



The Coalition for Fairness in SoHo and NoHo Files Constitutional Challenge in Lawsuit Against New York City

Community residents in favor of affordable housing seek relief from the court in the face of mass displacement, violation of Constitutional rights and demolition of downtown historic districts and landmarks

New York, NY, February 10, 2022 — Today, the **Coalition for Fairness in SoHo and NoHo**, a non-profit organization of SoHo and NoHo residents that supports inclusive and affordable housing policy, announces the filing of a lawsuit in New York State Supreme Court against the City of New York in a constitutional challenge to the recent rezoning of the historic downtown neighborhood that threatens to displace thousands of tenants and homeowners, including those in existing affordable housing.

The suit, brought by attorney **Jack Lester** on behalf of the coalition, seeks annulment of the SoHo-NoHo rezoning, as well as the enjoining of the City of New York from proceeding with the enactment and enforcement of the controversial statute that deprives residents of their State and Federal constitutional rights, displaces members of the community from their homes, destroys contracts and imposes steep fines for previously approved and legal conduct, puts historic New York City Landmark Preservation Commission's designated Historic Districts at risk for large-scale demolition, and violates environmental statutes.

The developer-friendly rezoning threatens to transform a historic community revived by artists into a high-density enclave of luxury high-rise apartments and big box department stores under the false promise of creating affordable housing and racial equity. As described in the petition, the rezoning statute was presented as providing affordable housing and pursuing a desegregation policy. However, it contains gaping loopholes that permit exemptions for developers, clearing a path for the demolition of landmark low-rise structures to make room for high-priced condominiums and retail stores that provide no affordable units for sale or rental. In the previous administration's rush to pass this law, the City failed in its duty to the public to study, and take a "hard look", at the displacement of residents, its environmental impacts and whether the stated goal of providing affordable housing and desegregation is achievable through this statute, in contravention of Uniform Land Use Review Procedure.

The complaint details how the rezoning imposes unconstitutionally retroactive fines and confiscatory fees on long-time residents, including a mandatory \$100 per square foot tax — the equivalent of hundreds of thousands of dollars per apartment — and compulsory conversion costs for construction, architectural fees, filing fees, alterations and other structural requirements that render the rezoning a governmental taking of property without just compensation. These costs are unprecedented and unfair to residents who purchased, rented and have occupied their homes legally for decades. The proceeds of this tax will go to a new arts fund that may be used for spending outside of SoHo and NoHo.

Lester states, "This rezoning is a land grab by big developers disguised as redistribution of wealth. It violates the constitutional rights of the city's longtime residents including the elderly, retirees, artists and working families. The de Blasio administration ignored the clear objections

of the Community Board and short-circuited multiple legal processes to bulldoze the rezoning through City Hall in the 11th hour of an outgoing administration that is no longer accountable for the harm and displacement now faced by New Yorkers living in SoHo, NoHo and Chinatown. If this unconstitutional policy is not vacated, many residents will face the cruel choice of displacement from their homes or bankruptcy.”

Maria Judith Feliciano, a co-petitioner and SoHo resident since 2003, adds, “The Coalition for Fairness in SoHo & NoHo fully supports the creation of new affordable housing in our neighborhood. The problem is that this rezoning plan provides no guarantee that any affordable housing will ever be built, and its loopholes actually incentivize developers to build office and retail buildings rather than affordable housing. We unquestionably support affordable, inclusive housing in our neighborhood and want our teachers, emergency responders, nurses and anyone else who wants to live here to be part of our community. We ask that the City help us to reach this goal while also preventing the displacement of current residents who have been living in our neighborhood legally for decades.”

The rezoning places five New York City Landmarks Preservation Commission-designated historic districts, and the historic character of downtown New York itself, under existential threat of large-scale and widespread demolition — including landmark structures, many of which are listed in the National Historic Register — by financially incentivized developers. This comprehensive rezoning of an entire iconic historic district is nearly unprecedented anywhere in the world.

On January 14, Mayor Eric Adams rightfully [vetoed](#) the furtive penalties legislation associated with the rezoning, demonstrating a deep commitment to listening to the needs of the residents of New York City. While Mayor Adams’s veto provided residents with urgently needed relief, serious issues remain outstanding including unconstitutionally retroactive fines and confiscatory fees still faced by residents at risk of losing their homes.

To request the full text of the lawsuit, visit [here](#).

Highlights of the illegal impacts of the rezoning legislation on current SoHo and NoHo residents, as highlighted in the Article 78 Petition, are:

- The City’s rezoning violates Article 1 § 10 of the United States Constitution, which states: “No state shall . . . pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts . . .”

- The City’s rezoning violates the rights of residents under Article 1 § 7 of the New York State Constitution, that states: “Private property shall not be taken for public use without just compensation.”

- The rezoning destroys contractual arrangements, increases liabilities for previously approved and condoned conduct, imposes new duties for completed transactions, and undermines reasonable investment reliance upon settled expectations resulting from five decades of City policy.

- The costs involved in the City’s rezoning are prohibitive and in all respects unconstitutionally confiscatory. The impacts of conversion include construction costs, architectural costs, filing fees, alteration costs, and other structural, technical and transformational requirements that render the rezoning a virtual governmental taking of

property without just compensation. These costs and an unprecedented and unfair mandatory \$100 per square foot tax, make the rezoning oppressive, burdensome and legally unsustainable.

- The displacement of SoHo and NoHo residents will be prolific. The City's rezoning would displace current residents including widows and widowers of certified artists, elderly persons and working families who relied on established policies confronting them with the impossible choice of bankruptcy or dislocation. This impact upon current residents was ignored by the City's decision-makers.

- The new change in City policy on enforcement would compel residents of non-conforming buildings to endure crushing financial hardships, loss of financing and difficulty obtaining mortgages.

- The rezoning would have a disproportionate impact on residents of Chinatown, Asian Americans and lower income residents who will be forced out of their homes. Their housing stock will be replaced by costlier housing and buildings.

- The developer-friendly rezoning statute was passed in the 11th hour of the previous administration of the City of New York, and was bulldozed through the City Council by outgoing Mayor Bill DeBlasio and outgoing City Council member Margaret Chin. These former officials are no longer accountable for the harm the rezoning inflicts on current residents of SoHo and NoHo.

- A "developers' loophole" in the rezoning allows the transformation of an iconic, unique, historic community of artists into a high-density residential enclave of luxury high-rise apartments and big box department stores under the false premise of creating affordable housing and racial equity.

- The City's rationale of affordable housing is nullified by gaping loopholes in the law which exempt: a) all commercial development; and b) all residential development under 25,000 square feet.

- Over 80% of the rezoning site is within Landmarks Preservation Commission-designated historic districts, which is facing an existential threat by developers who are economically incentivized to rebuild low-rise landmark structures as luxury high-rise residential towers. The historic districts located within the site include the Soho Cast Iron Historic District, the Noho Historic District, the Noho East Historic District and parts of the Sullivan-Thompson Historic District. This comprehensive rezoning throughout the historic district is virtually unprecedented anywhere in the world. There is no existing historic district that has had to confront the threat of such large-scale and widespread demolitions

- The rezoning violates environmental laws.

- The recommendations of local Manhattan Community Board #2 were ignored. The Community Board identified shortcomings of the new law, including failure to protect existing residents, failure to mitigate adverse environmental impacts, the economic hardships imposed upon the residential population in forced mandatory conversions, the destabilization of Chinatown, and the loss of the artist community because of forced building-wide conversion.

- The new zoning mandates that every conversion requires a contribution to an artist fund, equal to \$100 per square foot or hundreds of thousands of dollars per apartment. The

Final Environmental Impact Statement (FEIS) justified the artist fund as a way to support the arts and to assist the Joint Live Work Quarters for Artists (JLWQA) program in Soho and Noho. However, the final legislation removed this stipulation, and now the zoning contains no such designation for use of the funds to benefit the Soho and Noho neighborhood or the residents who live there and are mandated to pay these contributions. The rezoning currently allows the fund to be utilized anywhere in the City below 14th Street, contrary to basic principles of fairness and the analysis provided in the FEIS.

— Whether or not the rezoning will actually achieve the City's stated goal of providing affordable housing has been left unexamined. This is contrary to the basic and fundamental principles of Uniform Land Use Review Procedure.

For more information and updates, visit the Coalition For Fairness in SoHo & NoHo at: SoHoNoHo.org

About the Coalition for Fairness in Soho And Noho

The Coalition for Fairness in Soho and Noho is a non-profit organization comprised of volunteer residents from the SoHo and Noho neighborhoods who have come together to protect their community and homes. The Coalition for Fairness in SoHo and Noho was formed to help protect the rights of SoHo & NoHo working families and individuals, retirees and artists (conforming or not) to keep their homes without unprecedented fines and forced conversions.