March 25, 2025

State Senator Andrew Gounardes
State Senator Jamaal Bailey
State Senator Cordell Cleare
State Senator Jeremy Cooney
State Senator Patricia Fahy
State Senator Pete Harckham
State Senator Michelle Hinchey
State Senator Brad Hoylman-Sigal
State Senator Robert Jackson
State Senator Brian Kavanagh
State Senator Rachel May
State Senator Shelley B. Mayer
State Senator Zellnor Myrie
State Senator Kevin Parker
State Senator Jessica Ramos
State Senator Gustavo Rivera
State Senator Sean M. Ryan
State Senator Julia Salazar
State Senator Luis Sepúlveda
State Senator Jose M. Serrano
State Senator Toby Ann Stavisky
State Senator Lea Webb
Assemblymember Brian A. Cunningham
Assemblymember Tony Simone
Assemblymember Dana Levenberg
Assemblymember Marcela Mitaynes
Assemblymember Phara Souffrant Forrest
Assemblymember Emily Gallagher
Assemblymember Jo Anne Simon
Assemblymember Alan Hevesi
Assemblymember Alex Bores
Assemblymember Sarahana Shrestha
Assemblymember Jessica Gonzalez-Rojas
Assemblymember Rodneyse Bichotte Hermelyn
Assemblymember Zohran Mamdani
Assemblymember Linda Rosenthal
Assemblymember Grace Lee
Assemblymember Maritza Davila
Assemblymember Catalina Cruz
Assemblymember John Zaccaro, Jr.
Assemblymember Eddie Gibbs
Assemblymember Chantel Jackson
Assemblymember Demond Meeks
Assemblymember Anna Kelles
Assemblymember David Weprin
Assemblymember Jenifer Rajkumar
Assemblymember Al Taylor
Assemblymember Sarah Clark
Assemblymember Monique Chandler-Waterman
Assemblymember Steven Raga
Assemblymember Landon C. Dais
Assemblymember Philip Ramos
Assemblymember Simcha Eichenstein
Assemblymember Clyde Vanel
Assemblymember Manny De Los Santos
Assemblymember Micah Lasher
Assemblymember Ron Kim
Assemblymember Angelo Santabarbara
Assemblymember Yudelka Tapia
Assemblymember Gabriella Romero
Assemblymember Stefani Zinerman
Assemblymember Phil Steck
Assemblymember Josh Jensen
Assemblymember David McDonough

Re: Faith-Based Affordable Housing Act, S.7791A / A.8386A

Dear State Senators and Assemblymembers:

We write regarding the "Faith Based Affordable Housing Act," S.7791A and A.8386A. We are deeply concerned about this bill's provisions and impact. We urge you to ensure the terms of the bill are changed to address these concerns, or to remove your name as sponsor of this measure and oppose it.

We have conveyed to the bill's prime Senate sponsor, State Senator Andrew Gounardes, our concerns, and offered language which would address those concerns while still allowing the bill to serve its purported purposes. Thus far, no changes have been accepted or agreed to.

Our foremost concern is that the bill circumvents landmarks protections and regulations. All parties agree that the bill does so for all future designated landmarks. However, the bill's prime sponsor and proponents claim the bill would not circumvent landmarks regulations for existing landmarks. Many of us believe the existing language is unclear and contradictory at best in that regard. We have offered simple text changes to address those concerns or, as a fallback, insertion into the bill jacket a letter from the prime sponsor stating that the bill would preserve all existing local laws and regulations which regulate how a property that, as of the law's effective date, has been designated a historic landmark or is in an historic district may be altered. Those requests have thus far not been accepted.

We are also deeply concerned that the bill would explicitly override any future landmark designations in relation to the types of developments the bill would allow. We have been told this is intended to prevent jurisdictions from using landmark designation as a means to prevent the developments the bill would allow, rather than truly recognizing and protecting historic resources. This is a throw-the-baby-out-with-the-bathwater approach to addressing this alleged issue, and would compromise all future landmark designations based on the assumption that each was undertaken in bad faith.

Among other flaws in this approach, it fails to recognize that current and ongoing efforts around landmark designation have been focused on underrepresented groups and under-recognized histories, such as African American, Hispanic, LGBTQ+, Asian American, Native American, immigrant, and women's history. If this bill is passed, such sites would have fewer protections than those that current and past landmarks enjoy.

It can be said unequivocally that the fear of local jurisdictions using landmark designation to seek to preempt the possibility of the types of developments the bill would allow is an unrealistic concern for New York City. Our city's landmarks designations are subject to the approval of the NYC Council, which can overturn designations it believes were inappropriately made, and the Council has, on multiple occasions, done so.

Additionally, in NYC, landmarks designations cannot preempt existing Department of Buildings permits. Therefore, if a religious institution that is not a designated landmark were seeking to build one of the developments allowed by this bill and obtained a DOB permit, landmark designation would not supersede the DOB's actions.

We have urged the bill's sponsors to, at the very least, remove the provision which preempts future landmark designations for New York City, as this bill and various other bills currently contain provisions that apply differently in NYC and the rest of the state. The bill's sponsor has refused to consider even this compromise. This reinforces the impression that the true intention of the bill is as much about undermining and dismantling landmarks protections and regulations as it is about allowing new housing developments or assisting religious institutions.

Other strong concerns we have expressed about the bill that have also not been addressed include:

- The bill preempts State Historic Preservation Office (SHPO) review which would otherwise be triggered in certain circumstances. We urge the bill to be amended to ensure that such reviews remain intact.

- In NYC, by allowing developments up to the size of those allowed by any zoning district within 800 feet of the site, the bill essentially moves very dense avenue zoning onto all affected side street sites, dramatically changing the balance of allowable development in neighborhoods. We believe this is unnecessary and entirely too disruptive.
- In NYC, by allowing developments up to the height of the "tallest existing building on the covered site," the bill would allow potentially enormous developments that match the height of church spires or similar structures, which clearly should not serve as the basis for determining the appropriate scale of development on a site.
- While the bill purports to be designed to allow the construction of housing, it actually allows 35% of the floor area of those structures to be used for non-housing purposes. While that space could be used for appropriate uses, such as additional space for the religious institution, it also allows the space to be used for a variety of other purposes. We question whether the additional allowable uses should not be more narrowly prescribed.
- While the bill claims to be focused on affordable housing, in NYC it only requires 20-30% of the housing in the new developments to be "affordable," which with 35% of the development allowed for other uses means only 13-19.5% of the building must be dedicated to "affordable" housing. The remainder of the housing can be market rate and quite expensive. We do not believe that our city is lacking for expensive unaffordable housing, but for housing which is affordable to a broad range of city residents, and do not believe that any public purpose is served by allowing the construction of expensive market rate housing as the bulk of these developments, especially where local zoning regulations do not allow it.
- The affordability requirements for the small fraction of housing are actually quite modest. For example, the 25% affordability model in NYC (wherein only 16.25% of the building is required to be affordable housing, with the allowance for 35% of non-housing uses in the building) requires on average the "affordable" housing to be affordable only to those with 60% of Area Median Income. That is unaffordable to the majority of NYC renter households, and unaffordable to nearly half of all NYC households. And in many NYC communities, even that level of "affordability" is still unaffordable to the vast majority of residents of those communities.

For these reasons, the public benefit of the developments the bill would allow would in many cases be questionable, negligible, or exceedingly modest at best. We therefore question whether the trade-off is worth the cost of overriding local regulations intended to ensure appropriate development and preservation of important historic resources.

We would welcome the opportunity to discuss this with you further. But we strongly urge you to consider these concerns, and changes are immediately affected to this bill, or remove your name as a sponsor or oppose this legislation.

Sincerely,

Andrew Berman
Executive Director
Village Preservation

Laura Sewell
Executive Director
East Village Community Coalition

Lo van der Valk
President
Carnegie Hill Neighbors

Nuha Ansari
Executive Director
Friends of the Upper East Side

Sean Khorsandi
Executive Director
Landmark West!