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## Part I

How NYC's approach to  
measuring residential  
displacement risk fails  
communities

# ACKNOWLEDGEMENTS

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## ABOUT THIS REPORT

This report is an adaptation of the 2018 graduate thesis written by Renae Widdison and approved by Pratt Institute as part of her Master of Science in City and Regional Planning degree. Her thesis, *It Matters How We Count: Understanding the Methodology Used to Assess Indirect Residential Displacement in New York City's Environmental Quality Review Technical Manual*, highlighted the significant implications the Technical Manual's guidance for measuring displacement has on communities across the city, bringing much needed light to this obscure but impactful topic.

Pratt Center released a companion report, *Flawed Findings Part II: How NYC dismisses business displacement and its impact on communities*, in 2020.

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The Pratt Center for Community Development works for a more just, equitable, and sustainable city for all New Yorkers by empowering communities to plan for and realize their futures. As part of Pratt Institute, Pratt Center leverages professional skills in planning, architecture, design and public policy to support community-based organizations in their efforts to improve neighborhood quality of life, attack the causes of poverty and inequality, and advance sustainable development.

# TABLE OF CONTENTS

<b>1</b>	<b>Executive Summary</b>	<b>4</b>
<b>2</b>	<b>Introduction</b>	<b>8</b>
<b>3</b>	<b>NYC's Environmental Review Process</b>	<b>12</b>
<b>4</b>	<b>Understanding the Process for Measuring Indirect Residential Displacement</b>	<b>14</b>
<b>5</b>	<b>How the Technical Manual Fails to Adequately Analyze Indirect Residential Displacement</b>	<b>18</b>
<b>6</b>	<b>Review of Indirect Displacement Analysis in Select Environmental Impact Statements</b>	<b>26</b>
<b>7</b>	<b>Recommendations</b>	<b>32</b>
<b>8</b>	<b>Conclusion</b>	<b>34</b>
	<b>Endnotes</b>	<b>35</b>

# 1 EXECUTIVE SUMMARY

Communities across the city are grappling with rising housing costs and justified fears that residents will no longer be able to afford to live in their neighborhoods. Developing a nuanced understanding of the issue and how the City calculates the risk of indirect residential displacement—the involuntary movement of residents due to changes in socioeconomic conditions, primarily rising housing costs—is critical to an effective policy response. This is particularly true when displacement pressure stems from City-initiated projects, such as the recent rezonings approved as part of the de Blasio Administration’s *Housing New York* policy in East New York, East Harlem, Jerome Avenue, Downtown Far Rockaway and Inwood.

Despite a growing recognition that displacement pressure exacerbates the city’s already segregated residential landscape, the City has yet to conduct a comprehensive, citywide displacement risk analysis. Instead the City’s sole vehicle to formally measure displacement risk is through the project-specific City Environmental Quality Review (CEQR) process and its associated CEQR Technical Manual. Every major land use action, including City-initiated rezonings, must go through CEQR and conduct an environmental analysis, most often in the form of an Environmental Impact Statement (EIS). Decision-makers in the City’s land use approval process, the Uniform Land Use Review Procedure (ULURP)—namely community boards, borough presidents, city planning commissioners, and city council members—as well as other stakeholders rely on the information presented in these environmental review documents when considering whether to approve a project. If the information is inaccurate, misleading, or simply insufficient, then ULURP decisions are questionable.

These documents, typically hundreds and hundreds of pages long, often appear as if an objective and robust evaluation was conducted. Yet a careful review of the CEQR Technical Manual’s guidance on how indirect residential displacement impacts are calculated reveals a distressing finding: the Technical Manual’s step-by-step methodology is based on a series of unjustified assumptions that easily lead to minimizing vulnerability and therefore, a finding of no significant adverse impact to the existing community.

# FINDINGS

The City's official environmental review of indirect residential displacement fails to adequately approximate the scale and extent of the potential threat through four major flaws:

## **1. The analysis dismisses the potential for inequitable impacts by race and ethnicity.**

An analysis of a project's impacts by race or ethnicity is not required or encouraged in the Technical Manual. In a city where access to housing, jobs, quality education, and other community assets is shaped by racial and ethnic discrimination and segregation, failing to understand how a project contributes to or exacerbates these inequalities is inexcusable.

## **2. Only low-income tenants living in 1-4 unit buildings are considered vulnerable to displacement, excluding residents in larger buildings from the analysis.**

The primary metric stemming from the Manual's guidance is the "population at risk"—the number of low-income residents that would not be able to afford to stay in their homes due to rising rents if the proposed project were implemented. This number is based on several troubling assumptions: tenants in regulated housing units are not subject to rapid rent increases; all tenants in buildings with six or more units are shielded from rapid rent increases and five unit buildings are ignored; and any displacement that occurs is by legal means. Consequently, only low-income tenants living in 1-4 unit buildings are considered part of the population at risk.

## **3. The potential for displacement in gentrifying neighborhoods is unequivocally dismissed.**

The Manual concludes that indirect residential displacement impact is not possible in the vast majority of neighborhoods. If a neighborhood is already experiencing widespread increased rents and market rate development, then further analysis is not necessary. If an area is not experiencing this trend, further analysis is also not necessary. It is only in the very narrow window where rents are rising near or in

a small part of the project area that a more detailed review is required, which could potentially lead to a finding of significant impact. The result is to effectively rule out most communities—an illogical approach, particularly at a time when real estate prices are rising across the city.

#### **4. EIS authors have wide discretion in determining a finding of significant impact, even if stated thresholds are exceeded, particularly for actions that include Mandatory Inclusionary Housing.**

The Manual includes a threshold for determining significance: if the identified vulnerable population exceeds five percent of the study area, a significant impact may occur. The use of the word “may” is important as it enables EIS analysts to subjectively state that displacement will not be significant even if this threshold is met. In the rezonings that have included Mandatory Inclusionary Housing (MIH) as part of the proposed action, EIS authors claim this program will eliminate the risk of indirect displacement for existing neighborhood residents, despite the fact that there has been no such measurement of the program’s efficacy.

# RECOMMENDATIONS

These flaws result in community after community having to unfairly bear the burden of undisclosed and unaddressed displacement pressure. As such, Pratt Center recommends the following:

## **1. NYC should conduct a citywide displacement risk analysis and use it to inform housing and development policy.**

Working with existing organizations, the City should conduct a citywide displacement risk analysis to gain a comprehensive understanding of displacement trends and inform overarching housing and development policy.

## **2. NYC should adopt a comprehensive anti-displacement policy agenda with a no net loss of affordable units as a key goal.**

Articulating and codifying its position on displacement, and adopting a clear goal of no net loss of affordable units, would enable the City to develop more detailed policy, strategically steer development, and support new programs to prevent displacement and the loss of affordable housing.

## **3. NYC should convene a Task Force of technical and community experts to revamp the CEQR Technical Manual's approach to evaluating residential displacement.**

At a minimum, the Task Force should address the definition and step-by-step calculations of vulnerable residents, the inclusion of race and ethnicity as impact metrics, and the availability of data required to make accurate assessments of regulated and unregulated housing.

The time is long overdue for a frank discussion of how the City calculates and addresses displacement. The current approach is unjust and woefully inadequate. If we strive for a truly equitable city where all people—regardless of race or income—have access to quality housing and sustainable communities, then it is imperative we begin this endeavor.

# 2 INTRODUCTION

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**By unpacking the Technical Manual's guidance on how to measure indirect residential displacement, it becomes clear that the methodology fails to effectively approximate the scale and extent of the potential threat.**

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Communities across the city have vocalized strong concerns regarding rising housing costs and the ability for local residents to afford to stay in their neighborhoods. The most public of these discussions have emerged in coalitions of community groups, residents, businesses and others that have formed in response to, or sometimes in anticipation of, City-initiated rezonings to further Mayor de Blasio's affordable housing goals.

The issue of housing affordability is at the forefront of the de Blasio Administration, formalized through the 2014 *Housing New York* plan,<sup>1</sup> a ten year roadmap to create or preserve 200,000 units of affordable housing, and the

Mayor's subsequent announcement raising this goal to 300,000 units by 2026.<sup>2</sup> Yet despite the ambitious goal, there is widespread belief that the City's approach will actually lead to further gentrification and displacement because of the introduction of large amounts of market rate housing that will not be affordable to the majority of local residents. The City's efforts have targeted neighborhood rezonings intended to spur market-rate residential development along with required, permanent affordable units through a new policy, Mandatory Inclusionary Housing (MIH). To date, five neighborhood rezonings—all in low-income communities of color—have been approved, and calls for deeper levels of affordability and greater protections for current tenants have dominated community input.

Long-standing non-profits and think tanks, including Pratt Center, Association for Neighborhood and Housing Development (ANHD), and Community Development Project among others, have also raised red flags about increased displacement pressure, particularly in low-income, communities of color. The Inclusive City Working Group, coordinated by the Regional Plan Association of which Pratt Center is a member, recently called for a revamping of the City's land use review process, largely in acknowledgment of the way the current procedures marginalize community voices and enable projects with negative impacts to nonetheless proceed.<sup>3</sup>

Legal actions by the Legal Aid Society recently challenged the East Harlem rezoning and the Bedford Union Armory project focusing on the ways that review of these proposals account for indirect displacement. While the judge dismissed the lawsuit, claiming the City satisfied its CEQR obligations, the lawsuit underscores the mounting concern and frustration with how displacement is—and is not—addressed.<sup>4</sup> While the City may be meeting its obligation by following the Technical Manual's current guidance, it is that guidance itself which needs to be re-examined.

It is not just non-governmental actors that are concerned about displacement and how public actions further New Yorkers' vulnerability. The NYC Department of Housing Preservation and



(Above) Displacement was a central concern among residents opposed to the Atlantic Yards project. Photo by Pratt Center.

(Left) After marching through the streets, hundreds of residents descended on Bronx Community College to oppose the Jerome Avenue rezoning in 2016. Photo by Pratt Center.



Community stakeholders highlighted their concerns that the community change generated by the proposed Jerome Avenue rezoning would displace them. Photo by Pratt Center.



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**While the City may be meeting its obligation by following the Technical Manual’s current guidance, it is that guidance itself which needs to be re-examined.**

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Development (HPD) and the NYC Housing Development Corporation recently announced the launch of “Partners for Preservation,” a new initiative to fund community-based organizations to work with the City to coordinate anti-displacement activities, kicking-off ironically in some of the city’s recently rezoned neighborhoods where the respective EISs concluded there would not be a significant impact on displacement.<sup>5</sup> The City is also launching “Where We Live NYC,” a multi-agency fair housing evaluation led by HPD and the NYC Housing Authority (NYCHA) to study, understand, and address patterns of residential segregation and how these patterns impact New Yorkers’ access to opportunity.<sup>6,7</sup> Across the board, both inside and outside government, there is a growing spotlight on displacement, gentrification and the City’s role in initiating both through public policy and actions.

It is with this lens in mind that a careful examination of the method the City uses to evaluate residential displacement—

the involuntary movement of residents from their neighborhood due to rents increasing beyond affordable levels—is greatly needed.<sup>8</sup> This report delves into the technical aspects of the City Environmental Quality Review (CEQR) process and the associated CEQR Technical Manual,<sup>9</sup> which is the City’s sole official guidance on measuring residential displacement.<sup>10</sup> Every neighborhood rezoning triggers some type of environmental review; typically the City must produce an Environmental Impact Statement (EIS) drafted according to the guidelines in the CEQR Technical Manual to determine the impact each proposal will have on local residents’ ability to remain in their communities. **Despite community groups vocalizing concerns and despite quantifying large numbers of vulnerable residents, recent EISs have concluded that rezonings will not displace residents at a significant level.** By unpacking the Technical Manual’s methodology for calculating residential displacement risk, it becomes increasingly clear why findings of no significant impact are so common: the seemingly robust, step-by-step guidance is based on a series of unjustified assumptions that easily lead to minimizing vulnerability.

Conversations about gentrification are often concerned with who is moving into an area; displacement focuses on who is forced to move out. That is where we need to focus the conversation—who bears the negative consequences of the City’s land use actions? Do those impacts fall disproportionately along racial or other demographic lines? What assumptions do we need to challenge in order to achieve an honest depiction of a proposal’s impacts? These questions are not adequately addressed in the public review process today.

If we strive for a truly equitable city where all people—regardless of race or income—have access to quality housing and sustainable communities, then it is imperative we take stock of the colossal imprint public actions leave on the city’s landscape. Gaining a clear understanding of how the City calculates and assigns significance to residential displacement is one critical step in that endeavor.



Michelle de la Uz of Fifth Avenue Committee speaking at a citywide rally for Certificate of No Harassment legislation, an anti-displacement policy. Photo by Melanie Breault, ANHD.

# 3

# NEW YORK CITY'S ENVIRONMENTAL REVIEW PROCESS

Zoning and land use decisions in New York City are managed through the Uniform Land Use Review Procedure (ULURP), a city charter mandated process that requires review by community boards, borough presidents, the City Planning Commission, the City Council and the Mayor. In recent neighborhood-wide rezonings, many communities have vigorously raised concerns regarding residential displacement during the ULURP public comment opportunities. However, ULURP in of itself does not provide a means to evaluate potential displacement arising from proposed development. That occurs through the City's other land use review procedure, the City Environmental Quality Review (CEQR),<sup>11</sup> which requires and sets basic guidelines for an evaluation and disclosure of a project's environmental impacts, including direct and indirect residential displacement. The CEQR Technical Manual defines direct displacement as "the involuntary displacement of residents from a site directly affected by a proposed project."<sup>12</sup> Indirect residential displacement is defined as "the involuntary displacement of residents that results from a change in socioeconomic conditions created by the proposed project."<sup>13,14</sup>

CEQR does not culminate in an approval or rejection of a project—it is a process for evaluating and disclosing impacts—

but is intended to inform the public and those with decision-making authority under ULURP an understanding of a project's effects. Most importantly, for projects that are deemed to have significant adverse impacts through CEQR, potential mitigation measures are required to be listed; funding and implementing mitigation measures are not part of CEQR.<sup>15</sup>

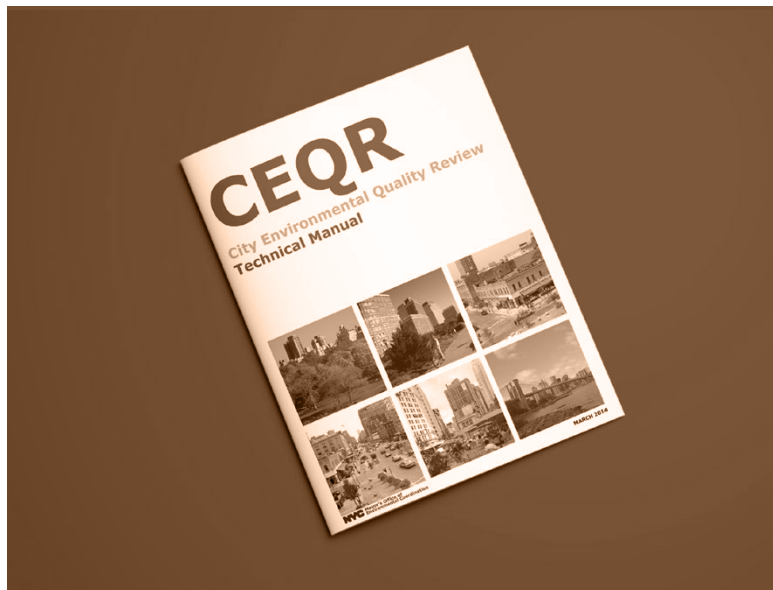
CEQR's process is technical and complicated, involving many steps and several "players." The Mayor's Office of Environmental Coordination manages the entire CEQR process, but the "applicant" is the party applying for a particular action. While the applicant varies by project, the NYC Department of City Planning (DCP) is most often the applicant for neighborhood rezonings, as well as the "lead agency" responsible for the environmental review. Agencies usually hire private planning firms to write the required environmental review documents that will in turn subcontract portions of the environmental review to firms with specialties in those fields such as transportation or water quality. If a project requires environmental review, the first step is an Environmental Assessment, a cursory examination, and the Lead Agency—typically DCP—makes a determination of impact. If, in the agency's best judgment the project will not result in a significant impact, it makes a negative declaration and the

environmental review ends. If the agency decides a significant impact will occur or additional review is needed, it makes a positive declaration. There is no public involvement during an Environmental Assessment.

Following a positive declaration, a project must undergo a more extensive analysis and produce an Environmental Impact Statement (EIS). EISs are hundreds, sometimes thousands, of pages long, detailing 19 areas of potential impact—from health and transportation to sanitation and socioeconomic conditions. Both direct and indirect residential displacement impacts are addressed under “socioeconomic conditions” in an EIS. Each category is analyzed comparing the future study area if the project were developed versus the future study area without the project if all current trends continue. These are referred to as the “future with action condition” and “future no action condition,” respectively. For each area of analysis, the EIS ends with either a finding of Significant Impact or No Significant Impact.

While CEQR outlines the scope of environmental review, it does not provide the methodologies for how this analysis should be done. To fill this gap, in the early 1990s the City developed a companion Technical Manual that details specific methods for evaluating the various areas required for review, including indirect residential displacement. Since that time, the Technical Manual has been updated several times, including changes to the displacement assessment methodology.

Notably, the inclusion of an indirect residential displacement methodology in the Technical Manual was a direct result of a legal battle brought by the Chinese Staff and Workers Association (CSWA) against the City of New York in 1986. CSWA claimed the City failed to properly analyze the socioeconomic impacts as required under CEQR for the permit approval for a 21-story luxury residential building in the Lower East Side.<sup>16</sup> The court ruled in favor of CSWA, nullifying the project’s building permit and inaugurating the regulatory requirement that projects going



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**The City of New York defines indirect residential displacement as the involuntary movement of residents due to changes in socioeconomic conditions.**

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Under CEQR, there are specified times for public comment on an EIS’s scope and findings. The intent of an EIS is to disclose impacts; it is the sole official mechanism for informing public agencies and the public at large about a project’s potential impacts. Importantly, it does not make any conclusion about whether or not a project should be permitted. In fact, many projects have been approved through ULURP that have EISs that determined a project would cause significant adverse impact. In these cases, mitigation measures are required to be listed as part of the EIS but not necessarily implemented.

through an EIS must analyze their potential impact on indirect residential displacement. This victory also demonstrated the critical role of community organizations and their advocates in fighting to make development in New York City more equitable and acknowledged the potential for development projects to deepen racial and socioeconomic segregation in the city.

While both direct and indirect residential displacement are important areas of analysis in an EIS, this report focuses on indirect residential development, the type of displacement stemming from area-wide socioeconomic changes, and therefore likely to impact a larger number of residents.

4

UNDERSTANDING  
THE PROCESS FOR  
**MEASURING  
INDIRECT  
RESIDENTIAL  
DISPLACEMENT**



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**Conversations about gentrification are often concerned with who is moving into an area; displacement focuses on who is forced to move out.**

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The CEQR Technical Manual’s indirect residential displacement methodology is not designed to measure whether or not displacement has already occurred in an area, or at what scale. Rather, it attempts to evaluate the risk of displacement as a result of the project. According to the current version of the Manual, the purpose of the analysis is to:

“determine whether a proposed project may either introduce a trend or accelerate a trend of changing socioeconomic conditions that may potentially displace a vulnerable population to the extent that the socioeconomic character of the neighborhood would change.”<sup>17</sup>

This essentially boils down to a determination of the number of households at risk of displacement if rents in the area rise significantly and to determine additionally if that impact is significant or not. The Technical Manual lays out a series of questions to help rule out potential significance, but there are also many opportunities for the analysts to make guesses about the future development’s impact. In other words, latitude is given to privately contracted authors of individual EISs—people who may have very little familiarity with an area other than their analysis of numeric data.

The Technical Manual lays out three major steps for the analysis for Indirect Residential Displacement (see Figure 1).

Bronx demonstrators describe their neighborhood experiences. Photo by Pratt Center.



# PRE-ASSESSMENT

The first part of the analysis asks whether or not a socioeconomic assessment is required. For this step, the analysis is explicit and straight forward: If fewer than 200 new residential units are likely and/or the project is not expected to directly displace at least 500 people, the impact is deemed insignificant. In these cases, the environmental analysis for indirect displacement ends here. If the proposal will exceed these thresholds, a Preliminary Assessment is required.

## PRELIMINARY ASSESSMENT

The guidance for a preliminary assessment is more thorough and seeks to ascertain the nature of the new development and its impact on the surrounding neighborhood. Analysts ask three questions during this stage: First, will the project bring wealthier people to the study area?<sup>18</sup> Second, is the new population greater than five percent of the current study area population? Third, and most importantly, has the study area “already experienced a readily observable trend toward increasing rents.”<sup>19</sup>

This last question is most telling about the point of view about development and displacement by the Manual’s authors: it is only in the very specific instance where rents have increased near or within a small portion of the study area that the project has the potential to have a significant impact, and therefore warrants further analysis. If the vast majority of the study area has already seen rents rise or if rents have remained steady or declined, the Manual states that further analysis is not necessary.<sup>20</sup> In other words if, and only if, the neighborhood is experiencing some but not widespread gentrification is significant indirect residential displacement deemed possible. This is a very narrow window, particularly at a time when real estate prices are rising across the city. Further, a specific quantitative threshold for this determination is not included, but if this condition is not found, the analysis ends with a finding of “no impact.” The result of this question is to effectively rule out relatively low-income neighborhoods that are currently experiencing widespread market rate development from the displacement analysis. If indirect residential displacement cannot be ruled out at this stage, a full Detailed Analysis is required.

# DETAILED ANALYSIS

A Detailed Analysis involves a report of the existing conditions in the study area, concluding with an estimation of the number of people who are at risk of displacement. **This estimation focuses almost exclusively on an insufficient proxy for vulnerability: the number of low-income tenants living in one to four unit buildings.**<sup>21</sup> This number combined with a review of recent housing investments culminates in a finding of significance. There is a threshold: if less than five percent of an area’s population has the potential to be displaced, any indirect displacement is considered insignificant. However, even if this threshold is exceeded, EIS authors can still conclude that a project will not have a significant impact by noting their own subjective reasoning.

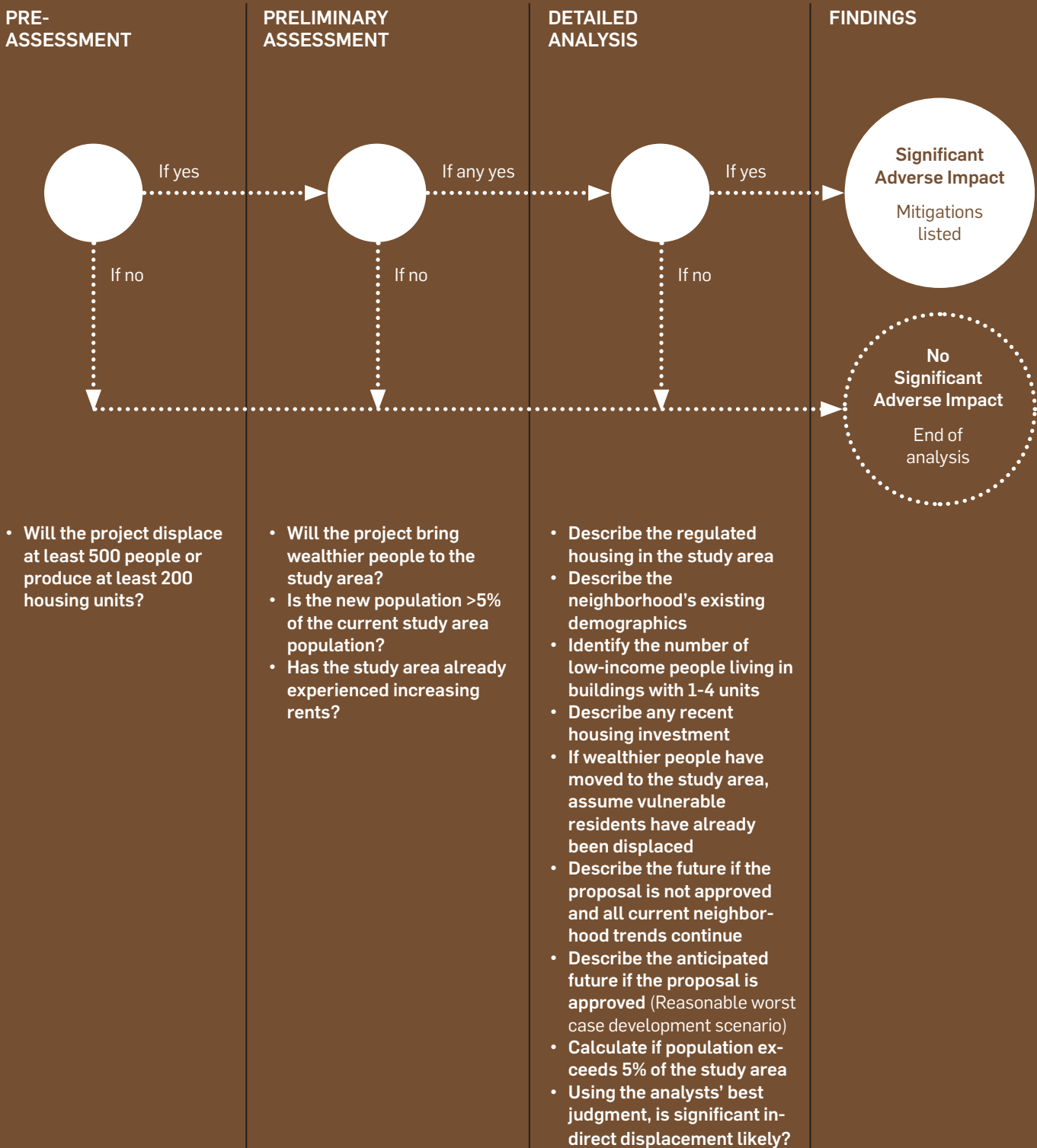
If there is a finding of significant adverse impact, CEQR requires that actions be taken to mitigate, but not necessarily avoid, impacts. There is also no requirement that the mitigations enacted are proportional to the scale of the impact. Potential mitigation measures recommended in the Manual include providing appropriate, comparable space within a reasonable distance and creating new rent-regulated units.<sup>22</sup> Measures to address stakeholder concerns and/or adverse impacts identified in an EIS are often the subject of last-minute negotiations in the ULURP process.



Figure 1

## Major Steps for Impact Analysis

The Technical Manual outlines three major steps to determine if a project will have a significant adverse impact on indirect residential displacement.



This figure was adapted from a flowchart originally developed by Renae Widdison.

5

HOW THE  
TECHNICAL MANUAL  
**FAILS TO ANALYZE  
INDIRECT  
RESIDENTIAL  
DISPLACEMENT**

When reviewing the socioeconomic chapter of an EIS, a reader could easily conclude that a robust and objective analysis was completed, given the number of tables, maps, and data points included. **However, by unpacking the Technical Manual’s guidance on how to measure the significance of indirect residential displacement, it becomes clear that the methodology fails to effectively approximate the scale and extent of the potential threat.** Furthermore, the Technical Manual does not differentiate this threat by race or ethnicity, important metrics when seeking to understand residential vulnerability. Four main flaws in the methodology lead to a significant underestimation of residential displacement, and therefore a missed opportunity to direct land use actions to prevent and not exacerbate displacement pressure.

- 1. The analysis dismisses the potential for inequitable impacts by race and ethnicity.**
- 2. Only low-income tenants living in 1-4 unit buildings are considered vulnerable to displacement, excluding residents in larger buildings from the analysis.**
- 3. The potential for displacement in gentrifying neighborhoods is unequivocally dismissed.**
- 4. EIS authors have wide discretion in determining a finding of significant impact, even if stated thresholds are exceeded, particularly for actions that include Mandatory Inclusionary Housing.**

# 1. THE ANALYSIS DISMISSES THE POTENTIAL FOR INEQUITABLE IMPACTS BY RACE AND ETHNICITY

The words “race” or “ethnicity” are not mentioned in the Technical Manual and therefore are not required elements of the socioeconomic impact analysis. Analysts are directed to look at a range of population characteristics; size, age, and income are suggested but not race and ethnicity, nor other protected classes.<sup>23</sup> Ultimately, income is the most important factor as the analysis is most concerned with the ability for residents to stay in their homes despite rising rents. Some EIS authors opt to study the racial and ethnic make-up of the study area, as was done in Manhattanville and Atlantic Yards, but it is not required or encouraged.

**In a city where access to housing, jobs, quality education, and other community assets is shaped by historical and ongoing practices of racial and ethnic discrimination and segregation, the lack of analysis on how an action—particularly a City-led action—exacerbates these inequalities is inexcusable.**



Protestors fighting against a proposal to rezone parts of Inwood marched through the neighborhood's streets in August 2018. Photo by Eileen Fuentes, Uptown Collective

## 2. ONLY LOW-INCOME TENANTS LIVING IN 1-4 UNIT BUILDINGS ARE CONSIDERED VULNERABLE TO DISPLACEMENT, EXCLUDING RESIDENTS IN LARGER BUILDINGS FROM THE ANALYSIS

The Technical Manual lays out a series of steps to ultimately answer the question, how many people living in the area will not be able to afford to stay in their homes if rents rise rapidly? This population is referred to as the vulnerable population or population at risk.<sup>24</sup> According to the Technical Manual, all residents living in buildings subject to some type of rent regulation are omitted from the tally of vulnerable residents—a claim based on several troubling assumptions, namely: tenants in rent-regulated units will not be subject to rapid rent increases; all tenants in buildings with six or more units are shielded from rapid rent increases and tenants in five unit buildings are ignored; and any displacement that occurs is by legal means. The Technical Manual treats these false assumptions as givens. As a result, only low-income<sup>25</sup> tenants living in 1-4 unit buildings are considered vulnerable residents.

It is important to understand how each of these assumptions can lead to a substantial undercount of residents vulnerable to displacement.

- **Assumption 1: Tenants in regulated units are assumed safe from rapid rent increases, and therefore displacement.**

According to the Manual, all apartments in buildings where there are rent-regulated or subsidized units are assumed to be protected from rapid rent increases and therefore excluded from the vulnerability calculation. The Manual defines units subject to rent regulation as those located in:<sup>26</sup>

- Buildings built before 1947 with three or more units (rent controlled)
- Buildings built before 1974 with six or more units (rent stabilized)
- Buildings that received public subsidy through rent subsidy payments, tax abatements or exemptions, and/or low interest mortgages (various programs)
- Publicly-owned buildings (e.g. NYC Housing Authority)

While these categories of buildings are generally subject to some type of rent regulation, in reality there are a variety of legal (and illegal) ways that rent-regulated housing (an entire building or specific units) loses its protections and affordability, including expiration of tax abatement benefits, substantial rehabilitation, mergers, condemnation, high-rent vacancy deregulation, and co-op/condo conversion.<sup>27</sup> In fact, a net loss of total regulated units has been occurring in New York City: in 2016, 7,524 units left rent regulation while only 6,847 units were added to the regulated stock, 72% of which were built through the 421-a tax abatement program.<sup>28</sup> 421-a units however are by no means definitively





The East New York rezoning proposal was met with fierce community resistance citing concerns that any new affordable housing built as part of the plan would not be affordable to current neighborhood residents and that displacement would occur. Photo by Maria Belford, courtesy of CHLDC

“affordable” to the average New Yorker: in 2016, the average rent of a new regulated unit in Brooklyn was \$3,419 per month.<sup>29</sup>

There are several legal mechanisms that allow landlords of regulated units to suddenly and significantly raise rents. A landlord is legally allowed to increase rents based on repairs and improvements done in the building or in individual apartments. Landlords are also entitled to steep increases when a unit becomes vacant. These mechanisms combined, along with the allowed increases of the Rent Guidelines Board, result in both rising rents and the deregulation of units. This creates a dangerous incentive for landlords to push out, through various legal and illegal means, tenants paying below-market rents in order to raise rents and deregulate apartments.<sup>30</sup> Furthermore, many rent-stabilized tenants, especially in lower-market

neighborhoods, are actually paying rents below the maximum the landlord could legally charge, a situation known as a preferential rent. These tenants are particularly vulnerable as their rent can jump to the maximum allowed upon lease renewal – which means they are particularly impacted by increases in the local market rents around them.

Displacement from regulated units is not a potential threat, but a reality. In 2014, the Independent Budget Office reported 43 percent of the more than 75,000 families with children entering NYC shelters between 2002 and 2012 listed a rent-regulated apartment as their most recent address; thirty-two percent of those families listed “eviction” as their reason for seeking shelter.<sup>31</sup> The Technical Manual ignores this reality, further underestimating the potential for displacement in a study area.

- **Assumption 2: All tenants in buildings with six or more units are shielded from rapid rent increases; all tenants in five unit buildings are ignored**

Rent-regulated buildings can contain a mix of regulated and unregulated units. This is an important point as no publicly available data set details the number of deregulated units in buildings that have some but not all regulated units. While data limitations make it difficult to enumerate the number of regulated units within a building, using the Manual's categories leaves out a significant number of unregulated—and therefore unprotected—units in so called rent-regulated buildings. The Manual states:

“those units in buildings with five or fewer units can be assumed not to be subject to rent stabilization. It is also conservatively assumed none of these units are subject to rent control...the average household incomes of renter-occupied households in buildings with fewer than 5 units should be calculated to determine the approximate size and location of a low-income population living in unprotected units.”<sup>32,33</sup>

Therefore, analysts are to assume that buildings with six or more units have some form of rent protection and disregard buildings with five units all together, despite the fact there are 4,602 5-unit buildings in NYC (in other words 23,010 housing units) that are unilaterally ignored as part of this analysis.<sup>34</sup> **Consequently, low-income tenants in 1-4 unit buildings are the only ones considered at risk for displacement.**

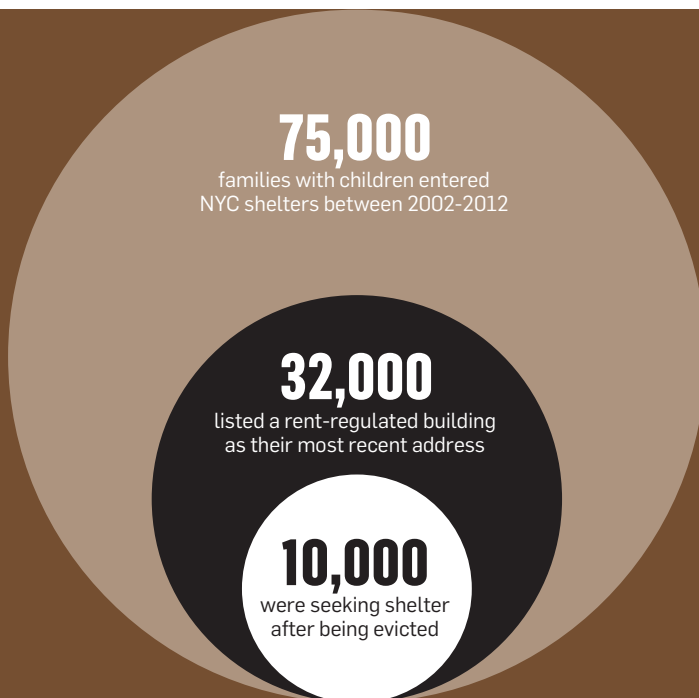
- **Assumption 3: All displacement is assumed to be legal**

The Technical Manual states, “in keeping with general CEQR practice, the assessment of indirect displacement assumes that the mechanisms for such displacement are legal.”<sup>35</sup> This small but important statement exposes one of the Manual's significant failings: a refusal to acknowledge the displacement of residents through either explicitly illegal or legally ambiguous means.

As market rents rise, there is an incentive for landlords of regulated units to remove current tenants so they can reap higher rents and deregulate apartments. Sometimes this leads to tenant harassment, which is illegal but commonplace and difficult to prevent as it takes so many forms. According to HPD, tenant harassment by landlords can include unjustified eviction notices, threats and intimidation, overcharging for a rent-regulated apartment and failure to provide necessary repairs or utilities.<sup>36</sup> These practices are known to be occurring in neighborhoods undergoing rapid change—so much so that the NYC Council recently passed a variety of new anti-harassment laws and expanded the scope of the legal definition of harassment to address its rampant practice<sup>37</sup>—yet the Manual precludes any analysis of how a proposed project may exacerbate these trends and fuel further indirect displacement.

Figure 2

**Assumed safe by analysts, tenants of rent-regulated buildings are highly vulnerable to displacement**



Source: New York City Independent Budget Office, 2014

# 3. THE POTENTIAL FOR DISPLACEMENT IN GENTRIFYING NEIGHBORHOODS IS UNEQUIVOCALLY DISMISSED.

A key question for cities facing rapidly rising housing costs in numerous neighborhoods is how new development contributes to housing instability. A perplexing outcome of following the Technical Manual's guidance is that a Detailed Analysis on indirect residential displacement is only conducted in neighborhoods that meet a specific real estate condition implied as areas that have experienced some but not widespread gentrification. This is perhaps the most circular and contradictory section of the Technical Manual's indirect residential displacement methodology, which almost always leads to a finding of no significant impact.

The Preliminary Assessment guidance states that a “readily observable trend towards increasing rents and new market rate development” must be present in a neighborhood in order for potential displacement to be a threat.<sup>38</sup> However, if “the vast majority” of the study area has already experienced rent increases and new market rate development, the analysis is brought to an end with a finding of no significant impact.<sup>39</sup> In other words, if rents are increasing in an area and presumably displacement is already occurring, EIS authors are to conclude it is not possible that a proposed action could make the situation any worse. By precluding these neighborhoods from the analysis, the Technical Manual completely discounts the reality that even in wealthier neighborhoods, there are often low-income residents that can still experience displacement pressure, including pressure exacerbated by new projects.

The existing methodology fundamentally conflicts with the Manual's guidance to “determine whether a proposed project has the potential to introduce or *accelerate* a socioeconomic trend”<sup>40</sup> (emphasis added). While neighborhoods where gentrification is already occurring are arguably at greatest risk for indirect residential displacement, the Technical Manual precludes them from analysis and a finding that displacement impact may be significant. This was the case in the recent rezonings of Downtown Far Rockaway and East Harlem (see page 29). There is no justification for this aspect of the methodology. It seemingly relies on the assumption that widespread gentrification is a natural part

of the “free market” and not a force often intentionally unleashed. It is hard to rationalize why the City would not want to investigate how an action—particularly a City-sponsored neighborhood rezoning—would impact a community already experiencing widespread housing instability. This screening appears as simply one more criterion for exclusion, limiting the valuable insights needed to guide city housing and development policy. **Today, when many neighborhoods around the city are already facing rapid increases in rent and demographic change, this guidance essentially ensures that displacement analyses will always result in a negative impact finding.**

The Manual continues that if rents are not already rising, any development is said to have “a stabilizing effect on the housing market” by allowing new housing investment.<sup>41</sup> This built-in, unjustified conclusion wrongly assumes that investment always leads to greater stabilization of a housing market when in fact, sometimes investing in a neighborhood where residents are already at risk of displacement can drive speculation. However, rather than exploring this possibility on a case-by-case basis, the Manual directs that no further analysis is necessary, again discounting the presence of vulnerable residents in these scenarios.<sup>42</sup>

A Detailed Analysis is warranted and a finding of significance is possible only if observable trends toward increasing rents “exist near to or within smaller portions of the study area.”<sup>43</sup> However, as noted in the following section, even if an area fits into this narrowly defined some but not widespread gentrifying area, subsequent aspects of the methodology often lead to a finding of no significant impact due to the discretion of EIS authors and/or by including MIH as part of the proposed action. Another contradiction is that if a study advances to the Detailed Analysis phase precisely because some rents are rising, EIS authors have often concluded that because rents are rising, residents are likely to be displaced anyway and that any continuation or acceleration of rising rents due to the project cannot be held responsible for the displacement that occurs. This confusing, circular logic almost always leads to a finding of no significant impact.



# 4. EIS AUTHORS HAVE WIDE DISCRETION IN DETERMINING A FINDING OF SIGNIFICANT IMPACT, EVEN IF STATED THRESHOLDS ARE EXCEEDED, PARTICULARLY FOR ACTIONS THAT INCLUDE MANDATORY INCLUSIONARY HOUSING.

The Technical Manual provides specific guidance to analysts in some areas but when it comes to the most important aspect—the final determination—the Manual is noticeably open to analysts’ subjective conclusions. The Detailed Analysis guidance concludes with a proposed threshold: if the identified vulnerable population exceeds five percent of the study area, a significant impact may occur.<sup>44</sup> The use of the word “may” is important as the significance determination is at the sole discretion of the EIS author and lead agency: even if this threshold is met, analysts can include a multitude of reasons why displacement will not occur with no required justifications for those assertions.

In East New York, for example, the Detailed Analysis calculated almost 50,000 vulnerable residents, representing 32 percent of the study area’s population.<sup>45</sup> Despite unquestionably exceeding the five percent threshold, EIS authors concluded this impact was not significant due to other factors, namely the inclusion of Mandatory Inclusionary Housing (MIH).<sup>46</sup> In fact, the EISs for the five neighborhood rezonings that have included MIH have all concluded, wholly or in part, that MIH will alleviate displacement pressure, contributing to a finding of no significant impact. MIH may indeed bring more affordable units to neighborhoods, but it is a program in the very early stages of implementation, and as such, there has been no measurement of its efficacy. Preliminary analysis by neighborhood groups about the mismatch between the existing income levels in the neighborhood and the income-eligibility requirements for units created under MIH makes a strong case that these EIS assumptions are unfounded and premature.<sup>47</sup>

There are additional factors that limit MIH’s ability to alleviate displacement pressure for residents of a particular study area, including the long lead time it takes to construct new units and the fact that area residents would have to compete with others to secure a new affordable unit through lotteries. Nonetheless, analysts claim MIH will eliminate the risk of indirect displacement for existing neighborhood residents. Residents of neighborhoods undergoing future City-led rezonings, particularly when they include MIH, should understand that the method to determine potential displacement impacts will be significantly biased, and will likely result in a finding of no significant impact.

There are other areas in the Technical Manual where the wide discretion afforded to EIS analysts can directly and significantly influence the outcome of the review. For example, when establishing existing conditions, census tracts are recommended as one level of geography but others are allowed, such as borough; “average” and “median” are also acceptable indicators for describing population incomes.

This open-ended approach enables scenarios, as in the case of Greenpoint-Williamsburg, where the EIS screens vulnerability based on average household income by census tract compared to borough-wide averages.<sup>48</sup> In this example, a low-income resident living on a block with a large number of wealthy residents would not be counted as vulnerable because the average of the entire block would be sufficiently high. This is another way that vulnerable residents in gentrifying neighborhoods are discounted in the displacement calculation, which can be inconsistent from EIS to EIS.

5

REVIEW OF INDIRECT  
DISPLACEMENT  
ANALYSIS IN  
**SELECT  
ENVIRONMENTAL  
IMPACT  
STATEMENTS**

“

**The Technical Manual’s step-by-step methodology is based on a series of unjustified assumptions that easily lead to minimizing vulnerability and therefore, a finding of no significant adverse impact to the existing community.**

”

All of the neighborhood rezonings initiated as part of Mayor de Blasio’s *Housing New York* plan go through CEQR and therefore require an Environmental Impact Statement (EIS). By reviewing the way indirect residential displacement is analyzed in an EIS, the influence the Technical Manual’s methodology has on ultimate findings becomes starkly apparent. In fact, most EISs cut and paste the relevant guidance from the Manual directly into the EIS preceding each section to demonstrate adherence to the Manual’s methodology. A comparison of select EISs (see Figure 3) highlights the disconnect between absolute numbers of potentially displaced residents and a finding of significance. The comparison also shows the trend for the analyses of the recent *Housing New York* rezonings, all of which concluded with a finding of no significant impact for indirect residential displacement.

These EISs illuminate the real world applicability of the Technical Manual’s methodology and the ability for EIS authors to rationalize a finding of no significant impact despite acknowledgement of vulnerable residents. Five of the eight EISs reviewed quantified almost 65,000 vulnerable residents, a figure that is undoubtedly a severe undercount. **The most recent EISs have the added justification that simply including MIH as part of the reviewed action will cease displacement pressure. This justification is included even though the EISs concede that specific rent levels at the time EISs are written are unknown, a reality that directly invalidates that assumption.**<sup>49</sup> Nonetheless, this approach sets up a likely conclusion of no significant impact for indirect residential displacement for upcoming *Housing New York* rezonings.

## Greenpoint-Williamsburg

In 2005, the City rezoned the North Brooklyn waterfront and a large part of the adjacent upland area to encourage residential development. Several census tracts were found to be potentially vulnerable to displacement and concluded in a finding of significant impact. The EIS authors added that despite the finding, displacement would be unlikely as a) the addition of more housing units to the area would relieve housing pressure; b) most development would occur on the waterfront, away from the vulnerable census tracts; c) the action would create ‘two distinct markets for housing’ (meaning low-income and new affluent residents would essentially be segregated); and d) the tight-knit Jewish Orthodox community would stave off displacement due to unique landlord-tenant relationships.

Flaws noted	Finding
<ul style="list-style-type: none"><li>1 Does not mention race</li><li>2 Undercounts vulnerable residents *</li><li>4 Definitions left to discretion of authors</li></ul>	Significant Impact

## Atlantic Yards

The City and State rezoned the area around the Atlantic Avenue railway station in 2006 to support a mix of new uses including a new arena (Barclays Center), residential, office, retail, parking, and open space.<sup>50</sup> The EIS included a look at the racial make-up of the area and a thorough analysis of unregulated apartments including buildings with five or more units, concluding there were over 18,000 unregulated units in the study area. However, the EIS authors only considered residents vulnerable if they lived in census tracts where the average income of renters living in small buildings (1-4 units) is lower than the average income for all renters in Brooklyn, a methodological step that was not explained. The screening for vulnerability was contracted further based on the assessment that the units in question were in areas that were already gentrifying and therefore vulnerable residents had likely already been displaced. Ultimately, the EIS concluded with a finding of no significant impact for one of the largest developments in recent New York City history, even if the construction of new affordable units was delayed.

Flaws noted	Finding
<ul style="list-style-type: none"><li>2 Undercounts vulnerable residents *</li><li>3 Excludes gentrifying neighborhoods</li><li>4 Definitions left to discretion of authors</li></ul>	No Significant Impact

## Manhattanville/Columbia Expansion

In 2007, Columbia University initiated a rezoning of the Manhattanville portion of West Harlem in order to expand its campus and promote office and residential development. The Manhattanville EIS included a thorough analysis of existing conditions, including an investigation into race, ethnicity, percentage of foreign-born residents, and population age as well as the extent of the area’s unregulated housing units, including large buildings built after 1974. The EIS acknowledged the action would increase the area’s livability and residential appeal, leading to increased rental pressure. The EIS concluded with a finding of significant impact and mitigation measures were recommended, including a \$20 million affordable housing fund that was administered by the West Harlem Development Corporation.

Flaws noted	Finding
<ul style="list-style-type: none"><li>2 Undercounts vulnerable residents *</li><li>4 Definitions left to discretion of authors</li></ul>	Significant Impact

\*EIS contains one or more of the assumptions listed in section 5

## East New York

East New York was rezoned in 2016, the first of the *Housing New York* rezonings to advance through ULURP. The proposal was met with fierce community resistance citing concerns that any new affordable housing built as part of the plan would not be affordable to current neighborhood residents and that displacement would occur.<sup>51</sup> The EIS identified nearly 50,000 residents (more than five percent of the population) that were vulnerable to indirect displacement, but ultimately determined no significant impact. Despite this high number far exceeding the impact threshold, the EIS claimed that the permanent affordability requirements under the MIH policy and an increase in housing overall would counter any displacement pressure.

Flaws noted	Finding
<ul style="list-style-type: none"><li>1 Does not mention race</li><li>2 Undercounts vulnerable residents *</li><li>4 Definitions left to discretion of authors</li></ul>	<div>No Significant Impact</div>

## Downtown Far Rockaway

The 2017 Downtown Far Rockaway rezoning included plans to revitalize the area's commercial core and promote mixed-income residential development. As a *Housing New York* rezoning, the proposal also included MIH. The EIS stated that while average household incomes were declining in the area, average and median rents were increasing, and with little new housing slated for development, those trends were expected to continue. EIS authors tallied approximately 13 percent of area residents as vulnerable but given market trends of increasing rents, these residents were subject to displacement regardless of the rezoning. The inclusion of MIH was touted as a stabilizing factor that would increase the supply of affordable housing. Ultimately, the EIS concluded no significant impact and ended at the Preliminary Assessment phase.

Flaws noted	Finding
<ul style="list-style-type: none"><li>1 Does not mention race</li><li>2 Undercounts vulnerable residents *</li><li>3 Excludes gentrifying neighborhoods</li><li>4 Definitions left to discretion of authors</li></ul>	<div>No Significant Impact</div>

## East Harlem

East Harlem, the third *Housing New York* rezoning, was approved in 2017 to facilitate high-rise housing and commercial development. The EIS acknowledged a large number of households with higher than average incomes will move to the neighborhood as part of the rezoning but because widespread neighborhood change is already underway, the rezoning would not be the impetus for future displacement. The EIS pointed out that rents were increasing throughout East Harlem, and were likely to continue to rise without the proposed rezoning. The inclusion of MIH was also noted as a means to provide more affordable housing, limiting displacement potential. As a result, the impact analysis concluded at the Preliminary Assessment phase with a finding of no significant impact.

Flaws noted	Finding
<ul style="list-style-type: none"><li>2 Undercounts vulnerable residents *</li><li>4 Definitions left to discretion of authors</li></ul>	<div>No Significant Impact</div>

\*EIS contains one or more of the assumptions listed in section 5

## Jerome Avenue

The 2018 Jerome Avenue rezoning sought to pave the way for increased residential development in an existing high-density auto repair corridor. Community opposition included deep concerns that area residents would be displaced, despite newly built affordable units stemming from MIH.<sup>52</sup> During the Preliminary Assessment phase of the analysis, the EIS authors found that new residential development would not increase the population by more than five percent except in one particular sub-area, Mt. Eden. In the majority of the study area, the EIS found no significant impact at the Preliminary Assessment stage. A Detailed Analysis was conducted only for Mt. Eden. In that area, the EIS also concluded no significant impact even though the five percent threshold was met based on the assumption that any displacement pressure would be hindered by new subsidized housing and MIH.

Flaws noted	Finding
<ul style="list-style-type: none"><li>1 Does not mention race</li><li>2 Undercounts vulnerable residents *</li><li>4 Definitions left to discretion of authors</li></ul>	<div>No Significant Impact</div>

## Inwood

The 2018 Inwood rezoning, the most recent of the *Housing New York* rezonings, encouraged increased residential and mixed commercial development. Here too, the community strongly opposed the City's proposal focusing on a number of issues, including concerns of displacement. As the project would yield a 15 percent increase in population with higher-than-existing average incomes, a Detailed Assessment was conducted. The EIS concluded there would be no significant impact due to the inclusion of MIH and the reasoning that since the area was already gentrifying the rezoning would not be responsible for any additional displacement pressure. Notably, despite conducting the Detailed Analysis, the EIS did not quantify a population at risk.

Flaws noted	Finding
<ul style="list-style-type: none"><li>1 Does not mention race</li><li>2 Undercounts vulnerable residents *</li><li>3 Excludes gentrifying neighborhoods</li><li>4 Definitions left to discretion of authors</li></ul>	<div>No Significant Impact</div>

\*EIS contains one or more of the assumptions listed in section 5

Figure 3

## Comparison of Findings for Select EISs

A review of Environmental Impact Statements reveals the results of the flawed analysis. These include: high frequency of findings of No Significant Impact; high frequency of analyses that conclude at the Preliminary Assessment stage; the lack of relationship between the size of the population at risk and the ultimate finding and departures from the outlined process at the discretion of the reviewer.





# 6

# RECOMMENDATIONS

Currently, the only formal vehicle the City has to evaluate displacement pressure is through individual EISs. As demonstrated, this is not only insufficient but leads to an undercount of vulnerable residents. This also places pressure on communities to argue for more accurate accounting during a technical and bureaucratic process with ultimate findings that are at the discretion of EIS authors. It is time for the City to take a broader, more comprehensive look at displacement across the five boroughs and revamp the CEQR Technical Manual so that site- and neighborhood-specific evaluations are accurate, just, and linked to a citywide understanding of displacement trends and impacts.

## 1. NYC should conduct a citywide displacement risk analysis and use it to inform housing and development policy.

Currently, the City's sole vehicle to assessing displacement is through the CEQR process, which as demonstrated is woefully inadequate even at the project level. In addition to addressing the CEQR Manual flaws, the City should conduct a citywide displacement risk analysis to gain a comprehensive understanding of displacement trends and inform overarching housing and development policy. Major cities such as Portland, OR and Los Angeles, CA are already utilizing citywide displacement trackers, and a similar effort should be deployed in New York City. There are many existing organizations the City could partner with for this effort. The Regional Plan Association's Displacement Index and Association for Neighborhood and Housing Development's Displacement Alert Project are excellent local examples of this type of work that the City can build upon and integrate into its analysis. With a citywide analysis that includes a complete and accurate count of rent-regulated units as well as dynamic mapping tools, the City can then develop neighborhood-specific programs and development schemes to most effectively prevent displacement. The displacement analysis should also explore significant challenges related to the timing of displacement and the availability of a newly-created "affordable" unit. **For example, a family that is displaced as a result of rising rents in a newly rezoned area that is subject to MIH will not necessarily be the family that will occupy a newly built MIH unit. In fact, the likelihood is low, as rents on existing units will rise rapidly long before any new housing is developed and the income bands required for MIH units can be significantly higher than those of existing residents.**



## 2. NYC should adopt a comprehensive anti-displacement policy agenda with a no net loss of affordable units as a key goal.

Recognizing the crisis of affordability in their neighborhoods, a number of cities are establishing anti-displacement policy agendas with specific strategies<sup>53</sup> and NYC needs to do the same. An anti-displacement agenda would acknowledge and codify the City's position on displacement and guide future actions. While displacement pressure is a reality for many New Yorkers, including those in regulated or subsidized housing, maintaining this type of housing will be a crucial element for any anti-displacement agenda and the City should articulate a clear goal of no net loss of affordable units. **Community responses to recent neighborhood rezonings have called for a no net loss policy, and one that tracks affordable units by income, so that the full range of low-income residents are protected from displacement pressure.**<sup>54</sup>

By adopting a goal of no net loss of affordable units as part of this agenda, the City can develop more detailed policy, strategically steer development, and support new programs to prevent displacement and the loss of affordable housing. As part of advancing this goal, the City should track and evaluate outcomes based on key factors, including race.

## 3. NYC should convene a Task Force of technical and community experts to revamp the CEQR Technical Manual's approach to evaluating residential displacement.

Since its first publication, the CEQR Technical Manual has been updated several times, but another update is greatly needed. In the past, representatives from city agencies have convened to provide technical input on revisions. To not just update, but revamp, the Technical Manual's flaws, the City should convene a task force comprised of representatives from the public sector as well as non-governmental experts, and provide an opportunity for public input before a revised version is released. While this report has focused solely on the major flaws of the indirect residential displacement methodology, the Task Force should review all categories of the Technical Manual for needed changes. In terms of the indirect residential displacement section, at a minimum the Task Force should address: the definition and step-by-step calculations of vulnerable residents, the inclusion of race and ethnicity as impact metrics, the availability of data required to make accurate assessments of regulated and unregulated housing, and the development of clearer standards to determine a significant impact. While often dismissed as simply a disclosure document, EISs and the Technical Manual that guide them are, in fact, a reflection of the City's assumptions regarding development, and should be aligned with citywide policy. As such, the Task Force should also consider the relevant changes needed for the Technical Manual to synchronize with the creation of a citywide anti-displacement policy agenda. **The Task Force should also consider additional mechanisms outside of changes to the CEQR Technical Manual to adequately develop and implement mitigation measures, including potential legislation or charter revisions.**

# 7

# CONCLUSION

The time has come to directly address displacement trends in New York City and recognize the strong hand land use actions have played in exacerbating this issue. With less than half of the proposed *Housing New York* rezonings approved, it is essential that we take stock of the impact these land use changes have on neighborhood affordability and the way the City measures and addresses those impacts. The current methodology is unjust and woefully inadequate, leaving communities, especially communities of color, to unfairly bear the burden of the City's dismissal of displacement risk.

# ENDNOTES

1. Accessed at: [http://www.nyc.gov/html/housing/assets/downloads/pdf/housing\\_plan.pdf](http://www.nyc.gov/html/housing/assets/downloads/pdf/housing_plan.pdf)
2. Accessed at: <https://www1.nyc.gov/assets/hpd/downloads/pdf/about/hny-2.pdf>
3. Accessed at: <http://library.rpa.org/pdf/Inclusive-City-NYC.pdf>
4. Accessed at: <https://www.amny.com/real-estate/bedford-armory-zoning-lawsuit-1.19789279>
5. Accessed at: <https://www1.nyc.gov/site/hpd/about/press-releases/2018/07/city-launches-partners-in-preservation-pilot-program.page>
6. Accessed at: <https://www1.nyc.gov/site/hpd/community/where-we-live-nyc.page>
7. A 2015 rule under President Obama required jurisdictions to conduct detailed reviews on housing disparities (NYC's was to be due by 2019). The assessment deadlines were postponed under President Trump yet Mayor de Blasio announced New York City's will proceed under the original schedule.
8. This report stems from the robust analysis of the CEQR Technical Manual's indirect displacement methodology conducted by Pratt Institute City and Regional Planning student Renae Widdison for her graduate thesis.
9. New York City 2014 CEQR Technical Manual accessed at <https://www1.nyc.gov/site/oc/environmental-quality-review/technical-manual.page>
10. While this report focuses primarily on City-initiated actions, it should be noted that CEQR, and the methodological flaws identified, applies to privately-initiated actions as well.
11. "CEQR is New York City's process for implementing the State Environmental Quality Review Act (SEQR), by which agencies of the City of New York review proposed discretionary actions to identify and disclose the potential effects those actions may have on the environment." NYC CEQR Technical Manual (2014), page 1-1
12. NYC CEQR Technical Manual (2014), page 5-1
13. NYC CEQR Technical Manual (2014), page 5-1
14. Direct residential displacement analysis is conducted only on specific sites in the study area that EIS authors identify as "projected" development sites, which are subjectively determined to be more likely developed than other sites.
15. NYC CEQR Technical Manual (2014), page 1-14
16. Chinese Staff and Workers Association et al., Appellants, v. City of New York et al., Respondents. Court of Appeals State of New York. 18 Nov. 1986. <https://www.leagle.com/decision/198642768ny2d3591392>
17. NYC CEQR Technical Manual (2014), Page 5-7
18. The Preliminary Assessment is also the stage at which the study area boundary is defined. The study area is defined as the project site with a buffer of typically 1/2 mile, although that distance is not fixed. This is a critical step in the analysis process because the assessment seeks to examine potential changes to socioeconomic character relative to the study area population. In other words, impact is defined proportionately rather than in actual numbers.
19. NYC CEQR Technical Manual (2014), page 5-8
20. NYC CEQR Technical Manual (2014), page 5-9
21. The Manual states: "the average household incomes of renter-occupied households in buildings with fewer than 5 units should be calculated to determine the approximate size and location of a low-income population living in unprotected units." NYC CEQR Technical Manual (2014), page 5-15
22. NYC CEQR Technical Manual (2014), page 5-22 – 5-23
23. The federal Fair Housing Act makes it illegal to discriminate against seven classes: race, color, religion, national origin, sex, disability and family status. The New York State Human Rights Law protects all of these classes plus creed, age, sexual orientation, marital status and military status.
24. NYC CEQR Technical Manual (2014), page 5-7
25. As stated earlier, low-income is not rigidly defined but rather characterized as those whose incomes or poverty status indicate that they could not support substantial rent increases.
26. NYC CEQR Technical Manual (2014), page 5-14
27. Rent Guidelines Board. Changes to Rent Stabilized Housing Stock in New York City in 2016 (2017), page 5
28. Rent Guidelines Board. Changes to Rent Stabilized Housing Stock in New York City in 2016 (2017), page 9
29. Rent Guidelines Board. Changes to Rent Stabilized Housing Stock in New York City in 2016 (2017), page 12
- 30] NYU Furman Center. The Challenge of Rising Rents (2015), page 7
31. Independent Budget Office. The Rising Number of Homeless Families in NYC, 2002 - 2012 (2014)
32. NYC CEQR Technical Manual (2014), page 5-15
33. The reason for citing "fewer than 5 unit buildings" is a result of categories in the U.S. Census and American Community Survey. Census data for household income is based on building size, categorized as follows: 1-4 unit buildings, 5-9 units, 10-20, and so on. As a result, 5 unit buildings are lumped in with 6+ units, which may be rent-regulated in New York State.
34. NYC Pluto data, 2017
35. NYC CEQR Technical Manual (2014), page 5-2
36. <http://www1.nyc.gov/site/hpd/renters/harassment.page>
37. <https://council.nyc.gov/press/2017/08/09/1448/>
38. NYC CEQR Technical Manual (2014), page 5-9
39. NYC CEQR Technical Manual (2014), page 5-9
40. NYC CEQR Technical Manual (2014), page 5-5
41. NYC CEQR Technical Manual (2014), page 5-9
42. NYC CEQR Technical Manual (2014), page 5-9
43. NYC CEQR Technical Manual (2014), page 5-8 – 5-9
44. NYC CEQR Technical Manual (2014), page 5-17
45. East New York Final Environmental Impact Statement (2016), page 3-39, 3-42
46. Mandatory Inclusionary Housing (MIH) was initiated in 2016 and requires new residential developments in particular areas to include fixed level rents for a portion of the units in market-rate residential buildings. For more detail on MIH go to: <http://www1.nyc.gov/site/planning/plans/mih/mandatory-inclusionary-housing.page>
47. For example, the Bronx Coalition for Community Visions' comments for the Jerome Avenue Draft Environmental Impact Statement clearly describe how the MIH affordability levels do not adequately serve the needs of community residents. Comments accessed at: [https://www1.nyc.gov/assets/planning/download/pdf/applicants/env-review/jerome-avenue/appendk\\_feis.pdf?r=0112](https://www1.nyc.gov/assets/planning/download/pdf/applicants/env-review/jerome-avenue/appendk_feis.pdf?r=0112)
48. Greenpoint-Williamsburg Final Environmental Impact Statement (2005), page 3-47
49. For example, the East Harlem EIS states that the number and affordability range for MIH units cannot be estimated at the time of the EIS because the final outcomes depend on choices to be made by developers. East Harlem Final Environmental Impact Statement (2017), page 3-21.
50. Atlantic Yards was subject to both SEQR and CEQR. The indirect residential displacement analysis followed the City's 2001 CEQR Technical Manual.
51. <https://citylimits.org/2016/02/18/cityviewsfor-east-new-yorks-housing-crunch-supply-is-not-the-solution/>
52. Bronx Coalition for a Community Vision Policy Platform, accessed at [www.bronxcommunityvision.org](http://www.bronxcommunityvision.org)
53. For example, Seattle, Washington recently announced its Housing and Livability Agenda, which includes preservation and anti-displacement strategies. [www.seattle.gov/hala](http://www.seattle.gov/hala)
54. For example, the Bronx Coalition for a Community Vision calls for a No Net Loss policy in their policy platform: [https://www.bronxcommunityvision.org/our\\_policy\\_platform](https://www.bronxcommunityvision.org/our_policy_platform)

# **FLAWED FINDINGS**

## **Part I**

**How NYC's approach to  
measuring residential  
displacement risk fails  
communities**