



NEWS NYC REZONING

# This Lawsuit Could Change How NYC Plans Neighborhoods

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By **Caroline Spivack** | Jun 22, 2020, 1:15pm EDT



A busy intersection in Inwood. | AP Photo/Craig Ruttle

When Othanya Garcia lived in Inwood, her family had to rent out the apartment's only bedroom to a stranger to afford their \$1,300 rent. Garcia and her brother shared a sofa bed in the living room until the 26-year-old and her brother converted the cramped common area into a pair of makeshift bedrooms, buying beds and separating the space by a curtain.

Their dad, who is a taxi driver, often spent the night at his girlfriend's place to give them more space. But when Garcia says their landlord tried to raise their rent \$600 in 2016,

she and her family felt they had little choice but to move out of their home of 15 years — and ultimately leave the neighborhood she grew up in altogether.

“To maintain living in a place that we love, we had to share and sacrifice so much,” says Garcia. “It just became so hard to keep the apartment, and eventually we couldn’t.”

A move out of Inwood is one Garcia hoped she’d never have to make, but she believes the writing was on the wall after the city officially proposed a plan to rezone Inwood in 2015.

Those land-use changes — which aimed to spur housing development, including affordable apartments, in a 59-block area — drew fierce debate from locals. After the plan to rezone Inwood was approved by the City Council in 2018, a coalition of community groups filed what many saw as a moon-shot lawsuit seeking to overturn the rezoning on the grounds that the city failed to conduct a proper environmental review by, chiefly, not studying how the rezoning could impact the racial and ethnic groups living in the neighborhood.

In December, Supreme Court Justice Verna Saunders sided with opponents and, in a major blow to the de Blasio administration’s rezonings, annulled the council’s approval, finding that the city “failed to take a hard look” at potential impacts caused by the plan. Now, the city’s appeal of that decision is working its way through the courts with a ruling expected in the coming months. But if it’s upheld, it could set a far-reaching precedent for New York City land-use policy and compel the city to study how its often controversial rezonings could impact the racial makeup of neighborhoods.

Christopher Walters, a rezoning technical-assistance coordinator with the Association for Neighborhood & Housing Development, argues a ruling that maintains Saunders’s decision would push the needle toward a more equitable model of neighborhood planning. That, in turn, could move the city away from the “color-blind planning” that places the burden of new density primarily on communities of color, according to Walters.

“If we don’t have planning that is focused on racial equity, it’s essentially complicit in segregation,” says Walters. Studying racial impacts, he says, would give decision-makers a fuller picture of how a change in zoning could reshape a community.

But the de Blasio administration maintains that it is under no legal obligation to study rezoning impacts by race, ethnicity, or national origin. Scott Shorr, an attorney with the city's Law Department, argued during a June appeals-court hearing that it's at the city's discretion to select the "most relevant" neighborhood impacts to study.

Seemingly unsatisfied with that explanation, Justice Rosalyn Richter, one of five justices hearing the appeal, interrupted Shorr, noting "the fact that the city's analysis does not break any of this information down to explore the impact on racial and ethnic groups [is] an issue that certainly is of concern to some of the [judges] here."

Shorr contended that because the city determined that the Inwood rezoning was not going to spur "an adverse displacement effect" — since it would add housing, including 2,600 affordable units — it didn't make sense to go further and do a racial impact analysis.

A mandate to do otherwise would set a "distressing precedent," Mitch Korbey, a land-use attorney at Herrick Feinstein who used to work for the Department of City Planning, told Curbed. Surveying racial impacts, Korbey says, is "a policy question" that was addressed by gathering feedback at numerous community meetings during the planning process. To require a racial impact study as part of the environmental-review process would "alter the landscape inappropriately and wrongfully" for all future rezoning actions, he claims.

That's a worrying argument for Michael Sussman, the civil-rights attorney representing neighborhood opponents. He says the administration "repeatedly failed" by ignoring community concerns and missing an opportunity to push forward more equitable planning.

"That's the ultimate issue here. We're trying to create one city with some degree of equitability for people," Sussman said in court. "That is what is not happening because [the city] refused to open their eyes and study it."

Developers who **pushed for the rezoning** are, unsurprisingly, also opposed to expanding the environmental-review process. In a statement, a spokesperson for Taconic Investment Partners, which plans to build some 725 apartments (at least 25 percent are earmarked as affordable) on the former Pathmark site at 410 West 207th Street, said, if upheld, Saunders's ruling would "severely impede affordable-housing creation citywide

at a moment when adding affordable housing couldn't be more critical." Taconic also pointed to upgrades to public transit, parks, schools, and a new branch of the New York Public Library that would come to the neighborhood as part of the rezoning.

For Garcia, deeper neighborhood investment shouldn't be contingent on large-scale land-use changes that are also poised to drive an influx of market-rate housing to the area. On walks through her old neighborhood, she notices the mom-and-pop grocers, restaurants, and clothing stores she used to shop at that have since shuttered and fears it'll only be harder for locally owned shops to keep their doors open as new developments rise.

"The landscape is changing," says Garcia, who has since settled in the Kingsbridge section of the Bronx. "If the brown and Black people who give Inwood identity are pushed out, where will they go? It's getting harder and harder to find affordable places to live."



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