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February 28, 2023

Re: Testimony to Joint Legislative Budget Committee on New York Housing Compact proposed in the New York State FY 2024 Executive Budget

Dear Senate and Assembly Committee Members:

Thank you for the chance to submit written testimony regarding the proposed Housing Compact included in the FY 2024 Executive Budget.

Regional Plan Association is a non-profit civic organization that conducts research, planning, and advocacy to improve economic opportunity, mobility, environmental sustainability, and the quality of life for those who live and work in the New York metropolitan region.

Background

New York City and State have failed to build enough housing over the past few decades. Between 2010 and 2020, Suffolk and Nassau counties in Long Island only permitted seven residential units for every 1,000 residents. Putnam, Rockland, and Westchester in the Hudson Valley only permitted eight, 12, and 13 permits respectively. That same metric in Manhattan and Brooklyn is 31 units, which is low compared to peer cities but almost five times over when compared to Long Island and three times over Hudson Valley counties.

Years of under-building has created a shortage that has failed to provide adequate housing opportunities for everyone but is felt most acutely by workers, young people, and low and moderate-income households. Seniors are also likely to feel the effects—as owning a single-family home is neither financially nor physically viable for many of them.

Prior to the pandemic, in New York State more than 1 million owner-occupied households were cost-burdened, paying more than a third of their monthly income towards mortgages and/or maintenance costs (this represented 28% of all owners in New York State). New York State renters were in worse condition. Approximately 1.6 million renter households (52% of all renters) were housing cost-burdened. The pandemic has only exacerbated these trends.

Respondents to RPA's Metro Area Issues Survey have also consistently brought up the cost of living and housing affordability as threats to the region.

The Governor's Housing Compact would directly address New York's housing crisis by increasing the supply of homes. The state needs 817,000 more housing units over the next decade to meet current and future demand, an 9.8% increase from the existing housing stock.

The proposed compact would allow more housing in the places that make sense – near transit and within already developed areas. And the Compact would achieve this while still allowing communities local control in determining how and where they change their zoning.

Growth Targets and Policy Alternatives

We believe that the approach of providing municipalities with a menu of policy options and incentives to help them meet their goals and giving them a 3-year window of time

to take meaningful actions towards achieving those goals, is a sensible way to strike the necessary balance between local control of land use and zoning decisions with an incentive to act.

The Governor's Proposed Housing Compact would establish a statewide housing planning system—administered by a new office at Homes and Community Renewal—that incorporates growth targets for each locality, a builder's remedy for areas that do not achieve their growth targets, a set of preferred zoning actions that can be used to avoid the builder's remedy, and incentives for affordable housing and to acquire and rehabilitate abandoned units. The growth targets would be 3% per three year cycle inside the region served by the MTA, and 1% elsewhere in the state.

If a locality does meet its growth goals, it would be in "safe harbor" for the next three-year cycle. As an alternative method to gain safe harbor, a locality could adopt two "preferred actions" from a list of zoning changes that allow more housing development in a responsible manner. These include accessory dwelling units, commercial to residential conversions, lot splits, smart growth rezonings, and addressing existing exclusionary zoning rules.

If a locality doesn't meet its goals, a developer could apply to build housing that contains at least 25% affordable units (80% Area Median Income), or 20% at very low-income levels (50% Area Median Income), notwithstanding local zoning. If the locality disapproves the project, the developer could appeal to a new state housing review board or to a court.

#### Transit Oriented Development

RPA has also long been a proponent of [transit-oriented development](#) (TOD), and is excited to see the governor's proposal to encourage it. TOD is commonly [defined](#) as high-density, mixed-use development within walking distance (a 1/2 mile) of a transit station. TOD provides a range of benefits including increased transit ridership, reduced regional vehicle congestion and pollution, and healthier, more walkable neighborhoods. Neighborhoods with a mix of both affordable and market-rate housing can also provide many benefits, such as [reducing income and racial segregation](#).

The proposed program would call for an average zoning capacity of 50 units per acre within ½ mile of MTA stations, including the subway, within New York City and up to 15 miles from the city. The density would diminish further from the city, dropping to 30 units per acre at 15 miles, 20 units per acre at 30 miles, and 15 units per acre at 50 miles.

We believe that setting minimum residential densities based on distance tiers is appropriate given that employment opportunities and demand for transit are higher in areas closest to New York City and its Central Business District. Measuring residential density based on the average of ½ mile station area also gives ample flexibility for localities to create a successful TOD district that is appropriate for its conditions. Some localities might zone for higher densities in places immediately adjacent to the station, while others might choose to set more homogeneous densities across the area, but in both cases will still meet the average required for the station area.

#### Authorizing New York City to Legalize Accessory Dwelling Units (ADUs) and Basements

[ADU's can have huge benefits](#) for individual homeowners, allowing them more flexibility with their home, supplemental income to assist with property taxes and

expenses, and supportive housing such as enabling seniors to have live-in caretakers and age in place. And they will also provide much needed new housing options for people who currently can't afford to live near jobs or family in exclusionary neighborhoods without affordable housing.

For New York City, the ability to put in place an amnesty program will let the city improve and legalize illegal ADUs, a critical measure to avoid future tragedy. We cannot require people to effectively choose between [living in unsafe living](#) conditions and homelessness. Ensuring that people living in these illegal ADUs have safe conditions and bring their dwellings up to code is essential. Health, safety, and sanitation are paramount in all housing, and the proposal ensures that local governments retain the ability to properly set these standards when it comes to ADUs. To the extent additional specific safety standards may need to be spelled out, we encourage the legislature to engage with architecture and building engineering professionals to set them.

Finally, in order to make building more ADUs practical as well as technically allowed, ADUs in New York City need to also be granted waivers from Multiple Dwelling Law rules—as single and two-family homes already are—in order to not burden their creation with regulations meant for large multifamily buildings.

#### Allowing More Housing in Manhattan

We are in favor of allowing more mixed-income housing to be built within the urban core by enabling [New York City to lift the 12 Floor Area Ratio \(FAR\)](#) cap. We applaud the way this was written, where the cap stays in place unless New York City specifically takes action to rezone an area for more residential density. This will both ensure that any new housing is mixed-income housing, as New York City must apply a Mandatory Inclusionary Zoning (MIH) component with any residential upzoning, and also let New York City be intentional about the form of any new buildings. RPA analysis finds that if the 12 FAR cap is removed, and high rise neighborhoods are zoned with MIH, New York City would produce as many as 135,000 total housing units, 33,000 of which would be income-restricted.

The buildings which are most often cited as concerns when it comes to this proposal - supertall luxury towers without any affordable housing - have all been built as-of-right, under current rules. Lifting the 12 FAR cap and rezoning for added density would let New York City eliminate the ability to build these types of buildings and require the mixed-income housing we desperately need in these high-market areas, and in more contextual buildings as well. We are also supportive of allowing the conversion of underutilized commercial buildings and hotels to affordable housing, which will also help to address housing needs in core Manhattan.

#### Conclusion

These housing production proposals should be delivered as a package. Adding much needed housing in the region's core, its smaller downtowns, and its single-family suburbs are all needed to address New York's deep affordability crisis. These proposals together make it clear that it isn't just one area or neighborhood type that needs to help with our housing crisis, but that it is all of our responsibilities. It should be noted, however, that these proposals do represent a significant new responsibility for state agencies, in terms of monitoring, enforcement, and technical assistance. Funding and personnel appropriate for these new responsibilities need to accompany this legislation.

Without a framework like this, which encourages forward momentum, the status quo will continue, and we will miss our window of opportunity to invest in our own future. We can be a state that attracts jobs and workers, where our children can live in the communities where they grew up, where we can see our grandkids without having to fly across the country, where older adults can stay in their communities as they age, and where workers can live near their jobs. We just need to plan for it at the local level and act on it at the local level in a reasonable timeframe, with support from the state. That is the framework the Governor has put before us and now is the time to act.

Thank you for the opportunity to testify,

Marcel Negret  
Senior Planner  
Regional Plan Association