

New York State Department of Transportation
State Office Building
333 East Washington Street
Syracuse, NY 13202

Re: Future land use of the newly created land in the footprint of the I-81 viaduct

Dear Elizabeth Parmley:

The removal of the I-81 viaduct will result in approximately 24 acres of newly developable land. Land use stands to create significant changes for the community that has long borne the burdens of living next to it. The New York State Department of Transportation (NYSDOT) must take action to ensure that the future land use in the footprint of the new I-81 Business Loop does not displace the Black residents that live adjacent the 1.4 miles of raised viaduct. To that end, the New York Civil Liberties Union writes to urge that NYSDOT follow the lead of other Departments of Transportation and retain control of the future available land and distribute the land with protections to prevent displacement.

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 85,000 members and supporters. Since 2017, the NYCLU has been deeply involved in the redevelopment process of I-81 (“I-81 Project”). The NYCLU authored a comprehensive report on the multi-generational impact of the original I-81 build.¹ During the public participation process, the NYCLU collected over 2,000 public comments via post cards from community members and submitted comments of our own on the project’s Draft and Final Environmental Impact Statements (collectively, the “EIS”).² The NYCLU has engaged key stakeholders throughout the process, including the NYSDOT, Federal Highway Administration, the Environmental Protection Agency, and the City of Syracuse, we have organized [rallies](#) and community meetings, and took a lead role in the movement to move the roundabout away from STEAM at Dr. King Elementary school.

As evidence by the high level of engagement and community public comments, residents living near the footprint of the I-81 Business Loop—the Community Grid—are gravely concerned with losing the current housing affordability and keeping the land accessible to enjoy the benefits of the I-81 Project. These concerns have been elevated after the enactment of the local land use legislation – ReZone- which alters the types of uses permitted in this area.

In 2019, the city of Syracuse proposed a redesignation of the mostly residential area closest to the I-81 raised viaduct into a central business district. The proposal, alters a predominately

¹ Lanessa Owens Chaplin, et. al., Building a Better Future: The Structural Racism Built into I-81 and How to Tear It Down [2020] <https://www.nyclu.org/en/publications/building-better-future>

² NYCLU, Comment in Response to NYSDOT 2021 Draft Environmental Impact Statement for the Redevelopment of Interstate 81 [2021] https://www.nyclu.org/sites/default/files/field_documents/220516-comment-exhibitb-i81publiccommentnysdot_1.pdf; NYCLU, Comment in Response to NYSDOT 2022 Final Environmental Impact Statement for the Redevelopment of I-81 [2022] <https://webapps.dot.ny.gov/system/files/documents/2022/06/i-81-fdrfeis-comment-submissions-nyclu.pdf>



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Black residential neighborhood, concentrated in poverty, to be part of the central business district, with massive lot size requirements, density requirements, and height minimums.³ Reducing the supply of available land, driving up building costs, and prohibiting single family or multi-family housing units. Massive commercial developments demand higher property taxes for current owners, and higher rents for renters, making housing too expensive for current residents.

This type of designation is directly linked to gentrification and displacement of low-income residents. In this case, repeating the awful history of the original build- but instead of displacing residents by razing a community to make way for a highway- development will price this community out. After enduring decades of living with the environmental, socioeconomic and isolation of the original build, when it is finally time to come down- they face the potential of being priced out of their neighborhood and being deprived of reaping the benefits of the projects- future land use.

During the ReZone public participation process- residents submitted over 1,000 comments raising concerns that without land use protections, such as [Inclusionary Zoning](#)- an affordable housing requirement for all new development - the new zoning laws will spur of displacement after the construction of the community grid.

Since 2019, The NYCLU were in regular contact with Syracuse officials, submitted both written and oral testimony identifying our concerns with ReZone and explained why the plan is detrimental to residents living adjacent to the viaduct after the completion of the I-81 Project.⁴ The NYCLU submitted recommendations, once in [2020](#) and again in [2023](#).

Despite residents and key stakeholders' best efforts, on June 23, 2023, ReZone was enacted into law and substantially alters the zoning of the land adjacent to the viaduct. Without adequate protections, effects on the current residents, almost all of whom are Black people, when the developable land becomes available will result in displacement.

Displacement Of Syracuse's Black Residents Resulting From The Preferred Community Grid Option

The problem of displacement is not new to Syracuse. The razing of the 15th Ward through "urban renewal" and the construction of the I-81 viaduct displaced thousands of Black Syracuse residents from their homes and resulted in a loss of over 101 acres of land. The consequence of this displacement is stark. What was once a working-class, thriving residential neighborhood in the 15th Ward now accommodates twenty-two parking lots.

The residents displaced by original I-81 build reconstituted in an area adjoining the raised viaduct. The neighborhood has a concentration of subsidized housing and multi-family units,

³ City of Syracuse, ReZone Syracuse – Background [last accessed Aug. 8, 2023] <https://www.syr.gov/Departments/Planning-and-Sustainability/Planning-Initiatives/ReZone-Syracuse> (Notable, two parcels of land adjacent to I-81, remain in stark contrast to the new redesignation. Specifically, a parcel bounded by Burt Street, Oakwood Ave, Raynor Ave and State Street is a higher density requirement MX4, and a designation of MX5 abut Irving Ave bounded on Almond street. The NYCLU recommend redesignated to MX2 for continuity and displacement prevention.) See Proposed Zoning Map.

⁴ *Supra* note 2.



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serving some of Syracuse's poorest residents. For example, this predominately Black neighborhood is home to over 40% of Syracuse's affordable housing units.

The Community Grid is expected to free up approximately 24 acres of valuable land, in the center of the city, straddling this community—land that will be up for grabs for the first time in over 50 years. As the City of Syracuse pushes for new commercial mixed use development projects, without safeguards for affordability, existing rental units will command increasingly higher rents. As a result, current residents will lose much of their affordable housing stock. ReZone's new zoning designations to "up-grade" the neighborhoods adjacent to the viaduct will not help existing lower-income residents.

NYSDOT Must Intervene To Ensure Black Residents Are Not Displaced



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During the EIS process, the NYSDOT did not consider ReZone and its impacts on the I-81 Project. It must do so now. As the lead agency the NYSDOT has a continuing duty to evaluate new evidence presented. Town of Mamakating v. Village of Bloomingburg, 174 A.D.3d 1175, 1178 [2019]. Because land development will spur as a direct result of the I-81 Project, the NYSDOT must at minimum evaluate the impacts of the new zoning laws of the land in the footprint of the I-81 Project and the potential negative impacts it will have on the current residents.

As the lead agency, NYSDOT is required to review existing patterns of population concentration, distribution, and growth, and factor the existing community or neighborhood character into their decision-making process.⁵ Where a significant adverse impact of subsequent actions are identified, and which were not adequately addressed in the EIS, a site- or project-specific supplemental EIS must be prepared.⁶ ReZone's drastic alteration of land use in the footprint of I-81 greatly increases the potential for displacement by land made available from removal of the viaduct, therefore, warrants consideration by the NYSDOT.

In Chinese Staff and Workers Ass'n v City of New York, 68 NY2d 359 [1986], in the process of issuing a special use permit for luxury condominiums, the N.Y.C. Department of City Planning failed to consider whether the introduction of the condos would accelerate the displacement of Chinatown residents and businesses or alter the character of the community.⁷ The Court of Appeals concluded that displacement was an effect that must be considered a relevant impact in conducting the environmental review under the state and city EIS process.⁸ Accordingly, the court nullified the special use permit and required a supplemental EIS "in order to further the strong policies served by SEQRA and not frustrate its important purpose."⁹ The new zoning laws combined with the substantial amount of available land created by the I-81 Project places residents at a greater risk of displacement.

The NYSDOT is left with two options: to conduct a supplemental EIS to consider the negative impacts of the new zoning ordinance or retain control and distribute the land either independently or jointly with protections against displacement for current residents.

⁵ N.Y.C.R.R. §§ 617.7[c][1][iv], 617.7[c][1][v], 617.14[g][1][iii]

⁶ N.Y.C.R.R. §617.9[a][7]

⁷ Chinese Staff and Workers Ass'n v City of New York, 68 NY2d 359, 363 [1986]

⁸ *Id.* 366

⁹ *Id.* 369

Considering the NYSDOT is prioritizing the history of displacing residents resulting from the original construction does not repeat itself and making the I-81 Project, a national example of how thoughtful infrastructure can bring people together, promote growth, and increase prosperity for all communities¹⁰- we urge the NYSDOT to do the latter.

MassDOT Led the Way for State Transportation Departments To Intervene To Prevent Displacement

Departments of Transportation have taken affirmative steps to prevent displacement of other marginalized communities. An example can be found in Nubian Square, a predominately Black community in the Roxbury neighborhood of Boston Massachusetts.¹¹ Much like the 15th Ward, Nubian Square is the historic center in Boston for African American civic, social, and cultural life.¹² And like many Black communities during the transportation infrastructure movement, and eerily similar to the devastation I-81 brought to the 15th Ward, approximately 2,600 families in the Nubian Square area (formerly Dudley Square) were displaced during the Washington Park Urban Renewal Program and the construction of Southwest Expressway.¹³ The destruction of Nubian Square area left Black residents picking up the pieces of their community. The residents that remained after the Southwest Expressway construction experienced their property values plummet. Residents were left with below average income, struggling businesses, and lack of investment creating blighted homes.¹⁴ Similar to Syracuse residents, who were left to reconstitute along the viaduct, suffer from plummeting property values and concentrated in poverty. Like I-81, the Southwest Expressway physically divided the Roxbury neighborhood by race and class.¹⁵

When it came time for another major infrastructure project,¹⁶ Nubian Square residents feared history would repeat itself.¹⁷ However, the Massachusetts Department of Transportation (“MassDOT”) worked alongside community residents to create priorities to protect the residents of Nubian Square from displacement and ensured the community was not re-victimized by the project.

The MassDOT retained the newly developable land created by the infrastructure project and dispersed it to developers only if they could demonstrate enumerated protections for the Nubian Square residents and businesses. As a part of MassDOT’s [request for proposals](#), developers were required to incorporate community participation, create a local advisory



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¹⁰ I-81 Project, Department of Transportation, Governor Hochul Quote, Groundbreaking <https://webapps.dot.ny.gov/i-81-viaduct-project>

¹¹ Best Neighborhood, Race, Diversity, and Ethnicity in Nubian Square, Boston, MA [last accessed Aug. 11, 2023] <https://bestneighborhood.org/race-in-nubian-square-boston-ma/>

¹² *Id.*

¹³ Adam Paul Susaneck, Segregation by Design - Boston: Dudley Street Baptist Church [2022], <https://www.segregationbydesign.com/boston/dudley-street-baptist-church>

¹⁴ The American City Coalition, Nubian Market Analysis, [2020] https://tamcc.org/wp-content/uploads/2021/02/Nubian-Square-Market-Analysis_FullReport_WEB.pdf

¹⁵ The American City Coalition, Nubian Market Analysis, [2020] https://tamcc.org/wp-content/uploads/2021/02/Nubian-Square-Market-Analysis_FullReport_WEB.pdf

¹⁶ Virginia Greiman, The Big Dig: Learning from a Mega Project, ASK Magazine [Jul. 15, 2010] <https://appel.nasa.gov/2010/07/15/the-big-dig-learning-from-a-mega-project/>

¹⁷ Amelia Mason, In Boston, a tale of two arts districts WBUR, [June 22, 2022] <https://www.wbur.org/news/2022/06/22/sowa-art-nubian-square-development>

committee made up of community members, provided detailed breakdown of affordability levels including minimum expectations for affordability.¹⁸ In addition, MassDOT also ensured residents and the local struggling business reaped benefits from the major infrastructure project.¹⁹ MassDOT required that all commercial uses promote local business and job training and creation, with special emphasis on providing maximum opportunities for local, small, and disadvantaged businesses.²⁰ Further, developers were required to invest in the people and places surrounding Nubian Square by providing enhanced assistance for Nubian Square area homebuyers.²¹

Despite skepticism based on the racist historical perception that Black communities, like Nubian Square, aren't marketable²² the request for proposal by MassDOT was a competitive process. In response to the request for proposal, several developers placed bids to eagerly met the needs of the project. The developer chosen aligned with the community vision laid out in the planning initiative and conducted extensive community engagement.²³ Ultimately, the developer received community input from more than 50 public workshops, community gatherings and meetings.²⁴ While still in the development process, the proposal is slated to include 217 residential units, of which 150 are income-restricted and will be comprised of large two-, three- and four-bedroom units, along with 31,000 square feet of community space.²⁵

NYSDOT should follow MassDOT's lead in redressing the [racist] harms from past infrastructure projects by developing robust protections against the displacements of Black Syracuse residents living near the I-81 viaduct.



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Recommendations

We request that NYSDOT create a comprehensive plan to ensure that the return of the land be distributed in an equitable way. The distribution must ensure that residents are not only protected from displacement by future land use but will reap the benefits from the project. In so doing, NYSDOT should incorporate the following principles:

Development Without Displacement:

1. Any distribution of the land must include a careful analysis of the parcels in the footprint adjacent to the raised viaduct, in collaboration with neighborhood residents and key stakeholders.

¹⁸ Invitation to Bid, MASSDOT PARCEL 25 1.4 Acre TOD site- Kneeland, Lincoln & Albany Streets, Boston, [MassDOT-Parcel-25-ITB.pdf](#)

¹⁹ Boston Redevelopment Authority, Request for Proposals – Crescent Parcel, 15 [2021] [Crescent Parcel RFP.pdf](#)

²⁰ *Id.* at 18

²¹ *Id.* 18

²² Such concerns are often simply a dog whistle that Black communities lack traditional land value. *See* Andre M. Perry, The devaluation of assets in Black neighborhoods; The case of residential property [2018]

<https://www.brookings.edu/articles/devaluation-of-assets-in-black-neighborhoods/#:~:text=This%20report%20seeks%20to%20understand,%24156%20billion%20in%20cumulative%20losses>

²⁴ *Id.*

²⁵ *Id.*



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2. Any distribution must support and exemplify the residents' goals of affordability, sustainability, resiliency, and isolated economic growth for impacted residents.
3. NYSDOT must require that any development of future housing be consistent with the affordable housing goals identified by the current need for quality affordable housing in the footprint of the viaduct.
4. A minimum of two-thirds of all rental housing units must be income-restricted affordable housing, with one-third targeting low- and moderate-income households and one-third targeting middle-income households.²⁶
5. Where homeownership units are proposed, a minimum of two-thirds of the homeownership units must be targeted to households with a range of incomes, as determined by impacted resident's needs.
6. In addition, because of the proximity to Syracuse Public Housing Authority developers should consider meeting the area medium income in accordance with Housing Urban Development requirements of affordability.
7. Proposals must describe measures they will take to avoid displacement of existing residents of the 15th ward neighborhood. As part of their submission, developers must present a narrative explaining how their proposal supports the community's goal of development without displacement.

Community Benefits:

1. Developers must prioritize the new 15th Ward as an integral part of the new Business Loop and a strategic gateway to communities east and west of the viaduct.
2. NYSDOT must designate the approximately 4.5 acres of land at the intersection of Martin Luther King Blvd and Renwick Ave to a [Community Land Trust](#). The creation of a community land-trust will restore economic stability and equity into a community that suffered severe property losses at the onset of the original build.
3. The future land use plan must support the future of the 15th Ward Community Land Trust by requiring proposals to demonstrate direct support of the land trust through programming, financial support, and direct initiative with missions to promote and maintain the underlying vision of the community impacted by the original build.

Conclusion

We urge NYDOT to use its authority as owners of the land to meet the needs of the residents living in the shadows of the current viaduct. The NYSDOT must advance measures to combat the gentrification and displacement, and to repair the harms to housing, educational and economic opportunities for Black Syracuse residents that resulted from the original construction of the I-81 viaduct.

²⁶ MassDOT determined the following requirements for developers: (1) One-third of units must be low-income units (ranging from less than 30% to 50% of Area Median Income ("AMI")) as defined by the U.S. Department of Housing and Urban Development), with the maximum AMI for these units not to exceed 50% of AMI. (2) A minimum of 10% of the overall units must be homeless set-aside units at 30% or less of AMI. These units should be included in the one-third of overall units that are low income. (3) The middle-income units should also include a range of affordability options with the maximum AMI not to exceed 80% AMI. (4) Up to but not more than one-third of units may be market rate. Additionally, proposals must describe measures they will take to avoid displacement of existing residents of the Roxbury neighborhood.