Who Will Benefit from the BASE Pilot Program?

**Homeowners** will benefit from the BASE Pilot by receiving subsidized or reimbursed renovations and potential financial or tax benefits.

**Tenants** will benefit by living in safe apartments with expanded housing protections and longer-term affordability.

**New York neighborhoods** will benefit by having their population and housing stock properly accounted for, allowing for appropriate allocation of services.

**BACKGROUND**

Basement apartments have long posed a challenge to New York City. They have been among the most significant sources of affordable housing over the past decade. Rental units in smaller homes are utilized across the outer boroughs in neighborhoods where affordable housing development has not kept up with the population increase and where homeowners struggle to maintain their mortgages.

Despite the safety issues, risk of instability for the tenant, and potential fines that homeowners may face, many of these units continue to be occupied as the only source of rental housing within reach for many New Yorkers and a viable solution to income constraints for homeowners.

The BASE Campaign seeks to create a pilot program to allow safe basements and cellars to be brought up to code and into the City’s formal housing stock.

**THE CHALLENGE**

It estimated that there are thousands of illegal basement apartments in New York City’s housing stock. Because these units are unregulated, there is little oversight governing the safety and well-being of the tenants, homeowners, and neighbors. While this issue must be addressed, it is necessary to acknowledge that these units are widespread and provide an important source of affordable housing.

**THE SOLUTION**

In line with Mayor de Blasio’s plan, the BASE Pilot Program will allow safe basements and cellars to be brought up to code and into the City’s formal housing stock.

A safer, more sustainable and affordable city
BASEMENT APARTMENTS SAFE FOR EVERYONE

THE ISSUE AND POTENTIAL

Though not regulated by the New York City Department of Buildings, basement and other informal units have accounted for nearly 40 percent of all new housing created in the City from 1990 to 2005. Advocates estimate that there are over 114,000 converted housing units throughout the city, the majority of which are basement apartments.

- 95 percent are in neighborhoods in the outer boroughs of Queens, Brooklyn, and the Bronx.
- A survey of two communities in Queens showed that nearly 82 percent of homes showed signs of having an “illegal conversion,” and of these 35 percent could possibly be legalized.
- Single-family homes represent roughly 9.5 percent of the City’s overall housing stock, according to City data, totaling over 316,000 homes.
- Applying this average to districts across the three boroughs would mean potentially more than 110,000 units of housing.

While these units represent affordable rental opportunities for tenants and critical income for homeowners to meet mortgage payments, they present a number of challenges, including safety issues, inadequate delivery of city services, and tenant/landlord violations. Code enforcement in its current state is inefficient, involving unnecessary court costs and agency staff time. Yet, many units are safe and could be brought into regulation if the city were to adopt an ADU code to facilitate this process.
Impact of Basement and Cellar Units of Key Stakeholders

<table>
<thead>
<tr>
<th>Challenges</th>
<th>Tenants</th>
<th>Homeowners</th>
<th>Neighborhood</th>
<th>City of New York</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Poor living conditions</td>
<td>• Potential fines of up to $15,000</td>
<td>• Fire hazard to community</td>
<td>• Risk placed on first-responders</td>
<td></td>
</tr>
<tr>
<td>• Vulnerable to displacement, eviction, and vacate orders</td>
<td>• Process of legalization is difficult to navigate</td>
<td>• Overcrowded schools</td>
<td>• Liability of unsafe apartments</td>
<td></td>
</tr>
<tr>
<td>• No recourse in housing court</td>
<td>• Cost of Legalization (estimated at $10,000 to $45,000)</td>
<td>• Insufficient sanitation services</td>
<td>• Cost of enforcement on the ground</td>
<td></td>
</tr>
<tr>
<td>• Inability to enforce rights to safe and decent housing</td>
<td>• At risk of foreclosure due to informal rental structure</td>
<td>• Parking and traffic congestion</td>
<td>• Administrative costs of housing court cases and Environmental Control Board (ECB) hearings</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Benefits</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>• Affordable rents in high-cost neighborhoods (average: $500 to $1,500)</td>
<td>• Rental income to help sustain mortgage</td>
<td>• Source of affordable housing in high-cost areas</td>
<td>• Ability to focus enforcement on truly unsafe units</td>
<td></td>
</tr>
<tr>
<td>• Preferred neighborhoods</td>
<td>• Opportunity to keep family close and support new-immigrant family members</td>
<td></td>
<td>• Ease the burden on the EBC</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>How the BASE program will solve the problem</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>• Access to safe apartments</td>
<td>• Streamlined process to legalization</td>
<td>• Safe and regulated apartments</td>
<td>• Creation of affordable housing</td>
<td></td>
</tr>
<tr>
<td>• Increased tenant protections in housing court</td>
<td>• Technical and financial assistance throughout process</td>
<td>• More accurate reflection of residents, leading to better allocation of resources</td>
<td>• Ability to plan accurately for population increases</td>
<td></td>
</tr>
<tr>
<td>• Stability in tenancy in neighborhood of choice</td>
<td></td>
<td>• Ability to obtain improved sanitation service from the City</td>
<td>• Additional tax revenue for city services</td>
<td></td>
</tr>
</tbody>
</table>

THE SOLUTION

Create an “Accessory Dwelling Unit” (ADU) regulatory program allowing owner-occupied homes to create units that are safe but currently forbidden under zoning or building code regulations. These units must be in owner-occupied, single-family homes, not illegally partitioned rooms.

It’s been done before. Many municipalities in the U.S. have adopted the concept to allow ancillary apartments in single-family districts, including San Francisco, Seattle, Washington, D.C., and areas in Illinois, Massachusetts, and Oregon. In New York City, this approach was implemented for a period of time to accommodate returning veterans in the aftermath of World War II.

In order to implement an ADU program that would optimize efficiency for the City, the number of units created, and best outcomes for tenants and owners, the following are critical program components:

- Financial and technical assistance should be provided for compliant owners, including a grace period during which some fees and fines would be waived.
- Existing tenants must be given priority to remain in units after legalization.
- Nonprofit partners need to be established to administer and support implementation of the program and ensure compliance.
- Rents must remain affordable in order for owners to benefit from the program.
- Health and safety issues should be emphasized, rather than physical aspects.
- A tax benefit must be provided for owners to incentivize conversion and maintain an affordable rent.
- There must be a plan for an integrated approach with retrofit programs to support the costs of conversion and ensure energy efficiency measures during conversion.
NEW YORK CITY LEGISLATION

We recommend legislation to establish a framework for the organization and implementation of the BASE Pilot Program to be administered by the Department of Housing Preservation and Development. The proposed local law will include: (1) geographic location for the Pilot; (2) eligibility and participation requirements; and (3) participant benefits. We also recommend the creation of a new BASE Pilot Program Task Force, a joint effort between the City Council and Administration with representatives from the Departments of Fire, Buildings, City Planning, and Housing Preservation and Development to implement an education and outreach plan that will publicize the program, educate homeowners on eligibility, and provide resources to the community-based organizations that can help enroll homeowners into the program.

ZONING TEXT CHANGES

The BASE Pilot Program does not require any changes to New York City zoning maps. The primary areas of change include floor-area ratio, housing type, and parking. Most importantly, the newly designated ADU must be exempt from density restrictions, namely FAR and unit limitations. ADUs should be deemed non-FAR and non-density impacting. In addition, the parking requirement for new units should be waived, acknowledging that tenants seeking affordable housing are less likely to be drivers and instead rely on New York City’s robust public transportation system. To implement changes to the zoning text, action is needed from the Mayor’s office or the City Council.

ADMINISTRATIVE CODE CHANGES

In light of the dangerous and unhealthy living conditions currently experienced by tenants in many illegal basement units, the BASE Pilot Program will develop a clear list of proposed changes to the building code that would allow safe units to be legalized. Currently, building codes create high barriers to legalizing basement apartments and totally prohibit the use of cellars as dwelling units. The result is that many basement and all cellar units cannot be legalized, despite the fact that many of these units are or could be made safe. In order for an ADU code to function properly, a new City administrative unit must be tasked with inspecting and certifying the safety of ADUs on a case-by-case basis. To implement changes to the Building Code, action is needed by the City Council. As the Building Codes are currently being reviewed and updated, it is an optimal time to look at this potential.

 CREATION OF FINANCE MECHANISMS TIED TO AFFORDABILITY INCENTIVES

The existence of unregistered apartments in basements and cellars speaks to the City’s dearth of affordable housing, particularly as safety and decency are at times compromised in these units. Maintaining the affordability of basement units will be essential to prevent displacement of current tenants and to provide for the expansion of much-needed affordable housing. In addition, homeowners who wish to legalize a basement or cellar unit may be required to make architectural and engineering alterations in order to make the unit safe. A comprehensive program will link the preservation of affordability for these units with the provision of financial assistance to homeowners — many of whom rely on rental income in order to make their mortgage payments — to make the necessary changes.

There are two compelling options for forms of financial assistance that could be provided to homeowners. First, the existing J-51 tax abatement could be adapted, or ADUs could be incorporated into the existing inclusionary zoning scheme. In its current form, the J-51 tax abatement allows for a property tax reduction based on improvements to residential apartment buildings. It may be possible to incorporate ADUs into this program to provide homeowners an incentive to join the program while simultaneously folding the unit into the rent-regulated stock.

The second proposal entails allowing developers of large-scale housing developments to receive credit toward the inclusionary zoning requirement — namely, the development of required affordable housing units in exchange for development bonuses — by investing in ADU conversions. This could be facilitated by the development of a bank to centralize a pool of investor capital, streamlining administrative costs, and providing easy access to low-cost capital for homeowners.
The BASE campaign is led by a seven-organization steering committee and is currently endorsed by an additional 26 organizations and two New York City council members:

**Steering Committee**
- Asian Americans for Equality (AAFE)
- Association for Neighborhood and Housing Development (ANHD)
- Chhaya Community Development Corporation
- The Legal Aid Society – Queens Neighborhood Office
- MinKwon Center for Community Action
- Pratt Center for Community Development
- Queens Legal Services
- Urban Justice Center

**Endorsing Organizations**
- Adhikaar
- Brooklyn Community Foundation
- CAAAV: Organizing Asian Communities
- CAMBA
- Catholic Migration Services - Immigrant Tenant Advocacy Project
- Center for New York City Neighborhoods
- Center for Popular Democracy
- Cypress Hills Local Development Corporation
- Desis Rising Up and Moving (DRUM)
- Fifth Avenue Committee
- Housing First!
- Indo-Caribbean Alliance
- Local Initiatives Support Corporation
- Make the Road NY
- Neighborhood Housing Services of New York City, Inc.
- Neighborhood Restore HDFC/Restored Homes HDFC
- Neighbors Helping Neighbors
- New Immigrant Community Empowerment
- New York Mortgage Coalition
- New York Immigration Coalition
- Queens Community House
- Queens Housing Coalition
- Sapna NYC
- Shorefront YM-YWCA of Brighton-Manhattan Beach
- Woodside on the Move
- Zone A New York

**Endorsing Council Members**
- Daniel Dromm (District 25)
- Brad Lander (District 39)

**For more information, contact:**
Seema Agnani, Chhaya CDC
37-43 77th Street, 2nd Floor, Jackson Heights, NY 11372
(718) 478-3848
www.basecampaign.wordpress.com