AIA New York

March 25, 2024

Hon. Andrea Stewart Cousins
Majority Leader, New York State Senate
172 State Street, Room 330
Albany, NY 12247

Hon. Carl Heastie
Speaker, New York State Assembly
Legislative Office Building 932
Albany, NY 12248

RE: AIA New York Housing and Sustainability FY25 Budget Recommendations

Dear Majority Leader Stewart Cousins and Speaker Heastie,

American Institute of Architects New York (AIANY) writes to express our support for a number of housing and sustainability policies and encourage their inclusion in the Fiscal Year 2025 New York State Budget. Established in 1857, AIA New York represents over 5,000 architects and design professionals committed to positively impacting the physical and social qualities of New York.

The current housing crisis in New York is undeniable and has created a precarious set of circumstances for many households that is unsustainable. High housing costs are compounded by extremely low vacancy rates in NYC leaving New Yorkers in a tenuous situation where tenants have little to no power leaving them with no choice or mobility in the housing market, especially at the lowest levels of rent. The recent NYC Housing and Vacancy Survey found that citywide vacancy rates are the lowest they have been since 1968 at 1.41%, which is down from 4.5% in 2021.

Housing of all types is needed in New York to tackle the current housing emergency and keep working-class families in New York. In recent years, we have seen a sizable out-migration of working-class families earning between $32,000 and $65,000 followed by those earning $104,000 to $172,000 a year; a disproportionate amount of those families leaving the city are Black and Hispanic, according to a recent study by the Fiscal Policy Institute.

AIANY strongly encourages you to consider the following proposals as you negotiate and authorize the final State Budget.

Recommendation 1: Enable and Incentivize Office to Residential Conversion
In addition to the housing crisis, New York is seeing record office vacancy rates as a result of the COVID-19 pandemic. The cost of commercial properties is at rates unseen since 2002, which has created a unique opportunity for office to residential conversion projects where office vacancy rates are higher than normal and residential vacancy rates are significantly lower than demand. Office-to-residential conversions have been identified as a key tool in the toolbox for generating housing of all types and at all levels in a sustainable way.

We urge the state to make the following changes to expand the number of eligible properties, revise regulations and requirements to allow flexibility for the nuances of conversion projects, and enact a tax incentive program to enable the inclusion of affordable units in conversion projects.

- **FAR Cap**
  Since 1961, there has been a cap on floor area ratio in NYC at 12.0, which limits the size of residential buildings to 12 times the size of the lot on which they are built. The challenge with the FAR cap for conversion projects is that the cap only applies to residential buildings and many commercial buildings are greater than 12 FAR, so the cap serves as an impediment to office to residential conversions. We strongly encourage the Legislature to repeal this outdated law, allow the city to determine the needs of neighborhoods, and not water down the proposal by exempting historic districts, which will limit conversion opportunities in buildings that would otherwise be primed for conversion to residential.
- **Tax Incentive for Office to Residential Conversion with Affordable Units**
  Without government incentives or subsidies, conversion projects with affordable units are effectively impossible. Conversion projects are expensive to start with, and adding on affordable units without balancing the cost with government assistance is not feasible. In the current economic climate where interest rates and construction costs are high, a new tax incentive program is essential to producing housing in NYC and creating an opportunity for the inclusion of affordable units to pencil out. We are glad to see the Senate include this proposal with robust affordability requirements and urge the Assembly to follow suit during the budget negotiations.
- **MDL Date Extension from 1961 to 1990 for Conversions**
  A critical item missing from both the Legislatures' and Governor's proposals that is necessary to open up the full scale of opportunities for office to residential conversion projects is amending the date conversions are permitted from 1961 to 1990 in the Multiple Dwelling Law. Currently, this arbitrary date is restricting conversions of a number of commercial sites to residential use. By extending the date to 1990, approximately 120 million square feet of office buildings will be eligible for conversion. In addition, the 1961 date restricts conversion projects with tenants in unit. One of the many challenges with conversion projects is that buildings are often not entirely empty, and it is often too costly to buy or wait out tenants' leases. For buildings built before 1961, this is not an issue, and conversions can begin with tenants in unit and the construction can take place around the tenant; however, for buildings built after 1961, they are prohibited from conversion with a single tenant in place.

Recommendation 2: Create Tax Incentive Program for Affordable Housing Production

- **Extend the Project Completion Deadline for Vested Projects in 421a**
  As a result of the pandemic, construction on many residential buildings slowed leaving many projects in the 421a pipeline at risk of missing the completion deadline and no longer being eligible for the program. Many of the projects currently in the pipeline at various stages of the design and construction process are facing tough decisions about how to move forward with their project and if a change of course needs to be made. To avoid projects stuck in the pipeline from making the decision to switch their project from affordable to market rate or rental to co-op, we urge the Legislature to extend the construction deadline from June 15, 2026 to June 15, 2031.
- **Create a New Tax Abatement Program for Affordable Housing Construction**
  In the wake of the 421a program sunsetting, the challenge to build housing in NYC have been compounded by soaring interest rates and construction costs, resulting in the production of new

affordable housing being unfeasible. Even with existing government subsidies, the current high-cost environment makes it difficult to build rental housing at rents that New Yorkers can afford. Many developers have indicated that they plan to wait until a new program is implemented before moving ahead with housing projects, which leaves New Yorkers in a tenuous position as the affordable housing crisis forges on. We encourage the Legislature to closely consider this proposal during the budget negotiations as it is a key piece of the puzzle for tackling the housing crisis.

Recommendation 3: Legalize and Incentivize ADUs

- **Accessory Dwelling Units**
  Legalizing ADUs adds another valuable tool to the toolbox to generate additional housing and create opportunities to build wealth. For homeowners, ADUs can create supplemental sources of income that can be used to help pay for property taxes and expense. They can also serve as supportive housing to enable seniors to age in place and have live-in caretakers or provide housing at a manageable price for adult children. We are glad to see support from the Senate for tax incentives for ADUs and encourage the Assembly to consider this proposal during the budget negotiations.
- **Basement Apartments**
  We support the proposal to provide amnesty to landlords who convert basement units currently in existence to legal dwelling units, provided they are consistent with the protection of health and safety requirements. Since these units are currently illegal and unregulated, tenants lack basic rights and may be living in unsafe conditions. It is important to create a pathway to regulate these units, bring them up to code, and create safe units that prioritize light and air standards.

Recommendation 4: Eliminate the 100 Foot Rule in the Public Service Law

The “100 foot” rule requires utilities to supply gas to any customer who wants it and demands ratepayers foot the bill to hook them up if those customers live within 100 feet of an existing line. The current law requires gas companies to expand natural gas infrastructure at the request of consumers regardless of the cost of the expansion or if more climate friendly alternatives would be more cost-effective. These rules constrain the Public Service Commission from meeting the CLCPA’s emission reduction requirements and meeting evolving demands of the marketplace. By eliminating the “100 foot” rule in the Public Service Law, it will reduce New York’s reliance on gas, make progress on the transition to more sustainable utilities, and prevent utilities from passing the costs of new gas lines onto existing customers. We applaud the Senate for their support of the NY HEAT Act, which includes the elimination of this rule, and urge the Assembly to support this proposal as well.

Recommendation 5: Incentivize Energy Efficiency Retrofits

- **Whole Building Initiative**
  We encourage the Legislature to incorporate the Whole Building Initiative into the FY25 budget. The initiative will (1) provide proven pathways and documented case studies for different types of multi-family properties to follow so they may achieve comprehensive higher performance retrofits; and (2) match residential contractors of different retrofit trades (heat pump heating-cooling and hot water, weatherization, solar PV, building energy controls, etc.) to expand their services, improve project performance, collaboration, and training. We urge the legislation to allocate \$15 million for the Whole Building Initiative – \$11 million for the Small-Medium Multi-Family Lab and \$4 million for the Connected Trades Program – in order to implement comprehensive energy retrofits to 2,500 homes/housing units, including 1,000 low- and moderate-income homes/housing units, across New York State. Small and mid-

sized multi-family homes (5 to 99 units) are least able to meet the complex technical, financial, and project management obstacles to implement successful energy retrofits projects. There is a sizable number of multi-family building that need to be retrofitted to meet New York's ambitious emission limit goals.

- **GREEN Buildings Act**
  We encourage the Legislature to incorporate the Growing Resilient & Energy Efficiency NY (GREEN) Buildings Act into the FY25 budget. The bill establishes an abatement and exemption from real property taxes for capital improvements to reduce carbon emissions. With Local Law 97 of 2019 coming into effect, buildings are tackling how to make energy efficient retrofits in a financially feasible manner. This proposal adds another too to the toolkit to assist and incentivize buildings to make the necessary retrofits to comply with Local Law 97 rather than paying the fines instead.

AIANY hopes the legislature will consider these proposals as you negotiate and authorize the Fiscal Year 2025 State Budget. We are here as a resource should you have any further questions.

Sincerely,
Jesse Lazar, Assoc. AIA
Executive Director

CC:
Honorable Kathy Hochul, Governor, New York State
Senator Liz Krueger, Chair, Finance Committee
Assembly Member Helene Weinstein, Chair, Ways and Means Committee
Senator Brian Kavanagh, Chair, Housing, Construction, and Community Development Committee
Assembly Member Linda Rosenthal, Chair, Housing Committee
Senator Pete Harckham, Chair, Environmental Conservation Committee
Assembly Member Deborah Glick, Chair, Environmental Conservation Committee