

BASEMENT APARTMENT CONVERSION PILOT PROGRAM INTERIM REPORT

MAY 2023

The primary purpose of the East New York pilot is to test the impact of reforms to City regulations to achieve the safe legalization of basement and cellar apartments. The focus of this interim report is to describe why properties did or did not advance through the pilot and to outline additional changes that would enable the implementation of an effective legalization program at scale.



KEY TAKEAWAYS

- ▶ The State's Multiple Dwelling Law (MDL) and the City's Zoning Resolution considerably restricted program eligibility and substantially increased the cost of legally renovating basement and cellar apartments.
- ▶ A two-family home becomes subject to the MDL if a basement or cellar apartment is added. This made conversions prohibitively difficult and expensive, precluding two-thirds of prospective conversions.
- ▶ Thirty-six percent of properties were dropped from consideration during pre-screening because they were unable to accommodate required parking. Forty percent were excluded after home assessment because conversion of basement or cellar space would exceed maximum allowable floor area.
- ▶ The primary State and local regulations that prevented homes from advancing through the pilot included: prohibition of cellar occupancy, stricter ceiling height requirements than exist in other codes, requirements for sprinkler system retrofits throughout the entire house, requirement for additional parking, and limits on floor area and unit density.
- ▶ The regulations that impede legalization have no appreciable benefit to safety. In fact, the cost and limitations imposed by these requirements often stand in the way of undertaking essential safety retrofits like the addition of egress windows.
- ▶ Further State and City regulatory reforms are essential to enable a practical, scalable basement and cellar conversion program. The enactment of legislation authorizing the City to provide relief from the MDL is a necessary step to achieve a successful program.
- ▶ The pilot must be completed to analyze the actual cost of conversion under current regulations, thoroughly identify process barriers, compile strategies for improving safety and habitability, monitor the experiences of tenants, and track the financial implications for homeowners.
- ▶ Homeowners relied on technical and process support from CHLDC to navigate the conversion process. A future legalization program would benefit from funded partnerships with community-based organizations that could guide applicants through eligibility, pre-development, construction, and rental management.

INTRODUCTION

New York’s expensive and highly constrained housing market drives many low-income residents with little housing choice into informal rental apartments that exist outside City oversight. Many of these households rely on basement and cellar apartments for housing that is financially attainable, in proximity to a job or school, or within a desired community. In some cases, the owners of these units do not realize that their subgrade unit is illegal or unsafe. In others, the homeowners would like to legalize their units, but the regulations are too cumbersome, the cost of compliance too great, or the process too uncertain. The existing thicket of overlapping and restrictive regulations reinforces a dynamic in which these units are created and remain in the gray market, jeopardizing the safety and security of both tenants and homeowners.

The East New York Basement Apartment Conversion Pilot Program (BACPP) (“the pilot” or “program”) is an ongoing demonstration project that seeks to test the efficacy of building code reform to legalize basement and cellar apartments and to identify further regulatory barriers. The pilot, which emerged following the adoption of zoning changes under the East New York Neighborhood Plan, was born out of constituent demand and the acknowledgment that many New Yorkers rely on subgrade units for affordable housing or supplemental income.¹

Following a lengthy study by a multi-agency working group, the City established the pilot through a combination of local law and programmatic requirements. Local Law 49 of 2019 set the geographic boundaries for the pilot program and amended several requirements of City’s Building and Administrative codes.² Under the law, one-, two-, and three-unit homes located in Brooklyn’s Community District 5 (CD5) could convert their basement or cellar space into an apartment. The newly created units would be subject to modified code requirements intended to capture a greater pool of potential participants, provide financial relief, and ensure safety (see Table 1).

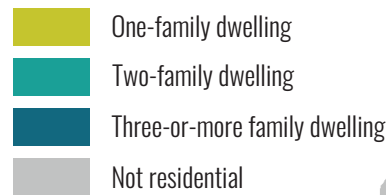
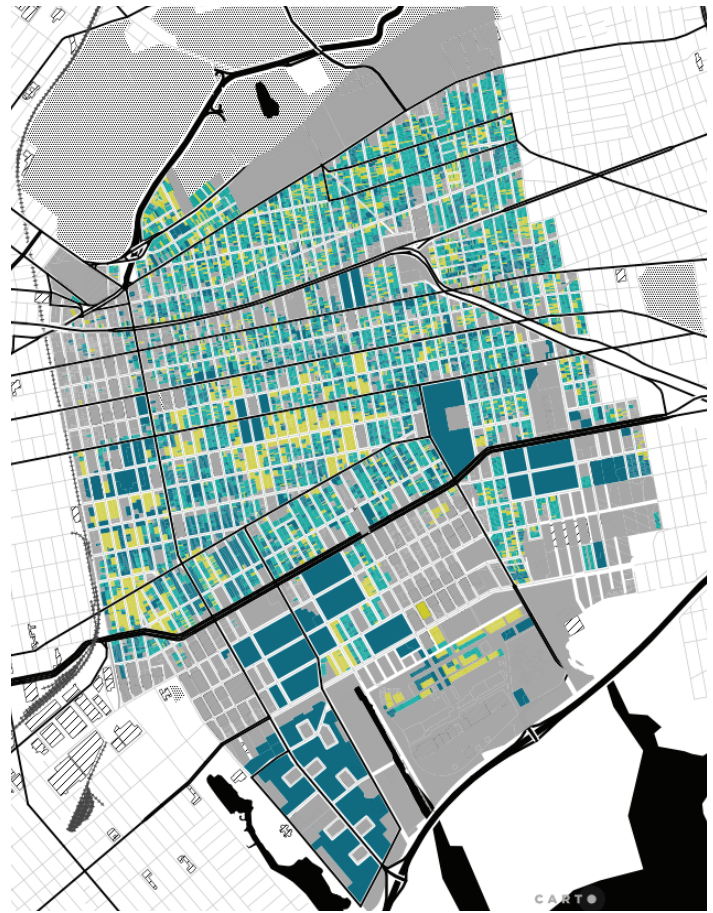


Figure 1: Map of showing the number of residential units per lot across Brooklyn Community District 5 (CD5). Source: PLUTO 20v3

Table 1: Summary of primary code changes associated with Local Law 49 of 2019.

RELIEF FROM EXISTING REQUIREMENTS	ADDITIONAL REQUIREMENTS
Allow cellar apartments	Two egress doors are required for every cellar unit
Minimum window dimensions for natural light removed (minimum area requirement remains)	All subgrade units must be equipped with automatic sprinklers
Minimum ceiling height of 7'-6"	Cellar counts as a story and toward FAR
Minimum ceiling height of 7'-0" for fully detached two-family homes at least 3'-0" from any lot line creating or altering a subgrade unit ^a	Environmental professional must certify the installation of a vapor barrier or interior air quality
A partial or amended Certificate of Occupancy may be issued for work limited to the new or altered apartment	Subgrade unit must be tested for radon and fall under 2 picocuries per liter of air
Deferral or waiver of DOB penalties	
Waiver of administrative fees	

^a Local Law 126 of 2022 revised the New York City Building Code to permit a clear ceiling height of 7'-0" in basements of all two-family homes.

In addition to regulatory relief, the pilot makes funding available to low- and middle-income homeowners who occupy a property undergoing a basement or cellar conversion. Households with a maximum income of 165% of AMI could be eligible for a no-interest, forgivable, or low-interest loan of up to \$120,000 to help finance the conversion.³ Homeowners who avail themselves of a program loan must enter into a regulatory agreement with the City for a term of 15 years or until satisfaction of the loan, whichever is first. As a condition of funding, the regulatory agreement would require existing basement or cellar occupants to be temporarily relocated and given the option to return to the unit at the last rent charged prior to the conversion. For previously unoccupied subgrade spaces receiving funding, the new unit must be rented at or below 80% of AMI. In addition, rent may not be increased by more than 2% annually and the tenant must be offered the option to renew. Participating homeowners are provided with technical assistance to help them understand and secure financing, navigate the construction process through completion, and settle the first occupant.

Since its launch, the East New York Basement Apartment Conversion Pilot Program has substantially contributed to an understanding of the challenges facing homeowners and tenants throughout the legalization process. This report will provide an update on the progress of the pilot, challenges, and work that remains.

BACPP PROGRESS

Since being enacted in 2019, the pilot has progressed from neighborhood outreach to construction. The bulk of the work completed before the onset of the novel coronavirus (COVID-19) pandemic in March 2020 related to screening and identification of prospective participants. The data collected during the pre-COVID phase of the pilot is fundamental to assessing the viability of a citywide program and what, if any, modifications would maximize impact going forward.

Homeowner Outreach

The day after the pilot was signed into law, the City’s Public Engagement Unit (PEU) began a campaign to educate prospective homeowners about the program. PEU’s initial phase of outreach targeted nearly 8,000 potential conversion sites that had been identified by the Department of City Planning (DCP) based on public databases. Of the 16,000 one-to-three family residential properties located within Brooklyn

Community District 5 (CD5), DCP narrowed the universe of potential pilot participants based on criteria including whether a property is zoned to accommodate an additional dwelling unit, whether it is close to its maximum allowable floor area, and whether the lot is in an area projected to be at risk of future coastal flooding.⁴

Prospective homeowners were contacted by mail, phone, and door-to-door canvassing. For the 2,110 homes that were canvassed by an outreach worker, homeowners reported considerable interest in the program with just over 40 percent responding that they were “interested” or “very interested.” (See Figure 3) Thirty-two percent of homeowners stated that they had “no interest” in participating in the pilot. If the homeowner was reachable, expressed interest, and was deemed eligible by the Department of Housing Preservation and Development (HPD), they moved into a second phase of outreach and screening conducted by Cypress Hills Local Development Corporation (CHLDC or “Cypress Hills”).⁵

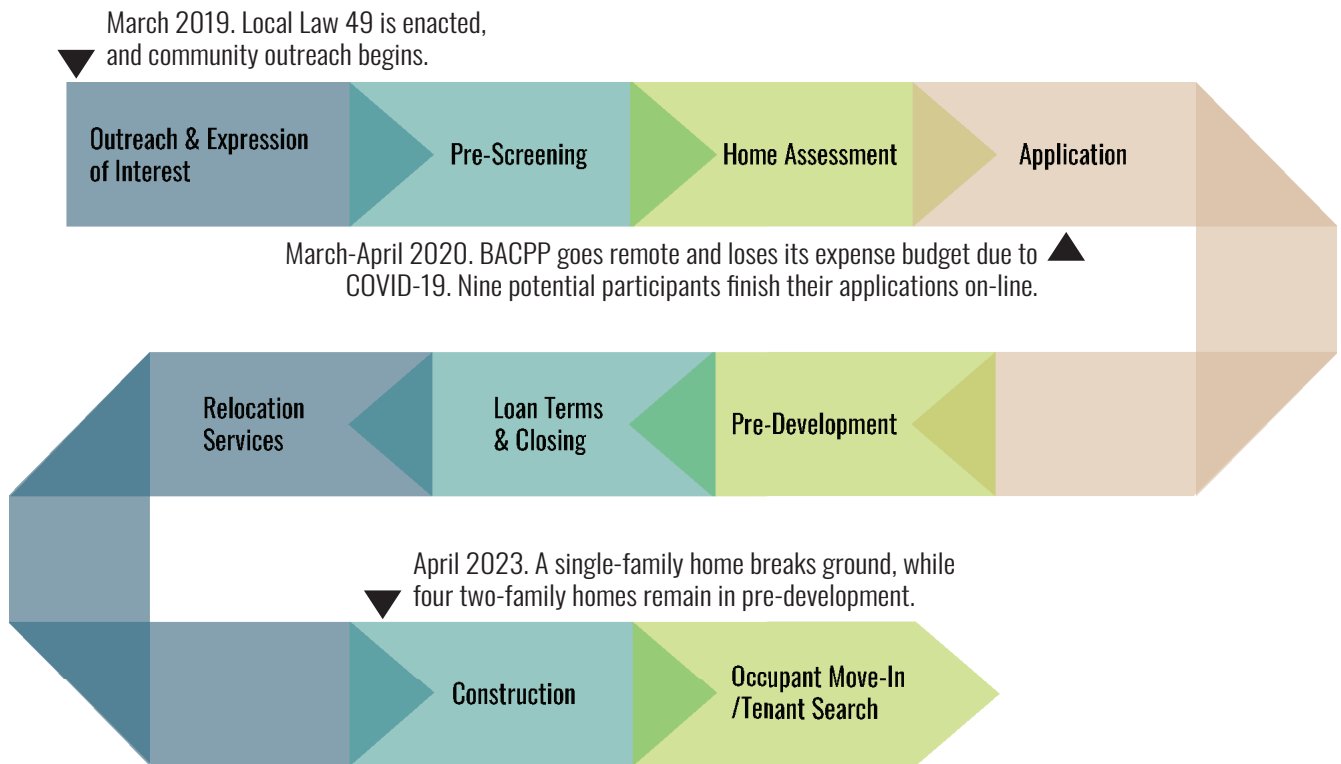
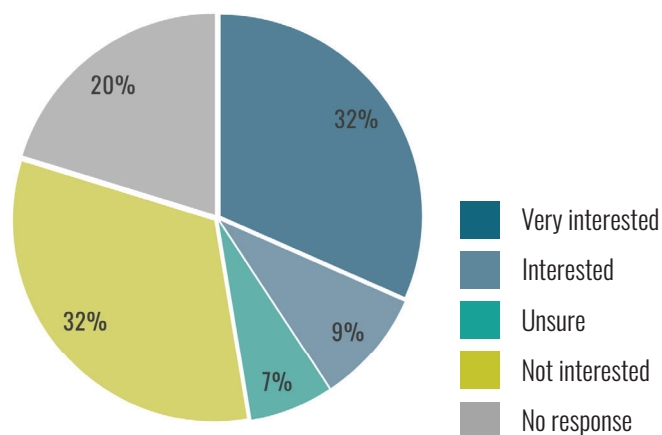


Figure 2: Process for participants based on the BACPP Homeowner Resource Guide

Cypress Hills was selected by HPD to function as the lead non-governmental partner responsible for implementing the pilot program. CHLDC is the primary point of contact for homeowners and is responsible for managing the process from outreach and applicant pre-screening, through pre-development and loan underwriting, to construction and landlord training.⁶ The wide-ranging role requires a combination of technical competency and local credibility. The role of a community-based organization is of heightened importance during the pilot but would also enhance the implementation of an expanded legalization program

Figure 3: Homeowner interest reported during canvassing.



Cypress Hills recanvassed over 850 properties that made it through the initial outreach phase, providing homeowners with more detailed program information and gauging continued interest. Roughly one-third of the homeowners who went through secondary outreach lost interest, most citing concerns over their ability to repay a loan, use of their home as collateral, and the protracted length and uncertain outcome of the conversion process.

Property Evaluation

Homeowners were also eliminated as potential participants if repeated follow-up contact was unsuccessful, if they were unwilling or unable to produce required documents, or if they were found to be ineligible based on program requirements or property conditions.⁷ Cypress Hills’ subcontractor, Restored Homes, conducted physical pre-screening of more than 200 properties approved by HPD.⁸

Pre-screening assessed the viability of a subgrade conversion based on existing conditions visible from the public way. Restored Homes approximated the basement or cellar’s height above the street, documented existing doors and windows that could provide egress to a public way, estimated availability of additional parking, and flagged any observed structural or safety deficiencies.

Properties that failed the pre-screen generally did so for one of two primary reasons: the lack of an existing door(s) from the subgrade unit to a public way (35%), and/or the site appeared unable to accommodate an additional parking space (36%) required by zoning. Many modestly sized residential lots had no way to accommodate extra parking. In effect, the number of parking spaces in existence controlled the number of dwelling units on a property, even when the proposed residential density was otherwise allowed, or when nearby buildings contained more units without any additional parking. Upon reviewing the completed pre-screening package, HPD referred slightly over 100 prospective applicants for Home Assessment before the pilot was halted due to COVID-19.

The Home Assessment provided a more detailed review of household finances and the physical condition of the basement or cellar. Housing counselors from Cypress Hills met with prospective applicants to guide them through a financial questionnaire. The questionnaire helped HPD determine whether homeowners could qualify for a private loan or whether alternative funding would be required to cover construction costs that may exceed HPD’s loan maximum of \$120,000 per home.⁹ Homeowners also allowed KOW Building

TYPE	TOTAL	BASEMENT	CELLAR
One-family	34	7	27
Two-family	59	24	35
Three-family	9	1	8
Total	102	32	70

Table 2: Summary of property types that went through home assessment.

Consultants, working in partnership with Restored Homes, to conduct physical assessments of the interior of their homes. The construction consultants measured and documented features like egress, windows, ceiling height, construction type, existing fire protection, and room and site dimensions. Photos, schematic drawings, and field measurements allowed the team to estimate the scope of work and cost of converting the basement or cellar to an apartment.

The physical assessments revealed that many homeowners use their basements and cellars as habitable space regardless of whether they were occupied by tenants as a separate unit. Two-thirds of subgrade spaces included a bedroom, more than half were equipped with a kitchen or kitchenette, and three-quarters had a bathroom. Just 16 percent weren't partitioned. The majority of 102 homes that went through assessment were two-family homes and 69 percent had cellars. Collectively, these observations indicate a range of configurations and uses that do not comply with applicable City and State regulations.

As is common among small, private homes, few of the subgrade spaces were equipped with fire safety measures. Only two percent of the properties had active fire-suppression systems, and 31 percent had at least one door exiting directly from the basement or cellar. Houses that undertake a conversion would

be obligated to add sprinklers to the basement or cellar unit and ensure code-compliant egress doors and windows, substantially improving fire safety.

The proposed units were an average of 700 square feet (sf). Under the City's Zoning Resolution, cellars are not counted toward floor area unless used for dwelling purposes.¹⁰ When converting a cellar to habitable space, the area gets added to the property's floor area ratio (FAR) calculation. This would push over 35 percent of the assessed properties above their allowable FAR, which is impermissible even though there would be no changes to the size of the existing building.¹¹ Notably, even though neither FAR limitations nor off-street parking requirements are related to safety or habitability, these and other zoning requirements thwarted the establishment of safe, legal subgrade units.¹²

While the BACPP legislation did not incorporate zoning relief (as noted above, zoning changes cannot be made through the ordinary legislative process), certain relief was tested for the Building and Housing Maintenance codes, most notably allowing cellars to contain a dwelling unit and reducing ceiling height requirements. The pilot allows the subgrade story in a two-family home to meet a 7'-6" general ceiling height requirement rather than 8'-0". This amended requirement is still more onerous than the 7'-0" minimum ceiling height

Table 3: Impact of ceiling height relief on properties that underwent home assessment.^b

Type	Qualified before pilot relief	Qualify with current pilot relief		Qualify with additional relief	Would not qualify
Basements	≥ 8'-0"	≥ 7'-6"	≥ 7'-0" ^c	≥ 7'-0"	< 7'-0"
	5	4	0	12	11
Cellars	Categorically excluded	≥ 7'-6"	≥ 7'-0" ^c	≥ 7'-0"	< 7'-0"
	0	8	0	21	41
Total	5	12		33	52

NOTES

- ^b The heights listed refer to floor-to-ceiling height excluding projections like beams, HVAC, and soffits. If a projection exists, the type, number, percent of the floor area affected, and whether the projections can be circumvented or removed is unknown. The number of dwelling units in an applicant home was not factored into the analysis of ceiling height relief. To "qualify" in this analysis, the subgrade space must meet the minimum indicated height over an area of at least 150 sf.
- ^c Units within two-family detached homes 3'-0" away from a lot line may have a clear floor to ceiling height of 7'-0". Local Law 126 of 2022 revised the New York City Building Code to permit a clear ceiling height of 7'-0" in basements of all two-family homes.

set by the International Residential Code (IRC) and International Existing Building Code (IEBC).¹³

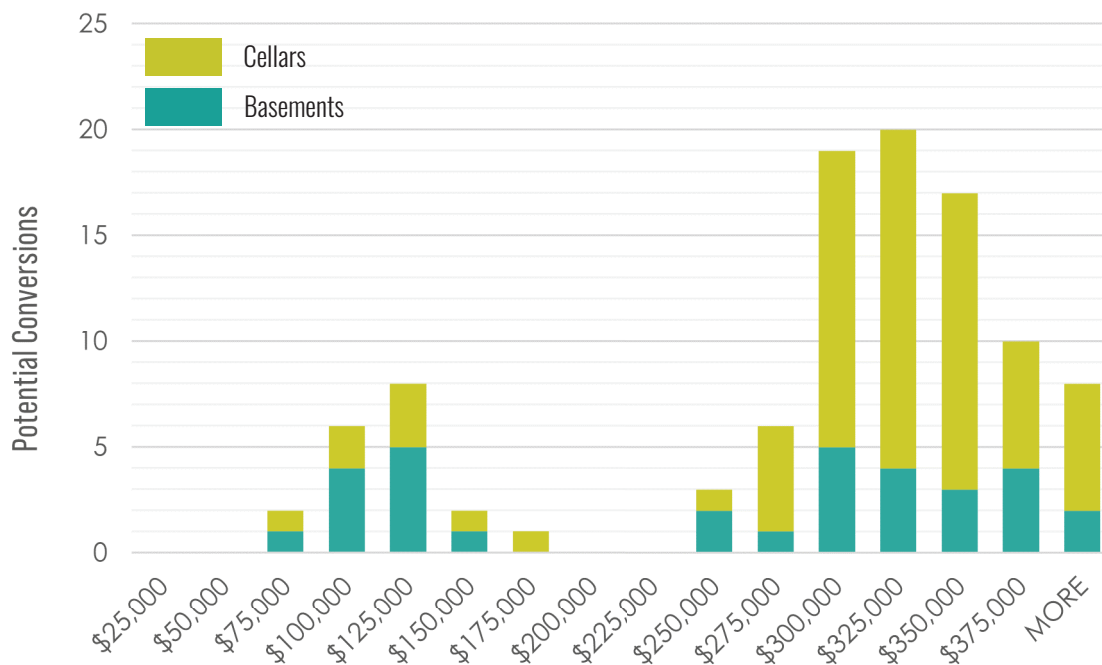
Among the 102 properties assessed, only five basements would have met ceiling height requirements without relief from the pilot. The ceiling height relief granted by the pilot enabled 12 potential subgrade apartments. Notably, none of the properties could take advantage of the pilot's 7'-0" ceiling height requirement for fully detached homes at least three feet from a lot line. If a 7'-0" requirement had been extended to all housing typologies, the pilot would have enabled an additional 33 units.

Currently, the City is unable to extend relief from unnecessarily stringent physical requirements, such as ceiling height, to applicants who own homes with two-or-more units. This is because residential properties with at least three dwelling units are dually regulated by the State's Multiple Dwelling Law (MDL) and the City's construction and maintenance codes.¹⁴ Two-thirds of the pilot applicants who would benefit from ceiling height relief own two-family homes that would newly fall under the jurisdiction of the MDL when adding a subgrade unit.

Basements and cellar spaces that did not meet ceiling height requirements were not immediately disqualified, but rather were costed assuming that interior excavation would be necessary to comply with code. Increasing ceiling height by several inches above 7'-0" does not appreciably improve safety, and in fact, can create new complications.¹⁵ Excavation can expose the foundation and underground plumbing, undermine structural stability, and lower the finished floor relative to the base flood elevation or groundwater levels. Excavation also comes with a hefty price tag. Early estimates derived from the in-home assessments showed that excavation and associated major concerns could add a cost premium on the order of \$200,000.

According to these preliminary cost estimates, the average cost of conversion was projected to be roughly \$275,000. Looking at the distribution of conversion costs (Figure 4), there are two distinct groupings—projects below \$200,000 and those above. Contrary to preliminary assumptions, cellars were not necessarily more expensive to convert than their basement counterparts. The factor separating these two groups is whether the property

Figure 4: Preliminary cost distribution for the 102 properties that went through home assessment.



would require excavation to comply with ceiling height requirements. Similar to the zoning barriers identified above, ceiling height requirements do more to make conversion cost-prohibitive or impossible under the pilot than they do to promote safety.

Financial Viability

The preliminary program estimates also showed that few homeowners would have the means to finance conversion at these cost levels. The median household income for the cohort that went through the home assessment was 79 percent of the area median income (AMI) adjusted for household size, straddling the threshold between low- and moderate-income. While this is higher than the average for Brooklyn CD5, the cost of conversion exceeded the low-or-no cost financing options available through HPD.

On average, the estimated conversion cost equaled 45 percent of the property's market value as calculated by the Department of Finance (DOF).¹⁶ When this cost is added to existing mortgage debt, only 46 percent of the applicant households would fall within the 80 percent loan-to-value threshold required by a conventional lender. Residential underwriting also typically limits a borrower's debt-to-income (DTI) ratio to a maximum of 43 percent - a threshold that upwards of 60 percent of the screened households could not meet to qualify for a loan. Most lenders prefer that no more than 28 percent of an applicant's monthly gross income goes towards housing expenses, a standard under which only roughly 13 percent of applicants would qualify.¹⁷ The limited availability and cost of private financing raise the importance of government subsidy to assist lower-income homeowners. Currently, New York State limits HPD's loan authority for this type of loan, restricting the City's ability to support program access for low-income households. The expansion of a conversion program, locally and citywide, would require regulatory reform that both increases the availability of financing options and reduces conversion cost and complexity, which would also have the benefit of limiting the need for larger loans.

As a rule, potential BACPP applicants were not rejected due to high-cost estimates. Housing counselors from Cypress Hills provided homeowners with the conversion cost estimates prepared for their homes and allowed each to decide whether to proceed with an application. Those with high projected costs generally chose to withdraw from consideration. Nine homeowners self-selected to apply.

Progress Since the Pandemic

The COVID-19 pandemic forced the pilot to go remote, with a pipeline of over 100 interested and thus far eligible homes awaiting pre-screening or home assessment. The nine prospective applicants completed their paperwork online. By mid-April 2020, pilot operations were suspended. Additional homeowners in the pipeline were eliminated from further consideration and the nine applicants were left waiting to begin pre-development work.

Cypress Hills shepherded the applicants through pre-development, most of which occurred remotely. During this period, one of the nine applicants elected to drop out of the program for personal reasons, while the remaining eight worked with an architect to develop plans for their subgrade conversions. The pre-development process was relatively straightforward for the only single-family home among the applicants. The homeowner was able to file plans in December 2020 and was approved by the Department of Buildings (DOB) by the following May. Construction on the single-family home began in April 2023.

By July 2021, seven applicants converting two-family homes had submitted their plans to DOB for review. The following month, DOB began responding with objections to the filed plans that cited concerns throughout all stories of the buildings, not just basements and cellars. This prompted a series of meetings between the participants' representatives and HPD, DOB, and the Board of Standards and Appeals (BSA). During this period, two additional homes were eliminated because of previously unidentified zoning noncompliance, and a third because of the MDL's restrictions on cellar occupancy, leaving four prospective two-family basement conversions.

Two-family homes adding a subgrade unit became newly subject to the MDL, which introduced several problems. In particular, the scope of work could not be limited to the conversion itself but had to achieve MDL compliance for the entire building. Administrative costs escalated as plans and filings were revised to reflect work on the entire building. More stringent requirements intended for larger multifamily properties now applied to what were previously private homes. For example, roof access via a scuttle or bulkhead was now required, as well as a parapet or perimeter railing around roof edges. This requirement alone added between \$50,000 and \$100,000 to the cost of the conversions. Similarly, while the City only requires that the new subgrade units be equipped with sprinklers, the MDL mandates that the entire property be retrofitted with a sprinkler system, a much more costly improvement. The estimates prepared by the architect roughly doubled the cost that had been projected during the home assessment, in large part due to compliance with the MDL. These requirements do not directly affect the safety or habitability of the proposed basement units; in practice, they are thwarting the upgrading and legalization of existing unregulated space.

Though the City administers and enforces the MDL, it does not have the authority to provide relief from the MDL's requirements. By December 2021, it became clear to the project team that the City would be unable to grant the relief necessary convert the two-family homes in a practical and cost-effective manner.

The City, the Governor, and both the Senate and the Assembly have all proposed legislation that would grant the City authority to make targeted exceptions to the MDL for the specific purpose of enacting a basement and cellar legalization program. This legislation has not yet advanced. Until it does, the two-family homes may remain suspended in pre-development and the City remains unable to establish practical, modern standards for safety in these units, or create a scalable program to legalize basement and cellar units across the city.

CONCLUSION

The primary lesson of the pilot is that regulatory constraints make the legalization of basement and cellar apartments physically impractical or prohibitively expensive, because of regulations that add little if anything to safety. The narrow relief the pilot could offer under local legislative authority excluded many properties from consideration. The pilot has documented the significant costs of overlapping and outdated City and State regulatory regimes and provides direction for the reforms needed to create an effective, scalable conversion program.

The State's Multiple Dwelling Law, where it applies, is the most prominent factor preventing upgrades and legalization. Two-thirds of prospective applicants that went through BACPP's home assessment were, in effect, precluded from eligibility because the addition of a unit to a two-family building would trigger applicability of the MDL. Brooklyn Community District 5 alone contains nearly 9,000 two-family homes with below-grade spaces that lack a practical path to legalization or conversion due to the MDL.

The City's Zoning Resolution was also responsible for significantly restricting the pool of potential conversions through its parking requirements and limitations on floor area and density. Unnecessarily prescriptive ceiling height requirements, codified in both City and State regulations, also proved to be a significant driver of impractically high costs. Without the authority to provide regulatory relief that would make upgrades cost-effective, the pilot aimed to help building owners finance these high costs, but restrictions on HPD's loan authority imposed by the State's Private Housing Finance Law (PHFL) hampered HPD's ability to do so.

Without State legislation to limit the applicability of the MDL and corresponding City relief, basement and cellar units will remain largely within the gray market. Existing subgrade units, like those observed during home assessment, will remain outside of government oversight. Homeowners will be left without a legal and practical pathway to undertake important safety upgrades, and tenants will be left vulnerable to poor housing conditions and arbitrary eviction. Tragically, a New Yorker living in an unregulated cellar apartment in Community District 5 lost his life during Tropical Storm Ida. Many others who, like him, rely on these units grow more vulnerable by the day as the climate crisis intensifies. A simple grant of authority by the State Legislature would allow the City to enact a program for owners of both one- and two-family homes to make their subgrade units safe and legal. In creating a legalization program, the City must also review and streamline its own codes to establish practical, modern standards that ensure safety and habitability.

The completion of the pilot, with sustained funding, will enable the program to deliver results to residents and owners who have long sought to make units safe and legal, and support expansion of these efforts. One single-family home continues to make its way through the pilot, breaking ground four years after the BACPP legislation was signed into law. Completing all construction allowed by current regulation will provide an accurate understanding of the cost of conversion, the duration and difficulty of the administrative process, and the outcomes for tenants and homeowners following lease of the unit. Legislative changes would enable the pilot to achieve the broader objectives that drove its creation.

Recommended next steps include:

STATE

- ▶ Pass legislation authorizing New York City to modify the MDL specifically for the purposes of upgrading and legalizing basement and cellar units.
- ▶ Pass legislation that expands HPD's loan authority for one-to-four family homes.

CITY

- ▶ Complete construction under current regulatory regime.
- ▶ As State and City regulations allow, expand the pilot to include additional buildings.
- ▶ Pass local law and zoning changes to create a citywide basement and cellar legalization program.
- ▶ Enact zoning and other code changes allowing new accessory dwelling units and subgrade units, as appropriate, through forthcoming City of Yes for Housing Opportunity.

ACKNOWLEDGMENTS

Special thanks to the Department of Housing Preservation and Development and Cypress Hills LDC for their tenacity implementing this pilot.

Thanks to all of the pilot partners including Chhaya CDC, the Center for NYC Neighborhoods, Pratt Center for Community Development, Restored Homes HDFC, CTA Architects P.C., Richard Singer of Hirschen Singer & Epstein LLP, and KOW Building Consultants for their work and commitment.

Thank you, too, to the Department of Buildings, the Department of City Planning, the New York City Fire Department, and City Hall for their important contributions.

CHPC is also grateful for our generous foundation partners who support this important policy work.

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ENDNOTES

- 1 The Center estimates that between one-third and one-half of 1- to 4-family homes in East New York have an illegal basement or cellar unit. Goldberg, L., M. McNair and C. Nagy. *East New York: Preserving Affordability in the Face of Uncertainty*. The Center for New York City Neighborhoods. New York City, 2017. <https://s28299.pcdn.co/wp-content/uploads/2017/03/ENY-report-full.pdf>
- 2 New York City, N.Y., Local Law 49 of 2019. 4 March 2019 (uncodified). While changes to the Building and Administrative codes can be made through local law, the New York City Charter requires changes to zoning to be made through the land use review process.
- 3 NYC Department of Housing Preservation and Development (HPD). "Basement Apartment Conversion Pilot Program (BACPP), Term Sheet." 29 March 2019. <https://www.nyc.gov/assets/hpd/downloads/pdfs/services/bacpp-term-sheet.pdf>
- 4 Zoning considerations included residential density, housing typology, lot size, commercial use, and special use district status. Further, homes owned by corporate entities or categorically excluded by the MDL, specifically two-family homes with cellars built after 1948, were deemed ineligible.
- 5 Cypress Hills is a non-profit dedicated to fostering a strong and equitable Cypress Hills and East New York through its programs aimed at educational and economic success, affordable housing, and training community leaders. <https://www.cypresshills.org/>
- 6 Pratt Center for Community Development. *The Basement Apartment Conversion Pilot Program Homeowner Resource Guide*. New York, 2019.
- 7 Required documentation includes proof of income (e.g., W-2, social security, pay stubs, disability, proof of self-employment), proof of primary residency, deed (death, separation, or divorce certificates, as applicable), title, and a Right of Entry form.
- 8 Restored Homes HDFC is one of several affiliate nonprofit entities of Neighborhood Restore Housing Development Fund Corporation ("Neighborhood Restore") that collaborates with the New York City Department of Housing Preservation and Development on programs that seek to foster neighborhood stabilization and support community development. For more, see www.neighborhoodrestore.org.
- 9 NYC Department of Housing Preservation and Development (HPD), Office of Development, Division of Property Disposition and Finance, Basement Apartment Conversion Pilot Program (BACPP) Term Sheet, 2019. <https://www.nyc.gov/assets/hpd/downloads/pdfs/services/bacpp-term-sheet.pdf>
- 10 NYC Zoning Resolution, §12-10, definition of "floor area"
- 11 The estimate of post-conversion FAR is based on the cellar area calculated during home assessment and data available through PLUTO21v2. The Department of City Planning also ruled-out roughly 30 percent of residential properties in Brooklyn Community District 5 prior to initial homeowner outreach based on a similar calculation assuming a cellar apartment area of 500 square feet (SF).

- 12 There are numerous requirements of the Zoning Resolution that are not explored in this report that can be barriers to legalization, for example, yard and planting requirements.
- 13 The International Existing Building Code (IEBC) requires a minimum 7'-0" ceiling height in "newly created habitable and occupiable spaces and corridors" within existing buildings according to its "Work Area Compliance Method" for alterations, additions, and changes of occupancy where the work area is less than or equal to 50 percent of the building area. See 2021 IEBC §801.4.4.
- 14 Adopted in 1929, the MDL set light and ventilation standards, addressed sanitation and crowding concerns and instituted fire safety practices, and established height and bulk limitations, most provisions coming directly from the Tenement Housing Act of 1901. Many of the MDL's provisions are addressed in New York City's codes and zoning, leaving many of these standards duplicative and/or outmoded.
- 15 A 7'-0" ceiling height is consistent with standards set by the International Code Council (ICC). Since the pilot was enacted in 2019, New York City expanded the 7'-0" ceiling height requirement to two-family homes during the 2022 code revision cycle.
- 16 The market value calculated by the Department of Finance is often less than the value determined by an appraiser.
- 17 The average monthly payment on a loan to pay for the basement or cellar conversion assumes the full estimated cost of conversion at a 4% interest rate over 30 years. The DTI ratios were calculated based on existing mortgages and debt self-reported by the BACPP applicant during the financial questionnaire.