

Open New York, an independent, grassroots, pro-housing organization, would like to voice particular support for three policies from the Governor's budget (ELFA)—the ADU bill (Part AA), TOD bill (Part EE), and FAR cap repeal (Part CC). We strongly support these proposals, as we believe that legalizing accessory dwelling units, allowing small townhouse districts by train stations, and removing state density caps are all necessary first steps towards addressing New York's immense housing crisis.

Many of us know quite intimately that New York City has a terrible housing crisis, but it's worth engaging with precisely how bad it is. Between 2010 and 2017, median rents increased by more than double median wages. Homelessness has reached the highest level since the Great Depression. Pre-Covid, 1 out of every 10 elementary school students in New York City public schools attended from homeless shelters. Similar stories are becoming common in the suburbs, where many children cannot afford to live in the towns where they grew up, and overcrowding and illegal units are starting to become endemic. We badly need more and cheaper housing, and legalizing more affordable typologies like backyard cottages and townhomes will go a long way towards getting people housed.

Another thing we would like to emphasize is the regional aspect of our housing crisis—it does not stop at municipal boundaries, much less neighborhood ones. As other states from Connecticut to California are increasingly finding, state government has a role to play in helping municipalities navigate their housing crises, which no city or town can solve on their own. New York State, however, is unique among many of its Northeastern peers in having no statewide legal framework that pushes cities and towns to provide a baseline amount of affordable housing. Studies that compare the effectiveness of such policies in New Jersey, Connecticut, and Massachusetts have even used New York as a control group, as a state that asks little of its municipalities in building new housing. There is substantial room for the State to do more, while also allowing localities equally considerable discretion in how precisely they help to solve the problem.

Furthermore, at the moment, New York municipalities are not currently building enough housing. The Citizens Budget Commission has found that construction rates in New York City suburbs of Westchester, Rockland, and Long Island are some of the lowest in the country, building substantially less per capita than their counterparts in New Jersey and Connecticut, and also the suburbs of other prosperous metropolitan regions, like Boston or DC. Between 2010 and 2018, collectively, Rockland, Westchester, Nassau and Suffolk permitted half as many new housing units per capita as Fairfield County, Connecticut; one-third of the housing built in suburbs of New Jersey or the Bay Area; and less than one-fifth of the housing built in northern Virginia. Such underbuilding has had terrible effects—residents of Long Island and Westchester are

more likely to be rent-burdened— that is, to pay more than 30% of their income in rent—than their counterparts in New York City. And New York City is no poster child—the CBC report found that “in addition to lagging its peer cities nationally, New York City issued permits for half as many units as Hudson County, New Jersey, which is home to cities like Hoboken, Jersey City, Union City, and Bayonne, which face many of the same land constraints as neighborhoods in the five boroughs.”

This is all to say, the state has a clear impetus to do more, and the Governor’s proposals are an obvious path forward. Her proposed budget would not radically change any neighborhood in any city or town—ADU legislation would empower local homeowners to add needed housing throughout the state in a gentle and discrete manner, through a garage conversion here or an in-law suite there. The governor’s transit-oriented development (TOD) proposal will similarly allow for gentle density—townhomes or garden apartments—by train and bus stations, helping to further more walkable and sustainable communities. Both proposals will allow more seniors and young people to be able to stay in their communities, and more residents will mean additional tax revenue for local governments. And legislation like this can really start to make a dent in the housing crisis—California, in particular, has seen much success through similar laws. Fully 10% of all new homes permitted there in 2020 were accessory homes, legalized at the state level. Similarly, Massachusetts has just passed an transit-oriented development bill this past year in response to very similar problems to our own, although it is still too soon to measure its success. Nevertheless, we can learn from both states’ example.

In addition, the Governor’s proposal to end the state’s cap on residential density is also a badly needed reform to address our housing shortage—since 1961, New York has prohibited the construction of any residential building that has floor space greater than 12 times the size of its lot. This limit is particularly ill-suited for New York City—many historically middle-income buildings (such as Ruppert Towers on the Upper East Side) exceed the cap, as do many new developments in Jersey City, just across the Hudson, where our state caps do not apply. Furthermore, lifting the state density cap would not affect residents’ right to have a say in new development. Any changes to a neighborhood’s zoning would still have to go through the regular land-use process and be approved by the City Council, and the city’s Mandatory Inclusionary Housing law would still apply, ensuring any changes include a mix of affordable and market rate units. Eliminating the ban would simply give the City more flexibility to address our region’s housing shortage, which we would enthusiastically support.

Lastly, while we support each of these three proposals—legalizing ADUs, allowing more transit-oriented development, and removing the state cap on density for New York City—there are also small edits we would consider for each proposal as it currently exists. Concerning the ADU bill, we would prefer that legislation remove ADUs from the multiple dwelling law or create an exception so that adding an ADU doesn't bring a property into MDL requirements—this would enable far more potential space in New York City to qualify for ADU conversion. Similarly, we would like to ensure ADUs are included in the human rights law regardless of the number of units on the lot—to better act as a tool for integration. We would also prefer greater monitoring of ADU development beyond the financing program. As for the TOD proposal, we would like the legislation to equally apply within New York City; the beneficial impact of the proposal would surely be maximized if it also applied to Eastern Queens and relevant sections of the Bronx. Similarly, it ought to apply around Staten Island Railway stations, or any other subway or bus stations currently zoned for less-than-townhome density within city limits. Lastly, as a city as small as Jersey City frequently builds above 12 FAR, we would ask State policymakers to consider expanding the freedom to do so elsewhere in New York State. If Buffalo, Rochester, Yonkers, or New Rochelle would like the ability to build more densely, why not extend them the option?

In sum total: we believe that New York State has a clear role to play in ending our regional housing shortage. Each of the governor's proposals—to allow ADU development statewide, provide for more transit-oriented development around bus and train stations, and repeal the state cap on density for New York City—would by itself represent a bold step forward for New York State in addressing that regional crisis. We hope lawmakers here can seize the opportunity and pass them with a few common-sense tweaks.