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For Fair Housing

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Churches United For Fair Housing Testimony for Joint Legislative Hearing Budget hearing on Taxes

My name is Alex Fennell and I am the Network Director at Churches United for Fair Housing. CUFFH was founded in 2007 as a response to a segregated housing development that was to be built on city owned property with city funding. From that fight we have continued to advocate for fair housing and push back on proposals that increase racialized displacement and disproportionately harm communities of color in NY.

Currently we have tax incentives on the books that pull billions of dollars out of the state budget and produce little housing that would actually improve neighborhood stability, provide fair housing choice as required by the Fair Housing Act's Affirmatively Furthering Fair Housing mandate, or generate the levels of affordability needed by by unhoused New Yorkers and those most at risk of homelessness.

In order to fully fund public and low-income housing, we ask that tax incentives that are not generating meaningful community benefits be eliminated while at the same time implementing new taxes that would drive revenue and create a more equitable tax structure in New York State. We are a member of the Housing Justice for All coalition and support the initiatives they have put forward, but I want to focus on a few in more detail.

One program that must be eliminated is the 421-a program, which costs New York City one and a half billion dollars a year in foregone taxes. (A8848/S7238) While we support public investment in housing, subsidising the construction of condos and increasing profit margins for developers is not the investment we need. 421-a program requires a portion of units be income-targeted, but nearly half of all units generated are market-rate condos whereas only a quarter are income-targeted.

But what does income targeted mean in this context?Units considered affordable under 421-a can be as high as 130% of AMI, which is nearly $125,000 for a family of three in NYC. In contrast, the median household income of New York City households is below $60,000. Churches United for Fair Housing is also a direct service provider and a large part of our work is helping families navigate the lottery process, which is one of the few ways families can access truly affordable housing. Currently the majority of housing lotteries are for 421-a buildings as this program is the most lucrative for developers, and other programs at the state and city level that could generate more affordability are eschewed for this model because it is on the shelf. On Housing Connect right now 83% of "affordable apartments" listed under 421-a require a family to make over $100,000. Is this the best we can do? Couldn't this money be better spent investing in our public housing, a program that has been proven to work?

In 2017 a new tax incentive was proposed as part of the Trump tax cuts, and NY state has opted into this program in a more significant way than many other states. In 2017, the Empire State Development Corporation selected which census tracts would be designated Federal Opportunity Zones. While this program is federal, the Governor elected to allow the federal benefits to be mirrored in the New York State tax code. Meaning that capital gains generated on Opportunity Zone tracts will not be taxed on the federal, state, or local level in New York. Shockingly while these developments have to pay no capital gains for 10 years the program has no requirements that investments generate affordable housing, manufacturing jobs, or any type of demonstrated community benefit and these projects are eligible for additional tax incentives. Meaning that a project could be shielded from capital gains at both the federal and state level and then receive further property tax incentives with programs like 421-a and 485-a. Over half of the census tracts chosen by Empire State Development were in areas that are already considered gentrifying, areas that are already being flooded with speculation, areas where residents are already being aggressively displaced.

The Citizens Budget Commission estimates that this policy will cost New York State $63 million/year and New York City $31 million/year between now and 2029. After 2029, when investors can sell their investments and avoid paying capital gains, the foregone taxes could balloon to billions of dollars. The Citizens Budget Commission also estimates that upwards of 90% of investors in these projects will be private equity firms not nonprofit or even local developers. While the federal tax shielding cannot be undone, there is no reason for New York State to forgo billions of dollars in revenue to private equity firms with nothing in return. The Senate and Assembly can decouple these benefits from the NYS tax code to ensure that private equity and other investors do not receive such sweeping benefits in exchange for an even greater incentive for speculation and increased likelihood that luxury development will increase displacement pressures in communities where residents are already struggling to stay in their homes.

In addition to eliminating these programs, new taxes to generate much needed revenue for affordable housing must be enacted. The proposed Billionaire Wealth Tax and Pied-á-Terre Tax would generate such revenue, and make the tax code more equitable in a state where economic inequality is rampant, and help discourage housing being over-commodified by the ultra-wealthy. By imposing a tax on secondary residences worth over $5 million, the Pied-á-Terre Tax would provide the dual benefit of both increasing tax revenue and discouraging developments that simply exist as an investment or lightly utilized secondary residence (essentially removed from the city’s available housing stock) in a city that is in the midst of a housing crisis.

Another easily implemented policy would be to repeal rebates for the small stock transfer tax that was imposed from 1905 to 1981. If reinstated this tax, that would go nearly unnoticed in most trades passing through New York State, could generate upwards of $16bn annually, which under the provisions in S6203/A7791 over $4bn for the MTA and $1.6bn for capital investments in housing.

New York is home to over 100 billionaires worth over half a trillion dollars, yet nearly 100,000 New Yorkers do not have a permanent home to call their own. The current tax structure in our state is broken and must be realigned in a way that creates a system that is more equitable for all and has those who have the most pay their fair share while also investing resources to ensure those who have the least receive the resources they deserve. We can both close the budget deficit and refocus public investment in areas most desperately in need of financial resources, including public and low-income housing, infrastructure and health services.

These types of policies, along with the others outlined by Housing Justice for All, as part of the Homes guarantee ultimately aim to tax exorbitant wealth that has historically been protected from reasonable taxation. The demands don't punish the rich, but rather they would require them to pay a share equal to that paid by the state's poorest New Yorkers. Luxury development, owning multiple multi-million dollar apartments and making money in our state without being taxed on it are not human rights-- but housing is. And we are asking the legislature to stop prioritizing slightly inconveniencing billionaires over eradicating homelessness and housing instability.