

**Testimony of Olivia LaVecchia and Stacy Mitchell, Institute for Local Self-Reliance  
Before the New York City Council Committee on Small Business and Subcommittee on  
Zoning and Franchises  
Oversight Hearing on Zoning and Incentives for Promoting Retail Diversity and  
Preserving Neighborhood Character  
September 30, 2016**

Thank you, Chairs Cornegy and Richards, and Members of the Committee on Small Business and the Subcommittee on Zoning and Franchises, for holding this hearing and for the opportunity to submit testimony on this critically important issue.

We work at the Institute for Local Self-Reliance, a 42-year-old national nonprofit research and educational organization with primary offices in Minneapolis and Washington, D.C., where Olivia is a researcher and Stacy is co-director. In our work, we examine the many benefits that strong locally owned businesses bring to communities and economies, and public policy tools that support their growth and development. Stacy has presented on this topic at national conferences organized by groups like the American Planning Association and the National Main Street Center, and has advised many communities seeking policy responses. We're also the co-authors of an April 2016 report titled, "Affordable Space: How Rising Commercial Rents Are Threatening Independent Businesses, and What Cities Are Doing About It," in which we outline six broad policy strategies cities can use to maintain and create a built environment where locally owned businesses thrive.<sup>1</sup>

Our testimony briefly examines the importance of locally owned businesses to New York City and the crisis affecting them, and then offers examples of effective and proven policy strategies to level the playing field for these businesses. Promoting retail diversity and preserving neighborhood character are worthy policy goals, and ones that help the City achieve many other goals as well, such as creating jobs, advancing economic opportunity, and strengthening neighborhoods.

### **Understanding the Problem**

We can't talk about the current need to promote retail diversity and preserve neighborhood character without talking about the soaring cost of commercial real estate. Data from the Real Estate Board of New York shows that retail lease rates in Manhattan shot up 10 percent overall in the last year, and in particular neighborhoods, the increases are even greater. The Upper West Side, for instance, saw ground-floor rents rise to an average of \$390 per square foot, a 37 percent increase. Small businesses have long persevered, and even thrived, in challenging markets. Today, however, local business owners that have been serving the every day needs of their communities, sometimes for generations, are being forced out. At the same time that long-time businesses are having to relocate or close, people looking to start new businesses are also being hit, which is further raising barriers to entrepreneurship and stunting the city's economic dynamism.

The cause of the rising rents is a multi-layered web that includes the resurgent appeal of cities, the popularity of commercial real estate among global investors, a limited and declining supply of small spaces, a preference for national companies over independent businesses in commercial real estate financing, and others. The result, however, is more straightforward: Local businesses in New York City are closing, and fewer are opening. In their absence, there's vacancy in marginalized and affluent neighborhoods alike, and there's the proliferation of national chains, which can negotiate better rents or afford to subsidize a high-visibility location.

While there's been reporting on what's being dubbed "high-rent blight" in places like the West Village,<sup>2</sup> this crisis isn't limited to affluent neighborhoods, and in fact, some of the most intense pressure is falling on businesses in lower income neighborhoods. As we cover in our recent report on the issue, "Among New York City's boroughs, the Bronx has seen the biggest jump in court-ordered evictions of small businesses,<sup>3</sup> and over the last year it also experienced the largest percentage increase in the number of

chain stores.<sup>4</sup> Among these newly arriving chains is Boston Market, which is slated to open on a busy corner previously occupied by Zaro's Bakery, a beloved business founded by a Polish family in 1927 and given just a few weeks' notice that its lease would not be renewed.<sup>5</sup> Across the Harlem River, in Washington Heights, numerous longstanding businesses have recently been evicted or handed hefty rent increases. One is the nearly 40-year-old Liberato Foods, a Dominican grocery store with two-dozen employees that is reportedly facing a tripling of its rent.<sup>6</sup>

You all know these stories. They're unfolding on your streets, in your districts, all over the city. When this happens, New Yorkers lose. The businesses on the front lines are the grocers and hardware stores, the neighborhood-serving businesses that sell everyday goods and have little padding on their margins. When these businesses get displaced, residents lose the ability to walk to the store for their shopping, to bump into neighbors, and to chat with business owners. There's also the loss of something deeper: Generations of New Yorkers have pulled their families into the middle class by starting a business, but now, this traditional route to a stable and prosperous life is diminishing.

The City loses too, because the strength of the independent business sector is closely tied to other policy aims. Recent research has found strong relationships between the prevalence of local businesses in a city's economy and economic and social well-being, including higher income growth, lower poverty rates, and increased levels of social capital and civic engagement.<sup>7</sup>

New York isn't alone in these stories—we're hearing them from all over the country—but you are on the front lines, and your actions here could lead other communities struggling with a similar set of issues.

## Policy Solutions

Public policy is well-equipped to address the complex set of issues facing New York's local and neighborhood businesses. We review a dozen policy solutions in our recent report on the issue, but today, we'd like to highlight five that are particularly suited to New York. Some of these are already successful in parts of New York and could be expanded to include other areas of the city, and others have an effective record in peer cities like San Francisco and Seattle.

***Enact a formula business policy*** — One of the most effective tools for maintaining and increasing neighborhood retail diversity is the formula business policy. It's a strategy that's been used by communities from Chesapeake City, Md., to Port Townsend, Wash., but most instructive to New York is its use in San Francisco, where it's been in effect in some form since 2004, and successively strengthened.<sup>8</sup> That year, the San Francisco Board of Supervisors added formula retail stores and restaurants to a list of uses that triggered neighborhood notification, and two years later, voters strongly endorsed a ballot measure that strengthened the law by making a formula businesses a "conditional use" in all parts of the the city zoned as neighborhood commercial districts. These districts include about half of the city's total commercial space.

In these districts, a formula business has to apply for a special use permit, and the application is reviewed by the Planning Commission. The law outlines several factors that the Commission considers in its review, including the existing concentration of formula retail in the neighborhood, and whether similar goods are already available within the district. "It allows a formula retail store to go forward when it benefits the neighborhood and not to go forward when it doesn't," Supervisor Scott Weiner, who represents the Castro neighborhood, has told us.<sup>9</sup> In his district, for instance, a Levi's outlet store was approved, but a Walgreens, which already had a store in the neighborhood, was rejected.

The law works. San Francisco has more independent businesses and fewer chains per capita than other big cities, and a study commissioned by the city found that formula businesses occupy 24 percent of the commercial space in parts of the city covered by the policy and nearly twice that in areas not covered.<sup>10</sup> Between 2005 and 2013, the Planning Commission approved a majority of the applications that it

received—about three-quarters—but part of the law’s efficacy is its deterrent effect, which limits the number of chains that apply in the first place to only those that are truly committed to the neighborhood and have a strong case to make for the benefits they will bring. The law has proved so popular and effective that in Nov. 2014 the City passed a major revision to expand it to cover additional districts.<sup>11</sup>

More information about formula business policies, including San Francisco’s measure and others, can be found on our site, here: <https://ilsr.org/rule/formula-business-restrictions/>

***Use zoning provisions to create a built environment conducive to local businesses*** — A second tool uses cities’ zoning and land use codes to zone for a local business environment. Part of the crisis affecting local businesses in New York and other cities is that the built environment is changing to become less hospitable to them, and that, absent regulation, commercial space is increasingly tailored to the needs of large national chains. This happens as older buildings get replaced, as developers turn to large national retail tenants to smooth financing on new projects, and as chains adapt city buildings to their large-format, suburban business model.

We suggest two broad strategies. The first is to protect the mixed fabric of the city’s neighborhoods. Research has shown that urban neighborhoods that have a diverse mix of building sizes and ages, including historic buildings that provide smaller commercial spaces, have more startups and a higher density of small businesses, compared to areas where the buildings are larger, newer, and more homogenous.<sup>12</sup> An analysis in Seattle found that these kinds of traditional mixed-building neighborhoods were home to more small businesses, as well as businesses owned by people of color and women.<sup>13</sup> New York could adopt a variety of policies to protect this fabric, including historic preservation measures and zoning rules to prohibit the consolidation of smaller commercial spaces into larger ones.

The second approach involves instituting measures to ensure that new development and redevelopment projects include spaces suitable for locally owned businesses. This can be achieved by establishing store size caps in certain districts,<sup>14</sup> and requiring that all new development include a minimum amount of small commercial spaces. As you know, New York has taken modest steps in this direction. On the Upper West Side, in 2012, the City approved a zoning change to regulate the width of new storefronts, limiting bank storefronts to 25-feet and other storefronts to 40-feet.<sup>15</sup> The City could expand zoning measures such as this one to other neighborhoods across the city.

***Adopt set-aside requirements for local businesses in new development*** — A third tool, setting aside space for local business in new development, is similarly targeted at the supply side of the problem. New development that includes space that is appropriate and affordable for local, neighborhood entrepreneurs has a crucial role to play in filling current gaps, but within New York’s globally-scaled real estate market, the priorities of developers and financiers are not always aligned with those of residents, local business owners, and neighborhoods. To address this imbalance, the City can use set-asides for local businesses. It can require that a certain portion of ground-level retail space in new development be set aside for locally owned business; a certain portion be dedicated to commercial spaces that are small; and a certain portion be commercial condominiums, which has the added advantage of encouraging small business property ownership.

New York is already doing this for individual projects. The City’s Dec. 2015 Request for Proposals for a major mixed-use development in East Harlem, for instance, included the specification that, of up to 700,000-square-feet of commercial space, a modest portion—50,000-square-feet—would be reserved for local retailers.<sup>16</sup> Moving forward, the City could automatically include such a specification in any new development or redevelopment that includes a significant amount of commercial space, or that’s located within certain business districts, and could look to increase this relatively modest threshold for future development.

**Create a preference for local businesses in leasing city property** — Much in the way that New York and other cities create procurement policies that align their purchasing with their larger aims, the City can develop guidelines that make City-owned properties, or properties that receive City financing, more accessible to locally owned businesses. The City of Seattle, for instance, recently renovated its central transportation hub, the King Street Station, and is now looking at ways to make commercial space in and around the station affordable and accessible for local businesses. The City has committed \$360,000 in federal Community Development Block Grant funds to help tenants renovate the spaces, and also plans to explore features such as small-sized spaces and flexible leases. On Wednesday, the City released a report on commercial affordability that includes an intention to use the King Street Station project as a jumping off point. “This project will serve as a model of commercial affordability that could be included in other projects,” the report says.<sup>17</sup>

**Establish modest incentives to support adaptive reuse by local entrepreneurs** —The City could also consider a program to assist local businesses in retrofitting and adapting spaces in historic buildings. This approach may be particularly helpful in areas of the city suffering from vacancy and a dearth of businesses. One of the leading models for this type of program comes from Phoenix, where the city’s Adaptive Reuse Program is designed to encourage entrepreneurs to start businesses in older spaces. For renovations on commercial spaces that are vacant, fall within certain square-footage tiers, and were built prior to 2000, the city offers incentives like permit-fee waivers, assistance with variances, and streamlined plan review processes. Since its launch in 2008, more than 90 businesses have used the program, and it’s offered them significant savings — by one report, the first 12 businesses to use the program saved an average of four-and-a-half months of work time and \$16,000 in fees.<sup>18</sup>

The five strategies above, as well as the others in our “Affordable Space” report, together form a multi-pronged approach to addressing commercial affordability, promoting retail diversity, and preserving neighborhood character. These strategies will work best when used in combination, and together, they create a policy context and a built environment conducive to a healthy local business community, and therefore, a healthy city. Strengthening the independent business sector is in New York’s best interest, not only as an end in itself, but also as a means to foster diverse economic development, increase equity and opportunity, maintain New York’s distinct character, and ensure that this city remains one where people can pursue and achieve their dreams.

We have helped a number of cities research and enact policies such as these, and would welcome the chance to share additional information about these and other policy approaches, as well as address any questions you may have, as your investigation of this issue continues.

Thank you for the opportunity to submit testimony at today’s hearing.

Olivia LaVecchia and Stacy Mitchell  
 Institute for Local Self-Reliance  
 (612) 808-0828 and (207) 774-6792  
[olivia@ilsr.org](mailto:olivia@ilsr.org) and [smitchell@ilsr.org](mailto:smitchell@ilsr.org)  
[www.ilsr.org/initiatives/independent-business](http://www.ilsr.org/initiatives/independent-business)

## Notes

<sup>1</sup> “Affordable Space: How Rising Commercial Rents Are Threatening Independent Businesses, and What Cities Are Doing About It,” Olivia LaVecchia and Stacy Mitchell, *Institute for Local Self-Reliance*, April 2016.

<sup>2</sup> “Why Are There So Many Shuttered Storefronts in the West Village?” Tim Wu, *The New Yorker*, May 24, 2015.

<sup>3</sup> “Bronx Leads All Boroughs In Court Evictions of Businesses, Up 30%,” Peter Milosheff, *The Bronx Times*, Oct. 16, 2015.

<sup>4</sup> “State of the Chains, 2015,” *Center for an Urban Future*, Dec. 2015.

<sup>5</sup> “Zaro’s Bakery in Parkchester—Iconic Bronx Store—To Close Its Doors,” *Welcome2TheBronx*, Dec. 22, 2015.

<sup>6</sup> “Landlords Can’t Stop Evicting Latino-Owned Businesses in Washington Heights,” Anita Abedian, *The Village Voice*, Feb. 9, 2016.

<sup>7</sup> See: “Key Studies: Why Local Matters,” Stacy Mitchell, *Institute for Local Self-Reliance*, Jan. 8, 2016; “Older, Smaller, Better: Measuring how the character of buildings and blocks influences urban vitality,” *Preservation Green Lab and National Trust for Historic Preservation*, May 2014.

<sup>8</sup> “Formula Business Restriction — San Francisco, CA,” *Institute for Local Self-Reliance*, Jan. 16, 2015.

<sup>9</sup> “How San Francisco is Dealing With Chains,” Stacy Mitchell, *Institute for Local Self-Reliance*, Aug. 30, 2012.

<sup>10</sup> “San Francisco Formula Retail Economic Analysis,” *Strategic Economics for San Francisco Planning Department*, June 2014.

<sup>11</sup> “Planning Code — Formula Retail and Large-Scale Retail Controls,” *Ordinance No. 235-14*, San Francisco.

<sup>12</sup> “Older, Smaller, Better: Measuring how the character of buildings and blocks influences urban vitality,” *Preservation Green Lab and National Trust for Historic Preservation*, May 2014.

<sup>13</sup> *Ibid.*

<sup>14</sup> Several San Francisco neighborhoods limit retail stores to under 4,000 square feet, for example. See: <https://ilsr.org/rule/store-size-caps/>

<sup>15</sup> “City Council Changes Zoning to Limit Sprawl of Big Banks on Upper West Side,” Kate Taylor, *New York Times*, June 28, 2012.

<sup>16</sup> “NYCEDC Announces Major Steps Forward in E125 Development, Bringing 1,000 Residential Units and Hundreds of Thousands of Square Feet of Commercial, Retail And Public Space to East Harlem,” *New York City Economic Development Corporation*, Dec. 11, 2015.

<sup>17</sup> “Seattle Commercial Affordability: Advisory Committee Recommendations,” *City of Seattle*, Sept. 28, 2016.

<sup>18</sup> “Phoenix helps breathe new life into old buildings,” Connor Wince, *The Arizona Republic*, Jan. 14, 2014; “Adaptive Reuse Program,” *City of Phoenix*; “Phoenix Adaptive Reuse Program Eases the Way for Downtown Development,” Liz Button, *Bookselling This Week*, Sept. 28, 2016.