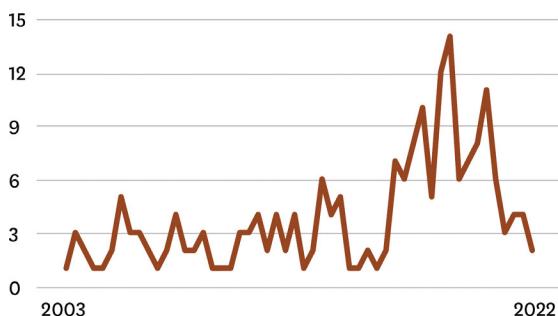


THE LANDSCAPE FOR COMMERCIAL PROPERTY CONVERSIONS IN NEW YORK CITY

Two years into the COVID-19 pandemic, the conversion of commercial space to long-term housing (especially, but not only, affordable housing) remains a topic of discussion amongst New York City policymakers. Perhaps most notably, Mayor Eric Adams made a proposal to convert 25,000 hotel rooms into affordable housing a centerpiece of his election-season housing platform. The appeal of such conversions is obvious. In the pandemic's first months, hotels and offices were almost entirely without their normal users. Now, even as the recovery proceeds, questions about the future of business tourism as well as growth in remote work options may reduce or shift demand for hotels and offices for years to come. Meanwhile, housing remains scarce and expensive (with rents and sales prices more than fully recovered from the start of the pandemic) and homelessness unacceptably high. Repurposing under-utilized commercial space as housing might appear as a rebalancing of land uses in response to shifting demand—as well as a way to build new housing with fewer neighborhood objections over bulk and height.

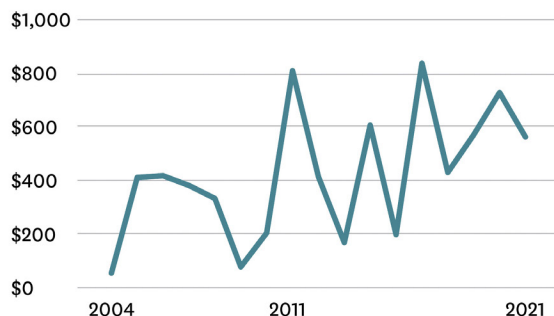
Figure 1

Count of total transactions by quarter, all hotels



Sources: NYC Department of Finance, NYU Furman Center

Average price per sq ft by year, all hotels



Sources: NYC Department of Finance, NYU Furman Center

While it is not clear how much market interest exists for such conversions—notably, the number of sales of hotels were low during all quarters of the initial COVID period and prices remained high (See Figure One)—there may be at least some important opportunities given the right legal environment. Notably, both hotels and offices—and distressed hotels and distressed offices—are overwhelmingly concentrated in Manhattan’s central business districts, indicating that any conversation about opportunities for commercial conversion is also a conversation about the future of specific places in Manhattan.

To better understand these opportunities and to supplement its prior research on the issue, the Furman Center held a workshop with leading architects, land use lawyers, housing providers, and policy experts.

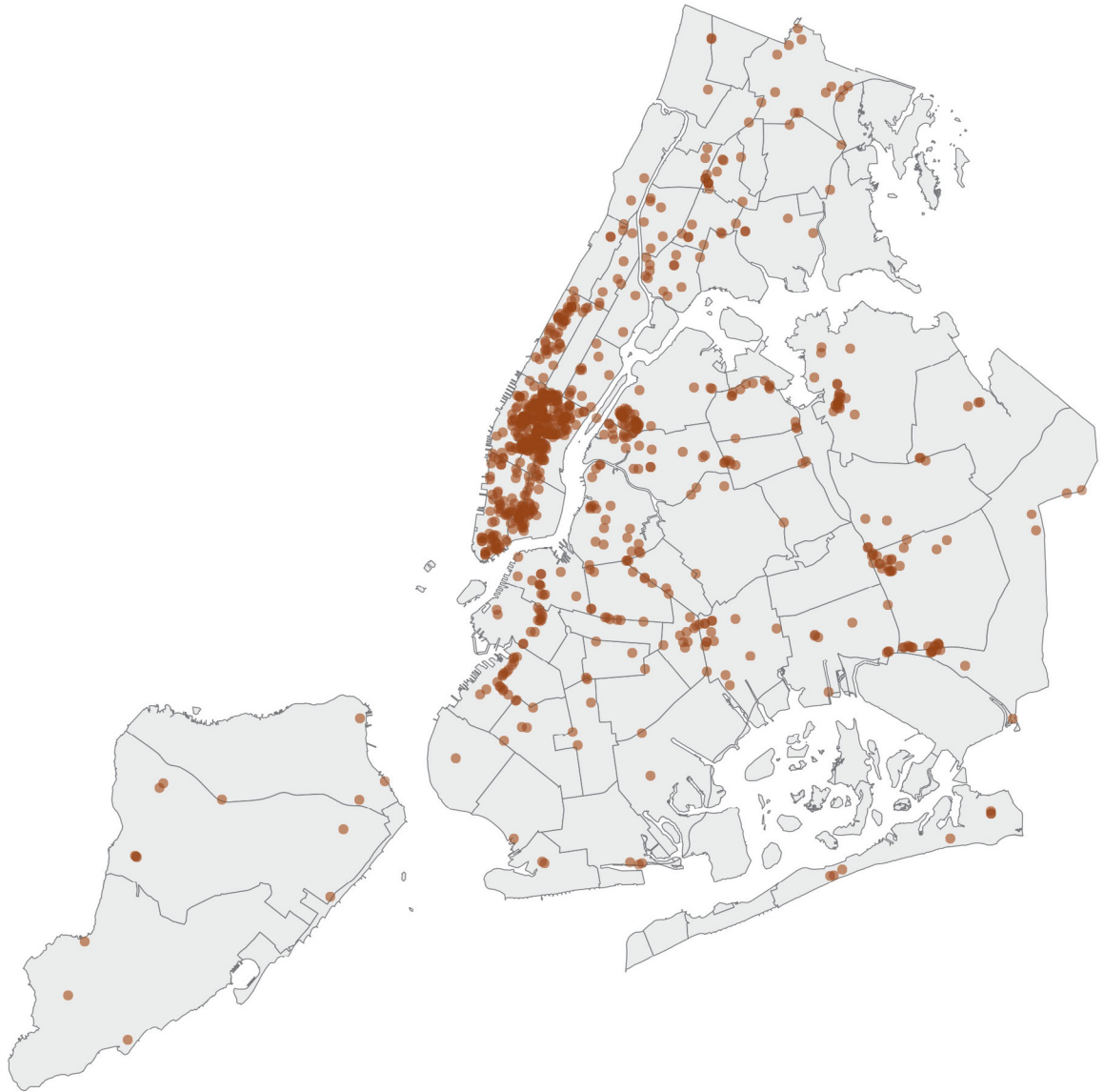
Participants in that workshop emphasized that currently, the easiest pathways for conversions of under-used or distressed hotels are to luxury housing or to homeless shelters. With regulatory changes, however, there may be ways to create additional options. This brief addresses some of the most important barriers to commercial-to-residential conversions, with a particular focus on hotels, and the options for policy interventions to promote additional conversions.

Barriers to Hotel Conversions

Regulatory Barriers

Hotels have been held up as the most promising targets for conversions to residential use. After all, they are already designed to comfortably provide shelter on a short-term basis. However, a host of land use regulations limit the potential for an immediate, one-to-one conversion of hotel rooms into apartments. In the zoning code, use regulations prevent the use of hotels in manufacturing districts (which make up 36% of newer hotels built outside Manhattan) for long-term housing. Bulk regulations treat commercial and residential uses differently, leaving many hotels overbuilt for a residential use; in particular, many would not have large enough rear yards to become housing. Other hotels might be forced to combine rooms into larger apartments to avoid exceeding density regulations that limit the number of individual apartments in a building. In individual cases, any number of rules, from those governing parking to those governing window placement, might limit the possibility for an immediate conversion requiring few substantial renovations.

Figure 2: Map of Hotels in New York City



Sources: NYC Department of Finance (2020, 2021), MapPLUTO (2021), NYU Furman Center

Figure 3: Breakout of Hotels by size/eligibility for Article I Chapter 5



Sources: NYC Department of Finance (2020,2021), MapPLUTO (2021), Hotels.com (2021), NYU Furman Center

Table 1: Potential Eligibility Under Article 1 Chapter 5, by Size

Room Count	Hotels Eligible	Hotels Ineligible	Total Units Eligible	Total Units Ineligible
0-50	51	166	1,545	5,615
51-125	61	327	5,053	26,467
126-200	–	–	7,842	19,700
200+	64	170	32,080	63,997
Total	176	663	46,520	115,779

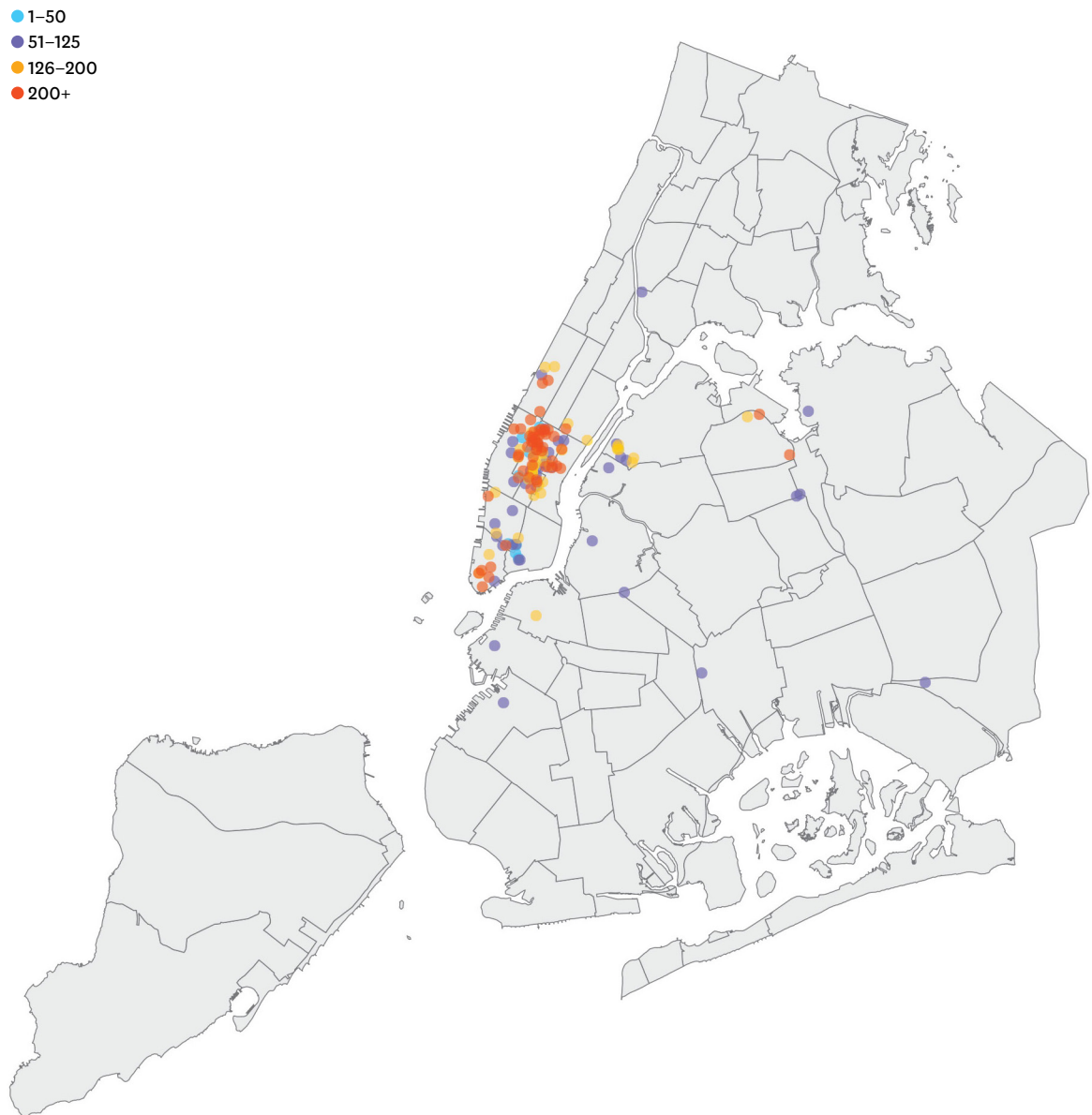
Sources: NYC Department of Finance (2020,2021), MapPLUTO (2021), Hotels.com (2021), NYU Furman Center

Another set of regulatory requirements come from the accessibility rules built into New York City's Building Code, which provide the strongest applicable standards meant to protect people with disabilities. A change of use would trigger these requirements in older structures built without modern accessibility features. In many cases, the necessary upgrades to bathrooms, doorways, and halls would necessitate building-wide renovations. These requirements pose among the most important obstacles to hotel-to-housing conversions.

Different types of property are situated very differently. Newer hotels will usually be built closer to contemporary codes—making renovations cheaper and easier—but are also more likely to be in a manufacturing district where residential use is not permitted.¹ And certain older hotels in the neighborhoods nearest the Manhattan CBDs are eligible for an easier conversion process through the zoning resolution's Article I, chapter 5 process (though this, in turn, is a more helpful tool for conversion to luxury residences than to affordable housing, both because of eligible buildings' location and because of the costs associated with the process's requirement to add kitchens to all units). Both the politics and the cost structure for conversions will be different in unionized hotels than non-unionized hotels.

1. Some participants also expressed concern that buildings constructed after 1991 are subject to federal accessibility requirements from the Fair Housing Act, which could not be waived by state or local action. However, there are strong legal arguments that the FHA does not cover conversions from non-residential use.

Figure 4: Location of closed hotels



Sources: NYC Department of Finance (2020, 2021), NYC Department of City Planning's PLUTO (2021), Hotels.com (2021), NYU Furman Center

Note: this includes all hotels with a temporary close date beginning between January 2020 and April 2021 according to Hotels.com, regardless of the duration of the closure.

Similarly, conversions *to* different types of housing pose different opportunities. Supportive housing is regulated differently than non-supportive housing, in ways that can facilitate conversions from hotels. Some older rent-stabilized hotels have even been able to convert directly to supportive housing, without changing their certificate of occupancy. At the same time, though, the Article I, chapter 5 process is not available for conversions to supportive housing. Different properties will find different pathways to conversion more appropriate.

Participants in our workshop agreed that property-by-property analysis will be required to understand the opportunities for conversion. While there are many factors that make for better conversion opportunities, all things being equal (a new hotel being easier to turn into apartments than an old one, for example), those factors will not predictably move together (new hotels are more likely to be in a manufacturing district and many have especially small rooms, two factors that make conversion more difficult).

In New York City, where hotel rooms are substantially smaller than national averages, there may be very few hotels that could be quickly turned into housing without either extensive renovations or regulatory relief. Notably, New York City has very

few easier-to-convert hotel types, like kitchen-equipped extended stay hotels and low-rise motels, and the hotels that closed during 2020 were highly concentrated in costly Midtown Manhattan.

Financial and Political Barriers

Additional financial and political obstacles limit the scope of potential conversions. Hotel properties' value declined 19.6 percent from pre-pandemic, according to estimates included in the city's budget, but this is less of a devaluation than many expected. The city's use of hotels as homeless shelters has supported the hotel industry through COVID; continued use as shelters may be more profitable for some buildings than conversion to long-term housing, given the city's contracting practices. The city's new special permit requirement to build hotels also bolsters the existing stock's value over the long-term. Finally, there is limited political interest in converting the large Midtown hotels, which make up a substantial share of the city's total stock of hotel rooms and an even larger share of the hotels that closed during 2020. These hotels are considered especially economically important, both because they offer better, unionized jobs and because their location arguably makes them especially foundational for the city's tourist and business travel economies.

Table 2: New York City Hotels, Class Type

	Brooklyn		Bronx		Manhattan		Queens		Staten Island	
	Rooms	Hotels	Rooms	Hotels	Rooms	Hotels	Rooms	Hotels	Rooms	Hotels
Luxury Hotel	3	722	–	–	73	25,997	–	–	–	–
Full Service Hotel	13	1,981	2	175	113	30,603	26	4,288	1	198
Limited Service; Many Affiliated w/ National Chain	74	5,167	22	1,367	164	20,600	82	9,493	5	545
Motel	28	1,406	27	1,213	3	96	56	3,338	5	171
Extended Stay	1	113	–	–	28	3,302	2	232	–	–
Miscellaneous Hotel	34	3,482	20	1,112	204	43,789	35	3,031	3	48
Total	153	12,871	71	3,867	585	124,387	201	20,382	14	962

Sources: NYC Department of Finance (2020,2021), MapPLUTO (2021), Hotels.com (2021), NYU Furman Center

Barriers to Office Conversions

Offices, in contrast, face a different set of challenges. Offices are not designed for residential use. Any conversion of office space to housing will require a near total renovation of the buildings' interiors. For example, apartments will require their own plumbing, unlike offices. Thus, many of the finer points of land use regulation are less salient to office-to-residential conversions; the individual apartments will be built as-new regardless, and therefore can be built to code.

Table 3: Breakdown of total office space over seven stories, by borough

Borough	Properties	Office Sq Footage
Brooklyn	77	14,064,145
Bronx	14	1,144,535
Manhattan	1,366	324,110,267
Queens	38	7,531,631
Staten Island	5	853,916
Total	1,500	347,704,494

Instead, a few basic rules impose the most important limits on office-to-residential conversions—and some of these rules are unlikely to change. Chief among them is the requirement that bedrooms have windows. But offices are often built with deeper floorplates than is housing—and this has become only truer since midcentury. Geometrically, there may be no way to use the large internal spaces in newer offices for a residential purpose—and certainly no way to do so while building smaller and more affordable apartments. As such, office conversions are likely to be concentrated among older, shallower buildings. And even so, overcoming these geometrical challenges may require costly structural changes, like carving an internal courtyard out of the center of a building and relocating floor area to new upper levels. Only in certain market conditions will this be advantageous.

Pathways for Regulatory Reform

Paired with the questions of whether to encourage conversions and which regulatory barriers to change, substantively, is an important question about how to encourage commercial conversions. Participants in our workshop and public officials have examined a number of different approaches.

Many participants argued that there was no feasible way to comprehensively and individually revise each of the many obstacles to a hotel-to-residential conversion. Reaching political consensus on the proper new standards, coordinating across state and local codes, and successfully identifying every potential barrier could each prove challenging—and all the more so in combination—and are likely to prove too time-consuming. These participants argued instead for state legislation allowing certain hotels to operate as affordable housing under their current certificate of occupancy. This would avoid almost all regulatory issues: effectively, it would deem the current building to be legal housing and allow covered buildings to convert to residential use immediately. Given hotel layouts in New York City, this would result in the creation of SRO/supportive housing-type residences.

An alternative approach would loosen specific regulations that pose particular barriers to hotel-to-housing conversions and create an alternative scheme, through state statute and perhaps also a zoning text amendment. For example, such a law might create a path for conversions to provide residences in certain manufacturing zones or at higher-than-permitted densities, but might also impose new quality standards if that housing is provided as SRO rooming units (e.g. requiring one bathroom for every two units rather than every six). This type of approach would allow a more negotiated set of standards be created, rather than

accepting the design of current hotels. It should be noted that even for regulations currently contained in local law, state legislation can move much faster than local action, allowing a path around both ULURP and environmental review.

An “off-the-shelf” version of this strategy would entail expanding Article I, chapter 5 and its accompanying state legislation. Currently, those provisions allow easier conversions to residential use in non-manufacturing zones of certain community districts (Manhattan CDs 1-6; Brooklyn CDs 1, 2, 6, and 8; and Queens CDs 1 and 2), of older buildings (either built in or before 1961, or in or before 1977 in Lower Manhattan), to certain uses (residential, but not “rooming units” without a kitchen or bathroom). Legislators could expand this program,

which has an established track record, to more neighborhoods, to manufacturing zones or to newer buildings. Article I, chapter 5 might also be expanded to provide additional types of regulatory relief for covered buildings. For example, to allow it to be used to build smaller units, it might provide waivers from density regulations in addition to bulk and use requirements; it might also be permitted to be used to create rooming units without individual kitchens, unlike under current law. (The figure below examines the additional office space eligible and ineligible for conversion if the Article I, Chapter 5 were expanded to include properties built before 1980 and located below 60th Street, two of the criteria proposed during the 2022 State legislative session).

Table 4: Expanding Article I Chapter 5

		Commercial offices by eligibility cutoffs					
		Brooklyn	Bronx	Manhattan	Queens	Staten Island	Total
Eligible under Article 1 Chapter 5 (cd, yearbuilt, zoning)	Properties	195	–	1,315	90	–	1,600
	Building Area	6,652,266	–	156,326,552	686,394	–	163,665,212
Additional eligible under proposed geography + year	Properties	–	–	739	–	–	739
	Building Area	–	–	143,636,010	–	–	143,636,010
Not eligible, built after 1980 and is not below 60th st	Properties	232	83	29	277	131	752
	Building Area	12,182,309	2,621,675	2,361,277	10,621,476	2,750,444	30,537,181
Not eligible, built before 1980 but outside of MN	Properties	948	332	–	956	287	2,523
	Building Area	17,777,614	6,321,227	–	17,625,279	2,370,645	44,094,765
Not eligible, below 60th but built after 1980	Properties	–	–	154	–	–	154
	Building Area	–	–	114,504,566	–	–	114,504,566
Not eligible, built before 1980 in MN but above 60th	Properties	–	–	283	–	–	283
	Building Area	–	–	9,713,869	–	–	9,713,869

Sources: NYC Department of City Planning’s MapPLUTO, NYU Furman Center

A final regulatory strategy would be to pursue targeted neighborhood rezonings which incorporate a focus on commercial conversions. For some properties, values have fully rebounded since the start of the pandemic. However, Furman Center analysis of tax assessment data indicates that the very hardest-hit office properties are concentrated in a corridor along the middle of Manhattan,

between the hearts of the city's two CBDs (these also tend to be older buildings). If the opportunities or need for conversion are concentrated geographically, it may be preferable to develop a holistic strategy for those neighborhoods. This is likely to be a slow approach, however, better suited to long-term shifts in demand than to taking advantage of current market conditions.

Figure 5: Office space financial distress (Offices that experienced largest devaluations according to the change in DOF market values)



Sources: NYC Department of Finance, NYU Furman Center

In addition to regulatory strategies, policymakers might also consider the merits of financial incentives for conversion. This may be particularly salient for office-to-residential conversions, given the potentially high cost of reconfiguring those spaces. New York has pursued this strategy before, offering substantial incentives for residential conversions in Lower Manhattan through the state 421g property tax incentive and later the federal Liberty Bond program. This program successfully shepherded a transition from a fully-commercial neighborhood with extremely high vacancy rates to a healthy and mixed-use area, but there is continuing debate over whether the subsidies were cost-effective or even necessary to spark the market's transition.

Incentives alone, though, may not be enough to encourage conversions, especially when those incentives are tied to strict eligibility criteria. In June of 2021, New York State enacted legislation (the “Housing Our Neighbors with Dignity Act,” or “HONDA”) that set aside \$100 million for conversions of commercial properties to affordable housing. The HONDA funds were limited to 100% permanently affordable projects, with half of units required to be set aside for homeless households. Projects were also required to provide kitchens and bathrooms in all units and offer additional tenant protections compared to ordinary affordable housing. HONDA did not provide regulatory relief for conversions. The state has received only two preliminary proposals and no official applications for HONDA funds as of April 2022—an indicator that the terms may have been poorly calibrated to meaningfully support conversions.

Conclusion

For policymakers seeking to encourage conversions of commercial space to residential use, there are many paths forward. But choosing which requires answering difficult questions about how to weigh those conversions against other policy considerations. Is allowing immediate conversions worth sacrificing the protections of current regulations (and which regulations)? Are the benefits of state intervention worth the incursion into local control? What is the current value of preserving manufacturing zones—especially where hotels are already functioning as quasi-residential spaces in those zones? Are large Manhattan hotels—including unionized hotels—under consideration for conversions, or are they considered too central to the CBD economy? As the recovery proceeds, it is becoming likely that hotel conversions will not be a transformational source of affordable housing, but they can still be an important tool at the project or even neighborhood level. This brief is intended to help guide policymakers through their options for how to make use of that tool.

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