Affordable No More:

New York City's Looming Crisis in Mitchell-Lama and Limited Dividend Housing

City of New York
Office of the Comptroller
Office of Policy Management

William C. Thompson, Jr., Comptroller

February 18, 2004

EXECUTIVE SUMMARY

Access to affordable and safe housing is one of the most critical challenges facing New York City. With a mean income of $31,000 per year, half of the families who rent their homes in New York City pay more than 27 percent of their income on housing and 19 percent have a severe housing affordability or quality problem.[1] Additionally, there is a clear gap between the available rental housing units and the income of families who rent. The 2002 Housing Vacancy Survey found that rental units priced between $500 to $699 and $700 to $799 had vacancy rates of just 1.7 and 2.6 percent, respectively. In comparison, units renting for more than $1,750 had vacancy rates of nearly 10%.

Homeownership, one of the principal paths to economic stability in the United States, is out of reach for 70% of New York City's families. In some neighborhoods, home ownership rates are below 7 percent. While New York City's population grew by more than 450,000 in the 1990s, the Buildings Department issued only 94,000 new certificates of occupancy, demonstrating that the development of new housing is not keeping pace with population growth.

This report provides the first comprehensive overview of the status of the Limited Dividend and Mitchell-Lama housing programs, including key characteristics of every remaining development as well as those that have left the program. A summary of major findings follows:

- There are 66,997 cooperative and 57,994 rental units of Mitchell-Lama and Limited Dividend housing remaining in New York City. In Manhattan and Brooklyn, rental units comprise 54 percent and 55 percent, respectively, of the total number of Mitchell-Lama and Limited Dividend units in each borough. In Queens and the Bronx, cooperative units account for 70 percent and 60 percent, respectively, of the remaining units.

- There are 35,995 units of Mitchell-Lama and Limited Dividend rental housing remaining that will be able to charge market rents upon leaving their respective program. Sixty-eight percent of these rental units are found in Brooklyn and Manhattan.

- Since inception, more than 24,000 units of housing are no longer regulated under the Limited Dividend and Mitchell-Lama programs. Since 1989, 40 developments representing 15,794 units of housing left these programs. Rental units represent 21,335, or 89 percent, of the total units that have left the Mitchell-Lama and Limited Dividend programs.

- Eleven Limited Dividend and Mitchell-Lama developments, representing more than 6,300 units of housing, have given their formal notice of their intent to leave their respective programs. All but two of these projects are located in Manhattan and all are rental projects.

- By 2015, a minimum of 59 Mitchell-Lama developments representing more than 40,000 units of affordable housing are scheduled to retire their subsidized

[1] State of New York City's Housing and Neighborhoods 2002, Fuhrman Center for Real Estate and Urban Policy, NYU School of Law and Robert F. Wagner Graduate School of Public Service.

mortgages, removing one of the last significant hurdles to leaving the supervision of the program.

- The move to market and/or stabilized rents at Mitchell-Lama and Limited Dividend projects may result in large-scale displacement of existing tenants, particularly in Manhattan. In Manhattan Community Boards One, Three and Six, projects representing 3,979 units of housing have given notice of plans to leave the Mitchell-Lama and Limited Dividend programs. Within these three Community Boards, the 2002 Housing and Vacancy Survey identified approximately 540 vacant stabilized or market rate units renting for under $1,000.

- Tenants of Knickerbocker Village, a Limited Dividend Development built in 1934, are challenging the efforts of the owner to leave the program, asserting that housing companies organized prior to April 1, 1962 are prohibited from doing so. The outcome of the case will have significant implications for the 4,101 units of Limited Dividend housing that fall into this category.

Recommendations:

1. Working with financial institutions and the City's pension funds, the City should investigate the feasibility of developing new loan programs that would provide Mitchell-Lama and Limited Dividend developments with access to long-term low-interest financing if they continue to remain in their respective program.

2. The City should coordinate a broad discussion among stake-holders and elected officials to develop legislative and administrative options that would maintain the affordability of Mitchell-Lama and Limited Dividend developments and/or increase the production of affordable housing. The resulting legislative and administrative proposals should become key components of the City's legislative agenda in Albany.

3. The City needs to develop affordable housing production goals on a neighborhood basis. With forehand knowledge of which neighborhoods will likely lose Mitchell-Lama and Limited Dividend developments, the City can target its incentives and resources to respond to the loss of affordable housing.

4. Working with local community organizations and elected officials, the City should develop assistance programs to help displaced Mitchell-Lama and Limited Dividend families find replacement housing either in their neighborhoods or in other sections of New York City.

5. The Department of City Planning is contemplating large-scale, comprehensive development proposals in neighborhoods throughout the City. These unique opportunities must be maximized. Affordable housing that will realistically meet current and future demands must be a major component in all of these plans. One strategy that should be fully evaluated by the Department of City Planning is the inclusion of provisions for affordable housing when amending zoning regulations to encourage development.

1. Introduction

New York City and State have a long history of providing developers with low-interest loans, tax abatements, and direct subsidies to encourage the construction of new affordable housing. Historically, two of the most successful affordable housing initiatives were the Limited Dividend and the Mitchell-Lama programs, under which 292 housing developments totaling more than 149,000 units of affordable housing were built in New York City between 1928 and 1978.[2] The vast majority of this housing was developed under the Mitchell-Lama program; only 19 Limited Dividend housing projects totaling more than 9,300 units were developed in New York City. Under the terms of both programs, in return for public subsidies, cooperative maintenance charges and rental apartment rent increases were strictly controlled to ensure their long-term affordability.

There are pressing questions as to whether these developments will continue to be a source of affordable housing in New York City. A number of projects have left the control of these programs after meeting certain conditions, including remaining in the program a minimum number of years, paying off all debt, interest and taxes owed, and returning all surplus cash**.** The process by which Limited Dividend[3] and Mitchell-Lama housing projects leave these programs is commonly referred to as "buying out." To date, a number of developments in these programs have given formal notice of their intention to buy out, and many other Mitchell-Lamas are close to paying off their subsidized mortgages, at which point they could also choose to buy out. After buying out of the programs, these developments are no longer subject to the strict program guidelines. Of the more than 149,000 units of housing generated through these programs in New York City, there are currently 124,991 regulated units remaining, of which 66,997 are cooperative apartments and 57,994 are rental apartments.[4] Mitchell-Lama cooperative apartments today account for roughly six percent of total homeownership in New York City.[5]

Of particular concern is the pace at which developments are leaving the supervision of the Mitchell-Lama and Limited Dividend programs. A combination of historically low-interest rates, an upward swing of real-estate prices, and initial mortgages nearing their maturation date, especially within Manhattan, has made leaving the supervision of the Mitchell-Lama and Limited Dividend programs more attractive. Since 2000, ten developments representing more than 3,600 units of housing have left these programs. Another eleven developments representing more than 6,300 units of housing have submitted their formal notice to leave the Mitchell-Lama and Limited Divided programs.

The prospect of large numbers of Limited Dividend and Mitchell-Lama projects buying out has received significant public attention. To help local communities and elected officials evaluate these trends, this report presents an overview of the current status of the New York City developments in these two programs.

---

[2] Based on records maintained by the New York City Department of Housing and Community Renewal (DHCR) and the New York City Department of Housing Preservation and Development (HPD). The total number of housing units and developments were calculated by the Comptroller's office using a variety of sources of data supplied by DHCR and HPD.
[3] The right of a Limited Dividend to buy out of the program is currently being challenged in a court action. DHCR did allow a few Limited Dividend projects to dissolve in the past but this is the first time DHCR is being challenged on its interpretation of the law.
[4] See Table Three.
[5] State of New York City's Housing and Neighborhoods 2002, Fuhrman Center for Real Estate and Urban Policy, NYU School of Law and Robert F. Wagner Graduate School of Public Service.

2. The Pressing Need for Affordable Moderate- and Middle-Income Housing

There is a well-documented need for housing that is affordable to moderate- and middle-income families in New York City. On average, 50 percent of families who rent in New York City currently spend more than 27 percent of their gross income on housing and 19 percent of households have a severe housing affordability or quality problem.[6]

In addition, there is a growing demand for housing generally, which is not being matched by new housing creation. The Federal Census Bureau reported in 2001 that New York City's population increased since 1990 by more than 450,000, an increase of six percent, for a total population of more than 8 million.[7] In contrast, between 1991 and 2001, New York City issued only 94,000 new certificates of occupancy, representing a 3.3 percent increase in the number of housing units citywide.[8]

The impact of increased demand and the lack of new housing production can be seen in the extremely low vacancy rates for rental units found during the 2002 New York City Housing and Vacancy Survey (HVS). A summary of the 2002 HVS data were reported by the New York City Department of Housing and Preservation Development (HPD) in November 2003. Citywide, HPD found a 2.94 percent vacancy rate for rental units, with just 61,265 available rental units. For vacant units with rents of $500 to $699 and $700 to $799 per month, the vacancy rate was just 1.7 percent and 2.6 percent, respectively, representing a total of 14,378 apartments. In comparison, HPD found a nearly 10 percent vacancy rate for units renting for more than $1,750 per month, representing 21,878 apartments. Therefore, the most expensive rental units in New York City represented 35 percent of the total number of available units for rent.

Considering that HPD reported that the median household income of renters is $31,000 per year and that 22.5 percent of renter households were below the federal poverty level in 2002, there is a glaringly large gap between the available housing and the needs of New York City's families.

3. Data Used to Evaluate the Status of Limited Dividend and Mitchell-Lama Housing in New York City

To prepare this report, staff from the New York City Comptroller's Office combined a number of data sources to obtain a clear overview of the current status of Limited Dividend and Mitchell-Lama projects. The data sources included several relational databases used by the New York State Department of Housing and Community Renewal (DHCR) to monitor and track Limited Dividend and Mitchell-Lama Housing Companies in New York State, the New York City Comptroller's 2000 Audit of Mitchell-Lama developments supervised by HPD, formal "Notices of Intent" to leave State or City supervision served on tenants, mortgage data on Limited Dividend and Mitchell-Lama projects with loans issued by New York State or the federal government[9] and the Manhattan Borough President's Mitchell-Lama Task Force.

---

[6] Ibid.
[7] Ibid.
[8] Ibid.
[9] Mortgage data for state-supervised projects were supplied by DHCR. American Property Financing, Inc. provided mortgage data for projects with federal Fannie Mae loans. HPD does not have a system to track the status of its loans. In

By combining a wide range of data on the Limited Dividend and Mitchell-Lama housing projects into a single database, we were able to evaluate the status of these housing developments. In addition, we developed maps showing the location and key characteristics of every project including those that have bought out or have filed a formal "Notice of Intent" to buy out of the program. These maps allow the public, for the first time, to quickly evaluate the distribution of Limited Dividend and Mitchell-Lama housing and what implications these housing developments leaving the program may have on New York City and on neighborhoods in which they are situated.

4. The Mitchell-Lama Housing Program

Sponsored by State Senator MacNeil Mitchell and Assemblyman Alfred Lama and signed into law in 1955, the Mitchell-Lama Housing Program, part of the Private Housing Finance Law, was created to spur the development of moderate- and middle- income housing throughout New York State. The Program provided low-interest, long-term loans to finance up to 95 percent of total development costs,[10] and granted partial real estate tax exemptions to developers to encourage the construction of moderate- and middle-income housing.[11] In return for these incentives, developers of Mitchell-Lama projects were required to operate under guidelines that limited profits and regulated rents according to established minimum and maximum income guidelines for incoming tenants.[12] DHCR's "2002 Annual Report to the Legislature," based on a summary of each development's 2001 Certified Financial Statements, shows a total of $3.642 billion in outstanding mortgages issued to Mitchell-Lama developments within New York City.

Responsibility for the oversight of Mitchell-Lama projects within New York City is divided. HPD's Division of Housing Supervision supervises projects with City-held mortgages in accordance with Chapter 3 of the Rules of the City of New York (City-aided Limited Profit Housing Companies). In cases where a project has both an HPD and a Federal Housing and Urban Development mortgage, oversight is shared by both agencies. DHCR is responsible for projects with state mortgages. HPD supervises 135 Mitchell-Lama developments, representing 55,300 units of affordable housing. DHCR supervises 92 Mitchell-Lama developments, representing 63,685 units of affordable housing.

Each agency has the responsibility to collect debt service payments on mortgages, establish rents, review project expenditures and generally enforce the regulations applicable to their individual developments. DHCR is also responsible for publishing an Annual Report that provides, among other items, the name of all projects currently in the program with their original mortgage data, the rent per room, and the number of dwelling units and rooms. Upon buy out, informational pages on these developments are eliminated from DHCR's Annual Report.

---

discussions with Comptroller's staff, HPD stated that all of the Mitchell-Lamas it supervises are currently eligible to buy out and that it reviews mortgage status information when a "Letter of Intent" is filed.

[10] The law authorized 95 percent financing in most cases, with loans up to the full project cost permitted to certain forms of non-profit sponsors. Id. §§22(2), 23(1) (McKinney 1976).

[11] N.Y. Priv. Hous. Fin. Law §§ 22(2), 23(1) (McKinney 1976).

[12] However, once a family entered Mitchell-Lama or Limited Dividend housing, there was no limitation on the family's future earnings. Rather, if a family earns more than the maximum allowed under the rent guidelines, it is required to pay a surcharge on its monthly rent. N.Y. Priv. Hous. Fin. Law § 31(3) (McKinney 1976).

One of the most significant changes to the original legislation occurred in 1957, when the State legislature added a provision allowing Mitchell-Lama companies to pre-pay their mortgages and buy out of the program if certain conditions not provided for under the original legislation were met.[13] Currently, the buy out process is determined by the date the original loan was issued and the date the building was initially occupied. Under current legislation, Mitchell-Lama developments with loans made prior to May 1, 1959 are required to stay in the program for 35 years, even if the original mortgage is paid in full.[14] Developments aided by a loan made after May 1, 1959 are permitted to buy out of the program after 20 years, upon prepayment of the mortgage[15] and all indebtedness.[16] Some protections are afforded to residents living in Mitchell-Lama developments, depending on the date the housing project was occupied.[17]

Prior to leaving the program, all project owners are required to provide one year in advance a "Notice of Intent" to both their respective supervising agency and their tenants.[18] If a housing project was occupied prior to January 1, 1974, upon its buy out, the tenants fall under the protection of the rent stabilization laws.[19] Residents of buildings that were occupied on or after January 1, 1974 are not afforded any rental protections under the law and the units become market rate housing.[20] Tenants, however, may receive federal assistance to cover increases if the developments originally received Federal Section 236 or Section 8 housing assistance.

Given the complexity of leaving the supervision of the Mitchell-Lama program, Mitchell-Lama rental and co-op project residents in developments occupied after 1973 have used a variety of strategies to negotiate better protections than what is afforded under the law, including phase-in periods, negotiated leases, protections for the disabled, and receipt of project-based Section 8 Enhanced Vouchers known as "sticky vouchers." Sticky vouchers stay with the approved tenants for as long as they occupy the same unit and meet annual income qualifications. If and when the tenant moves, the "sticky voucher" becomes a regular Section 8 Voucher that can be used anywhere in the United States or Puerto Rico subject to annual income certification.[21]

5. The Limited Dividend Housing Program

Limited Dividend housing was established under Chapter 823 of the State Housing Law of 1926. The intent of the law was to correct housing conditions that were considered a menace to the health, safety, morals, welfare and reasonable comfort of the citizens of the state. To accomplish its goals, the law created the first New York State Housing Agency, which provided for the ability of private funds to be borrowed at low-interest rates, the acquisition of land at fair prices, the gradual demolition of existing unsafe

[13] N.Y. Priv. Hous. Fin. Law §§ 12(3), 35(1), 35(3), 36 (McKinney 1976).
[14] N.Y. Priv. Hous. Fin. Law §12(3) (McKinney 1976).
[15] In all instances, the original loan had a term of at least 30 years. N.Y. Priv. Hous. Fin. Law § 35(2) (McKinney 1976).
[16] N.Y. Priv. Hous. Fin. Law § 35(2) (McKinney 1976).
[17] The detailed terms governing the development, operation and buy out provisions of each Mitchell-Lama and Limited Development housing project are unique. Every initial contract and buy out is negotiated on a project by project basis with New York State or the local municipality. However, all Mitchell-Lamas and Limited Development Projects are subject to the broad terms outlined below.
[18] NYCRR Tit. 9 §1750 (1988) - HPD issued similar regulations Feb. 2003.
[19] Emergency Tenant Protection Act of 1974 (ETPA) L 1974, ch 576, §4 as amended.
[20] Ibid.
[21] NYC Council's Housing & Bldg. Comm. Hearing on "The Future of Mitchell-Lama Housing in NYC, Apr. 11, 2003, Testimony by HPD's Asst. Comm. Julie Walpert.

housing, and the construction of new housing under public supervision "…at a cost which would permit monthly rental which wage earners could afford to pay".[22]

The primary mechanism by which the Limited Dividend program encouraged the development of safe and affordable housing was by providing developers with real estate tax exemptions for a period of up to 50 years in exchange for a six percent limitation on profits. Despite the absence of government financing, these projects are subject to similar levels of government regulation as Mitchell-Lama projects.[23] Ten Limited Dividend developments remain, representing 6,166 units of the 9,544 units of housing developed under the program.

The laws governing Limited Dividend housing remained significantly unchanged until a 1961 amendment incorporating the program into the Private Housing Finance Law along with the Mitchell-Lama housing program and placing it under the supervision of DHCR. The 1961 legislation affirmed that all Limited Dividend housing that was organized before March 1, 1962 would remain subject to the pre-amendment rules.[24] These rules provided that a Limited Dividend Corporation must remain subject to the supervision and control of the State Housing Board or another appropriate State authority.[25] A subsequent legislative change in 1962 established a new procedure that allowed all Limited Dividend housing corporations organized subsequent to April 1, 1962 the right to voluntarily dissolve.[26]

Despite the apparent lack of statutory authority, DHCR has taken the position that it has the ability to allow pre-1962 Limited Dividend rental and co-op projects to leave the program. One of the mechanisms used by DHCR to allow for the dissolution of these Limited Dividend projects was to allow owners of certain rental projects to convey their projects to new companies that would not be subject to the laws governing the Limited Dividend housing program,[27] thereby effectively deregulating them. A list of developments no longer regulated as Limited Dividend housing is presented in Table 1.[28]

---

[22] State Housing Law, Laws of New York, 1926, Ch. 823, Article 1, §2.
[23] David J. Sweet and John D. Hack, *Mitchell-Lama Buy outs: Policy Issues and Alternatives*, 17 Fordham Urban Law Journal 117, 153 (1989).
[24] Priv. Hous. Fin. Law of 1961, Article IV, Ch. 803, § 96.
[25] State Housing Law, Laws of New York, 1926, Ch. 823, Article 3, § 30 (12).
[26] Priv. Hous. Fin. Laws of 1962 § 96 provides that a Limited Dividend housing company organized pursuant to Article IV after April 1, 1962 may dissolve without the consent of the Commissioner.
[27] David J. Sweet and John D. Hack, *Mitchell-Lama Buyouts: Policy Issues and Alternatives*, 17 Fordham Urban Law Journal, 117, 153 (1989).
[28] This table was formulated from data supplied by DHCR. DHCR's records on projects that have bought out may not be complete. For example, records concerning the Brooklyn Navy Yard Garden Apartments have not been updated since 1985 – when DHCR indicated that this project had been vacated of residents. Moreover, DHCR records do not reflect whether the Amalgamated Dwellings in Manhattan and the Farband Houses in the Bronx were organized as rentals or co-ops, although we confirmed from other sources that they were cooperative developments.

Table 1

Housing Developments That Are No Longer Regulated as Limited Dividend Projects					
Project Name	**Borough**	**Type of Development**	**Units**	**Date of Occupancy**	**Buy out Date**
Farband Houses	Bronx	Co-op	129	1928	1966
Amalgamated Dwellings	Manhattan	Co-op	236	1930	1963
Bell Park Gardens	Queens	Co-op	800	1950	1989
Academy Gardens	Bronx	Rental	466	1931	1979
Brooklyn Gardens Apts.	Brooklyn	Rental	165	1929	1980
Brooklyn Garden Apts. Navy Yard	Brooklyn	Rental	140	1932	Not Known
Manhattan House	Manhattan	Rental	46	1931	1980
Stanton Houses	Manhattan	Rental	440	1931	1980
Boulevard Gardens	Queens	Rental	956	1935	1980
Total			**3,378**		

Recently, Knickerbocker Village, Inc. (1,593 units - Manhattan), a Limited Dividend rental housing project built in 1934 and owned by Cherry Green Property Corp., filed a letter of intent to buy out of the program. The residents of this development were notified of the proposed buy out on August 19, 2002 and have brought suit in state court, asserting that Limited Dividend housing companies organized prior to 1962 are prohibited from buying out, notwithstanding DHCR's permission to do so.[29] This is the first case that the Comptroller's Office is aware of that has challenged DHCR's decision to allow Limited Dividend projects to leave the program. Consequently, the resolution of this case is likely to have significant implications regarding the continued affordability of the Limited Dividend housing developments organized prior to 1962. *See* Table 2.

Table 2

Limited Dividend Housing Developments Organized Prior to April 1, 1962		
Project	**Borough**	**Units**
Knickerbocker Village	Manhattan	1589
Harry Silver Housing	Brooklyn	288
Electchester 1st Houses	Queens	382
Electchester 2nd Houses	Queens	688
Electchester 3A & 3B Houses	Queens	792
Electchester 4th Houses	Queens	362
Total		**4,101**

Post-1962 Limited Dividend housing companies may buy out without prior consent of the oversight agency commissioner, "…not less than twenty years after the occupancy date upon the payment in full of the remaining balance of principal and interest due and unpaid upon the mortgage or mortgages and of any and all expenses incurred in effectuating such voluntary dissolution."[30] There are currently three Limited Dividend

[29] Reyna-Torres *et al.* v. Knickerbocker Village, Inc. *et al*., Index No. 100550/03 (2003).
[30] N.Y. Priv. Hous. Fin. Law § 96(1)(2).

developments that were built after March 1, 1962 that have not bought out of the program: Electchester Building # 5 (184 units - Queens); Amalgamated Houses (1,486 units - Bronx); and Aldus Green (395 Units - Bronx).

It should be noted that if the pre-1962 Limited Dividend projects were permitted to voluntarily dissolve, these developments might be subject to the same requirements as the post-1962 Limited Dividend projects.

6. An Overview of Existing Limited Dividend and Mitchell-Lama Housing Projects

There are currently 124,991 units of Limited Dividend and Mitchell-Lama Housing in New York City (see Table 3). The percentage distribution of the existing units is: Brooklyn (24 percent), the Bronx (32 percent), Queens (15 percent), Manhattan (28 percent) and Staten Island (1 percent).

Several trends become apparent when looking at the number of cooperative apartments in these programs. First, there is a nearly even distribution of cooperative apartments among Brooklyn (21 percent), Manhattan (24 percent) and Queens (20 percent). The Bronx has 36 percent of the total cooperative apartments, of which a large portion are located within Co-op City, which has 15,372 cooperative units. Subsidized cooperative apartments in the Bronx have a large impact on the level of homeownership within the borough, accounting for 22.7 percent of the owner-occupied homes.[31]

Moreover, cooperative apartments account for 61 percent of the total Mitchell-Lama and Limited Dividend units in the Bronx and 71 percent of the total number of Mitchell-Lama and Limited Dividend units in Queens. In Manhattan and Brooklyn there is a different pattern, with rental units in these programs comprising 54 percent and 55 percent, respectively, of the total number of Mitchell-Lama and Limited Dividend units in each borough.

Table 3

Existing Limited Dividend and Mitchell-Lama Units by Borough

Borough	Co-op Units	Rental Units	Total Units
Brooklyn	13,758	16,255	30,013
Bronx	24,170	16,024	40,194
Queens	13,202	5,273	18,475
Manhattan	15,867	19,454	35,321
Staten Island	0	988	988
Total-Citywide	**66,997**	**57,994**	**124,991**

[31] State of New York City's Housing and Neighborhoods 2002, Fuhrman Center for Real Estate and Urban Policy, NYU School of Law and Robert F. Wagner Graduate School of Public Service.

Of the total rental units remaining, 38 percent[32] were occupied prior to January 1, 1974 and will be subject to the rent-stabilization guidelines should they buy out of their respective program. Significantly, 90 percent of the Mitchell-Lama units occupied on or after January 1, 1974 are rental units, which are not subject to any rent limitations after a buy out. The majority of these rental units are found in Manhattan and Brooklyn, which account for 71 percent or 24,533 of the rental units occupied on or after January 1, 1974. Of these rental units, 75 percent in Brooklyn and 64 percent in Manhattan were occupied on or after January 1, 1974. Overall, the high proportion of rental units in this category may significantly impact local housing markets if large numbers of these developments become market rate rental housing.

Table 4

Existing Rental
Limited Dividend/Mitchell-Lama Units
Occupied On or After January 1, 1974 by Borough

Borough	Rental Units
Brooklyn	12,151
Bronx	6,939
Queens	3,535
Manhattan	12,382
Staten Island	988
Total	**35,995**

7. Overview of Limited Dividend and Mitchell-Lama Housing Projects that Have Bought Out or Have Given Notice of Intent to Buy Out

Most State and City Mitchell-Lama housing projects have met the minimum number of years that they were required to remain in their respective programs. As seen in Table 5, 24,116 units of housing, or 16 percent of the total number of projects developed in New York City under these programs have bought out. Since 1989, 39 developments representing 15,609 units of housing left the Mitchell-Lama and Limited Dividend programs.

Eighty-nine percent of the Limited Dividend and Mitchell-Lama housing units that have bought out and are no longer regulated were rental units. Overall, the numbers of units that have left these programs are relatively evenly distributed among the Bronx (33 percent), Manhattan (33 percent) and Queens (24 percent).

[32] Only one Limited Dividend project (the Aldus Green) was built after 1974.

Table 5

Limited Dividend and Mitchell-Lama Housing Projects That Have Left their Program *				
Borough	**Rental Units**	**Co-op Units**	**Total**	**Rental Projects as a Percentage of Total Units**
Brooklyn	2,089	326	2,415	87 percent
Bronx	7,689	177	7,866	98 percent
Manhattan	7,799	236	8,035	97 percent
Queens	3,778	2,022	5,800	65 percent
Staten Island	0	0	0	0
Total	**21,355**	**2,761**	**24,116**	**89 percent**

* Neither New York State nor City oversight agencies have a comprehensive list of housing projects that have left the program. This table is based upon the available information from DHCR, HPD, the New York City Mitchell-Lama Coalition and press reports.

A summary of the Limited Dividend and Mitchell-Lama housing developments that have given formal "Notice of Intent" to buy out of their respective programs is presented in Table 6. Combined, these projects represent 6,363 units of affordable housing. If all these housing developments are allowed to leave the Limited Dividend and Mitchell-Lama programs, 24 percent of the original number of housing units created under these programs in New York City will have bought out.

Table 6

Limited Dividend and Mitchell-Lama Projects That Have Given Formal "Notice of Intent" to Buy Out of the Program				
Project Name	**Borough**	**Type of Unit**	**Total Number of Units**	**Date Occupied**
Cooper-Gramercy	Manhattan	Rental	167	1976
Knickerbocker Village (LD)	Manhattan	Rental	1,589	1934
West Village Houses	Manhattan	Rental	419	1976
Hudsonview Terrace	Manhattan	Rental	395	1976
Leader House	Manhattan	Rental	279	1972
Phipps Plaza West	Manhattan	Rental	894	1976
New Amsterdam	Manhattan	Rental	228	1971
Central Park Gardens	Manhattan	Rental	247	1970
Independence Plaza N.	Manhattan	Rental	1,329	1974
Sea Park West	Brooklyn	Rental	484	1972
Sea Park East	Brooklyn	Rental	332	1972
Total Units			**6,363**	

Following past trends, all of the projects listed in Table 6 provide rental housing, with no cooperative housing project having given formal notice of its intention to leave its program. All but two of the pending buy outs are located in Manhattan[33], reflecting the pressures of the current real estate market. Of the pending buy out projects, 3,204 units of housing, or 50 percent of the total units, were occupied on or after January 1, 1974, which means that the owners will be able to charge market-rate rents for these apartments.

The move to market and/or stabilized rents may have significant implications and may result in large-scale displacement of existing tenants. As demonstrated in Section 2, there are few rental options available for average families in New York City. Using the data from the HVS, HPD reports that vacancy rates for affordable rental housing are extremely low citywide. However, HPD's use of citywide averages tabulated from the HVS masks the severe shortage of affordable housing in the areas that will likely lose thousands of affordable housing units due to Mitchell-Lama and Limited Dividend buy outs. This is particularly true for Manhattan. Using data from the 2002 HVS, the Comptroller's Office determined the total number of available vacant stabilized and market rate rental apartments offered for under $1,000 per month for Manhattan Community Districts One, Three, and Six. Stabilized and market rate apartments represent those units that are generally available to the public on the open housing market, unlike the various publicly subsidized housing developments and programs that have strict income requirements and generally have long waiting lists. Additionally, the ability of eligible tenants to obtain Section 8 vouchers will be further hampered considering that Congress has failed to provide funding for new Section 8 Vouchers, despite the waiting list of families in need of voucher assistance across the country running from two to ten years.[34]

As seen in Table 7, the available stabilized and market rent apartments within each Community District for under $1,000 could not begin to meet even a portion of the demand that might be caused by the loss of Mitchell-Lama housing.

[33] The text of this footnote has been deleted in response to updated information. [Updated, April 2004]

[34] The National Low Income Housing Coalition's Weekly Housing Update – December 5, 2003.

Table 7

Number of Mitchell-Lama and Limited Dividend Apartments with Pending Buy Outs Compared to the Number of Available Stabilized and Market Rate Apartments Renting for under $1,000		
Manhattan Community District	**Number of Units Pending to Be Bought-Out**	**Estimated Available Vacant Stabilized or Market Rate Apartments Renting for Under $1,000 in 2002***
One	1,329	180
Three	1,589	360
Six	1,061	0
Total	**3,979****	**540**
*The number of vacant apartments was calculated using the weighted value assigned to each sampled unit in the 2002 Housing Vacancy Survey. **Of the total number of units pending to buy out in Table 5, 2,390 will be become market rate housing.		

Considering the number of Mitchell-Lama and Limited Dividend projects that have given their Notice of Intent to leave these programs, the previous building-by-building mitigation strategies by redirecting existing housing subsidies to the tenants of these projects are unlikely to be adequate.

8. Selected Mitchell-Lama Projects Scheduled to Retire Their Subsidized Mortgages between 2005 and 2015

One of the primary impediments to a Mitchell-Lama development leaving the supervision of DHCR or HPD is the requirement that it retire its existing publicly financed mortgage. Many of the rental Mitchell-Lama projects that have left the program appear to have pre-paid their mortgages to expedite meeting the terms by which they could leave DHCR's or HPD's supervision. However, real estate market conditions often do not support this approach. In fact, the data supplied by DHCR and HPD indicated that only one co-op development bought out prior to being in the Mitchell-Lama program for 30 years.

As Mitchell-Lama developments retire their publicly subsidized mortgages, the owners of cooperative and rental projects will decide whether to remain in or leave the Mitchell-Lama program. Table 8 presents a summary of selected Mitchell-Lama developments that are scheduled to pay off their mortgages between 2005 and 2015, including the number of cooperative and rental units which could be affected. Table 8 reflects scheduled mortgage retirement dates provided by DHCR and American Property Financing, which manages Fannie Mae loans issued to HPD Mitchell-Lama developments.

Surprisingly, HPD informed the Comptroller's Office that it currently does not review or track the mortgage status of the Mitchell-Lama projects it supervises and could not readily supply information regarding the date on which HPD-supervised Mitchell-Lama projects are scheduled to pay off their loans. The Mitchell-Lama projects for which the Comptroller's Office obtained mortgage data represent 68 percent of the rental units and 61 percent of the co-op units remaining in New York City. Overall, this data accounts for a total of 65 percent of the Mitchell-Lama Housing units remaining in New York City.

As presented in Table 8, between 2005 and 2015, 59 Mitchell-Lama developments, representing more than 40,000 units of housing, are scheduled to retire their subsidized mortgages, removing one of the major impediments to leaving the supervision of HPD or DHCR. Of particular interest is the large number of cooperative developments that are scheduled to retire their mortgages over the next 11 years. Of these, more than 15,000 co-op units are represented by Co-op City in the Bronx. If large numbers of co-op Mitchell-Lama developments become "market rate" rental or owner occupied housing, there could be significant implications for local housing markets.

Table 8

Mitchell-Lama
Scheduled Mortgage Pay-Off Year for Selected Developments
2005 to 2015*

Year	Total Developments	Co-op Units	Rental Units	Total Units
2005	2	2,820	0	2,820
2006	4	490	900	1,390
2007	0	0	0	0
2008	1	0	559	559
2009	0	0	0	0
2010	4	1,588	0	1,588
2011	6	691	455	1,146
2012	13	2,221	1,893	4,114
2013	6	15,637	851	16,488
2014	17	1,934	5,870	7,804
2015	6	1,752	2,640	4,392
Total	**59**	**27,133**	**13,168**	**40,301**

*This table is based on the mortgage pay-off year information readily available to the Comptroller's Office, which represented approximately 65% of the remaining Mitchell-Lama housing units. Accordingly, the total number of developments scheduled to retire their debt between 2005 and 2012 is likely understated.

A review of the location of Mitchell-Lama developments scheduled to retire their subsidized mortgages over the next 11 years found that they are not evenly distributed across the City. Using the data supplied by DHCR and American Property Financing, Table 9 summarizes the number of developments and type of units by borough that are scheduled to retire their subsidized mortgages between 2005 and 2015. The Bronx has both the highest number of Mitchell-Lama developments and the most units that could be impacted by the scheduled retirement of their subsidized mortgages. In contrast, Queens has very few Mitchell-Lama developments that are scheduled to retire their mortgages over the next 11 years.

Knowing the year, the location and the number of developments and units that are scheduled to retire their subsidized mortgages provides elected officials, policy makers and housing advocates with valuable information concerning the pace at which Mitchell-Lama developments may "naturally" leave the supervision of DHCR and HPD. It also provides insight into how many units of affordable housing may be removed from the market each year and the volume of new affordable housing production that will be required over the next eleven years to replace the housing that might be lost. Further, it provides important trend data about which sections of the City may experience a decline in affordable housing and where new affordable housing production efforts might be especially needed.

Table 9

Summary of Selected Mitchell-Lama Projects by Borough Scheduled to Retire Their Subsidized Mortgages between 2005 and 2015*

	Bronx	Brooklyn	Manhattan	Queens	Staten Island	Total
Number of Developments	25	13	17	4	0	59
Rental Units	4,705	3,894	4,569	0	0	13,168
Co-op Units	18,134	3,678	2,756	2,565	0	27,133
Total Units	22,839	7,572	7,512	2,565	0	40,301

*This table is based on the mortgage pay-off year information readily available to the Comptroller's Office, which represented approximately 65% of the remaining Mitchell-Lama housing units. Accordingly, the total number of developments scheduled to retire their debt between 2005 and 2012 is likely understated.

9. Mapping the Location of Limited Dividend and Mitchell-Lama Housing

One of the most difficult problems facing community and housing organizations and elected officials attempting to evaluate the potential impact of Limited Dividend and Mitchell-Lama buy outs is the inability to evaluate the geographic distribution of existing projects or projects that have bought out of the programs. Community organizations and elected officials often find themselves without all the relevant information. As a result, policy discussions often occur on a building-by-building basis as each development begins the buy out process. Assistant Commissioner Julie Walpert of HPD testified before the New York City Council that HPD reviews and determines requests to buy out of the Mitchell-Lama program on an individual project basis.[35]

[35] NYC Council's Housing and Buildings Committee Hearing on "The Future of Mitchell-Lama in New York City", April 11, 2003.

To address this problem, we have created detailed maps for each borough of every existing Limited Dividend and Mitchell-Lama project and all of the housing projects that have bought-out or given their "Notice of Intent" to leave either program in New York City.[36] The maps summarize the existing projects, describe each project by name and location, whether the project is a cooperative or rental development, the number of units, the year the project was occupied, and which agency has regulatory oversight of the project. The maps showing projects that either bought out or filed a Notice of Intent to buy out provide the project name and location, whether the project is a cooperative or rental development, the number of units and the year the project was occupied. Since neither New York City nor State maintains a list of projects that have left the Limited Dividend or Mitchell-Lama programs, we could not determine the exact occupancy or buy out date for all projects.

Using these maps, the public can begin to evaluate how the Limited Dividend and Mitchell-Lama housing programs have an impact on local housing markets, whether neighborhood-level real estate market conditions make buy outs more or less likely, and if there is adequate housing within a neighborhood to meet the needs of families that might be displaced once rents are no longer governed by the Limited Dividend or Mitchell-Lama programs, among other issues. If New York City is going to have a coherent response to changes in the status of Limited Dividend and Mitchell-Lama housing and the resulting impacts on access to affordable housing, it will have to develop geographically targeted approaches in addition to citywide initiatives.

10. Conclusion

As this report demonstrates, housing developments representing more than 6,500 units of affordable housing are in the process of leaving the supervision of the Mitchell-Lama and Limited Dividend programs. Over the next 11 years, at least 59 Mitchell-Lama developments representing 40,000 units of affordable housing are scheduled to retire their subsidized mortgages, removing one of the significant barriers to withdrawing from the Mitchell-Lama program. Citywide, the HVS demonstrates that the existing vacancy rates for affordable housing could not begin to meet the significant increase in demand for affordable housing. As reported by the Census, in some areas of the City there is virtually no vacant affordable housing. Should large numbers of tenants living in Mitchell-Lama and Limited Dividend developments be displaced due to increased rents or the inability to buy into developments that converted to market rate co-ops or condominiums, there will be few, if any, affordable housing options available in New York City.

It is critical that New York City begin now to develop policies and programs that can respond to the varying housing needs of neighborhoods and families that may be negatively affected as projects buy out.[37] This report provides information that will

[36] No Mitchell-Lama developments have bought out or given their notice of intent to leave in Staten Island.

[37] The NYC Council's Housing Committee is considering Intro. 523, which proposes additional restrictions on the owners of City-supervised rental Mitchell-Lama developments that are seeking to buy out of the program. In an effort to provide an incentive for Limited Dividend and Mitchell-Lama projects to remain under the supervision of HPD or DHCR, the New York State legislature enacted (A-08028/S-04833) in August 2003, amending the private housing finance law and the public housing law. The legislation grants additional real property tax exemptions for owners of Limited Dividend and Mitchell-Lama housing for a term of 50 years with the right to renew for an additional 50 years or until such time as the project is no longer governed under program regulations.

support the efforts of community organizations and elected officials in developing a coherent and flexible policy regarding the status of Limited Dividend and Mitchell-Lama projects. For example, Community District 7 in Manhattan has a large concentration of medium-sized rental and cooperative Mitchell-Lama projects. In Queens, a large percentage of Limited Dividend and Mitchell-Lama projects are found in Community District 14 along the Rockaways. A large percentage of Brooklyn's Mitchell-Lama housing is found in the Coney Island section in Community District 13. In Community District 6 in Manhattan, two projects representing more than 1,000 units of affordable housing left the Mitchell-Lama program in 2003 and will not be subject to rent stabilization guidelines. With the information presented in this report, it becomes clear that the City must embark on an affordable housing program to mitigate the losses.

New York City must develop a bold new vision for the preservation and development of affordable housing. In "The New Housing Market Place: Creating Housing for the Next Generation" the administration has put forth its vision for how to meet the City's housing needs, posing as questions the critical interests at stake: "Will we maintain healthy moderate- and middle- income communities? Will we provide resources for low-income communities to a mix of all income groups? Will we maintain our critical supply of low-income housing that exists both in public housing and outside of it?"[38]

The administration's response to these questions is to call for the development or preservation of 65,000 units of housing over five years through the maintenance of existing programs and new initiatives. New initiatives, if fully realized, would provide support for the development of only 15,000 new units and the preservation of 10,375 existing units, with roughly 40,000 units of housing accounted for by maintenance of existing efforts. These new initiatives are an important first step, but as demonstrated by the potential loss of affordable units, the level of housing contemplated is clearly inadequate to respond to New York's present and future needs.

Moreover, some of these initiatives present challenges. For instance, 67 percent of the 15,000 new units to be created under the new initiatives are to developed through the "New Venture Incentive Program" (NewVip), which will provide low-interest predevelopment loans to support the preparation of environmental planning/remediation and site acquisition. NewVip gives first priority to development projects proposed for manufacturing areas that have been or are scheduled to be rezoned for residential uses by the Department of City Planning, but does not require developers receiving assistance to provide any affordable housing.

[38] "The New Housing Market Place: Creating Housing for the Next Generation", December 10, 2002.

11. Recommendations

The City must evaluate the resources it has already committed in order to ensure that its ambitious housing program provides a sufficient number of affordable units to mitigate the potential loss of Mitchell-Lama and Limited Dividend housing. Opportunities to explore include:

1 Working with financial institutions and the City's pension funds, the City should investigate the feasibility of developing new loan programs that would provide Mitchell-Lama and Limited Dividend developments with access to long-term low-interest financing if they continue to remain in their respective program.

2 The City should coordinate a broad discussion among stake-holders and elected officials to develop legislative and administrative options that would maintain the affordability of Mitchell-Lama and Limited Dividend developments and/or increase the production of affordable housing. The resulting legislative and administrative proposals should become key components of the City's legislative agenda in Albany.

3 The City needs to develop affordable housing production goals on a neighborhood basis. With forehand knowledge of which neighborhoods will likely lose Mitchell-Lama and Limited Dividend developments, the City can target its incentives and resources to respond to the loss of affordable housing.

4 Working with local community organizations and elected officials, the City should develop assistance programs to help displaced Mitchell-Lama and Limited Dividend families find replacement housing either in their neighborhoods or in other sections of New York City.

5 The Department of City Planning is contemplating large-scale, comprehensive development proposals in neighborhoods throughout the City. These unique opportunities must be maximized. Affordable housing that will realistically meet current and future demands must be a major component in all of these plans. One strategy that should be fully evaluated by the Department of City Planning is the inclusion of provisions for affordable housing when amending zoning regulations to encourage development.

William C. Thompson, Jr.
New York City Comptroller

Greg Brooks
Deputy Comptroller
Policy, Audit, Contracts & Accountancy

Gayle M. Horwitz
Deputy Comptroller/Chief of Staff

Eduardo Castell
Deputy Comptroller - External Relations

Office of Policy Management

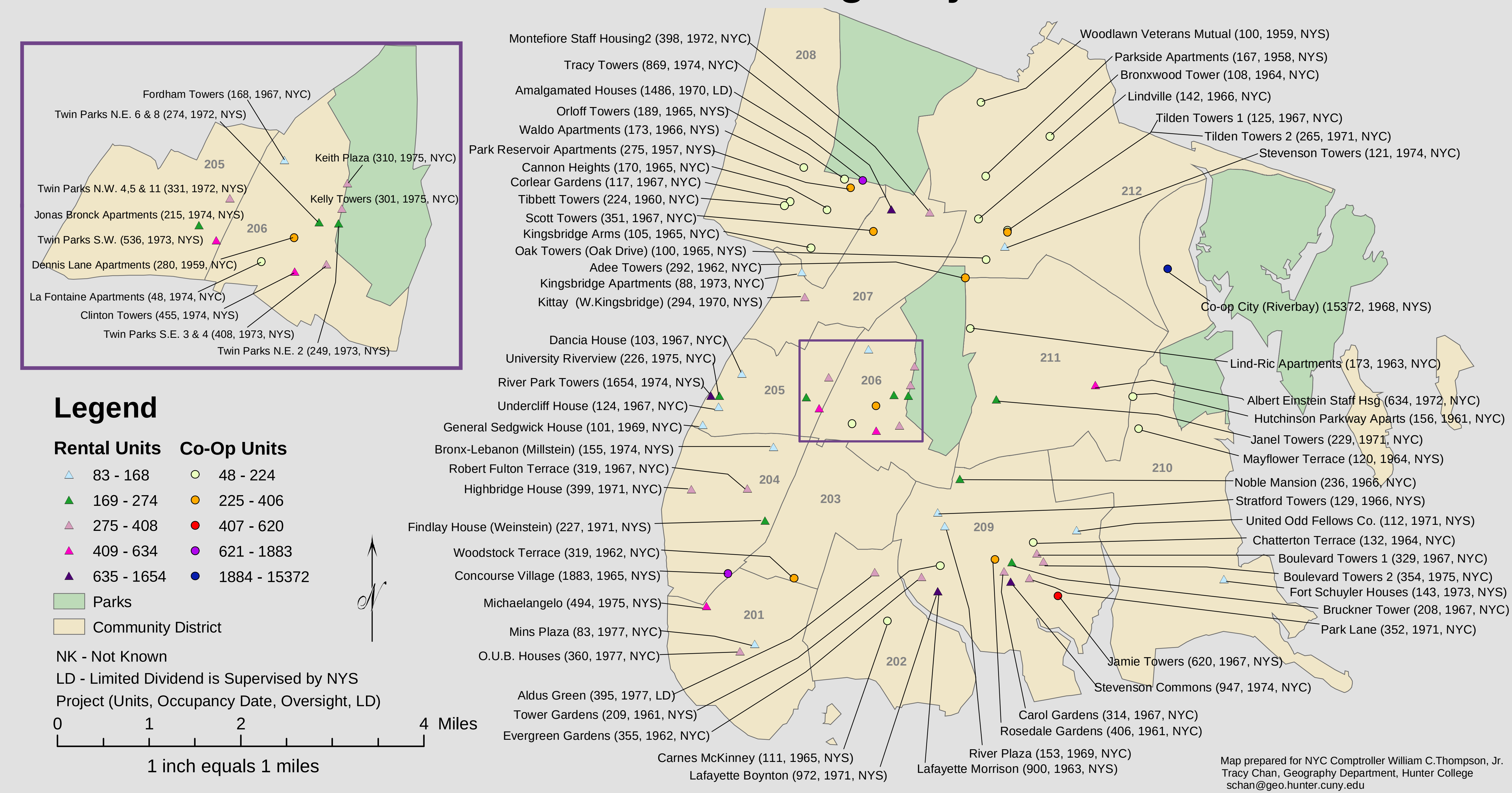
Sara C. Kay
Director

Gail Benzman
Christopher Boyd
Authors

Maps

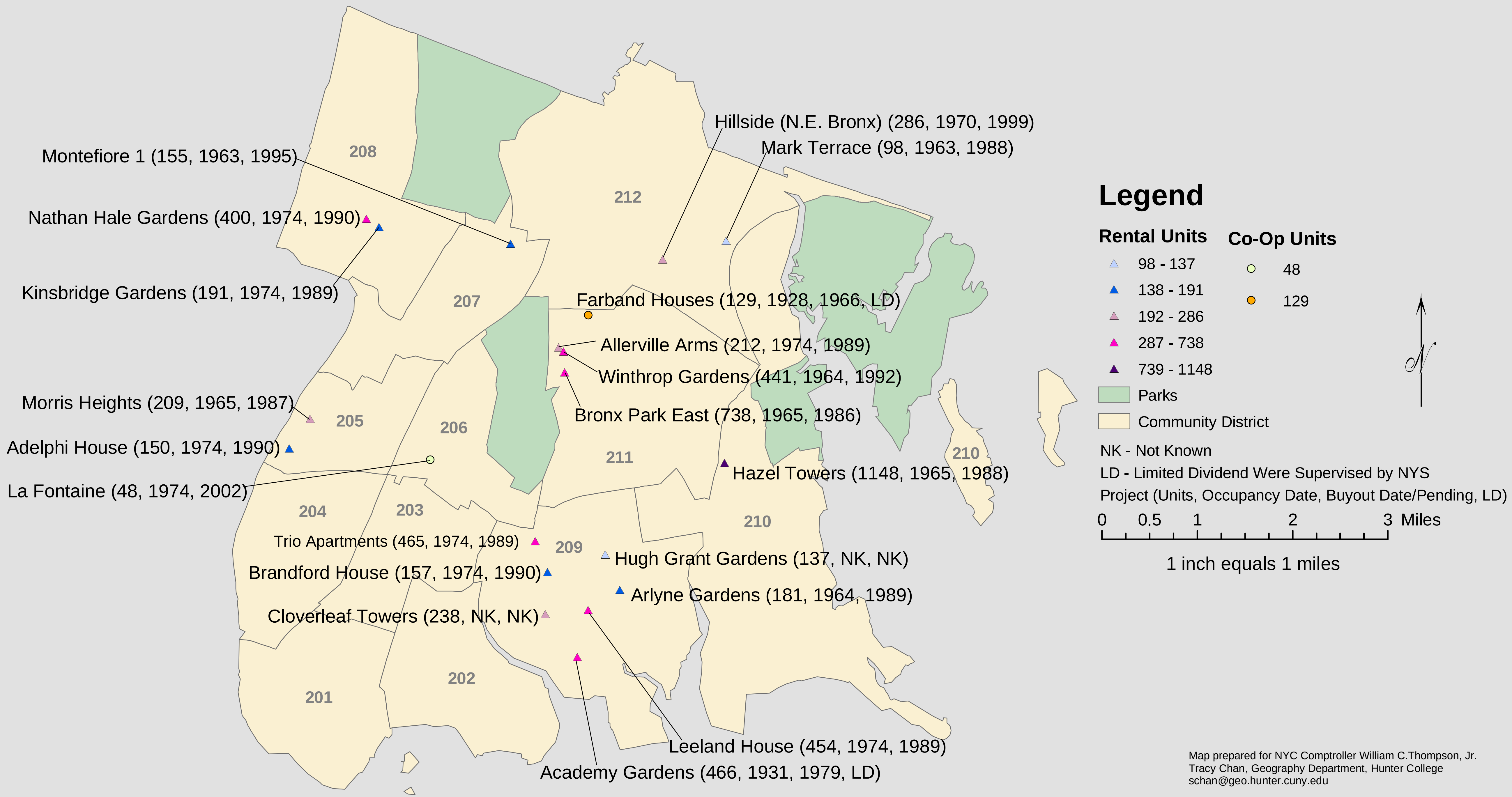
Tracy Chan
Geography Department, Hunter College
schan@geo.hunter.cuny.edu

Mitchell-Lama & Limited Dividend Housing
Bronx - Existing Projects



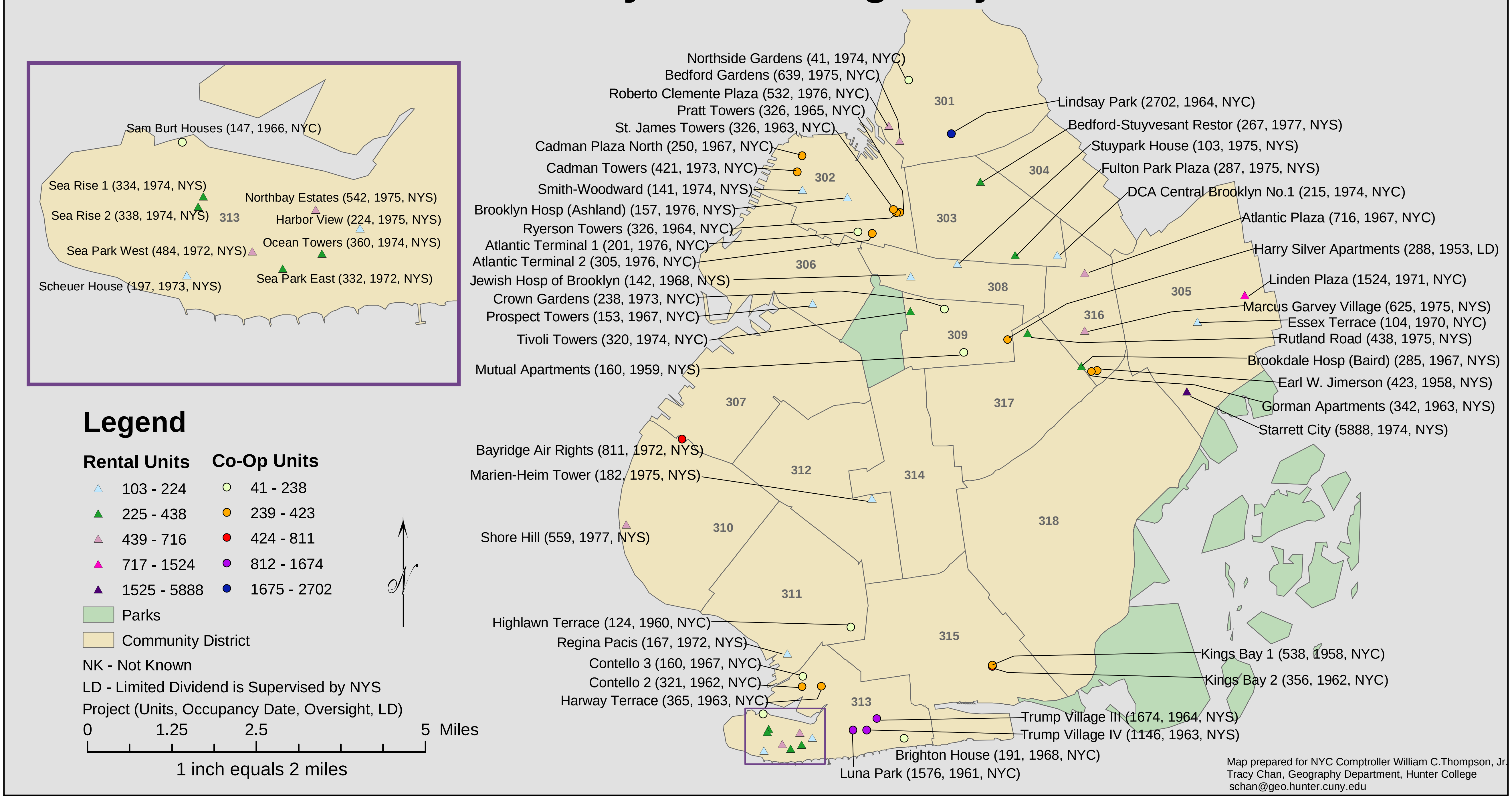
Map prepared for NYC Comptroller William C.Thompson, Jr.
Tracy Chan, Geography Department, Hunter College
schan@geo.hunter.cuny.edu

Mitchell-Lama & Limited Dividend Housing
Bronx - Buyouts & Pending Buyouts

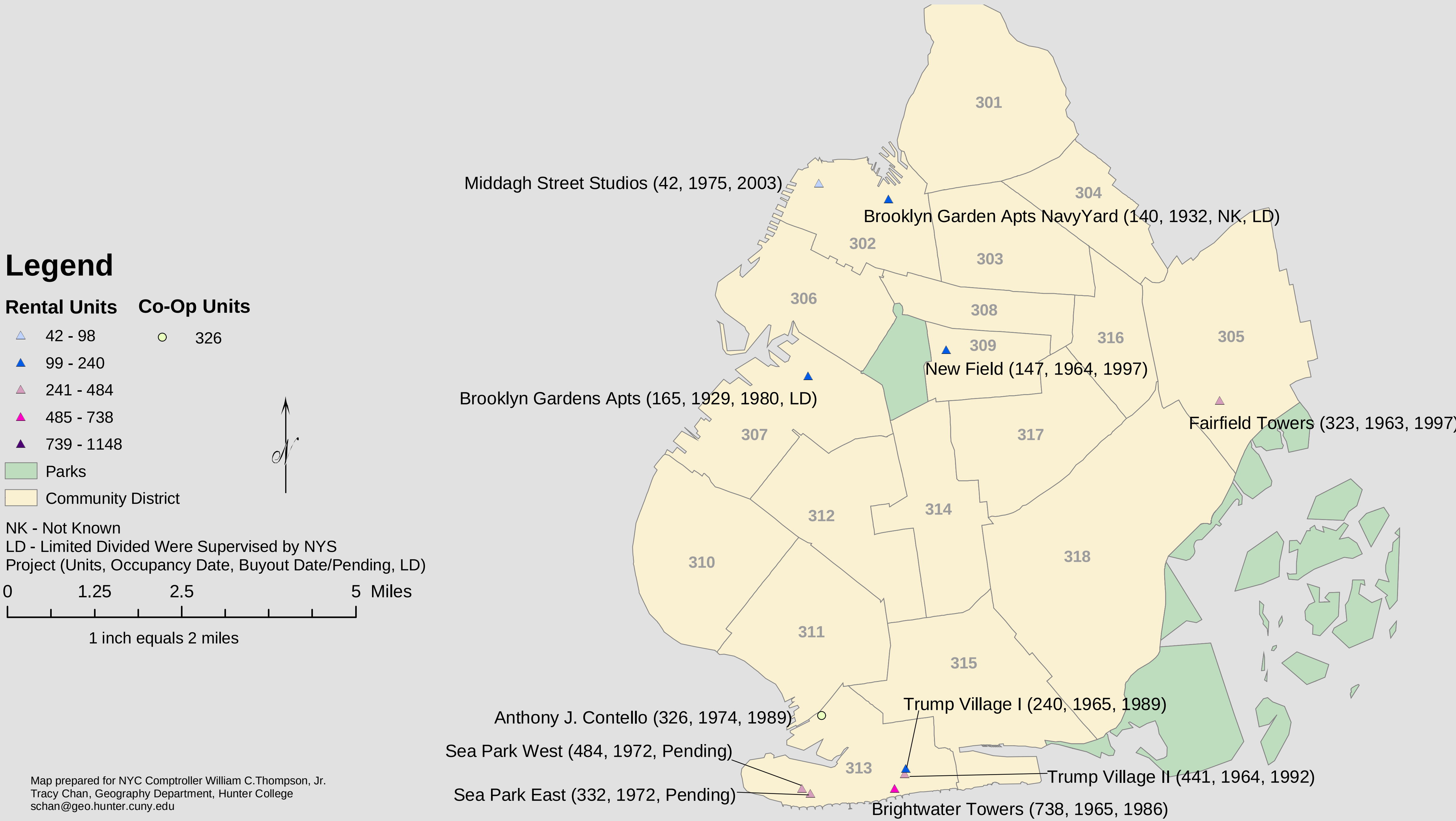


Map prepared for NYC Comptroller William C.Thompson, Jr.
Tracy Chan, Geography Department, Hunter College
schan@geo.hunter.cuny.edu

Mitchell-Lama & Limited Dividend Housing
Brooklyn - Existing Projects

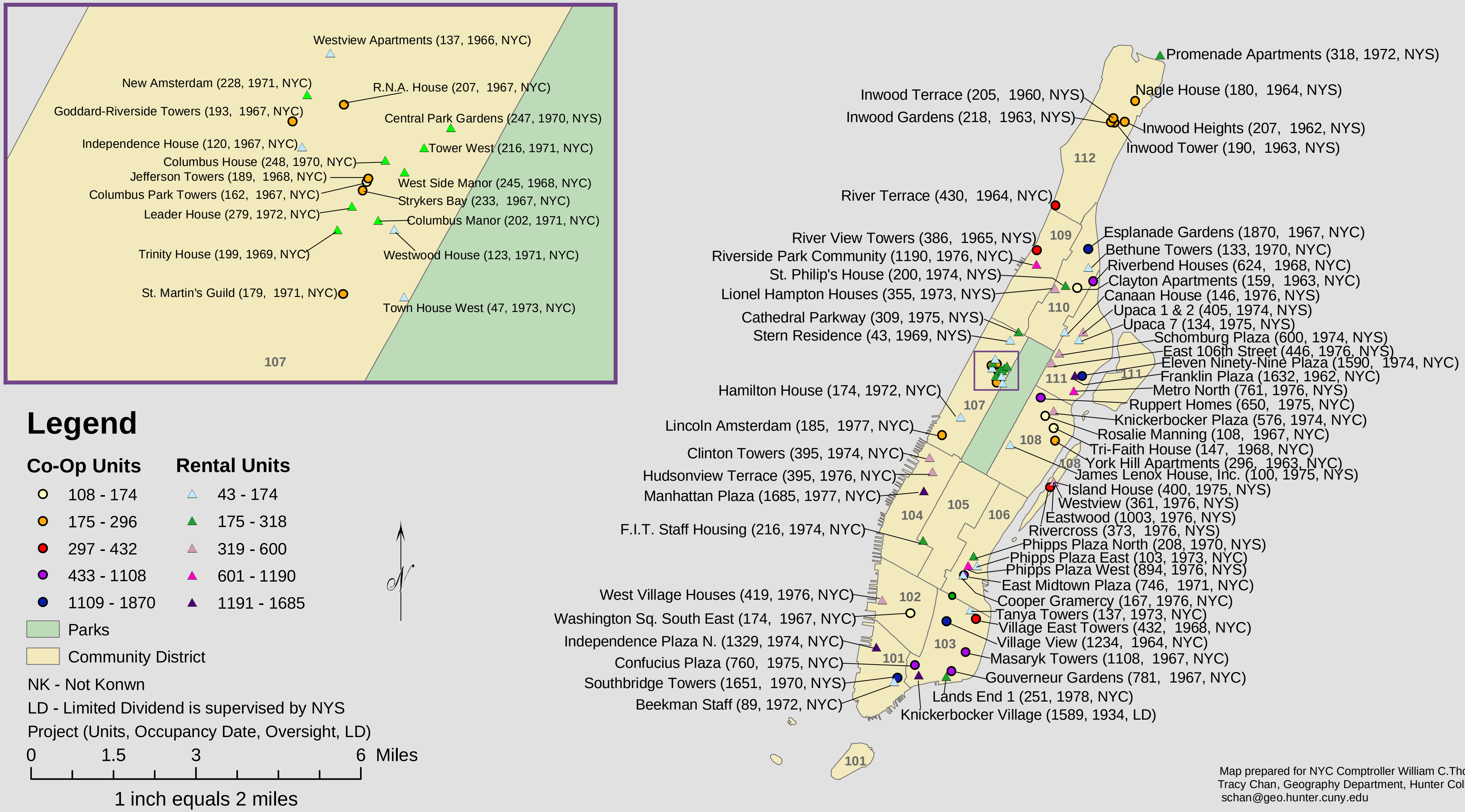


Mitchell-Lama & Limited Dividend Housing
Brooklyn - Buyouts & Pending Buyouts



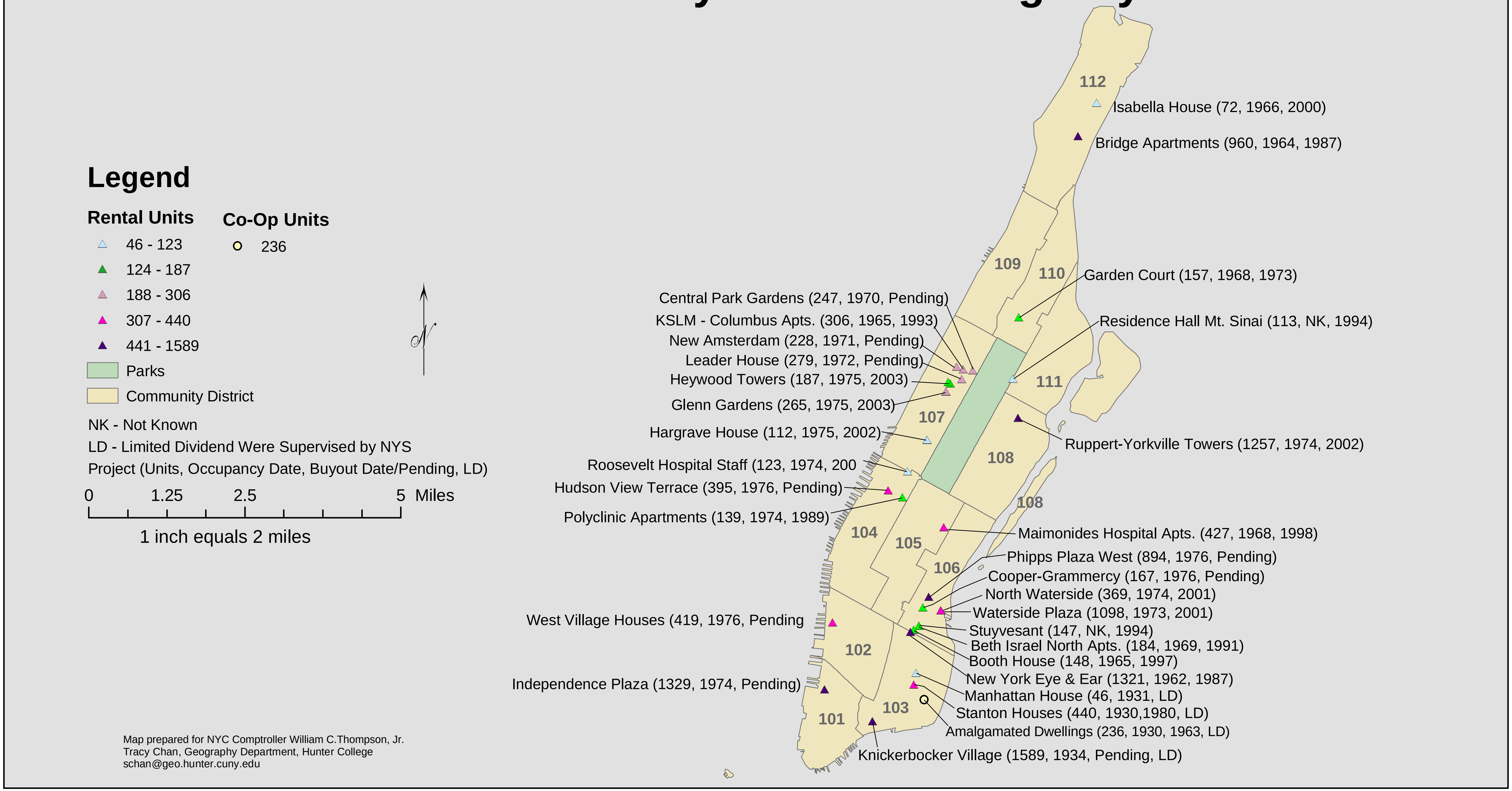
Map prepared for NYC Comptroller William C.Thompson, Jr.
Tracy Chan, Geography Department, Hunter College
schan@geo.hunter.cuny.edu

Mitchell-Lama & Limited Dividend Housing
Manhattan - Existing Projects

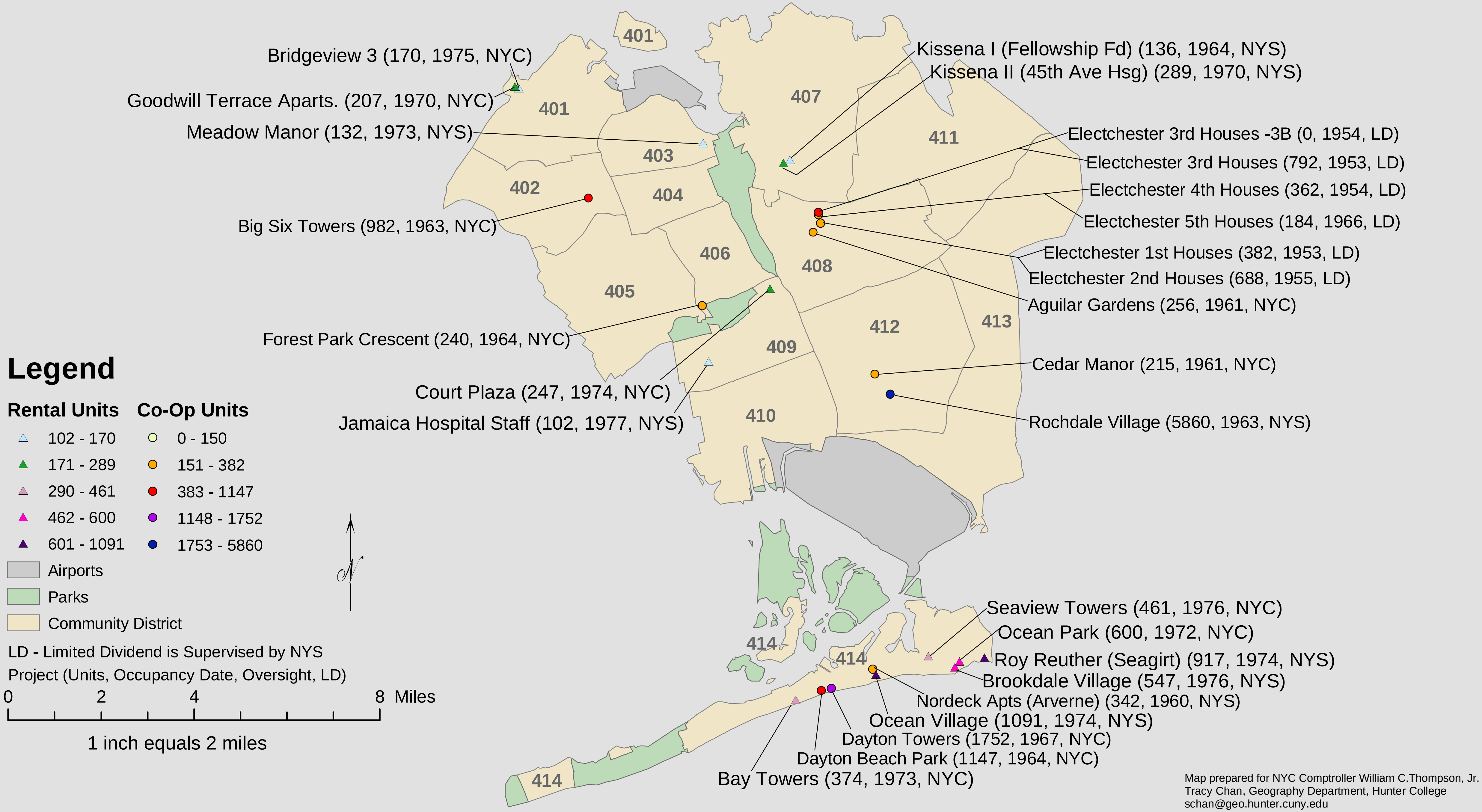


Map prepared for NYC Comptroller William C.Thompson, Jr.
Tracy Chan, Geography Department, Hunter College
schan@geo.hunter.cuny.edu

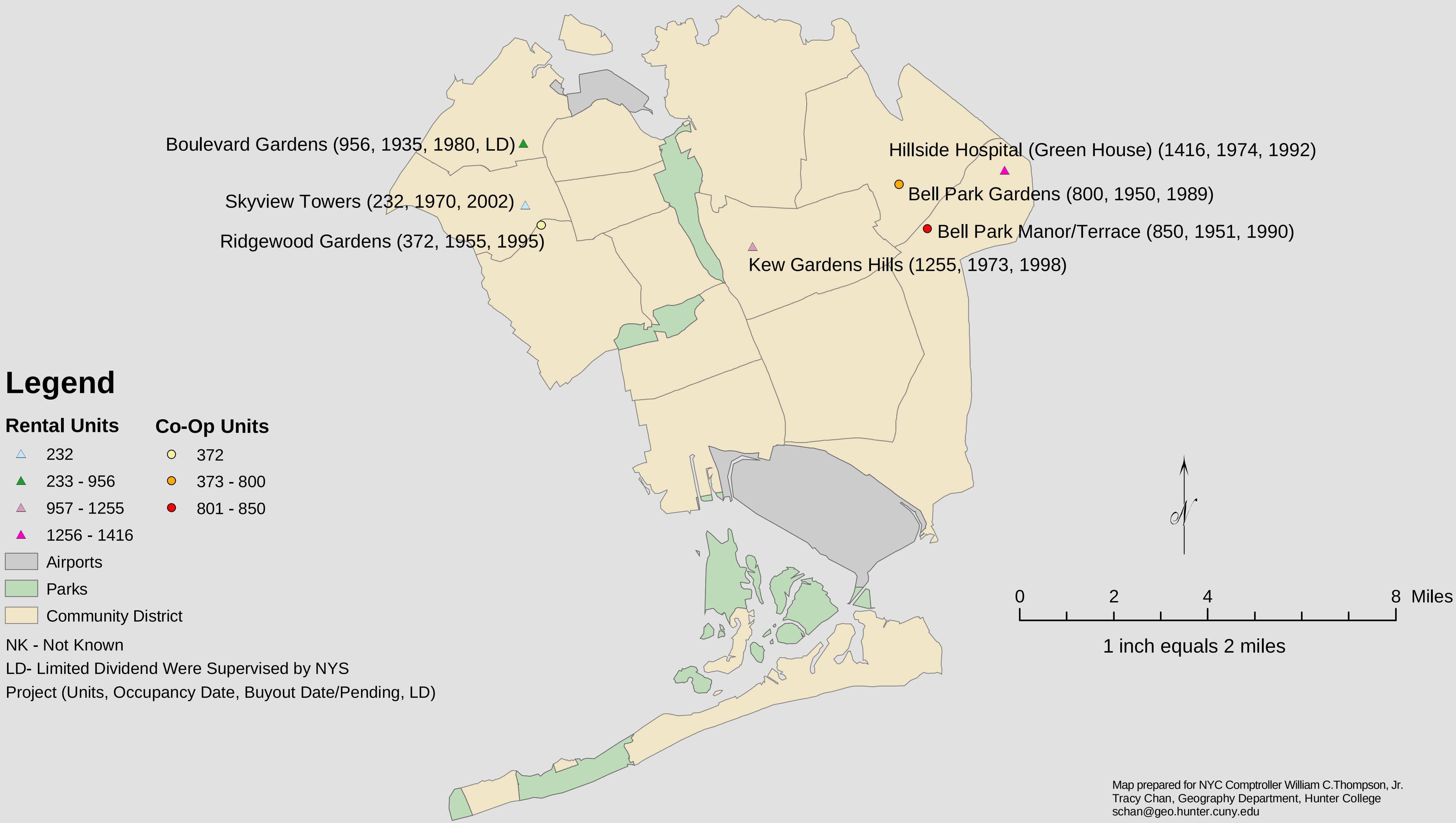
Mitchell-Lama & Limited Dividend Housing
Manhattan - Buyouts & Pending Buyouts



Mitchell-Lama & Limited Dividend Housing
Queens - Existing Projects



Mitchell-Lama & Limited Dividend Housing
Queens - Buyouts & Pending Buyouts



Map prepared for NYC Comptroller William C.Thompson, Jr.
Tracy Chan, Geography Department, Hunter College
schan@geo.hunter.cuny.edu

Mitchell-Lama & Limited Dividend Housing
Staten Island - Existing Projects