



**BROOKLYN COMMUNITY BOARD 14**  
**FLATBUSH–MIDWOOD COMMUNITY DISTRICT**  
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**Testimony of Alvin M. Berk, Chair,**  
**Submitted to the City Planning Commission 16 December 2015**  
**Mandatory Inclusionary Housing (MIH) N 160051 ZRY**  
**and**  
**Zoning for Quality and Affordability (ZQA) N 160049 ZRY**

To preserve the community district's character, Brooklyn CB14 agreed in 2005 and 2009 to rezoning plans for Midwood and Flatbush that would trade modest increases in bulk for contextual height protections. We also agreed to voluntary inclusionary housing in several of our contextual zones. When ZQA subsequently proposed to raise height limits for affordable housing, affordable senior housing and long-term care facilities (LTCFs), by as much as 25 feet, we felt the Department of City Planning (DCP) was violating the commitments it had made in 2005 and 2009.

Our primary concern with ZQA's greater height limits is that they would diminish our community's low-rise character, and by facilitating construction at maximum allowable bulk limits, would increase density and cause our streets, schools and parks to become more crowded.

We also are concerned that ZQA would make for-profit nursing home construction as-of-right and more lucrative by allowing LTCFs to be built taller, larger, and free of the need to undergo detailed environmental review. We fear that this could lead to a concentration of such facilities in our neighborhoods, changing their character.

Our other concerns:

- MIH would exploit a loophole in CEQR: It lacks a procedure to assess the cumulative adverse effects of similar small-scale independent land use actions that it enables and mandates.
- MIH leaves important questions unanswered:
  - Would its range of income options serve the different needs of diverse neighborhoods within our community district?
  - Why should on-site and off-site MIH options mandate the same percentage of affordable units?
  - Would rules about entrances, amenities, and waivers be consistently applied?
  - Would waivers invite litigation?
- ZQA would marginalize the diagnostic value of the community board's public hearing process by eliminating hearings for actions ZQA would make as-of-right.
- ZQA erroneously asserts that the State DOH CON process for nursing homes adequately assesses adverse environmental impacts at the local level. It does not.

- ZQA erroneously asserts that nursing homes, which it re-names “long-term care facilities (LTCFs),” have impacts comparable to “affordable independent residences for seniors.” We disagree. Staffing levels, visitor patterns, and logistical support profiles differ tremendously between these uses.
- DCP suggests that the existing CPC special permit procedure for nursing homes was proven meaningless by the approval of all 49 of recent special permit applications. But did the special permit process enable discovery of any design deficiencies or adverse environmental impacts?
- With respect to ZQA’s proposed 5’ increase in base building height, we feel that a floor area exemption of 100 square feet for each foot a lobby ramps up to reach an elevated first floor is excessive.
- Also excessive would be the height increases proposed for affordable and affordable senior housing, and LTCFs: 10’ (one story) in an R6A zone (e.g., portions of Midwood and Flatbush) and 20’ (two stories) in an R7A zone (e.g., portions of Flatbush and Parkville, and along Ocean Avenue in Flatbush and Midwood). We believe that prevailing bulk limits can be achieved without such height increases.
- We also believe that the zoning resolution should retain unit density controls for affordable senior housing.
- We consider the proposed as-of-right floor area ratio limits for affordable residences for seniors and LTCFs, 54% in R5 districts and 72% in R4 districts, to be conducive to out-of-scale development. They could create an incentive to concentrate such uses in Midwood’s R5 and R4 districts.
- Inasmuch as LTCFs employ large numbers of staff, generate transient traffic by visitors and service providers, and show other attributes inconsistent with residential occupancies, LTCF siting in an R4 or R5 zone should be discretionary. So should the siting of LTCFs in R3A, R3X, R4A and R5A detached home and R3-1 and R4-1 semi-detached districts. The community board wishes such districts to retain their residential character.
- ZQA compromises some important protections:
  - For example, ZQA strikes Section 74-90, which offers a useful standard for determining whether a community facility will alter a neighborhood’s character, i.e., whether “the architectural landscaping treatment and the height of the proposed #building# containing such #uses# blends harmoniously with the topography of the surrounding area; [and whether] the proposed facility [would] not require any significant additions to the supporting services of the neighborhood or that provision for adequate supporting services has been made....”
  - Its functional replacement, Section 74-903, narrows this definition, by requiring only that: “(1) the distribution of #bulk# on the #zoning lot# will not unduly obstruct the access of light and air to adjoining properties or public #streets#, and will result in satisfactory site planning and satisfactory urban design relationships of #buildings# to adjacent #streets# and the surrounding area; and (2) the #streets# providing access to such #use# will be adequate to handle the traffic generated thereby or provision has been made to handle such traffic.”
- Finally, CB14 objects to ZQA’s proposed parking requirements for affordable and senior units, and for LTCFs. Specifically, CB14 believes that:
  - DCP has not shown that there are a significant number of unused accessory parking spots associated with multiple dwellings in CD14.
  - The unit of analysis reported in DCP’s assessment was not Community District specific.
  - The criteria for eligibility to occupy ZQA’s affordable housing units stipulate higher incomes than those used by DCP to predict low-income car ownership.
  - A half-mile walk to a subway may prove unmanageable for elderly residents. So may be the stair climbing required for access to trains at stations lacking elevators.

- More elderly drive than used to. According to the CDC, nationally, “There were almost 36 million licensed older drivers in 2012, which is a 34 percent increase from 1999.”
- CD14 is a convenient park-and-ride location for commuters coming from southern Brooklyn and the western Rockaways. Competition for all-day on-street parking is fierce.
- Long-term care facilities are staff-intensive. Although full-time staff can use mass transit to commute to and from work, session workers and consultants frequently must drive between clients residing at different locations. LTCF use should increase a building’s accessory parking requirements, not decrease them. Provision for visitor parking must be maintained.
- ZQA’s features that effectively increase the number of built dwelling units could lead to increased population density, and, barring unrelated changes in transportation patterns, to an increased demand for parking spaces. This would offset any reduction in parking needs attributable to lower car ownership by seniors.

CB14 believes that ZQA’s proposed reductions in parking requirements, which are based on a simple boundary, e.g., within or outside of a Transit Zone, won’t work for our complex district.

Brooklyn Community Board 14 supports the publicly-stated goal of MIH and ZQA: to increase the amount of affordable housing in NYC. However, MIH and ZQA contain many provisions that seem unrelated to this goal, or have the potential to eviscerate essential zoning protections. Taken together, these text changes would:

- Increase population density;
- Create development incentives that could change the character of CD14 neighborhoods;
- Reduce the ability of elected officials and community boards to evaluate and achieve mitigation of adverse environmental impacts of certain developments;
- Exacerbate transportation problems for seniors and others.
- Vitiating the implied protections that underpinned the community’s support for the 2005 Midwood and 2009 Flatbush rezoning actions.

For these and other reasons, as detailed in our November vote tally submission, Brooklyn Community Board 14 urges you to oppose MIH and ZQA in their current form.