

January 11, 2021

Honorable Brad Lander
Councilmember District 39 Brooklyn
New York City Council
250 Broadway Suite 1751
New York, New York 10007
Delivered Via Email to lander@council.nyc.gov & brad.lander@gmail.com

Re: Int. 2197-2021 - Proposed City Council Legislation Mandating City-Owned Land Intended for Affordable Housing Be Awarded to Qualified Nonprofit Developers¹

Dear Councilmember Lander:

As Black and Brown developers of affordable housing who have built our businesses through the New York City Housing Preservation and Development (HPD) and New York City Housing Development Corporation (HDC) programs, we read the story regarding your proposed legislation² with dismay and disappointment. In the fields of real estate development and ownership, the traditional paths through multi-generational family wealth and business relationships have been closed to us. Advancing our careers and businesses in a slow and steady manner over decades through the affordable housing world has been the only way many of us could achieve ownership of meaningful real estate assets. Today, we are calling for you to either completely withdraw or significantly modify the legislation to make it consistent with the new HPD Equitable Ownership Requirement³, which many of us have pushed for. Your legislation as drafted would disenfranchise Black, Brown and women led for profit development companies and relegate people of color to being merely tenants and clients of nonprofit organizations within the affordable housing world. As Black and Brown folks in 2020, we see ourselves as much more than that and we believe you do as well.

Even though affordable housing in predominantly Black and Brown New York City neighborhoods has been a robust business for many decades, developers of color were largely left out of the opportunities but for a brief period in the late 90s and early 2000s as part of the Neighborhood Entrepreneur's Program (NEP), under the leadership of former HPD Commissioner Richard Roberts. When that program ended, ensuing HPD Commissioners, including Rafael Cestero and Mathew Wambua, continued to do business with developers of color in an effort to enhance diversity. Around 2013, HPD Commissioner Wambua formalized the agency's efforts to provide minority and women business enterprises (MWBES) ownership

¹ <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=4743790&GUID=17816675-8D33-46D6-B1BA-71D8632CD109&Options=&Search=>

² https://therealdeal.com/2021/01/06/lander-seeks-to-keep-for-profit-developers-from-acquiring-city-owned-land/?utm_source=internal&utm_medium=widget&utm_campaign=feature_posts

³ https://www1.nyc.gov/site/hpd/news/050-20/mayor-de-blasio-taskforce-racial-equity-inclusion-new-requirement-give?utm_source=BenchmarkEmail&utm_campaign=MWBE_Email_Copy&utm_medium=email#/0

interests in HPD Projects. From that point on, we have steadily built our profile and businesses. The work of current HPD Commissioner Louise Carroll, Deputy Mayor J. Phillip Thompson, Deputy Mayor Vicki Been as well as others has brought us even more gains. We feel positive about the progress that has been made and during a time where issues of racial equity and justice have grabbed a national spotlight pursuing legislation that cuts Black and Brown developers out in the fashion proposed seems tone deaf and regressive.

However, the larger question we have as developers and owners of affordable housing is whether performance matters to you? For decades, for profit firms have developed and owned affordable housing both in New York City and nationally. The provisions around affordability, including the duration of the rent restrictions which you highlight in your media comments, are all governed by federal legislation tied to our funding and the regulatory agreements we sign at finance closing, which are recorded documents. So any affordability restrictions you want can be drafted into regulatory agreements and recorded for nonprofits and for profits alike. As a result, presenting this issue as the rationale for eliminating for profit ownership of affordable housing on city-owned sites makes little sense.

Furthermore, the idea that for profit developers are bad actors more often than nonprofit developers is not borne out by facts. We would welcome a comparison of for profit and nonprofit owned properties with HPD / HDC funding across a wide range of performance variables so that the issue can be put to bed once and for all. These variables should include whether buildings get built on time and on budget; whether the buildings get leased up on time; whether the ongoing maintenance and repair is handled properly and in a timely fashion; and whether the properties remain in compliance on affordability matters including rental to income eligible households. There are many academic and policy organizations who can conduct this work. We think such a study would prove that for profit owned affordable housing is on average at least as well run and often better built and operated than properties wholly-owned by nonprofits.

If performance really does matter, what obligation do you and your colleagues have as elected officials to ensure that working class and poor households have the absolute best owners with the strongest track records building and operating these buildings? As Black and Brown developers we have been told forever that we lack capacity to develop and own affordable housing. Majority White firms who do a good job were presented as examples. Now that we have achieved the ability to build and operate high quality housing for people in need, we are being told that we have to be nonprofits. Once again, the rules are being changed once we enter the field of play. Either performance matters or it doesn't. Either building and operating high quality affordable housing for the benefit of people in need matters or it doesn't. Either creating opportunities and a path to build wealth for disenfranchised black and brown folks matters or it doesn't. The biggest challenge we have as Black and Brown developers is understanding the rules of the business world and part of the reason it's so difficult is because those rules seem to change once we get our opportunity. It's disappointing that as an elected official who takes pride in your progressive credentials that you would propose legislation which does not support participation of women and people of color as developers and owners of affordable housing on city-owned land. Nor does this legislation recognize or reward performance. It simply attempts to deliver affordable housing on city-

owned land to nonprofit developers in a way which eliminates competition based on critical performance measures.

We are happy to meet and discuss this further with you and members of the Committee on Housing and Buildings, who we have copied, at your convenience.

Respectfully Submitted,

Kirk Goodrich, Monadnock Development
Juan Barahona, SMJ Development
Benathan Upshaw, CB Emmanuel Realty, LLC
Christopher Bramwell, CB Emmanuel Realty, LLC
Meredith Marshall, BRP Companies
Geoff Flournoy, BRP Companies
Kenneth Morrison, Lemor Development Group
Harrison Rayford, Lemor Development Group
Keith Gordon, NCV Capital Partners
Pierre Downing, Kalel Holdings LLC
Craig Livingston, Exact Capital
Lashawn Henry, Urban Strategies of NY Inc.
Erica Keller Wala, Brisa Builders Corporation
Nnenna Lynch, Xylem Projects
Micki Garcia, Mick Garcia Realty Inc
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cc: Members of City Council Committee on Housing and Buildings Via Email