarify and, where appropriate, eliminate jurisdictional requirements that add costs to a project by creating a need to hire a journey person.* The following examples are illustrative:

1. Among other practices, construction unions should eliminate the requirement that plumbers install all bathroom fixtures including decorative items such as toilet paper holders, towel racks and shower curtain racks as well as the requirement that electricians install mailboxes.

2. Unions should clarify which trades (masons, electricians, iron workers or steam fitters) should perform tasks associated with piping that goes through floors, ceilings and walls.

3. Small unions should be merged to reduce the potential for extortion and for work stoppage. Even though there have been significant changes in technology that blur traditional jurisdictional lines among the trades and fewer workers are joining trade unions, the number of separate trade unions has remained at fifteen.

C. *Continue to recruit minorities and women to the trades*: One of the reasons coalitions are able to demand that contractors either make payoffs or hire additional and unneeded laborers is because their underlying claim is valid – unions do not adequately include minority workers. When extortion is clothed in this valid claim it becomes difficult for developers and law enforcement officials to stamp out the practice. New York's unions should seek to diversify their membership to reflect the fabric and complexion of New York City. Each union should

expand its efforts to recruit more minorities and women to the trades.

D. *Offer additional programs in New York City schools to train high school students in the trades:* In order to increase the supply of available labor, the unions should establish more links with New York City high schools. Since construction work is still one of the best entry-level jobs for a low-skilled person, unions should expand their partnerships with New York City high schools, including participation in more school-to-work programs.

E. *New York State Should Reduce the Cost of Fringe Benefits:* The State should adopt alternative dispute resolution for workers' compensation cases. According to the Building and Construction Trades Council, this change could reduce the cost of these fringe benefits by between 20 and 40 percent.

F. *Prevailing Wages*: Even though union labor frequently is not employed on affordable housing projects, the prevailing wage rate must reflect that labor market. Therefore:

1. *Davis-Bacon:* The Davis-Bacon Act should be amended to require that the Department of Labor establish a residential wage rate in cities for mid-rise apartment buildings (up to seven stories) or to expand the existing residential wage rate to include wages for mid-rise apartment buildings. Furthermore, in order to reduce construction costs to more reasonable levels, the Davis-Bacon Act should not apply to private residential projects that receive federal funding.

2. *New York State Prevailing Wage Law:* To the extent that the New York State prevailing wage law applies to residential "public works" projects, the law should be amended to require the calculation of a residential wage

rate which reflects actual average costs of construction (including union and non-union work).

G. *Wage Rates on Residential Construction:* Wages paid to labor should reflect their level of skills and productivity. Therefore, the New York City Building and Construction trades should adopt wage rates that reflect the complexity of construction projects. The wage rate should consist of at least three rates for low-, mid- and high-rise residential construction. In addition, there should be two rates—one for Manhattan and one for the other four boroughs and Manhattan north of 96th Street.

H. *Negotiate a Residential Agreement:* Builders and unions should negotiate an "Agreement" for all residential projects to promote coordination. At a minimum, the Agreement should include provisions that:

1. Coordinate the different trades' contract expiration dates.
2. Set forth the same work hours for all trades working on residential construction projects.
3. Provide the same paid holidays for all trades.
4. Prescribe the same rules governing overtime hours (over 40 hours) and rates of pay (time and a half).

I. *Prefabricated Housing Factories:* The development community should consider expanding the expertise of trade union labor by opening additional prefabricated housing manufacturing factories in the New York City area. These factories also could serve as training centers for new apprentices.

Chapter 13:
Extortion and Illegal Practices

I. Statement of the Problem

The construction process in New York City is enormously complicated, in part due to the tremendous fragmentation of the construction industry in which multiple contractors and unions are typically involved in every project. Because many jobs are so big and the number of players is so large, the potential for delay is high. The cost of delay is tremendous arising from high carrying charges for land and construction loans as well as the risks attributable to changes in market conditions. These substantial costs of delay create an incentive for owners/developers to be willing to make payments to avoid work stoppages. Strong unions and organized crime penetration of unions and contractors create a number of opportunities for extortion and illegal practices.

The existence of extortion and illegal practices in the construction industry has been well documented in court records, investigatory reports and the press. Although this Report will not recount instances of illegal activities exhaustively or in detail, set forth below are illustrations of several of the types of activities that have tended to drive up the cost of residential construction in New York City.

A. *Bid Rigging:* In some instances, contractors have organized into cartels to rig bids on construction jobs. The cartels have typically been enforced by labor unions whose leadership ranks have been infiltrated by organized crime. Contractors who sought to bid less than the agreed-upon price have been threatened with violence or labor unrest to enforce these arrangements. Organized crime operatives benefit from the receipt of kickbacks from contracting firms and from labor unions. During the 1970s and 1980s, federal and local investigators uncov-

ered cartels among concrete suppliers as well as drywall, window replacement, plumbing and painting contractors.[1] Incidents of bid rigging continue to plague the industry. In 1998, five executives and four companies pled guilty to collecting kickbacks and rigging bidding on billions of dollars of work done by the interior construction industry. In that case, contractors were expected to pay consultants to large commercial tenants five percent or more of their billings to obtain jobs.[2]

B. *Solicitation of Bribes and Embezzlement by Union Officials:* Over the past decade, a number of instances have come to light of union officials using their position of authority to derive illicit, personal gain. For example, officials of several major construction unions have been convicted of, or pled guilty to, charges of extorting funds from contractors in return for assurances of labor peace.[3] In addition, in return for bribes, union officials have agreed to waive onerous work rule requirements.[4] Corrupt union officials have also raided their unions' pension and benefit funds.[5]

C. *Bribes of Municipal Employees:* Because construction projects frequently require government approvals or permits, opportunities are abundant for official corruption. In many instances, contractors have bribed municipal inspectors to either overlook problems on job sites[6] or to expedite the processing

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1 New York State Organized Crime Task Force, *Corruption and Racketeering in the New York City Construction Industry* 73-99 (1990) [hereinafter *Organized Crime Task Force Report*]; James B. Jacobs, Gotham Unbound, ch. 7 (forthcoming, New York University Press).

2 Charles V. Bagli, "A Guilty Pleas Are Expected In Office Construction Bid-Rigging," *The New York Times*, June 16, 1998, at B-1.

3 *Organized Crime Task Force Report, supra* note 1, at 19-22.

4 *Id.* at 22-25; Selwyn Raab, "New York Officials of Plumbing Union Charged in Bribery," *The New York Times*, Oct. 15, 1993, at A-1.

5 Organized Crime Task Force Report, *supra* note 1, at 27-29; Selwyn Raab, "A Former Chief of Carpenters' Union Convicted of Stealing Funds," *The New York Times*, Mar. 25, 1998, at B-3.

6 Stephen McFarland, "Brief History of Scandals," *Daily News*, Apr. 24, 1997, at 5; "Elevator Inspectors Guilty," *The New York Times*, Jan. 18, 1998.

of approvals.[7] Frequently, the bribes have been paid in response to solicitations by the municipal employees themselves.

D. *Coalitions:* Local labor Coalitions exist in virtually all boroughs with the stated goal of increasing the representation of minority employees on construction projects.[8] However, some Coalitions have threatened violence or disruption unless their members obtain a share of employment in construction projects. In some instances, these jobs are duplicative of jobs already being performed by the contractors' employees. In others, Coalition-supported labor is unqualified or expects to be paid for "no-show" jobs. Recent reports indicate that some Coalitions have ties to organized crime. For example, in 1998 six Coalition leaders were convicted of acting in concert with organized crime figures to extort money from construction contractors. After the coalitions staged disruptions on construction job sites, organized crime operatives solicited and received "protection" money from the contractors in return for promises to end the harassment.[9]

It is difficult to quantify the prevalence of extortion and illegal practices as well as their impact on the price of new construction. The Manhattan District Attorney's investigation of the interior construction contractors suggests that as much as 20 percent was added to the cost of projects undertaken in the 1990s. By another estimate, a memorandum prepared by the City of New York in support of Mayor Giuliani's contractor licensing proposal, "[c]orruption has helped to drive the costs of construction in New York City to levels as much as 35 percent above the national aver-

7 Alan Finder, "Many Builders Say Inspectors Expect Bribes," *The New York Times*, Jan. 28, 1991, at B-1; Barbara Stewart, "Consultants Investigated Over Bribes For Buildings," *The New York Times*, Aug. 8, 1998, at B-2.

8 Recent studies demonstrate the under-representation of minority employees in the construction trade unions. *See,* for example, Timothy Bates and David Howell, The "Declining Status of Minorities in the New York City Construction Industry," *Economic Development Quarterly*, vol. 12, no. 1, at 88-100 (Feb. 1998).

9 Selwyn Raab, "Extortion Cases Expose Mob Ties to Minority-Hiring Groups," *The New York Times*, Jan. 10, 1999, at 19.

age."[10] It is extremely difficult to obtain estimates of the magnitude of corruption (and its costs) from developers and builders because some fear retribution, many turn a blind eye to the practice (since payoffs are typically made by contractors rather than developers) and because the "mob tax" may be a price they are willing to pay to insure that construction proceeds in an orderly fashion. Although recent investigations and prosecutions by the U.S. Attorney and by the Manhattan District Attorney have made a dent in the prevalence of extortion and illegal practices in the construction industry, the problem remains substantial; these recent gains could be jeopardized in the absence of continued efforts to fight corruption in the industry.

II. Past Efforts to Eliminate or Reduce Extortion and Illegal Practices

Extortion and illegal practices have plagued the construction industry for generations. Investigations and prosecutions have periodically been conducted, although none has been successful in eliminating the practices. Beginning in the mid-1980s, a sustained effort was begun at by all levels of government to attack the pervasive influence of organized crime. In 1985, Governor Mario Cuomo requested that the New York State Organized Crime Task Force undertake an "intensive and comprehensive investigation into allegations of corruption and racketeering in the New York City construction industry."[11] The final report of the Task Force was published in 1990. In exhaustive detail, the report's authors detailed the existence of corruption in the construction industry. In addition, the report included a series of recommendations to fight these illegal practices. These recommendations included: (1) the creation of an Office of Construction Corruption Prevention to design and implement regulations and procedures to fight corruption in the industry, (2) a requirement that all contractors on public works contracts in excess of $5 million hire a private sector monitor to insure compliance with laws and to deter illegal conduct, (3) the creation of an Office of Union Members Advocacy to make elected

10 Memorandum from Jake Menges, Director of City Legislative Affairs, in Support of A Local Law to amend the administrative code of the city of New York, in relation to the construction industry (undated, 1998).

11 *Organized Crime Task Force Report, supra* note 1, at 1.

union officials more responsive to the rank-and-file and (4) increased enforcement by state and local tax agencies of construction industry tax fraud.[12] None of these four proposals was ever implemented, although some public agencies have made use of outside monitors.[13]

Throughout the 1980s and early 1990s, federal and local prosecutors under the leadership of Rudolph Giuliani, then U.S. Attorney for the Southern District of New York, and Robert Morgenthau, Manhattan District Attorney, engaged in a sustained attack on organized crime. One focus of these investigations was the construction industry. Successful prosecutions led to the break-up or weakening of the concrete, drywall, window replacement, painting and plumbing cartels. In addition, many unions were placed under court-appointed trustees or monitors including those representing carpenters, Teamsters, masons, cement and concrete workers, painters, ironworkers and plumbers.[14]

III. Comparisons to Control Cities

Although there is no doubt that, at some level, illegal practices involving the construction industry exist in Chicago, Dallas and Los Angeles, interviews with developers in each of the cities and searches of media reports failed to uncover a problem that approached the severity of New York City. One of the reasons problems of illegal practices in the construction industry seem to be so much more prevalent in New York is that Mayor Giuliani, while U.S. Attorney for the Southern District of New York, made organized crime infiltration of the construction industry a priority for vigorous federal investigation and prosecution whereas prosecutors in the other cities pursued other types of crime. Therefore, we know much more about the extent of the problem here. It is also likely that the size of the construction industry in New York City, the power of organized crime and the importance of unions combine to make the magnitude of the problem much greater here.

12 *Id.* at 155-226.
13 Jacobs, *supra* note 1, ch. 14.
14 *Id.*

With respect to contractor licensing, the State of California licenses general building contractors, but neither Illinois nor Texas have a licensing statute. The California licensing statute[15] is primarily geared to ensuring the quality of the work done by contractors in the state and handling consumer complaints, rather than preventing extortion and illegal activities. The processing fee for a license is $150. The cities of Chicago and Dallas each register construction contractors, but neither investigates the background or work performance of these applicants.

IV. Recommendations

Sustained efforts by federal and local prosecutors to fight illegal practices in the construction industry have weakened the grasp of organized crime. Nevertheless, extortion and illegal practices persist in the residential construction industry and could regain their former strength in the absence of continued vigilance and law enforcement efforts. Although the extent to which these practices is common and the costs that they generate are uncertain, they appear to be substantial. There are several approaches to alleviating the problem of illegal practices, all of which have merit and should be pursued simultaneously.

A. *Continued Prosecutions By Local, State and Federal Law Enforcement Agencies:* The results of these efforts, to date, have been impressive and should be continued. Nevertheless, each prosecution takes a very long time, the standard of proof for conviction is high and the costs of investigations are substantial. Therefore, an approach based solely upon criminal law enforcement is unlikely to be sufficient to rid the industry of illegal practices and prevent their resurgence.

B. *Simplify the Construction Process:* One of the reasons why organized crime gained such a strong foothold in the construction industry is that the process of construction requires the coordination of so many individual entities (e.g. trade unions, contrac-

15 Cal. Bus. and Professions Code, sec. 7000 et seq.

tors, subcontractors) and government agencies.[16] Due to the time sensitivity of construction, any one of these entities could find itself in the position to extort payoffs by threatening delay. In other chapters of this Report, recommendations are made to simplify the New York City Zoning Resolution to permit more development to occur in New York "as of right," to revise the Building Code to reduce complexity and to simplify and expedite the process of obtaining building permits and certificates of occupancy. To the extent that these proposals are adopted, the number of instances in which public bribery and extortion occurs should be reduced. Furthermore, the more simplified the construction process can become, the fewer opportunities will exist for the various private participants in the construction process to gain leverage and extort money. For example, the proposal made in the Labor chapter of this Report to merge trade unions would reduce the likelihood of one small group being able to extort money from developers.

C. *Contractor Licensing:* It is vital that the city put into place a set of rules or procedures that will safeguard the anti-corruption gains of the past decade and continue their progress. In 1998, Mayor Giuliani submitted proposed legislation to the City Council which would establish a system of licensing construction managers modeled after earlier successful efforts to rid the Fulton Fish Market and the carting industry of the influence of organized crime.

Under the Mayor's bill, a New York City Construction Commission would be established consisting of the Commissioners of Buildings, Investigation, Business Services, and Design and Construction or their designees, and one member to be appointed by the Mayor as chair. The Commission would be vested with the authority to issue li-

16 *See* Casey Ichniowski and Anne Preston, "The Persistence of Organized Crime in New York City Construction: An Economic Perspective," *Industrial and Labor Relations Review*, July 1, 1989.

censes for construction managers; to establish standards for the conduct of licensees; to prohibit licensees from engaging in business with subcontractor businesses determined to lack good character, honesty or integrity; to conduct investigations into the construction industry; to create and disseminate materials on matters of concern to the industry and to educate the public regarding such matters. The legislation would make it illegal to operate as a construction manager without first obtaining a license from the Commission. The Commission would investigate the backgrounds of applicants for licenses, as well as the backgrounds of persons employed by the applicants. The legislation also authorizes the Commission to require subcontractors whom it has reason to believe lack good character, honesty and integrity to submit to background investigations. It further authorizes the Commission to require licensing of particular categories of subcontractors. The Commission would also have the discretion to require, as a condition of licensure, that a construction manager or subcontractor enter into a contract with an independent auditor or monitor selected or approved by the Commission.

As might be expected, the Mayor's construction manager licensing proposal has been greeted with criticism by many members of the building industry. Among the major complaints are that the proposal would raise costs to the industry, that it would consume time, and that its standards are vague and subject to abuse.[17]

The licensing of contractors is an idea that deserves to be tried, but only after certain legitimate concerns are addressed. The experience of the city in regulating waste haulers and the Fulton Fish Market shows that regulation can be effective in reduc-

17 See, for example, Philip Lentz, "Opponents Bulldoze Plan to Patrol Buildings; Mayor's Proposal Virtually Dead; Powerful Developers Resent Intrusion," *Crain's New York Business*, Oct. 26, 1998, at 3; Lois Weiss, "Contractor License Law Proposed," *Real Estate Weekly*, July 1, 1998, at 1.

ing the prevalence of illegal practices in an industry.[18] With respect to the waste haulers, however, there have been some reports that after falling dramatically due to the reduction of corrupt practices, prices have started to edge up as the industry has experienced consolidation.[19] This is less likely to happen in the construction industry where the sheer volume of contractors makes it unlikely that cartels or monopoly power could establish itself in the absence of organized crime.

The licensing of construction managers and general contractors is not unusual in the United States. Many states have licensing laws, although the central thrust of these laws is quite different from that of the Mayor's proposal. The typical contractor licensing ordinance is designed to promote accountability in the construction industry with respect to quality and safety issues.[20] Although these objectives may be served by the Mayor's contractor licensing proposal, its central focus is combating corruption and illegal practices.

Although the construction manager licensing bill proposed by Mayor Giuliani should be passed by the City Council, the existing proposal should be modified in a number of respects to insure that the cost savings it promises from the elimination of the "mob tax" are not offset by increased costs attributable to administration and delay. Furthermore, the broad scope and discretion granted to the Commission in the proposed bill should be narrowed both to reduce the burden on the industry and also to protect the rights of individual applicants.

The contractor manager licensing law should be adopted with the following changes:

18 *See* Jacobs, *supra* note 1, chs. 10 and 13.

19 *See*, for example, Juan Gonzalez, "New Cartel Cashing in on Trash," *Daily News*, July 7, 1998, at 10; Philip Lentz, "Trash Costs Climb As Carters Recoup Price War Losses," *Crain's New York Business*, June 22, 1998, at 3.

20 A listing of state contractor licensing laws can be found at http://www.nationalcontractors.com/general.html.

1. *Scope of Licensing.* Under Section 27-5001(c), the term "construction manager" is defined to include "any person or entity that oversees, coordinates, supervises, directs, manages, superintends or in any manner assumes charge of a construction project and any persons or entities that are to perform such project...." This definition should be narrowed to include only entities that perform the function of construction manager or general contractor. The proposal also permits the Contractor Licensing Commission to license particular groups of subcontractors. The contractor licensing law should not cover subcontractors. As described below, the benefits of licensing these parties could be achieved as part of a licensing ordinance that was limited to general contractors and construction managers. Furthermore, it is likely that the costs of licensing subcontractors would be large relative to the benefits that would accrue from such a policy.

   Even though the scope of the contractor manager licensing law would be limited to construction managers and general contractors, the Commission would still have the power under Section 27-5003 to investigate subcontractors retained by applicants. Under the proposed law, a construction manager would therefore have a powerful incentive to select subcontractors who were not involved in illegal activities because the construction manager could be denied a license or have its license revoked if it employed subcontractors who did not, themselves, meet the standard of "good character, honesty or integrity." It is also quite possible that once the contractor licensing proposal is enacted, market forces

would create a vetting process for subcontractors to establish that they are above reproach and thereby safe to retain. This process could take the form of an industry-sponsored licensing board for subcontractors.

Limiting the scope of the licensing law to construction managers and general contractors would address one of the principal objections leveled against the proposal- that the procedure for obtaining a license would be time consuming and expensive, particularly for small businesses. Because subcontractors are typically the smallest operators in the construction industry, eliminating the licensing requirement would remove a threat to their viability. Furthermore, subcontractor licensing would threaten to swamp the Commission with paperwork, thereby delaying the completion of investigations for all applicants and driving up the cost of the new law.

Although the scope of the contractor licensing proposal should initially be limited to construction managers and general contractors, the effects of the law should be evaluated after a three year period of operation. As part of that evaluation, the scope of licensing should be reexamined to determine whether the law should be amended to include subcontractors.

2. *Membership.* Under Section 27-5002, the Commission is composed of only public officials. In order to promote understanding of industry practices and responsiveness, it is recommended that the Commission include at least one industry representative.

3. *Fees.* Under Sections 27-5003(h) and 27-5006, the applicant bears the cost of inves-

tigations, FBI background checks, fingerprinting, etc. While it is not out of the ordinary for applicants to pay fees for occupational licenses, the magnitude of expense that may be incurred as a result of Commission investigations could be quite high. The fees chargeable to applicants should be capped at a set proportion of the applicant's previous year's gross revenues. The city should bear all expenses over that cap. In addition to protecting the viability of small construction companies, the fee cap would also create a positive incentive for the Commission and its staff not to engage in inefficient investigatory activities whose costs do not exceed the benefits they generate.

4. *Factors Justifying Denial of a License*. Under Section 27-5007, the Commission may deny a license to an applicant "upon a finding that the applicant lacks good character, honesty or integrity." The list of factors that may be considered in making this judgment is preceded by the clause, "the commission may consider any of the following factors, *as well as any other factors deemed by the commission to be appropriate for consideration*" (emphasis added). One of the enumerated factors is "(i) any other matter that reflects adversely upon the good character, honesty or integrity of the applicant." The scope of discretion granted to the Commission under the proposed legislation is too broad and could be abused by future administrations. Therefore, Section 27-5007 should be amended to make the enumerated factors (with the exception of item "i") the sole factors that can justify the denial of a license.

Under Section 27-5007(a)(i), the Commission may deny a license based upon "adverse information related to (a) the criminal history of the applicant business or its principals or employees...." This provision would authorize the denial of a license to someone charged with a crime, but subsequently acquitted. It would also permit denial of a license based upon charges of criminal wrongdoing that would not be permissible for the Commission to take into account under Sections 752-753 of the New York State Correction Law if a conviction had been obtained.[21] Section 27-5007(a)(i) should be revised to permit the Commission to deny a license on the grounds of the criminal acts of the applicant for which no conviction has been obtained upon a showing that probable cause exists to believe that the applicant violated the law. In addition, the same considerations set forth in Section 753 for taking into account criminal convictions should be satisfied in the event this probable cause finding is made.

Similarly Section 27-5007(a)(c) permits the Commission to deny a license based upon "any violation of law by the applicant, including but not limited to any failure to comply with applicable federal, state or local safety or regulatory requirements." Section 27-5007(a)(c) should be amended to include the language in Section 27-5007(a)(b) concerning findings of liability in civil actions to

21 Under Section 752, applications for licenses or employment cannot be denied because an applicant has been convicted of a crime unless (1) there is a direct relationship between one or more of the previous criminal offenses and the specific license or employment sought or (2) the issuance of the license or the granting of the employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.

the effect that the violation of law "bears a direct relationship to the fitness of the applicant to conduct the business for which the license is sought."

5. *Time Limitation on Investigation.* Under the proposed legislation, the Commission has no deadline to complete its investigation and make a decision on whether to issue a license to an applicant. The potential exists for long delays which could cause financial harm to reputable applicants. In addition, the licensing process could be abused by future administrations to harm individual applicants who qualify for a license. Therefore, the proposed legislation should be modified to include a reasonable time limit for the grant of a license. In the event that the applicant has been the cause of the delay, the Commission should automatically be entitled to an extension of the time limit. If a decision on the license is not made by the date specified and the delay is not attributable to the applicant, then a temporary license should be issued that will remain good until a final decision is made. Because builders may be reticent to conduct business with a general contractor or construction manager who has a temporary license, the law should also provide that if a license is ultimately denied, the applicant would be permitted to complete all jobs that are substantially underway at the time the Commission's decision is announced unless doing so would pose an imminent threat to public safety.

Chapter 14:
Estimates of Cost Savings Attributable to Recommendations

The final chapter of this Report estimates how much the cost of residential construction could be reduced if the proposals set forth in Chapters 3 to 13 of this Report were adopted. The approach taken in this chapter is to estimate the amount it would cost to build a residential building according to specifications set forth in a Base Case. Cost savings attributable to many of the recommendations contained in this Report are then described and quantified. The calculations supporting these estimates are contained in Appendix H.

The quantification of the impact of the Report's recommendations was achieved as a result of extensive consultation with developers and attorneys who are active in the New York City residential development community. In interpreting the estimates contained in this section, it is important to bear in mind that while they are based upon the best judgments of people who have years of experience in housing development, they are only estimates. The Report contains almost 75 separate recommendations most of which are not subject to precise quantification. Wherever possible we have sought to make all of our assumptions explicit and conservative (see Appendix H). The cost reduction estimates are also biased downward because they do not reflect second order effects of certain recommendations. For example, if the city were to re-zone a substantial amount of vacant land from manufacturing to residential use or if it were to reclaim land that is currently undevelopable because of environmental contamination, the price of land would likely fall. Because the scope of re-zoning or brownfields reclamation is entirely speculative and its impact on price uncertain, we have not included estimates for the impact of these recommendations.

The Base Case involves a developer who acquires a building in an R-5 zone with two rent controlled tenants. He plans to demolish the building and construct a 72 unit building which would only be permitted in an R-6 zone (as of right R-5 zoning would only allow sufficient FAR for 60 units). The developer plans to use union

labor and would like to use state-of-the-art construction methods and materials. The acquisition cost of the building is $1,000,000 financed by a $700,000 loan and $300,000 in equity. The cost of debt is 8.5% per year and the required rate-of-return on equity is 12% for the new building. The total development cost is $13,000,000 divided as follows: (1) $10,080,000 in hard costs (one-half to labor; the other half to materials); (2) $1,920,000 in soft costs and (3) $1,000,000 acquisition costs.

Scenario 1

Scenario 1 assumes that all of the following recommendations or sets of recommendations are implemented:

A. *Soft Costs*

1. The land is re-zoned based upon a 60 day Department of City Planning process without having to go through ULURP.
2. The land is re-zoned without a CEQR review.
3. Labor coalitions are not permitted to demand extra employees or pay-offs.
4. The Department of Buildings adopts efficient and time-saving practices which obviate the need for an expeditor.
5. Building permits are obtained more quickly.

B. *Labor*

1. Union rules are changed to require only the actual number of workers necessary to complete the project (i.e. no "featherbedding").
2. A concessionary wage rate is paid reflecting either less technical work or work outside the core of Manhattan.
3. Inefficient work rules are eliminated.

4. Part of the "load" for union labor on top of salaries, health insurance and tax payments is eliminated.

C. *Materials*

1. A model building code replaces New York City's building code.
2. Redundancies created by the recently adopted sprinkler law are eliminated.
3. Plastic piping and other state-of-the art materials are permitted.

D. *Property Taxes*

1. Class 2 properties are taxed at a rate three times the rate of Class 1 properties.
2. Newly constructed/rehabilitated properties are assessed based upon the income capitalization method.

Set forth are the cost reductions made possible by the adoption of these proposals:

Type of Cost	*Base Case Scenario*	*Scenario 1*
Acquisition	$ 1,000,000	$ 1,000,000
Labor	5,040,000	3,766,315
Materials	5,040,000	4,536,000
Soft Costs	1,920,000	1,249,619[1]
Total Development Cost	$ 13,000,000	$ 10,551,934

Thus if the savings attributable to the recommendations outlined in Scenario 1 were achieved, the total development cost would fall by 18.8%.

In order to estimate the impact of the Report's recommendations on housing affordability, the minimum rent necessary to gen-

1 All time savings are reflected in Soft Costs.

erate the developer's 12% rate of return was calculated. Competitive markets are assumed. Based upon these assumptions, the required rent per unit under the Base Case would be $2,568. Under Scenario 1, the rent would be reduced by $662 per month to $1,906. This reflects a reduction of 25.8%.

If an affordable rent is defined to be a rent that is no more than 30% of income, the rents in the Base Case would be affordable to households with incomes greater than $102,720. The rents under Scenario 1 would be affordable to households with a minimum income of $76,240.[2]

Scenario 2

In addition to all of the assumptions in Scenario 1, an additional 5% cost savings would be achieved through the adoption of the Mayor's Contractor Licensing Proposal. Various estimates of cost savings from the Mayor's Office range from 20% to 35%. Thus, the 5% cost saving should be viewed as a very conservative estimate of the impact of this proposal.

Type of Cost	*Base Case Scenario*	*Scenario 2*
Acquisition	$ 1,000,000	$ 1,000,000
Labor	5,040,000	3,577,999
Materials	5,040,000	4,309,200
Soft Costs	1,920,000	1,187,139
Total Development Cost	$ 13,000,000	$ 10,074,338

If the savings attributable to the recommendations outlined in Scenario 2 were achieved, the total development cost would fall by a total of 22.5%.

2 Because the affordability estimates are expressed in absolute numbers rather than percentages, they are especially sensitive to the Base Case assumptions. The recommendations contained in Chapters 3 through 13 could produce apartments that were affordable to households with significantly lower incomes, if the size of the apartments were smaller or if subsidies were provided. Rather than indicating the minimum incomes of households that could be helped by the proposals, the estimates should, instead, be interpreted as suggesting the substantial increase in the number of households that could be served if rents could be reduced.

Under Scenario 2 the minimum rent required by the owner to achieve a 12% rate of return would be $1,851 per unit per month, a 27.9% reduction from the Base Case.

Rents under Scenario 2 would be affordable to households with minimum incomes of $74,040.

Scenario 3

Lastly, Scenario 3 incorporates an expedited process for obtaining vacant possession of buildings with rent regulated tenants and computing their compensation. Under current law, developers usually pay tenants to leave and the tenants have considerable bargaining power in the negotiations. According to an attorney who has been involved in many of these negotiations, a payment of $250,000 to a rent controlled tenant in Manhattan would be considered low.

If relocating tenants were necessary, the total development cost of the project would increase from the Base Case. In the Revised Base Case, $500,000 reflecting payments to tenants is added to the soft cost figure. In Scenario 3, the stipend payable to tenants as recommended in this Report would be $18,681 per tenant or $37,362 in total.

Type of Cost	*Base Case Scenario*	*Scenario 3*
Acquisition	$ 1,000,000	$ 1,000,000
Labor	5,040,000	3,577,999
Materials	5,040,000	4,309,200
Soft Costs	2,420,000	1,224,501
Total Development Cost	$ 13,500,000	$ 10,111,700

Thus Scenario 3 would represent a reduction in total development costs of 25.1%.

Under Scenario 3, the minimum rent necessary to provide the owner with a 12% rate of return would be $1,856 per unit per month, a 29.3% reduction from the Revised Base Case.

Rents under Scenario 3 would be affordable to households with incomes of at least $74,240.

Summary

Based upon the assumptions set forth in Appendix H, if the proposals contained in this Report were adopted, a conservative estimate of the amount by which they would reduce the cost of construction would range between 18.8% to 25.1%. They could reduce rents charged by landlords for the units constructed by between 25.8% to 29.3%. These figures likely underestimate the full impact of the recommendations because they do not take into account the supply effects of proposals to make additional land available for residential use.

Summary of Recommendations

Set forth below is a list of the recommendations contained in this Report together with the body that has ultimate authority for implementing them. Abbreviations are as follows: New York State Legislature (NYSL), New York State Attorney General (NYSAG), New York City Council (NYCC), Mayor (MAYOR), New York City Planning Commission (CPC), New York City Board of Standards and Appeals (BSA), New York City Department of Buildings (DOB), New York City Department of City Planning (DCP), New York City Department of Citywide Administrative Services (DCAS), New York City Department of Environmental Protection (DEP), New York City Department of Finance (DOF), New York City Department of Housing Preservation and Development (HPD), District Attorneys for the Five Boroughs (DA), New York State Department of Environmental Conservation (DEC), Construction Unions (UNIONS), Real Estate Industry (RE), United States Department of Justice (DOJ), United States Department of Labor (USDOL).

I. Availability and Cost of Vacant Land

A. The City Planning Commission should continue to re-zone land to allow for more intensive residential development. [CPC]

B. The city should create an inventory and a plan, as well as provide incentives for the reuse of long-term vacant psychiatric facilities, closed hospitals and other obsolete institutional sites. [NYSL, NYCC, DCP]

C. The city should complete and regularly update an inventory of vacant land that is privately owned, zoned for residential and would be appropriate for residential use and development. [DCP, HPD]

D. The Department of Citywide Administrative Services should sell city-owned parcels to adjacent owners at their appraised values provided the owners commit to developing the combined properties within two years. [DCAS]

E. The Department of Housing Preservation and Development (HPD) should "hold" city-owned vacant land parcels where there are opportunities to create assemblages for housing or when they might be appropriate for future housing programs. [HPD, DCAS]

F. The City should more aggressively utilize its power of eminent domain and third party transfer pursuant to Local Law 37 of 1996 to assemble land for housing. [HPD]

II. Brownfields

A. The state should adopt standards and liability limitations to facilitate the development of brownfield sites. To insure state action, the city should include the adoption of the Pocantico program as part of its State legislative agenda. [NYSL, MAYOR, NYCC]

B. Once a state program is adopted, the City also should:

1. Apply for federal funding to support brownfield redevelopment from the EPA and the United States Department of Housing and Urban Development. [DEP]
2. Consider adopting tax and zoning incentives for developers who clean up brownfields and develop projects, especially for housing. [NYCC, MAYOR]
3. Identify and make readily available parcels of land that are good candidates for brownfield redevelopment. For city-owned sites, the

New York City Economic Development Corporation (EDC) should offer this land, with necessary redevelopment incentives through Requests for Proposals. For privately owned parcels, EDC should contact owners to inform them of available benefits. If necessary, the city should follow Chicago's lead of foreclosing and condemning property to assist in project development. [NYCC, DCP]

C. Create a New York City Brownfields ombudsman or office to facilitate clean up and development on brownfield sites. [MAYOR]

III. Rent Regulation

A. New York State's rent regulation laws should be amended to reduce barriers to land assemblage when existing laws would permit the construction of substantially more housing on site. It is vitally important for all New Yorkers that new housing be built. The law should continue to protect existing tenants, but they should not be able to block land assemblage and new construction of housing, nor should they be able to hold-out for windfalls. [NYSL]

IV. Environmental Regulation

A. The New York State Legislature should amend the State Environmental Quality Review Act (SEQRA) to:

1. Exempt actions of local legislative bodies in adopting comprehensive land use actions.
2. Change the definition of "environment" to delete (a) impacts of development on existing patterns of population concentration, distri-

bution and growth and (b) existing community or neighborhood character.

3. Restrict the right of private individuals to sue under SEQRA.

4. Reduce the statute of limitations for environmental challenges and provide a preference to accelerate environmental litigation. [NYSL]

B. The State Department of Environmental Conservation should amend SEQRA regulations to:

1. Include as "Type II" projects, not subject to rigorous review, single developments of (a) no more than 90 housing units and (b) in the case of affordable housing developments built with governmental assistance, no more than 150 units. [DEC]

C. The Department of City Planning and the Department of Environmental Protection should publish a variety of indicators in the Mayor's Management Report relating to how long it takes to approve or disapprove applications under the City Environmental Quality Review (CEQR). [DCP, DEP]

V. Zoning Regulation

A. The Mayor should establish a Task Force headed by the Chair of the City Planning Commission to prepare a new comprehensive amendment to the Zoning Resolution to replace the outdated 1961 amendment. This Task Force should be driven by a mission to modernize zoning to encourage appropriate housing development. [MAYOR, CPC, DCP]

B. The City Planning Commission and the City Council should:

1. Adopt changes to the zoning map that would increase the number of Special Mixed Use districts where residential and light manufacturing uses are permitted.
2. Amend the Zoning Resolution to permit higher, appropriate densities in many parts of the city.
3. Adopt the proposals contained in the Department of City Planning's report *Zoning to Facilitate Housing Production*.
4. Amend the Zoning Resolution to provide for consistent use of terminology and interpretation.
5. Expand the Lower Manhattan Economic Revitalization Plan to include other areas, especially Brooklyn and Queens. [CPC, NYCC]

VI. Land Use Review Process

A. The City Planning Commission should review transfer of certain discretionary zoning approvals with localized impacts to the Board of Standards and Appeals and should create the authority for the Chair of The City Planning Commission to grant discretionary relief from use and bulk regulations for affordable housing. [NYCC, CPC, BSA]

B. The statute governing the Urban Development Action Area Project (UDAAP) process should be amended to:

1. Include disposition of vacant land for development of housing with five or more units.
2. Permit projects to proceed on sites that are at least 50 percent municipally owned instead of the present 80 percent ownership requirement.

3. Provide that projects which have not been acted upon by the City Council for 60 days after submission will be deemed approved. [NYSL]

C. The Department of City Planning should report in the Mayor's Management Report information about how long it takes for applications to be certified as complete and ready to proceed through the Uniform Land Use Review Process (ULURP). [DCP]

D. The City should delegate responsibility for certification of ULURP applications from the Department of City Planning to other agencies where zoning and planning expertise is not required. All certifying agencies should be required to act on applications within appropriate time limits from the date of submission or the applications will be deemed certified to proceed through ULURP. [NYCC]

VII. The Building Code

A. New York City should eliminate the distinction between construction inside and outside the fire district. The city should modify the Administrative Code to allow the same kind of construction for smaller residential properties inside the fire district that is allowed outside the fire district. [NYCC]

B. New York City should adopt a uniform building code, including uniform codes for fire prevention, mechanical systems, electrical, energy and plumbing. [NYCC]

C. While the city should use the uniform building code as a model, several amendments may be necessary to insure that the code is coordinated with applicable state and local laws and reflects the unique density issues in New York City. [NYCC]

D. The state should exercise some authority over the city's model uniform building code amendment process. New York State should require the city to

show, before amending the uniform code provisions, that the proposed change is needed and that the public safety benefits exceed new costs. [NYSL]

E. The sprinkler law should be amended to permit the use of less expensive materials and to eliminate redundant requirements. [NYCC]

F. New York City should approve the Housing Conference and American Institute of Architects proposal that would allow four story single stair multiple dwellings of combustible construction. [NYCC, DOB]

G. The city should change the Materials and Equipment Acceptance Procedure in a number of important respects. Responsibility for changing reference standards for acceptable construction materials should be vested in the DOB and not shared with the City Council. Except in certain specifically identified areas, New York City should automatically adopt innovations in reference standards adopted by the model national code organizations. For those areas in which the DOB retains authority to review reference standards, technical consultants should be retained. The Reference Standard Advisory Committee should be abolished and views on changes should be solicited through public hearings. [NYCC, DOB]

VIII. Permit Approvals — The Department of Buildings

A. The Department of Buildings should hire an external management consultant to review its procedures and practices. [DOB]

B. All forms and applications should be made available on the Internet and developers should be able to submit them on-line. [DOB]

C. The Mayor should consider whether the Department requires additional staff as well as whether some of its responsibilities should be taken over by other agencies or the private sector. [MAYOR]

D. Additional indicators concerning how long it takes applications to be processed should be reported in the Mayor's Management Report. [DOB]

E. The City should explore ways to augment fees generated by the Department for additional services as well as earmarking revenue from fees for the purpose of improving existing services. [DOB, MAYOR]

F. The Department should improve its customer service. [DOB]

G. The Department's rules and interpretations of these rules should be made consistent across all five boroughs. Publishing reasons for rejection of applications would be one way to promote this consistency. [DOB]

H. The City should fund upgrading of the Department's computer system to take advantage of new technology and to permit less reliance upon paper records. [DOB]

I. The Department should establish a state-of-the-art library facility for storing plans and materials. [DOB]

IX. Taxes and Fees

A. The city should waive or reduce permit fees for affordable housing projects and especially for projects that are part of a Department of Housing Preservation and Development program. [NYCC, DOB]

B. The city and state should waive or reduce real property transfer, mortgage recording and sales taxes on

affordable housing projects, especially projects where the city or state has provided significant funding. [NYSL, NYCC]

C. The New York State Legislature should authorize the City of New York to establish a separate tax class for vacant land. The city should examine eliminating the unfavorable tax treatment accorded to vacant land and instituting a tax system that maintains an incentive to develop housing on vacant land. [NYSL]

D. New York City should gradually reduce the property taxes paid by owners of Class 2 residential properties. [NYSL, NYCC]

E. The Department of Finance should use the income capitalization method rather than construction costs to calculate the assessed value of newly constructed residential buildings. [DOF]

F. Each of the agencies responsible for fines during the construction process should establish clear and consistent guidelines that describe when fines will be levied. [DOB, DEP, DOT, Sanitation]

X. Labor

A. Construction trade unions and contractors should act jointly to eliminate costly and inefficient work rules that do not further worker safety. [UNIONS, RE]

B. Construction trade unions and contractors should address, clarify and, where appropriate, eliminate jurisdictional requirements that add to the cost of projects by requiring the hiring of additional labor. [UNIONS, RE]

C. Local trade unions should continue to diversify their membership to include people from all communities in the city. [UNIONS]

D. Programs should be established in New York City high schools to train students in the various construction trades. [UNIONS, SCHOOLS]

E. The New York State Legislature should reduce the cost of fringe benefits by adopting alternative dispute resolution for workers' compensation cases. [NYSL]

F. The United States Department of Labor should adopt a prevailing wage category under the Davis-Bacon Act to provide for a residential wage for mid-rise apartment buildings. [USDOL]

G. The New York State Prevailing Wage Law should be amended to require the calculation of a residential wage rate which reflects the average costs of construction. [NYSL]

H. Trade unions in New York City should adopt a tiered wage rate that differentiates between low-, mid- and high- rise construction. In addition, the wage rates in the four boroughs outside of Manhattan, as well as Manhattan north of 96th Street, should be lower than the wages paid to workers on projects in midtown and downtown Manhattan. [UNIONS, RE]

I. Builders and trade unions should negotiate an agreement to coordinate and make consistent the expiration dates of union contracts, the hours that union membership will work, holidays and overtime rules. [UNIONS, RE]

J. Labor and the development community should consider opening additional pre-fabricated housing manufacturing factories in New York City that could serve as training centers for new apprentices. [UNIONS, RE]

XI. Extortion and Illegal Practices

A. The City Council should enact a general contractor/construction manager licensing requirement similar to the one proposed by Mayor Giuliani in 1998. The scope of the proposed bill, however, should be narrowed and additional provisions should be included to safeguard against abuse by future administrations and to reduce the cost burdens to the industry. [NYCC]

B. The City, State and Federal governments should continue to investigate and prosecute instances of extortion and illegal practices in the New York City construction industry. [USDOJ, NYSAG, DA]

List of Recommendations By Implementing Body

New York City Council

Availability and Cost of Vacant Land	The city should create an inventory and a plan, as well as provide incentives for the reuse of long-term vacant psychiatric facilities, closed hospitals and other obsolete institutional sites. [With the New York State Legislature and the Department of City Planning.]
Brownfields	The state should adopt standards and liability limitations to facilitate the development of brownfield sites. To insure state action, the city should include the adoption of the Pocantico program as part of its State legislative agenda. [With the New York State Legislature and the Mayor.] Consider adopting tax and zoning incentives for developers who clean up brownfields and develop projects, especially for housing. [With the Mayor.] Identify and make readily available parcels of land that are good candidates for brownfield re-development. For city-owned sites, the New York City Economic Development Corporation (EDC) should offer this land, with necessary re-development incentives through Requests for Proposals. For privately owned parcels, EDC should contact owners to inform them of available benefits. If necessary, the city should follow Chicago's lead of foreclosing and condemning property to assist in project development. [With the Department of City Planning and the Economic Development Corporation.]
Land Use Review Process	The city should review transfer of certain discretionary zoning approvals with localized impacts to the Board of Standards and Appeals and should create the authority for the Chair of the City Planning Commission to grant discretionary relief for use and bulk regulations for affordable housing. [With the City Planning Commission and the Board of Standards and Appeals.] The city should delegate responsibility for certification of ULURP applications from the Department of City Planning to other agencies where zoning and planning expertise is not required. All certifying agencies should be required to act on applications within appropriate time limits from the date of submission or the applications will be deemed certified to proceed through ULURP.

New York City Council, continued

Zoning Regulation	The City Planning Commission and the City Council should: Adopt changes to the zoning map that would increase the number of Special Mixed Use districts where residential and light manufacturing uses are permitted. Amend the Zoning Resolution to permit higher, appropriate densities in many parts of the city. Adopt the proposals contained in the Department of City Planning's report Zoning to Facilitate Housing Production. Amend the Zoning Resolution to provide for consistent use of terminology and interpretation. Expand the Lower Manhattan Economic Revitalization Plan to include other areas, especially Brooklyn and Queens. [With the City Planning Commission and the New York State Legislature.]
The Building Code	New York City should eliminate the distinction between construction inside and outside the fire district. The city should modify the Administrative Code to allow the same kind of construction for smaller residential properties inside the fire district than is allowed outside the fire district. New York City should adopt a uniform building code, including uniform codes for fire prevention, mechanical systems, electrical, energy and plumbing. [With New York State Legislature.] While the city should use the uniform building code as a model, several amendments may be necessary to insure that the code is coordinated with applicable state and local laws and reflects the unique density issues in New York City. The sprinkler law should be amended to permit the use of less expensive materials and to eliminate redundant requirements. New York City should approve the Housing Conference and American Institute of Architects proposal that would allow four story single stair multiple dwellings of combustible construction. [With the Department of Buildings.] The city should change the Materials and Equipment Acceptance Procedure in a number of important respects. Responsibility for changing reference standards for acceptable construction materials should be vested in the DOB and not shared with the City Council. Except in certain specifically identified areas, New York City should automatically adopt innovations in reference standards adopted by the model national code organizations. [With Department of Buildings.]

New York City Council, continued

Taxes and Fees	The city should waive or reduce permit fees for affordable housing projects and especially for projects that are part of a Department of Housing Preservation and Development program. [With the Department of Buildings.] The city and state should waive or reduce real property transfer, mortgage recording and sales taxes on affordable housing projects, especially projects in which the city or state has provided significant funding. [With the New York State Legislature.] New York City should gradually reduce the property taxes paid by owners of Class 2 residential properties. [With the New York State Legislature.]
Extortion and Illegal Practices	The City Council should enact a general contractor/construction manager licensing requirement similar to the one proposed by Mayor Giuliani in 1998. The scope of the proposed bill, however, should be narrowed and additional provisions should be included to safeguard against abuse by future administrations and to reduce the cost burdens to the industry.

New York State Legislature

Availability and Cost of Vacant Land	The city should create an inventory and a plan, as well as provide incentives for the reuse of long-term vacant psychiatric facilities, closed hospitals and other obsolete institutional sites. [With the New York City Council and the Department of City Planning.]
Brownfields	The state should adopt standards and liability limitations to facilitate the development of brownfield sites. To insure state action, the city should include the adoption of the Pocantico program as part of its State legislative agenda. [With the Mayor and the New York City Council.]
Rent Regulation	New York State's rent regulation laws should be amended to reduce barriers to land assemblage when existing laws would permit the construction of substantially more housing on site. It is vitally important for all New Yorkers that new housing be built. The law should continue to protect existing tenants, but they should not be able to block land assemblage and new construction of housing, nor should they be able to hold-out for windfalls.
Environmental Regulation	The New York State Legislature should amend the State Environmental Quality Review Act (SEQRA) to: 1. Exempt actions of local legislative bodies in adopting comprehensive land use actions. 2. Change the definition of "environment" to delete (a) impacts of development on existing patterns of population concentration, distribution and growth and (b) existing community or neighborhood character. 3. Restrict the right of private individuals to sue under SEQRA. 4. Reduce the statute of limitations for environmental challenges and provide a preference to accelerate environmental litigation.
Land Use Review Process	The statute governing the Urban Development Action Area Project (UDAAP) process should be amended to: 1. Include disposition of vacant land for development of housing with five or more units. 2. Permit projects to proceed on sites that are at least 50 percent municipally owned instead of the present 80 percent ownership requirement. 3. Provide that projects which have not been acted upon by the City Council for 60 days after submission will be deemed approved.
The Building Code	The state should exercise some authority over the city's model uniform building code amendment process. New York State should require the city to show, before amending the uniform code provisions, that the proposed change is needed and that the public safety benefits exceed new costs.

New York State Legislature, continued

Taxes and Fees	The city and state should waive or reduce real property transfer, mortgage recording and sales taxes on affordable housing projects, especially projects where the city or state has provided significant funding. [With the New York City Council.] The New York State Legislature should authorize the City of New York to establish a separate tax class for vacant land. The city should examine eliminating the unfavorable tax treatment accorded to vacant land and instituting a tax system that maintains an incentive to develop housing on vacant land. New York City should gradually reduce the property taxes paid by owners of Class 2 residential properties. [With the New York City Council.]
Labor	The New York State Legislature should reduce the cost of fringe benefits by adopting alternate dispute resolution for workers' compensation cases. The New York State Prevailing Wage Law should be amended to require the calculation of a residential wage rate which reflects the average costs of construction.

State Administrative

Environmental Regulation	The State Department of Environmental Conservation should amend SEQRA regulations to: 1. Include as "Type II" projects, not subject to rigorous review, single developments of (a) no more than 90 housing units and (b) in the case of affordable housing developments built with governmental assistance, no more than 150 units.

New York State Attorney General

Extortion and Illegal Practices	The city, state and federal governments should continue to investigate and prosecute instances of extortion and illegal practices in the New York City construction industry. [With the United States Department of Justice and New York City District Attorneys.]

New York City District Attorneys

Extortion and Illegal Practices	The city, state and federal governments should continue to investigate and prosecute instances of extortion and illegal practices in the New York City construction industry. [With the United States Department of Justice and New York State Attorney General.]

New York City Schools

Labor	Programs should be established in New York City high schools to train students in the various construction trades. [With the Unions.]

Mayor

Brownfields	The state should adopt standards and liability limitations to facilitate the development of brownfield sites. To insure state action, the city should include the adoption of the Pocantico program as part of its State legislative agenda. [With the New York State Legislature and the New York City Council.] Once a state program is adopted, the city also should: 1. Consider adopting tax and zoning incentives for developers who clean up brownfields and develop projects, especially for housing. [With the New York City Council.] Create a New York City Brownfields ombudsman or office to facilitate clean up and development on brownfield sites.
Zoning Regulation	The Mayor should establish a Task Force headed by the Chair of the City Planning Commission to prepare a new comprehensive amendment to the Zoning Resolution to replace the outdated 1961 amendment. This Task Force should be driven by a mission to modernize zoning to encourage appropriate housing development. [With the City Planning Commission and Department of City Planning.]
Permit Approvals—The Department of Buildings	The Mayor should consider whether the Department requires additional staff as well as whether some of its responsibilities should be taken over by other agencies or the private sector. The city should explore ways to augment fees generated by the Department for additional services as well as earmarking revenue from fees for the purpose of improving existing services. [With the Department of Buildings.] The city should fund the Department of Building's proposed upgrade of its computer system. [With Department of Buildings.]

New York City Agencies

New York City Planning Commission

Availability and Cost of Vacant Land	The City Planning Commission should continue to re-zone land to allow for more intensive residential development.
Zoning Regulation	The Mayor should establish a Task Force headed by the Chair of the City Planning Commission to prepare a new comprehensive amendment to the Zoning Resolution to replace the outdated 1961 amendment. This Task Force should be driven by a mission to modernize zoning to encourage appropriate housing development. [With the Mayor and Department of City Planning.] The City Planning Commission and the City Council should: 1. Adopt changes to the zoning map that would increase the number of Special Mixed Use districts where residential and light manufacturing uses are permitted. 2. Amend the Zoning Resolution to permit higher, appropriate densities in many parts of the city. 3. Adopt the proposals contained in the Department of City Planning's report Zoning to Facilitate Housing Production. 4. Amend the Zoning Resolution to provide for consistent use of terminology and interpretation. 5. Expand the Lower Manhattan Economic Revitalization Plan to include other areas, especially Brooklyn and Queens. [With the New York City Council.]
Land Use Review Process	The city should review transfer of certain discretionary zoning approvals with localized impacts to the Board of Standards and Appeals and should create the authority for the Chair of the City Planning Commission to grant discretionary relief for use and bulk regulations for affordable housing. [With the New York City Council and the Board of Standards and Appeals.]

New York City Board of Standards and Appeals

Land Use Review Process	The city should review transfer of certain discretionary zoning approvals with localized impacts to the Board of Standards and Appeals. [With the New York City Council and the City Planning Commission.]

New York City Agencies, continued

New York City Department of Environmental Protection

Brownfields	Once a state program is adopted, the city also should: Apply for federal funding to support brownfield re-development from the EPA and the United States Department of Housing and Urban Development.
Environmental Regulation	The Department of City Planning and the Department of Environmental Protection should publish a variety of indicators in the Mayor's Management Report relating to how long it takes to approve or disapprove applications under the City Environmental Quality Review (CEQR). [With the Department of City Planning.]
Taxes and Fees	The city should waive or reduce permit fees for affordable housing projects and especially for projects that are part of a Department of Housing Preservation and Development program. [With the New York City Council.] Each of the agencies responsible for fines during the construction process should establish clear and consistent guidelines that describe when fines will be levied. [With the Departments of Environmental Protection, Transportation and Sanitation.]

New York City Department of Citywide Administrative Services/Department of Housing Preservation and Development

Availability and Cost of Vacant Land	The Department of Citywide Administrative Services should sell city-owned parcels to adjacent owners at their appraised values provided the owners commit to developing the combined properties within two years. The Department of Housing Preservation and Development (HPD) should "hold" city-owned vacant land parcels where there are opportunities to create assemblages for housing or when they might be appropriate for future housing programs. [With the Department of Housing Preservation and Development.]

New York City Department of Finance

Taxes and Fees	The Department of Finance should use the income capitalization method rather than construction costs to calculate the assessed value of newly constructed residential buildings.

New York City Agencies, continued

New York City Department of Buildings

The Building Code	New York City should approve the Housing Conference and American Institute of Architects proposal that would allow four story single stair multiple dwellings of combustible construction. [With the New York City Council.] The city should change the Materials and Equipment Acceptance Procedure in a number of important respects. Responsibility for changing reference standards for acceptable construction materials should be vested in the DOB and not shared with the City Council. Except in certain specifically identified areas, New York City should automatically adopt innovations in reference standards adopted by the model national code organizations. For those areas in which the DOB retains authority to review reference standards, technical consultants should be retained. The Reference Standard Advisory Committee should be abolished and views on changes should be solicited through public hearings. [With the New York City Council.]
Permit Approvals — The Department of Buildings	The Department of Buildings should hire an external management consultant to review its procedures and practices. All forms and applications should be made available on the Internet and developers should be able to submit them on-line. Additional indicators concerning how long it takes applications to be processed should be reported in the Mayor's Management Report. The city should explore ways to augment fees generated by the Department for additional services as well as earmarking revenue from fees for the purpose of improving existing services. [With the Mayor.] The Department should continue to improve its customer service. The Department's rules and interpretations of these rules should be made consistent across all five boroughs. Publishing reasons for rejection of applications would be one way to promote this consistency. The Department's computer system should be upgraded to take advantage of new technology and to permit less reliance upon paper records. The Department should establish a state-of-the-art library facility for storing plans and materials.
Taxes and Fees	The city should waive or reduce permit fees for affordable housing projects and especially for projects that are part of a Department of Housing Preservation and Development program. [With the New York City Council.] Each of the agencies responsible for fines during the construction process should establish clear and consistent guidelines that describe when fines will be levied. [With the Departments of Environmental Protection, Transportation and Sanitation.]

New York City Agencies, continued

New York City Department of City Planning

Availability and Cost of Vacant Land	The city should create an inventory and a plan, as well as provide incentives for the reuse of long-term vacant psychiatric facilities, closed hospitals and other obsolete institutional sites. [With the New York State Legislature and New York City Council.] The city should complete and regularly update an inventory of vacant land that is privately owned, zoned for residential and would be appropriate for residential use and development. [With the Department of Housing Preservation and Development.]
Brownfields	Once a state program is adopted, the city also should: Identify and make readily available parcels of land that are good candidates for brownfield re-development. For city-owned sites, the New York City Economic Development Corporation (EDC) should offer this land, with necessary re-development incentives through Requests for Proposals. For privately owned parcels, EDC should contact owners to inform them of available benefits. If necessary, the city should follow Chicago's lead of foreclosing and condemning property to assist in project development. [With the New York City Council.]
Environmental Regulation	The Department of City Planning and the Department of Environmental Protection should publish a variety of indicators in the Mayor's Management Report relating to how long it takes to approve or disapprove applications under the City Environmental Quality Review (CEQR). [With the Department of Environmental Protection.]
Zoning Regulation	The Mayor should establish a Task Force headed by the Chair of the City Planning Commission to prepare a new comprehensive amendment to the Zoning Resolution to replace the outdated 1961 amendment. This Task Force should be driven by a mission to modernize zoning to encourage appropriate housing development. [With the Mayor and the City Planning Commission.]
Land Use Review Process	The city should review transfer of certain discretionary zoning approvals with localized impacts to the Board of Standards and Appeals and should create the authority for the chair of the City Planning Commission to grant discretionary relief for use and bulk regulations for affordable housing. [With the New York City Council and the City Planning Commission.] The Department of City Planning should report in the Mayor's Management Report information about how long it takes for applications to be certified as complete and ready to proceed through the Uniform Land Use Review Process (ULURP).

New York City Department of Housing Preservation and Development

Availability and Cost of Vacant Land	The Department of Housing Preservation and Development (HPD) should "hold" city-owned vacant land parcels where there are opportunities to create assemblages for housing or when they might be appropriate for future housing programs. [With the Department of Citywide Administrative Services.] The city should more aggressively utilize its power of eminent domain and third party transfer pursuant to Local Law 37 of 1996 to assemble land for housing. The city should complete and regularly update an inventory of vacant land that is privately owned, zoned for residential and would be appropriate for residential use and development. [With the Department of City Planning.]

Department of Transportation

Taxes and Fees	Each of the agencies responsible for fines during the construction process should establish clear and consistent guidelines that describe when fines will be levied. [With the Departments of Building, Environmental Protection and Sanitation.]

Sanitation

Taxes and Fees	Each of the agencies responsible for fines during the construction process should establish clear and consistent guidelines that describe when fines will be levied. [With the Departments of Buildings, Environmental Protection, and Transportation.]

Labor Unions

Labor	Construction trade unions and contractors should act jointly to eliminate costly and inefficient work rules that do not further worker safety. [With the Real Estate Community.] Construction trade unions and contractors should address, clarify and, where appropriate, eliminate jurisdictional requirements that add to the cost of projects by requiring the hiring of additional labor. [With the Real Estate Community.] Local trade unions should continue to diversify their membership to include people from all communities in the city. Programs should be established in New York City high schools to train students in the various construction trades. [With the New York City Schools.] Trade unions in New York City should adopt a tiered wage rate that differentiates between low-, mid- and high- rise construction. In addition, the wage rates in the four boroughs outside of Manhattan, as well as Manhattan north of 96th Street, should be lower than the wages paid to workers on projects in midtown and downtown Manhattan. [With the Real Estate Community.] Builders and trade unions should negotiate an agreement to coordinate and make consistent the expiration dates of union contracts, the hours that union membership will work, holidays and overtime rules. [With the Real Estate Community.] Labor and the development community should consider opening additional pre-fabricated housing manufacturing factories in New York City that could serve as training centers for new apprentices. [With the Real Estate Community.]

Real Estate Community

Labor	Construction trade unions and contractors should act jointly to eliminate costly and inefficient work rules that do not further worker safety. [With the Unions.] Construction trade unions and contractors should address, clarify and, where appropriate, eliminate jurisdictional requirements that add to the cost of projects by requiring the hiring of additional labor. [With the Unions.] Trade unions in New York City should adopt a tiered wage rate that differentiates between low-, mid- and high- rise construction. In addition, the wage rates in the four boroughs outside of Manhattan, as well as Manhattan north of 96th Street, should be lower than the wages paid to workers on projects in midtown and downtown Manhattan. [With the Unions.] Builders and trade unions should negotiate an agreement to coordinate and make consistent the expiration dates of union contracts, the hours that union membership will work, holidays and overtime rules. [With the Unions.] Labor and the development community should consider opening additional pre-fabricated housing manufacturing factories in New York City that could serve as training centers for new apprentices. [With the Unions.]

Federal Agencies

Labor	The United States Department of Labor should adopt a prevailing wage category under the Davis-Bacon Act to provide for a residential wage for mid-rise apartment buildings.
Extortion and Illegal Practices	The city, state and federal governments should continue to investigate and prosecute instances of extortion and illegal practices in the New York City construction industry. [The United States Department of Justice with the New York State Attorney General and New York City District Attorneys.]

Appendix A
New York University School Of Law
Center For Real Estate and Urban Policy
Housing Cost Report

Professionals Consulted in New York

- **Mark Alexander,** Hope Community
- **Richard Anderson,** New York Building Congress
- **Victor Bach,** Community Service Society
- **Andrea Bachrach,** Office of the State Deputy Comptroller for New York City
- **Fred Badalamenti,** New York City Department of Buildings
- **Gerard A. Barbara,** New York City Fire Department
- **Alan Bell,** The Hudson Companies Incorporated
- **Richard Bernard,** New York City Department of Buildings
- **Jeff Blau,** The Related Companies
- **Les Bluestone,** The Seavey Organization
- **Diane Borradaile,** European American Bank Community Development Corporation
- **Frank Braconi**, Citizens Housing & Planning Council
- **Brooklyn Borough Board**
- **Jim Buckley,** University Neighborhood Housing Program
- **David Burney,** New York City Housing Authority
- **W. Douglas Cadogan,** Muss Development Company

- **Angela Cavaluzzi,** Manhattan Borough President's Office
- **Lee Chong,** Manhattan Borough President's Office
- **Louis Colletti,** Building Trades Employers' Association
- **Marolyn Davenport,** The Real Estate Board of New York
- **Foster DeJesus,** Castro-Blanco, Piscioneri and Associates
- **Eva Dowdell,** New York City Housing Development Corporation
- **Bob Dubruskin,** New York City Department of City Planning
- **Irene Fanos,** New York City Department of City Planning
- **William Fowler,** The Hudson Companies Incorporated
- **Jay Furman,** R&D Management
- **Adam Glick,** The Jack Parker Corporation
- **Ronald Goldstock,** Kroll Associates
- **Aileen Gribbin,** Phipps Houses
- **Douglas Hillstrom,** New York City Rent Guidelines Board
- **Richard Keegan**
- **Eric Kober,** Housing, Economic, and Infrastructure Planning, New York City Department of City Planning
- **Brad Lander,** Fifth Avenue Committee, Inc.
- **Randy Lee,** Lee and Amtzis
- **Nick Lembo,** The Hudson Companies Incorporated

Appendix A: Professionals Consulted

- **Sandy Loewentheil,** L & M Equities Participants, Ltd.
- **Edward Malloy,** Building and Construction Trades Council of Greater New York
- **Dan Margulies,** Community Housing Improvement Program, Inc.
- **Ronay Menschel,** Phipps Houses
- **Lance Michaels,** New York City Department of City Planning
- **Kristen Morse,** Citizens' Housing & Planning Council
- **Ronald Moelis,** L & M Equity Participants, Ltd.
- **Jason Muss, Esq.,** Muss Development Company
- **Joshua Muss,** Muss Development Company
- **The New York Housing Conference**
- **Robert Piscioneri,** Castro-Blanco, Piscioneri and Associates
- **Queens Borough Board**
- **Daniel Richman,** Fordham University School of Law
- **Vincent Riso,** Briarwood Construction
- **Frederick Rose,** Rose Associates
- **Peter Salins, Ph.D.,** State University of New York
- **Paul Selver,** Battle Fowler
- **Thomas Shapiro,** Tishman Speyer Properties
- **Robert Silpe,** Tishman Speyer Properties
- **Gaston Silva,** New York City Department of Buildings
- **Michael Slattery,** The Real Estate Board of New York

- **Staten Island Borough Board**
- **Robert Stern,** Muss Development Company
- **Lava Thimmayya,** Office of the State Deputy Comptroller for New York City
- **Doug Turetsky,** United Neighborhood Houses
- **Bernard Tyminski,** Fleet Bank
- **Marcia Van Wagner,** Office of the State Deputy Comptroller for New York City
- **Richard Visconti,** New York City Department of Buildings
- **Thomas Von Essen,** New York City Fire Department
- **Michael Weil,** New York City Department of Planning
- **Mordecai Weinstein,** Muss Development Company
- **David Wine,** The Related Companies

OTHER CITIES

Chicago

- **Roland Calia, Ph.D.,** The Civic Federation
- **Robert DiCostanzo,** American Invsco
- **John Fallon,** Cook County Assessor's Office
- **Mary Fishman,** City of Chicago Department of Planning and Development
- **Nicholas Gouletas,** American Invsco
- **Celeste Hammond,** John Marshall Law School
- **Virginia Harding, Esq.,** Law Offices of Gould & Ratner
- **Billie Hauser,** Cook County Assessor's Office

- **Perri Irmer,** City of Chicago Department of Buildings
- **Valerie Jarrett,** The Habitat Company
- **Rosanna Márquez,** U.S. Department of Housing and Urban Development, Midwest Office
- **Michael O'Neill,** Chicago and Cook County Building and Construction Trades Council
- **Dan Peters,** American Invsco
- **Matt Reed,** Metropolitan Planning Council
- **Joseph Schwieterman, Ph.D.,** Chaddick Institute for Metropolitan Development, DePaul University
- **Robin Snyderman,** Metropolitan Planning Council
- **Bernard Spatz,** Chicago and Cook County Building and Construction Trades Council
- **Julia Stasch,** City of Chicago Housing Department
- **Theodore Swain,** Esq., Law Offices of Gould & Ratner
- **Paul Woznicki,** City of Chicago Department of Zoning

Dallas

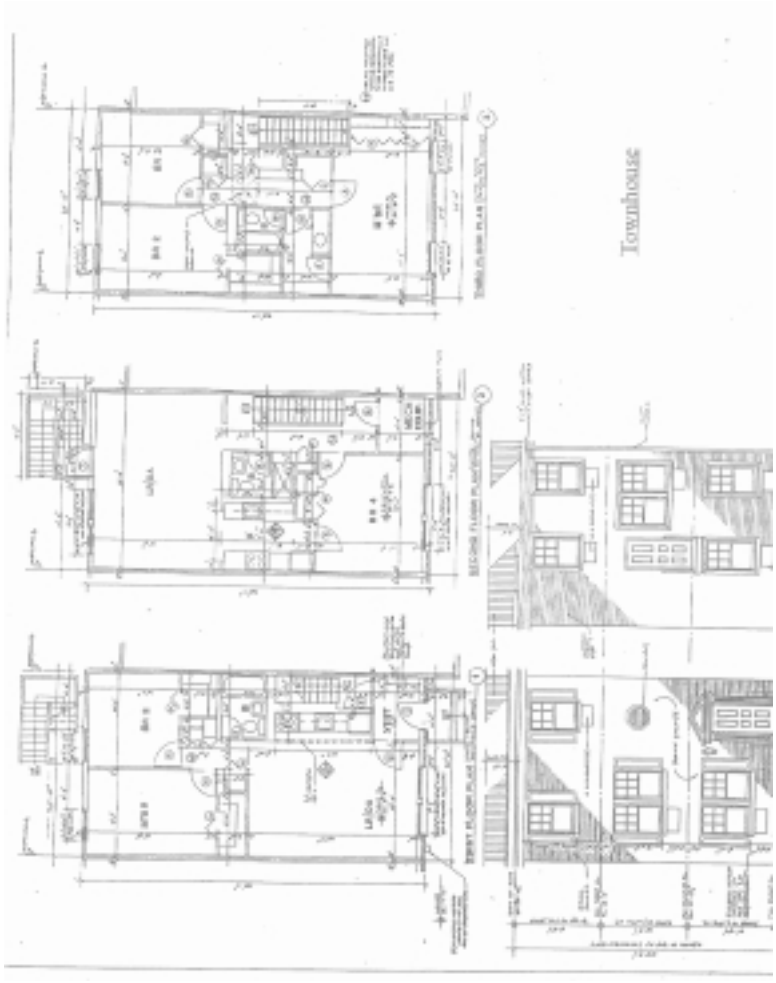
- **Dan Boeckman,** Boeckman Investments
- **Linda Brown,** City of Dallas Economic Development, Building and Fire Code Inspection
- **Joyce Collazo,** Intown Housing Program, City of Dallas Department of Planning and Development
- **Ray Couch,** City of Dallas Department of Planning and Development
- **Greg Green,** Boeckman Investments
- **Tim Hogan,** Trammell Crow Co.

- **Steve Kanoff,** Southwest Properties, Inc.
- **Ed Levine,** City of Dallas Department of Planning and Development
- **Michael Salem,** FRAM Building Group
- **Justin Segal,** Boxer Properties

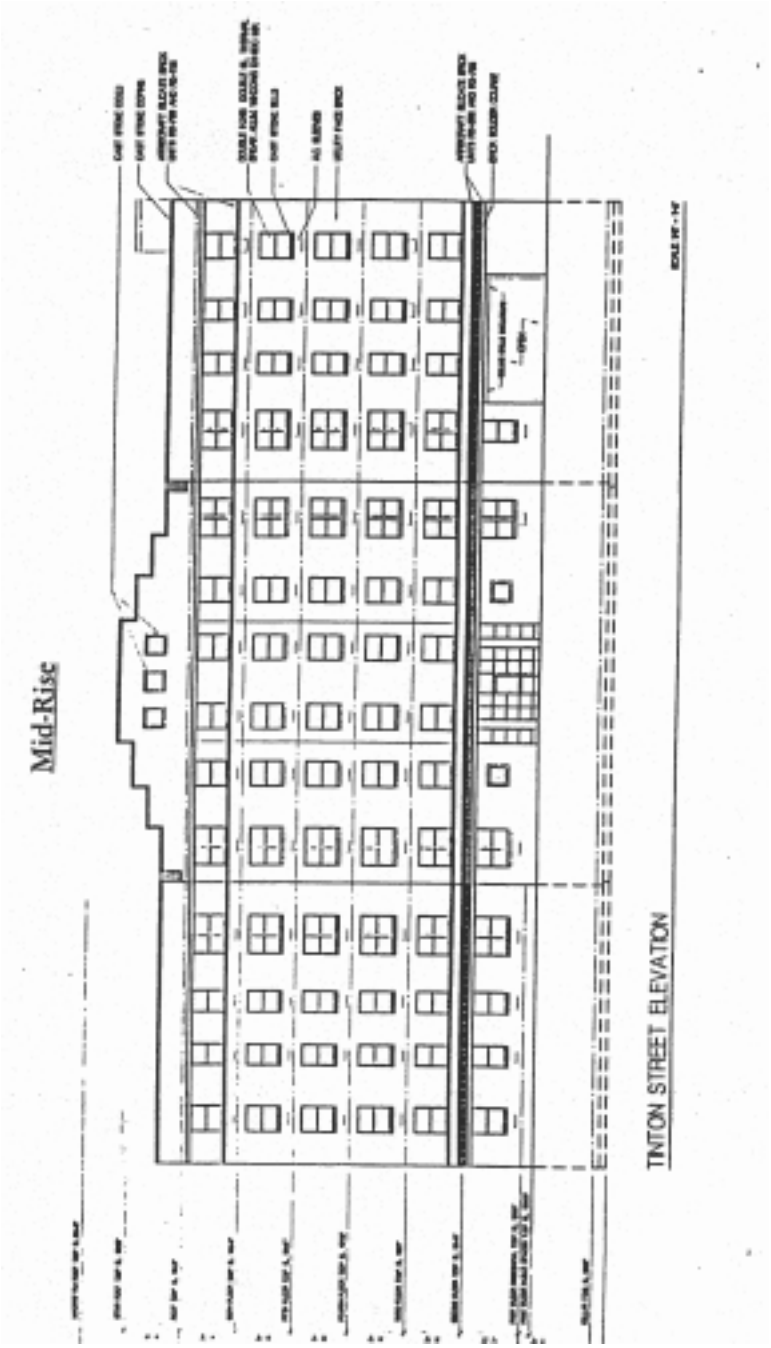
Los Angeles

- **Ruperto Albelda,** City of Los Angeles Housing Department
- **Christian Frere, Gest, Inc.**
- **Con Howe,** City of Los Angeles Department of City Planning
- **Robin Hughes,** Los Angeles Community Design Center
- **Robert Janovici,** City of Los Angeles Department of City Planning
- **Bill Jones,** City of Los Angeles Housing Department
- **Sally Richman,** Planning & Policy Unit, City of Los Angeles Housing Department
- **Rita Robinson,** City of Los Angeles Housing Department
- **Richard Slawson,** Los Angeles and Orange County Building Trades Council
- **John Wickham,** City of Los Angeles Housing Department

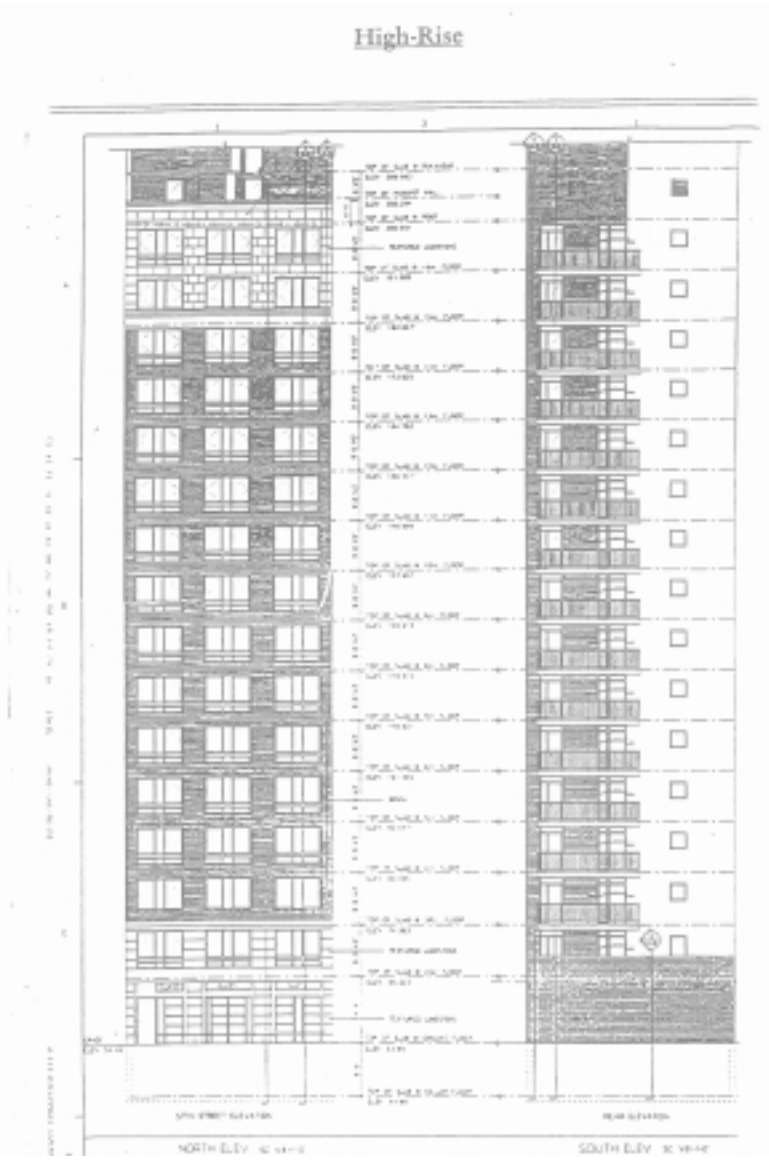
Appendix B
St. Mary's Townhouses
625 Tinton – Mid-Rise
330 East 57th Street – High-Rise


Townhouse

Appendix B: St. Mary's Townhouses



High-Rise



Appendix C
Detailed Prototype Cost Estimates

Town House Labor Per Square Foot							
	New York	*Los Angeles*	*Comparison*	*Chicago*	*Comparison*	*Dallas*	*Comparison*
Substructure	$1.09	$1.07	2%	$1.20	-9%	$0.68	60%
Superstructure	2.18	1.89	15	1.84	18	1.57	39
Exterior Closure	3.00	2.60	15	2.53	18	2.16	39
Roofing	0.41	0.36	15	0.35	18	0.30	39
Interior Construction	6.91	6.01	15	5.84	18	4.98	39
Interior Finishes	3.43	3.02	14	2.95	16	2.56	34
Conveying System	0.00	0.00		0.00		0.00	
Plumbing	3.02	2.62	15	2.55	18	2.17	39
HVAC	1.14	0.99	15	0.96	18	1.06	7
Fire Protection	0.07	0.06	15	0.06	18	0.05	39
Electric Power & Lighting	5.86	5.09	15	4.95	18	2.92	100
Appliances	1.19	1.03	15	1.00	18	0.86	39
Sitework	2.13	1.79	19	1.73	23	1.40	52
Construction Contingency	3.04	2.65	15	2.60	17	2.07	47
Design Contingency	1.52	1.33	15	1.30	17	1.03	47
General Conditions	4.20	3.66	15	3.58	17	2.86	47
Overhead and Profit	3.98	3.47	15	3.40	17	2.71	47
Bond	0.69	0.60	15	0.59	17	0.47	47
Total	**43.85**	**38.24**	**15**	**37.41**	**17**	**29.84**	**47**

Note: Comparisons indicate the amount by which costs in New York City are more or less expensive than in the control cities.
Source: Zaxon, Inc.

Town House Labor Per Town House							
	New York	*Los Angeles*	*Comparison*	*Chicago*	*Comparison*	*Dallas*	*Comparison*
Substructure	$2,478	$2,433	2%	$2,730	-9%	$1,551	60%
Superstructure	4,964	4,313	15	4,194	18	3,574	39
Exterior Closure	6,830	5,935	15	5,770	18	4,918	39
Roofing	941	818	15	795	18	678	39
Interior Construction	15,761	13,695	15	13,315	18	11,348	39
Interior Finishes	7,823	6,889	14	6,718	16	5,830	34
Conveying System	0	0		0		0	
Plumbing	6,880	5,978	15	5,812	18	4,954	39
HVAC	2,598	2,258	15	2,195	18	2,423	7
Fire Protection	151	131	15	127	18	108	39
Electric Power & Lighting	13,360	11,608	15	11,286	18	6,668	100
Appliances	2,709	2,354	15	2,288	18	1,950	39
Sitework	4,854	4,071	19	3,938	23	3,187	52
Construction Contingency	6,935	6,048	15	5,917	17	4,719	47
Design Contingency	3,467	3,024	15	2,958	17	2,359	47
General Conditions	9,570	8,347	15	8,165	17	6,512	47
Overhead and Profit	9,075	7,915	15	7,743	17	6,175	47
Bond	1,574	1,373	15	1,343	17	1,071	47
Total	**99,971**	**87,190**	**15**	**85,296**	**17**	**68,027**	**47**

Note: Comparisons indicate the amount by which costs in New York City are more or less expensive than in the control cities.
Source: Zaxon, Inc.

Town House Material Per Square Foot							
	New York	*Los Angeles*	*Comparison*	*Chicago*	*Comparison*	*Dallas*	*Comparison*
Substructure	$1.26	$1.35	-6%	$1.53	-18%	$0.96	32%
Superstructure	3.25	3.06	6	3.03	7	2.84	15
Exterior Closure	2.90	2.74	6	2.70	7	2.53	15
Roofing	0.25	0.24	6	0.23	7	0.22	15
Interior Construction	7.16	6.75	6	6.66	7	6.25	15
Interior Finishes	4.54	4.29	6	4.24	7	4.00	13
Conveying System	0.00	0.00		0.00		0.00	
Plumbing	3.56	3.36	6	3.31	7	3.11	15
HVAC	4.03	3.80	6	3.75	7	3.12	29
Fire Protection	0.11	0.11	6	0.10	7	0.10	15
Electric Power & Lighting	4.86	4.59	6	4.53	7	3.85	27
Appliances	3.21	3.02	6	2.99	7	2.80	15
Sitework	2.45	2.31	6	2.28	7	2.14	15
Construction Contingency	3.76	3.56	6	3.54	6	3.19	18
Design Contingency	1.88	1.78	6	1.77	6	1.59	18
General Conditions	5.19	4.91	6	4.88	6	4.40	18
Overhead and Profit	4.92	4.66	6	4.63	6	4.17	18
Bond	0.85	0.81	6	0.80	6	0.72	18
Total	**54.17**	**51.32**	**6**	**50.98**	**6**	**45.98**	**18**

Note: Comparisons indicate the amount by which costs in New York City are more or less expensive than in the control cities.
Source: Zaxon, Inc.

Town House Material Per Town House							
	New York	*Los Angeles*	*Comparison*	*Chicago*	*Comparison*	*Dallas*	*Comparison*
Substructure	$2,878	$3,067	-6%	$3,495	-18%	$2,184	32%
Superstructure	7,413	6,988	6	6,901	7	6,470	15
Exterior Closure	6,618	6,238	6	6,160	7	5,775	15
Roofing	570	537	6	530	7	497	15
Interior Construction	16,315	15,379	6	15,188	7	14,239	15
Interior Finishes	10,340	9,789	6	9,676	7	9,117	13
Conveying System	0	0		0		0	
Plumbing	8,117	7,652	6	7,556	7	7,084	15
HVAC	9,179	8,655	6	8,548	7	7,112	29
Fire Protection	255	240	6	237	7	222	15
Electric Power & Lighting	11,092	10,456	6	10,325	7	8,767	27
Appliances	7,312	6,893	6	6,807	7	6,382	15
Sitework	5,594	5,272	6	5,207	7	4,880	15
Construction Contingency	8,568	8,117	6	8,063	6	7,273	18
Design Contingency	4,284	4,058	6	4,032	6	3,637	18
General Conditions	11,824	11,201	6	11,127	6	10,037	18
Overhead and Profit	11,213	10,621	6	10,552	6	9,518	18
Bond	1,945	1,843	6	1,830	6	1,651	18
Total	**123,517**	**117,006**	**6**	**116,236**	**6**	**104,845**	**18**
Note: Comparisons indicate the amount by which costs in New York City are more or less expensive than in the control cities. Source: Zaxon, Inc.							

Town House Cost Per Square Foot							
	New York	*Los Angeles*	*Comparison*	*Chicago*	*Comparison*	*Dallas*	*Comparison*
Substructure	$2.35	$2.41	-3%	$2.73	-14%	$1.64	43%
Superstructure	5.43	4.96	10	4.87	12	4.41	23
Exterior Closure	5.90	5.34	10	5.23	13	4.69	26
Roofing	0.66	0.59	12	0.58	14	0.52	29
Interior Construction	14.07	12.75	10	12.50	13	11.22	25
Interior Finishes	7.97	7.32	9	7.19	11	6.56	22
Conveying System	0.00	0.00		0.00		0.00	
Plumbing	6.58	5.98	10	5.86	12	5.28	25
HVAC	5.17	4.79	8	4.71	10	4.18	24
Fire Protection	0.18	0.16	9	0.16	11	0.15	23
Electric Power & Lighting	10.72	9.68	11	9.48	13	6.77	58
Appliances	4.40	4.06	8	3.99	10	3.65	20
Sitework	4.58	4.10	12	4.01	14	3.54	30
Construction Contingency	6.80	6.21	9	6.13	11	5.26	29
Design Contingency	3.40	3.11	9	3.07	11	2.63	29
General Conditions	9.38	8.57	9	8.46	11	7.26	29
Overhead and Profit	8.90	8.13	9	8.02	11	6.88	29
Bond	1.54	1.41	9	1.39	11	1.19	29
Total	**98.02**	**89.56**	**9**	**88.39**	**11**	**75.82**	**29**

Note: Comparisons indicate the amount by which costs in New York City are more or less expensive than in the control cities.
Source: Zaxon, Inc.

Town House Total Per Town House							
	New York	*Los Angeles*	*Comparison*	*Chicago*	*Comparison*	*Dallas*	*Comparison*
Substructure	$5,356	$5,500	-3%	$6,225	-14%	$3,735	43%
Superstructure	12,377	11,301	10	11,095	12	10,044	23
Exterior Closure	13,448	12,173	10	11,931	13	10,693	26
Roofing	1,511	1,355	12	1,326	14	1,175	29
Interior Construction	32,076	29,074	10	28,503	13	25,587	25
Interior Finishes	18,163	16,678	9	16,394	11	14,947	22
Conveying System	0	0		0		0	
Plumbing	14,997	13,629	10	13,369	12	12,038	25
HVAC	11,777	10,912	8	10,743	10	9,535	24
Fire Protection	406	371	9	365	11	331	23
Electric Power & Lighting	24,452	22,064	11	21,612	13	15,435	58
Appliances	10,021	9,247	8	9,096	10	8,332	20
Sitework	10,448	9,344	12	9,144	14	8,068	30
Construction Contingency	15,503	14,165	9	13,980	11	11,992	29
Design Contingency	7,752	7,082	9	6,990	11	5,996	29
General Conditions	21,394	19,548	9	19,293	11	16,549	29
Overhead and Profit	20,288	18,536	9	18,295	11	15,693	29
Bond	3,520	3,216	9	3,174	11	2,722	29
Total	**223,489**	**204,196**	**9**	**201,532**	**11**	**172,872**	**29**

Note: Comparisons indicate the amount by which costs in New York City are more or less expensive than in the control cities.
Source: Zaxon, Inc.

Mid-Rise Labor Per Square Foot							
	New York	*Los Angeles*	*Comparison*	*Chicago*	*Comparison*	*Dallas*	*Comparison*
Substructure	$4.30	$4.86	-11%	$3.63	18%	$3.10	39%
Superstructure	6.00	5.73	5	5.07	18	4.32	39
Exterior Closure	4.04	3.79	7	3.41	18	2.91	39
Roofing	0.14	0.12	15	0.12	18	0.10	39
Interior Construction	6.01	5.22	15	5.07	18	4.32	39
Interior Finishes	4.40	3.87	14	3.78	17	3.27	34
Conveying System	0.31	0.27	15	0.26	18	0.22	39
Plumbing	2.14	1.86	15	1.81	18	1.54	39
HVAC	2.35	2.04	15	1.98	18	1.69	39
Fire Protection	0.32	0.28	15	0.27	18	0.23	39
Electric Power & Lighting	7.64	6.63	15	6.45	18	5.50	39
Appliances	0.66	0.57	15	0.55	18	0.47	39
Sitework	2.48	2.21	12	2.10	18	1.74	43
Construction Contingency	4.08	3.75	9	3.45	18	2.94	39
Design Contingency	2.04	1.87	9	1.73	18	1.47	39
General Conditions	5.63	5.17	9	4.76	18	4.06	39
Overhead and Profit	5.34	4.90	9	4.52	18	3.85	39
Bond	0.93	0.85	9	0.78	18	0.67	39
Total	**58.77**	**53.99**	**9**	**49.74**	**18**	**42.40**	**39**

Note: Comparisons indicate the amount by which costs in New York City are more or less expensive than in the control cities.
Source: Zaxon, Inc.

Mid-Rise Labor Per Apartment							
	New York	*Los Angeles*	*Comparison*	*Chicago*	*Comparison*	*Dallas*	*Comparison*
Substructure	$6,319	$7,138	-11%	$5,338	18%	$4,550	39%
Superstructure	8,817	8,427	5	7,449	18	6,348	39
Exterior Closure	5,934	5,568	7	5,013	18	4,272	39
Roofing	204	178	15	173	18	147	39
Interior Construction	8,828	7,671	15	7,458	18	6,356	39
Interior Finishes	6,472	5,695	14	5,553	17	4,813	34
Conveying System	458	398	15	387	18	330	39
Plumbing	3,149	2,736	15	2,661	18	2,268	39
HVAC	3,449	2,997	15	2,914	18	2,483	39
Fire Protection	465	404	15	393	18	335	39
Electric Power & Lighting	11,222	9,751	15	9,480	18	8,080	39
Appliances	963	837	15	814	18	693	39
Sitework	3,642	3,244	12	3,085	18	2,551	43
Construction Contingency	5,992	5,504	9	5,072	18	4,323	39
Design Contingency	2,996	2,752	9	2,536	18	2,161	39
General Conditions	8,269	7,596	9	6,999	18	5,965	39
Overhead and Profit	7,842	7,203	9	6,637	18	5,657	39
Bond	1,360	1,250	9	1,151	18	981	39
Total	**86,384**	**79,348**	**9**	**73,112**	**18**	**62,315**	**39**

Note: Comparisons indicate the amount by which costs in New York City are more or less expensive than in the control cities.
Source: Zaxon, Inc.

Mid-Rise Materials Per Square Foot							
	New York	*Los Angeles*	*Comparison*	*Chicago*	*Comparison*	*Dallas*	*Comparison*
Substructure	$1.79	$2.19	-18%	$1.67	7%	$1.56	15%
Superstructure	6.22	6.45	-4	5.79	7	5.43	15
Exterior Closure	4.41	4.49	-2	4.10	7	3.85	15
Roofing	0.27	0.25	6	0.25	7	0.23	15
Interior Construction	6.32	5.96	6	5.88	7	5.52	15
Interior Finishes	4.57	4.35	5	4.30	6	4.08	12
Conveying System	2.53	2.53	0	2.53	0	2.53	0
Plumbing	2.99	2.82	6	2.78	7	2.61	15
HVAC	4.74	4.47	6	4.41	7	4.14	15
Fire Protection	0.28	0.27	6	0.26	7	0.25	15
Electric Power & Lighting	7.11	6.71	6	6.62	7	6.21	15
Appliances	1.52	1.43	6	1.41	7	1.32	15
Sitework	2.88	3.97	-28	3.90	-26	3.63	-21
Construction Contingency	4.56	4.59	-1	4.39	4	4.14	10
Design Contingency	2.28	2.29	-1	2.20	4	2.07	10
General Conditions	6.30	6.33	-1	6.06	4	5.71	10
Overhead and Profit	5.97	6.00	-1	5.75	4	5.41	10
Bond	1.04	1.04	-1	1.00	4	0.94	10
Total	**65.77**	**66.14**	**-1**	**63.31**	**4**	**59.62**	**10**

Note: Comparisons indicate the amount by which costs in New York City are more or less expensive than in the control cities.
Source: Zaxon, Inc.

Mid-Rise Materials Per Apartment							
	New York	*Los Angeles*	*Comparison*	*Chicago*	*Comparison*	*Dallas*	*Comparison*
Substructure	$2,630	$3,223	-18%	$2,448	7%	$2,295	15%
Superstructure	9,146	9,483	-4	8,514	7	7,982	15
Exterior Closure	6,478	6,595	-2	6,030	7	5,653	15
Roofing	391	369	6	364	7	341	15
Interior Construction	9,288	8,755	6	8,646	7	8,106	15
Interior Finishes	6,710	6,392	5	6,327	6	6,004	12
Conveying System	3,713	3,713	0	3,713	0	3,713	0
Plumbing	4,397	4,145	6	4,093	7	3,837	15
HVAC	6,970	6,570	6	6,489	7	6,083	15
Fire Protection	418	394	6	389	7	365	15
Electric Power & Lighting	10,456	9,856	6	9,734	7	9,125	15
Appliances	2,227	2,099	6	2,073	7	1,943	15
Sitework	4,229	5,842	-28	5,726	-26	5,336	-21
Construction Contingency	6,705	6,744	-1	6,455	4	6,078	10
Design Contingency	3,353	3,372	-1	3,227	4	3,039	10
General Conditions	9,253	9,306	-1	8,907	4	8,388	10
Overhead and Profit	8,775	8,825	-1	8,447	4	7,954	10
Bond	1,522	1,531	-1	1,465	4	1,380	10
Total	**96,661**	**97,213**	**-1**	**93,047**	**4**	**87,623**	**10**
Note: Comparisons indicate the amount by which costs in New York City are more or less expensive than in the control cities. Source: Zaxon, Inc.							

Mid-Rise Total Per Square Foot							
	New York	*Los Angeles*	*Comparison*	*Chicago*	*Comparison*	*Dallas*	*Comparison*
Substructure	$6.09	$7.05	-14%	$5.30	15%	$4.66	31%
Superstructure	12.22	12.19	0	10.86	13	9.75	25
Exterior Closure	8.44	8.28	2	7.51	12	6.75	25
Roofing	0.41	0.37	9	0.37	11	0.33	22
Interior Construction	12.33	11.18	10	10.96	12	9.84	25
Interior Finishes	8.97	8.22	9	8.08	11	7.36	22
Conveying System	2.84	2.80	1	2.79	2	2.75	3
Plumbing	5.13	4.68	10	4.60	12	4.15	24
HVAC	7.09	6.51	9	6.40	11	5.83	22
Fire Protection	0.60	0.54	11	0.53	13	0.48	26
Electric Power & Lighting	14.75	13.34	11	13.07	13	11.71	26
Appliances	2.17	2.00	9	1.96	11	1.79	21
Sitework	5.36	6.18	-13	6.00	-11	5.37	0
Construction Contingency	8.64	8.33	4	7.84	10	7.08	22
Design Contingency	4.32	4.17	4	3.92	10	3.54	22
General Conditions	11.92	11.50	4	10.82	10	9.77	22
Overhead and Profit	11.31	10.90	4	10.26	10	9.26	22
Bond	1.96	1.89	4	1.78	10	1.61	22
Total	**124.54**	**120.13**	**4**	**113.05**	**10**	**102.02**	**22**

Note: Comparisons indicate the amount by which costs in New York City are more or less expensive than in the control cities.
Source: Zaxon, Inc.

Mid-Rise Total Per Apartment							
	New York	*Los Angeles*	*Comparison*	*Chicago*	*Comparison*	*Dallas*	*Comparison*
Substructure	$8,949	$10,361	-14%	$7,787	15%	$6,845	31%
Superstructure	17,963	17,910	0	15,962	13	14,330	25
Exterior Closure	12,412	12,163	2	11,043	12	9,926	25
Roofing	595	546	9	537	11	488	22
Interior Construction	18,116	16,426	10	16,104	12	14,462	25
Interior Finishes	13,182	12,087	9	11,879	11	10,817	22
Conveying System	4,171	4,111	1	4,100	2	4,043	3
Plumbing	7,546	6,881	10	6,754	12	6,105	24
HVAC	10,419	9,567	9	9,402	11	8,566	22
Fire Protection	884	799	11	783	13	700	26
Electric Power & Lighting	21,678	19,607	11	19,214	13	17,205	26
Appliances	3,190	2,936	9	2,887	11	2,637	21
Sitework	7,871	9,086	-13	8,811	-11	7,887	0
Construction Contingency	12,698	12,248	4	11,526	10	10,401	22
Design Contingency	6,349	6,124	4	5,763	10	5,201	22
General Conditions	17,523	16,902	4	15,906	10	14,354	22
Overhead and Profit	16,616	16,028	4	15,083	10	13,361	22
Bond	2,883	2,780	4	2,617	10	2,361	22
Total	**183,045**	**176,561**	**4**	**166,159**	**10**	**149,939**	**22**

Note: Comparisons indicate the amount by which costs in New York City are more or less expensive than in the control cities.
Source: Zaxon, Inc.

High-Rise Labor Per Square Foot							
	New York	*Los Angeles*	*Comparison*	*Chicago*	*Comparison*	*Dallas*	*Comparison*
Substructure	$5.91	$6.67	-11%	$4.99	18%	$4.26	39%
Superstructure	8.54	8.16	5	7.21	18	6.15	39
Exterior Closure	6.70	6.28	7	5.66	18	4.83	39
Roofing	0.06	0.05	15	0.05	18	0.04	39
Interior Construction	6.15	5.34	15	5.19	18	4.43	39
Interior Finishes	6.77	5.92	14	5.77	17	4.96	36
Conveying System	2.78	2.42	15	2.35	18	2.01	39
Plumbing	3.46	3.00	15	2.92	18	2.49	39
HVAC	4.58	3.97	15	3.86	18	3.30	39
Fire Protection	0.64	0.55	15	0.54	18	0.46	39
Electric Power & Lighting	6.42	5.57	15	5.42	18	4.62	39
Appliances	0.68	0.59	15	0.57	18	0.49	39
Sitework	3.79	3.32	14	3.15	20	2.59	46
Construction Contingency	5.65	5.18	9	4.77	18	4.06	39
Design Contingency	2.82	2.59	9	2.38	18	2.03	39
General Conditions	7.79	7.15	9	6.58	18	5.61	39
Overhead and Profit	7.39	6.78	9	6.24	18	5.32	39
Bond	1.28	1.18	9	1.08	18	0.92	39
Total	**81.42**	**74.73**	**9**	**68.73**	**18**	**58.56**	**39**

Note: Comparisons indicate the amount by which costs in New York City are more or less expensive than in the control cities.
Source: Zaxon, Inc.

High-Rise Labor Per Apartment							
	New York	*Los Angeles*	*Comparison*	*Chicago*	*Comparison*	*Dallas*	*Comparison*
Substructure	$11,294	$12,744	-11%	$9,532	18%	$8,132	39%
Superstructure	16,326	15,589	5	13,780	18	11,755	39
Exterior Closure	12,795	12,002	7	10,808	18	9,228	39
Roofing	119	103	15	101	18	86	39
Interior Construction	11,752	10,201	15	9,919	18	8,461	39
Interior Finishes	12,945	11,314	14	11,018	17	9,486	36
Conveying System	5,322	4,619	15	4,491	18	3,832	39
Plumbing	6,605	5,733	15	5,574	18	4,755	39
HVAC	8,749	7,594	15	7,384	18	6,299	39
Fire Protection	1,217	1,057	15	1,027	18	876	39
Electric Power & Lighting	12,263	10,644	15	10,350	18	8,829	39
Appliances	1,293	1,122	15	1,091	18	931	39
Sitework	7,250	6,337	14	6,028	20	4,956	46
Construction Contingency	10,793	9,906	9	9,110	18	7,763	39
Design Contingency	5,397	4,953	9	4,555	18	3,881	39
General Conditions	14,894	13,670	9	12,572	18	10,712	39
Overhead and Profit	14,124	12,963	9	11,922	18	10,158	39
Bond	2,450	2,249	9	2,068	18	1,762	39
Total	**155,588**	**142,802**	**9**	**131,330**	**18**	**111,903**	**39**

Note: Comparisons indicate the amount by which costs in New York City are more or less expensive than in the control cities.
Source: Zaxon, Inc.

High-Rise Materials Per Square Foot							
	New York	*Los Angeles*	*Comparison*	*Chicago*	*Comparison*	*Dallas*	*Comparison*
Substructure	$2.76	$3.39	-19%	$2.57	7%	$2.41	15%
Superstructure	9.19	9.73	-6	8.76	5	8.39	9
Exterior Closure	7.44	7.60	-2	6.93	7	6.49	15
Roofing	0.12	0.12	6	0.11	7	0.11	15
Interior Construction	7.08	6.70	6	6.60	7	6.18	15
Interior Finishes	7.30	6.95	5	6.86	6	6.48	13
Conveying System	5.57	5.57	0	5.57	0	5.57	0
Plumbing	5.21	4.93	6	4.86	7	4.55	15
HVAC	8.39	7.93	6	7.81	7	7.32	15
Fire Protection	0.63	0.59	6	0.58	7	0.55	15
Electric Power & Lighting	7.16	6.76	6	6.67	7	6.24	15
Appliances	2.56	2.42	6	2.39	7	2.24	15
Sitework	4.37	5.47	-20	5.34	-18	4.95	-12
Construction Contingency	6.78	6.82	-1	6.51	4	6.15	10
Design Contingency	3.39	3.41	-1	3.25	4	3.07	10
General Conditions	9.35	9.41	-1	8.98	4	8.48	10
Overhead and Profit	8.87	8.92	-1	8.51	4	8.05	10
Bond	1.54	1.55	-1	1.48	4	1.40	10
Total	**97.69**	**98.25**	**-1**	**93.79**	**4**	**88.63**	**10**
Note: Comparisons indicate the amount by which costs in New York City are more or less expensive than in the control cities. Source: Zaxon, Inc.							

High-Rise Materials Per Apartment							
	New York	*Los Angeles*	*Comparison*	*Chicago*	*Comparison*	*Dallas*	*Comparison*
Substructure	$5,270	$6,477	-19%	$4,911	7%	$4,599	15%
Superstructure	17,558	18,598	-6	16,745	5	16,040	9
Exterior Closure	14,214	14,516	-2	13,247	7	12,409	15
Roofing	235	222	6	219	7	205	15
Interior Construction	13,533	12,795	6	12,610	7	11,811	15
Interior Finishes	13,943	13,274	5	13,107	6	12,383	13
Conveying System	10,643	10,643	0	10,643	0	10,643	0
Plumbing	9,962	9,419	6	9,283	7	8,694	15
HVAC	16,024	15,150	6	14,932	7	13,985	15
Fire Protection	1,195	1,130	6	1,114	7	1,043	15
Electric Power & Lighting	13,673	12,927	6	12,741	7	11,933	15
Appliances	4,901	4,633	6	4,566	7	4,277	15
Sitework	8,342	10,455	-20	10,208	-18	9,463	-12
Construction Contingency	12,949	13,024	-1	12,433	4	11,748	10
Design Contingency	6,475	6,512	-1	6,216	4	5,874	10
General Conditions	17,870	17,973	-1	17,157	4	16,213	10
Overhead and Profit	16,946	17,043	-1	16,269	4	15,374	10
Bond	2,940	2,957	-1	2,822	4	2,667	10
Total	**186,673**	**187,750**	**-1**	**179,223**	**4**	**169,361**	**10**

Note: Comparisons indicate the amount by which costs in New York City are more or less expensive than in the control cities.
Source: Zaxon, Inc.

High-Rise Total Per Square Foot							
	New York	*Los Angeles*	*Comparison*	*Chicago*	*Comparison*	*Dallas*	*Comparison*
Substructure	$8.67	$10.06	-14%	$7.56	15%	$6.66	30%
Superstructure	17.73	17.89	-1	15.97	11	14.55	22
Exterior Closure	14.13	13.88	2	12.59	12	11.32	25
Roofing	0.19	0.17	9	0.17	11	0.15	22
Interior Construction	13.23	12.03	10	11.79	12	10.61	25
Interior Finishes	14.07	12.87	9	12.62	11	11.44	23
Conveying System	8.35	7.99	5	7.92	5	7.57	10
Plumbing	8.67	7.93	9	7.77	12	7.04	23
HVAC	12.96	11.90	9	11.68	11	10.61	22
Fire Protection	1.26	1.14	10	1.12	13	1.00	26
Electric Power & Lighting	13.57	12.34	10	12.08	12	10.86	25
Appliances	3.24	3.01	8	2.96	9	2.73	19
Sitework	8.16	8.79	-7	8.50	-4	7.55	8
Construction Contingency	12.42	12.00	4	11.27	10	10.21	22
Design Contingency	6.21	6.00	4	5.64	10	5.11	22
General Conditions	17.15	16.56	4	15.56	10	14.09	22
Overhead and Profit	16.26	15.70	4	14.75	10	13.36	22
Bond	2.82	2.72	4	2.56	10	2.32	22
Total	**179.11**	**172.98**	**4**	**162.51**	**10**	**147.19**	**22**

Note: Comparisons indicate the amount by which costs in New York City are more or less expensive than in the control cities.
Source: Zaxon, Inc.

High-Rise Total Per Apartment							
	New York	*Los Angeles*	*Comparison*	*Chicago*	*Comparison*	*Dallas*	*Comparison*
Substructure	$16,564	$19,222	-14%	$14,443	15%	$12,731	30%
Superstructure	33,884	34,187	-1	30,524	11	27,795	22
Exterior Closure	27,009	26,518	2	24,055	12	21,637	25
Roofing	354	326	9	320	11	291	22
Interior Construction	25,285	22,996	10	22,529	12	20,272	25
Interior Finishes	26,889	24,589	9	24,125	11	21,868	23
Conveying System	15,965	15,263	5	15,135	5	14,475	10
Plumbing	16,567	15,152	9	14,857	12	13,450	23
HVAC	24,773	22,744	9	22,316	11	20,284	22
Fire Protection	2,412	2,186	10	2,141	13	1,919	26
Electric Power & Lighting	25,936	23,572	10	23,091	12	20,762	25
Appliances	6,193	5,755	8	5,657	9	5,208	19
Sitework	15,592	16,793	-7	16,235	-4	14,418	8
Construction Contingency	23,742	22,930	4	21,543	10	19,511	22
Design Contingency	11,871	11,465	4	10,771	10	9,756	22
General Conditions	32,764	31,644	4	29,729	10	26,925	22
Overhead and Profit	31,069	30,007	4	28,191	10	25,532	22
Bond	5,390	5,206	4	4,891	10	4,429	22
Total	**342,261**	**330,552**	**4**	**310,553**	**10**	**281,265**	**22**

Note: Comparisons indicate the amount by which costs in New York City are more or less expensive than in the control cities.
Source: Zaxon, Inc.

Appendix D
List of Past Reports on the Cost of Construction in New York City

New York City, Construction Cost Task Force. 1979. *Interim Report*

New York City, Mayor's Blue Ribbon Panel on Building Plan Examination and Review. 1986. *Report*

New York City Partnership. 1988. *The Partnership Cost Study of Affordable Housing Projects*

New York City Housing Partnership. Undated. *Recommendations for Improving the Land Use and Development Approval Process in New York*

Real Estate Board of New York. 1985. *Housing in Crisis: 1985*

Real Estate Board of New York. 1992. *Housing in New York: A Continuing Crisis*

United States Department of HUD. 1968. *Cost and Time Associated With New Multifamily Construction in New York City*

Appendix E
Comparison of Environmental Regulations

Trigger For Environmental Review

New York State SEQR

"Actions" include one or any combination of the following:

- Projects or physical activities, such as construction or other activities that may affect the environment by changing the use, appearance or condition of any natural resource or structure, that a) are directly undertaken by an agency; or b) involve funding by an agency; or c) require one or more new or modified approvals from an agency or agencies.
- Agency planning and policy making activities that may affect the environment and commit the agency to a definite course of future decisions
- Adoption of agency rules, regulations and procedures, including local laws, codes ordinances, executive orders and resolutions that may affect the environment

California CEQR

California's equivalent to an action are the following:

"Discretionary Project" means a project which requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances and regulations.

"Private Project" means a project which will be carried out by a person other than a governmental agency, but the project will need discretionary approval from one or more governmental agencies for:

1. A contract or financial assistance, or
2. A lease, permit, license, certificate, or other entitlement for use

Definition Of "Environment"

New York State SEQR

"Environment" means the physical conditions which will be affected by the proposed action, including:

- land
- air
- water
- minerals
- flora
- fauna
- noise
- objects of historic significance or
- aesthetic significance
- existing patterns of population concentration, distribution, or growth
- existing community or neighborhood character

California CEQR

"Environment" means the physical conditions which exist within the area which will be affected by a proposed project, including:

- land
- air
- water
- minerals
- flora
- fauna
- noise
- objects of historic significance
- objects of aesthetic significance

Statutory Exemptions

New York State SEQR

"Action" does not include:
According to NYC CLS @ 8-0105(5)

- Enforcement proceedings or the exercise of prosecutorial discretion in determining whether or not to institute such proceedings
- Official acts of a ministerial nature, involving no exercise of discretion
- Maintenance or repair involving no substantial changes in existing structure or facility

California CEQR

- Projects only involving feasibility or planning studies
- Actions taken by the Department of Community Development to provide financial assistance for the development and construction of residential housing for persons of low and moderate income
- Ministerial projects
- Any development project which consists of the construction, conversion, or use of affordable residential housing for agricultural employees.
- Any development project which consists of the construction conversion or use of residential housing consisting of not more than 45 units in an urbanized area that is made affordable to lower-income households and will be made such for at least 15 years and is less than two acres in area.
- The adoption of city or county ordinances allowing second units in a single-family or multifamily residential zone.
- Regional housing needs determinations made by the Department of Housing and Community Development, a council of governments, or a city or county pursuant to Section65584 of the Government Code.

"Project" does not include:
According to Title 14, Chap 3, Article 20, Sec. 15378

1. Proposals for legislation to be enacted by the State Legislature
2. Continuing administrative or maintenance activities, such as purchases for supplies, personnel-related actions, general policy and procedure making (except as they are applied to specific instances covered above)
3. The submittal of approvals to a vote of the people of the state or of a particular community
4. The creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.
5. Organizational or administrative activities of governments which are political or which are not physical changes in the environment (such as the reorganization of a school district or detachment of park land)

Categorical Exemptions

New York State SEQR

Type II

- Maintenance or repair involving no substantial changes in an existing structure or facility.
- Replacement, rehabilitation, or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, unless the building exceeds environmental thresholds
- Construction, expansion, or granting of an area variance for a single-family home, a two-family or three-family residence on an approved lot.
- Construction, expansion or placement of minor accessory/appurtenant residential structures, including garages, carports, patios, decks, swimming pools...or other buildings not changing land use or density.
- Official acts of a ministerial nature involving no exercise of discretion, including building permits and historic preservation permits where issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building code or preservation code.
- License, lease and permit renewals, or transfers of ownership thereof, where there will be no material change in permit conditions or the scope of permitted activities
- Adoption of regulations, policies, procedures and local legislative decisions in connection with any action on the Type II list
- Adoption of a moratorium on land development or construction
- Interpreting an existing code, rule or regulation
- Designation of local landmarks or their inclusion within historic districts

California CEQR

Categorical Exemptions

- Operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures including restoration or rehabilitation of deteriorated or damaged structures, additions to existing structures provided the addition will not result in an increase of more than 50% of the floor area or 2,500 sf, division of existing multiple family or single residences into common interest ownership, or demolition and removal of "small structures" one to three single family structures, duplex or similar multifamily residences.
- Construction and location of limited numbers of new, small facilities or structures...conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure such as... one single family residence or a second dwelling in a residential zone or up to three single-family residences in an urbanized area, a duplex or multifamily structure totaling no more than 4 DUs or apartments, duplexes and similar structures totaling no more than 6 DU's
- Minor public and private alterations in the condition of land, water, or vegetation which do not involve the removal of healthy, mature, scenic trees.
- Minor alterations in land use limitations in areas with an average slope of less than 20% such as minor lot line adjustments and issuance of minor encroachment permits
- The division of property in urbanized zones for residential, commercial, or industrial use into four or fewer parcels.
- Acquisition of housing for housing assistance programs

Exemptions to Categorical Exemptions:

- Where a project may impact on an environmental resource of "hazardous or critical concern."
- Where there is a reasonable possibility that the activity will have a significant impact on the environment due to unusual circumstances.
- May damage scenic highways
- Projects located on a hazardous waste site
- If a project may cause "substantial adverse change in significance of a historical resource."

Standing To Sue

New York State SEQR

In order to challenge an administrative action, such as an environmental determination, the plaintiff must show that the action will have a harmful effect on the challenger and that the interest to be asserted is within the zone of interest to be protected by the statute. Harmful effect may often be inferred by proximity to the proposed action. In addition, a SEQRA challenger must demonstrate that it will suffer an injury that is environmental and not solely economic in nature. *However, where the proposed action is a zoning enactment, the owners of properties specifically affected by this change need not allege likelihood of environmental harm in making a SEQRA challenge.

In the Matter of Gernatt Asphalt Products, Inc. V. *Town of Sardinia et al.* 87 N.Y. 2d 668, 664 N.E. 2d 1226, 642 N.Y.S. 2d 164, 1996.

California CEQR

A party who is adversely affected in fact by governmental action has standing to challenge its legality. A claim that the plaintiff is a citizen and resident of the county affected by the action has been held sufficient to satisfy the liberal standing requirements for private individuals acting in the public interest to institute proceedings to enforce the provisions of CEQA. The strict rules of standing that might be appropriate in other contexts have no application where broad and long-term effects are involved.

However, Sections 21167 and 21177 of the California Public Resources Code (Division 13. Environmental Quality, Chapter 6 Limitations) requires plaintiffs, before they may bring a lawsuit under CEQA, to (a) exhaust all administrative remedies during very tight timeframes and (b) participate in the administrative review of environmental actions and raise objections during this review.

Kane v. *Redevelopment Agency of the City of Hidden Hills*, 179 Cal. App. 3d 899, 224 Cal. Rptr 922, 1986

* The State of Texas and the City of Dallas as well as the State of Illinois and City of Chicago do not have an environmental review process. However, certain aspects of CEQR and SEQR, such as traffic generation and surface water runoff, are addressed by separate agencies in their review processes.

Appendix F
Comparison of Zoning Regulations

Comparisons of Zoning Regulations - One and Two Family Zones

City	*Type*	*Description CZD = Contextual Zoning District (Under Type)*	*Max. Floor Area Ratio (+ Attic) Of lot size*	*Min. Open Space Ratio Of buildable feet*	*Max. Lot Coverage % of lot size*	*Min. Lot Size (Min. Lot width) In square feet*	*Min. Lot Sq. Ft. Per DU [Min. In smaller lot areas]*	*Max. DUs/ Acre*	*Min. Front Yard (% Lot depth) [Ft for each ft over 25) In feet*	*Min. Rear Yard In feet*	*Min. Side Yard [Min. Between buildings] (# Required) {Zero Lot Line Requirements} In feet*	*Max. Height In feet*	*Min. Parking Spaces/DU ^^*
New York City	R1-1	Detached	0.5	150%	N/A	9,500 (100)	Same	4	20	30^	15, 35 total, (2)	N/A	1
	R1-2	Detached	0.5	150%	N/A	5,700 (60)	Same	7	20	30^	8, 20 total, (2)	N/A	1
	R2	Detached	0.5	150%	N/A	3,800 (40)	Same	11	15	30^	5,13 total, (2)	N/A	1
	R2X CZD	Detached	0.85 (0.17)	N/A	N/A	2,850 (30)	2,850	15	15	30^	2, [8], 10 total, (2)	35	1
	R3-1	Detached	0.5 (0.1)	N/A	35	3,800 (40)	1,040	42	15	30^	5, 13 total (2)	35	1
	R3-1	Semi-Detached	0.5 (0.1)	N/A	35	1,700 (18)	1,040	42	15	30^	8 (1)	35	1
	R3A	1 & 2 Family Detached	0.5 (0.1)	N/A	N/A	2,375 (25)	1,185	37	10	30^	8, (2) {[8](1)}	35	1
	R4-1	1 & 2 Family Detached	0.75 (0.15)	N/A	N/A	2,375 (25)	970	45	10	30^	8 total (2) {8 (1)}	35	1
	R4-1	1 & 2 Family Semi-Detached	0.75 (0.15)	N/A	N/A	1,700 (18)	970	45	10	30^	4, [8], (1)	35	1
	R4A CZD	1 & 2 Family Detached	0.75 (0.15)	N/A	N/A	2,850 (30)	1,425	30	10	30^	2, [8], 10 total (2)	35	1
	R4B CZD	a) 1 & 3 Family Detached b) 1 & 2 Family Semi-Detached & Attached	0.9	N/A	55	a) 2,375 (25) b) 1,700 (25)	970	45	5	30^	a) 8, (2) {8 (1)} b) 4, [8] (1)	24	1*

***** Unless the lot is in an area without curb cuts, ! Whichever is less, + Different for lots of less than 50% wide for R1 and 40 ft wide for R2 which were on record at the time of ordinance adoption. ^ Requirement starts at 30ft in height. ^^ Parking requirements for all New York City housing developments can vary by the funding source for the project.

Comparisons of Zoning Regulations - One and Two Family Zones													
City	*Type*	*Description CZD = Contextual Zoning District (Under Type)*	*Max. Floor Area Ratio (+ Attic)* *Of lot size*	*Min. Open Space Ratio* *Of buildable feet*	*Max. Lot Coverage* *% of lot size*	*Min. Lot Size (Min. Lot width)* *In square feet*	*Min. Lot Sq. Ft. Per DU* *[Min. In smaller lot areas]*	*Max. DUs/ Acre*	*Min. Front Yard (% Lot depth) [Ft for each ft over 25)* *In feet*	*Min. Rear Yard* *In feet*	*Min. Side Yard [Min. Between buildings]* *{Zero Lot Line Requirements}* *In feet*	*Max. Height* *In feet*	*Min. Parking Spaces/DU*
Chicago	R1	Single Family Detached	0.5	N/A	N/A	N/A	6,250 [3,750]	N/A	20 or (16)! [1]	30 or 2/3 of height**	1 story: 5 (2) Over 1 story: 5,15 total (2) +	None***	1
	R2	Single Family Residence Districts	0.65	N/A	N/A	N/A	5,000 [3,750]	N/A	20 or (16)! [1]	30 or 2/3 of height**	1 story: 4 (2) Over 1 story: 4,12 total (2) +	None***	1
	R3	General Residence District	0.9	N/A	N/A	N/A	2,500 (2,200)!	N/A	20 or (16)! [1]	30 or 2/3 of height**	If building is less than 25ft high: 5 (2) If building is greater than 25ft high: 1/5 building height (2)	None***	1

! Whichever is less, + Different for lots of less than 50ft wide for R1 and 40ft wide for R2 which were on record at the time ofordinance adoption. ** Different for through lots, *** Within 7 of the Chicago's Special Residential Districts there are height limitations of 36-38 feet.

Comparisons of Zoning Regulations - One and Two Family Zones

City	*Type*	*Description*	*Max. Floor Area Ratio* *Of lot size*	*Min. Open Space Ratio* *Of buildable feet*	*Max. Lot Coverage* *% of lot size*	*Min. Lot Size* *In square feet*	*Min. Lot Sq. Ft. Per DU*	*Max. DUs/ Acre*	*Min. Front Yard* *In feet*	*Min. Rear Yard [For 1 family]* *In feet*	*Min. Side Yard [For 1 family]* *In feet*	*Max. Height* *In feet*	*Min. Parking Spaces/DU*
Dallas	R-1ac(A)	Single Family Zone	None	N/A	40	1 acre	Same	1***	40	10	10	36	See Below
	R-½ ac	Single Family Zone	None	N/A	40	½ acre	Same	1***	40	10	10	36	See Below
	R-16(A)	Single Family Zone	None	N/A	40	16,000	Same	1***	35	10	10	30	See Below
	R-13(A)	Single Family Zone	None	N/A	45	13,000	Same	1***	30	8	8	30	See Below
	R-10(A)	Single Family Zone	None	N/A	45	10,000	Same	1***	30	6	6	30	See Below
	R-7-5(A)	Single Family Zone	None	N/A	45	7,500	Same	1***	25	5	5	30	See Below
	R-5(A)	Single Family Zone	None	N/A	45	5,000	Same	1***	20	5	5	30	See Below
	D(A)	Duplex District	None	N/A	60*	6,000	Same	None	25	5 [5]	5 [5]	36	See Below
	TH-2(A)	Townhouse District	None	N/A	60**	1 Family: 2,000 Duplex: 6,000	Same	9	None	10 [None]	5 [None]!	36	See Below
	TH-3(A)	Townhouse District	None	N/A	60**	1 Family: 2,000 Duplex: 6,000	Same	12	None	10 [None]	5 [None]!	36	See Below
	CH	Clustered Housing	None	N/A	60*	2,000	Same	18	None !!	None `	None `	36^	See Below
	MH(A)	Manufactured Home District	None	N/A	20*	4,000 If on a transient stand: 2,000	Same	18	20	10 !!!	10 !!!	24	See Below

* Covered or underground parking not included in computing maximum lot coverage, ** With exceptions, ^Residential Proximity Slope Exceptions for those portions of structure over 26 feet, ***An extra unit is allowed for family members, but not for rental, !A minimum of 15 ft between each group of 8 single family structures must be provided by the plat., !! 15 ft if property is adjacent to an expressway or a thoroughfare, ` 10 when adjacent to a non-TH district, !!! A manufactured home may not be located closer than 20 feet to a public street right-of-way or private drive.

For Dallas Parking: Data unavailable at the time the chart was completed.

Comparison of Zoning Regulations - One and Two Family Zones

City	*Type*	*Description*	*Max. Floor Area Ratio* *Of lot size*	*Min. Open Space Ratio* *Of buildable feet*	*Max. Lot Coverage* *% of lot size*	*Min. Lot Size (Min. Lot width)* *In square feet*	*Min. Lot Sq. Ft. Per DU*	*Max. DUs/ Acre*	*Min. Front Yard (% Lot depth)* *In feet*	*Min. Rear Yard (% Lot depth)* *In feet*	*Min. Side Yard (% Lot width) [Feet for each story over 2nd]* *In feet*	*Max. Height* *In feet*	*Min. Parking Spaces/DU*
Los Angeles	RE40	Residental Estate (One Family)	N/A	N/A	N/A	40,000 (80)	Same	N/A	(20%) 25 max	(25%)	10, [1]	45^	2 covered
	RE20	Residential Estate (One Family)	N/A	N/A	N/A	20,000 (80)	Same	N/A	(20%) 25 max	(25%)	10, [1]	45^	2 covered
	RE15	Residential Estate (One Family)	N/A	N/A	N/A	15,000 (80)	Same	N/A	(20%) 25 max	(25%)	10, 5, (10%), [1]	45^	2 covered
	RE11	Residential Estate (One Family)	N/A	N/A	N/A	11,000 (70)	Same	N/A	(20%) 25 max	(25%)	50, 5, 3, (10%), [1]	45^	2 covered
	RE9	Residential Estate (One Family)	N/A	N/A	N/A	9,000 (65)	Same	N/A	(20%) 25 max	(25%)	50, 5, 3, (10%), [1]	45^	2 covered
	RS	Suburban	N/A	N/A	N/A	7,500 (60)	Same	N/A	(20%) 25 max	20	50, 5, 3, (10%), [1]	45^	2 covered
	R1	One Family Dwelling	N/A	N/A	N/A	5,000 (50)	Same	N/A	(20%) 25 max	15	50, 5, 3, (10%), [1]	45^	2 covered
	RU	One Family Dwelling	N/A	N/A	N/A	3,500 (35)	Same	N/A	10	10	3	30	2 covered
	RZ2.5	Residential Zero Side Yard	N/A	N/A	N/A	2,500 (30)*	Same	N/A	10	0 or 15	0, 3, [1]	45^	2 covered
	RZ3	Residential Zero Side Yard	N/A	N/A	N/A	3,000 (20)	Same	N/A	10	0 or 15	0, 3, [1]	45^	2 covered
	RZ4	Residential Zero Side Yard	N/A	N/A	N/A	4,000 (20)	Same	N/A	10	0 or 15	0, 3, [1]	45^	2 covered
	RW1	1 Family Residential Waterways	N/A	N/A	N/A	2,300 (28)	Same	N/A	10	15	3, (10%)	30	2 covered
	R2	2 Family Dwelling	N/A	N/A	N/A	5,000 (50)	2,000	N/A	(20%) 25 max	15	50, 5, 3, (10%), [1]	45^	2 covered
	RW2	2 Family Residential Waterways	N/A	N/A	N/A	2,300 (28)	1,150	N/A	10	15	50, 3, (10%), [1]	45^	1 covered, 2 total
	RMP	Mobilehome Park Zone	N/A	N/A	N/A	20,000 (80)	Same	N/A	(20%) 20 max	(25%)!	10	80^	2 covered

^Hillside Ordinances, “Big House” Ordinances, and Special Height Districts further limt the height of structures in certain areas, * 25ft without a driveway, !25 ft max.

Comparison of Zoning Regulations - Mid Rise Zones

City	*Type*	*Description CZD = Contextual Zoning District (Under Type) QHP=Quality Housing Program Mandatory (Under Type) QHP=Quality HousingProgram (Under Type)*	*Max. Floor Area Ratio (+ Attic)* *Of lot size*	*Min. Open Space Ratio* *Of buildable feet*	*Max. Lot Coverage [For corner lot]* *% of lot size*	*Min. Lot Size (Min. Lot width)* *In square feet*	*Min. Lot Sq. Ft. Per DU*	*Max. DUs/ Acre*	*Min. Front Yard [Front wall set-back]* *In feet*	*Min. Rear Yard* *In feet*	*Min. Side Yard [Min. Between buildings]* *[# Required] {% Building length}* *In feet*	*Max. Height (Max. Street wall)* *In feet*	*Parking Spaces/DU ^^* *(% If grouped)*
New York City	R3-2	General Residence District a) Semi-Detached, 1 & 2 Family b) Detached 1 & 2 Family	0.5 (0.1)	N/A	35	1,700 (18) 3,800 (40)	1,450 1.040 1,040	42 30 30	15	30^	8ea (2), or {10%} 5, 13 total, (2) 8, (1)	35	1
	R4	General Residence District a) Semi-Detached, 1 & 2 Family b) Detached 1 & 2 Family	0.75 (0.1)	N/A	45	1,700 (18) 3,800 (40)	970	45	18 or 10	30^	8ea (2), or {10%} 8, (1) 5, 13 total, (2)	35	1
	R4 Infill	All Houses Types a) Semi-Detached, 1 & 2 Family b) Detached 1 & 2 Family	1.35	N/A	55	1,700 (18) 3,800 (40)	666	65	18	30^	8ea (2), or {10%} 8,(1) 5, 13 total, (2)	35 (25)	1 (66)
	R5	General Residence District a) Semi-Detached, 1 & 2 Family b) Detached 1 & 2 Family	1.25	N/A	55	1,700(18) 3,800 (40)	605	72	18 or 10	30^	8ea (2), or {10%} 8, (1) 5, 13 total, (2)	40 (30)	1 (85)

^ Requirement starts at 30ft in height. ^^ Parking requirements for all New York City housing developments can vary by the funding source for the project.

Comparison of Zoning Regulations - Mid Rise Zones

City	*Type*	*Description CZD = Contextual Zoning District (Under Type) QHP=Quality Housing Program (Under Type) QHP = Quality Housing Program Optional (Under Type)*	*Max. Floor Area Ratio (+ Attic)* *Of lot size*	*Min. Open Space Ratio* *Of buildable feet*	*Max. Lot Coverage [For corner lot]* *% of lot size*	*Min. Lot Size (Min. Lot width)* *In square feet*	*Min. Lot Sq. Ft. Per DU*	*Max. DUs/ Acre*	*Min. Front Yard [Front wall set-back]* *In feet*	*Min. Rear Yard* *In feet*	*Min. Side Yard [Min. Between buildings]* *(# Required) {% Building length}* *In feet*	*Max. Height (Max. Street wall)* *In feet*	*Parking Spaces/DU ^^* *(% If grouped)*
New York City, continued	R5B CZD	General Residence District a) Semi-Detached, 1 & 2 Family b) Detached 1 & 2 Family	1.35	N/A	55	1,700 (18) 2,375 (25)	666	65	5	30^	None 4 [8] (8 for Zero Lot Line) 8 total (2)	33 (30)	1 (66)
	R5 Infill	All Housing Types a) Semi-Detached, 1 & 2 Family b) Detached 1 & 2 Family	1.65	N/A	55	1,700 (18) 3,800 (40)	545	80	18	30^	8ea (2), or {10%} 8, (1) 5, 13 total, (2)	33 (30)	1 (66)
	R6A CZD QHP	General Residence District For 1, 2 Family	3.0	N/A	65 [80]	1,700 (18) 3,800 (40)	227	192	[Wide street: 8 Narrow: 15]	30^	None If provided: 8, 16 total	N/A	1 (50)
	R6B CZD QHP	General Residence District For 1, 2 Family	2.0	N/A	60 [80]	1,700 (18) 3,800 (40)	338	129	5 [20]	30^	None If provided: 8, 16 total	N/A	1 (50)
	R7A CZD QHP	General Residence District For 1, 2 Family	4.0	N/A	65 [80]	1,700 (18) 3,800 (40)	169	258	[Wide street: 8 Narrow: 15]	30^	None If provided: 8, 16 total	N/A	50% of DU's
	R7B CZD QHP	General Residence District For 1, 2 Family	3.0	N/A	65 [80]	1,700 (18) 3,800 (40)	227	192	[Wide street: 8 Narrow: 15]	30^	None If provided: 8, 16 total	N/A	50% of DU's

^ Requirement starts at 30ft in height. ^^ Parking requirements for all New York City housing developments can vary by the funding source for the project.

Comparison of Zoning Regulations - Mid Rise Zones

City	*Type*	*Description*	*Max. Floor Area Ratio* *Of lot size*	*Min. Open Space Ratio* *Of buildable feet*	*Max. Lot Coverage* *% of lot size*	*Min. Lot Size (Min. Lot width)* *In square feet*	*Min. Lot Sq. Ft. Per DU*	*Max. DUs/ Acre*	*Min. Front Yard (% Lot depth)* *In feet*	*Min. Rear Yard* *In feet*	*Min. Side Yard (% of Lot width) (# Required)* *In feet*	*Max. Height* *In feet*	*Min. Parking Spaces/ DU*
Chicago	R4	General Residence District	1.2 (1.4**)	N/A	N/A	1,650	1000 (780**) For SRO, Lodging. Room 450 (390**)	N/A	15, (12%)	30	(10%) 20 max (2)	None***	1
	R5	General Residence District	2.2 (2.4**)	N/A	N/A	1,650	400 (350**) For SRO, Lodging. Room 200 (175**)	N/A	15 12%	30	(10%) 20 max (2)	None***	1
Dallas	MF-1(A) & MF-1(SAH)	Multifamily District & Multifamily District-Affordable	None	N/A	60	1 Family, Duplex: 3,000 No bedroom: 1,000 1 bed: 1,400 2 beds: 1,800 Each bedroom over 2: 200	None	MF-1(A): None MF-1(SAH): %SAH units: 0%: 15/acre 5: 16 10:17 15: 20 20: 30	15	10, 1 Family: None Duplex: 5^	10, Duplex: 5 1 Family: None	36*	See below
	MF-2(A) & MF-2(SAH)	Multifamily District & Multifamily District-Affordable	None	N/A	60	1 Family: 1,000 Duplex: 3,000 No bedroom: 800 1 bed: 1,000 2 beds: 1,200 Each bedroom over 2: 150	None	MF-2(A): None MF-2(SAH): %SAH units: 0%: 20/acre 5: 22 10: 24 15: 30 20: 40	15	10 1 Family: None Duplex: 10^	10, Duplex: 5, 1 Family: None	36*	See Below

!Different depending on certain neighborhoods, ***Within 7 of the Chicago's Special Residential Districts there are height limitations of 36-38 feet, ^This may be 10 depending on separate districts the lot backs on to. *Except for areas under Residential Proximity Slope. **When structure adjoins 5+ acres of public land. For Dallas Parking: Data unavailable at the time the chart was completed.

Comparison of Zoning Regulations - Mid Rise Zones													
City	*Type*	*Description*	*Max. Floor Area Ratio* *Of lot size*	*Min. Open Space Ratio* *Of buildable feet*	*Max. Lot Coverage* *% of lot size*	*Min. Lot Size (Min. Lot width)* *In square feet*	*Min. Lot Sq. Ft. Per DU*	*Max. DUs/ Acre*	*Min. Front Yard (% Lot depth)* *In feet*	*Min. Rear Yard* *In feet*	*Min. Side Yard (% Lot width) [Feet for each story over 2nd]* *In feet*	*Max. Height* *In feet*	*Min. Parking Spaces/DU*
Los Angeles	RD1.5	Restricted Density Multiple Dwelling	N/A	N/A	N/A	5,000 (50)	1,500	N/A	15	15	5, 3 (10% for lots less than 50ft), [1]	45	See Below
	RD2	Restricted Density Multiple Dwelling	N/A	N/A	N/A	5,000 (50)	2,000	N/A	15	15	5, 3 (10% for lots less than 50ft), [1]	45	See Below
	RD3	Restricted Density Multiple Dwelling	N/A	N/A	N/A	6,000 (50)	3,000	N/A	15	15	5, (10%), 10 max	45	See Below
	RD4	Restricted Density Multiple Dwelling	N/A	N/A	N/A	8,000 (60)	4,000	N/A	15	15	5, (10%), 10 max	45	See Below
	RD5	Restricted Density Multiple Dwelling	N/A	N/A	N/A	10,000 (70)	5,000	N/A	15	15	10	45	See Below
	RD6	Restricted Density Multiple Dwelling	N/A	N/A	N/A	12,000 (80)	6,000	N/A	15	15	10	45	See Below
	R3	Multiple Dwelling	N/A	N/A	N/A	5,000 (50)	800 to 1,200	N/A	15	15 [1 for each story over 3rd], 20 max	5, 3 (10% for lots less than 50ft), [1], 16 max	45	See Below
Parking For Los Angeles Low Rise: 1 space per DU of less than three habitable rooms, 1.5 spaces per DU of exactly three habitable rooms, and 2 spaces per DU of greater than 3 habitable rooms. Plus: 1 space per guest room for the first 30.													

Comparison of Zoning Regulations - High Rise Zones

City	*Type*	*Description* CZD = *Contextual Zoning District (Under Type)* QHP=*Quality Program Mandatory (Under Type)* *QHP=Quality Housing Program Optional (Under Type)*	*Max. Floor Area Ratio* *Of lot size*	*Min. Open Space Ratio* *Of buildable feet*	*Max. Lot Coverage [For corner lot]* *% of lot size*	*Min. Lot Size (Min. Lot width) [For 1, 2 Family Dwelling]* *In square feet*	*Min. Lot Sq. Ft. Per DU* *(Per room)*	*Max. Dus/ Acre* *(Per room)*	*Min. Front Yard* *In feet*	*Min. Rear Yard* *In feet*	*Min. Side Yard* *In feet*	*Max. Height* *(Stree wall height)* *In feet*	*Min. Parking Spaces/DU* ^^
New York City	R6 *QHP*	General Residence District	0.78 to 2.43	27.5 to 33.5	N/A	1,700 (18) [3,800 (40)]	(109 to 99)	(400 to 440)	None**	30^	None If provided: 8, 16 total	N/A	1 (70)
	R7-1 *QHP*	General Residence District	0.87 to 3.44	15.5 to 22.0	N/A	1,700 (18) [3,800 (40)]	(84 to 77)	(519 to 565)	None**	30^	None If provided: 8, 16 total	N/A	1 (60)
	R7-2 *QHP*	General Residence District	0.87 to 3.44	15.5 to 22.0	N/A	1,700 (18) [3,800 (40)]	(84 to 77)	(519 to 565)	None**	30^	None If provided: 8, 16 total	N/A	50% of DUs
	R7X CZDQHP	General Residence District	5.0	N/A	70 [80]	1,700 (18) [3,800 (40)]	135	323	None	30^	None If provided: 8, 16 total	N/A	50% of DUs
	R8 *QHP*	General Residence District	0.94 to 6.02	5.9 to 10.7	N/A	1,700 (18) [3,800 (40)]	(59 to 45)	(738 to 968)	None**	30^	None If provided: 8, 16 total	N/A	40% of DUs
	R8A CZDQHP	General Residence District	6.02	354	70 [80]	1,700 (18) [3,800 (40)]	135	322	None	30^	None If provided: 8, 16 total	(85)	40% of DUs
	R8B CZDQHP	General Residence District	4.0	N/A	70 [80]	1,700 (18) [3,800 (40)]	169	258	None	30^	None If provided: 8, 16 total	(60)	50% of DUs
	R8X CZD QHP	General Residence District	6.02	N/A	70 [80]	1,700 (18) [3,800 (40)]	123	354	Front: Wall Setback: Wide Street: 8 Narrow: 15	30^	None If provided: 8, 16 total	N/A	50% of DUs
	R9 *QHP*	General Residence District	0.99 to 7.52	1.0 to 6.2	N/A	1,700 (18) [3,800 (40)]	(45 to 41)	968 to 1,062)	None	30^	None If provided: 8, 16 total	N/A	40% of DUs
	R9A CZDQHP	General Residence District	7.52	N/A	70 [80]	1,700 (18) [3,800 (40)]	98	445	None	30^	None If provided: 8, 16 total	(102)	40% of DUs
	R9X CZDQHP	General Residence District	9.0	N/A	70 [80]	1,700 (18) [3,800 (40)]	88	495	None	30^	None If provided 8, 16 total	(120)	40% of DUs

*FAR of 12.0 with a plaza, arcade or lower income housing, ^Requirements start at 30ft in height. **5ft min for structures on narrow street developed under the Quality Housing Program. ^^Parking requirements for all New York City housing developments can vary by the funding source for the project.

Comparison of Zoning Regulations - High Rise Zones

City	*Type*	*Description*	*Max. Floor Area Ratio* *Of lot size*	*Min. Open Space Ratio* *Of buildable feet*	*Max. Lot Coverage* *% of lot size*	*Min. Lot Size (Min. Lot width)* *In square feet*	*Min. Lot Sq. Ft. Per DU*	*Max. DUs/ Acre*	*Min. Front Yard (% Lot depth)* *In feet*	*Min. Rear Yard [For each story of 3rd]* *In feet*	*Min. Side Yard (% Lot width) [Feet for each story over 2nd]* *In feet*	*Max. Height* *In feet*	*Min. Parking Spaces/DU^^*
New York City, continued	R10 *QHP*	General Residence District	10.0*	N/A	N/A	1,700 (18) [3,800 (40)]	(30 to 24.9)	1,452 to 1,749)	None	30^	None If provided: 8, 16 total	N/A	40% of DUs
	R10A CZDQHP	General Residence District	10.0*	N/A	70 [100]	1,700 (18) [3,800 (40)]	79	581	None	30^	None If provided: 8, 16 total	(150)	40% of DUs
Chicago	R6	General Residence District	4.4 (5.0!!)*	N/A	N/A	1,650	200 (175!!), 150 (115!!) for eff, 100 (90!!) for SROs	N/A	15 (12%)**	30!	Voluntary - 6, (10%), 20 max	None***	1
	R7	General Residence District	7.0 (8.0!!)*	N/A	N/A	1,650	145 (125!!), 95 (85!!) for eff, 100 (65!!) SROs	N/A	15 (12%)**	30!	Voluntary - 6, (10%), 20 max	None***	1
	R8	General Residence District	10.0 (11.5!!)*	N/A	N/A	1,650	115 100!!), 75 (65!!) for eff, 60 (50!!) SROs	N/A	15 (12%)**	30!	Voluntary - 6, (10%), 20 max	None***	1

New York City: *FAR of 12.0 with a plaza, arcade or lower income housing, ^Requirements start at 30ft in height, ^^Parking requirements for all New York City housing developments can vary by the funding source for the project.
Chicago: *For multiple Family Dwellings with 50 or more units FAR premiums may be added in the following manner: For each 1% decrease in the total allowable number of DUs a proportionate increase of 1% in permissable FAR should be allowed (not to exceed 15%). For each 2% decrease in the allowable number of DUs less than permitted a proportionate increase of 1% permissable FAR. (Not to exceed 10%). **Exempt if entirety of front lot line adjoins a public space of more than five acres. !Different for through lots of greater than 125ft, ***Within 7 of the Chicago's Special Residential Districts ther are Height limitations of 36-38 feet., !!When structure adjoins 5+ acres of public land.

Comparison of Zoning Regulations - High Rise Zones

City	*Type*	*Description*	*Max. Floor Area Ratio* *Of lot size*	*Min. Open Space Ratio* *Of buildable feet*	*Max. Lot Coverage* *% of lot size*	*Min. Lot Size (Min. Lot width)* *In square feet*	*Min. Lot Sq. Ft. Per DU*	*Max. DUs/ Acre*	*Min. Front Yard (% Lot depth)* *In feet*	*Min. Rear Yard [For each story over 3rd]* *In feet*	*Min. Side Yard (% Lot width) [Feet for each story over 2nd]* *In feet*	*Max. Height* *In feet*	*Min. Parking Spaces/DU*
Dallas	MF-3(A)	Multifamily District	2.0	N/A	60	6,000	No bedroom: 450 1: 500, 2: 550 Each br over 2: 50	90	15 +20 if over 45ft high	10 See Side Yards^	10 +1 ft for each 2ft over 45 feet high up to 30ft, for side and rear yards^	90^^	See Below
	MF-4(A)	Multifamily District	4.0	N/A	80	6,000	No bedroom: 225 1: 275, 2: 325 Each br over 2: 50	160	15 +20 if over 45 ft high	10 See Side Yards^	10 +1 ft for each 2ft over 45 feet high up to 30 ft, for side and rear yards^	240^^	See Below
Los Angeles	R4	Multiple Dwelling	N/A	N/A	N/A	5,000 (50)	400 to 800	N/A	15	15 [1] 20 m,ax	5, 3, (10% for lots less than 50ft) [1], 16 max	None	See Below
	R5	Multiple Dwelling	N/A	N/A	N/A	5,000 (50)	200 to 400	N/A	15	15 [1] 20 max	5, 3 (10% for lots less than 50ft) [1], 16 max	None	See Below

Parking for Los Angeles High Rise: 1 space per DU of less than three habitable rooms, 1.5 spaces per DU of exactly three habitable rooms, and 2 spaces per DU of greater than 3 habitable rooms. Plus: 1 space per guest room (first thirty). Parking for Dallas High Rise: Data unavailable at the time the chart was completed. *For multiple Family Dwellings with 50 or more units FAR premiums may be added in the following manner: For each 1% decrease in the total allowable number of DUs a proportionate increase of 1% in permissable FAR should be allowed (not to exceed 15%). For each 2% decrease in the allowable number of DUs less than permitted a proportionate increase of 1% permissable FAR. (Not to exceed 10%). **Exempt if entirety of front lot line adjoins a public space of more than five acres. !Different for through lots of greater than 125ft, ***Within 7 of the Chicago's Special Residential Districts there are Height limitations of 36-38 feet., ^20 ft where adjacent to R, R(A), D, D(A), TH, TH(A), CH, MF-1, MF-1(A), MF-1(SAH), MF-2, MF-2(A), MF-2(SAH), ^^Except for areas under a Residential Proximity Slope. !!When structure adjoins 5+ acres of public land.

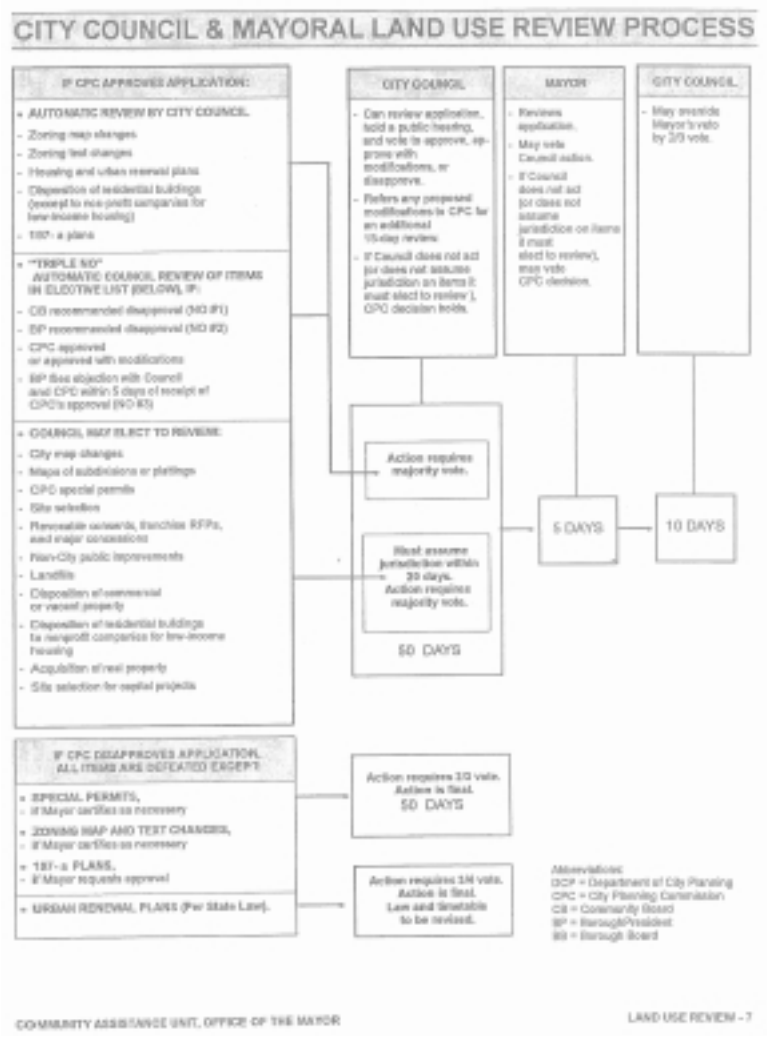
Sources: New York City Zoning Handbook, Generalized Summary of Zoning Regulations, City of Los Angeles, Title 17, Municipal code of Chicago, Section 1, Article 1-7, Dallas Development Code, Section 51A-4.111 to 51-4.117.

Zoning codes are by their nature complicated and riddled with exceptions and variations. The above tables are meant to identify broad differences and trends among cities and is not certified as to full accuracy. Readers should not, therefore, rely on any individual data entry in these tables.

Appendix G
Uniform Land Use Review Procedure

Reducing the Cost of New Housing Construction in New York City

Appendix G: Uniform Land Use Review Procedure



Appendix H
Assumptions for Calculation of Cost Savings from Recommendations

As outlined in the text of Chapter 14, a base case development project is defined and then three scenarios of changes in the development environment based on the recommendations contained in this Report are posited to estimate the cost savings attributable to these changes. The following are the assumptions for both the Base Case and three Scenarios.

BASE CASE: A developer proposes to build a 72,000 square feet new construction mid-rise building with (72) 1000 square foot apartments. The hard costs of construction are $140,000 per unit ($140 per square foot). One million dollars of equity is put into the project as acquisition costs, of which $700,000 is a loan at 8.5% interest and $300,000 is equity with a 12% required rate of return.

Hard costs:	$10,080,000 (assume 50% labor/50% materials)
Soft costs:	1,920,000
Acquisition:	1,000,000
Total Development Cost:	$13,000,000

SCENARIO 1 RECOMMENDATIONS

❖ **LABOR COSTS**

1. **Reduce extra staffing requirements of union labor (builders use the euphemism of the "volleyball team" for the featherbedding crew), for example, requirements for**

   a. a master mechanic once five pieces of equipment are working on the site at once

   b. an operating engineer to standby in case of breakdown for each piece of equipment

c. a Teamster coordinator to oversee delivery of materials to assure union products

d. an elevator operator after construction material hoist is removed and automatic elevator inside the building is functioning

e. an apprentice for each trade (electrical, plumbing, masonry) where laborer would suffice

Savings:	Extra Labor Positions:	$125,000
	Apprentices (v. Laborers):	90,000
	Total:	$215,000

2. **Reduce wage rates in the outer boroughs and Upper Manhattan where rents/sales prices cannot support same cost levels as in central Manhattan**

Consider paying concessionary wage rate for this type of work; non-union labor is typically paid 30% less in wages than union labor. If only half that spread were saved, would reduce wages by 15%.

Savings:	Total Labor Costs:	$5,040,000
	Less Savings from #1:	215,000
	Net labor	4,825,000
	15% savings	723,750
	Revised net labor	4,101,250

3. Eliminate work rules that make project more inefficient and costly, for example

a. holidays differ (e.g. President's Day and Washington's Birthday celebrated on different days by different trades)

b. starting and ending times for day of work differs (e.g. electrician turns off temporary construction power at 3:00 or 3:30 and builder must pay overtime for standby electrician)

Savings: Estimates that this adds another 5% to the cost of labor

Net labor costs from #2	$4,101,250
5% savings:	205,063
Revised net labor:	$3,896,188

4. Reduce higher fringe benefits and "load" associated with union labor, e.g.

A. Welfare Fund contribution

B. Retirement Fund

C. "Vacation Fund" for Business Agent

Savings: Total cost attributable to the load is 45-50% over the wage or $1,298,729; For non-union labor, builder is still required to pay standard tax contributions and health benefits totaling 28%, so union contributions add 17-22% over the wage rate.

Savings: If only half of this differential were reduced, would generate a 10% savings:

Net labor costs from #3	$3,896,188
10% savings:	129,873
Revised labor:	$3,766,315
	25% total labor savings

❖ **MATERIALS**

1. Improve the process to allow technological improvements and cost saving materials to be used in construction. Revise the Materials and Equipment Acceptance Process of the Department of Buildings (DOB) to incorporate less expensive materials that are nonetheless safe for construction.

Savings: By allowing greater use of plastic piping, eliminating sprinkler redundancy, increasing flexibility on venting systems,

and eliminating conservative requirements of DOB Code, 10% of total costs (4% alone in sprinklers) could be saved.

Total materials:	$5,040,000
10% savings:	504,000
Net materials cost	$4,536,000

10% total materials savings

❖ SOFT COSTS

1. Coalition "Corruption": Builder is required to enter into an agreement with "Community Activists" and "Minority Employment Coalitions" to protect against disruptions and stoppages on the job. This is a negotiated item which can range from $25,000 for a small project such as 72 units to $200,000 for a major project.

Savings: $25,000

2. DOB Process: Requires an expediter which is not used in other cities.

Savings: $30,000

3. CEQR/ULURP Review: Projects requiring discretionary approvals will require lawyers, consultants, architects and design renderers all of whom add additional cost:

Savings: $250,000

4. Litigation: If a project goes into litigation, there is no real way to estimate potential additional costs to the project of successfully defending public approvals; often, a builder just makes concessions and agrees to additional work, such as landscaping or the donation of land to public use, to avoid litigation.

Savings: Unknown

Total Soft Cost Savings:

Base Case Soft costs:	$1,920,000
Coalition savings:	25,000
Expediter savings:	30,000
CEQR/ULURP savings:	250,000
Net Soft Costs:	1,615,000

❖ **In addition to savings in hard and soft costs, changing the public approval processes would save time in pre-development, construction and rent up of the project and would further reduce costs**

1. If an administrative process of review and approval by the City Planning Commission Chair were used for minor planning changes, the process would require only 60 days instead of ULURP, saving:

   150 days on CEQR
   90 days on ULURP certification/ contingency for review
   270 days for ULURP
   510 days total

   Savings: 450 days (510 less 60 days for administrative process)

2. If the DOB permit application process were more efficient, it would take 60 days instead of an average 120 days now required because of the difficulty of getting an appointment with a plan examiner who is then limited to 20 minutes at a time. The DOB permit process includes all the required sign-offs of other agencies and Bureaus such as Fire Department, Bureau of Electrical Control, etc.

   Savings: 60 days

3. If construction were not hampered by union rules and other regulations which delay construction, ideal construction period would be 9 to 10 months for this type of building instead of 12 months.

   Savings: 75 days

4. If the process of obtaining Certificate of Occupancy sign-offs from DOB, DEP, Fire, Plumbing and BEC divisions of DOB were more efficient, it would take 30 days instead of an average of 60 days to complete this review if there are no issues.

   Savings: 30 days

The savings in time are translated into savings in costs attributable to reduced carrying costs of financing and equity return during three stages (pre-development, construction period and post-construction, but awaiting Certificate of Occupancy). Prior to construction, $1,000,000 is invested ($700,000 in a loan at 8.5% interest and $300,000 in equity with a 12% required rate of return). During construction, interest is accrued on 90% of the total development cost at the same 8.5% interest rate.

- **Pre-development total savings:** 510 days (Items 1 and 2, above) are saved on the carrying cost of $300,000 equity and the $700,000 loan: **$133,413** (plus the risk that pre-development approvals would not be obtained at all and builder has to lose acquisition costs, extra carrying costs and extra consultant costs).
- **Savings during construction**: 75 days are saved on the total development costs of $13 million at 8.5% interest for construction and acquisition loan of $11,700,000 (90%) which is disbursed over a one year period at an average of 50% outstanding at any time and equity of $1,300,000 (10%) at 12% expected return: **$136,093**

- **Savings once construction is complete:** 30 days for faster processing of Certificate of Occupancy once 100% of the construction loan is disbursed with a construction loan of $11,700,00 at 8.5% interest and equity of $1,300,000 at 12% return: **$95,875**

Total time savings: $365,381

Development Costs Including Savings in Scenario 1

Acquisition:	$1,000,000
Labor:	3,766,315
Materials:	4,536,000
Soft Costs:	1,615,000
Total Development Costs (TDC):	10,917,315
Less Time Savings:	365,381*
New TDC:	10,551,934
	total savings of **18.8%** from original TDC

*some double counting as construction loan/equity would be smaller if other cost savings were implemented

SCENARIO 2: ANTI-CORRUPTION SAVINGS

In the second scenario, a conservative estimate is made of the savings attributable from reducing corruption in the construction industry. The Mayor's Office estimates that adoption of its proposal to license and screen contractors would reduce the cost of construction by 35%. A memorandum prepared by the Mayor's Office cites two pieces of evidence to suggest that organized crime generates a 20% mark-up in construction costs. Because of the absence of any detailed projections of the cost savings available, for purposes of this analysis, we use a conservative 5% mark-up

Scenario 1 Total Development Cost:	$10,551,934
Licensing Proposal Cost Savings:	477,596
Revised Total Development Cost:	$10,074,338
	total savings of **22.5%** from original TDC)

SCENARIO 3: RENT REGULATION SAVINGS

In the third scenario, an estimate is made of the extra costs associated with relocating tenants with rent control protection in order to permit development of more new housing. Most developers who wish to demolish buildings such as these will pay off the tenants rather than go through the eviction process administered by the Division of Housing and Community Renewal. A low estimate of these required payments is $250,000 per rent-controlled tenant. If the state were to adopt the recommendation in the Report, it is estimated that each rent-controlled tenant in the building would instead receive the sum of $18,681. For an Upper East Side tenant this estimate is obtained by taking the present value over 6 years of the difference between the median rent in the sub-borough and the median rent-controlled rent.

Two payments to rent-controlled tenants:	$500,000
Two stipends under Report recommendation:	37,362
Savings:	$462,638

Scenario 2 Total Development Cost:	$10,074,338
Two Stipends:	37,362
Revised Total Development Cost:	10,111,700

When compared to the Base Case TDC (including the $500,000 payments) the cost savings would be **25.1%**.

Affordability Calculation

Finally, the cost savings attributable to implementation of the recommendations in this Report are translated into a computation of the increased affordability of housing. In other words, if cost savings were achieved, how much lower could rents be in each case?

BASE CASE

Base Case Assumptions: $180,555 TDC per unit; 10% equity @12% per year; 8.5% interest rate on permanent loan; operating

expenses of $450 per unit per month; property taxes of $620 per unit per month

Debt Service:	$1,308
Return on Equity:	190
Operating Expenses:	450
Property taxes:	620
TOTAL RENT REQUIRED:	$2,568

Assuming that 30% of income is used for rent, a minimum household income of $102,720 would be required.

SCENARIO 1

Assumptions are the same as the Base Case except that the Total Development Cost is reduced to $146,555 per unit and property taxes are reduced to $240 per unit (equal to three times the rate for single family homes, with an assessment based upon the income capitalization method)

Debt Service:	$1,062
Return on Equity:	154
Operating Expenses:	450
Property taxes:	240
TOTAL RENT REQUIRED:	$1,906

Assuming that 30% of income is used for rent, a minimum household income of $76,240 would be required.

SCENARIO 2

Assumptions are the same as in Scenario 1 except that an additional 5% savings is achieved by implementing the Contractor Licensing Proposal, resulting in a TDC of $139,921 per unit

Debt Service:	$1,014
Return on Equity:	147
Operating Expenses:	450
Property taxes:	240
TOTAL RENT REQUIRED:	$1,851

Assuming that 30% of income is used for rent, a minimum household income of $74,040 would be required.

SCENARIO 3

The assumptions for the Base Case TDC are increased to reflect the $500,000 payment to two rent-controlled tenants. Otherwise, Scenario 3 includes all of the same assumptions as Scenario 2 plus two stipends of $18,681 each.

Revised Base Case ($187,500 TDC per unit)

Debt Service:	$1,359
Return on Equity:	197
Operating Expenses:	450
Property taxes:	620
TOTAL RENT REQUIRED:	$2,626

Under the Revised Base Case, the apartments would be affordable to households with incomes over $105,040.

Scenario 3 (TDC per unit of $140,440)

Debt Service:	$1,018
Return on Equity:	148
Operating Expenses:	450
Property taxes:	240
TOTAL RENT REQUIRED:	$1,856

Under Scenario 3 the apartments would be affordable to households with households with a minimum income of $74,240.