



**IN THE MATTER OF** an application submitted by the Department of Housing Preservation and Development and the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for the acquisition of properties located at 3826 Cypress Avenue (Block 6973, Lot 22), 3749 Neptune Avenue (Block 7000, Lot 62), 124 Oxford Street (Block 8757, Lot 93), 12 Lake Avenue (Block 8796, Lot 55), 19 Lake Avenue (Block 8796, Lot 126), 2 Lake Avenue (Block 8796, Lot 178), 18 Stantson Road (Block 8800, Lot 92), 23 Stanton Road (Block 8800, Lot 102), 25 Stanton Road (Block 8800, Lot 187), 17 Webers Court (Block 8815, Lot 139), 25 Abbey Court (Block 8845, Lot 1976), 5 Beacon Court (Block 8845, Lot 2060), and 17 Noel Avenue (Block 8856, Lot 1656) to facilitate residential use, Borough of Brooklyn, Community Districts 13 and 15.

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This application for acquisition of 13 privately-owned lots was filed by the New York City Department of Housing Preservation and Development (HPD) and the New York City Department of Citywide Administrative Services (DCAS) on May 13, 2019. The proposed action would facilitate redevelopment and residential use of 13 properties as flood-resilient housing in the Seagate, Gerritsen Beach, Sheepshead Bay, and Manhattan Beach neighborhoods of Brooklyn, Community Districts 13 and 15.

### **RELATED ACTIONS**

In addition to the application for the acquisition of property, which is the subject of this report (C 190394 PQK), the proposed project also requires action by the City Planning Commission on the following action, which is being considered concurrently with this application:

**C 190395 PPK**      Disposition of City-owned Property for 13 lots to facilitate resilient housing

These applications (C190394 POK and C 190395 PPK) are also being considered concurrently with other applications for site selection, acquisition, and disposition in Queens (C 190396 PCQ,

C 190397 PQQ, and C 190398 PPQ) and Staten Island (C 190399 PCR, C 190400 PQR, and C 190401 PPR), and are part of a larger initiative to facilitate resilient housing and open space on sites that were damaged by Hurricane Sandy.

## **BACKGROUND**

HPD and DCAS seek approval for the acquisition and disposition of 13 privately-owned properties to facilitate the responsible future use of these properties as resilient housing.

The U.S. Department of Housing and Urban Development's Community Development Block Grant-Disaster Relief (CDBG-DR) program provides communities impacted by disasters with resources to address a wide range of disaster-related needs. New York City is using its CDBG-DR funding to support recovery from Hurricane Sandy and to build resilient housing that can withstand the challenges of climate change. The Build It Back (BIB) program is funded by \$2.2 billion in CDBG-DR dollars and overseen by the Mayor's Office of Housing Recovery Operations (HRO) in coordination with HPD and the New York City Department of Design and Construction.

The proposed sites, which were originally occupied by one- to four-family homes, were damaged by Hurricane Sandy in 2012 and are part of the City's BIB Acquisition, Relocation and Buyout Program. Following the storm, the program was created with CDBG-DR funding to purchase substantially-damaged homes or lots to facilitate planned resiliency projects. HPD manages the program, which uses a sub-recipient, Project Rebuild, Incorporated (PRI) (a private non-profit organization) to allocate CDBG-DR funds to purchase the properties, remove the damaged structures, and retain the properties until plans for future resilient use are finalized.

To comply with CDBG-DR grant requirements, there are limitations on the future land use for all lots purchased through BIB, including:

- Resilient Housing Lots, known as Acquisition for Redevelopment in the CDBG-DR grant, must be elevated, flood-compliant housing structures with mandatory flood insurance requirements and a specified timeframe for redevelopment. If these requirements are not

met, the City may seek to acquire the lots. All program sites in Brooklyn are proposed as Resilient Housing Lots.

- Open Space Lots, known as Buyouts in the CDBG-DR grant, are required to be used as open space in perpetuity. No impervious surfaces or new structures are permitted on Open Space Lots, except for a flood control structure, restroom, or public facility that is open on all sides and functionally-related to a designated open space. If these requirements are not met, the City may seek to acquire the lots. The program proposes Open Space Lots among its sites in Queens and Staten Island.

The project area includes portions of the neighborhoods of Seagate, Sheepshead Bay, Manhattan Beach, and Gerritsen Beach, all characterized predominantly by residential uses with one- and two-family semi-detached and detached homes, and areas of commercial use and maritime activity. Sheepshead Bay has a unique residential character of bungalow courts, where single-family homes are accessible only by pedestrian paths. All properties are located in R4, R4-1, R3-1 and R5/C2-2/SB zoning districts, consistent with their low-density residential character. The project area has a history of flood risk and has been heavily impacted by previous storm events due to the low topography.

All 13 of the properties subject to acquisition and disposition actions are intended to be developed as resilient housing. Of these, four lots are intended for Housing Managed Redevelopment. Housing Managed Redevelopment properties are proposed to be acquired by the City and subsequently disposed of to private owners to develop as affordable housing through HPD's Open Door Program, which funds the new construction of homes for households earning 80-130 percent Area Median Income (AMI). Future owners would be required to redevelop individual lots or groups of lots for residential use to a flood-compliant standard, within a period of time defined in the deed restriction, as a one- or two-family home. The remaining nine lots are intended for private auction and would be sold by PRI to private owners who would be required to redevelop individual lots or groups of lots for residential use to a flood-compliant standard and within a period of time defined in a deed restriction. All resilient housing properties, regardless of zoning district or

development program, would be limited by deed restriction to be developed only as single- or two-family housing. More information on the proposed project sites in Brooklyn is provided in the table below.

**Brooklyn Proposed Project Sites' Planned End Use Program**

Site #	Neighborhood/CD	Block	Lot	Planned Agency Jurisdiction <sup>1</sup>	Actions Needed	Planned End Use Program
1	Seagate/13	6973	22	DCAS**	Acquisition (PQ); Disposition (PP)++	Housing Private Auction
2	Seagate/13	7000	62	DCAS**	Acquisition (PQ); Disposition (PP)++	Housing Private Auction
3	Manhattan Beach/15	8757	93	HPD*/DCAS*	Acquisition (PQ); Disposition (PP)++	Housing Managed Redevelopment
4A	Sheepshead Bay/15	8796	55	DCAS**	Acquisition (PQ); Disposition (PP)++	Housing Private Auction
4B	Sheepshead Bay/15	8796	126	DCAS**	Acquisition (PQ); Disposition (PP)++	Housing Private Auction
5	Sheepshead Bay/15	8796	178	DCAS**	Acquisition (PQ); Disposition (PP)++	Housing Private Auction
6	Sheepshead Bay/15	8800	92	DCAS**	Acquisition (PQ); Disposition (PP)++	Housing Private Auction
7	Sheepshead Bay/15	8800	102	DCAS**	Acquisition (PQ); Disposition (PP)++	Housing Private Auction
8	Sheepshead Bay/15	8800	187	DCAS**	Acquisition (PQ); Disposition (PP)++	Housing Private Auction
9	Sheepshead Bay/15	8815	139	DCAS**	Acquisition (PQ); Disposition (PP)++	Housing Private Auction
10	Gerritsen Beach/15	8845	1976	HPD*/DCAS*	Acquisition (PQ); Disposition (PP)++	Housing Managed Redevelopment
11	Gerritsen Beach/15	8845	2060	HPD*/DCAS*	Acquisition (PQ); Disposition (PP)++	Housing Managed Redevelopment
12	Gerritsen Beach/15	8856	1656	HPD*/DCAS*	Acquisition (PQ); Disposition (PP)++	Housing Managed Redevelopment

<sup>1</sup> For planned agency jurisdiction:

\* Interim agency jurisdiction until final conveyance to a private owner.

\*\* City acquisition and DCAS jurisdiction only in the case of a private owner default.

+: Disposition is restricted to permanent use as open space, as defined in the deed restriction.

++: Disposition is restricted to a one- or two-family residential use with street frontage or an open space use, unless developed as an assemblage in conjunction with an adjacent lot or lots pursuant to zoning and with street frontage.



## **ENVIRONMENTAL REVIEW**

This application (C 190394 PQK), in conjunction with the related application (C 190395 PPK), was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA) and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead agency is HPD. The designated CEQR number is 19HPD055Y.

After a study of the potential environmental impact of the proposed actions, a Negative Declaration was issued on May 15, 2019.

## **UNIFORM LAND USE REVIEW PROCEDURE**

This application (C 190394 PQK), in conjunction with the related application (C 190395 PPK), was certified as complete by the Department of City Planning on May 20, 2019, and was duly referred to Community Board 13, Community Board 15, the Brooklyn Borough Board, and the Brooklyn Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

### **Community Board Public Hearing**

Community Board 13 held a public hearing on this application (C 190394 PQK) on May 22, 2019. On June 26, 2019, by a vote of 31 in favor, none opposed and none abstaining, the Board adopted a resolution recommending approval of the application with the following conditions:

- “The initiative follows the Sea Gate Association’s Rules and Regulations.”

Community Board 15 held a public hearing on this application (C 190394 PQK) on June 25, 2019. On June 25, 2019, by a vote of 37 in favor, none opposed and none abstaining, the Board adopted a resolution recommending approval of the application.

### **Borough Board Recommendation**

The Borough Board did not consider this application (C 190394 PQK).

### **Borough President Recommendation**

This application (C 190394 POK) was considered by the Borough President, who held a public hearing on July 2, 2019, and issued a recommendation on August 29, 2019 to approve this application with the following conditions:

- “1. That the New York City Department of Housing Preservation and Development (HPD), in its Land Disposition Agreement (LDA) with assigned developers of Housing Managed Redevelopment (affordable housing) properties, require the following:
  - a. A mechanism to ensure that the affordable housing would remain affordable in perpetuity
  - b. That, as a means to reduce future flood risk, such developments be elevated in compliance with the New York City Zoning Resolution (ZR)’s Special Regulations Applying in Flood Hazard Areas
2. That, in order to enable the maximum provision of affordable housing, HPD be mandated to reassign the Seagate parcels from Housing Private Auction to Housing Managed Redevelopment.”

### **City Planning Commission Public Hearing**

On August 28, 2019 (Calendar No. 7), the City Planning Commission scheduled September 11, 2019, for a public hearing on this application (C 190394 POK). The hearing was duly held on September 11, 2019 (Calendar No. 18). There were four speakers who testified in favor of the application and one in opposition.

An applicant team comprised of four people included HRO’s Director of Housing Recovery and BIB, HPD’s Executive Director of Resiliency Policy, Planning, and Acquisitions, a representative of DPR and a representative of the Department of Environmental Protection. The team spoke on behalf of concurrent public hearings for resilient housing and open space site selection, acquisition, and disposition actions in Queens (C 190396 PCQ, C 190397 PQQ, and C 190398 PPQ) and Staten Island (C 190399 PCR, C 190400 PQR, and C 190401 PPR). The applicant team provided

background on the BIB program and discussed how properties were designated for future development as resilient housing or open space. The representative from HPD described the differences between the Housing Managed Redevelopment (affordable homeownership) and Private Auction (market rate development) pathways for housing sites. HPD noted that all properties planned for housing redevelopment would be limited to 1-2 family homes, and would have deed restrictions that require a timely redevelopment schedule, mandatory flood insurance, and enforcement of any homeowner association regulations, where applicable.

A Queens resident speaking in opposition limited his remarks to the resilient housing and open space actions in Queens (C 190396 PCQ, C 190397 PQQ, and C 190398 PPQ).

There were no other speakers, and the hearing was closed.

### **Waterfront Revitalization Program Consistency Review**

This application (C 190394 POK), and related application (C 190395 PPK), were reviewed by the City Coastal Commission for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 30, 2013 and by the New York State Department of State on February 3, 2016, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981, (New York State Executive Law, Section 910 *et seq.*) The designated WRP number is 18-212.

This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

### **CONSIDERATION**

The Commission believes that this application (C 190394 POK) for the acquisition of properties, in conjunction with the related disposition application (C 190395 PPK), is appropriate.

These actions will facilitate the responsible future use of properties damaged by Hurricane Sandy within HPD's BIB program as resilient housing. A goal of HPD's BIB program is to provide resilient housing that will reduce homeowners' risk of property damage and loss in the event of a

future storm. The Commission recognizes the importance of providing resilient and affordable housing to support these communities that have been affected by Hurricane Sandy in Brooklyn and across the city.

The Commission is pleased that DCP has worked closely with HPD, DPR and DCAS to determine suitable end uses for the properties that are subject to this application based on recommendations within the Resilient Neighborhoods studies released by DCP and other studies conducted by City agencies.

Four of the 13 Resilient Housing Lots subject to this application are intended to be acquired by the City for future use as affordable housing through HPD's Open Door Program. The other nine lots will only be acquired by the City only by default subsequent to a PRI auction.

The disposition of the 13 Resilient Housing Lots under the related application (C 190395 PPK) is needed to facilitate redevelopment by a private owner. Redevelopment will be restricted to a one- or two-family residential use with street frontage, or will require an assemblage in conjunction with an adjacent lot or lots pursuant to zoning or to meet street frontage requirements.

The Commission believes that HPD has determined the future use and development program of the 13 lots based on appropriate and sound criteria, which includes current zoning and land use, connection to existing infrastructure, proximity to wetlands and coastal erosion hazard areas, flood zones and design flood elevation, and other site-specific regulatory constraints. Regarding the Borough President's recommendation that the two Seagate properties be placed in a program for affordable homeownership, the Commission understands that HPD reviewed all Resilient Housing sites for their potential to comply with affordable housing programs and determined that the Seagate neighborhood's mandatory homeowners' association fees, which the City cannot regulate, present a barrier to affordability and render the lots appropriate for redevelopment as resilient housing through private auction.

Regarding Community Board 13's recommendation that potential buyers of the Seagate properties be made aware of the neighborhood's Rules and Regulations, the Commission understands that all properties planned for housing redevelopment will have deed restrictions that include enforcement of any homeowner association regulations, where applicable, and PRI will include this information as part of the property auction process.

Regarding the Borough President's recommendation that the Housing Managed Redevelopment properties remain under regulation as affordable housing in perpetuity, the Commission notes that the sites will be developed pursuant to HPD's Open Door Program, which provides exemption from New York City property taxes for a minimum of 20 to a maximum of 40 years to maintain affordability to households earning 80-130 percent AMI. The Commission recognizes that proposed Housing Managed Redevelopment sites will facilitate affordable homeownership where possible in Brooklyn neighborhoods where there has been very limited opportunity for affordable housing development and where costs such as flood insurance have been a barrier to entry for low- and moderate-income households.

Regarding the Borough President's recommendation that all homes constructed on the subject properties be constructed in compliance with the New York City Zoning Resolution's Special Regulations Applying in Flood Hazard Areas, the Commission notes that, because the properties are to be delivered to future owners vacant and any new development will require permits under current Building Code, all construction on these lots is expected to be compliant with current Zoning Resolution provisions and Building Code Appendix G for Flood-Resistant Construction.

## **RESOLUTION**

**RESOLVED**, that having considered the Environmental Assessment Statement, for which a Negative Declaration was issued on May 15, 2019 with respect to this application (CEQR No. 19HPD055Y), the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

**RESOLVED**, the City Coastal Commission finds that the action will not substantially hinder the achievement of any WRP policy and hereby determines that this action is consistent with WRP policies; and be it further

**RESOLVED**, by the City Planning Commission, pursuant to Sections 197-c of the New York City Charter, that based on the environmental determination, and the consideration described in this report, the application submitted by the Department of Housing Preservation and Development, Department of Parks and Recreation, the Department of Environmental Protection and the Department of Citywide Administrative Services, for the acquisition of 13 lots (Block 6973, Lot 22; Block 7000, Lot 62; Block 8757, Lot 93; Block 8796, Lot 55; Block 8796, Lot 126; Block 8796, Lot 178; Block 8800, Lot 92; Block 8800, Lot 102; Block 8800, Lot 187; Block 8815, Lot 139; Block 8845, Lot 1976; Block 8845, Lot 2060; Block 8856, Lot 1656) to facilitate residential use, Borough of Brooklyn, Community Districts 13 and 15, is approved.

The above resolution (C 190394 POK), duly adopted by the City Planning Commission on September 25, 2019 (Calendar No. 5), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

**MARISA LAGO**, *Chair*

**KENNETH J. KNUCKLES, ESQ.**, *Vice Chairman*

**DAVID J. BURNEY; ALLEN P. CAPPELLI, Esq., ALFRED C. CERULLO, III, MICHELLE de la UZ, JOSEPH I. DOUEK, HOPE KNIGHT, ANNA HAYES LEVIN, ORLANDO MARIN, LARISA ORTIZ, RAJ RAMPERSHAD** *Commissioners*



Project Name: **Resilient Hsq & Open Space ACQs.**

Borough(s): Brooklyn

Community District Number(s): 13, 15

Please use the above application number on all correspondence concerning this application

## SUBMISSION INSTRUCTIONS

1. Complete this form and return to the Department of City Planning by one of the following options:
  - **EMAIL (recommended):** Send email to [CalendarOffice@planning.nyc.gov](mailto:CalendarOffice@planning.nyc.gov) and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C10000ZSQ"
  - **MAIL:** Calendar Information Office, City Planning Commission, 120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271
  - **FAX:** to (212) 720-3488 and note "Attention of the Calendar Office"
2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

*Docket Description:*

**IN THE MATTER OF** an application submitted by the Department of Housing, Preservation and Development and the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for the acquisition of properties located at

3826 Cypress Avenue (Block 6973, Lot 22), 3749 Neptune Avenue (Block 7000, Lot 62), 124 Oxford Street (Block 8757, Lot 93), 12 Lake Avenue (Block 8796, Lot 55), 19 Lake Avenue (Block 8796, Lot 126), 2 Lake Avenue (Block 8796, Lot 178), 18 Stanton Road (Block 8800, Lot 92), 23 Stanton Road (Block 8800, Lot 102), 25 Stanton Road (Block 8800, Lot 187), 17 Webers Court (Block 8815, Lot 139), 25 Abbey Court (Block 8845, Lot 1976), 5 Beacon Court (Block 8845, Lot 2060), and 17 Noel Avenue (Block 8856, Lot 1656) to facilitate residential use.

Applicant(s): Department of Housing, Preservation & Development 100 Gold Street, 9th Floor New York, NY 10038		Applicant's Representative: Deborah Morris (HPD) 212-863-5770 Matthew Berk (DCAS) 212-386-0245	
Dept. of Administrative Services (DCAS) - 1 Centre St., NY, NY 10007			
Recommendation submitted by: <u>Brooklyn Community Board 13</u>			
Date of public hearing: <u>May 22, 2019</u>		Location: <u>Education Hall NY Aquarium 602 Surf Ave. Bklyn, N.Y. 11224</u>	
Was a quorum present? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.	
Date of Vote: <u>June 26, 2019</u>		Location: <u>Education Hall NY Aquarium 602 Surf Ave. Bklyn, N.Y. 11224</u>	
<b>RECOMMENDATION</b>			
<input type="checkbox"/> Approve		<input checked="" type="checkbox"/> Approve With Modifications/Conditions	
<input type="checkbox"/> Disapprove		<input type="checkbox"/> Disapprove With Modifications/Conditions	
<u>Please attach any further explanation of the recommendation on additional sheets, as necessary.</u>			
<b>Voting</b>			
# In Favor: <u>31</u>		# Against: <u>0</u>	
# Abstaining: <u>0</u>		Total members appointed to the board: <u>48</u>	
Name of CB/BB officer completing this form <u>Eddie Mark</u>		Title <u>District Mgr.</u>	
		Date <u>7/9/2019</u>	



**BROOKLYN COMMUNITY BOARD 13**  
1201 Surf Avenue – 3<sup>rd</sup> Fl., Brooklyn, NY 11224  
(718) 266-3001 FAX (718) 266-3920  
<http://www.nyc.gov/html/bkncb13>

**ERIC L ADAMS**  
Borough President

**JOANN WEISS**  
Chairperson

**EDDIE MARK**  
District Manager

July 9, 2019

Application #: C190394 PQQ  
CEQR # 19HPD055Y  
Project Name: Resilient Hsg & Open Space ACQs  
Borough: Brooklyn

At the Community Board 13 June meeting the following motion was voted on.  
"Community Board 13 supports the Resilient Housing and Open Space ULURP for two houses in Sea Gate 3826 Cypress Avenue and 3749 Neptune Avenue" as long as the initiative follows the Sea Gate Association's Rules and Regulations.

Vote: In Favor 31                      Opposed: 0                      Abstentions: 0  
(Quorum Present. Roll call on file at C.B. office)



Application #: **C190394 PQK**

CEQR Number: 19HPD055Y

Project Name: **Resilient Hsg & Open Space ACQs.**

Borough(s): Brooklyn

Community District Number(s): 13, 15

Please use the above application number on all correspondence concerning this application

**SUBMISSION INSTRUCTIONS**

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  - EMAIL (recommended):** Send email to [CalendarOffice@planning.nyc.gov](mailto:CalendarOffice@planning.nyc.gov) and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
  - MAIL:** Calendar Information Office, City Planning Commission, 120 Broadway, 31st Floor, New York, NY 10271
  - FAX:** to (212) 720-3488 and note "Attention of the Calendar Office"
- Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

*Docket Description:*

**IN THE MATTER OF** an application submitted by the Department of Housing, Preservation and Development and the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for the acquisition of properties located at

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<b>Applicant(s):</b> Department of Housing, Preservation & Development 100 Gold Street, 9th Floor New York, NY 10038  Dept. of Administrative Services (DCAS) - 1 Centre St., NY, NY 10007		<b>Applicant's Representative:</b> Deborah Morris (HPD) 212-863-5770  Matthew Berk (DCAS) 212-386-0245	
<b>Recommendation submitted by:</b> COMMUNITY BOARD 15 BROOKLYN			
<b>Date of public hearing:</b> JUNE 25, 2019		<b>Location:</b> KINGSBOROUGH COMM COLLEGE 2001 ORIENTAL BLVD. BKLYN NY 11235	
<b>Was a quorum present?</b> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		<small>A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.</small>	
<b>Date of Vote:</b> JUNE 25, 2019		<b>Location:</b> KINGSBOROUGH COMM COLLEGE 2001 ORIENTAL BLVD. BKLYN NY 11235	
<b>RECOMMENDATION</b> <input checked="" type="checkbox"/> Approve <input type="checkbox"/> Disapprove <input type="checkbox"/> Approve With Modifications/Conditions <input type="checkbox"/> Disapprove With Modifications/Conditions			
<b>Please attach any further explanation of the recommendation on additional sheets, as necessary.</b>			
<b>Voting</b> # In Favor: 37 # Against: 1 # Abstaining: 0 Total members appointed to the board: 48			
<b>Name of CB/BB officer completing this form</b> Cherese Scavo		<b>Title</b> CHAIRPERSON	
		<b>Date</b> 7/22/19	



## Brooklyn Borough President Recommendation

CITY PLANNING COMMISSION

120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271

[CalendarOffice@planning.nyc.gov](mailto:CalendarOffice@planning.nyc.gov)



### INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representatives as indicated on the Notice of Certification.

### APPLICATION

RESILIENT HOUSING AND OPEN SPACE ACQUISITIONS – 190394 PQQ, 190395 PPK

An application submitted by the New York City Department of Housing Preservation and Development (HPD) and the New York City Department of Citywide Administrative Services (DCAS), pursuant to Section 197-c of the New York City Charter for the acquisition of the following properties in Brooklyn Community District 13 (CD 13): 3826 Cypress Avenue and 3749 Neptune Avenue in the Seagate neighborhood, and the following properties in Brooklyn Community District 15 (CD 15): 25 Abbey Court, 5 Beacon Court, and 17 Noel Avenue, in the Gerritsen Beach neighborhood; 124 Oxford Street in the Manhattan Beach neighborhood, and 2 Lake Avenue, 12 Lake Avenue, 19 Lake Avenue, 18 Stanton Road, 23-25 Stanton Road, and 17 Webers Court in the Sheepshead Bay neighborhood. Such action would facilitate the disposition of the Resilient Housing Lots to private owners for redevelopment as flood-compliant, one- and two-family homes.

BROOKLYN COMMUNITY DISTRICT NO. 13 and 15

BOROUGH OF BROOKLYN

### RECOMMENDATION

☐ APPROVE  
☒ APPROVE WITH  
MODIFICATIONS/CONDITIONS

☐ DISAPPROVE  
☐ DISAPPROVE WITH  
MODIFICATIONS/CONDITIONS

SEE ATTACHED

BROOKLYN BOROUGH PRESIDENT

August 29, 2019

DATE

**RECOMMENDATION FOR: RESILIENT HOUSING AND OPEN SPACE ACQUISITIONS – 190394 PQK, 190395 PPK**

The New York City Department of Housing Preservation and Development (HPD) and the New York City Department of Citywide Administrative Services (DCAS) submitted applications pursuant to Section 197-c of the New York City Charter for the acquisition of the following properties in Brooklyn Community District 13 (CD 13): 3826 Cypress Avenue and 3749 Neptune Avenue in the Seagate neighborhood, and the following properties in Brooklyn Community District 15 (CD 15): 25 Abbey Court, 5 Beacon Court, and 17 Noel Avenue, in the Gerritsen Beach neighborhood, 124 Oxford Street in the Manhattan Beach neighborhood, and 2 Lake Avenue, 12 Lake Avenue, 19 Lake Avenue, 18 Stanton Road, 23-25 Stanton Road, and 17 Webers Court in the Sheepshead Bay neighborhood. Such action would facilitate the disposition of the Resilient Housing Lots to private owners for redevelopment as flood-compliant, one- and two-family homes.

On July 2, 2019, Brooklyn Borough President Eric L. Adams held a public hearing on the proposed acquisition request. There were no speakers on the item.

In response to Borough President Adams' inquiry as to what consideration would be given to requiring that the requested affordable homeownership sites be disposed with permanent affordable housing restrictions, according to the shared equity model, the HPD representative stated that the agency Request for Proposals (RFP) was open to community land trusts (CLTs) or shared housing models but did not receive responses from such types of nonprofits. Instead, the sites will be developed pursuant to HPD's Open Door program, which relies on a 20-40 year tax exemption to maintain affordability.

In response to Borough President Adams' inquiry as to why the resilient housing sites were not all proposed for redevelopment as affordable housing, and whether HPD would consider offering all of the sites as affordable homeownership opportunities, the HPD representative stated a number of the properties do not meet criteria for development as affordable housing. Some sites lack street and/or sewer access, while others are exceedingly small and would require redevelopment with an adjacent site that is not in the HPD portfolio. In such cases, construction would simply be too expensive and create problematic access issues. The representative also noted that in Seagate, homeowners association fees present a barrier to affordability. The Seagate Association charges fees equivalent to annual assessed taxes on each property, including those with tax abatements. Prior to Superstorm Sandy, such annual fees were generally between \$3,000 and \$5,000. However, new homes would likely have higher assessed tax values. When combined with the costs of flood insurance and a mortgage, such fees would exceed 30 percent of a household's income.

**Consideration**

Brooklyn Community Board 13 (CB 13) approved this application on June 26, 2019. CB 15 approved this application on June 25, 2019.

The proposed land use actions are part of a larger application for the acquisition and disposition of 141 properties in Brooklyn, Queens, and Staten-Island. All of the sites were previously improved with one to four family homes that were substantially damaged by Superstorm Sandy in 2012. Subsequently, the lots became part of New York City's Building Back Acquisition, Relocation and Buyout Program (Build It Back), which is funded by the United States Department of Housing and Urban Development (HUD) through the Community Development Block Grant Disaster Recovery (CDBG-DR) program. The purpose of Build It Back is to allow the City to purchase damaged homes and/or lots for redevelopment as resiliency projects. The program is managed by HPD, via a non-profit subsidiary, Project Rebuild, Inc. that purchases, clears, and holds the properties for responsible future use. All of the lots are currently either vacant or will be delivered as such upon disposition.



Based on a public engagement and evaluation process, HPD has determined two possible pathways for Build It Back sites: buyout and acquisition for redevelopment. Properties assigned for buyout are termed Open Space Lots and located in areas deemed inappropriate for development. Such lots will be acquired by DCAS and maintained as open space in perpetuity, under the auspices of the New York City Department of Environmental Protection (DEP) or the New York City Department of Parks and Recreation (NYC Parks) to provide flood mitigation. HPD has designated 75 lots in three of the five boroughs as Open Space Lots. The remaining 66 properties have been assigned for redevelopment and termed Resilient Housing Lots. They are located in areas suitable for housing development and must be rebuilt with flood-resilient residential use or open space, as feasible. Resilient Housing Lots would be disposed via one of two pathways: Housing Managed Redevelopment, which entails acquisition by the City and disposition to private entities for managed development (preferably as affordable housing) or Housing Private Auction, which entails a fair market sale and redevelopment by future owners to flood-compliant standards, according to deed restrictions.

In Brooklyn, HPD has proposed to acquire 13 Resilient Housing Lots within CD 13 and CD 15 that are located within the current one percent annual chance floodplain, with base flood elevations ranging between six and 12 feet. These lots would also be located in the 2050 one percent annual chance floodplain, given 90<sup>th</sup> percentile projections for sea level rise.

The CD 13 properties are located exclusively in Seagate, and slated for Housing Private Auction. 3826 Cypress Avenue is a 4,000 square-foot (sq. ft.) lot occupied by a 0.74 FAR three-family home, while 3749 Neptune Avenue is a 3,000 sq. ft. vacant lot. The CD 15 properties are located in Gerritsen Beach, Manhattan Beach, and Sheepshead Bay. The Gerritsen Beach properties include 25 Abbey Court, an 1,800 sq. ft. lot occupied by a 0.67 FAR one-family home; 5 Beacon Court, an 1,800 sq. ft. lot improved with a 0.42 FAR one-family home, and 17 Noel Avenue, an 1,800 sq. ft. lot occupied by a 0.7 FAR one-family home. All three properties are slated for Housing Managed Redevelopment. The one Manhattan Beach property, 124 Oxford Street, is a 2,500 sq. ft. lot improved with a 0.28 FAR one-family home and is slated for Housing Managed Redevelopment. The Sheepshead Bay sites include 2 Lake Avenue, a 1,200 sq. ft. vacant lot; 12 Lake Avenue, a 1,200 sq. ft. lot improved with a 0.51 FAR one-family home; 19 Lake Avenue, a 1,960 sq. ft. lot occupied by a 0.27 FAR one-family home; 18 Stanton Road, a 1,320 sq. ft. vacant lot; 23 Stanton Road, a 1,035 sq. ft. vacant lot; 25 Stanton Road, a 1,907 sq. ft. vacant lot, and 17 Webers Court, a 2,147 sq. ft. vacant waterfront lot that is located within the Special Sheepshead Bay District (SB). All of these properties are located on narrow, private walkways that lack street access, which was deemed a barrier to affordable housing development. Therefore, the Sheepshead Bay lots were proposed to be designated for Private Auction.

Borough President Adams supports the redevelopment of underutilized and vacant land for productive uses, especially those that address the City's need for affordable housing. Though affordable homeownership is not required as part of the Build It Back program, the acquisition and disposition of storm-damaged properties provides an opportunity to achieve such objectives where warranted. Borough President Adams also supports efforts to strengthen community resiliency to climate change and sea-level rise, including promoting development that complies with flood and stormproof construction practices.

Borough President Adams is generally supportive of the proposed acquisition and disposition program. However, he believes that the intended affordable housing needs to be permanent, that more sites should be prioritized for affordable housing, and that existing structures should meet coastal flood resiliency requirements.



### **Permanent Affordability**

In areas where new developments can be realized on City-owned sites, Borough President Adams supports the disposition of such sites being developed for affordable housing to remain permanently affordable as a means to minimize the loss of affordable housing units.

One strategy that warrants consideration is the disposition of property to a Community Land Trust (CLT). CLTs are non-profit stewardship entities that maintain community ownership of real estate assets. They are governed by boards that contain a diverse array of stakeholders, including community development organizations, elected officials, and local residents. CLTs are seen as being an effective tool to reduce land speculation and preserve affordability in communities. In recent years, New York City has taken important steps to foster the development of CLTs. In 2017, City Hall solicited proposals from interested stewardship groups, while City Council passed legislation authorizing and codifying CLTs. There are currently more than a dozen CLTs in various stages of development across the city, with at least two located in Brooklyn.

Borough President Adams believes that CLTs are a viable solution to safeguarding HPD's substantial investments in affordable housing throughout the borough. HPD reported that its RFP based on its Open Door program did not receive responses from CLTs or shared housing entities. Successful respondents according to its Open Door program are enabled to secure HPD-directed funds for new construction of cooperative and condominium buildings affordable to moderate- and middle-income households. Where appropriate, based on lot size, the program may also fund the development of new one- to three-family homes. Upon completion, the developer would sell the homes or units to households who agree to owner-occupancy for the duration of the regulatory period. Upon resale, the purchaser is required to sell the property to a household earning no more than the project's income cap. Such income cap is restricted to a two percent increase annually above the purchase price for the duration of the designated regulatory period.

The Open Door program relies on a minimum 20-year (complete or partial) exemption from New York City real estate taxes to maintain affordability. During Borough President Adams' hearing, it was expressed that the maximum term would be 40 years. The 40-year tax exemption would traditionally be where affordable housing would be constructed by a Housing Development Fund Company (HDFC), according to Article XI of the Private Housing Finance Law. From HPD's testimony at Borough President Adams' hearing, it does not appear that the agency's RFP garnered any responses from HDCs. Non-HFDC developers are able to request the higher HPD subsidy amount tied to a 40-year regulatory period. It is more likely to expect that the maximum affordability term for any of the Housing Managed Redevelopment lots would be 20 years. Moreover, a complete tax exemption is for the first 10 years, with a 10 percent increase in the tax increment in years 11 through 20.

It is Borough President Adams' policy that, to the extent that redevelopment of City-owned land results in residential floor area, such floor area should only yield affordable housing, and that housing resulting from the disposition of City-owned properties should remain permanently affordable. One way to ensure long-term affordability is through the concept of shared equity.

Shared equity is a model promulgated by municipalities and non-profit housing associations or municipalities. It is an offer that extends affordable homeownership to households lacking the ability to purchase a market-rate home. According to the Urban Institute, "shared equity homeownership programs provide buyers with a way of bridging the gap between what they are able to afford to pay in a mortgage and the actual mortgage cost to own a property" via strategies such as "inclusionary zoning, limited equity cooperatives, and community land trust homes with long-term affordability restrictions."



Borough President Adams is concerned that the Open Door program, which allows a maximum sales price increase of two percent per year for the duration of a 20-year regulatory term (with some possibility of a 40-year term), is insufficient to meet his permanent affordability housing goals. Therefore, he believes that HPD's proposal should be improved by requiring permanent affordable housing, according to a shared equity model such as a CLT, on the sites that would move toward development according to the Housing Managed Redevelopment initiative. Mandating the two percent cap appears to be a suitable form of achieving permanent affordable housing restrictions for those properties.

In order to realize permanent affordability, Borough President Adams believes that the City Planning Commission (CPC) and/or the City Council should direct HPD to establish a legal mechanism to mandate that such Housing Managed Redevelopment properties be required to remain affordable in perpetuity.

#### **Development to Coastal Flood Resiliency Standards**

Borough President Adams supports the redevelopment of the 13 Resilient Housing Lots for responsible future use. However, he is concerned that these sites with existing structures could remain vulnerable to flood events if (yet to be known) renovation plans do not trigger compliance with New York City Zoning Resolution (ZR)'s Special Regulations Applying in Flood Hazard areas. Borough President Adams recognizes the conundrum of either undertaking addition construction costs, with the resulting higher permanent mortgage necessitated to afford such improvements, or the alternative of a burdensome monthly flood insurance payment. Either scenario would present a severe cost burden for the eventual affordable housing homeowner. According to HPD, the City retains the right to take possession of the disposed properties if an owner defaults on program requirements, including flood-resistant construction.

Borough President Adams believes it is necessary to ensure that all buildings developed on the Resilient Housing Lots meet the City's standards for flood hazard mitigation, including best practices such as elevation of usable space above the established flood level. Therefore, in order to reduce future flood risk and flood insurance costs, Borough President Adams believes that the CPC and/or the City Council, should direct HPD to establish a legal mechanism that requires existing and intended buildings to be elevated in compliance with ZR Special Regulations Applying in Flood Hazard areas.

#### **Maximizing Affordable Housing Opportunities**

Borough President Adams believes that it is important to maximize opportunities for affordable housing ownership in the Resilient Housing and Open Space Acquisition process. One means to achieve this goal is to prioritize properties that meet HPD's criteria for affordable housing development, including lot size, sewer connections, and street access.

At 3,000 and 4,000 sq. ft., the two Seagate properties represent the largest lots in the Brooklyn portfolio. While these sites are located within a gated community, they are otherwise physically suitable for affordable housing development. The primary barrier, in this case, appears to be the Seagate Association homeownership fees, which, together with the Open Door program's intent to target household incomes at 80 percent of Area Median Income (AMI). According to the Open Door program, sale prices would cap housing costs at 33 percent of such annual income, including monthly maintenance costs, taxes, and projected mortgage payments, assuming a 30-year mortgage, with a five percent down payment and a fixed interest rate. In addition, the HPD Open Door term sheet stipulates that developers of affordable co-operatives or condominiums on public land can qualify for a maximum \$165,000 subsidy, if such units are targeted toward households between 80 and 130 percent AMI. Such subsidies would presumably also be available to developers of one- to three-family homes.



The Open Door term sheet provides a substantial developer subsidy and the opportunity for additional funding. However, taking into account the expected purchase price, a household at 80 percent AMI would be unable to afford the monthly mortgage payments if such costs were exacerbated by the required monthly payment to the Seagate Association. The fact that the HPD RFP extends affordable homeownership to households earning no more than 120 percent AMI, a household of four would have to set aside more than \$42,000 for mortgage costs. Based on the 33 percent standard, such households would be able to devote \$1,150 more per month toward a mortgage payment than a household at 80 percent AMI. With an interest rate of approximately four percent, such borrower could afford a loan in excess of \$300,000 more than a household earning 80 percent AMI. Therefore, Borough President Adams believes that the uppermost income tier of affordability warrants a reconsideration of reassigning both Seagate properties to Housing Managed Redevelopment.

The 3826 Cypress Avenue 4,000 sq. ft. lot, occupied by a 0.74 FAR three-family home, was recently assessed at nearly \$10,000. It is expected that the future owner would pay a similar assessment upon re-occupancy. As the building is fully constructed, it is likely that the most significant redevelopment costs would stem from raising the structure and building systems above the design flood elevation, which would diminish flood insurance premiums. Borough President Adams believes that this building would best serve the public interest if all of its units were designated as affordable housing. The 3749 Neptune Avenue 3,000 sq. ft. vacant lot could reasonably be expected to yield a post-construction assessed value similar to that of a nearby 1,800 sq. ft. home — the amount of floor permitted by the zoning district. This site should also be considered for affordable housing development and occupancy.

Should re-evaluation by HPD determine that 120 percent AMI would be insufficient given the amount of income that is merely required to afford the Seagate Association annual fees, HPD should evaluate feasibility by amending the Open Door term sheet to qualify households at 130 percent or 145 percent AMI, with buyer eligibility at up to 165 percent AMI.

Such modification is justified by the allowance of higher AMIs at other affordable housing developments in Brooklyn, such as the Caton Flats development in Flatbush, the pending development at 142-150 South Portland Street, where 50 percent of the affordable housing units would have rents based on households earning 130 percent AMI, and at 15 Bridge Park Drive, where 50 designated affordable housing units have rents set to be afforded by households earning at least 130 percent of AMI.

Borough President Adams believes that establishing more flexible AMI eligibility vis-à-vis household income limits would increase the likelihood of the Seagate properties becoming affordable homeownership opportunities.

However, the intended disposition of these lots via Housing Private Auction virtually guarantees that the properties would not be developed as affordable homes. Given the possibilities outlined above, Borough President Adams believes that these lots warrant strong consideration as affordable housing opportunities. Therefore, in order to enable the maximum provision of affordable housing, Borough President Adams believes that the CPC and/or the City Council should direct HPD to reassign the Seagate parcels from Housing Private Auction to Housing Managed Redevelopment.

### **Recommendation**

Be it resolved that the Brooklyn borough president, pursuant to sections 197-c and 201 of the New York City Charter, recommends that the City Planning Commission (CPC) and City Council approve this application with the following conditions:

1. That the New York City Department of Housing Preservation and Development (HPD), in its Land Disposition Agreement (LDA) with assigned developers of Housing Managed Redevelopment (affordable housing) properties, require the following:
  - a. A mechanism to ensure that the affordable housing would remain affordable in perpetuity
  - b. That, as a means to reduce future flood risk, such developments be elevated in compliance with New York City Zoning Resolution (ZR)'s Special Regulations Applying in Flood Hazard areas
2. That, in order to enable the maximum provision of affordable housing, HPD be mandated to reassign the Seagate parcels from Housing Private Auction to Housing Managed Redevelopment