Preserving Affordable Housing in East Harlem

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Executive Summary

Who will live in New York City in 2040? Despite two consecutive mayors who put the creation and preservation of affordable housing atop their agendas, neighborhoods throughout New York City and the metropolitan region are experiencing a crisis of affordability. East Harlem in particular, a neighborhood characterized by diversity and opportunity throughout its history, is under threat. Over the next 30 years, East Harlem could lose from between 200 and 500 units of affordable housing each year if existing programs are not extended or made permanent. This report finds an estimated 4,121 units subject to affordability restrictions expiring between 2020 and 2030 alone that require active engagement between property owners and government agencies in order to maintain regulated rents. In all, one-fourth of the 56,000 residential units in East Harlem have affordability restrictions due to expire by 2040.

East Harlem is one of the first neighborhoods that will be rezoned as a part of Mayor Bill de Blasio’s plan to create and preserve 200,000 units of housing over the next 10 years. These rezonings will produce more affordable housing, but because East Harlem is a gentrifying neighborhood, aggressive protections for existing vulnerable residents will be critical in order to prevent displacement. The property-specific information contained in this report has been compiled to aid Community Board 11 and other community leaders in advocating for continued affordability in existing buildings. As East Harlem adds housing in the coming years, the community will need to be vigilant to preserve affordable units and ensure the neighborhood’s diversity to a range of incomes.

While targeted efforts can protect the existing stock of affordable housing, in the long term, broader solutions to provide permanent affordability will be warranted. Those include more effective rent regulation, the modification of existing programs to require permanent affordability, the use of land lease agreements on publicly owned land, the creation of sustainable community land trusts, and the production of more affordable housing.

In anticipation of East Harlem’s rezoning, a coalition led by the office of New York City Council Speaker Melissa Mark-Viverito, community group Community Voices Heard and Community Board 11 requested RPA’s continued support and technical assistance as they developed their own neighborhood plan for East Harlem. Participants included more than 100 community-based organizations, more than 500 community residents, and over a dozen city agencies. The city’s participation in the East Harlem neighborhood planning process was promising, but the incorporation of community priorities still needs to be negotiated.

This report follows a longstanding collaboration between Community Board 11 and Regional Plan Association, who have worked together over several years to identify and propose specific strategies to preserve affordable housing in the neighborhood. Previous work enabled Community Board 11 to intervene and preserve dozens of units, and for civic groups to join together to establish a community land trust. This report continues the collaboration, and contains a decade-specific analysis, putting the affordability crisis in East Harlem and New York City within its regional context where housing production is not keeping pace with demand.
Introduction

A Brief History

East Harlem has been an immigrant neighborhood of opportunity characterized by both community activism and redevelopment pressures throughout its history. Beginning as a Dutch immigrant enclave, East Harlem has been home to successive waves of immigrant groups of lower resources including Germans, Italians, Puerto Ricans, African Americans, and most recently, Dominicans and Mexicans. While culturally and ethnically diverse, these groups always shared a common hope that their hard work would lead to better lives for their families.

As the pace of immigration and settlement picked up throughout New York City in the early twentieth century, the Second and Third Avenue Elevated Lines and other transit improvements also facilitated increased residential densities in East Harlem. Crowded tenements and row houses began to be viewed as blight conditions by some and in need of renewal. When the Federal Housing Act of 1937 allowed local housing agencies to create low-income and public housing, sections of East Harlem were razed and minor streets de-mapped to make room for tall tower-in-the-park style public housing developments. By 1960, one third of East Harlem’s residents lived in public housing.1 Subsequent federal urban renewal funds were used to take down more tenements, row houses, businesses and churches with disastrous economic impacts.2 In the 1970s -- as the city faced a financial crisis, white flight, and social upheaval -- urban renewal and slum clearance plans began to come apart leaving the largely Latino and African-American neighborhood with many land parcels that sat vacant for years.3

Through the 1970s and 80s, the city employed a mix of policy tools to reactivate and revitalize itself. Housing programs that guaranteed affordable rents to tenants or allowed them to become cooperative owners of their buildings were established, including the Mitchell-Lama and Tenant Interim Lease programs. Yet, it was in the 1990s that Community Board 11 -- the local government unit of the New York City borough of Manhattan encompassing East Harlem and Randall’s Island -- together with several community-based and planning-focused organizations including the El Barrio Coalition for Community Planning and Development, the East Harlem Neighborhood Based Alliance, CIVITAS, Regional Plan Association, Hunter College and others began to put forward organized visions for the neighborhood. These included a comprehensive housing plan in 1992 and a strategic neighborhood action plan in 1993, which along with other plans were ultimately synthesized into a 197-A plan submitted in 2007. Though not adopted, the 197-A plan and subsequent neighborhood advocacy have resulted in a strong neighborhood network able to influence rezonings and other plans for change in the neighborhood.

Study Background

Today, New York City is once again one of the world’s leading metropolises. Improved quality of life and a growing economy is attracting new residents, rich and poor, and exacerbating the city’s need for affordable housing. RPA estimates the New York metropolitan region is only producing only two-thirds of the housing needed to meet future demand through 2040.4 The city is thus faced with a crisis of affordability. Strong upward pressure on rents and housing prices will make it difficult to keep and attract the mixed-income and mixed-skill workforce needed for a competitive economy, and will make it more difficult to create or preserve affordable housing in places like East Harlem, where there are job and educational opportunities nearby. The causes of this lack of affordable housing production and price increases are a combination of physical, financial and political factors that vary by type of place, including finite land and zoning regulations. One result is pressure to redefine East Harlem and similar neighborhoods.

Community Board 11 has sent the strong message that East Harlem wants to remain a neighborhood of opportunity where residents can live out the New York City version of the “American Dream.” Maintaining such an East Harlem will require strong community activism and government action at the local, state, regional and federal levels. Preservation of affordability

in buildings with existing rent regulations is a key priority, as is incentivizing the development of new affordable housing that is accessible to a broad range of families including those with incomes ranging from extremely low to moderate. In the long term, Community Board 11 and other leaders should advocate for solutions that provide permanent affordability, such as the use of land lease agreements on publicly owned land, the creation of sustainable community land trusts, the modification of existing programs to provide permanent affordability, and the production of more affordable housing. Such goals will not be easy to meet, but with government and community cooperation, they are not unrealistic.

RPA has worked with East Harlem Community Board 11 to achieve the goal of preserving affordable housing. During the first and second phases of the affordable housing preservation collaboration between RPA and Community Board 11, RPA identified the size of the regulated housing stock and its rate of conversion. RPA recommended possible strategies to slow down these conversions, and helped to build a broad-based coalition of influential local stakeholders to implement the strategies. The next phase of work provided an overview of various affordable housing subsidies present in East Harlem with a focus on the subsidy programs expiring between 2010 and 2020. In the fourth phase, the Community Board and RPA assessed the feasibility of a Community Land Trust. The community used the assessment to guide the successful incorporation and operation of this ownership structure.

In this phase, the Community Board manager asked RPA to continue to document and analyze properties benefitting from subsidy programs that expire between 2020 and 2030. The analysis identifies individual building characteristics and makes building-specific recommendations, supporting its 2016 Community Board Needs Assessment goal to foster a community that supports residents and households of all incomes levels.

In 2015, a coalition led by the office of New York City Council Speaker Melissa Mark-Viverito, community group Community Voices Heard and Community Board 11 has relied on products produced through this research and requested RPA’s continued support and technical assistance as they developed a neighborhood plan for East Harlem in anticipation of the neighborhood rezoning process. Participants in the development of the East Harlem Neighborhood Plan include over 100 community-based organizations, more than 500 community residents, and dozens of New York City agencies.

Through this work and continued collaboration, RPA aided Community Board 11 in understanding the tools available, and not yet available, which it might employ in securing affordable housing in this neighborhood of opportunity.
Changing Demographics

Gentrification, the process of urban neighborhood change characterized by the arrival of residents with higher incomes and higher educational attainments, increases in residential and commercial rents, property values and cost-of-living, and associated with declines in the Latino and African American populations, was East Harlem’s primary trend between 2000 and 2014. In fact, East Harlem is one of the most rapidly gentrifying neighborhood in New York City. Due to price pressures caused by these trends, thousands of units of housing have become at risk of losing their affordability. Thus, Community Board 11’s main concern today is the continuing gentrification pressures that can lead to displacement of existing low-income residents. Displacement can take two forms. Physical displacement refers to the involuntary move of households from their housing unit due to conditions affecting the dwelling or surroundings that are beyond the household’s ability to control or prevent and make continued occupancy impossible, hazardous or unaffordable. Social displacement occurs when rising costs are accompanied by changes to rules, power structures, institutions, voting power, and losses of local businesses, social networks and services.

East Harlem’s demographic trends illustrate gentrification. Between 2000 and 2013, East Harlem’s Hispanic population declined by 9 percent, from 60,939 to 55,617. Its non-Hispanic black population declined by 11 percent, from 42,091 to 37,489. Meanwhile, the number of non-Hispanic white residents more than doubled from 8,391 to 17,105, and the Asian population nearly tripled from 3,033 to 8,739. This is in contrast to New York City as a whole where the white population declined by 2.4 percent, the black population declined by only 4.3 percent, and the Hispanic population grew by 9.7 percent. (See figure 1.)

The median income level in East Harlem rose by 35 percent in this period (figure 2), and the number of people living in poverty declined from 35 percent to 31 percent in the same period (figure 3). In contrast, the median income grew by only 2.4 percent in the city during the same period and the number of people in poverty increased by 4.6 percent.

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Though the unemployment rate in East Harlem remains high, it actually improved throughout the Great Recession in contrast to the city where the unemployment rate increased dramatically (figure 4).

**Decreasing Housing Affordability**

The residential market in East Harlem has been very active, adding nearly 17,000 new residential units between 2002 and 2015, and the number of renter-occupied units has increased by 5 percent.

Despite this residential market activity, New York City is struggling to meet the demand for housing affordable to its residents partly because housing costs are rising much faster than incomes. The problem is more pronounced in East Harlem. 44 percent of New Yorkers pay over 35 percent of their income in rent – compared to over 55 percent of households in East Harlem. In fact, the number of rent burdened households in East Harlem increased by more than 3,000 during the 2000 to 2013 period. Highlighting the gentrification trend of escalating housing costs, figure 6 illustrates median rents for new households in East Harlem increased dramatically by 44 percent just in the period between 2005-2007 and 2011-2013.

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Preserving Expiring Affordable Housing

Given the continuing demographic and affordability changes in East Harlem, community advocates are concerned low- and moderate-income residents will be displaced from their homes and community. One important way to prevent displacement is to protect the existing affordable housing stock, and the focus of this report is the affordable stock with expiring affordability restrictions.

Since the 1980s, the pipeline of affordable housing in New York City has been through city or state-sponsored affordable housing programs. While the details of each program differ, they retain the basic paradigm of encouraging private for-profit or not-for-profit developers to build and manage the affordable housing themselves. This is done by exchanging one or more forms of government subsidy for some form of affordability restrictions on the homes or apartments.

The primary forms of government subsidy are:

**Equity**
Government agencies may contribute direct equity toward building or preserving affordable housing. Common programs which do this are the 9% Low Income Housing Tax Credit (LIHTC) and 4% LIHTC programs, which provide federal tax credits that developers can convert into equity on the private market.

**Preferential Financing**
Government agencies may provide below-market loans toward building or preserving affordable housing, either through tax-exempt bond financing, or through City or State capital dollars. Most New York City Housing Preservation and Development (HPD), Housing Development Corporation (HDC), and New York State Housing and Community Renewal (HCR) and U.S. Department of Housing and Urban Development (HUD) programs provide some form of below-market loan.

**Public Land**
Government agencies may provide publicly owned land or buildings for building affordable housing at below-market or nominal cost to the developer.

**Tax Exemptions**
The City of New York may provide full or partial relief from ongoing property taxes through several different property tax exemptions. Most property tax exemptions are given in conjunction with other forms of subsidy, however the J-51 (rehabilitation) and 421a (new construction) exemption are sometimes often used as stand-alone subsidy sources.

**Rental Assistance**
Government agencies also provide rental vouchers to tenants in the apartment to help them pay higher rents than they would otherwise be able to afford. Section 8, which is a federal voucher, is the most common rental voucher, however other forms of rental vouchers financed by the city or state also exist.

There are two main forms of affordability restrictions, which are usually applied together. They can be applied to some or all of the units in a development or rehabilitation project.

- A limitation on the rents or prices charged for the affordable units. In addition, virtually all programs require placing affordable units in Rent Stabilization, affording them an extra layer of protection.

- A limitation on the incomes of people renting or buying the units. This is usually expressed in terms of a percentage of the “Area Median Income,” an income level determined by HUD, which is loosely based on the median income in a given metropolitan area.

Descriptions of specific programs under these categories are in Appendix B.
Three Categories of Affordable Housing

In East Harlem, over 80 percent of residential units (about 46,000 of 56,000) are in buildings with various affordability restrictions. For the purposes of this report, the three largest mechanisms restricting housing prices in East Harlem are public housing (29 percent), state mandated rent stabilization (24 percent), and units subject to other affordability restrictions with expiration dates due to participation in a City or State sponsored affordable housing program such as mentioned in the previous section (27 percent). Finally, 19 percent of residential units may be market rate, though some may be subject to additional affordability restrictions not documented in this report.9

Federally subsidized public housing administered through the New York City Housing Authority (NYCHA) accounts for 29 percent of all rental units.

In public housing, tenants pay 30 percent of their income in rent in units owned and managed by the New York City Housing Authority.

New York State rent stabilization and rent control legislation administered by the state’s Department of Homes and Community Renewal (HCR) accounts for an estimated 24 percent of all rental units.

9 The property specific information provided in this report are meant to serve as a guide for advocates, and are based on a compilation of best available data. There may be updates available for the properties described. Advocates should consult the latest available information from the relevant regulating government agency.
Rent control and rent stabilization laws generally regulate rents in buildings of six or more units built between February 1, 1947 and January 1, 1974. Tenants in buildings built before February 1, 1947, who moved in after June 30, 1971, are also covered by rent stabilization. In addition to units monitored by DHCR, other state or city sponsored subsidy programs can require units to enter rent stabilization. These units are located throughout East Harlem but especially in the mid-blocks.

**Subsidies and regulations with expiration dates account for 27 percent of all rental units.**

The programs in this category ensure affordability to different degrees and in different ways. Several agencies operate these programs including HUD, HCR, HPD, the US Internal Revenue Service (IRS). The landscape is complex, some programs provide subsidies for a finite period of time but the accompanying affordability restrictions continue in perpetuity; other programs provide subsidies indefinitely but affordability restrictions are time limited; still other programs are subject to detailed renewal terms as are the required affordability restrictions. In addition, some subsidies require negotiation with the appropriating agency while others have more rigid renewal terms. The expiration terms can vary from annual, to the property’s mortgage term, to additional terms. Finally, the affordability restrictions vary from requirement of rent levels affordable to families earning specific income levels, to requirement of rent stabilization. Detailed program profiles may be found in Appendix B.
Expiring Regulations, with a focus on 2020-2030

In all, due to current underwriting standards, East Harlem could lose between 200 and 500 units of affordable housing per year over the next 30 years if existing programs are not extended or made permanent.

As illustrated in figure 10, affordability restrictions for 9 properties containing 16 buildings and 2,342 units expired prior to 2010; and the same will occur for 14 properties containing 23 buildings and 2,118 units between 2010 and 2020 (over 200 units per year); 54 properties containing 124 buildings and 4,709 units between 2020 and 2030 (nearly 500 units per year), and 70 properties containing 187 buildings and 5,582 units between 2030 and 2040 (over 500 units per year). Due to contract structures, not all units within affordability restricted properties are directly subject to affordability restrictions. RPA estimates that 80 percent of units (4,121 of 4,709 units) will lose affordability restrictions between 2020 and 2030.

In order to maintain the affordability profile East Harlem has today, community leaders and government entities must work together to renew these programs in order to maintain their affordability restrictions, ensure their affordability without renewal, or otherwise replace them with new affordable units with similar rents.

The following is an overview of the most common programs with expirations. Note these programs are not mutually exclusive, as a single property-owner may benefit from multiple programs.

<table>
<thead>
<tr>
<th>Decade</th>
<th>Properties</th>
<th>Buildings</th>
<th>Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>Before 2010</td>
<td>9</td>
<td>16</td>
<td>2,342</td>
</tr>
<tr>
<td><strong>2010-2020</strong></td>
<td>14</td>
<td>23</td>
<td>2,118</td>
</tr>
<tr>
<td><strong>2020-2030</strong></td>
<td>54</td>
<td>124</td>
<td>4,709</td>
</tr>
<tr>
<td><strong>2030-2040</strong></td>
<td>70</td>
<td>187</td>
<td>5,582</td>
</tr>
<tr>
<td><strong>2040 and Beyond</strong></td>
<td>8</td>
<td>22</td>
<td>699</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>155</strong></td>
<td><strong>372</strong></td>
<td><strong>15,450</strong></td>
</tr>
</tbody>
</table>

Figure 10. Units at Risk, by Decade

Source: Regional Plan Association 2015, Furman Center for Real Estate and Urban Policy 2014, National Low Income Housing Coalition, New York City Department of City Planning 2015
**Low-Income Housing Tax Credits (since 1986).** LIHTC is the primary source of affordable housing development financing in the nation since the early 1990s. The LIHTC program encourages the private sector to provide financing for affordable housing developments. Internal Revenue Service (IRS) allocates tax credits to state and local housing agencies, which are then offered to developers to build or rehabilitate affordable housing. The developers in turn sell the tax credits to investors to raise capital for the project.

LIHTC expiration is the largest threat to affordable housing in East Harlem. In the 2020-2030 decade, 49 properties will face Low Income Housing Tax Credit program expiration.

<table>
<thead>
<tr>
<th>Decade</th>
<th>Properties</th>
<th>Buildings</th>
<th>Units</th>
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</thead>
<tbody>
<tr>
<td>Before 2010</td>
<td>3</td>
<td>3</td>
<td>66</td>
</tr>
<tr>
<td>2010-2020</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2020-2030</td>
<td>49</td>
<td>110</td>
<td>2,171</td>
</tr>
<tr>
<td>2030-2040</td>
<td>61</td>
<td>165</td>
<td>3,432</td>
</tr>
<tr>
<td>2040 and Beyond</td>
<td>7</td>
<td>21</td>
<td>609</td>
</tr>
<tr>
<td>TOTAL</td>
<td>120</td>
<td>299</td>
<td>6,278</td>
</tr>
</tbody>
</table>

**Figure 11. Low-Income Housing Tax Credit (LIHTC) Units at Risk, by Decade**

Source: Regional Plan Association 2015, Furman Center for Real Estate and Urban Policy 2014, National Low Income Housing Coalition, New York City Department of City Planning 2015
**HUD Project-based Rental Assistance**
This is HUD’s primary affordable housing creation tool. It provides a direct rental subsidy to property owners who agree to rent units to low- or moderate-income tenants. Primary features include:

Landlords are required to enter into an agreement with HUD whereby the tenant pays a certain percentage of their household income in monthly rent (not more than 30%). HUD pays the owner the difference between the tenant’s payment and the HUD-approved contract rent.

Programs include:
- Project Based Section 8
- Rent Supplement Program

In the 2020-2030 decade, 8 properties are facing project-based rental assistance expirations.

<table>
<thead>
<tr>
<th>Decade</th>
<th>Properties</th>
<th>Buildings</th>
<th>Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>Before 2010</td>
<td>3</td>
<td>3</td>
<td>206</td>
</tr>
<tr>
<td>2010-2020</td>
<td>24</td>
<td>82</td>
<td>3,135</td>
</tr>
<tr>
<td>2020-2030</td>
<td>8</td>
<td>26</td>
<td>2,419</td>
</tr>
<tr>
<td>2030-2040</td>
<td>1</td>
<td>1</td>
<td>40</td>
</tr>
<tr>
<td>2040 and Beyond</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>36</strong></td>
<td><strong>112</strong></td>
<td><strong>5,800</strong></td>
</tr>
</tbody>
</table>

**Figure 12. HUD Project-Based Units at Risk, by Decade**

Source: Regional Plan Association 2015, Furman Center for Real Estate and Urban Policy 2014, National Low Income Housing Coalition, New York City Rent Guidelines Board 2013, New York City Department of City Planning 2015
Mitchell-Lama Program (since 1955).
This New York State Program aims to provide safe and sanitary housing for moderate to middle income families. Through this program, developers of rental and co-op properties were offered the following benefits:

- free or low-cost land
- property tax exemptions, and
- subsidized below-market rate mortgages for up to 95% of the project cost

In exchange, developers agree to regulations regarding rents charged and tenant selection. The restrictions expire after a set period of time after which the property owner can leave the program or refinance the loan to remain in the program.

There are no properties facing Mitchell-Lama program expiration between 2020 and 2030, though properties subject to Mitchell-Lama regulations are facing other program expirations.¹⁰

<table>
<thead>
<tr>
<th>Decade</th>
<th>Properties</th>
<th>Buildings</th>
<th>Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>Before 2010</td>
<td>12</td>
<td>61</td>
<td>1,133</td>
</tr>
<tr>
<td>2010-2020</td>
<td>5</td>
<td>18</td>
<td>1,418</td>
</tr>
<tr>
<td>2020-2030</td>
<td>3</td>
<td>7</td>
<td>586</td>
</tr>
<tr>
<td>2030-2040</td>
<td>8</td>
<td>8</td>
<td>518</td>
</tr>
<tr>
<td>2040 and Beyond</td>
<td>1</td>
<td>1</td>
<td>90</td>
</tr>
<tr>
<td>TOTAL</td>
<td>29</td>
<td>95</td>
<td>3,745</td>
</tr>
</tbody>
</table>

¹⁰ See Appendix C for detailed information by property.
HUD Financing and Insurance (since the 1920s).
The Federal Housing Administration (FHA), which became a part of HUD’s Office of Housing in 1965, and HUD have provided financing for affordable housing by:

- Insuring mortgage loans made by private banks or
- Directly lending to private developers
- Include:
  - HUD Section 221(d)(3) and Section 221(d)(4)
  - HUD Section 221(d)(3) Below Market Interest Rate (BMIR)
  - HUD Section 236 Program

3 properties are facing HUD financing and insurance program expirations between 2020 and 2030.

<table>
<thead>
<tr>
<th>Properties</th>
<th>Buildings</th>
<th>Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>Before 2010</td>
<td>7</td>
<td>18</td>
</tr>
<tr>
<td>2010-2020</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>2020-2030</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2030-2040</td>
<td>1</td>
<td>14</td>
</tr>
<tr>
<td>2040 and Beyond</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>TOTAL</td>
<td>9</td>
<td>36</td>
</tr>
</tbody>
</table>

Figure 14. HUD Financing & Insurance Units at Risk, by Decade

Source: Regional Plan Association 2015, Furman Center for Real Estate and Urban Policy 2014, National Low Income Housing Coalition, New York City Rent Guidelines Board 2013, New York City Department of City Planning 2015
Common Portfolios for Expiring Regulations, 2020-2030

While viewing individual programs in isolation highlights the growing risks of expiring programs, community leaders must develop an understanding of how programs work together in order to gain a comprehensive understanding of the affordable housing landscape in East Harlem and in New York City.

There are dozens of programs contributing to affordable housing in East Harlem. Those documented in this study account for the programs with the greatest impacts that are administered directly by city, state and federal housing agencies.\(^\text{11}\)

Of properties with affordability restrictions ending between 2020 and 2030, the ten most common combinations of programs or portfolios held by property owners are:

1. **LIHTC 9% with or without other HDC mortgages and tax exemptions**: 46 property owner managing 1,958 units of which approximately 1,370 are likely subject to affordability restrictions
2. **LIHTC 9%; Mitchell-Lama; Rental Assistance Program (RAP)**: 1 property owner managing 134 units all of which are likely subject to affordability restrictions
3. **LIHTC 4% with or without other HDC mortgages and tax exemptions**: 2 property owners managing 79 units of which approximately 79 units are likely subject to affordability restrictions
4. **Project-Based Section 8; Mitchell-Lama; Other HDC Mortgage; J-51 Tax Exemption; Section 223 (f)**: 1 property owner managing 1,594 units all of which are likely subject to affordability restrictions
5. **Mitchell-Lama; Rental Assistance Program (RAP); Section 236**: 1 property owner managing 446 units all of which are likely subject to affordability restrictions
6. **Project-Based Section 8; Section 221 (d) (3) & (4) with affordability restrictions**: 1 property owner managing 272 units all of which are likely subject to affordability restrictions
7. **Project-Based Section 8; Other HUD Insurance without affordability restrictions**: 2 property owners managing 226 units all of which are likely subject to affordability restrictions

East Harlem Affordable Housing Risk Assessment, 2020-2030

Community leaders should work to retain affordability of the existing stock by considering several factors:

- The estimated number of households affected by the loss of affordable units
- The current physical condition and financial health of the buildings at risk
- The risk of conversion from affordable to market rate due to an expiring affordability restriction
- The availability of tools under the disposal of government agencies to prevent the conversion, and whether any programs are renewable

RPA conducted this assessment for each of the 54 properties facing expiring affordability regulations in East Harlem between 2020 and 2030. The results are tabulated in Appendix C by property. Appendix C includes property specific assessments and a summary chart showing the estimated number of units per property at risk of expiration.

Below are summarized findings:

**Number of affected households**

With respect to social impact, one third of the units with expiring affordability restrictions have regulations that are not renewable.

**Physical condition**

17 of the 54 properties have serious violations. These tend to be the older, larger buildings.\(^\text{12}\) 48 of the 54 buildings with expiring regulations were built before 1930.

![Figure 15. Number of Serious Violations](source)

\(\text{Source: Regional Plan Association 2015, Furman Center for Real Estate and Urban Policy 2014}\)

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\(^{12}\) See Appendix C for building specific profiles with violation information.
Financial Health
Only 3 properties are listed as having delinquencies of over $500 for water or tax liens for at least one year.

Figure 16. Year Built

![Bar chart showing the year built distribution.](source)

Source: Regional Plan Association 2015, Furman Center for Real Estate and Urban Policy 2014

Risk of Conversion
54 properties are at risk of conversion due to subsidies expiring between 2020 and 2030. These properties have 4,709 units of which an estimated 4,121 are affordable through rent increase restrictions, rent caps, and/or direct subsidies to tenants.

Renewability
Of the 54 properties at risk, 48 properties are subject to expiring LIHTC contracts that may not be directly renewable and require action by the property owner and regulating agency. 6 have subsidies project based rental assistance and other subsidies that are renewable.

Figure 17. Expiring Subsidies that are Renewable (by properties)

![Pie chart showing the percentage of properties that are renewable.](source)

Source: Regional Plan Association 2015, Furman Center for Real Estate and Urban Policy 2014

Figure 18. Expiring Subsidies that are Renewable (by est. no. subsidized units)

![Pie chart showing the percentage of subsidized units that are renewable.](source)

Source: Regional Plan Association 2015, Furman Center for Real Estate and Urban Policy 2014
Two kinds of recommendations are made in this section. Because the subject of this report has been to profile properties with affordability restrictions ending between 2020 and 2030, the first set of recommendations relates to these properties. Second, general recommendations are made for the preservation of existing affordable housing in East Harlem.

Portfolio Specific Recommendations, 2020-2030

Community leaders wishing to advocate for the preservation of existing affordable housing should first aim to understand the how different subsidies and programs interact to influence affordability restrictions. For instance, the Low Income Tax Credit (LIHTC) program in a property that also benefits from Project Based Section 8 assistance is able to reach deeper levels of affordability than a property benefitting from LIHTC alone. Federal financing and insurance programs like Section 236 and Section 221 that work to reduce property owners’ total debt levels are also often combined with Project Based Section 8.

Given these nuances, below are some generally recommended actions for the 7 common portfolios among the 54 properties with expiring affordability restrictions between 2020 and 2030. Individual program definitions can be found in Appendix B, solution program descriptions can be found in Appendix D:

1. **LIHTC 9%**: Enter the HPD Year 15 Program and/or request the city aid acquisition by non-profit or public organization.

2. **LIHTC 9%; Mitchell-Lama; Rental Assistance Program (RAP)**: Enter the HPD Year 15 Program. Conversion risk is high, these buildings may have the option of entering into HDC’s Mitchell-Lama preservation program.

3. **LIHTC 4%**: Enter the HPD Year 15 Program and/or request the City aid acquisition by non-profit or public organization.

4. **Project-Based Section 8; Other HUD Insurance without affordability restrictions**: Renew the project-based rental assistance contract, or opt into HUD’s mark to market program.

5. **Mitchell-Lama; Rental Assistance Program (RAP); Section 236**: Enter the HPD Year 15 Program. Conversion risk is high, these buildings may have the option of entering into HDC’s Mitchell-Lama preservation program. Rental assistance contract holders can also opt for HUD preservation tool including mark to market, which provides incentives to for-profit owners with below-market rents to remain in rental assistance programs upon contract expiration.

6. **Project-Based Section 8; Section 221 (d) (3) & (4) with affordability restrictions**: Renew the project-based rental assistance contract, or opt into HUD’s mark to market program.

7. **Project-Based Section 8; Mitchell-Lama; Other HDC Mortgage; J-51 Tax Exemption; Section 223 (f)**: Renew. These buildings may have the option of entering into HDC’s Mitchell-Lama preservation program. Project based section 8 contract holders can also opt for HUD preservation tool including mark to market, which provides incentives to for-profit owners with below-market rents to remain in rental assistance programs upon contract expiration.

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While targeted efforts the preserve housing with the tools available today can protect the existing stock of affordable housing in the long term, broader solutions to provide permanent affordability will be warranted. Those include more effective rent regulation, the modification of existing programs to require permanent affordability, the use of land lease agreements on publicly owned land, the creation of sustainable community land trusts, and the production of more affordable housing.

Preserve Housing with the Tools Available Today

The previous section provided recommended actions for the preservation of affordable housing with expiring affordability restrictions given the tools presently available. Of chief importance is that community residents are empowered to advocate for the use of these available preservation tools. This requires residents to be informed about the way available programs work. While not the subject of this report, efforts should be made to preserve units affordable due to rent stabilization in addition to preserving housing with expiring affordability restrictions. East Harlem lost nearly as many rent-stabilized units between 2007 and 2014 as it gained. Though this may seem a close approximation of no net loss, in fact, the affordability levels of the new rent stabilized units are not as deep as in the lost rent stabilized units due to the nature of the regulation. Thus, preventing the loss of rent-stabilized units is a key priority as well.

Simplify Regulations, Require Permanent Affordability

The affordable housing landscape in New York City is deeply complex. As illustrated in previous sections, there are seven combinations of programs with expiring affordability restrictions keeping over 4,000 units affordable in East Harlem during the 2020 to 2030 decade alone. When this view is expanded to include units with affordability restrictions ending as far out as 2040, approximately 10,000 units are being kept affordable to different degrees through 35 combinations of programs. Such complexity makes it difficult for community residents to advocate for continued affordability because of a general lack of understanding about which properties are expiring when, and what the expirations mean when multiple programs apply. Moreover, smaller property owners also have difficulty navigating the complex structures.

The most effective long-term solution is to make affordability obtained through the various existing programs permanent. This includes programs financed through federal, state and city regulations. Other work has documented that it is much less expensive to retain an affordable unit than it is to create a new affordable unit. Making programs such as HPD’s LIHTC, HDC’s 50/30/20 program and others permanently affordable can be achieved by requiring relatively small adjustments to underwriting standards and would help stem the revolving door of affordability in neighborhoods like East Harlem that are facing very high market demand.

In 2008, the city department of Housing Preservation and Development recognized the problem of expiring subsidies in the case of the LIHTC program and created the “Year 15 Program,” whereby properties eligible to exit the LIHTC program can opt for a favorable debt restructuring that secures affordability restrictions for an additional 15 years. More recently, the city has required all new 9% LIHTC deals provide 60 years of affordability under the condition that the property has a tax exemption that runs for 60 years as well.

Broader Advocacy for the Protection and Expansion of Affordable Housing

Gentrification and neighborhood change are very difficult to contain, and some communities may decide containment is not necessarily desirable given the much needed investment and revitalization that gentrification can bring to low-income communities and that displacement can be avoided. Instead, preparation for gentrification in a way that surfaces community priorities is key. Community engagement and empowerment can lead to successful preservation of affordable housing in East Harlem. Effective engagement requires that residents and community leaders be informed about the mechanisms keeping housing affordable within their neighborhoods, have a voice in future development, and have the resources needed to advocate for preservation.

In addition to using community engagement to more fully utilize tools available today, East Harlem community leaders can join housing advocates around the city and state to advocate for stronger tenant protections, the creation of more affordable housing, and investment in community owned and controlled assets. Policies that can help prevent evictions and the loss of affordable housing include right of first refusal and right to return policies, and stronger enforcement of existing laws and regulations. Policies for the creation of more affordable housing include adopting rigorous preservation plans that at a minimum require no net loss of affordable housing, improving zoning flexibility to increase housing production, expanding inclusionary zoning programs, and getting dedicated funds to produce and preserve affordable housing. Finally, programs that promote community ownership of housing and bolster community assets can include promoting home ownership programs, supporting the development of cooperative land and housing arrangements including community land trusts, and creating mechanisms for these entities to gain assets.


Other Works Referenced


Regional Plan Association is America’s most distinguished independent urban research and advocacy organization. RPA improves the New York metropolitan region’s economic health, environmental sustainability and quality of life through research, planning and advocacy. Since the 1920s, RPA has produced three landmark plans for the region and is working on a fourth plan that will tackle challenges related to sustained economic growth and opportunity, climate change, infrastructure and the fiscal health of our state and local governments. For more information please visit, www.rpa.org.

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