CHAPTER 7

Policy Recommendations

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In our discussions with the MBPO RFTF stakeholder group, we have collected the below key points as possible policy initiatives to assist religious facilities protect and develop their properties. While the below subjects illustrate some of the action steps that may be taken thus far in our research, this chapter broadly lists topics that will be further discussed, revised and adjusted in the future.

Community-Generated Resource Network

An online platform for community-generated data for religious facilities is much needed. While it is agreed upon that many religious facilities welcome the opportunities of space-sharing and leasing space for additional income, there is a lack of infrastructure to support knowledge sharing about existing properties. This platform could be administered either by a City agency or nonprofit and could assist in connecting property owners to the many artists, small businesses, nonprofits or congregations seeking new spaces, and could list unused or underused space within buildings, the design specifications of these spaces, the available social services that currently exist within the property, and contact information. The community-generated data of spatial needs and existing property assets would be beneficial for both the social and land use needs of congregations.

Resourcing Congregations for Development or Sale

It has become clear that religious communities require additional support in navigating the complex systems and structures that surround property ownership and development so as to protect against fraud and abuse. **The New York Land Opportunity Program (NYLOP)** connected religious facility property owners to legal assistance, nonprofit developers, local Community Boards, City agencies and more to assist in the development of their properties for the purpose of affordable housing. Having access to and sufficient resources for key stakeholders and players involved in land use processes and/or pre-development assistance would be beneficial for faith institutions in connecting with experienced and unbiased professionals. The City should expand upon the successes and adjust based on lessons learned to provide support for professionals to assist faith-based institutions develop their properties when appropriate.

These increased resources should be provided through the NYC Department of Housing Preservation and Development to those organizations and further build out and support the pre-qualified list of Owner's Representatives. This would ensure experts who are able to assist faith-based communities in the extensive pre-development work necessary to build affordable housing are ensured reimbursement of a portion of their expenses should a project not be fully completed.

Furthermore, the Charities Bureau of the Attorney General's Office should be equipped and authorized to provide additional guidance and support to faith-based institutions to ensure they are not taken advantage of during a sale. Too many religious facilities have changed hands under the cloud of fraud, abuse or unfair dealings and result in major financial or structural issues for the nonprofit organization as a result. Empowering the Office of the Attorney General with greater authority in overseeing such transactions would both provide a greater deterrent against bad actors and provide a stronger foundation for the at-risk facilities and communities seeking a fair transaction.

The forms submitted to the Attorney General should be updated to include questions identifying whether or not any parties involved are insiders to the congregation or institution and thereby may have a conflict of interest or relational complication. The forms should also include timelines and narratives describing the dates and circumstances of how the deal was commenced (i.e. a short timeline initiated by the purchaser or patient timeline established through response and selection from a formal RFP). Insider relationships, shortened timelines and deals initiated by the purchaser could all be red flags that initiate a "closer look" level of scrutiny by the Charities Bureau to ensure the deal is free of fraud, abuse or unfair practices.

Access to Capital Funding

Access to public program, discretionary and capital funding is practically impossible for most religious facilities, no matter how much they are utilized for secular and/or public purposes. These processes are arduous and have very specific, changing guidelines, which are often impossible to tackle with a very small number of paid staff—even if the institutions are supporting important public work.

Current interpretations of established law concerning the separation of church and state make funding opportunities difficult to navigate when a "religious facility" is involved. However, recent federal stimulus funding programs have provided support to houses or worship and faith-based communities, so there is recent justification for funding restrictions to be reviewed and updated to current circumstances.

Clarification and guidance as to definitions, sources, uses, restrictions and regulatory oversight post-funding is needed. This could include the opportunity for religious facilities to receive a qualifying designation if their properties fall under historical landmark designation, cultural site designation, or adhere to a particular percentage of public/social use. This designation could require and incorporate a regulatory agreement to ensure long-term compliance.



PUBLIC GOOD

Many religious facilities provide significant secular social programs, resources and space usage and have portions of their facilities that rarely, if ever, are used for religious purposes. Allowing for these facilities that act as significant public and social resources to access capital funding to maintain the facilities used primarily for secular public benefit would aid public officials and agencies to support valuable cultural and publicly accessed spaces for the common good.

Additionally, new climate change mitigation laws requiring the retrofitting of buildings to reduce the City's carbon footprint or be made ADA accessible do not exempt religious institutions. And while it is in fact necessary for all buildings to undertake design conscious and energy efficiency upgrades for the benefit of the environment and broader public, these alterations are very costly—especially for buildings that may be centuries old. It is in the public interest to allow access to public funding for religious communities that otherwise will not be able to fulfill these new building standards.

HISTORICAL LANDMARKS

Religious facilities that have been landmarked or are located in a historic district have external requirements placed upon their facilities beyond their internal control and disconnected from their current use. They are also limited in opportunities to increase revenues through building alterations or development because of the value their buildings are collectively perceived to have for the larger public experience, neighborhood character and historical significance.

However, restrictions on public funds being used for maintenance of these publicly restricted properties create an unfunded mandate that many sites are unable to meet. Restrictions for historically landmarked religious properties should be eased to ensure these publicly significant buildings could access the public resources needed to fulfill their publicly required maintenance and upkeep mandate.

Should a new development occur in a designated historic district, it should be made mandatory that the developer pays into a **historic district fund** that could be accessed by nonprofit organizations that support preservation in the area. For example, while this fund may not be used for religious-affiliated purposes, it may be used by neighborhood religious facilities in historic buildings to fund its upkeep and preservation as well as any development to retrofit buildings to be ADA accessible or environmentally sustainable.

Significant tax credits and financial assistance should be provided for religious facilities in historic districts and non-historic districts to maintain and restore their buildings. This would include historic properties not in historic districts and non-designated historic properties.

CULTURAL SITES

There are many religious facilities throughout the borough and city with significant cultural meaning and history, but may not meet the criteria for or been designated as a historical landmark. Yet it is still important for these sites with deep and rich cultural significance—often located in low-income communities of color less likely to receive such landmark designation—to maintain their properties for the good of the community. Without such support, these future historic landmarks are at risk of falling into such disrepair due to lack of resources. **Establishing a mechanism for these important religious facilities to pursue a "cultural site" designation with approval from local community and elected officials could provide opportunities for early intervention for religious facilities at risk of predatory development and cultural displacement.**

Properties that fall outside these three criteria may need to consider **condo-ization** to separate out areas within an existing structure for strictly secular use. Funding then becomes available for the non-religious portion, as demonstrated in the case study of St. Paul & St. Andrew United Methodist Church (see **Page 22**). Yet even when qualified for the City's capital funding, the installation of an ADA ramp leading into the food pantry in the church's condo-ized basement required years of conversation between representatives from the church and the pantry, the local Council Member and the NYC Office of Management and Budget (OMB) to navigate through a then-uncharted funding process. This example highlights the need for codification and publication of processes by agencies such as the OMB so that condo-ized facilities can apply for and secure public funding.

Codification and publication of processes for condo-ization of facilities should be established should these definitions or guidance not be clarified and made accessible on a much greater scale.

Additionally, new climate change mitigation laws requiring the retrofitting of buildings to reduce the City's carbon footprint, do not exempt religious institutions. And while it is in fact necessary for all buildings to undertake environmentally conscious and energy efficiency upgrades, these alterations are very costly—especially for buildings that may be centuries old. It is in the public interest to allow access to public funding for religious communities that otherwise will not be able to fulfill these new building standards.

Sole Sourcing of City-Owned Property for Development

Should a City sell property or its air rights, it should give a right of first offer or refusal to any faith institution or nonprofit that is next to or adjacent to such property.

Air Rights

Potential receiving sites for air rights transfers by houses of worship and nonprofits should be expanded, however, these transfers must be aligned with mission-consistent development, more specifically for affordable housing. Air rights from religious facilities should be allowed greater flexibility for transfer to an appropriate receiving site within a defined district for the purpose of affordable housing development.