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Testimony Before the New York State Senate Finance Committee and Assembly Committee on Ways and Means Regarding Priorities for the New York State Executive Budget for Housing, Fiscal Year 2022-2023

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The Association for Neighborhood and Housing Development (ANHD) thanks Committee Chairs Liz Krueger, Helene Weinstein, Brian Kavanagh, and Steven Cymbrowitz for the opportunity to testify on the housing-related proposals in the Governor’s Fiscal Year 2022-2023 Executive Budget.

About the Association for Neighborhood and Housing Development

ANHD is one of the City’s lead policy, advocacy, and technical assistance and capacity-building organizations. We maintain a membership of 80+ neighborhood-based and city-wide nonprofit organizations that have affordable housing and/or equitable economic development as a central component of their mission. We are an essential citywide voice, bridging the power and impact of our member groups to build community power and ensure the right to affordable housing and thriving, equitable neighborhoods for all New Yorkers. We value justice, equity and opportunity, and we believe in the importance of movement building that centers marginalized communities in our work.

ANHD’s work directly supports the needs of our members who develop, manage, and organize to preserve affordable housing, and who fight to bring equity into low-wealth communities in New York City—especially communities of color. Our groups rely on us for technical assistance and capacity-building resources that allow them to maximize their resources, skills and impact. The support services, research, analysis, public education and coalition building we do helps to identify patterns of local neighborhood experiences and uplift citywide priorities and needs. Our work translates into the capacity to win new programs, policies and systems that ensure the creation and preservation of deeply and permanently affordable housing, and economic justice.

Targeted Data and Analysis via the Displacement Alert Project

ANHD thanks the Senate and Assembly for your ongoing support of the [Displacement Alert Project](#) (DAP). The [DAP Portal](#) tool allows elected officials, staff, and community organizations to understand where tenants and small homeowners are at the greatest risk of displacement and intervene with strategies to stop displacement.

Thanks to your support, **for the first time, advocates and government partners can now view new eviction cases filed in their districts at an individual building level throughout New York City.** This enhancement is helping community groups on the ground and elected officials monitor hotspots where tenants are at highest risk of eviction and conduct outreach and advocacy to keep New Yorkers in their homes. ANHD has been able to offer training to community groups and elected officials to help them use DAP Portal throughout the pandemic to assist outreach to enroll tenants in ERAP and inform them of other rights and available resources. ANHD has also conducted ongoing analysis of trends in eviction filings, rent relief, and equity, which was **covered twice in 2021 by the New York Times.**¹

ANHD seeks a \$150,000 budget allocation of operating support to expand and enhance DAP Portal; continue to train State and City elected officials, their staff, and community-based organizations to use new evictions data to stop displacement; and publish timely analysis on rent relief, evictions, and other housing issues related to the COVID-19 crisis.

421a

The 421a tax incentive program, first created in 1971, is due to expire on June 15, 2022. The New York State Legislature faces a choice and can finally end 421a's ongoing, unjustifiable tax breaks to big real estate.

ANHD fundamentally rejects the framing that 421a is an affordable housing program. We must come to terms with its real impact and the implications for true housing affordability if we were to shift over \$1 billion to further true affordability in public housing, ending homelessness, and closing the racial homeownership gap.

For this reason, ANHD rejects Governor Hochul's State of the State and budget proposal claims that she is ending 421a. Her rebranded real estate tax incentive would simply rename 421a to 485w, "Affordable Neighborhoods for New Yorkers." It does not meet housing advocates' demand to end 421a. We see this for what it is: different name; same problems.

Despite Governor Hochul's rebranding, the Administration's "new" plan incorporates old 421a's long-standing flaws. It again incentivizes residential development, period, rather than development targeted towards who and where it is needed most. It is definitively not an affordable housing program and it is not an affordable neighborhood program. It is a tax break for real estate development of predominantly market rate buildings in largely outer-borough communities of color and immigrant communities.

It is no surprise that Governor Hochul's proposal is supported by the Real Estate Board of New York, which represents New York's wealthy real estate developers. They are thrilled that this 421a is and 485w will continue a more than billion dollar boondoggle to the real estate industry and a waste of taxpayer dollars. It is unconscionable that while there is well over \$1 billion dollars of unmet need in rental assistance, that New York State would leave tenants and small landlords in danger of eviction and building safety in favor of pushing cash incentives to New York's wealthiest industry.

¹ <https://www.nytimes.com/2021/03/17/realestate/new-york-city-renters-evictions.html>,
<https://www.nytimes.com/2021/07/27/nyregion/evictions-moratorium.html>

A Five-Year Capital Housing Plan

ANHD applauds the Governor's commitment to a \$25 billion Five-Year Housing Capital Plan in the Executive Budget. Affordable and supportive housing developers, and particularly the nonprofit developers that are ANHD members, need stable, long-term investments in housing in order to effectively prepare for and finance new construction and renovation projects. **We call on the State Legislature to support the Governor's commitment to \$25 billion in housing capital funds.**

A Five-Year Capital Plan is critically important for a number of reasons: it guarantees a strong, robust housing pipeline; provides more stability for smaller and nonprofit developers who cannot take on excessive risk; spurs broader economic impact and good-paying jobs; offers opportunities to center deep, permanent levels of affordability; and can promote energy efficiency and climate resiliency.

ANHD supports the Governor's \$25 billion plan, which includes creating and preserving 100,000 units of low-income housing and 10,000 units of supportive housing, a pilot program for affordable homeownership, \$300 million for senior housing, and funding for weatherization and electrification. We encourage the Governor and the Legislature to prioritize nonprofit, mission-driven housing developers and other community-based organizations in carrying out these projects and funds. Nonprofit and community-based organizations are best poised to address the needs of New York's low- and extremely low-income households and other vulnerable populations, and ensure that community voices are heard.

Finally, a Five-Year Housing Plan must be guaranteed, both now and in the future, to effectively meet the current housing demands and also to be prepared for the climate and health related crises that are surely to come. We are concerned that the Governor did not sign into law S2193/A3807, introduced by Senator Brian Kavanagh and Chair Steven Cymbrowitz, which would require the creation of comprehensive Five-Year Capital Plan beginning on April 1, 2022 and every fifth fiscal year afterward to support the development, preservation and capital improvement of affordable housing in New York State. **We support the passage of S2193/A3807: we need a Five-Year Plan to be codified into law so that we can ensure a stable, robust housing pipeline for years to come.**

Tenant Opportunity to Purchase Act

The proposed budget includes \$50 million for a pilot program for affordable homeownership opportunities that prioritize residential control. However, the budget does not provide any additional specifics including a bill or program name. It remains unclear where this funding is earmarked for the Tenant Opportunity to Purchase Act (TOPA) or another program entirely.

ANHD supports the passage and funding of TOPA, S3157/A5971. Throughout New York, tenants face horrific conditions in their buildings. Many face a lack of heat and hot water, lack of repairs, and buildings not being cleaned, among other poor conditions. With the recent tragic fire in the Bronx, it is essential that we ensure tenants live in safe and secure apartments and buildings where they are respected.

An opportunity for the Legislature to accomplish this is TOPA. TOPA gives tenants in eligible buildings the right of first offer and the right of first refusal when a building is offered for sale. This gives tenants the power to change their conditions and create equity in their communities. TOPA also gives tenants the opportunity to partner with mission-driven nonprofit housing developers, whose purpose is to develop and sustain affordable housing, to do the necessary improvements. Cities like Washington D.C. and San Francisco have had TOPA for years and it has been an effective tool to stop displacement and gentrification.

TOPA can be an important tool in sustaining affordable housing, and give tenants the power to control and improve their living conditions, but TOPA legislation alone will not be effective without adequate resources in the budget to fund acquisitions and capital repairs for TOPA buildings.

Emergency Rental Assistance

ANHD applauds the work of the Governor and Legislature to move over two billion dollars in rent relief to New Yorkers suffering from the economic fallout of COVID-19, as well as the Governor's advocacy for more funds at the federal level. We want to emphasize the acute, ongoing need for rent relief in New York: the most recent available Census data shows that as of mid-January, **up to 595,000 New York households remain behind on rent**. The concentration of need in communities of color is disturbing: 85.5% of those who are behind on rent are people of color, versus just 44.4% of New York State's general population.²

Furthermore, a survey of ANHD's mission-driven, nonprofit housing providers showed that on the whole, those housing providers have been approved for less than half of their applications, **leaving them with an average revenue gap of \$339,374**. A revenue gap of hundreds of thousands of dollars is staggering for a community-based housing provider with a limited budget.

ANHD supports Governor Hochul's efforts for the federal government to shift additional funding to New York State based on our large remaining need. However, we need the Legislature's support in securing adequate funding that matches the scale of the still acute need, especially in communities of color and for nonprofit landlords.

We also need forward-thinking and long-term solutions that address our housing crisis comprehensively, which we address throughout this testimony. To meet ongoing need for rental assistance in New York, **ANHD supports the passage of the Housing Access Voucher Program (S2804B/A3701)** and ongoing funding to ensure New Yorkers the right to a home.

Right to Counsel

Mirroring the racial inequity of which households are behind on rent, **throughout the pandemic landlords have filed evictions over twice as often in majority-people of color zip codes**

² Census Household Pulse Survey Week 41 Household Table 1b, Census American Community Survey (ACS) 2019 5-Year Estimates, A03001 (Race).

versus majority-white zip codes.³ We estimate that over 110,000 residential evictions have been filed statewide during the pandemic, approximately 75,500 of them still active.⁴

ANHD applauds the Governor's recognition of the success of New York City's Right to Counsel law and program and proposal of \$35 million to fund free legal services for renters outside New York City facing eviction who fall below 200% of the federal poverty line. However, we believe that measure is not enough. Like New York City, New York State needs a universal right to counsel in eviction cases to ensure the program is robust, sufficient, and meets the need. **We support the passage of S6678A/A7570A to ensure free legal representation for every tenant facing the loss of their home.**

Fair Housing Testing

In addition to legal services for renters facing eviction, we are pleased to see additional funding for fair housing testing to reduce discrimination in the rental market. The \$2 million shows progress towards proactively enforcing our fair housing laws. However, this initial step still falls \$1 million short of the need of organizations working through the Eliminating Barriers to Accessing Housing in New York Program to do this important work. We know that housing discrimination is rampant across all types of housing, transactions, protected classes, and areas of the State. New York should be leading, not trailing, the nation in proactively and aggressively preventing fair housing violations for all New Yorkers.

Hotel Conversions

The proposed budget includes a policy proposal to encourage hotel conversions by allowing any Class B hotel located within or near a residential zoning district in New York City to use the existing certificate of occupancy to convert to permanent residences, as long as the units are subject to applicable rent stabilization laws and agreements.

ANHD supports the goal of making hotel conversions easier to allow for the creation of much needed affordable housing in New York City. However, it is imperative that this goal does not compete with the ongoing operation of industrial and manufacturing businesses in zoning districts where residential uses are not currently allowed. To protect these vital businesses, **hotel conversions that override local zoning controls must be limited to buildings within, at maximum, 400 feet of a residential zone and must be excluded entirely within Industrial**

³ Data from the New York State Office of Court Administration (OCA) [via the Housing Data Coalition](#) in collaboration with the [Right to Counsel Coalition](#); ACS 2019 5-Year Estimates, B25003 (Tenure) and B02001 (Race). Non-payment and holdover eviction filings March 23, 2020 through January 7, 2022 divided by number of renter households in majority-people of color zip codes versus majority-white zip codes.

⁴ Ibid. This figure includes New York State cities and does not include towns and villages that do not report case data to OCA, so it is an underestimate. Total number of non-payment and holdover eviction filings and total filings with an active status in New York State between March 23, 2020 and January 24, 2022. Based on available property type data, ANHD estimates that approximately 5.13% of statewide eviction cases are commercial rather than residential, which is accounted for in these estimates: 116,794 total cases adjusted to 110,802 estimated residential cases and 79,587 active cases adjusted to 75,504 estimated active residential cases.

Business Zones. The retention and growth of industrial businesses is a key component of equitable economic development in our city. Industrial businesses pay higher wages and offer more career opportunities to a workforce that is 80% people of color and 50% immigrant – paying two times the average wage of other sectors that don't require formal accreditation. But these businesses are constantly at risk due to speculation and rising land costs caused by competing uses. In 2005, the City created the Industrial Business Zone (IBZ) designation to support and incentivize manufacturing and industrial firms, including a commitment to not support residential uses or rezonings in IBZs. The state must hold to this commitment and exclude any hotel conversions within IBZs, while limiting all conversion to buildings within 400 feet of a residential zone.

Homeownership

Year after year, fewer than 10% of home purchase loans in New York City go to Black borrowers, and the majority of those are concentrated in just a few neighborhoods and often made by non-bank lenders. ANHD appreciates the strong investment in homeownership in this year's budget, with \$400 million allocated to increasing access to homeownership, protecting existing homeowners from displacement, and combatting discrimination, especially now that non-bank lenders are newly covered under New York State's Community Reinvestment Act. We are concerned that the Governor's budget does not provide any additional specifics in terms of regional distribution or program mechanisms. Too often, previous administrations have targeted most or all of its homeownership resources to programs limited to or designed regions outside of New York City and the New York City metro area. ANHD believes that creating homeownership opportunities and addressing the homeownership gap must be done statewide.

Homeowner Protection Program Funding

We are excited to see funding included in the executive budget for the Homeowner Protection Program (HOPP), which is supported by 90 organizations across the state that work diligently to keep homeowners in their homes. However, \$20 million is not nearly enough to meet the demands the HOPP network is responding to, especially as the COVID-19 pandemic persists and moratoriums lift. In the years following the foreclosure crisis, the program was funded at \$25 million a year. **We support the Coalition for Affordable Homes' (CAH) ask to increase funding to meet the needs addressed by the program, which is estimated to be \$35 million in the coming year, and \$40 million for the two years after that.**

Affordable Housing Corporation

The Affordable Housing Corporation (AHC) is New York's sole subsidy for the development of affordable homeownership that enables low- and moderate-income households and communities to become homeowners. Many of ANHD's mission-driven nonprofit developer members utilize this program to increase access to homeownership and the opportunity for BIPOC families to build wealth through homeownership. **We believe that an additional \$24 million in funding, beyond the proposed \$26 million for the Affordable Home Ownership**

Development Program, will fill many of the gaps that the program currently faces.

Preliminarily, increasing AHC's funding will supplement the surge in construction costs that the program cannot currently afford.

The Covid-19 Community Protection Act

New York State homeowners and aspiring homeowners also need help protecting their investments from predatory actors and harassers. Homeowners in historically redlined communities are facing increasing displacement pressures as homes across their communities are bought under market value and flipped for skyrocketing profits. **Passing the Covid-19 Community Protection Act (S5376/A6574)** would provide relief to these communities. The law would net approximately \$220 million a year for New York State while saving lower income homebuyers millions and imposing measures to deter house flipping⁵. The bill would impose a tax on the transfer of certain residential properties sold within two years of the prior sale, exempt individuals buying 1-3 family homes for less than \$750,000 from paying mortgage recording taxes, and impose a transfer tax on certain properties sold for one million dollars or more. The passage of this bill would disincentivize developers and real estate speculators from attempting to drive out low- and moderate-income families, which upends the foundation and stability of communities and perpetuates displacement for profit.

Community Land Trusts

As a member of CAH, ANHD is looking forward to the anticipated introduction of Senator Kavanagh's Community Land Trust Acquisition Fund legislation and we support funding it at \$50 million. Homeownership and affordable housing remains out of reach for too many Black, Indigenous, and other People of Color (BIPOC) and low- and moderate-income New Yorkers. The State must increase mechanisms to create and access affordable and safe housing. **We are asking that \$50 million be allocated for land acquisition and development in Fiscal Year 2023 to continue funding this important work.** This funding will increase the capacity of community-based organizations to successfully purchase land and expand the State's growing community land trust network.

Accessory Dwelling Units

ANHD is pleased to see \$85 million in the budget to support the creation of Accessory Dwelling Units (ADUs), which have the potential to create and preserve thousands of units of affordable housing throughout the state. This is an issue that our members have been advocating for for over a decade, and has already had some success through the pilot program operating in East New York, Brooklyn. Without legalization, basement tenants live in fear of displacement and homeowners risk tens of thousands of dollars in fines and possibly risk losing their home.

⁵ Based on Center for New York City Neighborhoods' analysis of NYC Department of Finance (DOF) Automated City Register Information System (ACRIS) data; DOF Statistical Profile of NYC Real Property Transfer Tax for 2019.

The funding should be available to homes with existing units as well as for new construction. We support S4547/A4854A, which paves the way for local ADU ordinances and includes ADUs as a form of housing accommodation under the human rights law. The bill also exempts ADUs from the state's Multiple Dwelling Law, which is necessary to facilitate the creation and legalization of most ADUs. With the additional money and these changes, New York State could move forward with this impactful mechanism to create and preserve safe, affordable housing.

Thank you again for the opportunity to testify. If you have any questions or for more information, please contact Lucy Block at lucy.b@anhd.org
