

MEMO OF OPPOSITION

Senate Bill 6760

May 8, 2018

Senate Bill 6760 was introduced in June 2017 as part of the Senate Budget Bills. This is the second time the Legislature has been asked to amend the multiple dwelling law of New York State, which currently caps the floor area ratio (FAR) of all residential buildings in any municipality to a FAR of 12. The amendment would eliminate the applicability of the law to New York City.

The New York Landmarks Conservancy respectfully asks the Senate to vote “no” on the amendment to eliminate the FAR 12 cap in NYC. There are several reasons for our request.

The few public supporters of the amendment say it is the “first step” to producing more affordable housing in New York City. There is no data to support that claim. Instead, the amendment rolls the dice hoping affordable housing in reasonable locations with predictable impact will follow. Despite any good intentions, unforeseen consequences in planning are the norm. Eliminating the cap should be the last step in a phased planning project, initiated and controlled by the City’s Planning Department, with sufficient public and community input.

1. **Good Governance.** The de Blasio Administration sponsored a similar amendment in 2016. There is no individual sponsor listed on S6760. It came from the Committee on Rules. Once again, there was no public explanation by the Administration of why removing the Cap is necessary and no public debate. Few, if any, citizens Community Boards or elected officials are aware of an amendment that would affect neighborhoods throughout the City.
2. **Lack of Planning.** There is no well-considered plan for the elimination of the FAR cap. Not only is such a plan good public policy, but courts have consistently said that such a plan is necessary to support proposed zoning changes. At present, the only study of the no-cap effect belongs to the Regional Plan Association. The City’s own Department of City Planning must produce a plan which identifies explicit physical, commercial, transit, and other land use criteria of areas that could absorb the impact of more FAR. Any elimination of the cap should target those specific areas, not encompass the entire City. Even in these areas which already have 12FAR, only a small bonus of 1 or 2 FAR would be sufficient to incentivize construction.

3. **Current and future historic districts must be excluded from a new no-cap.** Residents in these areas have a reasonable expectation that their district's density and character are relatively fixed. An economic study we commissioned on the benefits of preservation in the City showed that historic districts are already the densest areas in every borough.
4. **The City recently passed a city-wide upzoning:** Zoning for Quality and Affordability (ZQA) as well as Mandatory Inclusionary Housing (MIH). The full effects of these have not been seen or studied.

In short, there is no reason to pass this amendment at this point and several reasons why passing it would not be good government or good planning.