



Brooklyn Legal Services Corporation A

building communities, ensuring opportunity, achieving justice

MAYOR DE BLASIO'S HOUSING PLAN: THE MOST IMPORTANT HOUSING PLAN IN NYC HISTORY?

On May 5th Mayor de Blasio released what is potentially the most significant housing plan in the modern history of New York City; Housing New York A Five-Borough, Ten-Year Plan (Housing Plan). But is this housing plan the right direction for the city's housing policy?

Brooklyn Legal Services Corporation A (Brooklyn A) has been at the forefront of developing effective and sustainable methods to preserve and build affordable housing for over 45 years through the comprehensive legal services we provide to low and middle-income tenants, homeowners and the community-based organizations (CBOs) and community development corporations (CDCs) that serve them. Because of our direct experience in housing advocacy and our critical interest in making communities ones full of opportunity and equality, it is important to us that we weigh in on the merits of Mayor de Blasio's housing plan and clearly communicate our position to our friends, supporters, and members of the communities we serve throughout the city.

Before we comment on the specific aspects of the plan, it is important to understand why the housing plan is necessary at all.

I. The Need to Preserve

The housing plan provides clear empirical evidence of something that Brooklyn A knows all too well; there is an alarming housing crisis happening in the city. The costs of rent and utilities have been rising at an exponential rate while the average renter's wages have remained stagnant for the last 20 years; between 2005 and 2012 rents rose by 11% while renter's incomes stagnated, after adjusting for inflation.¹ There has also been a mismatch between the demand for and supply of housing. There are nearly one million households who earn less than 50 percent of Area Median Income (AMI) but there are only 425,000 housing units available with rents that are affordable for that income level.²

Approximately half of all rental units in New York City are rent stabilized; however as the market value of housing in the city has risen so dramatically that a significant amount of the affordable housing has disappeared. Since 1994 almost 250,000 units of rental housing have lost protections of rent regulation. During this time the city suffered a net loss of 160,000 rent stabilized units, a loss that amounts to 17% of the total housing stock.³

¹ Housing New York A Five-Borough, Ten-Year Plan, page 16, at http://www.nyc.gov/html/housing/assets/downloads/pdf/housing_plan.pdf

² Ibid, page 18

³ Ibid, page 22

Under the Bloomberg administration, developers and landlords that took advantage of subsidy incentives for providing affordable housing could opt out after certain conditions were met. In a study of the four largest subsidized affordable programs, 68,000 units opted out of affordable housing with most going to market rate.⁴ The majority of units that leave rent-stabilized protection were lost through high rent vacancy decontrol which takes place when a rent-stabilized apartment is vacated and the legal rent is raised to \$2,500. Part of the reason why the housing problem has become so severe is because, in prior years, private developers have not taken advantage of affordable housing incentives as they have developed across the city. While it is a citywide problem, we can point, how Brooklyn A has seen the problem to be particularly acute in Williamsburg/Greenpoint -- where, after the 2005 waterfront re-zoning many developers have not taken advantage of the 80/20 incentivized housing despite rapid gentrification in these communities.

Based upon our experience, representing the low-income tenants we serve, we have observed that rent decontrol is often brought about by predatory actions from landlords to push protected tenants out of their apartments in order to reach decontrol status. In 2013, over 30,000 New York City families were displaced from their homes.⁵ Without access to free legal services, many of these families had to represent themselves in Housing Court and were unable to fight the predatory and often illegal actions that made them lose their homes. The most recent reports from the Task Force to Expand Access to Civil Legal Services commissioned by the Chief Judge of the State of New York stated that 99% of tenants are unrepresented in eviction cases in New York City.⁶ The need for legal services is very real, and without increasing the very limited resources available for such services the fight for preserving affordable housing will almost certainly not be successful.

Brooklyn A’s attorneys are constantly witnessing how this perfect storm of rising housing values and limited supply of affordable housing can impact low-income communities. In many neighborhoods landlords are more incentivized than ever to try and push out rent protected tenants by any means necessary, so that they can void the rent protections and bring in new tenants willing to pay the inflated market price. We are currently representing tenants from a building whose main waterline, boiler and gas meters were destroyed in the middle of the night, only a short time after the tenants refused offers by their landlords to get bought out of their apartments.⁷ In another recent case the landlord shut off all heat, hot water, and sewage in the building to provoke a vacate order to force the rent-stabilized tenants out. The tenants had to live in emergency Red Cross shelters for a period of time because they lost their home; including one who had lived at the building for thirty years. Unfortunately, these are just a couple of examples of increasingly common practices by landlords to violate and then deregulate those apartments.

⁴ Housing New York A Five-Borough, Ten-Year Plan, page. 23, at http://www.nyc.gov/html/housing/assets/downloads/pdf/housing_plan.pdf

⁵ Ibid, page 53

⁶ The Task Force to Expand Access to Civil Legal Services in New York, Report to the Chief Judge of the State of New York 20 (November 2010 - 2013), at <http://www.nycourts.gov/ip/access-civil-legal-services/>

⁷ Greenpoint landlords destroying their own building? Brooklyn A’s Adam Meyers represents clients who face sabotaged eviction, at <http://www.bka.org/2014/02/greenpoint-landlords-destroying-their-own-building-brooklyn-as-adam-meyers-represents-clients-who-face-sabotaged-eviction/>

The need to preserve affordable housing is as high as ever, and consequently so is the need for affordable legal services that can counter the awful repercussions that have become standard products of the housing crisis.

How then does the Mayor plan on dealing with these challenges of the housing crisis?

II. A Focus on Preservation

There has been a lot of attention given to the overall number of affordable housing that the plan will add over the next 10 years: 200,000 units with an estimated cost of \$41.4 billion.⁸ This is a substantial effort we join in celebrating with fellow affordable housing advocates; however we want to also commend the Mayor and his staff for specifically presenting a housing policy that has preservation at the strategic center of keeping housing affordable in New York City. Out of the 200,000 units the Mayor plans to add, **120,000** of the units will come from the preservation of affordable housing. Building more affordable housing is essential to stymie the growing inequality in this city, but creating new affordable housing means little if it is not permanent or if we continue to lose existing affordable housing at this current pace.

“Preservation is often a more cost-effective way of securing affordability and protecting tenants from the risks associated with poor maintenance and disinvestment” (Housing Plan, page 45).

Here are some of the key features of the housing plan, which based on experience, Brooklyn A finds to be effective ways to increase and sustain the preservation of affordable housing:

1. Targeted Neighborhood-Based Approach to Preservation:

Affordable housing is a community-wide problem that requires a communal response. Throughout the housing plan, working with community partners in each neighborhood in order to find the most effective means of preserving affordable housing is identified as the core strategic approach to preservation.

This is a belief shared by Brooklyn A. A neighborhood-based approach is core to our work and mission. Brooklyn A leverages its resources to work within the community so that we can provide legal services that will have the most beneficial and sustainable impact on communities struggling with the current housing crisis. Our neighborhood-based approach is about community organizing and community empowerment response to a neighborhood problem. We believe collective action is the most powerful and effective way to change landlord mentality and practices, and to create lasting change for the community. Our approach is two-pronged – organizing and legal representation – this is the most effective way to protect the interests of low-income tenants and the community. Our attorneys work with 10 full-time tenant organizers at four of our community partner organizations: Southside United Development Corporation (Los Sures), St. Nicholas Neighborhood Preservation Corporation, People’s Firehouse, and Cypress Hills Local Development Corporation. By combining our legal expertise with the

⁸ Housing New York A Five-Borough, Ten-Year Plan page. 23, at http://www.nyc.gov/html/housing/assets/downloads/pdf/housing_plan.pdf

organizing power of these organizations, we develop successful legal strategies that are tailored to the needs of the neighborhood.

Additionally, Brooklyn A has partnered with a unique coalition of community organizations to mount a concerted drive to protect the dwindling supply of affordable housing and prevent the large-scale displacement of vulnerable tenants, Mobilization Against Displacement (MAD); also known as The Williamsburg/Greenpoint Tenant Anti-Displacement Collaborative. MAD was formed in 1999 to ensure that the impending Williamsburg/Greenpoint waterfront re-zoning would include community benefits, such as a decent proportion of affordable housing units, accessible parks and recreational facilities. MAD continues to organize to protect the dwindling supply of affordable housing and prevent the large-scale displacement of vulnerable tenants. In 2013, our Preserving Affordable Housing Program worked with 47 tenant associations, community groups and coalitions to organize and mobilize efforts to preserve affordable housing. We are encouraged that Mayor de Blasio recognizes the importance of a neighborhood-based approach similar to what Brooklyn A has done throughout our history.

2. Strengthen Tenant Protections:

Over 30,000 families lost their homes in New York City last year due to eviction proceedings in Housing Court. The new housing plan recognizes that legal services are a “critical preservation tool”⁹ and will find new external funding to support eviction prevention programs and increase the education and awareness of tenants concerning their rights and how to preserve their rent-stabilized housing. At Brooklyn A, we realize how significant it is to have effective legal representation in Housing Court. The Homelessness Prevention Pilot Final Report from the New York City Department of Human Services found that when full representation of a client takes place only 22% of tenants received judgments against them, while 51% of tenants without legal representation received unfavorable judgments.¹⁰ The demand for legal services is far surpassing the supply available, and increasing programs that follow community-based model similar to Brooklyn A’s Preserving Affordable Housing Program can go a long way in preserving affordable housing throughout the city.

Our 45 years of experience, it's about access to lawyers but also access to justice. It is important that the inequitable issues of access to the courtroom for low-income tenants be addressed -- specifically, the delays and backlogs in Housing Court even when the problems are fundamental or dire; the need for more parts dedicated to tenant-affirmative proceedings (HP actions and 7As). Our housing representation work helps families keep their homes through traditional litigation and also unite and sustain tenant organizations such a low-income housing development fund corporation housing cooperatives (HDFC Co-Ops) and tenant associations. Just last year alone, we were able to prevent 85 different individual clients from eviction and maintained the affordability of 829 units of housing by providing legal services to 5,408 residents in 22 HDFC Co-Ops.

⁹ Ibid, page 53

¹⁰The Homelessness Prevention Pilot Final Report from the New York City Department of Human Services, June 2010, at http://www.nyc.gov/html/dhs/downloads/pdf/final_HHP_Seedco_rpt.pdf

3. Review of the Housing Maintenance Code (HMC):

The HMC is responsible for setting the minimum standards of safety and health in residential buildings. Revamping the HMC to adopt better practices of the industry than currently required could lead to better protection of tenants against the horrible living conditions that are placed upon them by their landlords. In Brooklyn A's experience, it's important that, as part of strengthening the HMC, violations and the accompanying fines are enforced against delinquent landlords, particularly the repeat offenders. There must be a focus on enforcement as well as stiffer penalties on paper.

We represent tenants who have had to live without heat, running water and other hazardous environments. Our attorneys litigate and advocate aggressively to restore these essential living conditions back to a legal level. Additionally, the plan encourages a new outreach program for how tenants can report violations of the HMC and how developers who previously have a record of HMC violations will be barred from conducting any future business with the city.

4. Increase funding for Article 7A programs:

The housing plan calls for the leverage of private capital to rehabilitate distressed properties under Article 7A of the Real Property Actions and Proceedings Law. Article 7A enables landlords to be removed from buildings that they have neglected and let fall into disrepair, and they are then replaced with an approved manager, generally the head of a local community-based housing organization to act as a court-appointed administrator. Brooklyn A does a large amount of work in representing groups of tenants, and one of our most effective methods in protecting tenants from a predatory landlord is invoking Article 7A. The statute also allows for financial assistance to these newly appointed administrators and the housing plan calls for increased funding through private capital.

Besides helping buildings bring 7A court actions and getting administrators appointed, we provide ongoing legal services to 7A buildings to ensure they are properly sustained and managed. This past year Brooklyn A held a rally for tenants of 172 North 8th Street, who were forced out of their building after their landlord shut off all heat, hot water, and sewage in the building to provoke a vacate order to force the rent-stabilized tenants. Brooklyn A brought a 7A case against the landlord and we were able to have the landlord removed and then appointed one of our partner CBOs as the administrator. 7A cases are a great method for preserving affordable housing in the city and increased support of these administrators is a fantastic idea in bolstering a proven tool for combating predatory practices that often lead to the loss of affordable housing.

5. Preserve Government-Assisted Affordable Housing:

Under the housing plan, New York City Housing Authority (NYCHA) units, Mitchell-Lama developments, and other projects will have their affordability extended through greater collaboration with local, State, and Federal agencies and organizations. Brooklyn A is already active in building the capacity of NYCHA by providing transactional legal services and on-going assistance to NYCHA tenant associations. Our Community and Economic Development (CED) Program is currently providing services to 7 NYCHA tenant associations. These tenant associations advocate and organize in the community

for systemic changes and their ability to assist residents with improving their quality of life. Additionally, Brooklyn A has been active on the Housing and Urban Development Committee of the New York City Bar Association and, specifically, on a subcommittee focused on NYCHA and its plan under the Bloomberg administration with regard to in-fill development activity at several of its public housing projects. We look forward to helping, along with other organizations, in crafting new strategies to make NYCHA more sustainable.

III. The Development of New Affordable Housing

While 60% of the 200,000 units of affordable housing that will be added in the next 10 years will come through preservation, the remaining 40% will come from a massive push to develop new truly affordable units.

1. Mandatory Inclusionary Housing Program:

The large amount of new units will be largely made possible through a proposed Mandatory Inclusionary Housing Program, the first of its kind for New York City. The city will require a portion of all new housing developments in certain medium and high density districts to be affordable.

We are thrilled that the Mayor plans on moving forward with this seminal move for New York City housing policy as Brooklyn A has been a staunch advocate of mandatory inclusionary housing as evidenced by our work with community coalitions.

Brooklyn A is serving as house counsel to a community coalition that has been negotiating and advocating with the developers of a \$1.5 billion dollar development project at the Domino Sugar refinery on the Williamsburg waterfront. The community coalition engaged in serious and hard fought negotiations with the developers and the area’s elected officials to increase the amount mandatory affordable apartments to be built; as a result, some 700 permanently and truly affordable apartments will be generated.

Furthermore, Brooklyn A serves as chief legal counsel and a convening member of the Broadway Triangle Community Coalition; a collaboration of 40 local CBOs and community activists that sued the city regarding re-zoning laws that would permit racially and religiously discriminatory housing. Our work has prevented the perpetuation of residential segregation in and around the Broadway Triangle (a development areas which sites between Williamsburg and Bedford Bedford-Stuyvesant) and ensured that there are no new housing developments in this area that would exclude the many low-income residents of these communities who are in dire need of affordable housing. It is very encouraging to see policies that we have been advocating for in local projects be adopted on a city wide scale by the new administration and we think it is a great step forward to making New York City a more just and fair place to live.

In our experience, mandatory inclusionary is critical for sustaining affordable housing in communities that are rapidly changing -- we have seen that incentivized housing of the past simply does not work.

2. New Mixed-Income Housing:

Another notable strategy of the Mayor’s Housing plan is the use of the promotion of new mixed-income housing. The plan lists Pitkin Avenue in East New York as an example of potential location for higher-density mixed-use development. Brooklyn A’s CED Program is counsel to Cypress Hills Local Development Corporation, Inc. (CHLDC) on an exciting higher-density mixed use development project along the Pitkin Avenue corridor. The Pitkin Berriman Project is CHLDC’s second private land acquisition project in East Brooklyn. Brooklyn A represented CHLDC in the acquisition of the approximately 21,000 square foot vacant lot on the corner of Pitkin Avenue and Berriman Street in East New York. CHLDC has obtained a zoning map change to develop 58 units of affordable rental housing above approximately 6,500 square foot ground floor commercial space on the site. The residential units—over half of which are 2 and 3 bedroom apartments—are designed with families in mind. All of the units will be affordable to households earning below 60% of AMI, with 12 units designated for households making below 40% of AMI. The Pitkin Berriman Project will also be a catalyst for regenerating commercial life along Pitkin Avenue—a transit corridor that has experienced a decline in commercial activity over the last several decades. CHLDC will seek to attract commercial tenants that will improve healthy food access to East New York, a fresh food dessert. The ground floor will also include a 900 square foot community space that will be available to tenants and neighborhood community organizations for their use. In the future, Brooklyn A will represent CHLDC in the construction financing closings (which will likely include a private commercial construction loan and a low-income housing tax credit syndication).

In sum, Mayor de Blasio’s housing plan lays a good groundwork for New York City to get back on track as a city of opportunity for all residents, not just the ultra-wealthy. However, there is a lot more work to be done; especially when it comes to support legal service organizations if we plan on making a serious dent in this housing crisis. Supporting the organizations who have the experience and expertise to greatly contribute to the development and preservation of affordable housing is not just crucial to the success of this new housing plan but in many cases is the deciding factor on whether families can keep their homes, or if the tenants of whole buildings have to live without heat or running water. We now have a plan, but we need to put forward the resources that will make it happen and invest in organizations, such as Brooklyn A, who are already doing the work to make lasting impacts in the lives of thousands of hard working low-middle income individuals.

Let’s make New York City a place everyone can continue to call home.

To read the plan in full and get other quick facts about housing in the city visit:

<http://www.nyc.gov/html/housing/pages/home/index.shtml>

To learn more about Brooklyn A visit: www.bka.org