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**COMMITTEE ON HOUSING AND URBAN  
DEVELOPMENT**

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ERICA F. BUCKLEY  
CHAIR

LAUREL S. KEAN  
SECRETARY

April 30, 2014<sup>1</sup>

Hon. Bill de Blasio  
Office of the Mayor  
City Hall  
New York, NY 10007

Dear Mayor de Blasio:

Congratulations on your election as Mayor of New York City. The New York City Bar Association's Committee on Housing and Urban Development applauds you on your commitment to both the development and the preservation of affordable housing.

We recognize that there are a great number of programs, priorities, and goals that must be examined by your Administration, and as you and your appointees develop your housing plan, we offer three policy areas for further examination that have the potential for broad support: the preservation of existing affordable housing stock, the expansion of the inclusionary program, and an increase in agency capacity.

**I. The Preservation of Existing Affordable Housing Stock:**

- Re-evaluate the enforcement powers of the New York City Department of Housing Preservation and Development ("HPD") with regard to Housing Development Fund Corporations ("HDFCs") – entities formed under Article XI of the Private Housing Finance Law with the sole corporate purpose of providing low-income housing. With limited HPD oversight and enforcement, HDFC housing, especially affordable cooperative apartments, are at constant risk of being rented and sold at market rates. A streamlined and stricter yearly reporting procedure would significantly bolster HPD's ability to preserve thousands of low-income apartments.

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<sup>1</sup> This letter supersedes our previous letter dated April 29, 2014.

- Impose re-sale price limits on the sale of HDFC shares that currently only have income limits, possibly in exchange for expanded real estate tax exemptions.
- Consider permitting HPD to provide small loans for HDFCs to improve uninhabitable units as a mechanism to bring such apartments back into the market.
- Improve technical assistance offered to HDFC boards, with an emphasis on preserving affordability and maximizing available apartments in troubled HDFCs. Such services could be provided by not-for-profit providers or additional HPD staff members, or both.
- Increase audits of both existing and new developments regulated by the city to ensure compliance with affordability requirements.

## **II. Expansion and Improvement of Inclusionary Housing Program:**

- Eliminate HPD's ten-unit minimum for Inclusionary Housing Program applications. At a time where every unit of housing matters, HPD should not create limitations on the size of buildings that may qualify under the Inclusionary Housing Program.
- Allow more distant transfers of inclusionary air rights to incentivize the construction of a greater number of affordable units. Currently, inclusionary air rights can only be transferred with the same Community District or within ½ mile of the generating site. This issue is currently under discussion and we believe the Administration should adopt the approach that will provide the greatest level of flexibility for developers participating in the Inclusionary Housing Program.
- Streamline the HPD approval process for inclusionary housing plans. Currently, the HPD approval process can take approximately one year from the date of submission of an inclusionary housing plan. This lengthy process is not conducive to the production of either affordable housing or market rate housing that is to be built under the Inclusionary Housing Program.

## **III. Increase Resources and Staffing for Housing Agencies:**

- Create a dedicated fund to bring additional staff to HPD similar to that which the Office of the Attorney General established. Specifically, pursuant to Section 80 of the State Finance Law, \$10,000 of every \$30,000 offering plan filing fee is directed to a fund used by the Real Estate Finance Bureau to ensure its staffing needs are met. The special fund was supported by the real estate industry, despite the fact that it was passed with a corresponding increase in filing fees, because the additional staffing enables the Real Estate Finance Bureau to review and respond to offering plans more efficiently – something of importance to private developers.
- Presently, HPD is woefully understaffed. Two examples are the inadequate staff for the tax incentive programs. Only three staff persons and one attorney are handling the

entire inclusionary program, which affects the potential development of many thousands of affordable and market rate housing units. One person is handling the entire 420-c program, in addition to other responsibilities. As a result, developers seeking HPD approval for affordable housing development incentives are often met with substantial delays and uncertainty. Delay and uncertainty increase the cost of affordable housing development and unnecessarily restricts the affordable housing stock of the City. A targeted increase in funding at HPD will provide immediate and direct relief for this problem. HPD's ability to enforce existing affordable housing restrictions would also significantly benefit from increased funding. Thus, the creation of a dedicated HPD fund, funded entirely by a portion of the application fees paid by private developers seeking development incentives, would find broad support.

### **About the Housing and Urban Development Committee:**

The Housing and Urban Development Committee addresses legal and policy issues with a particular emphasis on affordable housing preservation and development. This includes issuing reports and making recommendations on policies and legislation that impact the creation and preservation of affordable housing. For example, our April 2013 Report on Mitchell-Lama Housing included suggestions as to how to preserve Mitchell-Lama Housing Companies as affordable housing for the future. We also issued a memo in support of legislation that would expand the income eligibility requirements of Mitchell-Lama housing from 100% to 125% of AMI – legislation that became law this year. Our reports are available at: <http://www.nycbar.org/housing-and-urban-development>.

In addition, we host events designed to educate and facilitate discussion of affordable housing issues. A recent soldout CLE, entitled “The Evolution of Affordable Housing in New York City,” provided a historical overview on the development of a number of affordable housing programs implemented by New York City, dating back to the Koch Administration. In December of last year, we co-sponsored an event with the City Bar's Cooperative and Condominium Law Committee, “A New Start for the City's Affordable Housing Landscape,” at which a panel of experts in the field discussed the prior Administration's initiatives and the new Administration's affordable housing goals. We plan to invite members of your Administration to our next CLE, which will focus on the future of affordable housing in New York City.

We look forward to working with you and your Administration regarding the above reforms and more generally assisting the Administration to achieve its affordable housing objectives.

Sincerely,

Housing and Urban Development Committee

Cc: Vicki Been, Commissioner for NYC Housing Preservation and Development  
Alicia Glen, Deputy Mayor for Housing and Economic Development  
Laura Santucci, Chief of Staff  
Carl Weisbrod, Chair for NYC Department of City Planning