



UNDERSTANDING THE FAITH-BASED AFFORDABLE HOUSING LEGISLATION

GET INFORMED | CONTEXTUALIZE LEGISLATION | DISCUSS LOCAL IMPACT



**CATHLEEN
MCCADDEN-BENJAMIN**
MODERATOR



BEATRICE SIBBLIES



WILLIAM ALLEN



CLAUDETTE BRADY



**SENATOR CORDELL
CLEARE**
NY STATE SENATOR

THE LEGISLATION SAYS RELIGIOUS INSTITUTIONS CAN ONLY DEVELOP PROPERTY THAT IS A “COVERED SITE.”

WHAT IS A “COVERED SITE”?

- MUST BE OWNED BY A RELIGIOUS INSTITUTION (CHURCH, MOSQUE, SYNAGOGUE, ETC.).
- MUST BE LOCATED IN AN URBAN AREA LIKE NYC. AN URBANIZED AREA IS DEFINED BY THE 2020 CENSUS, WHICH CLASSIFIES PLACES WITH 50,000 OR MORE PEOPLE AS “URBANIZED AREAS.”
- CANNOT BE IN A MANUFACTURING OR INDUSTRIAL ZONE.

THIS MEANS THE LAW ONLY APPLIES TO CERTAIN AREAS WITH NY STATE, BUT **DOES APPLY IN MUCH OF NYC.**



UNDERSTANDING THE FAITH-BASED AFFORDABLE HOUSING LEGISLATION

**THE BILL INTRODUCES AN “AS-OF-RIGHT” APPROVAL PROCESS
REQUIRING MUNICIPALITIES TO ALLOW QUALIFYING HOUSING
DEVELOPMENT WITHOUT DISCRETIONARY REVIEW.**

WHAT DOES “AS-OF-RIGHT” APPROVAL CONSIST OF?

IF A PROJECT MEETS THE RULES IN THE LEGISLATION, THE CITY MUST APPROVE IT.

- **THE DEVELOPMENT PROJECT WILL BYPASSED CERTAIN ZONING RESTRICTIONS AND PROCESSES.**
- **PERMITS MUST BE APPROVED AND ISSUED TO THE DEVELOPMENT PROJECT WITHIN 60 DAYS.**

THIS IS DESIGNED TO SPEED UP THE BUILDING PROCESS

THE LAW SETS REQUIREMENTS FOR HOW MUCH OF A NEW BUILDING MUST BE DESIGNATED HOUSING VERSUS OTHER USES:

WHAT IS THE BREAKDOWN?

- **AT LEAST 65% OF THE TOTAL BUILDING MUST BE RESIDENTIAL USE .**
 - THE BUILDING MUST BE MIXED-INCOME OR 100% AFFORDABLE HOUSING , WHICH CAN BE EITHER RENTAL OR COOP UNITS .
 -
- **UP TO 35% OF THE SPACE CAN BE USED FOR OTHER PURPOSES CONNECTED TO THE INSTITUTION**

SOME RESIDENTIAL UNITS MUST BE AFFORDABLE TO HOUSEHOLDS BASED ON HUD DEFINED METROPOLITAN AREA MEDIAN INCOME (AMI)

WHO QUALIFIES FOR THE HOUSING?

- INSIDE NEW YORK CITY, THE BUILDING MUST CONFORM TO THE CITY'S MANDATORY INCLUSIONARY HOUSING (MIH) AFFORDABILITY STANDARDS:
- **OPTION 1: 25% OF UNITS ARE SET ASIDE FOR HOUSEHOLDS EARNING 60% AMI, WITH 5% SET ASIDE FOR 40% AMI**
- **OPTION 2: 30% OF UNITS SET ASIDE FOR 80% AMI**
- **OPTION 3: 20% OF UNITS SET ASIDE FOR 40% AMI**
- **FOR A FAMILY OF 4 IN NYC, THAT'S ABOUT \$64,800 – \$129,600 PER YEAR (2025 LEVELS).**

THE BILL LIMITS HOW MUCH LOCAL GOVERNMENTS CAN RESTRICT FAITH-BASED HOUSING DEVELOPMENT RULES

WHAT LOCAL GOVERNMENTS CAN AND CANNOT DO

- LOCALITIES CAN REGULATE :
 - CONSTRUCTION OF SIDEWALKS , REAR YARDS , SIDE YARDS , CURB CUTS FOR PARKING/LOADING
- LOCALITIES CANNOT REQUIRE :
 - OFF-STREET PARKING
 - MINIMUM , MAXIMUM , OR AVERAGE APARTMENT SIZES
 - **PRIORITIZING UNITS BY NEIGHBORHOOD , AGE , OR INCOME GROUP BEYOND THE BILL 'S RULES**
 - MINIMUM PURCHASE PRICES FOR CO-OPS
 - EXTRA BUILDING/FIRE CODES [BEYOND STATE STANDARDS]
 - **ADDED MUNICIPAL SERVICE OR UTILITY REQUIREMENTS**
 - STRICTER DENSITY OR AFFORDABILITY RULES THAN THE BILL SETS



UNDERSTANDING THE FAITH-BASED AFFORDABLE HOUSING LEGISLATION

THE LAW DOES NOT OVERRIDE EXISTING PROTECTIONS. FAITH-BASED HOUSING PROJECTS MUST STILL FOLLOW

WHAT THIS BILL DOES NOT CHANGE

- EXISTING RULES FOR LANDMARKS, INTERIOR LANDMARKS, AND HISTORIC DISTRICTS – INCLUDING RESTRICTIONS ON DEMOLITION, CONSTRUCTION, OR ALTERATIONS
- THE NEW YORK STATE FIRE PREVENTION AND BUILDING CODE
- THE FRESHWATER WETLANDS ACT
- THE PUBLIC HEALTH LAW

IF A SITE IS LANDMARKED OR INSIDE A HISTORIC DISTRICT, THOSE RULES STAY IN PLACE



UNDERSTANDING THE FAITH-BASED AFFORDABLE HOUSING LEGISLATION

METROPOLITAN AREA MEDIAN INCOME (AMI)

100% AMI FOR A 3-PERSON HOUSEHOLD = \$145,800

40% **\$58,320** NEW YORK CITY GOVERNMENT

60% **\$87,480** NEW YORK CITY GOVERNMENT

80% **\$116,640** NEW YORK CITY
GOVERNMENT

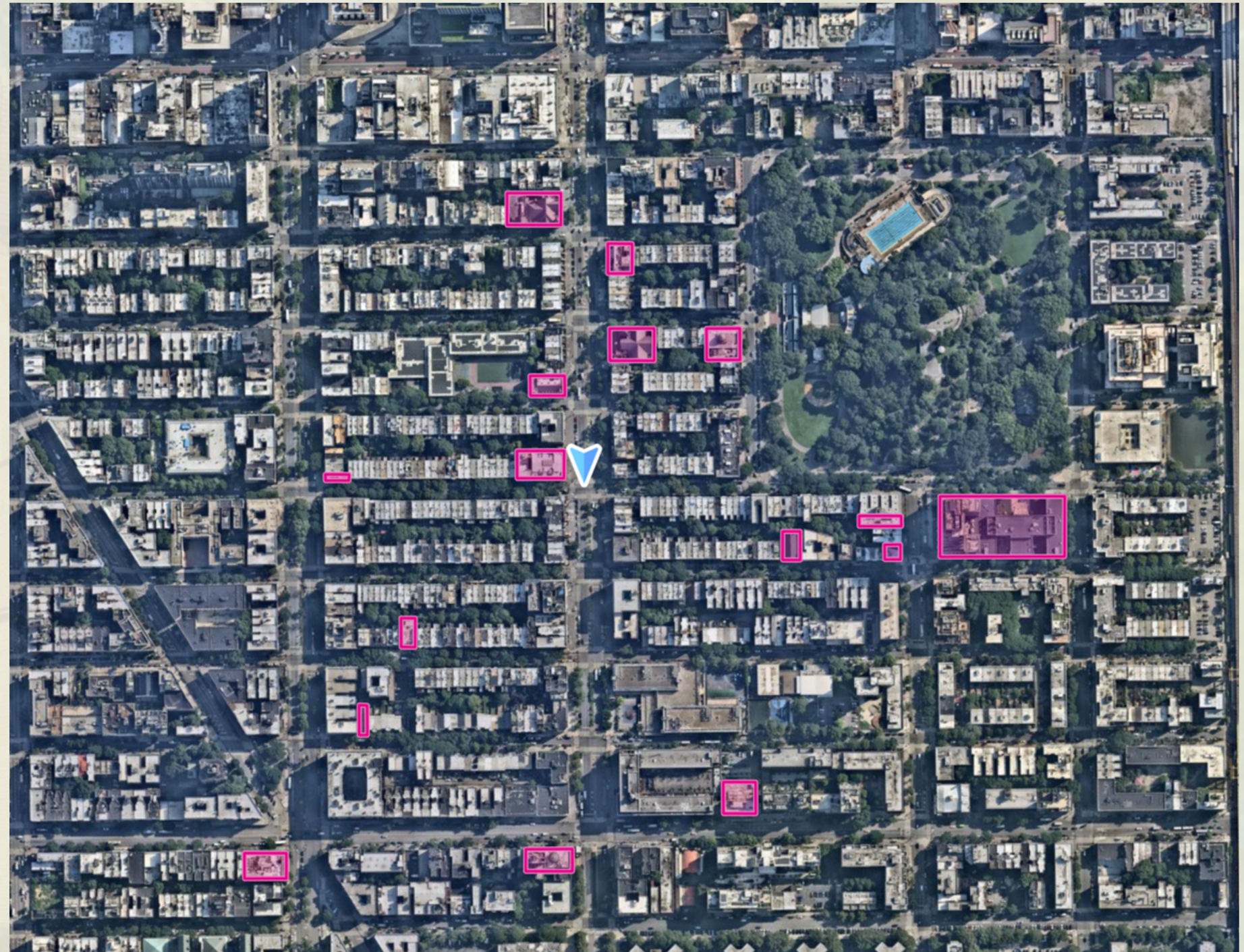
MANHATTAN COMMUNITY BOARD 10 MEDIAN HOUSEHOLD INCOME (MHI)

THE MEDIAN HOUSEHOLD INCOME IN
CENTRAL HARLEM IS APPROXIMATELY
\$50,830



UNDERSTANDING THE FAITH-BASED AFFORDABLE HOUSING LEGISLATION

RELIGIOUS BASED INSTITUTIONS IN & AROUND THE MOUNT MORRIS PARK HISTORIC DISTRICT





UNDERSTANDING THE FAITH-BASED AFFORDABLE HOUSING LEGISLATION

HELPFUL RESOURCE

LEGISLATIVE LANGUAGE

[HTTPS://WWW.NYSENATE.GOV/LEGISLATION/BILLS/2025/S3397/AMENDMENT/A](https://www.nysenate.gov/legislation/bills/2025/S3397/AMENDMENT/A)

CENTER FOR URBAN PEDAGOGY - WHAT IS ZONING BOOKLET

[HTTPS://WELCOMETOCUP.ORG/ASSETS/IMAGES/WHAT_IS_ZONING_GUIDE_ENGLISH.PDF](https://welcometocup.org/assets/images/what_is_zoning_guide_english.pdf)

NEW YORK STATE COUNCIL OF CHURCHES

[HTTPS://WWW.NYSCOC.ORG](https://www.nyscoc.org)

NEW YORK LAND OPPORTUNITY PROGRAM

[HTTPS://WWW.LISC.ORG/NY/WHAT-WE-DO/HOUSING-PROGRAMS/NEW-YORK-LAND-OPPORTUNITY-PROGRAM/](https://www.lisc.org/ny/what-we-do/housing-programs/new-york-land-opportunity-program/)

ENTERPRISE FAITH-BASED DEVELOPMENT INITIATIVESM

[HTTPS://WWW.ENTERPRISECOMMUNITY.ORG/IMPACT-AREAS/PRESERVATION-AND-PRODUCTION/FAITH-BASED-DEVELOPMENT](https://www.enterprisecommunity.org/impact-areas/preservation-and-production/faith-based-development)

S.3397-A vs. Current NYC Framework

Topic	Comparison (S.3397-A vs NYC Law/Process)
Where it applies	• S.3397-A: Religious-corporation-owned sites in urban areas (excl. industrial zones). • NYC: All sites governed by Zoning Resolution; no religious carve-out.
Entitlement path	• S.3397-A: As-of-right, ministerial. No site plan review. Article 78 + attorneys' fees. • NYC: As-of-right if zoning compliant; otherwise ULURP + CEQR.
Density / Bulk (non-NYC)	• S.3397-A: ≤10 ft above local max & 30 du/acre; with subsidy, ≤20 ft & 50 du/acre. • NYC: Local zoning sets density; no state override.
Density / Bulk (NYC ≥1M)	• S.3397-A: FAR 2.2; with subsidy FAR 3.0. Within 800 ft of higher-density district, may adopt that FAR/height. +10–20 ft height. • NYC: FAR and bulk per mapped district; changes require rezoning/special permit.
Parking & unit-size rules	• S.3397-A: No parking required. No unit size minimums or caps. No age/residency priorities. • NYC: Parking, unit mix, MIH rules set by ZR/HPD.
Fees	• S.3397-A: Fees capped at \$0.25/sf. No impact/recreation fees. • NYC: Fees not capped.
Environmental review	• S.3397-A: No SEQRA EIS if Phase I ESA + testing complete. • NYC: CEQR required for discretionary actions; as-of-right avoids CEQR.
Affordable housing set-aside	• S.3397-A: In NYC: Options (i) 25% @ 60% AMI + 5% @ 40% AMI, (ii) 30% @ 80% AMI, (iii) 20% @ 40% AMI. • NYC: MIH triggered by rezoning.
What localities can still regulate	• S.3397-A: Sidewalks/trees; ≤20 ft rear yards, ≤10 ft side yards; curb cuts. Must be reasonable and equal. • NYC: Broader zoning controls (setbacks, yards, design).
Other carve-outs / limits	• S.3397-A: Historic landmarks, state codes remain. Religious orgs must complete training. • NYC: Landmarks/codes apply. No training requirement.
Enforcement & administration	• S.3397-A: Article 78 with attorneys' fees. DHCR/AG/DEC issue rules; technical assistance to municipalities. • NYC: Enforcement by DOB/DCP/HPD. No statewide override.

Legal / Political Risk Notes

Legal Risks

- Home-rule friction: state preemption of zoning; expect municipal litigation.
- SEQRA/CEQR carve-out may face challenge as inadequate oversight.
- Equal-protection / Establishment Clause optics: preference for religious land could be challenged.

Practical / Market Risks

- Landmarks/districts still constrain build-out even under S.3397-A.
- ~~Feasibility concerns:~~ affordability set-asides plus FAR 2.2/3.0 often need subsidy to pencil.
- Article 78 + attorneys’ fees provision is a strong enforcement tool but may escalate city–church tensions.
- Most churches in dense neighborhoods lack additional footprint to add housing without demolishing the sanctuary, making implementation especially challenging on constrained urban parcels.

Impact on Harlem

The most common zoning in Harlem is **R7-2**, which allows an FAR of 3.44 with no height limit. Because the S.3397-A proposal caps density at FAR 2.2 (or 3.0 with subsidy) in New York City, it provides ***no effective density bonus*** for R7-2 sites. As a result, the legislation would have minimal impact on the ability to generate new housing units on Harlem’s typical parcels, compared to existing zoning allowances.