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NEW YORK UNIVERSITY
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MOELIS INSTITUTE FOR AFFORDABLE HOUSING POLICY BRIEF

What Can We Learn about the Low-Income Housing Tax Credit Program by Looking at the Tenants?

I. Introduction

While less well known to the average American than other federal affordable housing programs such as public housing, the Low-Income Housing Tax Credit Program (LIHTC) is the largest federal program for the production and preservation of affordable housing. Over the past 25 years it has financed the new construction or rehabilitation of more than 2.2 million affordable units, which represents more than enough units to house the population of Colorado.[1] It also, in 2010, accounted for half of all multifamily housing production.[2] Despite its importance, policymakers know little about the tenants the LIHTC program serves, or about the program's effects on individuals and communities.

II. Background on the Low-Income Housing Tax Credit Program

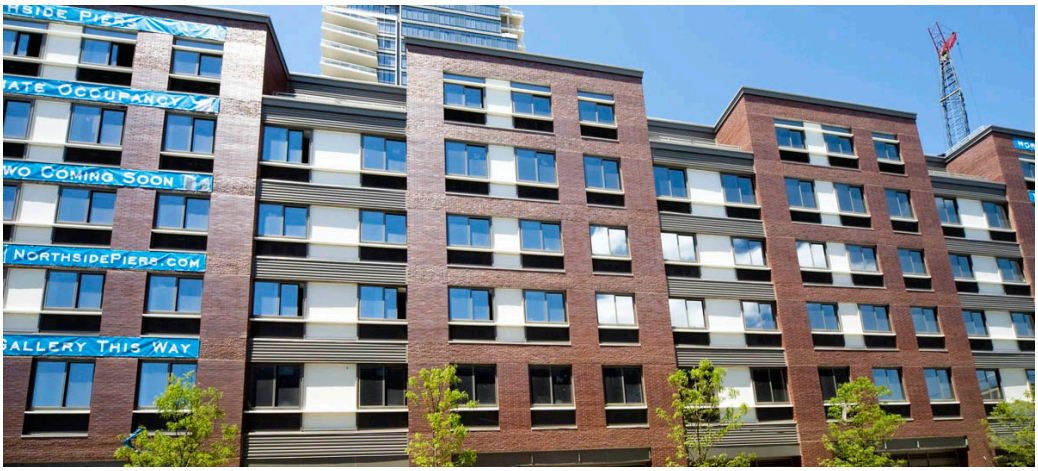
The LIHTC program was created in 1986, following a decade of reassessment and reinvention of federal affordable housing policy. The Internal Revenue Service administers the program at the federal level, but the individual states enjoy considerable discretion in implementing the program and setting policy to try to achieve state and local goals while meeting federal requirements. The IRS allocates tax credits to each state's Housing Finance Agency (HFA), based either on a per capita allocation[3] or a minimum allocation of $2,525,000 for the state.[4]

1 U.S. Department of Housing and Urban Development. (2011, September 22). Low-Income Housing Tax Credits. Retrieved from http://www.huduser.org/portal/datasets/lihtc.html.

2 Enterprise Community (2012, July 20). Low Income Housing Tax Credit. Retrieved from http://www.enterprisecommunity.com/low-income-housing-tax-credits-policy.

3 National Housing Law Project. (n.d.). *Overview of the Low-Income Housing Tax Credit Program (LIHTC).* Retrieved from http://nhlp.org/lihtcoverview.

4 Enterprise Community (2012, July 20). Low Income Housing Tax Credit. Retrieved from http://www.enterprisecommunity.com/low-income-housing-tax-credits-policy.



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The LIHTC program differs from other federal housing programs in some key ways. First, LIHTC income eligibility limits are generally higher. As in other programs administered by the U.S Department of Housing and Urban Development (HUD), LIHTC income limits are based upon the area median income (AMI) that HUD sets for every county and metropolitan area. Households earning at or below 30 percent of AMI are defined as "extremely low-income" (ELI), those earning between 31 and 50 percent of AMI as "very low-income" (VLI), and those earning at or below 80 percent of AMI as "low-income."[5]

HUD Income Limits

Income Limit	*Definition*
Extremely Low-income (ELI)	Income at or below 30 percent of AMI
Very Low-income (VLI)	Income between 31 and 50 percent of AMI
Low-income	Income at or below 80 percent of AMI

Using HUD's AMI for the jurisdiction, LIHTC developers are required to choose between the 20-50 rule, which requires at least 20 percent of the units to be rent restricted and occupied by households with incomes at or below 50 percent of AMI, or the 40-60 rule, which requires at least 40 percent of the units to be rent restricted and occupied by households with incomes at or below 60 percent of AMI.

By contrast, federal law requires that 40 percent of new public housing entrants and 75 percent of section 8 voucher recipients must have incomes at or below 30 percent of AMI.

A second distinguishing feature of the LIHTC program is that rents are not tied to a tenant's income. In HUD-subsidized programs, rents are generally set at 30 percent of the tenant's income (the generally accepted standard for an affordable rent), but in the LIHTC program, maximum chargeable rents are set at 30 percent of either 50 percent or 60 percent of AMI, depending on which income limit was applied to that unit at the time the credits were awarded to the development. See "How Rent Caps Are Set for the LIHTC Program" on page 4, for an example.

III. The Sixteen States We Studied

Each state allocating agency oversees annual compliance with program requirements, including income and rent restrictions and quality standards for developments. The Housing and Economic Recovery Act (HERA) of 2008 required state housing finance agencies to begin reporting tenant incomes and rents to HUD.[6] Through a partnership with the National Council of State Housing Finance Agencies and its members, the Furman Center

5 Novoco. *Income Limits—Frequently Asked Questions*. Retrieved from http://www.novoco.com/low_income_housing/resource_files/income_limits/2012_faqs.pdf.

6 States have also been required to begin gathering tenant race and ethnicity data, which will first be mandatory in 2011 tenant data.

was able to analyze data on the incomes of tenants in 16 states. In all, the states in our analysis cover more than 12,000 properties, thirty-eight percent of the total LIHTC housing stock.[7] Our examination of the data suggests that these properties are fairly representative of the LIHTC universe in terms of the size of developments, geographic distribution, owner type, and location (e.g. in a city, suburb, or rural area.) Thus, our results should be generalizable to the LIHTC program as a whole (see Table 1).[8]

Table 1: LIHTC Sample Description

	All LIHTC units	*16 State Sample*
Total Developments	33,777	12,228
Total Units	2,027,838	762,695
Average Development Size	60	62
Region		
Northeast	13.5%	9.6%
Midwest	22.7%	21.8%
South	39.8%	48.2%
West	23.9%	20.4%
Geographic Distribution		
Central City	50.8%	45.3%
Suburb	34.5%	41.8%
Rural	14.7%	13.0%
Developer Type		
For-Profit	80.0%	75.1%
Non-Profit	20.0%	24.9%

Source: HUD data

7 O'Regan, K. & Horn, K. (2012). *What Can We Learn about the Low Income Housing Tax Credit Program by Looking at the Tenants?* Retrieved from http://furmancenter.org/files/publications/LIHTC_paper_July_2012_1_1.pdf.

8 Few studies to date have analyzed LIHTC tenant income data and those that did looked at a limited set of properties. The U.S. General Accounting Office (GAO) conducted a study in 1997 examining the tenant characteristics for 423 LIHTC properties. Abt Associates conducted a study in 2000 looking at 39 LIHTC properties. Williamson, Smith and Strambi-Kramer (2009) and Williamson (2011) conducted more recent studies of tenant incomes in LIHTC properties in Florida. See U.S. General Accounting Office. (1997). *Tax Credits Opportunities to Improve Oversight of the Low-Income Housing Program*. Retrieved from http://www.gao.gov/archive/1997/g597149t.pdf. Williamson, Anne, Marc Smith and Marta Strambi-Kramer. (2009). "Housing Choice Vouchers, the Low-Income Housing Tax Credit and the Federal Poverty Deconcentration Goal," *Urban Affairs Review*, 45(1), 119-132. Williamson, Anne R. (2011). "Can They Afford Rent? Resident Cost Burden in Low Income Housing Tax Credit Developments," *Urban Affairs Review*, 20(1), 1-25.

Key Findings

- More than forty percent of LIHTC units house extremely low-income (ELI) households.
- Rental assistance in addition to the LIHTC subsidy plays a large role in serving low-income households. More than 70 percent of extremely low-income households are in units receiving some form of additional rental assistance.
- LIHTC tenants experience lower rent burdens than other households of similar incomes, but higher rent burdens than other HUD tenants. Rent burdens, which vary by income and rental assistance, are highest for LIHTC tenants earning between 30-40 percent of AMI.

IV. A Closer Look at LIHTC Tenants

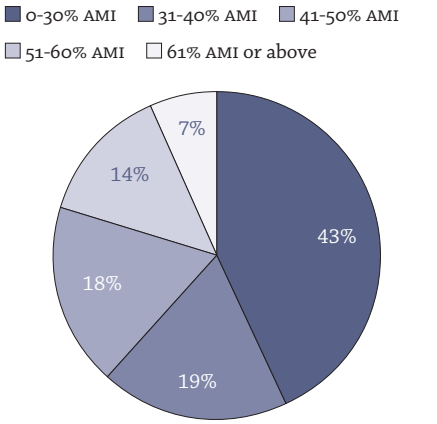
What are the incomes of the households served by the LIHTC Program?

The dearth of affordable housing for extremely- and very- low-income households has been well-documented in recent decades. HUD's most recent *Worst Case Housing Needs* report shows that between 2007 and 2009, the number of extremely low-income renters (below 30 percent of AMI) who paid more than half their income to rent, live in severely inadequate housing, or both, increased from 4.33 million to 5.07 million.[9] Competition for affordable housing remains fierce as higher income households often occupy units affordable to lower income renters. This means that, nationwide, only 32 units of adequate, affordable rental housing are available for every 100 extremely low-income renters.

Given the significant need for housing affordable to extremely low-income households and the lack of information about the tenants living in LIHTC developments, advocates and policymakers have rightly asked whether the

9 *U.S. Department of Housing and Urban Development*. (2011, February). *Worst Case Housing Needs 2009: Report to Congress*. Retrieved from http://www.huduser.org/Publications/pdf/worstcase_HsgNeeds09.pdf.

Figure 1: Household income for LIHTC households



LIHTC program actually reduces worst case housing needs. As seen in Figure 1, our analysis finds that a significant portion of LIHTC units, or just over 40 percent, serve extremely low-income households. While this share is less than the roughly 75 percent of units in HUD's public housing and Housing Choice Voucher programs that serve extremely low-income households, it amounts to a much larger number of units for extremely low-income households than the 20/50 or 40/60 rules require.[10]

Because the percentage of LIHTC units occupied by extremely low-income households was higher than required, we delved deeper into the data and sorted tenants into more fine-grained categories of income. The HUD income definition for very low-income households is broad (between 31 and 50 percent of AMI). This category groups households with incomes just below 50 percent of AMI, who we might expect to live in LIHTC housing given the 20/50 and 40/60 rules described previously, with those whose incomes are just above 30 percent of AMI. Our finer categories of income show that 62 percent of tenants have incomes at or below 40 percent of AMI, far below the LIHTC income limits. In other words, almost two-thirds of LIHTC units serve households whose incomes fall well below the maximum permitted income levels.

10 *U.S. Department of Housing and Urban Development. Housing Choice Vouchers Fact Sheet.* (n.d.) Retrieved from http://portal.hud.gov/hudportal/HUD?src=/topics/housing_choice_voucher_program_section_8.

How Rent Caps Are Set for the LIHTC Program

The LIHTC program sets maximum rents for units based on the income level at which the unit (rather than an occupant) qualifies for the program. For example, for a unit allocated tax credits based on being affordable at 50 percent of AMI, its maximum rent is set so that a household with an income equal to 50 percent of AMI would be paying 30 percent of their income in rent. If 50 percent of the AMI for the jurisdiction equals $32,000, therefore, the maximum rent would be set at $9,600.

Because the rent is set for the unit, rather than the household actually living in the unit, a household occupying the unit may have an income lower than 50 percent, and therefore may pay more than 30 percent of its income for housing (or secure rental assistance to help pay the amount in excess of 30 percent). For example, a household with an income of only $19,200 (30 percent of AMI), if paying the maximum rent, would have a rent burden that is 50 percent of their income.

It is worth noting that to qualify for this unit a household would need an income no greater than 50 percent of AMI. For households even quite close to the limit – say, at 48 or 49 percent of AMI, their resulting rent burden would be just above 30 percent.

Reaching extremely low-income households: Rental assistance

Given that the LIHTC program sets income limits at 50 percent and 60 percent of AMI, how is it that this program is serving so many extremely low-income households? In this section, we explore one strategy for making LIHTC housing affordable for extremely low-income households—rental assistance. Rental assistance includes place-based rental subsidies tied to the unit, and tenant-based assistance such as vouchers that are linked to the household.

We find that rental assistance plays a significant role in allowing LIHTC developments to serve extremely low-income households. Nearly 70 percent of extremely low-income households are in units that receive some

Figure 2: Share of LIHTC Households in Different Income Bands Receiving Rental Assistance

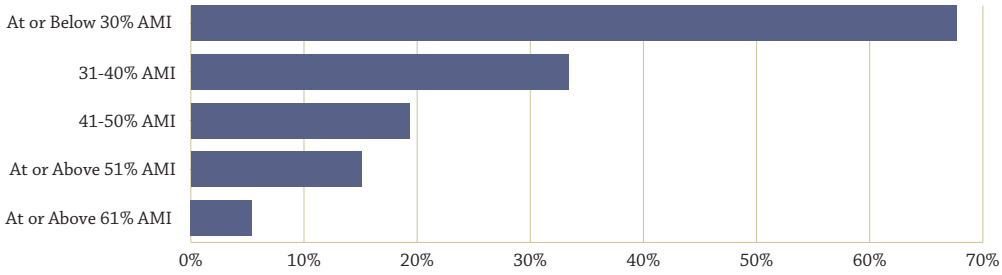
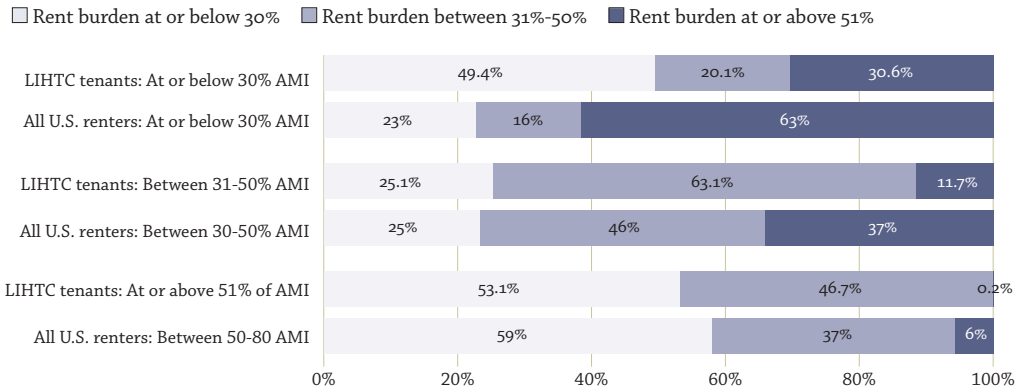


Figure 3: Rent Burden by Income, LIHTC Sample Households Versus All Renter Households Nationally



form of rental assistance (see Figure 2).[11] In contrast only 10 percent of LIHTC residents with incomes above 50 percent of AMI live in units with rental assistance. This suggests that rental assistance is indeed targeted to extremely low-income households, which is worth noting because unlike federal place-based rental assistance or Section 8 vouchers, state rental assistance programs may have different targeting criteria. The share of extremely low-income households served by LIHTC varies by state; and in states with more resources dedicated to rental assistance LIHTC developments typically serve more extremely low-income households.

Tenant rent burdens in LIHTC properties

Overall, extremely low-income households in LIHTC housing (including those with rental assistance) experience rent burden levels that are markedly higher than those tenants in HUD programs experience.[12] In Figure 3 though we see that the rent burdens extremely low-income tenants in LIHTC housing face nevertheless are substantially lower than what extremely low-income renters generally experience, with 63 percent of all extremely low-income renter households (including subsidized renters) paying more than 51 percent of their income to rent.

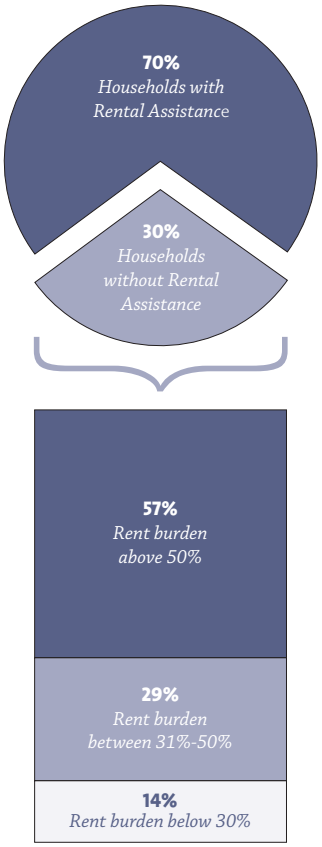
11 The tenant data includes information on whether the landlord receives rental assistance payments for the unit. This includes place-based rental assistance and tenant-based assistance, from any source (federal, state, and local). We are unable to distinguish the type of rental assistance, but know the amount, for the 9 states in our sample with rental assistance data.

12 A 1990 GAO study suggests that in fact, only 15 percent of public housing residents experienced rent burdens greater than 33 percent. U.S. General Accounting Office. (1990). *Assisted Housing: Rent Burdens in Public Housing and Section 8 Housing Programs.* Retrieved from http://www.gao.gov/assets/220/212625.pdf. More recent work by Kirk McClure (2005) suggests that 38 percent of voucher holders faced rent burdens greater than 31 percent, and 18 percent face burdens greater than 40 percent (due in part to particularly low-incomes and requirements of minimum rent payments). *See* McClure, Kirk. (2005). "The Low Income Housing Tax Credit Goes Mainstream and Moves to the Suburbs." *Housing Policy Debate* 11(1):91-114.

Figure 2 showed that serving extremely low-income households generally requires relying on rental assistance. Figure 4 further illustrates that, in the absence of rental assistance, extremely low-income households often pay rents above the 30 percent level that is generally accepted as "affordable." The critical role rental assistance plays in minimizing rent burdens is evident in Figure 4. Among the 30 percent of extremely low-income households who do not have rental assistance, more than half pay over 50% of their income as rent, which is defined as a "severe" rent burden.

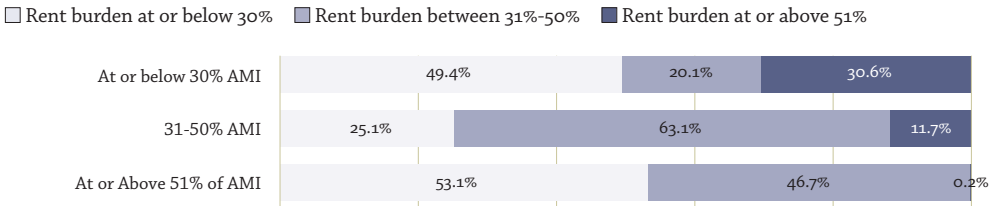
Relative to the extremely low-income households addressed in Figure 4, fewer households with incomes over 30 percent of AMI receive rental assistance. We see in Figure 5 that this has a pronounced impact on households just above the extremely low-income income threshold. Only 30 percent of these households (those with incomes of 30-40 percent of AMI) receive rental assistance, and many face high rent burdens as a result. We find that three out of four households whose incomes are between 30 and 40 percent AMI face rent burdens above 35 percent. What's more, only 11 percent of these households pay less than 30 percent of their income to rent. For higher income households above 40 percent of AMI, Figure 5 shows that severe rent burdens are rare even without rental assistance, though over half experience moderate rent burden, defined as a rent burden between 30 percent and 50 percent of a household's income.

Figure 4: Extremely Low Income Tenants in LIHTC Properties: Rent Burdens for Households without Rental Assistance



We also see that almost three-fourths of these higher-income households have rent burdens of 35 percent of income or less, while 47 percent experience rent burdens of 30 percent of income or less.

Figure 5: Rent Burdens by Income



V. Where Do We Go from Here: Policy Implications

Our findings demonstrate that the LIHTC program serves a significant number of extremely low-income households, perhaps more so than members of the affordable housing field had anticipated. Both the fact that so many extremely low-income households live in LIHTC housing and the methods HFAs and LIHTC sponsors have used to serve them have implications for LIHTC policy going forward.

First, our findings show that the LIHTC program is an important tool to provide housing to those with the greatest need for affordable housing. On its own though, this tool does not reach a significant number of extremely low-income households without those households experiencing rent burdens. Rental assistance is currently an indispensable part of the equation to serve those households. Shrinking budgets at both the state and federal levels will make it unlikely that additional resources will be available for rental assistance dedicated to LIHTC properties. Additional resources to subsidize rents for extremely low-income households could take alternative forms, however. The U.S. Department of Treasury has recommended changes to the program in its FY2013 Revenue Proposals, for example, that would permit income from higher rent units to subsidize rents of extremely low-income households within LIHTC projects.[13] Policymakers should continue to look for creative ways to provide opportunities for extremely low-income households to live in LIHTC housing without facing excessive rent burdens.

The layering of rental assistance with LIHTC, while necessary to serve extremely low-income households, also presents challenges to policymakers. Layering a rental assistance subsidy on top of LIHTC subsidies may result in additional compliance requirements, and impose additional costs on owners and managers. This suggests that policymakers should examine any administrative obstacles LIHTC owners and developers face in using rental assistance in LIHTC properties and seek to minimize them.

The combination of LIHTC and rental assistance subsidies to serve extremely low-income households means that the costs and benefits of the LIHTC program are harder to isolate. To accurately compare the effectiveness of housing extremely low-income households in different affordable housing programs, it is crucial to understand the ways in which a housing development may draw upon subsidies from multiple programs.

The presence of a significant number of extremely low-income households in LIHTC properties means that these properties should be included in discussions about targeting services to households that receive housing subsidies. At the state, local and national levels policymakers are looking for ways to improve the efficiency of service provision, and cut costs, by providing health care or other services in or near subsidized housing. These discussions should include LIHTC properties in addition to other forms of subsidized housing.

Further, the fact that LIHTC developments serve such large numbers of extremely low-income households suggests that the discretion states have in setting priorities about how to allocate their credits is not undermining federal priorities for serving lowest income tenants. Whether federal priorities are being furthered because many states include serving extremely low-income households as an explicit priority in their Qualified Allocation Plans, or because of other aspects of the LIHTC program, requires additional analysis. But the issue of how the states' role in the implementation of the LIHTC program affects federal interests is a crucial one for housing policy, which often struggles to strike the right balance between federal control and deference to state and local expertise and preferences. Our findings suggest that a model where the federal government sets goals but

13 U.S. Department of Treasury. (February 2012). General Explanations of the Administration's Fiscal Year 2013 Revenue Proposals. Retrieved from http://www.treasury.gov/resource-center/tax-policy/Documents/General-Explanations-FY2013.pdf. Proposal is entitled "Encourage Mixed Income Occupancy by Allowing LIHTC-Supported Projects to Elect a Criterion Employing a Restriction on Average Income."

allows the states discretion in implementing the program can achieve federal interests.

Lastly, our findings suggest that the conventional wisdom about many aspects of the LIHTC program may not hold. Further research is needed to identify the key benefits and costs of the program. Among the most pressing areas of inquiry are:

- Do LIHTC properties provide low-income households with access to neighborhoods of opportunity?
- Does such access to neighborhoods of opportunity differ for particular populations, such as minorities, those with extremely low incomes, and families or the elderly?
- Do LIHTC properties contribute to the deconcentration, or concentration, of poverty or minority groups?
- How does access to LIHTC housing benefit tenants in terms of housing cost burden and residential stability?
- Do the priorities states set forth in their Qualified Allocation Plans (QAPs) affect LIHTC outcomes?
- How can the costs of LIHTC housing, including the average cost of construction per unit of LIHTC developments, be reduced?
- How do the benefits of lower rents compare to the costs of public dollars for this program, and how does this vary by housing markets and tenants served, development characteristics, and specific priorities set forth in state QAPs?
- What is the most efficient and effective way to preserve the affordability and quality of LIHTC developments reaching year 15 and year 30?

We plan to examine each of these questions over the next few years.

Acknowledgements

We would like to thank the National Council of State Housing Finance Agencies and the states that supplied us with data on the incomes of tenants living in LIHTC developments that made this research possible. We would also like to thank the Robert F. Wagner Graduate School of Public Service for its support of this project.

About the Furman Center and Moelis Institute for Affordable Housing Policy

The Furman Center for Real Estate and Urban Policy is a joint center of the New York University School of Law and the Robert F. Wagner Graduate School of Public Service at NYU. Since its founding in 1995, the Furman Center has become a leading academic research center devoted to the public policy aspects of land use, real estate development, and housing. The Furman Center launched the Moelis Institute for Affordable Housing Policy to improve the effectiveness of affordable housing policies and programs by providing housing practitioners and policymakers with information about what is and is not working, and about promising new ideas and innovative practices.

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