

## Diller, Mark (CB)

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**From:** Chelsea Evans (DCP)  
**Sent:** Thursday, June 13, 2024 4:57 PM  
**To:** Katy <bordo119@aol.com>; Eugene Yoo  
**Cc:** Andrew Cantu (DCP); Diller, Mark (CB)  
**Subject:** Follow-up from last night's CB 2 meeting

Hi Katy and Eugene -

Good afternoon. I hope you are well. Thank you again for all the time you have spent reviewing the City of Yes for Housing Opportunity. I was taking notes at last night's meeting and I wanted to follow-up with you all on some questions and concerns I took note of.

We take your concerns and questions about the proposal seriously and we want to work with you all to address them. Please see below the responses from our Housing team to some of your concerns that were raised last night:

1. CM Marte mentioned that it seemed like DCP was more transparent with the changes involved in the other two text amendments than we have been with CHO. Our response here -

DCP is proud of these proposals, which emerge directly from *Where We Live NYC*, the city's comprehensive fair housing plan published in 2021. Because of that, we're eager and committed to fully explaining all aspects of the proposal and the rationale behind them to anyone who will listen. (Some CBs have given us as little as 20 minutes to present, which is why we've flooded the zone with 5 public info sessions on different aspects of the proposals, [written materials](#) pitched to a range of audiences, and released annotated draft text in advance of referral.) We've also provided direct answers to literally hundreds of questions about all aspects of the proposal from CB members across the city. If you have any questions, or want to schedule time for additional briefings, we are very happy to respond.

2. CM Marte stated that we are stripping the affordability requirements from NYCHA infill projects. We want to correct the record here -

CHO doesn't affect existing affordability requirements at all. We've met extensively with NYCHA (Strategic Planning, Real Estate, and others) and NYCHA tenants (like CCOP) and CHO aims to save time and money for existing and ongoing pipeline: That is, 100% affordable infill that must be approved through a tenant consultation process.

In our most recent conversation with Jon Gouveia and Andrew Kaplan – yesterday – they reemphasized that the progress they've made in recent years (and there's been significant progress) has come from 2 things:

- First, any new developments are 100% affordable and serve existing public housing residents – for example, a senior empty-nester who gets to move into a new senior housing apartment, freeing up a 3-bedroom for a family on the waiting list. This also reduces potential

conflicts between new market-rate developments and existing public housing buildings and residents – for example, a new building with cameras and security that might clash with or constrain the way existing residents use a campus.

- Second, NYCHA has implemented a requirement for tenant consultation and *approval* before any new developments are added to a campus. (This also applies to other approaches, like RAD/PACT and phased redevelopment at Fulton-Elliott-Chelsea.) These requirements exist outside of zoning, so we couldn't touch them even if we wanted to. (We don't.)

Over the last 10 years, DCP has worked with NYCHA on dozens of Mayoral Zoning Overrides (or MZO), which add time and money to 100% affordable infill and NYCHA modernization efforts (like centralized waste collection or resilient energy upgrades.) Today, bad zoning forces zoning lots with existing non-contextual buildings (which include NYCHA's tower-in-a-park campuses) to do non-contextual infill. This is a building form that everyone tends to hate. (Think 200 Amsterdam.) The zoning today literally prohibits from modern, height-limited contextual infill. (The tall skinny development on Seward Park campus is another example of what results.) 100% affordable works much better in height-limited, contextual building forms, but NYCHA has to go through a long and costly process to get permission to do the type of infill that literally everyone would prefer over the non-contextual infill they could do as-of-right. The zoning is backward.

So, when infill happens, CHO would remove obstacles to modern, height-limited, contextual infill rather than forcing tall and skinny non-contextual infill. The NYCHA pipeline remains the NYCHA pipeline – 100% affordable that requires tenant consultation and approval. CHO would simply save NYCHA time and money.

3. It was stated that because 485x is incompatible with condo development, UAP would not be used. There was also concern that there would be a proliferation of what George Janes calls "poor buildings" (condo units in one building and affordable rental units in another, on the same lot).

UAP will extend an inclusionary framework across all medium- and high-density districts. That is, in order to "max out" any site, you will need to provide permanently affordable housing at an average of 60% AMI. While zoning can't ban condos – that's not legal – the UAP framework can disadvantage condos that don't provide affordable housing. If "too many condos" is your concern, that will significantly change the calculus about what owners decide to do with their property in a way that's way better than the status quo. Also, HPD believes that we will see many condos participate, given their experience with similar IHDA transactions in the past.

Also – we support 100% affordable buildings. A very important aspect of maximizing the amount of affordable housing we produce is making sure our programs are flexible enough for people to use.

That's also one of the reasons CHO does not include an MIH-like mandate – UAP doesn't increase market-rate floor area, so imposing a mandate would mean significantly less affordable housing. We've seen exactly this happen in other jurisdictions. The mandates in Westchester that George cites have produced ~0 units. NYC produces more extremely low-income units every year than Westchester does overall units. We know how to produce affordable housing. NYC leads the country by a longshot!

4. George Janes has stated that single family homes in CB2 would be allowed to have ADUs. We want to provide a little more detail here -

Other than the M-districts that don't permit housing, CB2 entirely comprises zoning districts that allow multifamily housing at medium and high densities with no parking requirements.

CHO's ADU provisions are for 1- and 2-family homes only. Any 1- or 2-family homes in CD2 have zoning flexibility to add full dwelling units pretty easily today, without any of the proposed ADU allowances in CHO. We've heard questions about ADUs in rear yards, but that's only allowed if you have access to the street, so those aren't possible for attached housing types.

In short, CHO's ADU proposals would have very little or no conceivable impact in CD2.

5. There was a concern from the Board about the lack of mandatory affordable housing involved in the proposal.

The reason we're not proposing a mandate is quite simply because it would lead to less affordable housing. Strong affordable mandates like MIH – where you can't build anything unless you provide a share of affordable housing – are only legal and appropriate in conjunction with significant increases in residential capacity. Otherwise, a mandate makes it harder to produce housing, which is counterproductive (and policy malpractice) in the midst of a severe housing shortage like we have today. (This is why affordable housing mandates are often used as bad-faith ways to stop all development. It's very hard to get them right.)

6. There seemed to be a concern about encouraging "bathroom in hallways" type developments with our shared housing proposal.

While we don't expect to see "bathroom in hallways" type developments, and while rules will limit the number of bathrooms per person, the remaining SROs of this type tend to be treasured as housing that serves a severely underserved niche. Like Gale Brewer says, "We love our SROs!"

7. Many concerns were raised about fire safety in shared housing arrangements particularly for rooming units that will not have access to the building fire escapes.

Any new construction (and any legally occupied housing, for that matter) has to comply with NYC's fire code, which is among the strictest in the nation. FDNY is also a crucial partner in CHO, especially for ADUs and shared housing.

8. What are the incentives associated with UAP? Many Board members expressed that they feel it is not sufficient to encourage development.

As with prior zoning programs for affordable housing, such as the IHDA program and MIH, participation and feasibility for privately financed projects are driven by a state tax benefit for mixed income housing (formerly known as 421-a, recently updated as 485x). Multifamily development is generally not feasible

without a tax abatement; that tax abatement requires affordable housing; if providing affordable housing, it generally makes sense to drive down AMIs, extend affordability period, etc., to qualify for higher FARs – and thus both programs create more and better affordable housing than either program does alone.

UAP takes this existing framework – which has worked well, but only applies across 13% of medium- and high-density districts – and expands it to 100% of medium- and high-density districts. We expect this will create more affordable housing in 10 to 15 years than all previous IH programs since their advent in 1987!

Apologies for the long email! Please do let us know if any of these need further clarification or if you have any more questions that we can help answer.

Best,  
Chelsea