

## I. Introduction

The New York Civil Liberties Union (NYCLU) is a membership organization dedicated to protecting the civil rights and civil liberties of New Yorkers. We have eight offices across the state and over 200,000 members and supporters.

Now that the I-81 viaduct will be replaced, the NYCLU is dedicated to working alongside community members to ensure that the civil rights of Syracuse residents are protected, and the injustices of the original construction are not repeated. Syracuse now has a unique opportunity to ameliorate the harm done by the initial razing of the 15th Ward and address racial inequities in housing and education. We are concerned, however, that the ReZone plan relies heavily on zoning provisions that will harm low-income Syracuse residents and people of color.

The original construction devastated a neighborhood that was home to Syracuse's working-class black community, previously known as the 15<sup>th</sup> ward. Its construction severed the social fabric of the community, razed swaths of buildings, and physically isolated southeast Syracuse from wealthier neighborhoods. The ReZone can either entrench existing levels of segregation and lack of affordable housing or create openings to rebuild Syracuse along more racially and socioeconomically integrated lines. It is critical that city officials prioritize the health and welfare of Syracuse's residents, neighborhoods and schools at every step of their decision-making process.

Zoning ordinances play an integral role in the urban redevelopment process. In this case, any acceptable zoning plan must include ameliorative measures to combat the potential for gentrification and displacement of current residents. Syracuse should be actively working to repair the harms to educational and economic opportunity for Black Syracusians that resulted from the original construction of the I-81 viaduct. It can do so by implementing *inclusionary zoning* and *Open Communities initiatives* throughout the city and crafting zoning language that mitigates the excesses of gentrification, promotes affordable housing, and reinvests public money into communities that have seen historical disinvestment.

The planning process must include meticulous and deliberate efforts to educate impacted residents about the potential positive and



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negative impacts of ReZone and get real feedback from community members. Given the complexity of this proposal, it is impossible to imagine that Southside residents who will be the most impacted have had any real opportunity to comment without an extensive public comment period extending beyond 45 days.

We have two recommendations at this time: 1) Engage in a racial equity impact analysis of ReZone and make whatever adjustments are necessary to the plan to protect communities of color; 2) Extend the comment period for a full 45 days, and hold accessible and well-publicized info sessions for residents who live in the areas to be rezoned (and areas that may be rezoned after the racial equity impact analysis is complete). In the absence of an extended formal comment period, we recommend that the Council defer on taking a vote on ReZone until at least 45 days have passed, to give more opportunity for residents to get involved.

## II. The Need for Inclusionary Zoning in Syracuse

Zoning determines where housing can be built, the type of housing that is allowed, and the form it takes. Regulations can directly or indirectly make it harder or easier to create, and maintain affordable housing. Exclusionary zoning is an injurious policy that keeps affordable housing out of communities and neighborhoods through large-lot zoning and other measures. It is a practice that has been used for decades to keep lower-income people, disproportionately people of color, out of wealthy and middle-class neighborhoods across the country.

Studies have shown that “anti-density zoning,” which calls for large lot sizes for houses, has limited the overall supply of housing, increased housing prices, and reduced the local supply of needed multifamily units.<sup>i</sup> It prevents low-income families from having access to the education and employment opportunities typically found in wealthier neighborhoods.<sup>ii</sup> In Syracuse, this form of zoning has contributed directly to racial isolation. It has limited affordable housing to low and very low-opportunity neighborhoods.

### A. Affordable Housing

Recently, exclusionary zoning has expanded into the urban core as wealthy and largely white families move back into cities. Within cities, policies like building height limits and school district lines increase property values and through a process of gentrification force low-income families into areas of concentrated poverty. A localized



example of this can be found by the recent revitalization of Syracuse's downtown. The revitalization of downtown includes luxury apartment living, night-life, shopping and open greenspace.<sup>iii</sup> The current downtown revitalization initiative has little to no affordable housing. However, downtown was previously home to the 15<sup>th</sup> ward, a redlined working-class black neighborhood destroyed by urban renewal and construction of Interstate 81. The interstate and the revitalization initiative displaced thousands of Black Syracuse residents and inflated housing prices in units within close proximity to downtown.<sup>iv</sup>

The lack of quality affordable housing in high-opportunity zones is a major concern that disproportionately impacts people of color in Syracuse. Currently 79% of Syracuse's Black population live in census tracts characterized as having very low or low opportunity compared to 22% of whites.<sup>v</sup> As reported by Homeless Housing Coalition "there are two particular issues of concern related to affordable housing 1) shortage of quality affordable housing and 2) location of subsidized housing." A survey to service providers in the Syracuse area identified "the need for more affordable housing" as the most challenging housing need in Syracuse.<sup>vi</sup> However the ReZone does nothing to promote investment in low opportunity areas or create pathways to build affordable housing or subsidized housing in its high opportunity neighborhoods.

In the Alternative since 2016, private luxury student housing has tripled in Syracuse, with more than 2,700 units built at a rate of \$4,000 per unit, nearly twice as much as downtown luxury apartment living and three times more than subsidized housing vouchers for low income populations. Luxury apartment housing units are highlighted as being ideal for the Central Business Districts, South East Corridor as recommended by the Department of Transportation in the preliminary Draft Environmental Impact Statement (DEIS). The Department of Transportation suggests that considering land use and trends, one- and two-bedroom luxury units would be ideal for future developable land on and around Martin Luther King Blvd. West.<sup>vii</sup>

The Department of Transportation recommendation only highlights the threat to further entrench current trends of concentrated poverty and gentrification. The census tract directly adjacent to the I-81 viaduct potential land use is comprised of predominantly black residents; 67% live below the poverty line; their children attend a school that is struggling on almost every measure; and they have limited access to jobs. Furthermore, the DEIS recognizes settlement trends in the area. It is for these reasons that protections and restorative mechanisms



targeting Black residents and other affected groups must be in place before any redevelopment occurs. The ReZone can implement these protections through inclusionary zoning.

The ReZone must include measures to combat the potential for displacement of current residents, increased access to affordable housing in high opportunity neighborhoods, also known as Open Communities and investment strategies for areas concentrated in poverty. City governments have a legal obligation to “affirmatively further fair housing” by actively promoting fair housing and reducing segregation and not just in a particular area but as a region. However, Syracuse ReZone may have the unintended consequence of further limiting the provision of fair and affordable housing, concentrating affordable housing in low opportunity census tracts, and limiting investment in high poverty neighborhoods.

## B. Economic Opportunity

The Syracuse metropolitan area is one of the worst-scoring cities in the country when looking at equity of opportunity based on race and ethnic groups.<sup>viii</sup> A number of historical housing practices contributed to settlement patterns of Black and low-income Syracuse residents, including exclusionary zoning, redlining, racially restrictive covenants, urban renewal, and mass transit infrastructure projects. But exclusionary zoning has played an integral role in *maintaining* this segregated status quo long after *de jure* race-based policies were struck down by the U.S Supreme Court. Exclusionary zoning acts as a loophole, allowing discrimination based on income, confining low-income people to impoverished neighborhoods by systematically preventing them from moving into areas with greater access to opportunity.

Since 2000, the number of high-poverty census tracts more than doubled in Syracuse, rising from twelve to thirty.<sup>ix</sup> As a result Syracuse has one of the highest concentrations of poverty among blacks in a metropolitan area in the United States.<sup>x</sup> Historically, Blacks in Syracuse were confined to redlined areas<sup>xi</sup> and residing in an area of concentrated poverty is the biggest contributor to the creation of generational poverty.<sup>xii</sup> Comparatively redlined areas across the nation disproportionately still represent high concentrations of poverty.<sup>xiii</sup> Again, although redlining is now legally impermissible, there was no mechanism for remedying its damage. Zoning laws acted as an inhibitor for low income people to move into green-lined neighborhoods in or near well-established high-opportunity areas.



The ReZone should be used as a tool to further access to affordable housing, desegregate our community and deconcentrate poverty, and promote investment in historically disinvested community's i.e. inclusionary zoning and open community initiatives.

### III. Problems with ReZone

Under the proposed ReZone, a predominately black neighborhood, concentrated in poverty, with a struggling neighborhood school will be re-zoned as part of the central business district, with massive lot size requirements, density requirements, and height minimums. Such zoning not only removes any opportunity for future affordable housing but also reduces the supply of available land, drives up building cost, prohibit single family or multi-family housing units. This type of zoning practice will prohibit low-income families' affordable housing and displace current residents as housing and property taxes exceed their income. This type of zoning tactic can have a negative impact on STEAM @ Dr. King by driving down enrollment and limiting resources through property taxes. ReZone should include mechanisms to promote investment in high-poverty neighborhoods as sustainable solutions to de-concentrating poverty while furthering fair housing<sup>xiv</sup>

The biggest indicator of success is access to opportunity, access to better jobs, and access to quality education. Currently 81% of subsidized housing units in Syracuse are in census tracts with very low or low neighborhood opportunity and 77% are in low or very low educational opportunity outcomes.<sup>xv</sup> However, ReZone doubles down on exclusionary zoning in its area suburbs such as the Meadowbrook and Strathmore neighborhoods. Additionally ReZone fails to create inclusionary zoning plan for the Central Business District. Under the Rezone, low-income people will have very little opportunity to gain access to developable land due to lot minimums, height requirements, density requirements, while precluding any single family houses, multi-family units or small to apartment buildings. While simultaneously being forced out of the central business district by rising cost of living and rising cost of property taxes. The zoning of the Central Business District is ideal for luxury apartments and large commercial development but ignores the need for affordable housing in the city center, which was previously and historically zoned a residential neighborhood.

The New York Court of Appeals ruled in *Berenson v. Town of New Castle* that municipalities must consider whether zoning ordinances are providing a properly balanced and well-ordered plan for the



community.<sup>xvi</sup> The waitlist for subsidized housing in Syracuse is long and the Syracuse Housing Authority routinely shuts down their waiting list due to the length of the list, with an average wait time of 34 months.<sup>xvii</sup> According to the CNY Fair Housing 2014 study, participants' repeatedly cited the lack of quality housing as their biggest barrier to housing choice.

The Rezone is an opportunity to redefine our zoning laws and lead the state with modern ideology that has been used in other States including New Jersey, California, Connecticut to name a few. Zoning should be used as a tool to de-concentrate poverty and reverse trends towards segregation. Affordable housing built outside of urban lower opportunity areas helps to de-concentrate or "disperse" poverty, also known as open communities' initiatives. It also encourages mixed-income housing, which in turn promotes "smart growth." Smart growth describes communities with housing and transportation provided near jobs, shops and schools in order to support local economies and protect the environment. Equally as important is including affordable housing, investment strategies and access to developable land to communities that have been historically injured by government backed policies in the downtown area and central business district.

ReZone must undergo a racial equity impact analysis and the City should make whatever adjustments are necessary to the plan to protect and benefit communities of color and low-income communities. The racial equity study should determine how pockets of concentration of poverty amongst Black people in Syracuse have been exacerbated by exclusionary zoning practices and determine appropriate actions to remedy such patterns and practices. More specifically, with respect to the Central Business District, incorporate an Inclusionary Zoning plan to further affordable housing for low income individuals and a land use development plan for communities of color that were historically harmed by past practices. Create Open Communities Initiatives in high opportunity tracts that historically were green lined areas, which excluded people of color from purchasing a single-family house and/or excluded affordable housing and/or excluded multi-family dwellings.

In conclusion the ReZone should include the following 1) inclusionary zoning that promotes the creation of affordable housing by requiring a given share of new construction to be affordable by people with low to moderate incomes, specifically in the central business district and other historically exclusionary zoned areas 2) creating a racial equity plan for new developable land and land use plan for

communities of color that have been historically disenfranchised and disinvested in and 3) Rezoning areas that have traditionally excluded affordable housing in high opportunity areas in an effort to deconcentrate poverty and desegregate our community, creating open communities initiatives.



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<sup>i</sup> Connecticut Fair Housing Center, A Guide to Fair and Open Communities June 2013

<sup>ii</sup> The Century Foundation “Understanding Exclusionary Zoning and Its Impact on Concentrated Poverty by Elliot Anne Rigsby June 23, 2016

<sup>iii</sup> <http://downtownsyracuse.com/>

<sup>iv</sup> HUD.org HUD Public Housing defined affordable housing sets the lower income limits at 80% and very low income limits at 50% of the median income for the county or metropolitan area

<sup>v</sup> Id CNY Fair Housing Report p. 46

<sup>vi</sup> City of Syracuse Department of Neighborhood and Business Development, Survey of HMIS Homeless and Housing vulnerable providers, conducted June 6, 2014

<sup>vii</sup> Department of Transportation Interstate 81 Viaduct Project, Preliminary Draft Environmental Impact Statement (DEIS) p. 6. 46 <https://www.dot.ny.gov/i81opportunities>

<sup>viii</sup> Analysis of Impediments to Fair Housing: Syracuse and Onondaga County, NY, 2014 CNY Fair Housing Report

<sup>ix</sup> Id CNY Fair Housing Report p.42

<sup>x</sup> The Century Foundation “ Architecture of Segregation

<sup>xi</sup> The Century Foundation “ Architecture of Segregation”

<sup>xii</sup> How Redlining’s Racist Effects Lasted for Decades By Emily Badger Aug. 24, 2017

<https://www.nytimes.com/2017/08/24/upshot/how-redlinings-racist-effects-lasting-for-decades.html>

<sup>xiii</sup> America’s formerly redlined neighborhoods have changed, and so must solutions to rectify them

Andre M. Perry and David Harshbarger, October 14, 2019

<https://www.brookings.edu/research/americas-formerly-redlines-areas-changed-so-must-solutions/>

<sup>xiv</sup> Next City “Why We Shouldn’t Be So Quick To Move People Out of High Poverty Neighborhoods” by Cody Tuttle January 7, 2020.

<sup>xv</sup> Id CNY Fair Housing Report

<sup>xvi</sup> Berenson v. Town of New Castle, 38 N.Y.2d 102 (1975)

<sup>xvii</sup> Id CNY Fair Housing Report pp.46-52