Testimony of Rebecca Kagan Sternhell
Director of Federal Affairs, The City of New York
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"Reauthorization of the National Flood Insurance Program: Part I"

Chair Brown, Ranking Member Toomey, and other members of the Committee, on behalf of the Mayor and the 8.6 million NYC residents, I thank you for having me here today to discuss the National Flood Insurance Program (NFIP) and its role in communities like New York City (NYC).

My goal today is to present a community perspective, one based on experience as a local government official and direct feedback from constituents. NYC has more than 520 miles of coastlines and riverbanks. Like so many other states and communities throughout this country, our riverbanks and coasts hold a dangerous beauty we must grapple with. The advent of sea level rise and rapid climate change is forcing us to reckon with our relationship to the water and the cities and communities we have developed next to it.

The federal government has a range of tools at its disposal to help manage flood, from macro solutions like largescale resiliency projects to the more micro like the NFIP. The NFIP is a lifeline for property owners after a flooding event that can mean the difference between recovery and the loss of a critical asset.

Given the stakes the program has for so many, I want to focus your attention on four key areas as the reauthorization of NFIP is contemplated: affordability, mitigation, mapping, and other program alternatives.

Affordability

Flood Insurance affordability is already a large problem for households across the country as premiums continue to increase year over year. The challenge of affordability will only grow as climate change increases the intensity and frequency of flooding. For example, NYC's commissioned 2017 RAND[1] Study on flood insurance affordability found that flood insurance is a financial burden for 25% of owner-occupied households in the City, and for nearly two-thirds of extremely low-income households.

The Covid-19 pandemic has added an additional layer of complexity to the issue as millions of Americans lost their jobs, saw incomes reduced, and struggled to pay mortgages and rents. Though we are at the long awaited moment of the pandemic seemingly coming under control and

[1] https://www.rand.org/pubs/research_reports/RR1776.html, pg 27

the country opening back up, millions of Americans will now face staggering rent and mortgage arrears on top of existing mandatory expenses like insurance.

Further complicating matter is a program FEMA has recently undertaken to reform how rates are calculated ostensibly to better reflect risk based on a series of public and proprietary tools- "Risk Rating 2.0." This policy has recently been re-branded as "Equity in Action" but is anything but equitable. As it is currently designed, it will overhaul how premiums are calculated, causing flood insurance costs to skyrocket in many areas around the country, including in New York City's coastal neighborhoods. Many of these neighborhoods are among our last bastions of affordable homeownership, especially for communities that continue to experience the damaging legacies of racist redlining policies.

These rapidly rising premiums will force thousands to make the impossible choice between abandoning their insurance policies or cutting back on household necessities like food, utility payments, and school supplies, or even abandoning their homes altogether. That could trigger a government-made foreclosure crisis in communities where many are already struggling to make ends meet especially after the Covid-19 pandemic.

The City urges Congress to ensure flood insurance remains affordable for the most vulnerable, by establishing means-tested financial assistance for the households that need it most; and providing grants for low- and middle-income households to allow them to retrofit their homes to decrease their vulnerability to flood risk.

The RAND report offers an instructive look at how an affordability program could be modeled. To start, RAND looked at what "affordability" meant, noting that, "[f]lood insurance adds to the cost of owning a home, and we frame the discussion of flood insurance affordability in terms of the ratio of homeownership costs to household income."[2] From this, the report utilized a metric called a PITI ratio (a ratio of mortgage principal and interest, property taxes, and property insurance (PITI) payments to income), that looked at the cost of owning a given home, not merely property value or income alone. This tool enabled researchers to see what small changes could affect the ability of a person to stay in their home, whether it was a mandatory rate increase or even just additional fees.

The City believes this type of metric offers an opportunity to set national policy that is sufficiently sensitive to local and individualized conditions. Other options that utilize a percentage of AMI alone are too limiting. Though AMI is set to regional conditions, it is not honed enough; take for instance Manhattan and Brownsville in the same NYC AMI, or Center City and Fairhill in the same Philadelphia AMI. Moreover, using a metric of gross income

[2] Ibid. at 23.

ignores the reality of people's lives and unavoidable expenses like – taxes, mortgages, commuting expenses, homeowner's insurance, dependents and children – children are expensive.

The PITI ratio doesn't utilize all of these but it does provide a more nuanced look at "ability to pay" for the purposes of premium reduction affordability programs and grants for mitigation.

The City strongly supports rate reductions and grants to help address affordability over loans. While loans are often discussed to help homeowners cover the cost of mitigation investments, they remain a relatively unviable option for low-to middle-income households. Setting aside the ability to qualify for a loan, many low-to middle-income households will find even at 0% interest, loan repayments are out of reach and savings from mitigation activity will not be realized until after the loan is repaid.

The chart below illustrates some of the challenges with loans using a high NFIP premium- $3000, the national average for FY18 - $900, and the average for New York state for FY18- $1150. We assume a modest $20,000 10 year 0% interest loan[3] for home elevation which would yield meaningful (50%+) NFIP premium savings. We also assume 8% annual NFIP premium increases. Even though there is no interest on the loan and the homeowner successfully lowered their flood insurance premium through the work, the homeowner is still responsible for paying back the same amount or more than what was already deemed to be unaffordable to them.

Annual Premium	**Mitigation Loan**	**New Annual Premium, Yr. 1**	**Annual Cost, Yr. 1**	**Annual Cost, Yr. 5**
$3000 High	$20,000	$1000	$3000 ($2000 loan + NFIP)	$3360 ($2000 loan + NFIP + increases)
$900 National Average	$20,000	$450	$2450 ($2000 loan + NFIP)	$2612 ($2000 loan + NFIP + increases)
$1150 NYS Average	$20,000	$650	$2650 ($2000 loan + NFIP)	$2884 ($2000 loan + NFIP + increases)

<u>Mitigation</u>

[3] According to various home improvement sites, the cost of elevating a home ranges from $20,000 - $100,000.

The availability of a range of mitigation options is key to affordability puzzle. It also, by definition, buys down risk for the property owner and to the NFIP.

Currently, the NFIP provides few incentives for property owners to protect their buildings from flood damage and reduce their premiums, other than by elevating their buildings. While that option may be possible for some structures—it simply is not feasible in many areas of New York City and other dense urban environments. According to the RAND Study, 39 percent of buildings in the City's high-risk flood zones face impediments to elevation because they are on narrow lots or are attached buildings. Past efforts at pushing FEMA to identify mitigation alternatives to elevation have yielded limited results. The City believes that more needs to be done and supports provisions on urban mitigation alternatives in the current House reauthorization bill by Chair Waters.

To best evaluate these alternatives, FEMA and the public need to see where the drivers of loss are. Congress should mandate that FEMA collect data on the extent to which major items (i.e. boilers, HVAC systems) are driving losses to better target mitigation approaches for property owners. The current small premium reduction for elevating mechanical items above the Base Flood Elevation may undervalue its mitigation effect. In addition, other factors such as the type of construction (e.g. brick compared to wood, attached compared to detached, etc.) can play a significant role in whether a structure will suffer catastrophic or lesser damage, but the *extent* to which these factors may influence premiums under the new rating system remain is unknown despite their importance.

Furthermore, there are currently no options for homeowners with an X-zone policy who are ineligible for a Preferred Risk Policy (PRP) to reduce their premiums through mitigation. Since flood risk is growing in these areas due to climate change, FEMA should provide rating options for homeowners in these areas who invest in mitigation to help encourage expanded flood insurance uptake in the X-zone.

Community Level

Community level mitigation is also a critical part of lowering program costs and achieving greater affordability at scale. Two core elements of this are funding for infrastructure measures and changes to floodplain management practices.

NFIP and FEMA programs like BRIC, should fund projects that will increase the resiliency of American communities to the impacts of climate change. Funding should be allocated for coastal and riverine flood prevention infrastructure, and interior drainage system upgrades. In particular, investments in both large- and small-scale coastal protection projects (i.e. floodwalls, levees, gates, berms, road raisings, tide gates) and associated interior drainage system upgrades are needed. Additionally, coastal areas would benefit from resiliently reconstructed waterfront infrastructure such as bulkheads, esplanades and wharfs as well as new coastal resiliency projects that use nature-based features, such as dunes, wetlands, and living breakwaters.

Federal support of “Resilient Design” that anticipates future risks in new construction and substantial rehabilitations of buildings and infrastructure can go a long way in avoiding catastrophic loss. New York City is doing its part at the local level by reforming our zoning code to facilitate floodproof construction and by embedding a climate risk screen into all city capital projects with Climate Resiliency Design Guidelines.

Since Hurricane Sandy in 2012, NYC has repeatedly increased required flood protection levels in Appendix G of the building code. These strategic changes help ensure that new buildings and major renovations are better prepared to withstand extreme flood events. Simultaneously, NYC has developed Climate Resiliency Design Guidelines which provide an even higher standard of flood protection for City capital projects. These Guidelines go beyond building codes by using sea level rise predictions, the useful life of the structure, and maps of future flood risk to calculate building-specific resilient design criteria. The Guidelines were recently made mandatory through local legislation for all public buildings and infrastructure, and this law will help ensure that NYC’s investments in public services are designed to withstand flooding and sea level rise for decades to come.

Just this past week the City passed new zoning rules tied to flood risk mitigation. The goal of the Zoning for Coastal Flood Resiliency (ZCFR) is to help buildings better withstand and recover from major disasters and sea level rise, which could lead to lower insurance costs.

Briefly, the ZCFR updates, improves, and makes permanent the emergency rules established in the wake of Superstorm Sandy. New and substantially rehabbed buildings in areas of the City that, by 2050, are expected to have a 1% chance of a flood event in any given year, are now permitted to meet or exceed flood-resistant construction standards set by the FEMA or NYC’s Building Code.

ZCFR lets buildings elevate or relocate important mechanical, electrical and plumbing equipment, or backup systems like generators, above the expected height of floodwaters. This can be done either within the building, atop of the structure, or on a separate platform. For example, a NYCHA complex in Lower Manhattan can construct an elevated mechanical building in its yard to address the needs of the campus while keeping equipment out of the path of damaging floodwaters.

In addition to ZCFR, the City has undertaken specific “Resilient Neighborhood” actions to further limit flood risk in three neighborhoods, including:

- In Gerritsen Beach, the establishment of a new Special Coastal Risk District, limiting future density and capping building heights at 25 feet above the potential height of floodwaters to more closely match the area's built character.
- In Old Howard Beach, zoning changes limit the construction of attached homes, which are harder to retrofit and elevate than detached homes because of their shared walls.

Mapping

Rate Maps

FEMA's flood maps are a snapshot in time. Development of the maps is currently a long process; and given the impacts of sea level from climate change, many maps are often outdated by the time they are finalized and adopted. Prior to the Preliminary FIRMs for NYC issued in December 2013, the City's flood maps had not been updated since they were first created in 1983. These outdated maps left many New Yorkers in the dark about their flood risk. At the time of Hurricane Sandy many NYC residents outside of the SFHA were unaware of the true flood risk to their property and therefore did not have an NFIP policy to help recover.

NYC ultimately appealed and won an appeal to Preliminary flood maps that FEMA released after Sandy due to modeling errors. Technical and process improvements are required to better map and reflect flood risk, including more regular map updates; and the use of more sophisticated modeling that better represents and communicates flood risk. As a result of the appeal, FEMA is updating the maps with more precise data and information. New preliminary flood maps, however, are not anticipated to be completed until 2024 – 41 years after our first maps.

As you think through the program going forward, we ask you to consider the role of maps and zones, especially if Risk Rating 2.0 is to become to be the metric by which rates are set.

Up until now zones have been critical for setting rates- but Risk Rating 2.0 rates are *NOT* based on zones, although the NFIP purchase requirements *ARE* based on zones. In effect there is a general metric telling a property owner they must carry a policy, however the rate they pay on that policy is not tied to that metric. This approach risks causing considerable confusion for residents about what the flood risk to their home actually is. The role of zones in the NFIP must be carefully thought out to ensure clear communication and limit confusion about a home's flood risk.

Future Flood Risk maps

Apart from the flood zone (potentially rate) maps, NYC, in partnership with FEMA, is soon to begin modeling future flood risk citywide for the 2050s, 2080s, and 2100. This effort will produce flood maps and the forward-looking time scales that planners and designers need, so that zoning and construction today are informed by our best understanding of future conditions that our built environment needs to be ready to withstand; this innovative project will not only provide New Yorkers with a new, necessary tool for resilient design, but will also provide a model that can be replicated elsewhere around the country.

Program Alternatives

Disclosures

Congress should develop policy that encourages states to develop clear and transparent disclosure requirements in real estate around flood risk. Currently many property owners lack meaningful information about their flood insurance requirements and flood risk. Households considering their next purchase or rental should be aware of risk and cost implications they may face from flooding before closing on a property.

Status within the NFIP is tied to the property, not an owner. Thus, it is also important to know a *property's* claim history when purchasing a home regardless of its location in a SFHA or not. To better facilitate information flow, Congress should require the NFIP to share a property's "file" that includes coverage dates and claim dates and amounts, stripped of any PII, to purchasers with accepted bona fide offers to purchase a property. This will allow potential property owners to access full information about a property, including potential additional cost related to insurance or mitigation.

Increased Cost of Compliance

Increased Cost of Compliance (ICC) coverage, currently included in standard NFIP policies, allows for up to $30,000 to bring a building into compliance with floodplain management codes. $30,000 is not enough in most cases to come fully up to code or to a more resilient standard than the minimum requirements. Though supply chains are expected to eventually normalize, the current hitches in supply chains for construction materials have driven up costs dramatically. We recommend incrementally increasing ICC from $30,000 to $100,000, with an option for the policy holder to purchase more coverage.

In addition to increasing the amount of ICC, Congress should also expand eligibility for ICC or ensure FEMA uses extant authorities. Specifically, ICC is the only mitigation assistance available directly to homeowners, but it is only made available *after* a flood loss for substantially damaged or repetitive loss properties. The City proposes allowing ICC to 'intervene' before the property is designated a repetitive/severe repetitive loss property. In doing the program transforms a liability into an asset, by converting the property to low risk immediately. Congress should expand mitigation approaches other than elevation and expand ICC eligibility into properties moving into Severe Repetitive Loss status (i.e. filing their 4th claim of >$5000).

Definitions

The designation of a property as Severe Repetitive Loss has significant implications for property owners and communities. The current definition of a severe repetitive loss property (SRP) is one based on the number (4+) and value ($5,000+) of claims for a property. The notable variable missing from this definition is time. There is no time horizon over which these 4 claims need to occur, meaning a property can be deemed high risk despite not actually costing the NFIP much in claims. It is not hard to conceive of a property that had 2 modest $5,000 claims in the 1970s, one in the early 2000s, and another in 2021. Despite the fact that this property isn't perpetually flooding, NFIP characterizes this home as severe repetitive loss and imposes higher rates, which given the nature of these designations is handed down from property-owner to property-owner

Time needs to be added to the SRP equation. The current SRP definition is too narrow and too easily triggered, especially with the limited options for all properties to reduce risk and premiums. The definition should be reserved for the most at risk properties that are truly experiencing repeated catastrophic loses.

FEMA Grant Funding

Reforms are needed for FEMA's Hazard Mitigation Assistance (HMA) grant program so these grants have more flexible and predictable requirements and spending caps to allow local governments to work with property owners in identify flood mitigation strategies, such as buyouts that meet the needs of the owner and community.

Spending caps for both elevation and acquisition are typically well below the cost it takes to elevate a home or purchase a property in NYC. Additionally, the grants do not currently allow for funding to spent on a household's relocation expenses. We recommend that the FMA grant for acquisition of a residential property for purposes of flood mitigation be expanded to support "reasonable out-of-pocket expenses" for household relocation and rehousing. Consistent with the Uniform Relocation Act (24 CFR § 578.83), reasonable relocation costs include but are not limited to: moving cost expenses, temporary rental or homeownership assistance based on the market value of a "comparable replacement dwelling," closing cost reimbursement and transfer taxes, and legal and housing counseling services necessary to support relocation, particularly for low- and moderate-income households.

The grant process must also be made more flexible. Currently communities are required to submit a list of properties at the time of application. This requires each community to maintain a pre-existing list of interested property owners, posing several challenges: 1) FEMA grant funding is not guaranteed so it could be years before the mitigation is funded and the ownership of the property may have changed; 2) difficult to garner property owner interest when it's unclear when there will be funding and what will be funded.

WYOs Claims and Compensation

Recognizing FEMA has begun to address concerns about claim payments and claims reviews by adjusters with the NFIP Transformation Task Force, the City still sees room for a more consumer-oriented approach to claims review. Including restricting the use of outside technical reports by WYO companies in the claims process and ensuring that final reports are prepared in accordance with local, state, and federal laws. The City supports Nydia Velazquez's (NY-7) reauthorization legislation that ensures there is a focus on the flood survivor, by requiring protections for policyholders, such as a clear appeal process with the requirement that FEMA provide appeal determination in writing to the policyholder and limit final claim determinations to a set timeframe.

Relatedly, as the City is concerned about flood insurance affordability and the solvency of the NFIP, the City strongly urges FEMA to pursue the most accurate payment model for WYOs. WYO's are a key player in increasing NFIP coverage, but they also benefit from not underwriting any of the actual risk. Accordingly, the City feels the WYO compensation should be right-sized to actual expenses. Where it might be understandable for an agent to receive a 30% commission for the year they issue the policy, subsequent year renewals do not require the same customer acquisition costs or property evaluations. Because of the financial condition of the NFIP, we encourage Congress to look at the current compensation structure to ensure it aligns with actual work on policy issuance.

Thank you again for having me here today and I look forward to answering your questions.