



PROFITING FROM A BROKEN SYSTEM

**HOW THE AFFORDABLE HOUSING INDUSTRY ROBS
NEW YORK CITY**

A REPORT BY REAL AFFORDABILITY FOR ALL

INTRODUCTION: CORRUPTION AND UNETHICAL BEHAVIOR IN THE AFFORDABLE HOUSING INDUSTRY

Since the beginning of Mayor Bloomberg's term almost 15 years ago, New York City's affordable housing developers ran amok, taking advantage of public trust and taxpayer dollars.

They did it easily and have no reason to stop.

While stagnant wages and rising rents dramatically increased the need for affordable housing, these developers profited from building affordable projects that were not really affordable. In the process, they abused workers, committed wage theft, and got caught up in ethics scandals.

The worst among these developers are members of the New York State Association for Affordable Housing (NYSFAFH), a lobbying group that controls the massive, multi-billion dollar affordable housing market and exploits the communities where new development happens.

Indeed, as this report reveals, NYSAFAH developers rely heavily on wage theft, the exploitation of construction workers, and unsafe construction methods to build housing that isn't even affordable to most residents. Rents in NYSAFAH buildings often rise much faster than tenants' incomes, exacerbating the affordability crisis for economically vulnerable New Yorkers.

NYSAFAH developers, along with their contractors and subcontractors, have profited from a corrupt system of feeble oversight and rampant lawbreaking that they actively perpetuate.

With over \$19 million in stolen wages documented since 2010 in the affordable housing industry on projects predominantly overseen by NYSAFAH developers, it cannot be argued that the problem is caused by a few bad apples.¹

The city agency responsible for the oversight of most of NYSAFAH's work is The Department of Housing Preservation and Development (HPD). In the past ten years, numerous HPD officials were associated with or involved in bribery schemes.² When lucrative real-estate contracts are given out to unscrupulous developers, it's harder for more responsible actors to gain a foothold in the marketplace and create affordable housing and good jobs for communities.

KEY FINDINGS: HOW NYSAFAH'S LAND GRAB HARMS WORKERS, TENANTS, AND COMMUNITIES

This is the first comprehensive report to show how NYSAFAH developers have benefited from more than a decade of favorable treatment by HPD, and made wage theft and mistreatment of tenants fundamental components of their business model. Indeed, NYSAFAH developers have repeatedly exploited workers and undermined the real affordability of communities in order to maximize profits.

Because of the low wages and persistent wage theft on NYSFAFH developments, workers are often building “affordable” housing that they themselves can’t ever afford.

And tenants in NYSFAFH buildings are severely rent burdened, as new surveys included in the report show. After initially renting apartments at affordable rates to qualify for subsidies and other financing from HPD, NYSFAFH building owners drastically raise the rent.

It’s a clear bait and switch that harms low-income families: once NYSFAFH developers build their “affordable” housing, the rents rise much faster than tenants’ incomes, increasing the rent burden on economically vulnerable tenants who struggle to afford their apartments.

These findings come as the city begins to rezone numerous neighborhoods throughout the five boroughs, with NYSFAFH developers lining up for more HPD contracts.

NYSFAFH developers cashed in on previous neighborhood rezonings by receiving contracts under very favorable terms from HPD. And they could easily do it again.

With city government focused on addressing the affordable housing crisis through the rezoning of many low-income neighborhoods, NYSFAFH developers are poised to swoop in and make bigger profits in the months and years ahead.

In fact, they are already buying up, speculating on, and developing properties in East New York, Brooklyn, the South Bronx and other areas designated for rezoning.

The rezoning of industrial areas for residential construction has long been a lucrative land-grab for developers. That is why, in low-income and moderate-income communities, rezonings are fueling concerns that developers – especially NYSFAFH members – will not build for the majority of current neighborhood residents, which will accelerate gentrification, displacement and the loss of real affordability over time.

For many years, especially beginning with Mayor Bloomberg Housing Marketplace plan, these for-profit “affordable” housing developers have obtained generous financing, subsidies, and tax incentives from HPD and earned substantial profits in return. Those profits have been generated through developer fees, paid incentive management fees, and significant increases in rents built into the agreements between NYSFAFH developers and HPD. Yet there has been little-to-no consideration of how this long-standing preferential treatment of NYSFAFH developers by HPD officials in city government comes at the expense of communities and residents who desperately need real affordable housing.

Without stronger regulation and oversight, the same behavior will continue: NYSFAFH developers will put their profit motives above the needs of workers, tenants and communities.

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NYSFAFH developers are planning on perpetuating business as usual, and now they are trying to make more money than in years past, because land values and prices are rising to unprecedented heights.

If NYSFAFH's development practices continue unchanged and unchecked, neighborhoods like East New York, the South Bronx, and East Harlem will see more developments that are built to maximize the developers' profits by stealing wages from workers and that have very little real affordable housing for residents who need it the most,³ this report finds.

There is currently an opportunity, with citywide rezonings, to address the increasing income inequality and the lack of real affordable housing for the people who need it the most. Unfortunately, NYSFAFH has not shown a willingness to engage in this opportunity, preferring instead to bring home huge profits at the expense of workers and tenants.

NYSFAFH must greatly overhaul its questionable business practices or its members should not be allowed to take advantage of the opportunity to build to greater density, and to be awarded contracts from HPD in neighborhoods scheduled to be rezoned.

SPOTLIGHT ON KEY NYSFAFH MEMBERS: THEY OWN HUGE SWATHES OF NEW YORK CITY

L+M Development, BFC Partners, The Arker Companies, BRP Development and Lettice Construction have massive affordable and mixed-income housing portfolios. Their development efforts exploded during the early to mid-2000's.

These hugely well-resourced NYSFAFH members are big players in the affordable housing industry. They are actively acquiring land and buildings in neighborhoods targeted for rezonings. They know places like East New York, the South Bronx, and other once neglected neighborhoods will soon become "hotter" and new housing there will be more profitable.

The Arker Companies' affordable housing holdings have been described as "a sprawling affordable housing portfolio" after they purchased another company's property valued at \$80 to \$85 million, a figure dwarfed by The Arker Companies' over \$810 million in holdings.⁴ Donald Cappocia of BFC Partners is infamous for hiding behind contractors that violate wage theft laws and abuse workers. Cappocia is deeply entrenched in the New York City real estate industry, including being a founding member of NYSFAFH. BFC has holdings that exceed \$500 million.

BRP development has invested hundreds of millions of dollars in emerging markets, including a two-building, \$65 million, 183-unit project developed in Bedford-Stuyvesant⁵ and a 115-unit, \$46 million Lafayette building in Central Harlem.⁶ In 2014 BRP created a \$75 million investment fund to "leverage upwards of \$250 million" expressly for mixed use, mixed income residential properties.⁷

Shortly thereafter, BRP was swooping up land, subsidies, and financing in East New York, which co-founder Meredith Marshal called “the next hot area.”⁸ BRP secured a 63-building, 468-unit rehabilitation project in East New York worth \$100 million, financed by the City and private partners.⁹ BRP was additionally awarded the 288-unit Livonia Avenue Phase II, also in East New York.

WAGE THEFT AND AFFORDABLE HOUSING

Wage theft is pervasive throughout New York City’s affordable housing market, and it’s commonplace in NYSFAFH projects. Affordable housing construction workers are a vulnerable, mostly immigrant, workforce. They are an easy target for exploitation as a result of developers’ and contractors’ relentless drive to turn a profit on subsidized housing projects. Wage theft takes many forms, all illegal: underpayment of prevailing or minimum wage; failure to pay overtime premiums; employee misclassification; illegal deductions; withholding of pay; and being forced to work off the clock.

Illegal abuse and wage theft in affordable housing cost taxpayers massive sums every year. The Workers’ Compensation premium fraud connected to misclassifications in the construction industry costs about \$420 million each year in New York City alone, according to a 2014 grand jury report.¹⁰ Another analysis found that in the New York City affordable housing market, \$85 to \$126 million is lost to unpaid employment taxes, social insurance premiums, and shifted healthcare costs.¹¹

There is no definitive way to measure the full extent of wage theft.

Only what is reported and investigated can be quantified.

As a unified group of developers, NYSFAFH has actively supported state legislation¹² that would make it harder for organizations like unions to even monitor wage theft. Unions use this information in the form of certified payrolls extensive to check for wage violations. NYSFAFH has also fervently opposed prevailing wages and other protections for construction workers.

HPD Commissioner Vicki Been has testified that her agency investigates projects with prevailing wage requirements, which constitute about 10 percent of HPD projects.¹³ This means only a fraction of wage theft is documented. Still, since 2011, at least \$19 million in stolen wages have been documented by the New York State Attorney General, the US Department of Labor, Civil Fair Labor Standards Act complaints brought by workers, and HPD’s own investigations. See Table 1 below for a breakdown of the \$19 million.

Wage theft by NYSFAFH contractors has been well documented. Those contractors include including Lettice Construction, MDG Design + Construction, Procida Realty & Construction and Galaxy General Contractors. Most of the cases listed in Table 1 are examples of general contractors, either intentionally or through incompetence, failing to monitor projects.

The US Department of Labor has made it clear that general contractors are responsible for the work conditions of all workers on a job site, including the workers hired by subcontractors, who usually represent a majority of the workforce. Their declaration was a direct result of wage theft on a NYSFAFH developed and constructed project.¹⁴

Lettire Construction is a prime example of a NYSFAFH contractor that has failed across multiple projects to ensure the fair treatment of workers and yet continues to benefit from public subsidies. At Lettire's Hobbs Ciena project, the US Department of Labor (DOL) found that nearly \$3 million was stolen from about 300 workers. In total, out of 24 subcontractors, the DOL found that 16 violated labor laws. Wage violations were also found at subcontractors on two additional Lettire projects.¹⁵ Employees of Lettire Construction alleged wage theft at four projects.¹⁶

Direct employees of NYSFAFH contractors have recently filed several class action lawsuits against their employers under the Fair Labor Standards Act for various forms of prolonged wage theft. See Table 2 below. In addition to Lettire Construction, these NYSFAFH employers include Galaxy General Contracting and Joy Construction. In most cases, workers are seeking restitution for employers' failures to pay overtime premiums, but allegations also include denial of even a minimum wage for some workers.¹⁷

Many NYSFAFH developers allow this cycle of wage theft to continue not only by underpaying workers, but by repeatedly hiring unscrupulous contractors who are then inadequately monitored. For example, L&M Partners, whose executive Lisa Gomez is Board Chair of NYSFAFH, and The Arker Companies continue to enter into contracts with MC&O Construction, despite the firm's deplorable history.¹⁸

MC&O has repeatedly been found liable for wage theft, including stealing \$830,000 in 2013 from workers on a project of NYSFAFH contractor Procida Realty & Construction.¹⁹ Following another incident, MC&O's owners pled guilty to felony charges of tax fraud for paying workers off the books. One owner pled guilty to felony charges after committing Workers' Compensation Fraud to secure a lower policy premium.²⁰ The New York State Worker's Compensation Board debarred the firm for one year starting in November 2011.²¹

Additionally, about 40 employees of MC&O filed a class action lawsuit against the firm and its owners claiming their employers willfully failed to pay overtime compensation. The case settled in April 2015, with MC&O agreeing to pay the workers \$575,000.²² HPD assigned MC&O to the agency's "Enhanced Review List," a designation for problem contractors that the agency may then subject to additional scrutiny.²³ The New York City Business Integrity Commission denied MC&O an application due to a record of unscrupulous business practices and failure to provide truthful information.²⁴ Lastly, the Special Trades Contracting and Construction self-insurance trust terminated MC&O insurance policy in October 2012 due to "poor loss experience."²⁵

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According to records obtained through freedom of information requests, HPD itself documented \$3.7 million in stolen wages from January 2012 through March 2015. The five largest of these findings are listed in Table 3. Most of these violations occurred on NYSFAFH-developed or constructed projects.

TABLE 1: \$19 MILLION IN DOCUMENTED WAGE THEFT SINCE 2011

Project	Borough	Developer	General Contractor	Project Cost	Estimated Stolen Wages	NYSFAFH Affiliate		
						Developer	General Contractor	Sub-contractor
Grand Street Guild	Manhattan	Catholic Charities	MDG Design + Construction	\$60,000,000	\$5,000,000		Yes	
Various HPD Financed Restoration Projects			Mascon Restoration	\$9,000,000	\$1,200,000			
Livonia Terrace Apartments	Brooklyn	Arista Development Group	MDG Design + Construction	\$25,000,000	\$967,000		Yes	
Hobbs Ciena	Manhattan	Phipps House	Lettire Construction	\$144,000,000	\$3,000,000	Yes	Yes	
Claremont Project	Bronx	Westside Federation for Senior and Supportive Housing	Lettire Construction	\$28,000,000	\$160,643		Yes	
Castle Gardens	Manhattan	Fortune Society	Lettire Construction	\$43,000,000	\$173,209		Yes	
Riverway Apartments	Brooklyn	Ska Marin	Procida Realty & Construction Corp.	\$33,000,000	\$830,000	Yes	Yes	
Prospect Macy	Brooklyn	Blue Sea Development	Great American Construction	\$12,000,000	\$575,000	Yes	Yes	
St. Marks Project	Brooklyn	Common Ground	Glenmen Construction Corp	\$12,700,000	\$575,000	Yes		Yes
Kingsbridge	Bronx	Co-op	Applied	\$3,000,000	\$500,000			

Arms Apartments			Construction					
Crown Heights Apartments	Brooklyn	Ska Marin	Procida Realty & Construction Corp.	\$44,000,000	\$100,000	Yes	Yes	
97 Crooke	Bronx	CAMBA Housing	Galaxy General Contractors	\$15,300,000	\$571,000		Yes	
Council Towers	Queens	Metropolitan Council on Jewish Poverty	Galaxy General Contractors	\$24,000,000	\$388,000		Yes	
Sugar Hill	Bronx	Broadway Housing	Mountco Construction & Development	\$42,000,000	\$300,000		Yes	

TABLE 2: CLASS ACTION LAWSUITS FILED BY NYSFAFH EMPLOYEES

Employer	Case #	Status	Settlement	NYSFAFH Affiliate
Lettire Construction	12-cv-0043	Settled	Not disclosed	Yes
MC&O Construction	12-cv-4479	Settled	\$575,000	No*
Galaxy General Contracting	10-cv-5771	Settled	\$753,000	Yes
Joy Construction	15-cv-1328	On going	On going	Yes

**MC&O is not a NYSFAFH member, but continues to be frequently be used as a subcontractor by NYSFAFH members, including Arker Companies and L&M Partners.*

TABLE 3: WAGE THEFT DOCUMENTED BY HPD

Project	Borough	Developer	General Contractor	Estimated Stolen Wages	NYSFAFH Affiliate	
					Developer	General Contractor
455 East 148th Street	Bronx	Common Ground	Mountco Construction	\$658,412		Yes
Courtlandt Community	Bronx	Phipps House	Artec Construction	\$600,000	Yes	

Haven Plaza		Catholic Charities	MDG Design + Construction	\$492,943		Yes
97 Crooke*	Bronx	CAMBA Housing	Galaxy General Contractors	\$392,670		Yes
589-588 Union Avenue, Bronx	Bronx	Lemle & Wolff	Apartment Rehab	\$381,184	Yes	Yes

** Both the Department of Labor and HPD found wage violations on different subcontractors on this project, which is why it appears in both Table 1 and Table 2.*

SPOTLIGHT ON AURINGER: A KEY AFFORDABLE HOUSING SUBCONTRACTOR

One of the largest construction contractors concentrated in the affordable housing industry is a collection of almost a dozen iron working companies owned by Thomas Auringer and his family.

Auringer-affiliated companies operate the cranes and lifts that move and set the machinery and structural steel for new developments. They also install the concrete planks that often make up a building’s floors and roof. The Auringer companies are primarily by their trade names Urban Erectors, U.S. Crane and Rigging, New York Hoist, New York Pre-Cast, and New York Plank Services. Records from the HPD show that Auringer companies have worked on over 30 HPD-funded projects with dozens of NYSFAFH developers and general contractors, including BFC Partners and the Arker Companies.

Unfortunately, the Auringer companies have a record of irresponsible and unlawful behavior against workers, their health and safety, and the greater community. Workers say they are subjected to a number of abuses including wage theft, discrimination and mistreatment. Adding insult to obvious injury, the workers have to pay for their own safety equipment and do not receive any health or retirement benefits.

Carrol Turner and LaFondra Brown are just two of the workers calling out for justice at Auringer companies. Their stories are below.

WORKER STORIES

CARROL TURNER

Carrol Turner is an iron worker, now on strike, who has been employed for over a decade by multiple affiliates of the Auringer family. A Jamaican immigrant, Mr. Turner is the sole bread-winner for the family he supports abroad. He has often sacrificed his safety and rights to keep his job. Throughout his decade-long employment, Mr. Turner’s weekly hours were frequently shorted and he was often paid off the books.

Additionally, he was subject to verbal and racial abuse. Members of the Auringer family called him “a donkey and “n****r.” His boss once told him he could “afford to lose twenty five black or Hispanics because

we are easy to replace but he can't afford to lose one white man."²⁶ This threat is all the more alarming given the dangerous condition of the jobsites where Mr. Turner has worked.

According to Mr. Turner, his employer provided none of the OSHA required safety equipment, like helmets, harnesses and glasses. It was his impression that when accidents and injuries occurred, workers were discouraged from reporting the incidents to OSHA or Workers Compensation. Mr. Turner has fallen from a building twice and had parts of his body crushed three times, resulting in broken bones and a partial finger amputation.²⁷ Mr. Turner described one of these incidents at a public hearing about awarding financing to the contractors that employ the Auringer companies: "When I broke my finger and got it crushed, [Auringer] told my foreman, 'tell Turner he can cut off his finger and sue me, but if he doesn't come back to work he will be fired. He will be out of a job.'"²⁸



Carol Turner

LAFONDRA BROWN

LaFondra Brown started working for the Auringer family in March 2014 but was forced to strike when unsafe work conditions, wage theft, and harassment became unbearable.

She suffered wage theft in many forms, including being shorted for hours worked, not receiving an overtime premium, and not receiving the prevailing wage on public work.

The Auringer companies jeopardized and continue to jeopardize Ms. Brown's welfare and dignity by requiring her to work in unsafe and hostile jobsites. Ms. Brown was required to weld even though she lacked the proper certification. While welding, she sustained eye injuries resulting in temporary blindness, but the company did not pay for her hospital visit or for time lost, and did not file an OSHA report on her behalf. Additionally, she was subjected to sexual and racial harassment. She has explained how almost daily, she endured comments about her body, sexual invitations, and physical harassment from a manager; and how CFO Evans Gardner forced her to return to a jobsite where a developer repeatedly directed racial slurs at her and assaulted her with a vehicle.²⁹ Ms. Brown testified to a City Council Committee, "I've been called monkey. I've been spat at. I've been sexually assaulted by company management. . . . These are the abuses that we received every-day without knowing if we'll make it home."³⁰



LaFondra Brown

SURVEYING TENANTS OF NYSFAH BUILDINGS: A CLOSE-UP LOOK AT RENT-BURDENED TENANTS

To find out more about conditions in NYSFAH buildings, canvassers with Real Affordability for All (RAFA) surveyed randomly selected tenants in NYSFAH developments from April 28 through May 8, 2015.

Most of the developments surveyed were built between the years of 2001 and 2011 by some of NYSFAH's most prominent developers in partnership with HPD and the New York City Housing Development Corporation (HDC). The selected buildings were developed by either The Arker Companies, BFC Partners, BRP Development, Dunn Development Group, or L+M Development Partners. All of the developers have representatives who serve on NYSFAH's board of directors. Eight of the buildings were located in Manhattan; six were located in Brooklyn; and two were located in the Bronx.

These developers took advantage of available affordable housing programs and direct and indirect subsidies including: tax exempt bond financing, low income housing tax credits; direct capital subsidies; and tax abatements. In return for building "affordable" housing, developers get a substantial fee and builder/developers often also get the construction profit.

The residents of these developments were selected through a City-administered lottery process. Most paid more than 30% (more recently sometimes up to 35%) of their gross income toward the initial rent. The survey found that a large percentage of the tenants cannot afford to live in their apartments and are either rent burdened or severely rent burdened.

As part of this survey, current tenants residing in these buildings were asked the following: their occupation; current combined income of all tenants living in the apartment; the number of bedrooms in the apartment; the amount of rent they paid each month at the time they moved in; the amount they paid prior to their most recent rent-increase; and the amount they currently pay each month in rent. The results, compiled below, show that once NYSFAH developers build their "affordable" housing, the rents rise much faster than tenants' incomes, increasing the rent burden on low-income tenants who struggle to afford their apartments.

Of the 115 surveyed tenants, at least 36% paid more than 30% of their income in rent, which officially designates the tenant as rent burdened. Many of these tenants are in particularly dire situations. More than 50% of tenants who are rent burdened pay more than 40% of their income in rent, and almost 40%³¹ of rent burdened tenants see more than half of their paychecks go just to their housing, which meets the definition of being severely rent burdened.

According to Mayor de Blasio's Housing New York plan, around 600,000 families in New York City were severely rent-burdened as of 2012.³²

RESULTS REGARDING RENT BURDENS IN THE SURVEYED NYSAFAH PROPERTIES

	All	> 30% of income	> 40% of income	> 50% of income
Total Units	115	41	22	16
% of Total Units	100%	36%	19%	14%
% Rent Burdened	N/A	100%	54%	39%

Being rent burdened has serious impacts on families. According to a 2011 study from the National Center for Children in Poverty, “unaffordable housing was associated with lower health ratings for all the children, and also with an increase in rates of behavior problems among adolescents.”³³

The major reason for such a drastic rent burden in NYSAFAH buildings is that owners have imposed large rent increases on tenants. After initially renting the apartments at affordable rates in order to qualify for subsidies, NYSAFAH building owners drastically raise the rent. Almost half – 48% -- of all NYSAFAH tenants surveyed have seen rent increases of at least 10% since they first moved into their building. More than 30% have incurred at least a 20% increase, and more than 10% of all tenants surveyed have had their rents increase at least 50% since renting their apartments.

RESULTS REGARDING RENT INCREASES IN SURVEYED NYSAFAH PROPERTIES

	Increase > 10%	Increase > 20%	Increase > 30%	Increase > 40%
Total Units	55	37	19	13
% of total units	48%	32%	17%	11%

THE POOR QUALITY OF NYSAFAH CONSTRUCTION

New affordable housing built under the auspices of HPD and largely overseen by NYSAFAH developers and contractors is often plagued by inferior materials, design, and craftsmanship.

One of the most infamously ill-constructed affordable housing projects is BFC’s Madison Park in Harlem. Issues there have endured for over a decade, causing homeowners to seek relief through litigation and appeals to their elected officials. Amazingly, NYSAFAH co-founder Don Capoccia’s response to complaints about bad construction on a publicly funded project was to personally sue moderate income co-op owners for \$4.5 million. This outrageous suit was thrown out by the court. The judge stated Capoccia’s, “complaint must be dismissed as the factual allegations it contains do not support a single cause of action it asserts.”³⁴

Unfortunately, the construction problems at Madison Park are not minor; nor have they been fixed. Built under the HPD’s Cornerstone program and financed by HDC, the building was to provide homeownership

opportunities to moderate income New Yorkers. Almost as soon as the new owners occupied the building there were leaks and other defects. For example, the air conditioner sleeves were installed at the wrong pitch, causing water damage with every rainfall.

Project financier HDC noted in their latest Madison Park annual inspection that “building envelope issues and other repeat items have plagued this project for many years.” HDC called the completed repair work “remedial” and added that it had not addressed underlying construction defects. HDC cited worsening cracks in the parapet walls, joints, and masonry window heads. Moreover, despite construction having been completed in 2002, the building failed for over a decade to obtain a permanent certificate of occupancy.³⁵

Another example of a NYSFAFH development with significant construction issues is the Arker Companies’ Markham Gardens development in Staten Island. The project is also managed by the Domain Companies, a NYSFAFH member. Construction defects included poorly pitched sidewalks and walkways, resulting in flooding around and under doors. Pictured below is one resident’s attempt following normal rainfall to sandbag his door to prevent another water infiltration. In project financier HDC’s November 2014 annual inspection of the project, it was noted that previously cited problems with walkways and sidewalks remained unresolved. Construction of the building was completed in 2008; but repair continued at the time of the 2014 inspection.³⁶



Sandbags line the entrance of a resident’s home, a result of an incomplete NYSFAFH project.

CONCLUSION: REGULATING NYSFAFH AND CREATING REAL AFFORDABILITY AND GOOD JOBS

City government must immediately implement reforms to ensure that NYSFAFH developers are no longer allowed to exploit New York City’s most vulnerable tenants and workers. Without the reforms discussed below, NYSFAFH will undermine the city’s affordable housing efforts and harm more neighborhoods throughout the city.

Job quality and local hire standards. Developers and contractors benefitting from public assistance, including density bonuses and subsidies, should formalize a local hire agreement with the City. Each agreement should secure at least 30% of work hours to New York City residents. Moreover, 15% of all work hours should be guaranteed for New York City residents who are economically disadvantaged and 10% for New York City women. The Local Hire Plan should also identify a local organization to build job pipelines and career opportunities for each neighborhood. At least one full-time staff person should be provided by

the developer to handle the responsibility of implementing the Local Hire Plan and complying with all relevant disclosure laws.

Safe workplace conditions and apprenticeship agreements. To access public benefits like zoning density increases, subsidies, and abatements, employers must ensure safe and healthy workplace conditions. They must agree that all contractors and subcontractors employed on the projects participate in apprenticeship agreements for the work to be performed on these projects and be registered with, and approved by, the NY State Commissioner of Labor.

Responsible rezoning. The City should allow only responsible rezoning. Minority and economically disadvantaged communities should not be displaced by “affordable” housing they cannot afford. Rezoning increases the buildable square footage of properties -- essentially adding millions of dollars of value to the land at no cost to developers. Housing and economic opportunities resulting from the expansion of building rights through rezoning should be shared with the community.

Real affordability. The City should guarantee that NYSFAH developers are required to build real affordable housing whenever they receive lucrative subsidies, abatements, public land, or benefit from increased zoning density. To ensure the creation of real affordable housing, new units built with public resources should be matched to the income levels of current residents in neighborhoods, not wealthier outsiders. In neighborhoods like East New York and the South Bronx, that means a large percentage of new apartments should be affordable to families earning below 50% of Area Median Income (AMI).

Procurement reform. The City should overhaul procurement systems that award subsidies, abatements, public land, building rights and other valuable assistance to unscrupulous developers. Procurement reform should seek to limit contracts to developers who have demonstrated the ability to build well-constructed and truly affordable homes and whose economic model doesn't rely on worker exploitation.

Transparency. City procurement processes should be transparent. The criteria used to judge and select winning bids for major development projects, including in neighborhoods that will be rezoned, should be clear and open to public scrutiny. Additionally, the City should fully implement Local Law 44, the HPD Transparency Law, adopted in 2012. This law includes wage reporting requirements that would shine a light on worker conditions.

THIS REPORT IS ENDORSED BY THE FOLLOWING ORGANIZATIONS:

- ALIGN: The Alliance for a Greater New York
- Community Action for Safe Apartments (CASA)
- Community Voices Heard
- Faith in New York
- Iron Workers District Council
- Laborers' Local 79
- Legal Aid Society
- Make the Road New York
- Metropolitan Council on Housing
- New York Communities for Change
- Tenants & Neighbors
- Urban Homesteading Assistance Board
- VOCAL-NY

ENDNOTES

¹ This \$19 million figure covers over 50 projects and dozens of contractors documented through freedom of information requests, court and administrative filings, and other public documents and news reports.

² USA v. Walters et al., Case# 1:11-cr-00683-NG1; USA v. Prevenzano, Case #1:12-cr-00612-NG-1; US v. Adorno, Case #1:12-cr00611-NG-RML-1

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http://www.academia.edu/10903427/Inclusionary_Zoning_Exclusionary_Development_and_the_Politics_of_Affordable_Housing_in_North_Brooklyn

⁴ Rice, Andrew. "The Red-Hot Rubble of East New York: How Brooklyn's Gentrification Profiteers Are Expanding Their Boundaries." New York Magazine. January 28, 2015. <http://nymag.com/daily/intelligencer/2015/01/east-new-york-gentrification.html>

⁵ <http://www.crainsnewyork.com/article/20090913/SMALLBIZ/309139991>

⁶ <http://housingpartnership.com/the-lafayette-featured-in-new-york-times/>

⁷ Baltic, Scott. "BRP, Goldman Sachs JV to Leverage Residential Development in NYC, NJ." Commercial Property Executive. October 6, 2014. <http://www.cpexecutive.com/regions/northeast/brp-goldman-sachs-jv-to-leverage-residential-development-in-nyc-nj/1004105073.html>

⁸ <http://www.nydailynews.com/new-york/brooklyn/east-new-york-facelift-underway-63-buildings-article-1.1970466>

⁹ <http://www.nydailynews.com/new-york/brooklyn/east-new-york-facelift-underway-63-buildings-article-1.1970466>

¹⁰ Report of the Grand Jury of the Supreme Court of New York First Judicial District Issued Pursuant to Criminal Procedure Law Section 190.85 Subdivision (1)(c). March 25, 2014. <http://manhattanda.org/sites/default/files/Workers%20Comp%20GJ%20Report.pdf>

¹¹ Fiscal Policy Institute. "The Underground Economy in the New York City Affordable Housing Construction Industry." April 17, 2007.

http://fiscalpolicy.org/publications2007/FPI_Affordable_HousingApril2007.pdf

¹² <http://nysafah.org/cmsBuilder/uploads/Albany-Preemption-Senate-Bill.pdf>

¹³ Been, Vicky. Oversight – The Mayor's Housing Plan: Contractor Employment Practices and Accountability. April 21, 2015. (See page 130). <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2258253&GUID=62898849-A12C-4762-BC5F-7B6DBB235CBE&Options=&Search=>

¹⁴ DOL News Brief, July 26, 2012: "A consent agreement filed July 26 against Lettire Construction of East Harlem, New York, sends an unprecedented message that the [US Department of Labor] will hold general contractors responsible not only for their violations of federal labor law but also those committed by their subcontractors."

¹⁵ <http://www.dol.gov/opa/media/press/whd/whd20101490.htm>

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- ¹⁶ Morris, et. al. versus Lettire Construction, Corp. et. al. Collective Action Complaint. United States District Court for the Southern District of New York. Case 12-CIV-0043. January 4, 2012.
- ¹⁷ Kone, et. al. v. Joy Construction et. al. Collective Action Complaint. United States District Court Southern District of New York. 15-cv-01328. February 24, 2015.
- ¹⁸ L&M: <http://a810-bisweb.nyc.gov/bisweb/WorkPermitDataServlet?allisn=0002283895&allbin= &requestid=3;>
<http://a810bisweb.nyc.gov/bisweb/PermitsInProcessIssuedByBinServlet?requestid= 0&allbin=4000717>; <http://a810-bisweb.nyc.gov/bisweb/PermitsInProcessIssuedByBinServlet?requestid= 0&allbin=1088912>; &
<http://a810bisweb.nyc.gov/bisweb/PermitsInProcessIssuedByBinServlet?requestid=4&allbin=1807073>
- Arker: <http://a810-bisweb.nyc.gov/bisweb/PermitsInProcessIssuedByBinServlet?requestid= 3&allbin=4206862>
- ¹⁹ <http://www.nydailynews.com/new-york/contractor-pay-stiffed-workers-1-million-article-1.1278953>
- ²⁰ <http://ww3.nysif.com/AboutNYSIF/NYSIFNews/2012/NYSIF%20Receives%20First%20Installment%20on%20Restitution.aspx>
- ²¹ Workers' Compensation Board Debarred Employer details, WCB# 2397807.
- ²² Taibe, et al. versus MC&O Contracting, Inc. et al. Settlement Agreement. United States District Court Eastern District of New York. Cv 1:12-vc-04479-JMA. April 6, 2015.
- ²³ [Enhanced Contractor Review List](#), HPD
- ²⁴ [Decision of the Business Integrity Commission Denying the Registration Renewal Application of MC&O Construction Inc. to Operate as a Trade Waste Business](#)
- ²⁵ NY Workers Compensation Board, Case No. G0328760.
- ²⁶ Affidavit of Carrol Turner, 2015
- ²⁷ Affidavit of Carrol Turner, 2015.
- ²⁸ HDC TEFRA Hearing (approximately minute 29 of the recording), November 17, 2014
- ²⁹ Affidavit of LaFondra Brown, 2015.
- ³⁰ [HPD Oversight Hearing Transcript](#) (Page 16), April 2015
- ³¹ Real Affordability for All (April-May 2015), Survey of Residents at NYSFAFH Developer Built Buildings in Brooklyn, Bronx and Manhattan.
- ³² http://www.nyc.gov/html/housing/assets/downloads/pdf/housing_plan.pdf
- ³³ Aratani, Yumiko et al. "Rent Burden, Housing Subsidies and the Well-being of Children and Youth." November 2011.
<http://www.aecf.org/m/resourcedoc/aecf-rentburdenhousingsubsidiesandchildren-2011.pdf>
- ³⁴ [Judge Dismisses Frivolous Lawsuit](#), Press Release. November 2014.
- ³⁵ Madison Park 2014 HDC Annual Inspection
- ³⁶ Markham Gardens 2014 HDC Annual Inspection