Disputed RTA Appendix

RTA #	RTA	Defendant's Response (Note: In the responses served, the response appears once at the end of the request, whether it has sub-parts or not. Here, for reading across each entry, including each entry for a sub-part, the entire response is replicated for each request and each sub-part)	Plaintiffs' reframing to meet defendant's purported concerns	Briefing notes	Plaintiffs ask that the request be deemed admitted as posed by plaintiffs	Plaintiffs seek to have extraneous averments or other statements stricken
1 (a-d)	Admit that eligibility for community preference is open to all insiders and is not limited to insiders who: a. Have been long-term residents of the community preference area; b. Have had to persevere through years of difficult conditions; c. Are at risk of involuntary displacement from their household's existing residence; or d. Are at risk of involuntary displacement from their household's existing neighborhood.	Defendant objects to this request insofar as the terms "long-term residents" and "risk of involuntary displacement" are undefined, vague and unclear. Subject to those objections, Defendant denies this request, and its subparts, except admits that the community preference policy is applicable to any applicant who resides in the community district(s) that is(are) subject to the community preference in a given lottery and is not limited to residents of the applicable community district(s) who: (1) have been long-term residents of the applicable community district(s); (2) have had to persevere through years of difficult conditions; (3) are at risk of involuntary displacement from their household's existing residence; or (4) are at risk of involuntary displacement from their household's existing neighborhood.		The terms objected to are easily understood and are terms that defendant has used in connection with its justification for the disparate impact of the outsider restriction policy. The "subject to" language improperly introduces ambiguity into what is supposed to be "conclusively established" by an admission. *See* FRCP 36(b). Here, it appears that the substance of the request is being admitted in the restated response, and so each of the subparts should be deemed admitted as posed by plaintiffs. *See* FRCP 36(a)(6).	Y	
2	Admit that defendant had not, at any time prior to any decision to initiate, expand, or continue the community preference policy, quantified the scope of involuntary displacement as either or both elements of that phenomenon may exist on a citywide, community-district-by-community-district, or neighborhood-by-neighborhood basis.	Defendant objects to this request insofar as the terms "quantified" and"phenomenon" are undefined, vague and unclear. Defendant further objects to this request as it is a compound statement in that a "decision to initiate, expand, or continue the community preference policy" are each separate actions. Subject to those objections, to the extent "quantified" means "conducted a mathematical analysis," Defendant admits this request.		The phrases complained of are easily understood. The restriction to "mathematical analysis" is improper -- to the extent that defendant is suggesting that there is some other type of "quantifying," that would be embraced in the request as posed, and needed to be responded to clearly.	Y	
3	Admit that defendant, to this date, has not quantified the scope of involuntary displacement as either or both elements of that phenomenon may exist on a citywide, community-district-by-community-district, or neighborhood-by-neighborhood basis.	Defendant objects to this request insofar as the terms "quantified" and "phenomenon" are vague and unclear. Defendant further objects to this request as it is a compound statement in that a "either or both elements" are separate issues. Subject to those objections, to the extent "quantified" means "conducted a mathematical analysis," Defendant admits this request.		*See* Request 2 briefing note. Defendant's General Objection 7 also raises another issue as to this request: it creates ambiguity as to whether defendant was only admitting that it had not quantified the scope of involuntary displacement to this date *during the de Blasio Administration*, or had not so quantified the scope at any point "to this date" (as the question was posed). The general objections should not be countenanced in any event, *see* point I of plaintiffs' brief; but at a minimum, defendant must be deemed to have admitted this request as posed rather than be allowed evade the request *sub silencio* via general objection. *See* FRCP 36(a)(6).	Y	
4	Admit that defendant has not identified which or how many beneficiaries of community preference, if any, had been at risk of involuntary displacement from their existing apartment prior to being awarded an apartment in an affordable housing lottery.	Defendant objects to this request insofar as the terms "identified" and "risk of involuntary displacement" are vague and unclear. Subject to those objections, in response to this request, Defendant admits that it did not specifically identify via name or tally, which or how many beneficiaries of community preference had been at risk of involuntary displacement from their existing apartment prior to being awarded an apartment in an affordable housing lottery.		*See* Request 2 briefing note.	Y	
5	Admit that defendant has not identified which or how many beneficiaries of community preference, if any, had been at risk of involuntary displacement from their neighborhood prior to being awarded an apartment in an affordable housing lottery.	Defendant objects to this request insofar as the terms "identified" and "risk of involuntary displacement" are vague and unclear. Subject to those objections, in response to this request, Defendant admits that it did not specifically identify via name or tally, which or how many beneficiaries of community preference had been at risk of involuntary displacement from their neighborhood prior to being awarded an apartment in an affordable housing lottery.		*See* Request 2 briefing note.	Y	
6	Admit that the most common combination of lottery preferences and set-asides in the Housing Connect era has been and continues to be one in which the only preferences and set-asides are: (a) mobility-impairment set-aside (5 percent of units); (b) hearing- or visual-impairment set-aside (2 percent of units); (c) community preference (50 percent of units); and (d) municipal-employee preference (5 percent of units).	Defendant admits this request.		*See* point I of plaintiffs' brief (addressing general objections).		
7	This request to admit is posed in connection with the current joint HPD/HDC marketing guidelines and concerns such developments as follow the preferences and set-asides described in Request No. 6 ("standard developments"). This request to admit concerns outsiders who do not claim to be eligible for a disability set-aside unit ("outsider, non-disability households").			(Listed to put Requests 7(a), (b), and (c) in context.)		
7a	Admit that outsider, non-disability households for each standard development are supposed to have their applications considered by the developer subsequent to the consideration of enough insiders to satisfy the community preference.[1] Footnote 1: That is, enough insiders who the developer approves, subject to HPD/HDC review, sufficient to fulfill the minimum number of required community preference units, as that minimum number may have been partially waived.	Defendant denies subparts a, b and c of this request, except admits that developers are supposed to consider non-disability applicants who are not eligible for the community preference in that lottery after the community preference units are awarded for that lottery and that information regarding an applicant household's actual or perceived risk of involuntary displacement is not collected in the lottery process.		"Outsiders" are defined in the definition included with the request. As evident from the response, the request can be admitted as posed by plaintiffs, and thus must be deemed admitted as posed by plaintiffs.	Y	
7b	Admit that Request No. 7(a) is true regardless of whether some of the outsider, non-disability households who have applied are at risk of involuntary displacement.	Defendant denies subparts a, b and c of this request, except admits that developers are supposed to consider non-disability applicants who are not eligible for the community preference in that lottery after the community preference units are awarded for that lottery and that information regarding an applicant household's actual or perceived risk of involuntary displacement is not collected in the lottery process.		This is another substantive admission where defendant wishes to substitute its own language even though the language of the request is clear. The request must be deemed admitted as posed by plaintiffs. (Note that conceding that information about displacement is not collected is not the same as the clean admission that the sequencing remains the same whether or not some outsiders are at risk for displacement).	Y	
7c	Admit that Request No. 7(a) is true regardless of whether some insider households not claiming eligibility for a disablity set-aside unit who have applied are not at risk of involuntary displacement.	Defendant denies subparts a, b and c of this request, except admits that developers are supposed to consider non-disability applicants who are not eligible for the community preference in that lottery after the community preference units are awarded for that lottery and that information regarding an applicant household's actual or perceived risk of involuntary displacement is not collected in the lottery process.		This is another substantive admission where defendant wishes to substitute its own language even though the language of the request is clear. The request must be deemed admitted as posed by plaintiffs. (Note that conceding that information about displacement is not collected is not the same as the clean admission that the sequencing remains the same whether or not some insiders are at risk for displacement).	Y	

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9	Admit that, the scope, duration, and depth of "difficult conditions" vary considerably from community district to community district.	Defendant objects to this request insofar as the term "considerably" is vague and unclear. Defendant further objects to this request as it is a compound statement in that the "scope, duration, and depth of 'difficult conditions'" are each separate qualifiers. Subject to those objections, defendant denies this request, except admits that there can be variation in the specifics of what is meant by "difficult conditions" depending on the community district.		"Considerably" is a standard modifier. The response improperly avoids the request. Defendant has previously confirmed that helping New Yorkers who have persevered through difficult conditions is an articulated justification of the policy. *See* excerpts of Brown depo., annexed to Gurian Decl. as Ex. 25, at 264:6-14 (confirming that "one of the articulated justifications for the community preference policy is to help long time New Yorkers who have persevered through difficult conditions in their New York neighborhoods" by stating "I have heard that language used") . And defendant is readily capable of speaking to difficult conditions. *See* excerpt of Weisbrod depo., annexed to Gurian Decl. as Ex. 26, 204:19- 205:12 (describing "many neighborhoods in the City where reisdents are still persevering through difficult conditions" and delineating such conditions as including, *inter alia* , "housing pressures," inadequate habitability standards, lack of neighborhood amenities like transit access, high crime, or distance from employment). *See also* excerpts of Been I, annexed to Gurian Decl. as Ex. 5, at 19:5-22:4 (acknowledging that outsider-restriction, as designed, is not targeted to serving long-term CD residents who have persevered through unfavorable conditions;and acknowledging that someone who has lived in a high opportunity CD who has persevered through anything difficult can get preference in that CD: "there is no reuirement that anyone show a particular perseverence . . ."). If, for example, one of the difficult conditions encompassed by defendant's phrase is substandard housing, that would be something that varies considerably from CD to CD. If defendant's answer is actually different depending on whether it is responding to "scope," "duration," and "depth" (which is unlikely) it could say so easily. If defendant were admitting that the "nature, scope, duration, and/or depth of 'difficult conditions' vary considerably from community district to community district," that would be a compliant response.	Y	
10	Admit that an outsider, non-disability household may be in equal or greater need of a lottery unit for which that household is income- and household-size eligible than the household who was awarded the apartment because of the operation of the community preference policy.	Defendant objects to this request insofar as the term "need" is vague and unclear. Defendant further objects to this request as it is a compound statement in that a "equal or greater need" are each separate evaluations. Subject to those objections, defendant denies knowledge or information sufficient to respond to this request as the City does not collect or have data regarding the specific "needs" of applicants who apply to the City's affordable housing lottery.		The pose that "need" is vague or unclear is not tenable. Ms. Been, for example, had no trouble understanding this common word. *See* Been I, annexed to Gurian Decl. as Ex. 5, at 29:10-14 ("Q. So you're saying currently we don't have a needs-based [lottery] system except for the fact that income stands as the proxy for need? A. Right."). So, to the extent that insider and outsider householders are eligible for the same lottery unit by income, the need is at least equal according to the City's proxy. The fact that the City does not collect data regarding the needs of specific households is a *non sequitur.* With hundreds of thousands of applicants, it is wholly disingenuous to pretend that -- by whatever metric of "need" that one chooses to use -- at least some outsiders do not have an equal or greater need for a unit than at least some insiders (*e.g.* , as viewed by rent burden). The claim of "separate evaluations" is incorrect. Some outsiders having an "equal or greater need" is the same as understanding that at least some insiders have a lesser need.		
11	Admit that defendant's interest in avoiding the involuntary displacement of a New York City household from the city altogether is equal or greater than its interest in avoiding the involuntary displacement of that New York City household from a particular neighborhood or community district.	Defendant objects to this request insofar as the term "interest" is vague and unclear. Defendant further objects to this request as it is a compound statement in that a "equal or greater need" are each separate evaluations. Subject to those objections, Defendant denies this request.		"Interest" is not a difficult word to understand in this context; the word "stake" could also be used. The complaint about a compound request is misplaced. It is not asking defendant to determine which of the two (equal or greater) applies, but rather whether *at least one* of the two applies. In other words, "equal or greater" is synonmous with "not less than," and defendant understands or should understand that. Defendant is free to deny the request, but there should not be any ambiguity as to whether the denial is not a function of the objections.		
12	Admit that the community preference policy does not prevent a household from being involuntarily displaced from its current residence.	Defendant objects to this request insofar as the term "a household" is vague and unclear in the context of this request. Subject to this objection, Defendant states that the community preference policy inevitably prevents some households from being involuntarily displaced from their current residences and, atthe same time, does not prevent some households from being involuntarily displaced from their current residences.		Defendant cannot be heard to claim that the term "household" is unclear in the context of displacement. Obviously household is referring to the family, individual or other grouping living within a residence. Defendant's statement is unresponsive to the request to admit, which was asking not if community preference purportedly enables households at risk of displacement to procure alternative affordable housing, but specifically whether community preference prevents a household from having to move out of its "current residence" due to involuntary displacement. In other words, the request pertains specifically to whether community preference does anything to allow residents to remain within the specific apartment in which they are residing. Defendant must be compelled to respond to this straightforward request.		
15	Admit that CMs routinely support land-use decisions needed to facilitate affordable housing in their councilmanic districts, and routinely support individual affordable housing projects, and that such support is regularly given even in those cases where the CM had requested to expand the percentage of units in an affordable housing project subject to community preference beyond 50 percent and defendant's executive branch had rejected that request.	Defendant objects to this request insofar as the terms "routinely" and "regularly" are vague and unclear. Subject to these objections, Defendant denies this request, except admits that some Council Members support land use actions that facilitate affordable housing in their districts and that some Council Members also ultimately support land use actions that facilitate affordable housing in their districts in instances where the Council Member's request that the community preference policy be applied to more than 50% of the affordable lottery units that would result from a land use action had been denied.		The objected-to modifiers are at the core of this request, which seeks to confirm that the referenced support for land-use actions and individual projects, while not always given, is in no way unusual (on the contary, it is given *routinely).* Likewise, previous testimony makes clear that the support is provided *regularly* when a request for more preference is turned down (actually, more than regularly, but the request was framed in a conservative fashion). *See, e.g.* , excerpts of Been II, annexed to Gurian Decl. as Ex. 8, at 31:18-32:21 (acknowledging that multiple CMs asked for more than 50 percent preference, it was the City's policy to turn down those requests, and that in the instances she could recall, he CMs "did ultimately support" the land use action despite having "pushed very hard" for more than 50 percent preference).	Y	
17	Admit that defendant maintained the percentage of units subject to community preference at 30 percent for approximately 15 years prior to raising the percentage to 50 percent in 2002.	Defendant admits this request.		*See* point I of plaintiffs' brief (addressing general objections).		
18	Admit that defendant, in the course of making the decision to increase the percentage of units subject to community preference to 50 percent, did not poll or otherwise make broad inquiry of its legislative branch officials as to whether they would stop supporting land-use actions needed to facilitate the construction of affordable housing in their councilmanic districts (or a particular affordable housing development in their councilmanic districts) if the percentage were not raised from 30 percent.	Defendant objects to this request and subparts insofar as the terms "broad inquiry" and "land-use actions" are vague and unclear. Defendant further objects to this request as it is a compound statement in that it references both affordable housing generally and particular housing developments, which are different issues. Subject to those objections, defendant denies the request, except admits that it is unaware of any polling or broad inquiry of the then sitting Council Members regarding the community preference policy prior to the increase of the community preference policy to 50 percent.		Defendant's objections are without basis. The terms used are not vague or unclear. If defendant had a different answer regarding land-use actions or specific developments, it could easily specify. The "subject to" language introduces ambiguity into what is being denied and what is being admitted and purports to prevent that which is sought in the request from being "conclusively established" as required by FRCP 36(b).	Y	
18a	If the preceding request is not admitted, admit that there is no documentation of any such polling or other broad inquiry made of defendant's legislative branch officials at that time.	Defendant objects to this request and subparts insofar as the terms "broad inquiry" and "land-use actions" are vague and unclear. Defendant further objects to this request as it is a compound statement in that it references both affordable housing generally and particular housing developments, which are different issues. Subject to those objections, defendant denies the request, except admits that it is unaware of any polling or broad inquiry of the then sitting Council Members regarding the community preference policy prior to the increase of the community preference policy to 50 percent.		*See* Request 18 briefing note.	Y	
18b	If both of the preceding components of this request are not admitted, admit that plaintiffs have not been provided with any such documentation.	Defendant objects to this request and subparts insofar as the terms "broad inquiry" and "land-use actions" are vague and unclear. Defendant further objects to this request as it is a compound statement in that it references both affordable housing generally and particular housing developments, which are different issues. Subject to those objections, defendant denies the request, except admits that it is unaware of any polling or broad inquiry of the then sitting Council Members regarding the community preference policy prior to the increase of the community preference policy to 50 percent.		*See* Request 18 briefing note.	Y	

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19	The requests to admit that come within this Request 19 address the circumstance where the percentage of units in affordable housing projects marketed by HPD or HDC that are subject to community preference has been reduced back down to 30 percent by binding court order. The requests refer to decisions that may come to come before the Council subsequent to such a court-ordered reduction in community preference, with such decisions being in regard to land-use actions needed to facilitate the construction of affordable housing or in regard to approvals of particular affordable housing developments.			(Listed to put Requests 19(a), (b), (c), and (d) in context.)		
19a	Admit that defendant does not know how many CMs, if any, who otherwise would have supported either a land-use action needed to facilitate the construction of affordable housing in their councilmanic districts or particular affordable housing developments in their councilmanic districts, would nevertheless oppose the needed land-use action or affordable housing development because the percentage of units subject to community preference had been reduced by binding court order back down to 30 percent.	Defendant objects to this request, and its subparts, because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1). This request seeks responses to hypothetical questions or admissions based upon hypothetical scenarios, and does not seek an admission to facts (past or present), the application of law to fact, opinions about either and thus is not properly the subject of a request to admit. Defendant further objects to this request because a response to a hypothetical question lacks probative value. Additionally, Defendant objects to this request and its subparts because, through them, Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request and subparts as a substitute for interrogatories, requests for production, and/or depositions, as the Court has denied both discovery from and depositions of New York City Council Members in this case. Defendant also objects to this request and subparts as the term "land-use actions" is vague and unclear.		*See* Point V of plaintiffs' brief.		
19b	Admit that defendant does not know whether any CMs who did oppose a needed land-use action or affordable housing development would do so for each and every action or development that implicated their councilmanic districts.	Defendant objects to this request, and its subparts, because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1). This request seeks responses to hypothetical questions or admissions based upon hypothetical scenarios, and does not seek an admission to facts (past or present), the application of law to fact, opinions about either and thus is not properly the subject of a request to admit. Defendant further objects to this request because a response to a hypothetical question lacks probative value. Additionally, Defendant objects to this request and its subparts because, through them, Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request and subparts as a substitute for interrogatories, requests for production, and/or depositions, as the Court has denied both discovery from and depositions of New York City Council Members in this case. Defendant also objects to this request and subparts as the term "land-use actions" is vague and unclear.		*See* Point V of plaintiffs' brief.		
19c	Admit that defendant does not know how many units of potential affordable housing would be affected by such opposition.	Defendant objects to this request, and its subparts, because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1). This request seeks responses to hypothetical questions or admissions based upon hypothetical scenarios, and does not seek an admission to facts (past or present), the application of law to fact, opinions about either and thus is not properly the subject of a request to admit. Defendant further objects to this request because a response to a hypothetical question lacks probative value. Additionally, Defendant objects to this request and its subparts because, through them, Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request and subparts as a substitute for interrogatories, requests for production, and/or depositions, as the Court has denied both discovery from and depositions of New York City Council Members in this case. Defendant also objects to this request and subparts as the term "land-use actions" is vague and unclear.		*See* Point V of plaintiffs' brief.		
19d	Admit that, in the circumstance of the court-ordered reduction described above, if the CM were successful in his or her opposition, the CM: 1. Would be reducing the availability of affordable housing needed both by his or her constituents and by other residents of New York City; and 2. Would not be effecting any increase in the then-prevailing community preference percentage.	Defendant objects to this request, and its subparts, because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1). This request seeks responses to hypothetical questions or admissions based upon hypothetical scenarios, and does not seek an admission to facts (past or present), the application of law to fact, opinions about either and thus is not properly the subject of a request to admit. Defendant further objects to this request because a response to a hypothetical question lacks probative value. Additionally, Defendant objects to this request and its subparts because, through them, Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request and subparts as a substitute for interrogatories, requests for production, and/or depositions, as the Court has denied both discovery from and depositions of New York City Council Members in this case. Defendant also objects to this request and subparts as the term "land-use actions" is vague and unclear.		*See* Point V of plaintiffs' brief.		
20	The requests to admit that come within this Request 20 address the circumstance where the community preference policy has been eliminated by binding court order. The requests refer to decisions that may come to come before the Council subsequent to such a court-ordered elimination of community preference, with such decisions being in regard to land-use actions needed to facilitate the construction of affordable housing or in regard to approvals of particular affordable housing developments.			(Listed to put Requests 20(a), (b), (c), and (d) in context.)		
20a	Admit that defendant does not know how many CMs, if any, who otherwise would have supported either a land-use action needed to facilitate the construction of affordable housing in their councilmanic districts or particular affordable housing developments in their councilmanic districts, would nevertheless oppose the needed land-use action or affordable housing development because the community preference policy had been eliminated by binding court order.	Defendant objects to this request, and its subparts, because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1). This request seeks responses to hypothetical questions or admissions based upon hypothetical scenarios, and does not seek an admission to facts (past or present), the application of law to fact, opinions about either and thus is not properly the subject of a request to admit. Defendant further objects to this request because a response to a hypothetical question lacks probative value. Additionally, Defendant objects to this request and its subparts because, through them, Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request and subpart as a substitute for interrogatories, requests for production, and/or depositions, as the Court has denied both discovery from and depositions of New York City Council Members in this case. Defendant also objects to this request and subparts as the term "land-use actions" is vague and unclear.		*See* Point V of plaintiffs' brief.		

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20b	Admit that defendant does not know whether any CMs who did oppose a needed land-use action or affordable housing development would do so for each and every action or development that implicated their councilmanic districts.	Defendant objects to this request, and its subparts, because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1). This request seeks responses to hypothetical questions or admissions based upon hypothetical scenarios, and does not seek an admission to facts (past or present), the application of law to fact, opinions about either and thus is not properly the subject of a request to admit. Defendant further objects to this request because a response to a hypothetical question lacks probative value. Additionally, Defendant objects to this request and its subparts because, through them, Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request and subpart as a substitute for interrogatories, requests for production, and/or depositions, as the Court has denied both discovery from and depositions of New York City Council Members in this case. Defendant also objects to this request and subparts as the term "land-use actions" is vague and unclear.		*See* Point V of plaintiffs' brief.		
20c	Admit that defendant does not know how many units of potential affordable housing would be affected by such opposition.	Defendant objects to this request, and its subparts, because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1). This request seeks responses to hypothetical questions or admissions based upon hypothetical scenarios, and does not seek an admission to facts (past or present), the application of law to fact, opinions about either and thus is not properly the subject of a request to admit. Defendant further objects to this request because a response to a hypothetical question lacks probative value. Additionally, Defendant objects to this request and its subparts because, through them, Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request and subpart as a substitute for interrogatories, requests for production, and/or depositions, as the Court has denied both discovery from and depositions of New York City Council Members in this case. Defendant also objects to this request and subparts as the term "land-use actions" is vague and unclear.		*See* Point V of plaintiffs' brief.		
20d	Admit that, in the circumstance of the court-ordered elimination described above, if the CM were successful in his or her opposition, the CM: 1. Would be reducing the availability of affordable housing needed both by his or her constituents and by other residents of New York City; and 2. Would not be effecting any reinstitution of the community preference policy.	Defendant objects to this request, and its subparts, because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1). This request seeks responses to hypothetical questions or admissions based upon hypothetical scenarios, and does not seek an admission to facts (past or present), the application of law to fact, opinions about either and thus is not properly the subject of a request to admit. Defendant further objects to this request because a response to a hypothetical question lacks probative value. Additionally, Defendant objects to this request and its subparts because, through them, Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request and subpart as a substitute for interrogatories, requests for production, and/or depositions, as the Court has denied both discovery from and depositions of New York City Council Members in this case. Defendant also objects to this request and subparts as the term "land-use actions" is vague and unclear.		*See* Point V of plaintiffs' brief.		
21	Admit that the best source for providing a CM's own explanation for why he or she would or would not act in the future in the ways referenced by Requests Nos. 19 and 20 is the CM himself or herself.	Defendant objects to this request because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1). This request does not seek an admission to facts (past or present) the application of law to fact, opinions about either and thus is not properly the subject of a request to admit. Subject to these objections, Defendant admits this request.		*See* point V of plaintiffs' brief. The "subject to" language purports to prevent that which is sought in the request from being "conclusively established" as required by FRCP 36(b).	Y	
22	This request deals with the circumstance of a CM opposing a land-use action needed to facilitate affordable housing development (or opposing a particular affordable housing development) that the CM would support but for the fact that community preference has been reduced or eliminated by binding court order.			(Listed to put Requests 22(a) and (b) in context.)		
22a	Admit that, if the CM were successful in stymieing the land-use action or affordable housing development as described above, that success would be contrary to defendant's interest.	Defendant object to this request, and its subparts, because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1). This request seeks responses to hypothetical questions or admissions based upon hypothetical scenarios, and does not seek an admission to facts (past or present), the application of law to fact, opinions about either and thus is not properly the subject of a request to admit. Defendant further objects to this request because a response to a hypothetical question lacks probative value. Additionally, Defendant objects to this request and its subparts because, through them, Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request and subparts as a substitute for interrogatories, requests for production, and/or depositions, as the Court has denied both discovery from and depositions of New York City Council Members in this case. Defendant further objects to this request as it is a compound statement in that it references both affordable housing generally and particular housing developments, which are different issues. Defendant also objects to this request and subparts insofar as the term "land-use actions" is vague and unclear.		Defendant is fully aware of what a "land use action" is. A critical question as to the necessity of the policy is what CMs would do absent the policy. Another key question is establishing that actually withholding support for affordable housing development because the policy did not exist would represent a CM acting contrary to the interests of the City and his/her constituents. Former Deputy Mayor Alicia Glen provided testimony both characterizing such conduct (more affordable housing development being turned down by CMs because the policy was no longer part of the equation) and affirming that such conduct would not be in the interest of the City or in the interest of the CM's constituents. *See* excerpts of Glen depo., annexed to Gurian Decl. as Ex. 12, at 131:10-24, 133:21-134:14. Defendant demonstrably is able to characterize its view of such conduct and must be required to do so. Note that the facts sought to be admitted bear strongly both on the question of whether a justification can be based on accommodating the desire of the defendant's own officials to act against the interests of the defendant, and on the credibility of any such officials who claim that they would do so.		
22b	Admit that, if the CM were successful in stymieing the land-use action or affordable housing development as described above, that success would be contrary to the interests of the CM's constituents.	Defendant object to this request, and its subparts, because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1). This request seeks responses to hypothetical questions or admissions based upon hypothetical scenarios, and does not seek an admission to facts (past or present), the application of law to fact, opinions about either and thus is not properly the subject of a request to admit. Defendant further objects to this request because a response to a hypothetical question lacks probative value. Additionally, Defendant objects to this request and its subparts because, through them, Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request and subparts as a substitute for interrogatories, requests for production, and/or depositions, as the Court has denied both discovery from and depositions of New York City Council Members in this case. Defendant further objects to this request as it is a compound statement in that it references both affordable housing generally and particular housing developments, which are different issues. Defendant also objects to this request and subparts insofar as the term "land-use actions" is vague and unclear.		*See* Request 22a briefing note.		
23	Admit that when defendant's legislative branch officials decide on whether to support or oppose land-use actions needed to facilitate affordable housing construction or to support or oppose a particular affordable housing development, those CMs consider multiple factors.	Defendant objects to this request and subparts insofar as the terms "land-use actions," "prominent," "common" and "benefits" are vague and unclear. Subject to those objections, Defendant denies this request, excepts admits that CMs consider multiple factors when deciding whether to vote to approve or disapprove land use actions needed to facilitate construction of affordable housing or whether to vote to approve or disapprove an application regarding a particular affordable housing development, and two of the factors that may be considered are the levels of affordability of the units and the extent to which needed infrastructure or community improvements or benefits will be provided.		Defendant's objections are without basis. The terms used are not vague or unclear. The "subject to" language introduces ambiguity into what is being denied and what is being admitted and purports to prevent that which is sought in the request from being "conclusively established" as required by FRCP 36(b).	Y	

RTA #	RTA	Defendant's Response (Note: In the responses served, the response appears once at the end of the request, whether it has sub-parts or not. Here, for reading across each entry, including each entry for a sub-part, the entire response is replicated for each request and each sub-part)	Plaintiffs' reframing to meet defendant's purported concerns	Briefing notes	Plaintiffs ask that the request be deemed admitted as posed by plaintiffs	Plaintiffs seek to have extraneous averments or other statements stricken
23a	Admit that one such factor that is common and prominent is how units are allocated between and among different levels of affordability (*e.g.* , what percentage of units are affordable at 40 percent AMI, 60 percent AMI, etc.).	Defendant objects to this request and subparts insofar as the terms "land-use actions," "prominent," "common" and "benefits" are vague and unclear. Subject to those objections, Defendant denies this request, excepts admits that CMs consider multiple factors when deciding whether to vote to approve or disapprove land use actions needed to facilitate construction of affordable housing or whether to vote to approve or disapprove an application regarding a particular affordable housing development, and two of the factors that may be considered are the levels of affordability of the units and the extent to which needed infrastructure or community improvements or benefits will be provided.		*See* Request 23 briefing note.	Y	
23b	Admit that one such factor that is common and prominent is the extent to which the CM's councilmanic district will receive infrastructure or other community improvements or benefits.	Defendant objects to this request and subparts insofar as the terms "land-use actions," "prominent," "common" and "benefits" are vague and unclear. Subject to those objections, Defendant denies this request, excepts admits that CMs consider multiple factors when deciding whether to vote to approve or disapprove land use actions needed to facilitate construction of affordable housing or whether to vote to approve or disapprove an application regarding a particular affordable housing development, and two of the factors that may be considered are the levels of affordability of the units and the extent to which needed infrastructure or community improvements or benefits will be provided.		*See* Request 23 briefing note.	Y	
24	Admit that, to the extent that a "Councilmanic veto" exists in relation to land-use actions in a CM's councilmanic district – that is, the other members of the Council generally deferring to the CM whose district would be affected by the land-use action – such a tradition or practice is not required by law, regulation, or rule.	Defendant objects to this request insofar as the term "land-use action" is vague and unclear. Subject to those objections, Defendant denies this request, excepts admits that there are no laws, regulations or rules that mandate how a Council Member must vote on a land-use action.		Defendant's objection is without basis. The term used is not vague or unclear. The "subject to" language introduces ambiguity into what is being denied and what is being admitted and purports to prevent that which is sought in the request from being "conclusively established" as required by FRCP 36(b). Defendant has not met its obligation to make clear what in the request it is denying. If the denial is a denial of the existence of a practice or tradition of Councilmanic veto, then the denial should say so.	Y	
25	Admit that the practice or tradition described in Request No. 24 has been criticized by one or more CMs.	Defendant denies this request, excepts admits one or more Council Members has criticized other Council Members for deferring to the Council Member whose councilmanic district is the location of the land use action.		Defendant has not met its obligation to make clear what in the request it is denying. If the denial is a denial of the existence of a practice or tradition of Councilmanic veto, then the denial should say so.	Y	
26	Admit that the practice or tradition described in Request No. 24 is contrary to the interests of the City.	Defendant objects to this request insofar as the term "interest" is vague and unclear. Subject to those objections and it light of its response to Request No. 24, defendant denies this request.		There is nothing vague about the term. "Contrary to the interests of the City" is similar to "contrary to the benefit or advantage of defendant." The combination of the "subject to" and the cross-reference to a previous unclear response makes it unclear what is being denied, in contravention of FRCP 36(a)(4).		
28	Admit that defendant knows that setting affordability levels for all new affordable housing units in a neighborhood so that the affordability levels all reflect the need of existing neighborhood residents, and no other levels of affordability, violates the Fair Housing Act.	Defendant objects to this request because the premises of the request is vague and unclear (which entity or person is setting affordability levels, if the request intended to ask about a single affordability levels in multiple places or multiple affordability levels in a single location), as is the term "need". In light of these objections, defendant cannot answer and, therefore, denies this request.		(Listed to put Request 29 in context.)		
29	If either Request No. 27 or 28 is not admitted, admit that then-Commissioner Been wrote that [Redacted]	Defendant objects to this request because the premise of the request [Redacted] laintiffs' Exhibit 194, at NYC_0017154.		The request is framed to confirm Ms. Been's understanding [Redacted] The language quoted in the request from Bates 17154, annexed to the Gurian Decl. as Ex. 27, at Bates 17154, can be simply admitted, and therefore must be. The sentence that defendant seeks to tack on in lieu of a straight admission does nothing to clarify whether the request can be admitted; it is another example of trying to insert information as to which defendnat will be able to frame at a later stage to defend itself with, if it chooses. The request should be deemed admitted as posed by plaintiffs. *See* FRCP 36(a)(6).	Y	
30	Admit that, based on the dissimilarity index, New York City has been, from the commencement of the community preference policy and continuing to the present, characterized by a high level of residential segregation as between African-Americans and whites.	Defendant objects to this request insofar as the term "high" is vague and unclear. Subject to those objections, Defendant denies this request, but admits that the dissimilarity index for African Americans and Whites between census tracts and the City was 84 in 1990, 84 in 2000, and 82 in 2010, which is "high" according to HUD's AFFH Guidebook.[2] Footnote 2: HUD has since withdraw the AFH.		Defendant's own expert has suggested that a level above 60 (that is above 0.6) is high, even at the community district level. *See* excerpt of Goetz rebuttal report, May 10, 2019, annexed to Gurian Decl. as Ex. 28, at 4. Thus, what defendant is failing to address is whether it admits that, *based on what it understands high dissimilarity to be (measured at the scale that it believes dissimilarity is supposed to be measured for "New York City")* , the referenced characterization is true.	Y	
31	Admit that, based on the dissimilarity index, New York City has been, from the commencement of the community preference policy and continuing to the present, characterized by a high level of residential segregation as between Latinos and whites.	Defendant objects to this request insofar as the term "high" is vague and unclear. Subject to those objections, Defendant denies this request, but admits that the dissimilarity index for Hispanics and Whites between census tracts and the City was 67 in 1990, 67 in 2000, and 66 in 2010, which is "high" according to HUD's AFFH Guidebook.[3] Footnote 3: HUD has since withdrawn the AFH.		*See* Request 30 briefing note.	Y	
33	Admit that Mayor de Blasio has believed since at least the beginning of his mayoralty and continues to believe that New York City is characterized by a substantial level of residential racial segregation.	Defendant objects to this request because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1) as it does not seek an admission to facts (past or present), the application of law to fact, opinions about either, but instead seeks discovery of facts rather than admission of facts already discovered, and thus is not properly the subject of a request to admit. Additionally, Defendant objects to this request because Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions. This request is an inappropriate attempt to circumvent the Court's ruling that a deposition of the Mayor shall not be permitted in this case.		*See* Point III of plaintiffs' brief.		
35	Admit that defendant takes the position that, in constructing racial/ethnic typologies in the context of examining racial or ethnic diversity in New York City, a community district or NTA should not be included in the "predominantly white" typology even if it is between 50 and 75 percent white.	Defendant objects to this request insofar as the terms "constructing" and "predominately" are vague and unclear. Defendant further objects to this request as it is a compound statement in that a "community district" and "NTA" are each separate and distinct areas. Subject to those objections, defendant denies this request, except admits that in the Where We Live NYC process, HPD is defining "predominantly" as any racial or ethnic group that is 75 percent or more of the population of the NTA being studied.	Admit that defendant takes the position in the Where We Live process, that, in constructing racial/ethnic typologies in the context of examining racial or ethnic diversity in New York City, a community district or NTA should not be included in the "predominantly white" typology even if it is between 50 and 75 percent white.	Defendant states on its Where We Live website that, "Between 1990 and 2012-2016, the number of predominantly White neighborhoods (White population above 75%) declined, particularly on Staten Island and in south Brooklyn, the east part of Manhattan, and western Queens." *See* https://wherewelive.cityofnewyork.us/explore-data/where-new-yorkers-live/ By definition, the scenario included in Request 35 (NTA 50-75 percent White) does not come within "above 75%" as stated on the website. Defendant's response misquotes what is stated on the website. The request should be admitted as reframed.	Y (reframed)	
36	Admit that, in the New York City context, a community district can be measured as relatively diverse on the racial diversity index, yet have an African American population sharply below the citywide percentage of African Americans.	Defendant objects to this request as the premise of the request is vague and unclear, does not correspond to how HPD understands that the racial diversity index is intended to be used as explained in Plaintiffs' Exhibit 41, and is not an index that is used by the City. In light of these objections, defendant cannot answer this request.		*See* introduction to plaintiffs' brief.		
37	Admit that defendant, in connection with the analyses of impediments to fair housing choice it conducted for its 2002, 2007, and 2012 5-year Affirmatively Furthering Fair Housing (AFFH) Statements, did not analyze citywide the extent to which the community preference policy may cause a disparate impact on the basis of race in affordable housing lotteries or may perpetuate segregation on the basis of race.	Defendant objects to this request insofar as the terms "disparate impact" and "perpetuate segregation" are vague and unclear. Defendant further objects to this request as it is a compound statement in that an analysis regarding a potential disparate impact and an analysis on potentially perpetuating segregation are each separate and distinct analyses. Subject to those objections, Defendant admits this request, and avers that the City did not have an obligation to undertake a disparate impact or perpetuation of segregation analysis of the community preference policy in connection with its analyses of impediments.		In addition to the problem caused by the "subject to" language, the averment should be stricken -- it has nothing to do with admitting or denying the request and everything to do with providing defendant's preferred explanation for the conduct being admitted.	Y	Y
38	Admit that defendant, prior to 2013, did not otherwise analyze citywide the extent to which the community preference policy may cause a disparate impact on the basis of race in affordable housing lotteries or may perpetuate segregation on the basis of race.	Defendant objects to this request insofar as the terms "otherwise" and "disparate impact" and "perpetuate segregation" are vague and unclear. Defendant further objects to this request as it is a compound statement in that an analysis regarding a potential disparate impact and an analysis on potentially perpetuating segregation are each separate and distinct analyses. Subject to those objections, Defendant admits this request.		The terms are clear. The "subject to" language purports to prevent that which is sought in the request from being "conclusively established" as required by FRCP 36(b).	Y	

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39	Admit that defendant, in the course of 2014, did analyze the extent to which the community preference policy may cause a disparate impact on the basis of race in affordable housing lotteries or may perpetuate segregation on the basis of race.	Defendant objects to this request insofar as the terms "disparate impact" and "perpetuate segregation" are vague and unclear. Defendant further objects to this request as it is a compound statement in that an analysis regarding a potential disparate impact and an analysis on potentially perpetuating segregation are each separate and distinct analyses. Defendant also objects to this request, and its subpart, as the response would reveal privileged information or communications. Analysis of the community preference policy in 2014, if any, and any sharing of any results of that analysis would have been undertaken in the context of anticipated litigation and potential settlement of the HUD compliance review, and is thus protected by work product privilege and/or attorney client communication and/or deliberative process privilege.		*See* Point VI of plaintiffs' brief.		
39a	Admit that defendant's executive branch officials did not share the results of such analysis or analyses with any members of defendant's legislative branch in any form or by any manner.	Defendant objects to this request insofar as the terms "disparate impact" and "perpetuate segregation" are vague and unclear. Defendant further objects to this request as it is a compound statement in that an analysis regarding a potential disparate impact and an analysis on potentially perpetuating segregation are each separate and distinct analyses. Defendant also objects to this request, and its subpart, as the response would reveal privileged information or communications. Analysis of the community preference policy in 2014, if any, and any sharing of any results of that analysis would have been undertaken in the context of anticipated litigation and potential settlement of the HUD compliance review, and is thus protected by work product privilege and/or attorney client communication and/or deliberative process privilege.		*See* Point VI of plaintiffs' brief.		
40	Admit that defendant, in the course of 2015, did analyze the extent to which the community preference policy may cause a disparate impact on the basis of race in affordable housing lotteries or may perpetuate segregation on the basis of race.	Defendant objects to this request insofar as the terms "disparate impact" and "perpetuate segregation" are vague and unclear. Defendant further objects to this request as it is a compound statement in that an analysis regarding a potential disparate impact and an analysis on potentially perpetuating segregation are each separate and distinct analyses. Defendant also objects to this request, and its subpart, as the response would reveal privileged information or communications. Analysis of the community preference policy in 2015, if any, and any sharing of any results of that analysis would have been undertaken in the context of anticipated litigation and potential settlement of the HUD compliance review, and/or litigation strategy and/or settlement of this litigation, and is thus protected by work product privilege and/or attorney client communication and/or deliberative process privilege.		*See* Point VI of plaintiffs' brief.		
40a	Admit that defendant's executive branch officials did not share the results of such analysis or analyses with any members of defendant's legislative branch in any form or by any manner.	Defendant objects to this request insofar as the terms "disparate impact" and "perpetuate segregation" are vague and unclear. Defendant further objects to this request as it is a compound statement in that an analysis regarding a potential disparate impact and an analysis on potentially perpetuating segregation are each separate and distinct analyses. Defendant also objects to this request, and its subpart, as the response would reveal privileged information or communications. Analysis of the community preference policy in 2015, if any, and any sharing of any results of that analysis would have been undertaken in the context of anticipated litigation and potential settlement of the HUD compliance review, and/or litigation strategy and/or settlement of this litigation, and is thus protected by work product privilege and/or attorney client communication and/or deliberative process privilege.		*See* Point VI of plaintiffs' brief.		
41	Admit that defendant, in the course of 2016, did analyze the extent to which the community preference policy may cause a disparate impact on the basis of race in affordable housing lotteries or may perpetuate segregation on the basis of race.	Defendant objects to this request insofar as the terms "disparate impact" and "perpetuate segregation" are vague and unclear. Defendant further objects to this request as it is a compound statement in that an analysis regarding a potential disparate impact and an analysis on potentially perpetuating segregation are each separate and distinct analyses. Defendant also objects to this request, and its subpart, as the response would reveal privileged information or communications. Analysis of the community preference policy in 2016, if any, and any sharing of any results of that analysis would have been undertaken in the context of anticipated litigation and potential settlement of the HUD compliance review, and/or litigation strategy and/or settlement of this litigation, and is thus protected by work product privilege and/or attorney client communication, and/or deliberative process privilege		*See* Point VI of plaintiffs' brief.		
41a	Admit that defendant's executive branch officials did not share the results of such analysis or analyses with any members of defendant's legislative branch in any form or by any manner.	Defendant objects to this request insofar as the terms "disparate impact" and "perpetuate segregation" are vague and unclear. Defendant further objects to this request as it is a compound statement in that an analysis regarding a potential disparate impact and an analysis on potentially perpetuating segregation are each separate and distinct analyses. Defendant also objects to this request, and its subpart, as the response would reveal privileged information or communications. Analysis of the community preference policy in 2016, if any, and any sharing of any results of that analysis would have been undertaken in the context of anticipated litigation and potential settlement of the HUD compliance review, and/or litigation strategy and/or settlement of this litigation, and is thus protected by work product privilege and/or attorney client communication, and/or deliberative process privilege		*See* Point VI of plaintiffs' brief.		
42	Admit that defendant, in the course of 2017, did analyze the extent to which the community preference policy may cause a disparate impact on the basis of race in affordable housing lotteries or may perpetuate segregation on the basis of race.	Defendant objects to this request insofar as the terms "disparate impact" and "perpetuate segregation" are vague and unclear. Defendant further objects to this request as it is a compound statement in that an analysis regarding a potential disparate impact and an analysis on potentially perpetuating segregation are each separate and distinct analyses. Defendant also objects to this request, and its subpart, as the response would reveal privileged information or communications. Analysis of the community preference policy in 2017, if any, and any sharing of any results of that analysis would have been undertaken for litigation strategy and/or settlement of this litigation, and is thus protected by work product privilege and/or attorney client communication, and/or deliberative process privilege		*See* Point VI of plaintiffs' brief.		
42a	Admit that defendant's executive branch officials did not share the results of such analysis or analyses with any members of defendant's legislative branch in any form or by any manner.	Defendant objects to this request insofar as the terms "disparate impact" and "perpetuate segregation" are vague and unclear. Defendant further objects to this request as it is a compound statement in that an analysis regarding a potential disparate impact and an analysis on potentially perpetuating segregation are each separate and distinct analyses. Defendant also objects to this request, and its subpart, as the response would reveal privileged information or communications. Analysis of the community preference policy in 2017, if any, and any sharing of any results of that analysis would have been undertaken for litigation strategy and/or settlement of this litigation, and is thus protected by work product privilege and/or attorney client communication, and/or deliberative process privilege		*See* Point VI of plaintiffs' brief.		
43	Admit that defendant, in the course of 2018, did analyze the extent to which the community preference policy may cause a disparate impact on the basis of race in affordable housing lotteries or may perpetuate segregation on the basis of race.	Defendant objects to this request insofar as the terms "disparate impact" and "perpetuate segregation" are vague and unclear. Defendant further objects to this request as it is a compound statement in that an analysis regarding a potential disparate impact and an analysis on potentially perpetuating segregation are each separate and distinct analyses. Defendant also objects to this request, and its subpart, as the response would reveal privileged information or communications. Analysis of the community preference policy in 2018, if any, and any sharing of any results of that analysis would have been undertaken for litigation strategy and/or settlement of this litigation, and is thus protected by work product privilege and/or attorney client communication, and/or deliberative process privilege		*See* Point VI of plaintiffs' brief.		

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43a	Admit that defendant's executive branch officials did not share the results of such analysis or analyses with any members of defendant's legislative branch in any form or by any manner.	Defendant objects to this request insofar as the terms "disparate impact" and "perpetuate segregation" are vague and unclear. Defendant further objects to this request as it is a compound statement in that an analysis regarding a potential disparate impact and an analysis on potentially perpetuating segregation are each separate and distinct analyses. Defendant also objects to this request, and its subpart, as the response would reveal privileged information or communications. Analysis of the community preference policy in 2018, if any, and any sharing of any results of that analysis would have been undertaken for litigation strategy and/or settlement of this litigation, and is thus protected by work product privilege and/or attorney client communication, and/or deliberative process privilege		*See* Point VI of plaintiffs' brief.		
44	Admit that the results of any analyses as referenced in Request Nos. 39-43 were shared with the then-Commissioner of HPD.	In light of the responses to Requests Nos. 39-43, Defendant objects to this request as the response would reveal privileged information. Any analysis of the community preference policy referenced in requests 39-43 and the sharing of any results of any analysis that was done for litigation strategy and/or settlement of this litigation is protected by work product privilege and/or attorney client communication, and/or deliberative process privilege.		This request seeks to confirm that the HPD Commissioner was in the loop on any analysis (and thus cannot claim ignorance of any such analysis). *See also* Point VI of plaintiffs' brief.		
45	Admit that defendant has known or believed since prior to the commencement of this action that the application of community preference in some community districts would cause a disparate impact on the basis of race and/or perpetuate segregation. Note: this request to admit is not intended to deal with or seek any admission regarding whether the application of community preference in such districts is justified by a legitimate, non-discriminatory, governmental interest.	Defendant objects to this request as the response would reveal privileged information. Any disparate impact analysis of the community preference policy prior to the commencement of this action was done in the context of anticipated litigation and potential settlement of the HUD compliance review, and thus, is protected by work product privilege and/or attorney client communication, and/or deliberative process privilege.		Plaintiffs' are not asking for any communications or attorney mental impressions. Defendant maintains the outsider-restriction policy. What it knows or believes about the disparate impact that a policy it chooses to implement *citywide* causes in some community districts is a basis for *policy* decisions. Decision-makers cannot wall off what they know when they are wearing their policy-making hats. And former HPD Commissioners Been and Torres-Springer have admitted that they wouldn't wall off relevant information from policy consideration, regardless of the source. *See* Been II, annexed to Gurian Decl. as Ex. 8, at 95:2-96:11 (agreeing Ms. Been would not exclude from her decision-making process "any categories of information that were relevant, that [she] deemed relevant," including information learned in discussions of litigation or settlement); excerpt of Torres-Springer depo., annexed to Gurian Decl. as Ex. 24, at 280:8-282:15 (acknowledging Ms. Torres-Springer would not "cordon off" information learned regarding community preference in litigation-related discussions from her "current or future policy making as HPD Commissioner"). To accept defendant's position would be to say that the factors that are availiable to be considered on the question of whether to maintain the policy (which can be changed unilaterally by the administration at any time) are outside the bounds of this litigation. *See also* Briefing Note 107.		
46	Admit that Mayor de Blasio came to know in the course of his mayoralty that the citywide application of community preference operates to cause disparate impact on the basis of race. Note: this request to admit is not intended to deal with or seek any admission regarding whether the application of community preference in such districts is justified by a legitimate, non-discriminatory, governmental interest.	Defendant objects to this request as the response would reveal privileged information or communications. Any analysis of the community preference policy was done in the context of anticipated litigation and potential settlement of the HUD compliance review, and/or for litigation strategy and/or settlement of this litigation, and thus, is protected by work product privilege and/or attorney client communication, and/or deliberative process privilege, as is the sharing of any results of any such analysis.		*See* point III of plaintiffs' brief. Plaintiffs' are not asking for any communications, or analyses, or attorney mental impressions. Plaintiffs simply seek for defendant to admit as to the fact of the mayor's -- i.e., defendant's ultimate decisionmaker as to the policy -- knowledge. This is critical to plaintiffs' discriminatory intent claims (the mayor's knowledge of the impact of the policy and decision to continue it notwithstanding such knowledge would be an important fact). The request has to do with what he came to believe. To accept defendant's position would be to say that the factors that are in the Mayor's head for why he continues to maintain the outsider-restriction policy are outside the bounds of this litigation.		
47	Admit that, by 2016 at the latest, defendant knew that[Redacted] approximately[Redacted]percent of unique applicants to Housing Connect were eligible for community preference.	Defendant objects to this request insofar as the term "eligible" is vague and unclear. Subject to those objections, Defendant denies this request, except admits that by 2016, HPD knew that approximately[Redacted] percent of unique applicants to lotteries in the Housing Connect database were eligible for community preference for the projects to which they applied.		The "subject to" language introduces ambiguity into what is being denied and what is being admitted and purports to prevent that which is sought in the request from being "conclusively established" as required by FRCP 36(b). It appears that, substantively, defendant is admitting the request, and should be deemed to have admitted it as posed by plaintiffs. *See* FRCP 36(a)(6).	Y	
48	Admit that a large percentage of unique lottery applicants is prepared to seek affordable housing that is located outside of their existing community district.	Defendant objects to this request insofar as the term "prepared to seek" is vague and unclear. Subject to those objections, Defendant denies knowledge or information sufficient to respond to this request because defendant does not collect information regarding whether applicants are "prepared to seek" affordable housing that is located outside of their existing community district nor does defendant have knowledge about which applicants are actually interested in moving outside of their community district.	Admit that a large majority of unique lottery applicants in the Housing Connect era have applied, [Redacted] for affordable housing that is located outside of their existing community district.	Defendant has the data, and has plaintiffs' analysis of the data. There is no basis to refuse to respond.		
49	Admit that a large percentage of unique lottery applicants is prepared to seek affordable housing that is located outside of their existing borough.	Defendant objects to this request insofar as the term "prepared to seek" is vague and unclear. Subject to those objections, defendant denies knowledge or information sufficient to respond to this request because defendant does not collect information regarding whether applicants are "prepared to seek" affordable housing that is located outside of their existing borough, nor does defendant have knowledge about which applicants are actually interested in moving outside of their borough.	Admit that a majority of unique lottery applicants in the Housing Connect era have applied, [Redacted] for affordable housing that is located outside of their existing borough.	Defendant has the data, and has plaintiffs' analysis of the data. There is no basis to refuse to respond.		
50	Admit that New York City's extensive mass transportation network makes it easier for people of limited means to navigate between different parts of the City (for work or school or reasons of family or social connection) than is the case in municipalities that are more car-dependent.	Defendant objects to this request insofar as the terms "people of limited means," "navigate" and "municipalities that are more car-dependent" are vague and unclear as it does not define what people of limited means are nor identifies which municipalities should be compared to NYC. Subject to those objections, defendant denies knowledge or information sufficient to respond to this request because defendant has not undertaken a comparison of the level of ease of navigation of its residents as compared to residents of other unnamed and unknown "municipalities that are more car-dependent," except admits that New York City has an extensive mass transportation network that allows for people to navigate between different parts of the City.		If you are a person of limited means and can't afford a car or an Uber, you can still get around the City much more easily than if you were living in a more car-dependent municipality (*i.e.*, the vast majority of municipalities in the country) because New York City has such an extensive mass transportation system. It would be hard to find an administration official (or any New Yorker, for that matter) who *didn't* know this, and, contrary to FRCP 36(a)(4), defendant does not identify any effort that it made to inquire of anyone to see if it were possible to admit or deny the request as posed. The balance of the response is a *non sequitur*. Defendant must answer.		
51	Admit that, in New York City, many New Yorkers maintain family and social connections across different neighborhoods or boroughs.	Defendant objects to this request insofar as the terms "maintain" and "family and social connections" are vague and unclear. Defendant further objects to this request as it is a compound statement in that a family connections not necessarily the same as social connections and vice versa and neighborhoods and boroughs are separate geographic areas. Subject to those objections, defendant denies knowledge or information sufficient to respond to this request as defendant does not collect information on where "New Yorkers maintain family and social connections."		Defendant cannot avoid its obligation to respond to a question by averring a lack of understanding of a word as basic as "maintain." Defendant also cannot claim to not understand the meaning of "family and social connections" in light of both the plain, commonsense meaning of those terms and in light of defendant's oft-recited reference to loss of social networks as one of the chief consequences of displacement, including in its efforts to justify community preference. *See, e.g.*, excerpt of Feb. 13, 2019 Goetz report, annexed to Gurian Decl. as Ex. 29, at 16 ("Research has shown that displaced persons lose their connections to social networks and support systems."); excerpt of Murphy depo., annexed to Gurian Decl. as Ex. 30, at 173:19-174:4 (noting in discussion of people being "fearful of being displaced from their community" that the "Community Preference policy is designed to give those neighborhood residents an opportunity to maintain their social networks and maintain their neighborhood connections"). Nor is it plausible that defendant simply cannot answer whether many city residents' social and family networks extend across neighborhood or borough lines. And to the extent defendant actually has a different answer to this request for the neighbohood and borough contexts, it could easily distinguish between the two in its response.		
52	Admit that, in New York City, many New Yorkers have cross-borough commutes to work.	Defendant objects to this request insofar as the term "many" is vague and unclear. Subject to those objections, Defendant denies this request, except admits that some New York City residents have cross-borough commutes to work.		*See* point II of plaintiffs' brief.	Y	
55	Admit that stronger and more comprehensive residential rent regulation would help keep more neighborhoods affordable to more New Yorkers.	Defendant objects to this request as vague and unclear insofar as neither "stronger" nor "more comprehensive" are defined. Defendant further objects to this request as it is a compound statement in that "stronger" and "more comprehensive" indicate different actions/types of rent regulation. Subject to those objections, defendant denies this request, except admits that rent regulation may keep units more affordable for occupants of those units, but would not necessarily make more neighborhoods affordable.		Here again, the complaint about words and phrases is disingenuous. Stronger and more comprehensive rent regulation are changes to the rent regulatory system that would cover more tenants, give them greater security of tenure, limit the size of rent increases, eliminate "vacancy decontrol," etc. Defendant has not made clear what it is denying, and the last part of its response is an evasion of the request. The response references "making" more neighborhoods affordable, but what the request sought confirmation of is that the described types of changes in rent regulation would "keep" more neighborhoods affordable to more New Yorkers.		
59	Admit that racial discrimination exists in the cooperative housing market in New York City.	Defendant objects to this request insofar as the term "the cooperative housing market" is vague and unclear. Subject to those objections, defendant admits that it is aware of instances of racial discrimination by private parties against applicants seeking to purchase a cooperative residential unit in a private cooperative building.		On its face, the purportedly unclear term refers to the market for cooperative (*i.e.*, "co-op") units. There is nothing unclear about that. The "subject to" language purports to prevent that which is sought in the request from being "conclusively established" as required by FRCP 36(b). Defendant's attempt to substitute its own language for that provided in the admission should not be countenanced, given that defendant admits to the substance of this request. The court should deem the request admitted as posed by plaintiffs. *See* FRCP 36(a)(6).	Y	

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60	Admit that Council Members are officials of defendant; exercise, inter alia, defendant's legislative powers as member of defendant's City Council; and are paid by defendant for their work fulfilling their duties as officials of defendant.	Defendant denies this request, except admits that the power, duties, responsibilities and salaries of the City Council and its members are set forth in City Charter, Chapter 2.	This Request concerns City Council members. (a) Admit that Council Members are officials of defendant; (b) Admit that Council Members, as members of the City Council, exercise the defendant's legislative powers along with the Public Advocate; and (c) Admit that each Council Member is paid a salary by defendant.	It is not proper to refer the party seeking an admission to a source; it is the responsibility of the receiving party to admit. Plaintiffs' reframed request has three parts; each is true. For (a), one would not have thought that defendant would fail to admit that Council Members are officials of defendant, but *see* Charter § 1052(a)(12) for illustration of them being treated as included in the term "elected officials" ("Elected officials, city agencies, boards and commissions, including the mayor, comptroller, public advocate, borough presidents, the city council *and members of the city council* shall cooperate with the board."); For (b), *see* Charter § 22(a) ("The council shall consist of the public advocate and of fifty-one other members termed council members.") and Charter § 21 ("There shall be a council which shall be the legislative body of the city. In addition to the other powers vested in it by this charter and other law, the council shall be vested with the legislative power of the city."); and for (c) Charter § 26 (delineating the salaries of Council Members). Defendant's inadequate response should be stricken and the request deemed admitted as reframed.	Y (reframed)	
61	Admit that defendant has, as part of its "Where We Live" AFFH process, undertaken an examination of the historical forces that led to and maintained residential segregation in New York City.	Defendant objects to this request insofar as the terms "undertaken an examination," "historical forces" and "maintained" are not defined, vague and unclear. Defendant further objects to this request as it is a compound statement in that a "led to" and "maintained" are distinct actions. Subject to those objections, defendant denies this request, except admits that the City's Where We Live process has looked at the history of segregation in New York City and seeks to confront segregation in New York City.		All of the complained of words and phrases are easily understandable. Is defendant saying that its "look at the history of segregation" did not include an examination of the historical forces that led to segregation? That have maintained segregation? The last phrase of the response has absolutely nothing to do with the request whatsoever and should be stricken.	Y	Y
62	Admit that defendant has acknowledged and continues to acknowledge the role of federal government policy in creating and maintaining residential segregation in New York City.	Defendant objects to this request insofar as the terms "federal government policy" and "maintaining" are not defined, vague and unclear. Defendant further objects to this request as it is a compound statement in that "creating" and "maintaining" are each separate actions. Subject to those objections, defendant denies this request, except admits that the City has acknowledged in its Where We Live NYC Process and OneNYC that federal government policy in has had a role in creating residential segregation in New York City.		The "subject to" language introduces ambiguity: Plaintiffs' are entitled to know what portion of the partial denial is the based on the objections (which are without merit and cannot allow defendant to avoid responding to the substance) and to what extent the denial is intended to meet the substance of the request. It appears that defendant is actually admitting the substance, and it cannot be permitted to substitute its own wording. Framing the response solely in terms of the documents/processes identified adds confusion. The documents/processes identified are not some independent actor's acknowledgments, they represent *defendant's* acknowledgments (as worded in the request). The framing leaves uncertainty as to whether defendnat is any longer acknowledging ("continues to acknowledge," as worded in the request) the role of the federal government.	Y	
64	Admit that some actions taken by, on behalf of, or in concert with defendant in the period from the start of World War II to the passage of the Fair Housing Act had a material role in creating, maintaining, or perpetuating residential racial segregation in New York City.	Defendant objects to this request and subparts as vague and unclear and overbroad as they do not reference specific actions (even the attempts at specificity in subparts a and b lack sufficient specificity), whom is taking the actions if in concert with the City or on behalf of the City, includes a 30 year time span (1939-1968) for the actions, no time span concerning "maintenance or perpetuation" and does not define what "material role," "maintaining" "public housing" "City-assisted housing" "disproportionate" or "predominately" means. Defendant further objects to this request as it is a compound statement in that playing a role in the "creation" "maintenance" and/or "perpetuation" of something are each distinct actions. Subject to those objections, defendant denies this request and subpart a. Subject to those objections, defendant also denies subpart b of this request, except admits that the City was involved with the ratification and cooperated with the creation of the housing development commonly known as "Stuyvesant Town".		It ought not be surprising that plaintiffs wish to confirm City history in this respect. *See Arlington. See also Winfield v. City of New York*, 2016 WL 6208564, at *7 (S.D.N.Y. Oct. 24, 2016) (holding that one of the grounds for denying the motion to dismiss and holding that plaintiffs had sufficiently plead facts from which an inference of discriminatory intent could be drawn was that plaintiffs had alleged "that the City has had a history of enacting discriminatory zoning and housing policies, including restricting African-Americans to certain neighborhoods, concentrating public housing in minority neighborhoods, and racial steering in housing projects"). As for purported vagueness, is defendant really claiming that phrases like "public housing" or "maintaining" are ones it does not understand? Notably absent is any statement about any effort made, even with current officials such as Ms. Been, to confirm that the request reflect what is commonly understood about defendant. This violates FRCP 36(a)(4). The "subject to" language purports to prevent that which is sought in the request from being "conclusively established" as required by FRCP 36(b). The extent to which the denial meets the substance of the request as posed needs to be made clear.		
64a	Admit that these actions include the disproportionate placement of public housing and City-assisted housing in predominantly African-American neighborhoods and the avoidance of placing any public housing or City-assisted housing in some predominantly white neighborhoods.	Defendant objects to this request and subparts as vague and unclear and overbroad as they do not reference specific actions (even the attempts at specificity in subparts a and b lack sufficient specificity), whom is taking the actions if in concert with the City or on behalf of the City, includes a 30 year time span (1939-1968) for the actions, no time span concerning "maintenance or perpetuation" and does not define what "material role," "maintaining" "public housing" "City-assisted housing" "disproportionate" or "predominately" means. Defendant further objects to this request as it is a compound statement in that playing a role in the "creation" "maintenance" and/or "perpetuation" of something are each distinct actions. Subject to those objections, defendant denies this request and subpart a. Subject to those objections, defendant also denies subpart b of this request, except admits that the City was involved with the ratification and cooperated with the creation of the housing development commonly known as "Stuyvesant Town".		*See* Request 64 briefing note.		
64b	Admit that these actions included ratifying or cooperating with the creation of housing developments intended to be racially segregated (*e.g.*, Stuyvesant Town).	Defendant objects to this request and subparts as vague and unclear and overbroad as they do not reference specific actions (even the attempts at specificity in subparts a and b lack sufficient specificity), whom is taking the actions if in concert with the City or on behalf of the City, includes a 30 year time span (1939-1968) for the actions, no time span concerning "maintenance or perpetuation" and does not define what "material role," "maintaining" "public housing" "City-assisted housing" "disproportionate" or "predominately" means. Defendant further objects to this request as it is a compound statement in that playing a role in the "creation" "maintenance" and/or "perpetuation" of something are each distinct actions. Subject to those objections, defendant denies this request and subpart a. Subject to those objections, defendant also denies subpart b of this request, except admits that the City was involved with the ratification and cooperated with the creation of the housing development commonly known as "Stuyvesant Town".		Though it appears that the request is being admitted, the "subject to" language introduces ambiguity into what of the substance, if anything, is being being denied and thus seeks to prevent that which is sought in the request from being "conclusively established" as required by FRCP 36(b).	Y	
65	Admit that some actions taken by, on behalf of, or in concert with defendant in the period from the passage of the Fair Housing Act through the end of the Giuliani Administration had a material role in creating, maintaining, or perpetuating residential racial segregation.	Defendant objects to this request and subparts as vague and unclear and overbroad as they do not reference specific actions (even the attempts at specificity in subparts a and b lack sufficient specificity), whom is taking the actions if in concert with the City or on behalf of the City, includes a more than 30 year time span (1968-2001) for the actions, no time span concerning "maintenance or perpetuation" and does not define what "material role," "maintaining" "public housing" "City-assisted housing" "disproportionate" or "predominately" means. Defendant further objects to this request as it is a compound statement in that playing a role in the "creation" "maintenance" and/or "perpetuation" of something are each distinct actions. Subject to those objections, defendant denies this request and subpart a. Subject to those objections, defendant denies knowledge or information sufficient to respond to subpart b of this request as NYCHA is a separate legal entity from the defendant and is not named as a party in this litigation.		*See* Request 64 briefing note.		
65a	Admit that these actions include the disproportionate placement of public housing and City-assisted housing in predominantly African-American neighborhoods and the avoidance of placing any public housing or City-assisted housing in some predominantly white neighborhoods.	Defendant objects to this request and subparts as vague and unclear and overbroad as they do not reference specific actions (even the attempts at specificity in subparts a and b lack sufficient specificity), whom is taking the actions if in concert with the City or on behalf of the City, includes a more than 30 year time span (1968-2001) for the actions, no time span concerning "maintenance or perpetuation" and does not define what "material role," "maintaining" "public housing" "City-assisted housing" "disproportionate" or "predominately" means. Defendant further objects to this request as it is a compound statement in that playing a role in the "creation" "maintenance" and/or "perpetuation" of something are each distinct actions. Subject to those objections, defendant denies this request and subpart a. Subject to those objections, defendant denies knowledge or information sufficient to respond to subpart b of this request as NYCHA is a separate legal entity from the defendant and is not named as a party in this litigation.		*See* Request 64 briefing note.		

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65b	Admit that these actions included racial steering administered by the New York City Housing Authority (NYCHA).	Defendant objects to this request and subparts as vague and unclear and overbroad as they do not reference specific actions (even the attempts at specificity in subparts a and b lack sufficient specificity), whom is taking the actions if in concert with the City or on behalf of the City, includes a more than 30 year time span (1968-2001) for the actions, no time span concerning "maintenance or perpetuation" and does not define what "material role," "maintaining" "public housing" "City-assisted housing" "disproportionate" or "predominately" means. Defendant further objects to this request as it is a compound statement in that playing a role in the "creation" "maintenance" and/or "perpetuation" of something are each distinct actions. Subject to those objections, defendant denies this request and subpart a. Subject to those objections, defendant denies knowledge or information sufficient to respond to subpart b of this request as NYCHA is a separate legal entity from the defendant and is not named as a party in this litigation.		*See* Request 64 briefing note. As recognized by the Second Circuit, NYCHA admitted in or about 1999 that its tenant assignment policy contained a "racial steering component" beginning in 1960 that "continued at a few predominantly white projects" even as late as the beginning of 1988, and that this practice resulted "in a higher proportion of whites than would have resulted from a race neutral admissions policy." *See Davis v. New York City Hous. Auth.*, 278 F.3d 64, 67 (2d Cir. 2002) (quoting memorandum from NYCHA to district court below in support of a proposed consent decree). And defendant cannot avoid responding to this request by claiming NYCHA is a separate legal entity. Defendant admits that all seven members of NYCHA's board are appointed by the mayor (*see* defendant's response to Request 182). Defendant has the information needed to admit this request, and should be required to respond.		
66	Admit that some actions taken by, on behalf of, or in concert with defendant during the Bloomberg Administration had a material role in creating, maintaining, or perpetuating residential racial segregation.	Defendant objects to this request insofar as the terms "some actions," "material role," "maintaining," "disproportionately," "wealthier," and "area" are undefined, vague and unclear. Defendant further objects to this request as it is a compound statement in that a playing a role in the "creation" "maintenance" and/or "perpetuation" of something are each distinct actions. Subject to those objections, defendant denies this request and its subparts.		The objections are without merit. Plaintiffs' are entitled to know whether the basis for the denial is because of those objections, or whether the denial is intended to meet the substance of the request.		
66a	Admit that these actions included reductions in permissible residential density that occurred disproportionately in disproportionately white areas.	Defendant objects to this request insofar as the terms "some actions," "material role," "maintaining," "disproportionately," "wealthier," and "area" are undefined, vague and unclear. Defendant further objects to this request as it is a compound statement in that a playing a role in the "creation" "maintenance" and/or "perpetuation" of something are each distinct actions. Subject to those objections, defendant denies this request and its subparts.		*See* Request 66 briefing note.		
66b	Admit that these actions included increases in permissible residential density that occurred disproportionately in disproportionately African American or Latino areas.	Defendant objects to this request insofar as the terms "some actions," "material role," "maintaining," "disproportionately," "wealthier," and "area" are undefined, vague and unclear. Defendant further objects to this request as it is a compound statement in that a playing a role in the "creation" "maintenance" and/or "perpetuation" of something are each distinct actions. Subject to those objections, defendant denies this request and its subparts.		*See* Request 66 briefing note.		
66c	Admit that these actions included the failure to rezone many middle-income and wealthier, disproportionately white neighborhoods in Queens, Brooklyn, and Staten Island.	Defendant objects to this request insofar as the terms "some actions," "material role," "maintaining," "disproportionately," "wealthier," and "area" are undefined, vague and unclear. Defendant further objects to this request as it is a compound statement in that a playing a role in the "creation" "maintenance" and/or "perpetuation" of something are each distinct actions. Subject to those objections, defendant denies this request and its subparts.		*See* Request 66 briefing note.		
67	Admit that City-supported housing in New York City is concentrated in high-poverty neighborhoods that tend to be predominantly African-American or Latino.	Defendant objects to this request insofar as the terms "City-supported," "concentrated," "high-poverty," "neighborhood," and "predominantly" are undefined, vague, and unclear. Defendant also objects to this request as vague and unclear because neither the timing of the housing (i.e., when planned, when financed, now, etc.) nor the timing of the evaluation of the neighborhood to determine if it is "high-poverty" is defined. Subject to those objections, Defendant denies this request, except admits that there are some completed City-supported housing projects that are located in census tracts that are currently high-poverty and/or majority African-American or Latino.		The Where We Live website has narrative and mapping that belies defendant's response. *See* https://wherewelive.cityofnewyork.us/explore-data/where-new-yorkers-live/ Thus: "Government-assisted housing is concentrated, but not exclusively located, in high-poverty neighborhoods in New York City." This statement is accompanied by maps of what defendant calls "City-assisted housing," "HUD-supported place-based housing," and "HUD-supported vouchers." The same web page has mapping of the "racial and ethnic composition of high poverty areas," other relevant mapping, and text that explains that, "Black and Hispanic New Yorkers are overrepresented in areas of high poverty as compared to their overall shares in New York City." So, first, the objections to words and phrases are without merit; second, defendant's language does not fairly respond to the request, which deals with concentration, not with there being "some" projects or vouchers in the identified areas. The request should be deemed admitted as posed by plaintiffs. *See* FRCP 36(a)(6).	Y	
68	Admit that HUD-supported place-based housing, including NYCHA developments, is concentrated in high-poverty neighborhoods that tend to be predominantly African-American or Latino.	Defendant objects to this request insofar as the terms "HUD-supported," "concentrated," "high-poverty," "neighborhood," and "predominantly" are undefined, vague, and unclear. Defendant also objects to this request as vague and unclear because neither the timing of the housing (i.e., when planned, when financed, now, etc.) nor the timing of the evaluation of the neighborhood to determine if it is "high-poverty" is defined. Subject to those objections, Defendant denies this request, except admits that there are some completed HUD-supported housing projects that are located in census tracts that are currently high-poverty and/or majority African-American or Latino.		*See* Request 67 briefing note.	Y	
69	Admit that HUD-supported housing voucher holders live in housing that is concentrated in high-poverty neighborhoods that tend to be predominantly African-American or Latino.	Defendant objects to this request insofar as the terms "HUD-supported housing voucher holders," "concentrated," "high-poverty," "neighborhood," and "predominantly" are undefined, vague, and unclear. Subject to those objections, defendant denies this request, except admits that there are some HUD-supported housing vouchers used in areas that are curently high-poverty and/or majority African-American or Latino.		*See* Request 67 briefing note.	Y	
70	Admit that there are some community districts where, in the period from 2002 to 2013, no affordable housing subject to a housing lottery was marketed to the public.	Defendant objects to this request and subpart insofar as the terms "disproportionate" and "disproportionately" are vague and unclear, and such definitions are needed in order to determine the correct analysis that would be needed to respond. Defendant also objects to this request and subpart because, even if it understood what Plaintiffs meant by "disproportionate" and "disproportionately", it would be unduly burdensome to respond to the request as data from the early 2000s is not easily accessible (and it is uncertain if it would even be complete data) and the data from later time periods regarding marketed projects is not organized or identified by community district. Defendant further objects to subpart a as vague and unclear and unduly burdensome because the timing of the requested analysis is not defined and the demographics of neighborhoods change over time. Subject to those objections, defendant admits that there was at least one community district where, in the period from 2002 to 2013, no affordable housing subject to a housing lottery was marketed to the public.		(Listed to put Request 70(a) in context.)		
70a	Admit that a disproportionate number of these community districts were disproportionately white in relation to the white population of the city as a whole.	Defendant objects to this request and subpart insofar as the terms "disproportionate" and "disproportionately" are vague and unclear, and such definitions are needed in order to determine the correct analysis that would be needed to respond. Defendant also objects to this request and subpart because, even if it understood what Plaintiffs meant by "disproportionate" and "disproportionately", it would be unduly burdensome to respond to the request as data from the early 2000s is not easily accessible (and it is uncertain if it would even be complete data) and the data from later time periods regarding marketed projects is not organized or identified by community district. Defendant further objects to subpart a as vague and unclear and unduly burdensome because the timing of the requested analysis is not defined and the demographics of neighborhoods change over time. Subject to those objections, defendant admits that there was at least one community district where, in the period from 2002 to 2013, no affordable housing subject to a housing lottery was marketed to the public.		Neither "disproportionate" or "disproportionately" are difficult to understand. Moreover, defendant presents the task as far more daunting than it is. The only community districts at issue are ones where there have been ZERO developments. Once defendant identifies even one development in a community district (whether via Housing Connect, or Access data, or through the Planning Department), that community district is no longer part of the universe. Note that defendant improperly fails to identify any effort it made, in contravention of FRCP 36(a)(4). Defendant has 2010 Census data for each community district. Defendant should be required to fairly respond to the substance of the request.		

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71	Admit that there are some community districts where, in the period from 2014 to the present, no affordable housing subject to a housing lottery has been marketed to the public.	Defendant objects to this request and subpart insofar as the terms "disproportionate" and "disproportionately" are vague and unclear, and such definitions are needed in order to determine the correct analysis that would be needed to respond. Defendant also objects to this request and subpart because, even if it understood what Plaintiffs meant by "disproportionate" and "disproportionately", it would be unduly burdensome to respond to the request as the data regarding marketed projects is not organized or identified by community district. Defendant further objects to subpart a as vague and unclear and unduly burdensome because the timing of the requested analysis is not defined and the demographics of neighborhoods change over time. Subject to those objections, defendant admits that there was at least one community district where, in the period from 2014 to present, no affordable housing subject to a housing lottery was marketed to the public.		(Listed to put Request 71(a) in context.)		
71a	Admit that a disproportionate number of these community districts are disproportionately white in relation to the white population of the city as a whole.	Defendant objects to this request and subpart insofar as the terms "disproportionate" and "disproportionately" are vague and unclear, and such definitions are needed in order to determine the correct analysis that would be needed to respond. Defendant also objects to this request and subpart because, even if it understood what Plaintiffs meant by "disproportionate" and "disproportionately", it would be unduly burdensome to respond to the request as the data regarding marketed projects is not organized or identified by community district. Defendant further objects to subpart a as vague and unclear and unduly burdensome because the timing of the requested analysis is not defined and the demographics of neighborhoods change over time. Subject to those objections, defendant admits that there was at least one community district where, in the period from 2014 to present, no affordable housing subject to a housing lottery was marketed to the public.		*See* Request 70 briefing note. Defendant maintains up-to-date five-year American Community Survey data and other data that would allow it to answer. Defendant should be required to fairly respond to the substance of the request.		
72	Admit that there are some community districts where, in the period from 2002 to the present, no affordable housing subject to a housing lottery has been marketed to the public.	Defendant objects to this request and subpart insofar as the terms "disproportionate" and "disproportionately" are vague and unclear, and such definitions are needed in order to determine the correct analysis that would be needed to respond. Defendant also objects to this request and subpart because, even if it understood what Plaintiffs meant by "disproportionate" and "disproportionately", it would be unduly burdensome to respond to the request as data from the early 2000s is not easily accessible (and it is uncertain if it would even be complete data) and the data from later time periods regarding marketed projects is not organized or identified by community district. Defendant further objects to subpart a as vague and unclear and unduly burdensome because the timing of the requested analysis is not defined and the demographics of neighborhoods change over time. Additionally, Defendant objects to this request and subpart as duplicative as the information sought in Requests 70 and 71. Subject to those objections, defendant admits that there was at least one community district whete, in the period from 2002 to present, no affordable housing subject to a housing lottery was marketed to the public.		(Listed to put Request 72(a) in context.)		
72a	Admit that a disproportionate number of these community districts are disproportionately white in relation to the white population of the city as a whole.	Defendant objects to this request and subpart insofar as the terms "disproportionate" and "disproportionately" are vague and unclear, and such definitions are needed in order to determine the correct analysis that would be needed to respond. Defendant also objects to this request and subpart because, even if it understood what Plaintiffs meant by "disproportionate" and "disproportionately", it would be unduly burdensome to respond to the request as data from the early 2000s is not easily accessible (and it is uncertain if it would even be complete data) and the data from later time periods regarding marketed projects is not organized or identified by community district. Defendant further objects to subpart a as vague and unclear and unduly burdensome because the timing of the requested analysis is not defined and the demographics of neighborhoods change over time. Additionally, Defendant objects to this request and subpart as duplicative as the information sought in Requests 70 and 71. Subject to those objections, defendant admits that there was at least one community district whete, in the period from 2002 to present, no affordable housing subject to a housing lottery was marketed to the public.		*See* Request 70 briefing note. This request is framed in terms of the current racial composition of the community district. Defendant should be required to fairly respond to the substance of the request.		
73	Admit that African-Americans are overrepresented in census tracts of high poverty as defined by HUD (more than 40 percent of residents living in poverty) as compared with the overall percentage of New Yorkers who are African-American.	Defendant admits this request.		*See* point I of plaintiffs' brief (addressing general objections).		
74	Admit that Latinos are overrepresented in census tracts of high poverty as defined by HUD (more than 40 percent of residents living in poverty) as compared with the overall percentage of New Yorkers who are Latino.	Defendant admits this request.		*See* point I of plaintiffs' brief (addressing general objections).		
78	Admit that, during the tenure of Sean Donovan as HPD Commissioner, neither HPD, City Planning, nor the Office of the Mayor had a policy specifically and explicitly targeted at reducing residential racial segregation.	Defendant objects to this request, and subparts, insofar as the terms "policy" and "specifically and explicitly targeted" are not defined, vague and unclear. Additionally, Defendant objects to this request, and subparts, because, through it, Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, thus circumventing prior decision by Court that City's response to a similar inquiry by Plaintiffs be limited to whether HPD had a formal written policy or procedure regarding compliance with AFFH during the de Blasio Administration. Subject to those objections, Defendant admits that it did not have a policy specifically and explicitly identified as one to "reduce residential racial segregation," and avers that many, if not all, of the individuals who would have been involved with or know information about such a policy at that time are no longer working for the City, when Plaintiffs' counsel asked Mr. Donovan this and similar questions during his deposition, Mr. Donovan did not recall specifics in response to this line of questioning, and many City policies and programs had that as a goal, or one of the intended goals, even if not explicitly stated as such.		This request asks about policies, whether written or not, that were specifically targeted at reducing residential segregation. Other than the response as it relates to Request 78(a), the response does not fairly meet the substance of seeking confirmation that there were no policies specifically and explicitly *targeted* at reducing residential segregation, a fact that goes to defendant not being committed to tackling the problem. Defendant should be made to fairly respond to the substance of the request. Plaintiffs have chosen to have one fact established and thus eliminate the need to litigate it. The highighted averments are a preview of what defendant may argue in the face of the admission, but they add nothing to the admission except confusion about "how does this relate to the admission?"		Y
78a	If the preceding request to admit is not admitted, admit that neither HPD, City Planning, nor the Office of the Mayor had a written policy specifically and explicitly targeted at reducing residential racial segregation.	Defendant objects to this request, and subparts, insofar as the terms "policy" and "specifically and explicitly targeted" are not defined, vague and unclear. Additionally, Defendant objects to this request, and subparts, because, through it, Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, thus circumventing prior decision by Court that City's response to a similar inquiry by Plaintiffs be limited to whether HPD had a formal written policy or procedure regarding compliance with AFFH during the de Blasio Administration. Subject to those objections, Defendant admits that it did not have a policy specifically and explicitly identified as one to "reduce residential racial segregation," and avers that many, if not all, of the individuals who would have been involved with or know information about such a policy at that time are no longer working for the City, when Plaintiffs' counsel asked Mr. Donovan this and similar questions during his deposition, Mr. Donovan did not recall specifics in response to this line of questioning, and many City policies and programs had that as a goal, or one of the intended goals, even if not explicitly stated as such.		This request is specifically about written policy, and, in the course of the response, the request is admitted. The objections are without merit (at the same time that defendant claims that the term "policy" is unclear, for example, it asserts that it had "many City *policies* and programs" (emphasis added)). Thus, the "subject to" preface to the admission should not stand as an impediment to allowing the fact to be "conclusively established." *See* FRCP 36(b). This subpart should be deemed admitted as posed by plaintiffs. *See* FRCP 36(a)(6).		Y

RTA #	RTA	Defendant's Response (Note: In the responses served, the response appears once at the end of the request, whether it has sub-parts or not. Here, for reading across each entry, including each entry for a sub-part, the entire response is replicated for each request and each sub-part)	Plaintiffs' reframing to meet defendant's purported concerns	Briefing notes	Plaintiffs ask that the request be deemed admitted as posed by plaintiffs	Plaintiffs seek to have extraneous averments or other statements stricken
78b	If the preceding request to admit (No. 78(a)) is not admitted, admit that defendant has not produced any such written document to plaintiffs.	Defendant objects to this request, and subparts, insofar as the terms "policy" and "specifically and explicitly targeted" are not defined, vague and unclear. Additionally, Defendant objects to this request, and subparts, because, through it, Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, thus circumventing prior decision by Court that City's response to a similar inquiry by Plaintiffs be limited to whether HPD had a formal written policy or procedure regarding compliance with AFFH during the de Blasio Administration. Subject to those objections, Defendant admits that it did not have a policy specifically and explicitly identified as one to "reduce residential racial segregation," and avers that many, if not all, of the individuals who would have been involved with or know information about such a policy at that time are no longer working for the City, when Plaintiffs' counsel asked Mr. Donovan this and similar questions during his deposition, Mr. Donovan did not recall specifics in response to this line of questioning, and many City policies and programs had that as a goal, or one of the intended goals, even if not explicitly stated as such.		*See* Request 78 and 78(a) briefing notes. Unless Request 78(a) is deemed admitted as posed by plaintiffs, this request must be responded to. The highlighted portion of the response might be defendant's answers to the questions, "Why haven't any documents been produced," and "Please explain why the fact-finder's attention should not focus on the documents." But this is not *Jeopardy*, and the highlighted language has nothing to do with the admission actually sought, and should be stricken.		Y
79	Admit that defendant has represented that "anti-Black racism" is an "invidious and persistent form of discrimination" in, *inter alia*, New York City.	Defendant objects to this request and its subparts as vague and unclear insofar as it does not cite the source of the quoted material. Subject to those objections, defendant admits this request and its subpart a, and avers that the Commission on Human Rights has stated that "Anti-Black racism is an invidious and persistent form of discrimination across the nation and in New York City." See "NYC Commission on Human Rights Legal Enforcement Guidance on Race Discrimination on the Basis of Hair," dated February 2019, available at http://www1.nyc.gov/assets/cchr/downloads/pdf/Hair-Guidance.pdf. Defendant further objects to subpart b of this request because, through it, Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, thus circumventing prior decision by the Court that denied a request for a deposition of the Mayor.		The "subject to" language introduces ambiguity into what is being denied and what is being admitted and purports to prevent that which is sought in the request from being "conclusively established" as required by FRCP 36(b). Defendant's response shows that it knows that the fact cited is true, and the request must be deemed to be admitted as posed by plaintiffs. *See* FRCP 36(a)(6).	Y	
79a	Admit that the representation above is true.	Defendant objects to this request and its subparts as vague and unclear insofar as it does not cite the source of the quoted material. Subject to those objections, defendant admits this request and its subpart a, and avers that the Commission on Human Rights has stated that "Anti-Black racism is an invidious and persistent form of discrimination across the nation and in New York City." See "NYC Commission on Human Rights Legal Enforcement Guidance on Race Discrimination on the Basis of Hair," dated February 2019, available at http://www1.nyc.gov/assets/cchr/downloads/pdf/Hair-Guidance.pdf. Defendant further objects to subpart b of this request because, through it, Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, thus circumventing prior decision by the Court that denied a request for a deposition of the Mayor.		*See* Request 79(a) briefing note.	Y	
79b	Admit that Mayor de Blasio has believed the representation above to be true throughout his mayoralty.	Defendant objects to this request and its subparts as vague and unclear insofar as it does not cite the source of the quoted material. Subject to those objections, defendant admits this request and its subpart a, and avers that the Commission on Human Rights has stated that "Anti-Black racism is an invidious and persistent form of discrimination across the nation and in New York City." See "NYC Commission on Human Rights Legal Enforcement Guidance on Race Discrimination on the Basis of Hair," dated February 2019, available at http://www1.nyc.gov/assets/cchr/downloads/pdf/Hair-Guidance.pdf. Defendant further objects to subpart b of this request because, through it, Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, thus circumventing prior decision by the Court that denied a request for a deposition of the Mayor.		*See* point III of plaintiffs' brief. The fact that defendant is refusing to admit or deny goes to the decision-maker's knowledge of facts making it more likely that there would be raced-based opposition to residential racial change than if there were not invidious and persistent anti-black racism in New York City. Defendant must provide an answer that fairly responds to the substance of the request. *See* FRCP 36(a)(4).		
80	Admit that defendant has represented that "anti-Black racism" can be implicit and can be manifested through entrenched stereotypes and biases, conscious and unconscious.	Defendant objects to subpart b of this request because, through it, Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions. Furthermore, this request is an inappropriate attempt to circumvent the Court's ruling that a deposition of the Mayor shall not be permitted in this case. Defendant admits to this request and its subpart a.		(Included here because needed to understand Request 80(b) and to note the difference between this admission and others: here, the admission is not "subject to.")		
80a	Admit that the representation above is true.	Defendant objects to subpart b of this request because, through it, Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions. Furthermore, this request is an inappropriate attempt to circumvent the Court's ruling that a deposition of the Mayor shall not be permitted in this case. Defendant admits to this request and its subpart a.		*See* Request 80 briefing note.		
80b	Admit that Mayor de Blasio has believed the representation above to be true throughout his mayoralty.	Defendant objects to subpart b of this request because, through it, Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions. Furthermore, this request is an inappropriate attempt to circumvent the Court's ruling that a deposition of the Mayor shall not be permitted in this case. Defendant admits to this request and its subpart a.		*See* point III of plaintiffs' brief. Defendant must provide an answer that fairly responds to the substance of the request. *See* FRCP 36(a)(4).		
81	Admit that the existence of racial and ethnic segregation in New York City schools is, in defendant's judgment, a major problem.	Defendant objects to this request and its subpart because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1), as it seeks discovery of new facts and/or opinions rather than admission to facts and/or opinions already discovered, and thus is not properly the subject of a request to admit. Further, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, by inappropriately attempting to circumvent plaintiffs' explicit waiver of its pursuit of discovery on this topic (DOE and/or schools), and to circumvent the Court's orders denying discovery into school segregation as not relevant or proportionate to the needs of the case. Additionally, Defendant objects to this request's subpart because Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions regarding the Mayor's opinions. This request is an inappropriate attempt to circumvent the Court's ruling that a deposition of the Mayor shall not be permitted in this case. Defendant also objects to this request as unduly burdensome because it would require obtaining information on topics not previously part of the scope of discovery in this case from agencies and individuals not previously involved with this case. Defendant also objects to this request and its subpart as the term "major problem" is undefined, vague and unclear.		*See* point IV of plaintiffs' brief. It is absurd that defendant would need to obtain information from those not previously part of discovery to respond to this request. And, if it were necessary to make contact with the DOE officials that have been part of the Assessment of Fair Housing process, doing so is simple. To the extent that defendant believes that segregation in schools is a major problem, that tells a fact-finder that defendant would have every reason to take all available steps to remedy that segregation, including adopting housing lottery policies that do not value an applicant's choice to remain in a community district more highly than an applicant's choice to move to a different community district. Defendant must provide an answer that fairly responds to the substance of the request. *See* FRCP 36(a)(4).		

RTA #	RTA	Defendant's Response (Note: In the responses served, the response appears once at the end of the request, whether it has sub-parts or not. Here, for reading across each entry, including each entry for a sub-part, the entire response is replicated for each request and each sub-part)	Plaintiffs' reframing to meet defendant's purported concerns	Briefing notes	Plaintiffs ask that the request be deemed admitted as posed by plaintiffs	Plaintiffs seek to have extraneous averments or other statements stricken
81a	Admit that Mayor de Blasio has believed this to be true throughout his mayoralty.	Defendant objects to this request and its subpart because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1), as it seeks discovery of new facts and/or opinions rather than admission to facts and/or opinions already discovered, and thus is not properly the subject of a request to admit. Further, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, by inappropriately attempting to circumvent plaintiffs' explicit waiver of its pursuit of discovery on this topic (DOE and/or schools), and to circumvent the Court's orders denying discovery into school segregation as not relevant or proportionate to the needs of the case. Additionally, Defendant objects to this request's subpart because Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions regarding the Mayor's opinions. This request is an inappropriate attempt to circumvent the Court's ruling that a deposition of the Mayor shall not be permitted in this case. Defendant also objects to this request as unduly burdensome because it would require obtaining information on topics not previously part of the scope of discovery in this case from agencies and individuals not previously involved with this case. Defendant also objects to this request and its subpart as the term "major problem" is undefined, vague and unclear.		*See* points III and IV of plaintiffs' brief. Defendant must provide an answer that fairly responds to the substance of the request. *See* FRCP 36(a)(4).		
82	Admit that the existence of racial and ethnic segregation in New York City schools is contrary to the interests of defendant.	Defendant objects to this request and its subpart because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1), as it seeks discovery of new facts rather than admission to facts already discovered, and thus is not properly the subject of a request to admit. Further, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, by inappropriately attempting to circumvent plaintiffs' explicit waiver of its pursuit of discovery on this topic (DOE and/or schools, and to circumvent the Court's orders denying discovery into school segregation as not relevant or proportionate to the needs of the case. Additionally, Defendant objects to this request's subpart because Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions regarding the Mayor's opinions. This request is an inappropriate attempt to circumvent the Court's ruling that a deposition of the Mayor shall not be permitted in this case. Defendant also objects to this request as unduly burdensome because it would require obtaining information on topics not previously part of the scope of discovery in this case from agencies and individuals not previously involved with this case. Defendant also objects to this request and its subpart as the term "contrary to the interests of defendant" is undefined, vague and unclear.		*See* Request 81 briefing note.		
82a	Admit that Mayor de Blasio has believed this to be true throughout his mayoralty.	Defendant objects to this request and its subpart because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1), as it seeks discovery of new facts rather than admission to facts already discovered, and thus is not properly the subject of a request to admit. Further, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, by inappropriately attempting to circumvent plaintiffs' explicit waiver of its pursuit of discovery on this topic (DOE and/or schools, and to circumvent the Court's orders denying discovery into school segregation as not relevant or proportionate to the needs of the case. Additionally, Defendant objects to this request's subpart because Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions regarding the Mayor's opinions. This request is an inappropriate attempt to circumvent the Court's ruling that a deposition of the Mayor shall not be permitted in this case. Defendant also objects to this request as unduly burdensome because it would require obtaining information on topics not previously part of the scope of discovery in this case from agencies and individuals not previously involved with this case. Defendant also objects to this request and its subpart as the term "contrary to the interests of defendant" is undefined, vague and unclear.		*See* points III and IV of plaintiffs' brief. Defendant must provide an answer that fairly responds to the substance of the request. *See* FRCP 36(a)(4).		
83	Admit that, in defendant's judgment, it is important to reduce racial and ethnic segregation in New York City schools.	Defendant objects to this request and its subpart because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1), as it seeks discovery of new facts rather than admission to facts already discovered, and thus is not properly the subject of a request to admit. Further, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, by inappropriately attempting to circumvent plaintiffs' explicit waiver of its pursuit of discovery on this topic (DOE and/or schools), and to circumvent the Court's orders denying discovery into school segregation as not relevant or proportionate to the needs of the case. Additionally, Defendant objects to this request's subpart because Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions regarding the Mayor's opinions. This request is an inappropriate attempt to circumvent the Court's ruling that a deposition of the Mayor shall not be permitted in this case. Defendant also objects to this request as unduly burdensome because it would require obtaining information on topics not previously part of the scope of discovery in this case from agencies and individuals not previously involved with this case.		*See* Request 81 briefing note.		
83a	Admit that Mayor de Blasio has believed this to be true throughout his mayoralty.	Defendant objects to this request and its subpart because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1), as it seeks discovery of new facts rather than admission to facts already discovered, and thus is not properly the subject of a request to admit. Further, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, by inappropriately attempting to circumvent plaintiffs' explicit waiver of its pursuit of discovery on this topic (DOE and/or schools), and to circumvent the Court's orders denying discovery into school segregation as not relevant or proportionate to the needs of the case. Additionally, Defendant objects to this request's subpart because Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions regarding the Mayor's opinions. This request is an inappropriate attempt to circumvent the Court's ruling that a deposition of the Mayor shall not be permitted in this case. Defendant also objects to this request as unduly burdensome because it would require obtaining information on topics not previously part of the scope of discovery in this case from agencies and individuals not previously involved with this case.		*See* points III and IV of plaintiffs' brief. *See, e.g.,* Mayor's tweet of DOE Chancellor's op-ed piece, referenced at Request 89 briefing note (identified there as annexed to Gurian Decl. as Ex. 34). Defendant must provide an answer that fairly responds to the substance of the request. *See* FRCP 36(a)(4).		

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84	Admit that racial and ethnic segregation in New York City schools contributes to material differences in the elementary school education that New York City children receive.	Defendant objects to this request and its subpart because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1), as it seeks discovery of new facts rather than admission to facts already discovered, and thus is not properly the subject of a request to admit. Further, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, by inappropriately attempting to circumvent plaintiffs' explicit waiver of its pursuit of discovery on this topic (DOE and/or schools), and to circumvent the Court's orders denying discovery into school segregation as not relevant or proportionate to the needs of the case. Defendant also objects to this request as unduly burdensome because it would require obtaining information on topics not previously part of the scope of discovery in this case from agencies and individuals not previously involved with this case. Defendant also objects to this request and its subpart as the term "material differences" is undefined, vague and unclear.		*See* point IV of plaintiffs' brief. There is no burden in confirming this fact. These are follow-on consequences of the residential segregation that defendant, in part through its community preference policy, has failed to remedy. Defendant must provide an answer that fairly responds to the substance of the request. *See* FRCP 36(a)(4). Note: Here is another illustration of boilerplate: the reference to "this request and its subpart" could not be about this Request specifically, because there is not a subpart to the request.		
85	Admit that many of the differences in students' school readiness and performance at the middle school and high school levels are the result of material differences in the effectiveness of the elementary school education that New York City children receive depending on the elementary school that they attend.	Defendant objects to this request because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1), as it seeks discovery of new facts rather than admission to facts already discovered, and thus is not properly the subject of a request to admit. Further, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, by inappropriately attempting to circumvent plaintiffs' explicit waiver of its pursuit of discovery on this topic (DOE and/or schools), and to circumvent the Court's orders denying discovery into school segregation as not relevant or proportionate to the needs of the case. Defendant also objects to this request as unduly burdensome because it would require obtaining information on topics not previously part of the scope of discovery in this case from agencies and individuals not previously involved with this case. Defendant also objects to this request insofar as the term "material differences" is undefined, vague and unclear. Defendant further objects to this request as it is a compound statement in that an analysis regarding a "students' school readiness and performance at the middle school and high school levels" are each separate and distinct analyses at each school level.		*See* Request 84 briefing note.		
86	Admit that, in defendant's judgment, a significant portion of the racial and ethnic segregation that exists at the elementary school level has been and remains a function of racially and ethnically segregated neighborhoods.	Defendant objects to this request and subpart because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1), as it seeks discovery of new facts and/or opinions rather than admission to facts and/or opinions already discovered, and thus is not properly the subject of a request to admit. Further, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, by inappropriately attempting to circumvent plaintiffs' explicit waiver of its pursuit of discovery on this topic (DOE and/or schools), and to circumvent the Court's orders denying discovery into school segregation as not relevant or proportionate to the needs of the case. Defendant also objects to this request as unduly burdensome because it would require obtaining information on topics not previously part of the scope of discovery in this case from agencies and individuals not previously involved with this case. Defendant also objects to this request insofar as the term "significant portion" is undefined, vague and unclear. Defendant further objects to this request as it is a compound statement in that what "has been" and what "remains" are different considerations.		*See* Request 84 briefing note. This is a circumstance where it is clear from the Mayor's own public statements that the Request is properly admitted (*see* Request 86(a) briefing point). Defendant must provide an answer that fairly responds to the substance of the request. *See* FRCP 36(a)(4). Relatedly, if compelled to answer this request, defendant must not be permitted to rely upon General Objection 7 to exclude the portion of the request seeking an admission that elementary school segregation "has been" a function of segregated neighborhoods (a fact that predates the de Blasio administration).		
86a	If the preceding request to admit is not admitted, admit that Mayor de Blasio has made one or more public statements to the effect that residential segregation is a significant historic and contemporary underlying cause of school segregation.	Defendant objects to this request and subpart because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1), as it seeks discovery of new facts and/or opinions rather than admission to facts and/or opinions already discovered, and thus is not properly the subject of a request to admit. Further, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, by inappropriately attempting to circumvent plaintiffs' explicit waiver of its pursuit of discovery on this topic (DOE and/or schools), and to circumvent the Court's orders denying discovery into school segregation as not relevant or proportionate to the needs of the case. Defendant also objects to this request as unduly burdensome because it would require obtaining information on topics not previously part of the scope of discovery in this case from agencies and individuals not previously involved with this case. Defendant also objects to this request insofar as the term "significant portion" is undefined, vague and unclear. Defendant further objects to this request as it is a compound statement in that what "has been" and what "remains" are different considerations.		*See* point III of plaintiffs' brief. *See also* excerpt of Mayor de Blasio's May 11, 2018 appearance on the Brian Lehrer Show, annexed to Gurian Decl. as Ex. 32, at 7 (Mayor: "The schools didn't create segregation. Segregation is based on economics and structural racism and then that plays out in employment and in housing and then eventually all that affects who goes to school where."). Defendant must provide an answer that fairly responds to the substance of the request. *See* FRCP 36(a)(4).		
87	Admit that Mayor de Blasio believes that existing residential demographic patterns limit the extent to which the problem of school segregation can be fully solved in New York City.	Defendant objects to this request and subpart because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1), as it seeks discovery of new facts and/or opinions rather than admission to facts and/or opinions already discovered, and thus is not properly the subject of a request to admit. Further, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, by inappropriately attempting to circumvent plaintiffs' explicit waiver of its pursuit of discovery on this topic (DOE and/or schools), and to circumvent the Court's orders denying discovery into school segregation as not relevant or proportionate to the needs of the case. Additionally, Defendant objects to this request because Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions regarding the Mayor's opinions. This request is an inappropriate attempt to circumvent the Court's ruling that a deposition of the Mayor shall not be permitted in this case. Defendant also objects to this request as unduly burdensome because it would require obtaining information on topics not previously part of the scope of discovery in this case from agencies and individuals not previously involved with this case.		*See* points III and IV of plaintiffs' brief. *See also* excerpt of Mayor de Blasio's June 12, 2017 appearance on Inside City Hall, annexed to Gurian Decl. as Ex 15, at 3 (Mayor: "Here's the problem. Many of our school districts don't afford us that opportunity at the elementary school level because you can have a huge geography that is overwhelmingly people of one particular background and that is the reality in New York City."). Defendant must provide an answer that fairly responds to the substance of the request. *See* FRCP 36(a)(4).		
87a	If the preceding request to admit is not admitted, admit that Mayor de Blasio has made one or more public statements to that effect, including a statement in response to a question about school segregation where the Mayor is reported to have suggested that there was not much he could do, specifically using words to the effect of "[w]e cannot change the basic reality of housing in New York City" (for the illustration, *see* plaintiffs' deposition exhibit 62).	Defendant objects to this request and subpart because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1), as it seeks discovery of new facts and/or opinions rather than admission to facts and/or opinions already discovered, and thus is not properly the subject of a request to admit. Further, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, by inappropriately attempting to circumvent plaintiffs' explicit waiver of its pursuit of discovery on this topic (DOE and/or schools), and to circumvent the Court's orders denying discovery into school segregation as not relevant or proportionate to the needs of the case. Additionally, Defendant objects to this request because Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions regarding the Mayor's opinions. This request is an inappropriate attempt to circumvent the Court's ruling that a deposition of the Mayor shall not be permitted in this case. Defendant also objects to this request as unduly burdensome because it would require obtaining information on topics not previously part of the scope of discovery in this case from agencies and individuals not previously involved with this case.		*See* Request 87 briefing notes. For the quote referenced in the request, *see* Kate Taylor, "De Blasio, Expanding an Education Program, Dismisses Past Approaches," *New York Times* , May 11, 2017, annexed to Gurian Decl. as Ex. 13, at 2. Defendant must provide an answer that fairly responds to the substance of the request. *See* FRCP 36(a)(4).		

RTA #	RTA	Defendants' Response (Note: In the responses served, the response appears once at the end of the request, whether it has sub-parts or not. Here, for reading across each entry, including each entry for a sub-part, the entire response is replicated for each request and each sub-part)	Plaintiffs' reframing to meet defendant's purported concerns	Briefing notes	Plaintiffs ask that the request be deemed admitted as posed by plaintiffs	Plaintiffs seek to have extraneous averments or other statements stricken
88	Admit that when proposals to change school admissions policies or to change the catchment area from which a school draws its students bring the prospect of a change in school demographics (a reduction in the level of dominance of the racial or ethnic group that, up to that point, had been demographically most dominant in the school), in defendant's judgment, it is often the case that strong opposition arises.	Defendant objects to this request and subpart because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1), as it seeks discovery of new facts and/or opinions rather than admission to facts and/or opinions already discovered, and thus is not properly the subject of a request to admit. Further, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, by inappropriately attempting to circumvent plaintiffs' explicit waiver of its pursuit of discovery on this topic (DOE and/or schools), and to circumvent the Court's orders denying discovery into school segregation as not relevant or proportionate to the needs of the case. Defendant also objects to this request as unduly burdensome because it would require obtaining information on topics not previously part of the scope of discovery in this case from agencies and individuals not previously involved with this case. Defendant also objects to this request insofar as the term "significant portion" is undefined, vague and unclear. Defendant further objects to this request as it is a compound statement in that what "has been" and what "remains" are different considerations		*See* point IV of plaintiffs' brief. This request directly implicates race-based resistance to change in turf boundaries. The phrases complained of are clear. That defendant is employing a boiler-plate approach is illustrated by the complaint about a "compound statement in that what 'has been' and what 'remains' are different considerations." The word "remains" does not appear in this request. The response is simply copied from the response to Request 86. Defendant must provide an answer that fairly responds to the substance of the request. *See* FRCP 36(a)(4).		
89	Admit that Department of Education (DOE) officials attempt to understand the reasons for such opposition.	Defendant objects to this request and subpart because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1), as it seeks discovery of new facts rather than admission to facts already discovered, and thus is not properly the subject of a request to admit. Further, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, by inappropriately attempting to circumvent plaintiffs' explicit waiver of its pursuit of discovery on this topic, and to circumvent the Court's orders denying discovery into school segregation as not relevant or proportionate to the needs of the case. Defendant also objects to this request as unduly burdensome because it would require obtaining information on topics not previously part of the scope of discovery in this case from agencies and individuals not previously involved with this case. Defendant also objects to this request insofar as the term "attempt to understand" is undefined, vague and unclear.		*See* point IV of plaintiffs' brief. Here, the admission seeks to link knowledge of the phenomenon described in Request 88 with DOE attempts to understand the phenomenon, and, in turn, with the information provided to the ultimate decision-maker on outsider-restriction, Mayor de Blasio. *See* DOE Chancellor Carranza, "NYC schools' integration imperative," *N.Y. Daily News* , May 17, 2019, annexed to Gurian Decl. as Ex. 33, at 3-5 ("In the 65 years that have passed since [Brown v. Board of Education], I regret to say, we have not fulfilled that mandate. I know this because for 30 of those years, I have been an educator. From San Francisco to Houston and now to New York City, I have seen ripples of the legacy of racism in American history — in housing policy, in economic policy, in educational policy — influence the lives of too many children. I have seen kids stuck in poverty, black and brown kids, isolated from educational resources available to their peers and denied an equal shot at excellence. Attending schools with fewer Advanced Placement courses and more suspensions. Fewer college advisers, and more students in the school-to-prison pipeline. Lower test scores and graduation rates. And just as I've seen how segregation shrinks opportunity, I've seen the benefits of integration."); *see also* Mayor de Blasio May 17, 2019 tweet linking to Carranza op-ed, annexed to Gurian Decl. as Ex. 34. Neither the pose of lack of knowledge or information nor the pretense of a strict separation between the residential and educational contexts should be allowed to stymie the intended purpose of FRCP 36. Defendant must provide an answer that fairly responds to the substance of the request. *See* FRCP 36(a)(4).		
90	Admit that the DOE Chancellor has regularly reported to Mayor de Blasio throughout the course of his mayoralty.	Defendant objects to this request and subpart because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1), as it seeks discovery of new facts rather than admission to facts already discovered, and thus is not properly the subject of a request to admit. Further, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, by inappropriately attempting to circumvent plaintiffs' explicit waiver of its pursuit of discovery on this topic (DOE and/or schools), and to circumvent the Court's orders denying discovery into school segregation as not relevant or proportionate to the needs of the case. Defendant also objects to this request as unduly burdensome because it would require obtaining information on topics not previously part of the scope of discovery in this case from agencies and individuals not previously involved with this case. Defendant also objects to this request insofar as the term "regularly reported" is undefined, vague and unclear.		*See* points III and IV of plaintiffs' brief. Defendant must provide an answer that fairly responds to the substance of the request. *See* FRCP 36(a)(4).		
91	Admit that, in general, Mayor de Blasio is kept informed by the DOE Chancellor of important issues relating to the schools.	Defendant objects to this request and subpart because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1), as it seeks discovery of new facts rather than admission to facts already discovered, and thus is not properly the subject of a request to admit. Further, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for ploduction, and/or depositions, by inappropriately attempting to circumvent plaintiffs' explicit waiver of its pursuit of discovery on this topic (DOE and/or schools), and to circumvent the Court's orders denying discovery into school segregation as not relevant or proportionate to the needs of the case. Defendant also objects to this request as unduly burdensome because it would require obtaining information on topics not previously part of the scope of discovery in this case from agencies and individuals not previously involved with this case. Defendant also objects to this request insofar as the terms "kept informed" and "important issues" are undefined, vague and unclear.		*See* points III and IV of plaintiffs' brief. Defendant must provide an answer that fairly responds to the substance of the request. *See* FRCP 36(a)(4).		
92	Admit that Mayor de Blasio, throughout his mayoralty, has been kept informed by the DOE Chancellor, other DOE officials, and/or other of defendant's officials, at least in broad terms, of issues arising in the schools context that relate to segregation, to racial and ethnic bias, and to resistance to efforts to achieve more racial integration.	Defendant objects to this request and subpart because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1), as it seeks discovery of new facts rather than admission to facts already discovered, and thus is not properly the subject of a request to admit. Further, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, by inappropriately attempting to circumvent plaintiffs' explicit waiver of its pursuit of discovery on this topic, and to circumvent the Court's orders denying discovery into school segregation as not relevant or proportionate to the needs of the case. Additionally, Defendant objects to this request because Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions regarding the Mayor's opinions and knowledge. This request is an inappropriate attempt to circumvent the Court's ruling that a deposition of the Mayor shall not be permitted in this case. Defendant also objects to this request as unduly burdensome because it would require obtaining information on topics not previously part of the scope of discovery in this case from agencies and individuals not previously involved with this case. Defendant also objects to this request insofar as the terms "kept informed" and "least in broad terms" are undefined, vague and unclear. Defendant further objects to this request as it is a compound statement in that the DOE Chancellor is a specifically identified individual compared to "other DOE officials, and/or other of defendant's officials," "DOE officials" are distinct from "other of defendant's officials" and issues that "relate to segregation, to racial and ethnic bias, and to resistance to efforts to achieve more racial integration" are each separate and distinct issues to would have to be addressed separately.		*See* points III and IV of plaintiffs' brief. Defendant must provide an answer that fairly responds to the substance of the request. *See* FRCP 36(a)(4).		
93	Admit that defendant has represented that it has been informed by multiple participants in its "Where We Live" AFFH process that there is community opposition to integration in schools; that predominantly white and affluent communities often block attempts for integration in schools that would provide low-income communities increased access to quality schools; and that often school integration efforts are viewed by white families as taking opportunities away from their children.	Without waiving any objections to discovery regarding DOE or schools in this case or any objections set forth in response to Requests 81-92 and 95-97, and because Defendant understands this request to be limited to HPD's knowledge of what it learned during its involvement in the Where We Live NYC process, Defendant denies this request, except admits that HPD has been informed by participants in its "Where We Live NYC" process that there is community opposition to integration in schools.		*See* point IV of plaintiffs' brief. Defendant must provide an answer that fairly responds to the substance of the request. *See* FRCP 36(a)(4).	y	
94	Admit that defendant believes that the observations referenced in the preceding request are substantially true.	Incorporating its objections and responses to Request No. 93, Defendant admits this request.		See point IV of plaintiffs' brief. Defendant must provide an answer that fairly responds to the substance of the request. See FRCP 36(a)(4).	y	

RTA #	RTA	Defendant's Response (Note: In the responses served, the response appears once at the end of the request, whether it has sub-parts or not. Here, for reading across each entry, including each entry for a sub-part, the entire response is replicated for each request and each sub-part)	Plaintiffs' reframing to meet defendant's purported concerns	Briefing notes	Plaintiffs ask that the request be deemed admitted as posed by plaintiffs	Plaintiffs seek to have extraneous averments or other statements stricken
95	Admit that defendant has known for many years of the phenomenon of community opposition to greater racial or ethnic integration in schools.	Defendant objects to this request and subpart because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1), as it seeks discovery of facts and/or opinions rather than admission to facts and/or opinions already discovered, and thus is not properly the subject of a request to admit. Further, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, by inappropriately attempting to circumvent plaintiffs' explicit waiver of its pursuit of discovery on this topic (DOE and schools), and to circumvent the Court's orders denying discovery into school segregation as not relevant or proportionate to the needs of the case. Additionally, Defendant objects to this request's subpart because Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions regarding the Mayor's knowledge or opinions. This request is an inappropriate attempt to circumvent the Court's ruling that a deposition of the Mayor shall not be permitted in this case. Defendant also objects to this request as unduly burdensome because it would require obtaining information on topics not previously part of the scope of discovery in this case from agencies and individuals not previously involved with this case. Defendant also objects to this request insofar as the term "phenomenon" is undefined, vague and unclear.		*See* point IV of plaintiffs' brief. Defendant must provide an answer that fairly responds to the substance of the request. *See* FRCP 36(a)(4).		
95a	Admit that Mayor de Blasio either became aware of the phenomenon of community opposition to greater racial or ethnic integration in schools before he became mayor or in the course of his mayoralty.	Defendant objects to this request and subpart because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1), as it seeks discovery of facts and/or opinions rather than admission to facts and/or opinions already discovered, and thus is not properly the subject of a request to admit. Further, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, by inappropriately attempting to circumvent plaintiffs' explicit waiver of its pursuit of discovery on this topic (DOE and schools), and to circumvent the Court's orders denying discovery into school segregation as not relevant or proportionate to the needs of the case. Additionally, Defendant objects to this request's subpart because Plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions regarding the Mayor's knowledge or opinions. This request is an inappropriate attempt to circumvent the Court's ruling that a deposition of the Mayor shall not be permitted in this case. Defendant also objects to this request as unduly burdensome because it would require obtaining information on topics not previously part of the scope of discovery in this case from agencies and individuals not previously involved with this case. Defendant also objects to this request insofar as the term "phenomenon" is undefined, vague and unclear.		*See* points III and IV of plaintiffs' brief. Defendant must provide an answer that fairly responds to the substance of the request. *See* FRCP 36(a)(4).		
96	Admit that during the de Blasio administration, defendant has known that community opposition to greater racial or ethnic integration in schools is not limited to schools that are currently demographically dominated by white students.	Defendant objects to this request and subpart because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1), as it seeks discovery of new facts and/or opinions rather than admission to facts and/or opinions already discovered, and thus is not properly the subject of a request to admit. Further, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, by inappropriately attempting to circumvent plaintiffs' explicit waiver of its pursuit of discovery on this topic, and to circumvent the Court's orders denying discovery into school segregation as not relevant or proportionate to the needs of the case. Defendant also objects to this request as unduly burdensome because it would require obtaining information on topics not previously part of the scope of discovery in this case from agencies and individuals not previously involved with this case. Defendant also objects to this request insofar as the term "dominated" is undefined, vague and unclear.		*See* point IV of plaintiffs' brief. "Demographically dominated" is not unclear. And the "undue burden" only involves whether officials know that there is some of the described opposition in some schools not currently demographically dominated by white students, not providing any specific count of instances. *See, e.g.*, Emma Whitford, "Controversial School Rezoning Plan In Gentrifying Brooklyn Wins Approval," *Gothamist*, Jan. 6, 2016, annexed to Gurian Decl. as Ex. 35, at 2 (quoting PTA president of PS 307, a school the article states predominantly serves African-American residents of NYCHA-run Farragut Houses, as follows: "All that we will get is another PS 8—a school that all of the black and brown folks built, only to lose all of the stake and ownership"); Kate Taylor, "A Manhattan School District Where School Choice Amounts to Segregation," *New York Times*, June 7, 2017, annexed to Gurian Decl. as Ex. 36, at 3 (reporting that "as the city proposes to move forward on desegregation, conversation swith dozens of District 1 parents of all races over the past few months suggest it is not only wealthier white parents who might be disappointed by their assignments under a new system," but also parents of various races with a "desire to see faces similar to their own in classrooms and at parent-teacher association meetings" and quoting Asian parent who sent her children to a majority-Asian elementary school because "I feel and also the kids feel more comfortable"). Defendant must provide an answer that fairly responds to the substance of the request. *See* FRCP 36(a)(4).		
96a	Admit that during the de Blasio administration, defendant has been aware of expressions of concern to the effect that a school or a school district was at risk of becoming "too white."	Defendant objects to this request and subpart because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1), as it seeks discovery of new facts and/or opinions rather than admission to facts and/or opinions already discovered, and thus is not properly the subject of a request to admit. Further, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, by inappropriately attempting to circumvent plaintiffs' explicit waiver of its pursuit of discovery on this topic, and to circumvent the Court's orders denying discovery into school segregation as not relevant or proportionate to the needs of the case. Defendant also objects to this request as unduly burdensome because it would require obtaining information on topics not previously part of the scope of discovery in this case from agencies and individuals not previously involved with this case. Defendant also objects to this request insofar as the term "dominated" is undefined, vague and unclear.		*See* point IV of plaintiffs' brief. Defendant should be aware of such concerns being publicly aired. *See* Kyle Spencer, "New York Schools Wonder: How White Is Too White?", *New York Times*, Feb. 16. 2016, annexed to Gurian Decl. as Ex. 37, at 6 (quoting African-American mother and other parents at school that has seen an increase in white students as not wanting to see the school "turn all white") and 2 (stating principals at seven schools experiencing such increases in white students are concerned that their schools will "tip" over into majority white, middle-class schools). Defendant must provide an answer that fairly responds to the substance of the request. *See* FRCP 36(a)(4).		
97	Admit that, of the agencies reporting to Mayor de Blasio, the agency most likely to have the most direct and detailed information about fear of and resistance to greater racial or ethnic integration in schools, including especially information about fear of and resistance to school zoning or admissions-policy changes, is the Department of Education.	Defendant objects to this request and subpart because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1), as it seeks discovery of new facts and/or opinions rather than admission to facts and/or opinions already discovered, and thus is not properly the subject of a request to admit. Further, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions, by inappropriately attempting to circumvent plaintiffs' explicit waiver of its pursuit of discovery on this topic, and to circumvent the Court's orders denying discovery into school segregation as not relevant or proportionate to the needs of the case. Defendant also objects to this request as unduly burdensome because it would require obtaining information on topics not previously part of the scope of discovery in this case from agencies and individuals not previously involved with this case. Subject to those objections, Defendant admits this request.		The "subject to" language should not be allowed to limit this admission in any fashion.	Y	

RTA #	RTA	Defendant's Response (Note: In the responses served, the response appears once at the end of the request, whether it has sub-parts or not. Here, for reading across each entry, including each entry for a sub-part, the entire response is replicated for each request and each sub-part)	Plaintiffs' reframing to meet defendant's purported concerns	Briefing notes	Plaintiffs ask that the request be deemed admitted as posed by plaintiffs	Plaintiffs seek to have extraneous averments or other statements stricken
98	Admit that defendant has known throughout the post- World War II period that fear of and resistance to neighborhood residential racial change is a phenomenon that exists in New York City.	Defendant objects to this request insofar as the term "phenomenon" is undefined, vague and unclear. Defendant also objects to this request as overbroad because it requests information on undefined terms for a period spanning almost 75 years. Further, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions because the discovery time period in the case was established by the Court as extending back generally to January 1, 2010, and only to January 1, 2002 for a very limited and select group of custodians. Subject to those objections, defendant denies this request as to the time period of the de Blasio administration, based on current and former de Blasio administration officials' experiences that a fear of and resistance to neighborhood residential change is not a phenomenon that exists in New York City, and denies knowledge or information sufficient to respond to this request as to the time period before the de Blasio administration as defendant does not have information regarding the existence of or the extent of the "fear of and resistance to neighborhood residential racial change" dating back to the end of World War II (1945). NOTE: The text of the response reflects corrections made by defendant subsequent to initially serving responses on plaintiffs.		The "subject to" language introduces ambiguity into what is being denied and defendant needs to clarify, in respect to the period of the de Blasio administration, if the denial is based at all on the meritless objection to the term "phenomenon." Also as to the period of the de Blasio administration, defendant must fairly respond to the substance of the request, *see* FRCP 36(a)(4), which encompasses what defendant knows, not what the "experiences" of officials are. As for the period prior to the de Blasio administration, it ought not be surprising that plaintiffs wish to confirm City history in this respect. *See Arlington.* Note that the response does not even purport to state that it probed the knowledge and information held by administration officials as to that earlier period (and it fails to explain any other efforts), all contrary to the requirements of FRCP 36(a)(4). If one steps back for a moment, lack of sufficient knowledge or information is a breathtaking assertion, not only in terms of common knowledge, but also in terms of the City's own acknowledgments of ongoing racial discrimination and segregation. *See, e.g.,* excerpt of defendant's 2007 AFFH statement, annexed to Gurian Decl. as Ex. 38, at AFFH-18 ("Racial segregation and discrimination in housing are persistent and constraining features of housing markets throughout the United States."). Is it defendant's position that such discrimination and segregation either: (a) were new phenomena; or (b) did not have anything to do with fear of and resistance to neighborhood residential racial change? Defendant must provide an answer that fairly responds to the substance of the request. *See* FRCP 36(a)(4).		
99	In respect to the period from 1945 through 1990, admit that defendant knows that fear of and resistance to neighborhood residential racial change was a common phenomenon in New York City.	Defendant objects to this request insofar as the terms "common" and "phenomenon" are undefined, vague and unclear. Defendant also objects to this request as overbroad because it requests information on undefined terms for a 45 year time period that ended almost 30 years ago. Further, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions because the discovery time period in the case was established by the Court as extending back generally to January 1, 2010, and only to January 1, 2002 for a very limited and select group of custodians. Subject to those objections, defendant denies knowledge or information sufficient to respond to this request as it does not have information regarding the existence of or the extent of "fear of and resistance to neighborhood residential racial change" from the end of World War II (1945) until 1990, and avers that it does not believe that "fear of and resistance to neighborhood residential racial change" is a "common phenomenon" in New York City.		*See* Request 98 briefing note. Here, defendant specifically avoids answering whether the fear and resistance referenced "was" a common phenomenon, avering only that it does not believe that such fear and resistance *is* a common phenomenon. Further, the words "common" and "phenomenon" are easily understood. The introduction of the "subject to" preface to the denial makes it unclear what is being denied, especially in light of specific evidence from the Mayor. *See, e.g.*, excerpt of June 9, 2017 Mayor de Blasio appearance on WNYC, annexed to Gurian Decl. as Ex. 39, at 2-3 ("But I also really have an obligation to be very honest with the people of New York City, about what hundreds of years of very unfair American history have done to this city and cities all over the country . . . . There are neighborhoods and school districts in this city that are overwhelmingly of one ethnic group or one racial group. That's a fact. You and I didn't create that. That was created over many, many decades."). Defendant must provide an answer that fairly responds to the substance of the request. *See* FRCP 36(a)(4).		
100	Admit that defendant has not identified a point in time when fear of and resistance to neighborhood residential racial change ceased to be a common phenomenon in New York City.	Defendant objects to this request insofar as the terms "common" and "phenomenon" are undefined, vague, unclear and unduly burdensome insofar as it seeks an admission of a negative, that is, something the City has "not identified". Defendant also objects to this request as overbroad because it requests information on undefined terms for an undefined time period. Further, to the extent Plaintiffs have framed this request to be requesting information beyond the discovery time period in the case (established by the Court as extending back generally to January 1, 2010, and only to January 1, 2002 for a very limited and select group of custodians) defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions. Subject to those objections, defendant denies this request, and avers that the "fear of and resistance to neighborhood residential racial change" is not or was not a "common phenomenon" in New York City. NOTE: The text of the response reflects corrections made by defendant subsequent to initially serving responses on plaintiffs.		Here, defendant appears to be averring that fear of and resistance was *never* (at least at any point in the post- World War II period) a common phenomenon in New York City. Defendant is free to make that averment, but the prefacing of the averment with "subject to" makes it unclear whether the denial is substantive or based on its objections. That must be clarified.		
101	In respect to the period from approximately 1990 to the present, admit the defendant believes that fear of and resistance to neighborhood residential racial change continues to exist among some residents, officials, and self-proclaimed advocates for many neighborhoods.	Defendant objects to this request as it is a compound statement because "residents, offrcials, and self-proclaimed advocates" are each separate groups with different responses and/or concerns and thus must be considered separately. Further, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions because the discovery time period in the case was established by the Court as extending back generally to January 1, 2010, and only to January 1 , 2002 for a very limited and select group of custodians. Subject to those objections, defendant denies this request, except admits that for the period from approximately 1990 to the present, it believes that fear of and resistance to neighborhood residential racial change may exist among some residents, officials, and/or self-proclaimed neighborhood advocates, and avers that the community preference policy was not put in place in response to such fear of and resistance to neighborhood residential change that may exist.		It is not unreasonable for defendant to know about fear and resistance as referenced in the period described. The "subject to" language purports to prevent that which is sought in the request from being "conclusively established" as required by FRCP 36(b). The self-serving averment at the end of the response has nothing to do with the request and should be stricken.		Y
102	Admit that the observations contained in the various versions of Preliminary Guides to defendant's Assessment of Fair Housing Submission (Preliminary Guides) prepared in the Summer and Fall of 2016 (see Bates 21052, 22822, 53095, 104929, and 105010) were the result, *inter alia* , of consultation and drafting between and among HPD staff and of research conducted by HPD staff.	Defendant admits this request, and avers that these documents, as pre-decisional and deliberative drafts and/or internal documents, contain potentially non-final positions and/or findings by HPD and/or the City as well as some HUD phrasing and data that was not the City's or HPD's word choice and/or data.		The request can and should be admitted as posed (the observations contained are described as being the result "*inter alia*" of HPD drafting, consultation, and research). The averment that follows the admission is not in the nature of a response, but rather in the nature of trying to defend and excuse what has been admitted, and should be stricken.	Y	Y
103	Admit that defendant believed that [Redacted]	Defendant objects to this request as vague and unclear as it does not cite the source of the quoted material. Defendant further objects to this request as vague and unclear and unduly burdensome because the time period of the request not defined. Subject to that objection, Defendant admits that the Preliminary Guides, which were created in summer/fall 2016, contain such statements.		The response evades the admission sought. Defendant admits, as it must, that the Preliminary Guides contain the language, but does not either admit or deny whether *it believed* what is referenced in the request.		
104	Admit that, [Redacted]	Defendant objects to this request as vague and unclear as it does not cite the source of the quoted material. Defendant further objects to this request as vague and unclear and unduly burdensome because the time period of the request not defined Subject to those objections and incorporating the response to Request 103, defendant denies this request.		It is unclear how or why (whether subject to objections or not) defendant could provide this response. A Preliminary Guide says: [Redacted] *See* Bates 22822, annexed to Gurian Decl. as Ex. 40, at 5 (Bates 22826). As is plain, the Guide is saying (as the request does) that [Redacted] The response does not set out whether defendant nonetheless denies that it believed what is referenced in the request.		
105	Admit that the term [Redacted] in the foregoing context was intended to encompass [Redacted] .	Defendant objects to this request as vague and unclear as it does not cite the source of the quoted material Defendant also objects to this request insofar as the terms "foregoing context" is vague and unclear. Subject to those objections, defendant denies this request, and avers that [Redacted] as used in the Preliminary Guides was meant to include issues such as [Redacted] [Redacted]		*See* Request 104 briefing note. It is not plausible that the second sentence has nothing to do with the first.		
106	Admit that defendant, by the time of the preparation of a Preliminary Guide in August 2016, had highlighted potential political concerns in relation to the assessment of fair housing.	Defendant objects to this request insofar as the terms "highlighted" and "potential political concerns" are vague and unclear. Subject to those objections, defendant denies this request.		*See* Request 104 briefing note. Is it the wording (which is clear) that is causing the denial? The "subject to" language makes it impossible to know.		

RTA #	RTA	Defendant's Response (Note: In the responses served, the response appears once at the end of the request, whether it has sub-parts or not. Here, for reading across each entry, including each entry for a sub-part, the entire response is replicated for each request and each sub-part)	Plaintiffs' reframing to meet defendant's purported concerns	Briefing notes	Plaintiffs ask that the request be deemed admitted as posed by plaintiffs	Plaintiffs seek to have extraneous averments or other statements stricken
107	Admit that defendant knew prior to August 2016 that the community preference policy was a potential impediment to fair housing choice.	Defendant denies this request.		*See, e.g.* , Been letter to HUD, Sept. 5, 2014, annexed to Gurian Decl. as Ex. 4, at 3-4 (acknowledging that "Critics of the community district preference system have expressed concern . . . that it in some instances, the preferences might 'lock in' the existing racial or ethnic majority in a neighborhood, and might make it more difficult for racial or ethnic groups not already represented in a community to move into the neighborhood" and concluding from analysis "to address those concerns" that "it would make sense to depart from the usual community district preference rules" for at least some non-diverse community districts); Been email to Mayor de Blasio, Aug. 17, 2014, Bates 53602, annexed to Gurian Decl. as Ex. 41, at 53605 (emphasis added) [Redacted]); Fair Housing Justice Center letter to Charles Sorrentino, Nov. 23, 2012, Bates 18591, annexed to Gurian Decl. as Ex. 42, at 18597-98 ("[T]he City mandates use of a residency preference for its affordable housing developments which perpetuates residential segregation because . . . Community District boundaries often reflect the high levels of segregation throughout New York City . . . [T]he City's policy disadvantages non-residents of the Community District and sevres to reinforce existing patterns of residential segregation."); Been II, annexed to Gurian Decl. as Ex. 8, at 99:4-23 (responding to a question regarding, during her tenure as commissioner, whether there were community districts that gave her concern that applying community preference as it exists would effectively deny on the basis of race the opportunity to compete for Affordable Housing on an equal playing field by confirming "did I see any reason to be concerned which caused me to talk to my lawyer? And the answer is, yes, I had reason to talk to my lawyer"); *id.* at 100:7-103:21 (Ms. Been acknowledges in respect to several highly segregated community districts that, were there lotteries in those districts, application of the outsider restriction policy would cause her concern about denial of equal opportunity on the basis of race).		
108	Admit that at the time of the preparation of the Preliminary Guides, defendan [Redacted]	Defendant objects to this request insofar as the term "questioned" is vague and unclear. Subject to those objections, defendant denies this request, and avers that the City evaluated and considered the issues and items HUD included in its instructions for the City's possible submissions to HUD.		An August 2016 version of the Preliminary Guide stated: [Redacted] *See* Bates 104929, annexed to Gurian Decl. as Ex. 43, at 8 (Bates 104936). Since the denial must have been because of the complained of wording (defendant claims that it is unclear that "questioned" encompasses "include?"), and since the objection is without merit, the request should be deemed admitted as posed by plaintiffs. *See* FRCP 36(a)(6). The averment is irrelevant to admission or denial of the request (it, again, puts forward a defense of that which should be admitted), and should be stricken.	Y	Y
109	Admit that this question was raised even though defendant knew that HUD required jurisdictions to consider admissions and occupancy policies as potential contributing factors to segregation.	Defendant objects to this request insofar as the term "this question" is vague and unclear. Subject to those objections, defendant denies this request, and avers that the City evaluated and considered the issues and items HUD included in its instructions for the City's possible submissions to HUD.		*See* Request 108 briefing note. The response avoids the fact that [Redacted] *See* Preliminary Guide listing [Redacted] in Bates 21052, annexed to Gurian Decl. as Ex. 44, at 14 (Bates 21065) ("Admissions and occupancy polcies and procedures" is listed, but [Redacted] *See also* [Redacted] . Outsider-restriction is an admissions policy. Defendant states that it knew the issues and items that HUD required to be considered. The request should be deemed admitted as posed by plaintiffs. *See* FRCP 36(a)(6).	Y	Y
110	Admit that defendant knew at the time of the preparation of the Preliminary Guides that community opposition to fair housing was high.	Defendant objects to this request insofar as the term "opposition to fair housing" is vague and unclear. Subject to those objections, defendant denies this request and subpart a1 and a2, except admits tha[Redacted] , and avers that the Preliminary Guide was a pre-decisional (some versions were drafts) document, reflecting and intended to further facilitate early internal deliberations on completion of the AFH, and did not reflect the City's positions on the issues set forth therein.		The term "opposition to fair housing" is not unclear, and, indeed, the Preliminary Guides make this clear. Assessment of Fair Housing "contributing factors of segregation" include community opposition. *See* Bates 22822, annexed to Gurian Decl. as Ex. 40, at 14 (Bates 22835). In turn, the second part of the appendix is identified as [Redacted] of contributing factors. *Id.* at 23 (Bates 22844). [Redacted] *Id.* at 25 (Bates 22846). The underlying issue is identified by defendant a: [Redacted] *Id.* Note that the file name of the document quoted above is not a draft; its is "AFH Deck FINAL 2018-08-16.pptx. Defendant, of course, can disclaim the observation or try to explain it away, but the idea that the concept of "opposition to fair housing" is unclear in the context of an assessment of fair housing where[Redacted] is unsustainable. Because of the "subject to" language, and because the averment does not speak to the defendant's "knowledge" but rather its "positions," defendant has not made clear whether the substance is being denied. As the averments do not speak to the defendant's knowledge, they should be stricken.		Y
110a1	If the preceding request is not admitted: Admit that defendan[Redacted]	Defendant objects to this request insofar as the term "opposition to fair housing" is vague and unclear. Subject to those objections, defendant denies this request and subpart a1 and a2, except admits tha[Redacted] and avers that the Preliminary Guide was a pre-decisional (some versions were drafts) document, reflecting and intended to further facilitate early internal deliberations on completion of the AFH, and did not reflect the City's positions on the issues set forth therein.		*See* Request 110 briefing note. The only reasonable inference to be drawn from [Redacted] is that the observation as characterized in Request 110 was made. *There is no basis for qualfiying the admission.* [Redacted] The request should be deemed admitted as posed by plaintiffs, *see* FRCP 36(a)(6), and the extraneous averment should be stricken.	Y	Y
110a2	If the preceding request [RTA 110] is not admitted: Admit that defendant made the observation in one or more versions of the Preliminary Guide tha [Redacted]	Defendant objects to this request insofar as the term "opposition to fair housing" is vague and unclear. Subject to those objections, defendant denies this request and subpart a1 and a2, except admits that[Redacted] and avers that the Preliminary Guide was a pre-decisional (some versions were drafts) document, reflecting and intended to further facilitate early internal deliberations on completion of the AFH, and did not reflect the City's positions on the issues set forth therein.		*See* Request 110 briefing note. There is no basis for qualfiying the admission. [Redacted] The request should be deemed admitted as posed by plaintiffs, *see* FRCP 36(a)(6), and the extraneous averment should be stricken.	Y	Y
111	Admit that defendant knew at the time of the preparation of the Preliminary Guides that opposition to publicly supported housing can be high in higher opportunity, disproportionately white areas, except in respect to senior housing.	Defendant objects to this request and subpart as vague and unclear because it does not cite the source of the quoted material, nor does it define the terms "comparable," "principally" or "disproportionately". Subject to those objections, defendant denies this request and its subpart, and avers that the Preliminary Guides do not reference "disproportionately white areas".		Defendant knew (as is evident from its response) that evidence underlying the request comes from the Preliminary Guides. The terms objected to are neither vague nor unclear. The "AFH Deck FINAL" version of the Guide states under [Redacted] " that, "For publicly supported housing: Opposition can be high in higher opportuntiy areas (e.g. Queens, Staten Island) except for senior housing." *See* Bates 22822, annexed to Gurian Decl. as Ex. 40, at 25 (Bates 22846). The averment that the Guide did not use the language "disproportionately white areas" avoids the question of whether defendanat knew that those higher opportunity areas where opposition could be high were disproportionately white areas. Defendant must be required to fairly respond to the substance of the request. *See* FRCP 36(a)(4).	Y	Y

RTA #	RTA	Defendant's Response (Note: In the responses served, the response appears once at the end of the request, whether it has sub-parts or not. Here, for reading across each entry, including each entry for a sub-part, the entire response is replicated for each request and each sub-part)	Plaintiffs' reframing to meet defendant's purported concerns	Briefing notes	Plaintiffs ask that the request be deemed admitted as posed by plaintiffs	Plaintiffs seek to have extraneous averments or other statements stricken
111a	If the preceding request is not admitted, admit that defendant made a comparable observation in one or more versions of the Preliminary Guide and that the reference to "higher opportunity" areas was principally a reference to disproportionately white areas.	Defendant objects to this request and subpart as vague and unclear because it does not cite the source of the quoted material, nor does it define the terms "comparable," "principally" or "disproportionately". Subject to those objections, defendant denies this request and its subpart, and avers that the Preliminary Guides do not reference "disproportionately white areas".		*See* Request 111 briefing note. Because of the use of the "subject to" language, the nature of the denial is unclear. There is a statement in the Guide (quoted in the preceding briefing note) in line with the observation sought to be confirmed in this request. The question is not whether the term "disproportionately white areas" was *used,* but rather whether defendant, in using that term, was principally referring to disproportionately white areas. Defendant must be required to fairly respond to the substance of the request. *See* FRCP 36(a)(4). The extraneous averment should in any event be stricken.		Y
112	Admit that defendant knew at the time of the preparation of the Preliminary Guides that a reason for community opposition was "ethnic solidarity."	Defendant objects to this request and subpart as vague and unclear because it does not cite the source of the quoted material. Subject to those objections, defendant denies this request, except admits that one of the draft Preliminary Guides makes a reference to "ethnic solidarity".		From its response, defendant clearly understands that evidence underlying the request comes from the Preliminary Guides. *See* Bates 105010, annexed to Gurian Decl. as Ex. 46, at 30 (Bates 105039) (noting under the discussion of [Redacted] " as a "contributing factor" to segregation that "Groups on both sides don't necessarily support integreation (anti-displacement, ethnic solidarity)"). It is unclear whether defendant is disclaiming its observation or whether its denial is because of the purported vagueness and lack of clarity.		
112a	If the preceding request is not admitted, admit that defendant made that observation in one or more versions of the Preliminary Guide.	Defendant objects to this request and subpart as vague and unclear because it does not cite the source of the quoted material. Subject to those objections, defendant denies this request, except admits that one of the draft Preliminary Guides makes a reference to "ethnic solidarity".		*See* Request 112 briefing note. Both the partial denial and qualified admission are misleading and non-compliant. It is defendant that, in Bates 105010, annexed to Gurian Decl. as Ex. 46, at 10539, identified [Redacted] "Groups on *both* sides don't necessarily support integration" (emphasis in original). It is defendant that specifically identified "ethnic solidarity" as one of the sides in question. Thus, the Preliminary Guide is not simply making a "reference" to ethnic solidarity; it is identifying ethnic solidarity as a reason for [Redacted] , as stated in Request 112. A direct response to this request is required; in view of the quoted language, the request must be deemed admitted as posed by plaintiffs. *See* FRCP 36(a)(6).	Y	
113	Admit that defendant knows that the difficulty of getting community buy-in for fair housing is not an isolated phenomenon.	Defendant objects to this request insofar as the terms "difficulty" and "isolated phenomenon" are vague and unclear. Subject to those objections, defendant denies this request and subpart a [Redacted]		Defendant does not really have any difficulty with the term "difficulty," having observed that securing community buy-in for fair housing is "very difficult." "Isolated" in this context clearly refers to a phenomenon that is not limited to a few occurrences or areas (note that the term used by defendant was a flat, unqualified statement that securing community buy-in for is housing is very difficult). Defendant can disclaim the knowledge reflected in the Guide, but if it is doing so, it should make clear that the denial is on the substance of its knowledge (independent of the "subject to" limitation). The averments, which are all in the nature of excuses for disclaiming its observation, should be stricken.		Y
113a	If the preceding request is not admitted, admit that there is nothing in the observations made in any of the Preliminary Guides to suggest that community opposition to fair housing is an isolated phenomenon.	Defendant objects to this request insofar as the terms "difficulty" and "isolated phenomenon" are vague and unclear. Subject to those objections, defendant denies this request and subpart a, [Redacted]		*See* Request 113 response and briefing note. The response here is facially untrue. Defendant [Redacted] Defendant should be made to explain whether its denial is based on its meritless objections to terms, or whether it is to the substance of the request; and, if the former, the request should be deemed admitted as posed by plaintiffs. *See* FRCP 36(a)(6). The averments are in the nature of defendant trying to argue its case or explain away the statement that is in the Guide, not provide a qualified admission. The averments should be stricken.	Y	Y
114	Admit that defendant believes that it is difficult to have thoughtful discussions regarding the causes of residentially segregated conditions against the backdrop of local politics.	Defendant denies this request and subpart as it is not an accurate paraphrase of the cited letter, and avers that defendant is pursuing thoughtful discussions regarding the causes of residentially segregated conditions in New York City through the Where We Live process.		In a paragraph of a Nov. 24, 2014 Vicki Been and Carl Weisbrod letter to HUD, annexed to Gurian Decl. as Ex. 47, at 9, these high-ranking City officials discuss a requirement that jurisdictions like New York City "identify 'determinants' of fair housing issues" (the AFFH Rule defined "fair housing issues" in relevant part as "a condition in a program participant's geographic area of analysis that restricts fair housing choice or access to opportunity," and included as the first example "such conditions as ongoing local or regional segregation or lack of integration"). In the same paragraph, Been and Weisbrod complain that "grantees will be hard-pressed to ascertain causal relationships," and conclude by stating, "The stakes of drawing unsupporteed causal conclusions are high because of the critical importance of these issues, *and the difficulty of having thoughtful discussions about the issues against the backdrop of local politics*." *Id.* (emphasis added). Defendant's evasion should not be permitted, and it should be required to fairly respond to the substance of the request. *See* FRCP 36(a)(4).		Y
114a	If the preceding request is not admitted, admit that this observation was made in 2014 by the then-Commissioner of HPD and the then-Director of City Planning (*see* plaintiffs' deposition exhibit 24, at 9).	Defendant denies this request and subpart as it is not an accurate paraphrase of the cited letter, and avers that defendant is pursuing thoughtful discussions regarding the causes of residentially segregated conditions in New York City through the Where We Live process.		*See* Request 114 briefing note. The paraphrase in Request 114 is entirely accurate and the observation was made by the officials cited in the request. This request should be deemed admitted as posed by plaintiffs, *see* FRCP 36(a)(6), and the extraneous averment should be stricken.	Y	Y
115	Admit that defendant knew throughout the period of the Bloomberg administration that confronting residential racial segregation and taking action to overcome it would be politically controversial.	Defendant objects to this request insofar as the term "politically controversial" is vague and unclear. Defendant also objects to this request as it is a compound statement and that "confronting" and "taking action to overcome" something are different acts that are not mutually exclusive. Subject to those objections, defendant denies this request.		The objections are without merit. Plaintiffs are entitled to know whether the basis for the denial is because of those objections, or whether the denial is intended to meet the substance of the request.		
116	Admit that defendant knew throughout the period of the de Blasio administration that confronting residential racial segregation and taking action to overcome it would be politically controversial.	Defendant objects to this request insofar as the term "politically controversial" is vague and unclear. Defendant also objects to this request as it is a compound statement and that "confronting" and "taking action to overcome" something are different acts that are not mutually exclusive. Subject to those objections, defendant denies this request.		The objections are without merit. Plaintiffs are entitled to know whether the basis for the denial is because of those objections, or whether the denial is intended to meet the substance of the request.		
117	Admit that, at points during the de Blasio administration, there were deliberate efforts to avoid using the language of "fair housing" or "racial integration" in communications with the public.	Defendant objects to this request insofar as the term "deliberate efforts" and "communications" are vague and unclear, and does not state who is making such effort or communications. Defendant also objects to this request because it provides a vague, unclear and undefined time period by the phrase "at points during the de Blasio administration." Subject to those objections, defendant denies this request.	Admit that, at points during the de Blasio administration, there were deliberate efforts by one or more high-level (Commissioner or above) administration officials to avoid using the language of "fair housing" or "racial integration" in communications with the public.	The objected to word and phrase are not unclear. The time period is the de Blasio administration. [Redacted] *See* then-Commissioner Been's Sept. 15, 2016 email [Redacted] , Bates 28772, annexed to Gurian Decl. as Ex. 48, at 28772 [Redacted] "). *See also* Been I, annexed to Gurian Decl. as Ex. 5, at 207:15-211:12 (explaning Ms. Been thought it was better to not talk about fair housing because she thought discussing fair housing "shuts people down" and "doesn't lead to the best conversations" since it is a "negative approach" that is "accusing people," concluding it is "just a question of tactics" as to how to garner community support). Plaintiffs' are entitled to know whether the basis for the denial is because of those objections, or whether the denial is intended to meet the substance of the request.		
118	Admit that defendant knew throughout the period of the Bloomberg administration that any effective effort to confront residential racial segregation and to take action to overcome it would require the expenditure of significant political capital.	Defendant objects to this request insofar as the terms "any," "expenditure" and "significant political capital" are vague and unclear. Defendant also objects to this request as it is a compound statement and that "confronting" and "taking action to overcome" something are different acts that are not mutually exclusive. Subject to those objections, defendant denies this request.		The objections are without merit. Plaintiffs are entitled to know whether the basis for the denial is because of those objections, or whether the denial is intended to meet the substance of the request.		
119	Admit that defendant knew throughout the period of the de Blasio administration that any effective effort to confront residential racial segregation and to take action to overcome it would require the expenditure of significant political capital.	Defendant objects to this request insofar as the terms "any" "expenditure" and "significant political capital" are vague and unclear. Defendant also objects to this request as it is a compound statement and that "confronting" and "taking action to overcome" something are different acts that are not mutually exclusive. Subject to those objections, defendant denies this request.		The objections are without merit. Plaintiffs are entitled to know whether the basis for the denial is because of those objections, or whether the denial is intended to meet the substance of the request.		

RTA #	RTA	Defendant's Response (Note: In the responses served, the response appears once at the end of the request, whether it has sub-parts or not. Here, for reading across each entry, including each entry for a sub-part, the entire response is replicated for each request and each sub-part)	Plaintiffs' reframing to meet defendant's purported concerns	Briefing notes	Plaintiffs ask that the request be deemed admitted as posed by plaintiffs	Plaintiffs seek to have extraneous averments or other statements stricken
120	Admit that Mayor de Blasio believed and believes that any effective effort to confront residential racial segregation and to take action to overcome it would require the expenditure of significant political capital.	Defendant objects to this request insofar as the terms "any," "expenditure" and "significant political capital" are vague and unclear. Defendant also objects to this request as it is a compound statement and that "confronting" and "taking action to overcome" something are different acts that are not mutually exclusive. Additionally, Defendant objects to this request because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1) as it seeks discovery of new facts and/or opinions rather than admission of facts and/or opinions already discovered, and thus is not properly the subject of a request to admit. Additionally, defendant objects to this request because plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions. This request is an inappropriate attempt to circumvent the Court's ruling that a deposition of the Mayor shall not be permitted in this case.		*See* point III of plaintiffs' brief. The Mayor has expressed the belief that systems of segregation are deeply built into American society. *See, e.g.* , excerpt of June 9, 2017 Mayor de Blasio appearance on WNYC, annexed to Gurian Decl. as Ex. 39, at 2 (the Mayor recites "what hundreds of years of a very unfair American history have done to this city," and underscores that there "are neighborhoods and school districts in this city that are overwhelmngly of one racial group" as a "fact" that "was created over many, many decades"). Plaintiffs' intentional discrimination case relies in part on the fear of the political consequences of taking on those who wish to retain the residential status quo (as opposed to continuing to pander to them with outsider-restriction). This request confirms the Mayor's understanding that making change in the face of those who want to retain the status quo would involve political cost. Defendant must be required to fairly respond to the substance of the request. See FRCP 36(a)(4).		
121	Admit that defendant knows that fear of and resistance to neighborhood residential racial change exists in some New York City neighborhoods (as fear is experienced, or resistance is engaged in, by neighborhood residents, local officials, or self-proclaimed neighborhood advocates) as more than an isolated or infrequently occurring phenomenon.	Defendant objects to this request insofar as the terms "infrequently" and "phenomenon" are vague and unclear. Defendant objects to this request as it is a compound statement because "residents, officials, and self-proclaimed advocates" are each separate groups with different responses and/or concerns and thus must be considered separately. Subject to those objections, defendant denies this request, except admits that it believes there may be some individuals in New York City who are resistant to residential racial change in their neighborhood, and avers that the community preference policy is not responsive to such fear of and resistance to neighborhood residential change that may exist.		The response does not meet the request. First, The objections are without merit. More fundamentally, the point of the request is to confirm that the described fear and resistance exists and occurs more than just in isolated or infrequent cases. The response does not give an answer (plaintiffs' are entitled to know whether the basis for the denail is because of those objections, or whether the denial is intended to meet the substance of the request). That there "may" be "some individuals" is disingenuous and does not even go so far as deposition testimony. As only one of a number of illustrations, *see, e.g.* , Been II, annexed to Gurian Decl. as Ex. 8, at 22:15-25 (identifying "some parts of Brooklyn that are heavily occupied by the Jewish community" in response to request to name "parts of the City where opposition to racial or ethnic integration is particularly high"). This is not an answer compliant with FRCP 36(a)(4). Finally, the averment has nothing to do with the request and must be stricken.		Y
124a	If either Request No. 121, 122, or 123 is not admitted: Admit tha[Redacted] (*see* plaintiffs' deposition exhibit 271, at Bates 167385).	Defendant admits that the cited document contain the language quoted in this request's subpart a. Defendant denies this request's subpart b as it does not contain the complete language of that talking point, except admits that the cited documents contain the language quoted, and avers that the entire point states [Redacted]		*See* point I of plaintiffs' brief (addressing general objections).		
124b	If either Request No. 121, 122, or 123 is not admitted: Admit tha[Redacted] (*see* plaintiffs' deposition exhibit 39, at Bates 28777).	Defendant admits that the cited document contain the language quoted in this request's subpart a. Defendant denies this request's subpart b as it does not contain the complete language of that talking point, except admits that the cited documents contain the language quoted, and avers that the entire point states: [Redacted]		The request follows a request seeking to have defendant admit [Redacted] that stated reasons for opposition to affordable housing development are often pretextual. [Redacted] *See* FRCP 36(a)(6). The extraneous averment must be stricken. [Redacted] *see* Bates 28772, annexed to Gurian Decl. as Ex. 48, at 28777) may be a point that defendant may wish to make a trial; but it is irrelevant to, and distracts from, the admission -- which is about the nature of opposition, not whether the City condones it or not.	Y	Y
125	Admit that defendant has frequently heard expressed the desire in low-income communities that defendant should focus on increasing the percentage of affordable housing units it facilitates that are affordable to households whose incomes are low-income or below beyond what defendant has planned or is perceived to have planned, including advocacy in favor of making all units affordable to households whose incomes are low-income or below [Redacted]	Defendant objects to this request insofar as the term "frequently" and the overall phrasing of this request is vague and unclear. Defendant also objects to this request as it is a compound statement in that what the City has "has planned or is perceived to have planned" are distinct ideas. Subject to those objections, Defendant admits that is has at times heard expressed the desire recited in this request.		Confirmation of whether defendant has heard something frequently is something reasonable to confirm through an RTA, but the response evades answering with an "at times" phrasing. Is defendant admitting or denying that it has frequently heard expressed what is referenced in the request? There is no admission or denial as to the "frequently" question. Defendant should be required to respond directly. *See* FRCP 36(a)(4).		
126	Admit that defendant knows that such a demand [Redacted] (*see id.*).	Defendant admits this request.		*See* point I of plaintiffs' brief (addressing general objections).		
127	Admit that defendant knows that what it calls "fear of displacement" is sometimes triggered in a neighborhood incumbent resident by that incumbent resident perceiving or anticipating neighborhood racial change.	Defendant denies knowledge or information sufficient to respond to this request as it does not know what any particular resident in New York City is perceiving or anticipating about their neighborhood, except admits that defendant knows that New York City residents have often expressed a fear of being displaced from their neighborhood.		This response does not "fairly respond" to the request. *Cf.* FRCP 36(a)(4). The request is not about taking a psychological census of "particluar" New Yorkers. It is about its knowledge of the described phenomenon. Defendant does not describe any effort to speak with any of defendant's officials about the substance of the question, or even to defendant's expert who confirmed the phenomenon. *See* excerpts of Goetz depo., annexed to Gurian Decl. as Ex. 49, at 139:23-141:23 (confirming Professor Goetz's would not expect New York City to be an outlier with regards to the phenomenon he said "happens in a number of places" (i.e., confirming he would expect it to happen in New York City); that phenomenon was that "race plays a central role" in displacement-based opposition to neighborhood investment, because "new development is seen as white and for white people who either live in nearby but segregated suburbs or [as being] for potential new residents"). The *faux* admission (defendant simply pushing its case) should be stricken as having nothing to do with the substance of the request, which has to do with what sometimes triggers a fear of displacement. As the response fails to respond without justification, defendant must answer.		Y
128	Admit that defendant has frequently heard, in connection with rezonings and/or affordable housing development proposals, the desire to maintain a neighborhood's cultural character, history, heritage, identity, or integrity.	Defendant objects to this request insofar as the term "frequently" is vague and unclear. Defendant also objects to this request as it is a compound statement in that rezonings and specific affordable housing development proposals are distinct actions that need to be addressed individually and "desire to maintain a neighborhood's cultural character, history, heritage, identity, or integrity" identifies five areas of consideration that are not necessarily the same or interchangeable terms. Subject to those objections, defendant denies this request, except admits that it has heard, in connection with rezonings and/or affordable housing development proposals, the desire to maintain a neighborhood's cultural character, history, heritage, or identity.		*See* Request 125 briefing note. Defendant again evades the substance of the request which seeks an admission that defendant has *frequently* heard that which is cited.The request does not ask for a delineation as between rezoning and affordable housing proposals, it asks simply about whether defendant has heard frequently about one and/or the other. "Admit" is the response whether it frequently heard the referenced desire in connection with rezonings, or whether it frequently heard the referenced desire in connection with affordable housing development proposals, or whether it frequently heard the referenced desire in connection with both.		

RTA #	RTA	Defendants' Response (Note: In the responses served, the response appears once at the end of the request, whether it has sub-parts or not. Here, for reading across each entry, including each entry for a sub-part, the entire response is replicated for each request and each sub-part)	Plaintiffs' reframing to meet defendant's purported concerns	Briefing notes	Plaintiffs ask that the request be deemed admitted as posed by plaintiffs	Plaintiffs seek to have extraneous averments or other statements stricken
129	Admit that defendant knows that concerns of the type referenced in the preceding request commonly involve concerns about a prospective change in the racial or ethnic composition of a neighborhood.	Defendant objects to this request insofar as the term "commonly" is vague and unclear. Subject to those objections and incorporating the response to Request 128, Defendant denies knowledge or information sufficient to respond to this request as it does not know what any particular resident in New York City is perceiving or anticipating about their neighborhood, except admits that defendant knows that New York City residents have often expressed a fear of being displaced from their neighborhood.		*See* Request 127 briefing note. It is not permissible for defendant to evade a question as to its understanding that the referenced concerns are commonly expressed by changing the focus to its purported inability to be certain as to what any individual thinks. This is especially true in light of defendant's acknowledgment at deposition that it strives to understand the nature of community concerns regarding rezonings and affordable housing development. *See* excerpts of Kapur depo., annexed to Gurian Decl. as Ex. 50, at 139:2-13 (agreeing that part of her and her staff members' jobs was "to try as best [they could] to understand the nature of community concerns that are expressed" and that the "same is true in terms of concerns that may be expressed by a council member"). In light of defendant's active efforts to ascertain the nature of community concerns, its purported ignorance as to this subject is disingenuous and cannot be a basis for sustaining a refusal to answer. And defendant is aware of community concerns regarding, inter alia, maintenance of an area's "culture" in fact involving concerns regarding that area's racial makeup. *See id.* at 154:7-24 (confirming that when she read a statement from an East Harlem advocacy group that "we are deeply concerned about the threat to our community," she understood the statement to mean a threat "to the Latino culture"). "Commonly" reasonably seeks to confirm defendant's understanding of how oft-expressed the concerns are. As the response fails to respond without justification, the request should be deemed admitted as posed by plaintiffs. *See* FRCP 36(a)(6). (The "admission" about fear of displacement does not go to the request in any way and should in any event be stricken.)		Y
130	Admit that defendant embraces and supports the maintenance of what it refers to as "ethnic enclaves."	Defendant objects to this request insofar as the terms "embrace" "maintenance" "supports" and "ethnic enclaves" are vague and unclear. Subject to those objections, Defendant denies this request, except admits that it believes ethnic enclaves do have value to the City and can provide benefits to residents and visitors of New York City.		The qualified admission (complicated in the first instance by the "subject to" language) does not respond fairly to the request. Ethnic enclaves exist. Does defendant support their maintenance (continued existence) as ethnic enclaves? Defendant should be obliged to answer.		
131	Admit that defendant believes that the existence of ethnic enclaves is a demographic feature of the City that defendant highlights to attracts visitors, new residents, and new business development.	Defendant objects to this request insofar as the terms "highlights" and "ethnic enclaves" are vague and unclear. Subject to those objections, Defendant admits this request.		Defendant is well familiar with the term ethnic enclaves. *See, e.g.*, excerpts of "Mandatory Inclusionary Housing: Promoting Economically Diverse Neighborhoods", annexed to Gurian Decl. as Ex. 51, at 30 and 55 (noting at 30 that overcrowding tends to be "in lower income areas or ethnic enclaves" and claiming at 55 that "lower-income households" depend on the city's "racially and ethnically diverse enclaves"). The "subject to" language leaves an unclear and unspecified limitation on defendant's admission, thus purporting to prevent that which is sought in the request from being "conclusively established." *See* FRCP 36(b).		
132	Admit that, throughout New York City, there is fierce competition for available affordable housing.	Defendant objects to this request insofar as the term "fierce" and "competition" are vague and unclear. Subject to those objections, Defendant denies this request, except admits that there is known competition for available affordable housing throughout New York City.		This dodge is absurd in a City where it is both publicly reported that tens of thousands of households apply for even relatively small housing lotteries, and wher [Redacted] It is not clear what defendant is denying. Being uncomfortable with admitting the accuracy of the phrase "fierce competition" is not a proper basis for a denial. If it makes defendant feel better, plaintiffs would accept an admission that the competition is "intense."		
133	Admit that, in the context of demand for affordable housing far exceeding the supply of affordable housing, any desire of some members of any racial or ethnic group to "self-segregate" is in conflict with the desire of New Yorkers who are not members of that racial or ethnic group to be able to secure housing in the same locations that the "self-segregators" are seeking to occupy or continue to occupy.	Defendant objects to this request insofar as the terms "desire," "self-segregate" and "secure housing" are vague and unclear. Defendant also objects to this request as it is a compound statement in that locations where a "self-segregator" is "seeking to occupy" housing and where one is "continuing to occupy" are distinct situations that are not necessarily interchangeable and that should be addressed separately. Subject to these objections, defendant denies this request.		The objections are without merit. Plaintiffs are entitled to know whether the basis for the denial is because of those objections, or whether the denial is intended to meet the substance of the request.		
134	Admit that the Giuliani and Bloomberg administrations used fewer tools and focused less effort on preventing involuntary displacement of a household from its home than does the de Blasio administration.	Defendant objects to this request insofar as the terms "tools" and "focused less effort" are vague and unclear. Defendant also objects to this request as it is a compound statement in that the Giuliani and Bloomberg administrations are separate and distinct administrations that should be addressed separately. Further, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions because the discovery time period in the case was established by the Court as extending back generally to January 1, 2010, and only to January 1, 2002 for a very limited and select group of custodians. Subject to those objections, defendant denies this request, except admits that the de Blasio administration has developed additional anti-displacement tools and policies based on market pressures and affordable housing demands specific to its administration, and built upon those used in prior administrations.		It is only reasonable to suppose that defendant has knowledge of the tools used by the Giuliani and Bloomberg administrations, and the response does not deny this or claim an inability to find out the information. Indeed, the response does make a comparison. There can be no question that less focus was placed on preventing involuntary displacement by the prior administrations than the de Blasio Administration. *See, e.g.*, Glen depo., annexed to Gurian Decl. as Ex. 12, at 160:5-10 ("I believe that the mayor feels pretty strongly that the Bloomberg Administration didn't have policies that were focused on maintaining affordability and keeping people in their houses . . . .") and at 160:23-161:19 (responding to question regarding the current administrtaion taking many anti-displacement steps that its predeessor had not by affirming "we have added a significant number of programs and dollars to a variety of different strategies to prevent displacement" and that "we have been more aggressive"). The request does not ask "why" there were fewer tools or less focus, but to confirm the fact that there *were* fewer tools and there *was* less focus (if defendant actually thought that only one was true, it could easily admit one and deny the other). The relevant portion of the response is that "the de Blasio administration has developed additional anti-displacement tools." That confirms, by definition, that there were fewer tools used previously (unless the reader is supposed to guess that some earlier tools were abandoned). The material about market pressures and housing demands constitutes an explanation for *why* the admitted fact would be true, does not help to understand what is being admitted, and should be stricken. Defendant should be required to respond to the request directly (and plaintiffs are entitled to know whether the denial is based on the meritless objections or on substance).		Y
135	Admit that Mayor de Blasio believes that, in the course of the Giuliani and Bloomberg administrations, defendant's efforts to fight negative impacts of gentrification and to fight involuntary displacement were materially inadequate.	Defendant objects to this request insofar as the terms "efforts," "negative impacts" and "materially inadequate" are vague and unclear. Defendant also objects to this request as it is a compound statement in that the Giuliani and Bloomberg administrations are separate and distinct administrations that should be addressed separately. Additionally, Defendant objects to this request because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1) as it seeks discovery of facts and/or opinions rather than admission of facts and/or opinions already discovered, and thus is not properly the subject of a request to admit. Additionally, defendant objects to this request because plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions. This request is an inappropriate attempt to circumvent the Court's ruling that a deposition of the Mayor shall not be permitted in this case.		*See* point III of plaintiffs' brief.		
135a	If the preceding request to admit is not admitted, admit that Mayor de Blasio has made one or more public statements to that effect.	Defendant objects to this request insofar as the terms "efforts," "negative impacts" and "materially inadequate" are vague and unclear. Defendant also objects to this request as it is a compound statement in that the Giuliani and Bloomberg administrations are separate and distinct administrations that should be addressed separately. Additionally, Defendant objects to this request because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1) as it seeks discovery of facts and/or opinions rather than admission of facts and/or opinions already discovered, and thus is not properly the subject of a request to admit. Additionally, defendant objects to this request because plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions. This request is an inappropriate attempt to circumvent the Court's ruling that a deposition of the Mayor shall not be permitted in this case.		*See* point III of plaintiffs' brief.		

RTA #	RTA	Defendants' Response (Note: In the responses served, the response appears once at the end of the request, whether it has sub-parts or not. Here, for reading across each entry, including each entry for a sub-part, the entire response is replicated for each request and each sub-part)	Plaintiffs' reframing to meet defendant's purported concerns	Briefing notes	Plaintiffs ask that the request be deemed admitted as posed by plaintiffs	Plaintiffs seek to have extraneous averments or other statements stricken
136	Admit that Mayor de Blasio has not attempted to seek the support of Council Speaker Johnson for reducing the percentage of apartments in affordable housing lotteries subject to the community preference and has not directed any of his staff to try to do so.	Defendant objects to this request because plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions. This request is an inappropriate attempt to circumvent the Court's ruling that a deposition of the Mayor shall not be permitted in this case. Furthermore, Defendant objects to this request, and its subpart, as the response would reveal privileged information. Such information, if it exists, would be protected by work product privilege and/or attorney client communication, and/or deliberative process privilege.		One of defendant's core justifications for the policy is that it is needed to secure CM support. The Mayor has admitted in the declaration by which he sought to block his deposition that he has "regular interactions" with Speaker Johnson. *See* excerpts of de Blasio Decl., ECF 497, annexed to Gurian decl. as Ex. 7, at 6, ¶ 19. Speaker Johnson had indicated willingness to reconsider the outsider-restriction policy and that he was open to discussions about reducing the percentage to, as he volunteered in an interview, 20 or 25 percent. *See* video of Speaker Corey Johnson NY1 News with Errol Louis, May 3, 2018, available at https://www.ny1.com/nyc/all-boroughs/inside-city-hall/2018/05/04/speaker-on-school-and-housing-segregation. The relevant portion of the interview commences at approximately the 1:25 mark. The Mayor claimed in his July 2018 declaration that he had been unaware of Speaker Johnson's remarks, *see* excerpt of de Blasio Decl., annexed to Gurian Decl. as Ex. 7, at 6, ¶ 19; but, by definition, he had become aware of them by the time he submitted his declaration. There is no indication that any such attempt has been made (see Request 136(a) briefing note), and the request seeks confirmation of that. It would, of course, be hard to maintain that a policy was necessary for achieving CM support if one did not take advantage of the opening that Speaker Johnson offered. Here again, the claims of privilege ignore the fact that outsider-restriction is a governmental policy that, by definition, involves defendant's executive arm justifying the policy as a means by which it can influence defendant's legislative arm. The fact that there is litigation pending does not change or suspend the existence of policy contacts. Defendant should be directed to respond.		
136a	If the preceding request is not admitted, admit that plaintiffs have not been provided with any evidence of the Mayor's efforts to seek such support from the Council Speaker.	Defendant objects to this request because plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions. This request is an inappropriate attempt to circumvent the Court's ruling that a deposition of the Mayor shall not be permitted in this case. Furthermore, Defendant objects to this request, and its subpart, as the response would reveal privileged information. Such information, if it exists, would be protected by work product privilege and/or attorney client communication, and/or deliberative process privilege.		Pursuant to Document Request No. 18 of plaintiffs' November 1, 2016 document requests, plaintiffs have been entitled to "Any and all documents concerning support for or opposition to the City's outsider restriction policy, whether expressed directly or indirectly." The request for admission is certainly related to support for or oppoostion to the policy, and seeks only to make clear through an admission that no such documents have been provided.		
137	Admit that, in the aggregate, defendant's efforts over the last several decades in relation to affordable housing have focused far less on encouraging or facilitating pro-integrative residential mobility for those New Yorkers who are, or would be, interested in such moves if provided with information about residential alternatives, and less focused on providing supports for making such moves ("mobility programs"), than on building in lower-income areas with disproportionately high concentrations of African American or Latino population.	Defendant objects to this request insofar as the terms "in the aggregate," "efforts," "far less," "residential alternatives," "pro-integrative residential mobility," and "disproportionately" are vague and unclear. Defendant also objects to this request as generally vague, unclear and confusing in its phrasing and because its stated time period of "over the last several decades" lack specificity and is unclear. Additionally, to the extent "several decades" spans before January 1, 2002, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions because the discovery time period in the case was established by the Court as extending back generally to January 1, 2010, and only to January 1, 2002 for a very limited and select group of custodians. Subject to those objections, defendant denies this request.		The objections to the words and phrases are without merit. The historical pattern is relevant. *See Arlington* . Plaintiffs' are entitled to know whether the basis for the denial is because of those objections, or whether the denial is intended to meet the substance of the request.		
138	Admit that to remedy the imbalance referenced in the preceding request, defendant would have to prioritize new affordable housing construction (as distinct from affordable housing preservation or non-housing investments in neighborhoods of concentrated poverty) in areas that are disproportionately white and are not areas of concentrated poverty.	Defendant objects to this request insofar as the terms "remedy," "imbalance," and "disproportionately" are vague and unclear. Subject to those objections and incorporating the response to Request 137, defendant denies this request.		The terms used are not vague or unclear. Plaintiffs are entitled to know whether the basis for the denial is because of those objections, or whether the denial is intended to meet the substance of the request.		
139	Admit that defendant's efforts to support or implement pro-integrative mobility programs were either non-existent or highly limited during the Giuliani and Bloomberg administrations.	Defendant objects to this request insofar as the terms "efforts" and "highly limited" are vague and unclear. Defendant also objects to this request as it is a compound statement in that the Guiliani and Bloomberg administrations are separate and distinct administrations that should be addressed separately, and that efforts to "support" and efforts to "implement" are separate and distinct actions that should be addressed separately. Subject to those objections, defendant denies this request.		Plaintiffs are entitled to know whether the basis for the denial is because of those objections, or whether the denial is intended to meet the substance of the request.		
140	Admit that defendant's efforts to support or implement pro-integrative mobility programs have remained limited during the de Blasio administration.	Defendant objects to this request insofar as the term "efforts" is vague and unclear. Defendant also objects to this request as it is a compound statement in that efforts to "support" and efforts to "implement" are separate and distinct actions that should be addressed separately. Subject to those objections, defendant denies this request.		"Efforts" is vague and unclear? Plaintiffs' are entitled to know whether the basis for the denial is because of those objections, or whether the denial is intended to meet the substance of the request.		
141	Admit that defendant, as a matter of policy, causes housing to be developed in a way that results in the housing being built generally in areas of relatively higher racial/ethnic concentrations and lower-income households than can be found in areas of higher opportunity in New York City.	Defendant objects to this request insofar as the terms "as a matter of policy," "generally," "areas of relatively higher racial/ethnic concentrations and lower-income households," and "areas of higher opportunity" are vague and unclear. Subject to those objections, defendant denies this request and subpart, except admits that PLTF Bates 531 at 551 states: "As a matter of City policy, HPD generally economizes in its new construction projects by using City-owned vacant land and privately owned sites. HPD develops where the economics work - and this is generally in areas of relatively higher racial/ethnic concentrations and lower-income households than can be found in areas of 'higher opportunity."'		Defendant knows the meaning of the words and phrases, as shown by the portion of its response that defendant placed in quotes. Providing a quotation is not the same as admitting the factual characterization in the request. As that characterization is correct, the request should have been admitted. Given the subject to language, plaintiffs are entitled to know whether the denial is on the basis of the meritless objections or not.		
141a	If the preceding request to admit is not admitted, admit that defendant acknowledged the foregoing in a letter to HUD from defendant and other members of the "High-cost Cities Housing Forum" in September 2013 (see PLTF Bates 531, at 551).	Defendant objects to this request insofar as the terms "as a matter of policy," "generally," "areas of relatively higher racial/ethnic concentrations and lower-income households," and "areas of higher opportunity" are vague and unclear. Subject to those objections, defendant denies this request and subpart, except admits that PLTF Bates 531 at 551 states: "As a matter of City policy, HPD generally economizes in its new construction projects by using City-owned vacant land and privately owned sites. HPD develops where the economics work - and this is generally in areas of relatively higher racial/ethnic concentrations and lower-income households than can be found in areas of 'higher opportunity."'		The quoted language in the response makes clear that the request as posed and as referencing Request 141 accurately characterizes the letter. Quoting from the letter does not meet the obligation to admit the characterization sought. In other words, defendant wants to treat authenticating a document as the equivalent of admitting the underlying fact sought to be admitted. It is not, and the request must be deemed admitted as posed by plaintiffs.	Y	
142	Admit that, during the Bloomberg Administration, defendant repeatedly complained about federal requirements to deconcentrate the location of publicly assisted housing.	Defendant objects to this request insofar as the terms "complained," "federal requirements," and "publicly assisted housing" are vague and unclear. Defendant also objects to this request as unduly burdensome as it is seeking information from a twelve year period (January 1, 2002 - December 31, 2013). Additionally, defendant objects to this request because, through it, plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions because the discovery time period in the case was established by the Court as extending back generally to January 1, 2010, and only to January 1, 2002 for a very limited and select group ofcustodians. Subject to those objections, defendant denies this request.		The concentration of public housing contributes to residential racial segregation. There are federal "de-concentration" requirements. Plaintiffs have a good-faith belief that defendant, during the Bloomberg Administration, repeatedly complained about those requirements in communictions with HUD. Plaintiffs need to know whether the denial is based on the meritless objections to some of the words and phrases used.		
143	Admit that defendant during the de Blasio administration was not and is not engaged in reevaluating areas rezoned during the Bloomberg administration, but rather was and is determined to look to communities that had not been rezoned since the 1960s.	Defendant objects to this request as it is a compound statement in that City's past ("was not" "was") and current, ongoing ("is not" "is determined") actions are separate and distinct and should be addressed separately. Subject to that objection, Defendant denies this request, except admits subpart a of this request.		Plaintiffs are entitled to know whether the basis for the denial is because of those objections, or whether the denial is intended to meet the substance of the request.		
143a	If the preceding request is not admitted, admit[Redacted] see plaintiffs' deposition exhibit 271, at Bates 167390).	Defendant objects to this request as it is a compound statement in that City's past ("was not" "was") and current, ongoing ("is not" "is determined") actions are separate and distinct and should be addressed separately. Subject to that objection, Defendant denies this request, except admits subpart a of this request.		The document referenced in the request, Bates 167381, is annexed to the Gurian Decl. as Ex. 53. There is no proper basis for this subpart to be "subject to" the meritless objections. The request should be deemed admitted as posed without any limitation.	Y	

RTA #	RTA	Defendant's Response (Note: In the responses served, the response appears once at the end of the request, whether it has sub-parts or not. Here, for reading across each entry, including each entry for a sub-part, the entire response is replicated for each request and each sub-part)	Plaintiffs' reframing to meet defendant's purported concerns	Briefing notes	Plaintiffs ask that the request be deemed admitted as posed by plaintiffs	Plaintiffs seek to have extraneous averments or other statements stricken
144	Admit that defendant takes political considerations into account when selecting areas for rezoning.	Defendant objects to this request insofar as the terms "political considerations," "into account," and "selecting" are vague and unclear. Subject to those objections, defendant denies this request, except admits that after an area is selected as a potential rezoning area, and considering that the City Council has a role in the ULURP process, the City does evaluate various issues in deciding the timing of and scope of next steps toward that potential rezoning, including, among other things, whether the local elected officials and community members support a rezoning at that time.		The terms are clear, but defendant has failed to make clear what it is denying, and has not responded directly to the request. *See* [Redacted] The limited admission that is put forward constitutes things that are poltiical considerations. The request was able to be admitted as posed, and so it should be deemed admitted as posed by plaintiffs. *See* FRCP 36(a)(6).	Y	
145	Admit that defendant has rejected or not considered some neighborhoods for increasing residential density because of political considerations.	Defendant objects to this request insofar as the term "political considetations" is vague and unclear. Defendant also objects to this request insofar as "rejecting" and "not considering" an area for increasing residential density are separate and distinct actions that should be addressed separately. Subject to those objections, defendant denies this request, except admits that the City considers, among other things, the support of the local elected officials and community members when deciding whether and when to pursue a rezoning.		The request is asking whether defendant has done one or two things in respect to some neighborhoods -- rejected or not considered -- because of political considerations. If the answer is "yes," then the required response is "admit." Moreover, defendant's General Objection 7 raises the issue of excluding its knowledge of its conduct during the prefernce period but before the de Blasio administration. The response must fairly respond to the request as posed. *See* FRCP 36(a)(4).	Y	
146	Admit that, among New York City households who are extremely low-income, such "fear of displacement" that exists would be reduced as defendant came to be able to demonstrate either a citywide net gain in housing units affordable to such households or at least no citywide net loss in housing units affordable to such households.	Defendant object to this request, and its subparts, because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1). This request seeks responses to hypothetical questions or admissions based upon hypothetical scenarios, and does not seek an admission to facts (past or present), the application of law to fact, opinions about either and thus is not properly the subject of a request to admit. Defendant also objects to this request insofar as the term "extremely low-income," "citywide net gain" and "citywide net loss" are vague and unclear. Defendant also objects to this request as it is a compound statement in that this request poses an either/or scenario of either a "citywide net gain" or "no citywide net loss" and each scenario would need to be addressed separately. Subject to those objections, defendant denies knowledge or information to respond to this request as it cannot and does not know what extremely low-income NYC households would think, believe, or fear based on hypothetical actions or situations, and avers that the City often hears from City residents about fear of displacement in the context of being displaced from one's current home and/or neighborhood, and so whether that fear may be reduced would depend on the location of the housing.	This request concerns that subset of extremely low-income New York City households who defendant believes experiences "fear of displacement" from their apartments. Admit that defendant believes that the demonstration by defendant to the public over a period of several years that the citywide supply of housing affordable to such households was not contracting (i.e., taking into account gains and losses of such units, there was no citywide net loss of such units) would tend to reduce the level of fear of displacement among a material portion of such households.	Plaintiffs reframed this request despite believing that defendant's objections were without merit. Defendant has offered as a central justification for its community preference policy the assertion that the policy is necessary to prevent displacement and to mitigate *fear* of displacement. An exploration of less discriminatory alternatives to mitigate the *fear* of displacement is the definition of what happens at Stage 3 of a disparate impact case. Defendant must be required to fairly respond to the substance of the reframed request. Defendant's averment about what it "often hears" merely pushes its view of the case; it dos nothing to clarify, and, indeed, confuses the response. The extraneous averment should be stricken.		Y
147	Admit that, among New York City households who are very low-income, such "fear of displacement" that exists would be reduced as defendant came to be able to demonstrate either a citywide net gain in housing units affordable to such households or at least no citywide net loss in housing units affordable to such households.	Defendant object to this request because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1). This request seeks responses to hypothetical questions or admissions based upon hypothetical scenarios, and does not seek an admission to facts (past or present), the application of law to fact, opinions about either and thus is not properly the subject of a request to admit. Defendant also objects to this request insofar as the terms "very low-income," "citywide net gain" and "citywide net loss" are vague and unclear. Defendant also objects to this request as it is a compound statement in that this request poses an either/or scenario of either a "citywide net gain" or "no citywide net loss" and each scenario would need to be addressed separately. Subject to those objections, defendant denies knowledge or information to respond to this request as it cannot and does not know what very low income NYC households would think, believe or fear based on hypothetical actions or situations, and avers that the City often hears from City residents about fear of displacement in the context of being displaced from one's current home and/or neighborhood, and so whether that fear may be reduced would depend on the location of the housing.	This request concerns that subset of very low-income New York City households who defendant believes experiences "fear of displacement" from their apartments. Admit that defendant believes that the demonstration by defendant to the public over a period of several years that the citywide supply of housing affordable to such households was not contracting (i.e., taking into account gains and losses of such units, there was no citywide net loss of such units) would tend to reduce the level of fear of displacement among a material portion of such households. either a citywide net gain in housing units affordable to such households or at least no citywide net loss in housing units affordable to such households.	*See* Request 146 briefing note. This is the same as 146, but addressed to "very low-income" households as opposed to "extremely low-income." (Defendant has the household income and household size combinations that constitute the various income categories available online with other information about applying for lotteries; *see* https://www1.nyc.gov/site/hpd/renters/do-you-qualify.page)). Defendant must be required to fairly respond to the substance of the reframed request. The extreaneous averment should in any event be required to be stricken.		Y
148	Admit that, among New York City households who are low-income, such "fear of displacement" that exists would be reduced as defendant came to be able to demonstrate either a citywide net gain in housing units affordable to such households or at least no citywide net loss in housing units affordable to such households.	Defendant object to this request because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1). This request seeks responses to hypothetical questions or admissions based upon hypothetical scenarios, and does not seek an admission to facts (past or present), the application of law to fact, opinions about either and thus is not properly the subject of a request to admit. Defendant also objects to this request insofar as the terms "very low-income," "citywide net gain" and "citywide net loss" are vague and unclear. Defendant also objects to this request as it is a compound statement in that this request poses an either/or scenario of either a "citywide net gain" or "no citywide net loss" and each scenario would need to be addressed separately. Subject to those objections, defendant denies knowledge or information to respond to this request as it cannot and does not know what low-income NYC households would think, believe or fear based on hypothetical actions or situations, and avers that the City often hears from City residents about fear of displacement in the context of being displaced from one's curent home and/or neighborhood, and so whether that fear may be reduced would depend on the location of the housing.	This request concerns that subset of low-income New York City households who defendant believes experiences "fear of displacement" from their apartments. Admit that defendant believes that the demonstration by defendant to the public over a period of several years that the citywide supply of housing affordable to such households was not contracting (i.e., taking into account gains and losses of such units, there was no citywide net loss of such units) would tend to reduce the level of fear of displacement among a material portion of such households.	See Requests 146 and 147 briefing notes. This is the same as 146 and 147, but addressed to " low-income" households as opposed to "extremely low-income." Defendant must be required to fairly respond to the substance of the reframed request. The extreaneous averment should in any event be required to be stricken.		Y
149	Admit that, due to anti-harassment and other tenant-protective measures taken by the de Blasio administration, a smaller percentage of New Yorkers are at risk of displacement than was the case at the start of the de Blasio administration. Note: the term "anti-harassment and other tenant-protective measures" does not encompass the community preference policy and should not be construed as encompassing or making inquiry about the community preference policy.	Defendant objects to this request insofar as the terms "anti-harassment measures" and "other tenant-protective measures" are vague and unclear. Defendant also objects to this request as it is a compound statement in that it asks about "anti-harassment and other tenant-protective measures" which are separate things. Subject to those objections, defendant denies knowledge or information sufficient to respond to this request as the City does not have the appropriate data to make such comparison, and avers that anti-harassment and other tenant-protective measures taken by the de Blasio administration have helped many New Yorkers at risk of displacement avoid displacement.		The averment adds nothing to the denial, and exists only as administration boosterism. The extraneous language should be stricken.		Y
150	Admit that, due to anti-harassment and other tenant-protective measures taken by the de Blasio administration, the risk of displacement for New Yorkers who remain at risk of displacement is, on average, lower than was the case at the start of the de Blasio administration. Note: the term "anti-harassment and other tenant-protective measures" does not encompass the community preference policy and should not be construed as encompassing or making inquiry about the community preference policy.	Defendant objects to this request as vague, unclear and a compound statement as it is unclear how Plaintiffs are defining and measuring the "risk of displacement", how they are defining "New Yorkers who remain at risk of displacement," and does not provide which anti-harassment and other tenant-protective measures they mean for the request to encompass. Subject to those objections, defendant denies knowledge or information sufficient to respond to this request as the City does not have the appropriate data to make such a comparison, and avers that anti-harassment and other tenant-protective measures taken by the de Blasio administration have helped many New Yorkers at risk of displacement avoid displacement.		The averment adds nothing to the denial, and exists only as administration boosterism. The extraneous language should be stricken.		Y

RTA #	RTA	Defendant's Response (Note: In the responses served, the response appears once at the end of the request, whether it has sub-parts or not. Here, for reading across each entry, including each entry for a sub-part, the entire response is replicated for each request and each sub-part)	Plaintiffs' reframing to meet defendant's purported concerns	Briefing notes	Plaintiffs ask that the request be deemed admitted as posed by plaintiffs	Plaintiffs seek to have extraneous averments or other statements stricken
151	Admit that only a lottery applicant household who has been informed by a developer of a disposition of the application (*e.g.* , rejected for being under-income) is permitted under lottery rules to lodge an appeal with the developer.	Defendant denies this request, except admits that lottery applicants have the right to appeal a rejection or ineligibility determination when they receive notification of that determination, and avers that it is HPD's understanding that developers, HPD and HDC frequently receive and respond to complaints and/or inquiries from applicants who have not yet been reached for processing or have not yet been provided a disposition.		The response seeks to change the topic from what the request is seeking an admission about (appeals) to separate questions about responding to requests, inquiries, or complaints. It also does not fairly respond to the sought admission that ONLY one subset of lottery applicants (those who have been informed by a developer of a determination) have the right of appeal, and those who have not gotten a determination do NOT have a right to appeal. One of the basic advantages of the outsider-restriction policy is that insiders are more likely to be considered by a developer and receive a determination. *See* excerpt of Apr. 13, 2018 30(b)(6) Victor Hernandez (et al.) depo., annexed to Gurian Decl. as Ex. 55, at 147:7-11, 147:25-148:4 (emphasis added) (characterizing the "normal process" as an applicant having ten days after receiving a rejection or ineligibility letter to appeal, and emphasizing "if someone *who received a letter* being rejected or ineligible, they have a right to appeal"); *see also* Brown depo., annexed to Gurian Decl. as Ex. 25, at 207:15-23 ("[I]f your application is not reached in processing [for eligibility], no, there is not an opportunity to appeal, per se"). Defendant should be required to provide a response that actually fairly responds to the substance of the request. *See* FRCP 36(a)(4). In any event, the extraneous and confusing averment, having nothing to do with apppeals, should be stricken.		Y
152	Admit that only a lottery applicant household who has lodged and lost an appeal with the developer is permitted under lottery rules to file an appeal with the relevant housing agency (*i.e.* , HPD or HDC) of the determination made by or on behalf of the developer.	Defendant denies this request, except admits that lottery applicants receive information on how to appeal a rejection or ineligibility determination as they are reached for processing and that determination is made, and avers that HPD frequently responds to inquiries and complaints from applicants who have not yet been reached for processing or has received a disposition.		*See* Request 151 briefing note. Request 151 dealt with appeals to developers; this request deals with appeals from developer detrermination of appeals to the relevant agency (HPD or HDC). *See* excerpt of Apr. 13, 2018 30(b)(6) Victor Hernandez (et al.) depo., annexed to Gurian Decl. as Ex. 55, at 147:7-23 (describing the "normal process" as being that "when [applicants] receive a rejection or ineligibility letter from a devloper or agent, they have ten days to appeal" to the developer/agent and that if "they come to us first we ask them to go back to the developer and go through the [appeals] process before they come to us"); *see also* Brown depo., annexed to Gurian Decl. as Ex. 25, at 208:25-209:19 (confirming that applicants who had not been gotten to in the lottery would "not have the opportunity to ask" HPD if the developer processed their application correctly "because the developer or marketing agent wouldn't have reviewed it"). Defendant should be required to provide an response that actually fairly responds to the substance of the request. *See* FRCP 36(a)(4). In any event, the extraneous and confusing averment, having nothing to do with apppeals, should be stricken.		Y
153	Admit that the only lottery applicant households permitted to update data that had been provided to Housing Connect, including data related to household income and household size, are those who either: (a) are contacted by the developer for application review and documentation; or (b) are contacted by the developer with a negative determination.	Defendant admits this request.		*See* point I of plaintiffs' brief (addressing general objections).		
154	Admit that, in the intervening period between application and the developer's application review process, an applicant household may have a change in income that results in its going from under-income or over-income for a particular type of unit (per the information provided to Housing Connect) to being income-qualified for that type of unit (per the updated and accurate information at the time of review by or on behalf of the developer).	Defendant admits this request and its subpart.		*See* point I of plaintiffs' brief (addressing general objections).		
154a	Admit that such a household would not have the opportunity to update its information if it has not been contacted by the developer.	Defendant admits this request and its subpart.		*See* point I of plaintiffs' brief (addressing general objections).		
155	Admit that, as a general rule, a greater percentage of lottery applicants who live in the community preference area have their applications reviewed by a developer than do outsider, non-disability applicant households.	Defendant objects to this request as vague and ambiguous in that it asks for an admission as to the "general rule" and does not define what they mean by "review" which is problematic because developers undertake multiple reviews of applicant information at various stages in the lottery lease up. Subject to this objection, defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations as defendant does not have data across all applicants on where lottery applicants live at the time that developers undertake their review of the application (at any stage).	Admit that, as a general rule, a greater percentage of lottery applicants who live in the community preference area have their applications reviewed by a developer than do outsider, non-disability applicant households. The term "reviewed" is intended to refer to a developer who has both: (a) made a determination on an application; and (b) informed the applicant of that determination. The term "reviewed" is not intended here to include appeals from developer determinations.	The reframed request is intended to deal with defendant's objections. The denial of knowledge or information sufficient to form a belief is absurd. Defendant has sufficient Housing Connect and final log information to know what the "general rule" is. A "general rule" is a "general rule"; *i.e.* , something that is normally the case. [Redacted] Whatever estimate defendant wishes to make of the portion of applicants deemed and not deemed "insiders" as of the time that an initial log is generated that subsequently change their residence during the lottery has no impact on the [Redacted] Defendant must answer.		
159	Admit that 160 Madison Avenue, 200 East 39th Street, and 40 Riverside Boulevard are all buildings that have benefitted from defendant's voluntary inclusionary housing program.	Defendant admits this request and its subpart.		*See* point I of plaintiffs' brief (addressing general objections).		
159a	If the preceding request is not admitted, admit that defendant stated this to be the case in a 2015 submission to HUD (see Submission Version of 2015 "CAPER," at 49, https://www1.nyc.gov/assets/planning/download/pdf/about/consolidated-plan/2015-conplan-apr-vol1.pdf?r=sub).	Defendant admits this request and its subpart.		*See* point I of plaintiffs' brief (addressing general objections).		
160	Admit that defendant's community preference policy was applied to buildings benefitting from defendant's voluntary inclusionary housing program if initial lease-up had been conducted prior to the enactment of the RPTL 421-a provisions relating to community preference.	Defendant admits this request.		*See* point I of plaintiffs' brief (addressing general objections).		
161	Admit that defendant's community preference policy has been and continues to be applied to buildings benefitting from defendant's voluntary inclusionary housing program where initial lease-up is conducted subsequent to the expiration of the RPTL 421-a provisions relating to community preference.	Defendant admits this request.		*See* point I of plaintiffs' brief (addressing general objections).		

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162	Admit that, concerning the 2007 amendments to RPTL 421-a, defendant did not memorialize any statement to the effect that, as a result of the amendments, community preference would be applied to affordable housing units that would not otherwise have been subject to community preference under defendant's previously existing policy.	Defendant objects to this request and subpart as vague, unclear and overly burdensome insofar as it is unclear what Plaintiffs mean by "memorialize" and to the extent that means anything in writing, it is overly burdensome to confirm whether defendant has made or produced any such written statements, and is duplicative and more expansive than the discovery undertaken about the 2007 amendment to RPTL 421-a, as fact discovery that only required searching relevant custodians in a limited time period. Additionally, defendant objects to this request and subpart to the extent the request calls for disclosure of communications or deliberations protected by the by attorney client and/or deliberative process privilege.	Admit that, concerning the 2007 amendments to RPTL 421-a, there was no policy, directive, or written or emailed communication issued or received by HPD or its personnel to the effect that, as a result of the amendments, community preference would be applied to affordable housing units that would not otherwise have been subject to community preference under defendant's previously existing policy.	Plaintiffs have reframed the request to address what they believe are defendant's meritless objections. Defendant claims that some portion of the preference it administers, including as related to lotteries applied to by plaintiffs, was required to be administered that way by state law (the version of 421-a that went into effect in 2007). Independent of the fact that the relevant provision of 421-a only applied where preference was not preempted by federal requirements (*see* Request 163), plaintiffs' position is that defendant was already applying its own preference under its own pre-existing policy to buildings receiving a 421-a tax break. As the information goes to defendant's 421-a defense, it is highly relevant. Discovery on this issue was previously allowed to go back to 2007. The material sought either is not privileged or else cannot be protected under *Rodriguez* for DPP purposes, and cannot be treated as privileged for attorney-client purposes. "[T]he attorney-client privilege cannot at once be used as a shield and a sword." *United States v. Bilzerian* , 926 F.2d 1285, 1292 (2d Cir. 1991). It "may implicitly be waived when defendant asserts a claim that in fairness requires examination of protected communications." *Id.* The key to the broad principle underlying these cases is "'the type of unfairness to the adversary that results in litigation circumstances when a party uses an assertion of fact to influence the decisionmaker while denying its adversary access to privileged material potentially capable of rebutting the assertion.'" *In re Cty. of Erie* , 546 F.3d 222, 229 (2d Cir. 2008) (citation omitted). Finally, the policy and directive portion of the request would not implicate privilege in any event. The request must be responded to as reframed.		
162a	If the preceding request is not admitted, admit that defendant has not produced any evidence constituting such a memorialized statement.	Defendant objects to this request and subpart as vague, unclear and overly burdensome insofar as it is unclear what Plaintiffs mean by "memorialize" and to the extent that means anything in writing, it is overly burdensome to confirm whether defendant has made or produced any such written statements, and is duplicative and more expansive than the discovery undertaken about the 2007 amendment to RPTL 421-a, as fact discovery that only required searching relevant custodians in a limited time period. Additionally, defendant objects to this request and subpart to the extent the request calls for disclosure of communications or deliberations protected by the by attorney client and/or deliberative process privilege.		This request simply asks defendant to confirm lack of production. Confirmation of that fact is in no way revealing of privilege. Nor is it unduly burdensome for defendant to be asked to confirm or deny the lack of production of any document which bears directly on one of its affirmative defenses. (Note: defendant never tagged the documents it produced to particular document requests.)		
163	To the extent that defendant administered the community preference provisions of RPTL 421-a during the time that the law contained such provisions, admit that defendant was not supposed to apply community preference where doing so was preempted by federal requirements.	Defendant objects to this request and subpart as vague and unclear. Subject to those objections, defendant denies this request, except admits that the community preference provision of RPTL 421-a(7)(d)(iii) was applicable "unless preempted by federal requirements."		As made clear by the admitted language of the statute, the request accurately reflects what defendant was not supposed to do. The request can be, and thus must be, admitted as posed by plaintiffs. *See* FRCP 36(a)(6).	Y	
164	Admit that the existence of residential racial and ethnic segregation is contrary to the interests of defendant.	Defendant objects to this request as vague and unclear insofar as the concept of what is "contrary to the interests of New York City" is ambiguous and because Plaintiffs have not specified which interests of the City they want the City to admit are contrary to the existence of residential racial and ethnic segregation. Subject to those objections, defendant denies this request, except admits that to the extent residential racial and ethnic segregation is not voluntary and causes opportunity and quality-of-life disparities among New Yorkers of different races and ethnicities, it is contrary to the interests of defendant in having a just and equitable city.	This request concerns the existence of residential racial and ethnic segregation in New York City. (a) Admit that the existence of such segregation contravenes one or more interests of defendant. (b) Admit that the existence of such segregation does not advance any interest of defendant.	Plaintiffs have reframed the request to address what they believe are defendant's meritless objections. There is no basis to refuse to fairly respond to the reframed request as it is now posed.		
165	Admit that the existence of residential racial and ethnic segregation has caused and continues to cause substantial harm to residents of New York City.	Defendant objects to this request as vague and unclear insofar as it does not define what harm means or which residents of New York City are harmed or where the segregation has occurred. Subject to those objections, defendant denies this request, except admits that residential racial and ethnic segregation may cause racial disparities in educational opportunity, access to health care, and access to neighborhood amenities.	This request concerns the consequences of such residential racial segregation that has existed in New York in the period of 1990, shortly after the outsider-restriction policy was established, to the present. Illustrations of harms are disparities in educational opportunity, disparities in employment opportunities, disparities in access to health care, disparities in access to neighborhood amenities, disparities in exposure to environmental toxins, loss or restriction in inter-racial associational opportunities, inter-group strife and discrimination, and disparities in policing practices. (a) Admit that such segregation has caused and continues to cause one or more substantial harms (i.e., harms of considerable importance) to all New York City residents. (b) In the alternative, admit that such segregation has caused and continues to cause one or more substantial harms (i.e., harms of considerable importance) to a majority of New York City residents. (c) In the alternative, admit that such segregation has caused and continues to cause one or more substantial harms (i.e., harms of considerable importance) to a sizable plurality of New York City residents.	Plaintiffs have reframed the request to address what they believe are defendant's meritless objections. There is no basis to refuse to fairly respond to any of the reframed request's subparts as they are now posed. The responses cannot fairly be limitted, as defendant purports to do with its General Objection 7, to the de Blasio administraton.		
166	Admit that the harms materially contributed to by the existence of residential racial and ethnic segregation includes racial and ethnic disparities in educational opportunity, access to health care, and access to neighborhood amenities.	Defendant objects to this request as vague and unclear insofar as "materially," "racial disparities," "educational opportunity" and "neighborhood amenities" are not defined. Subject to these objections, defendant denies this request, except admits that the harms of residential racial segregation may include racial disparities in educational opportunity, access to health care, and access to neighborhood amenities.	Admit that the harms to at least a sizable plurality of residents of New York City materially contributed to by the existence of residential racial and ethnic segregation in New York City include racial and ethnic disparities in educational opportunity, access to health care, and access to neighborhood amenities.	Plaintiffs have reframed the request to address what they believe are defendant's meritless objections. There is no basis to refuse to fairly respond to the reframed request as it is now posed. Note that the request is not asking whether the harms that residential segregation have contributed to "may" include the specified items, but rather that the they do.		
167	Admit that the harms materially contributed to by the existence of residential racial and ethnic segregation include disparities in the policing practices to which neighborhoods with different racial and ethnic demographics are subjected, even after accounting for neighborhood differences in crime rates.	Defendant objects to this request as vague and unclear insofar as the terms "materially," "policing practices" and "disparities" are undefined and because it is unclear what time period is applicable. Additionally, Defendant objects to this request because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1), as it seeks discovery of new facts and/or opinions rather than admission to facts and/or opinions already discovered, and thus is not properly the subject of a request to admit. Defendant also objects to this request as unduly burdensome because it would require obtaining information on topics not previously part of the scope of discovery in this case from agencies and individuals not previously involved with this case. Subject to those objections, defendant denies this request.	Admit that the harms to some residents of New York City materially contributed to by the existence of residential racial and ethnic segregation in New York City include disparities in the policing practices to which neighborhoods with different racial and ethnic demographics are subjected, even after accounting for neighborhood differences in crime rates.	Plaintiffs have reframed the request to address what they believe are defendant's meritless objections. There is no basis to refuse to fairly respond to the reframed request as it is now posed.		

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168	Admit that there remain large disparities in public safety between and among neighborhoods.	Defendant objects to this request and its subpart as vague and unclear insofar as public safety is not defined and can be measured in many ways and because which neighborhoods Plaintiffs seek to compare is not specified, nor is the time period for the comparison between and among neighborhoods specified. Subject to those objections, defendant denies this request, except admits that neighborhoods in New York City have different crime rates and that [Redacted]	Admit that there remain huge disparities in public safety between and among neighborhoods.	Plaintiffs have reframed the request to address what they believe are defendant's meritless objections. [Redacted]		
168a	If the preceding request is not admitted, admit that[Redacted]	Defendant objects to this request and its subpart as vague and unclear insofar as public safety is not defined and can be measured in many ways and because which neighborhoods Plaintiffs seek to compare is not specified, nor is the time period for the comparison between and among neighborhoods specified. Subject to those objections, defendant denies this request, except admits that neighborhoods in New York City have different crime rates and that [Redacted]		Plaintiffs have reframed the request to address what they believe are defendant's meritless objections. The Court can now see the text of the statement in question. This request must be admitted as posed by plaintiffs in relation to reframed Request 168.	Y (reframed)	
169	Admit that some of the neighborhoods with relatively high rates of the seven major felonies tracked are not, in defendant's judgment, in the process of gentrifying.	Defendant objects to this request as vague and unclear insofar as Plaintiffs have not identified the specific neighborhoods they are seek an admission regarding, have not defined what they mean by "relatively high rates," have not defined gentrifying (which can be measured by various factors), nor have Plaintiffs specified at which point in time such the admission would apply. Defendant also objects to this request as an improper request to admit which is really an attempt at discovery and overly burdensome as it requires defendant to undertake an analysis of whether the neighborhoods (at some undefined point in time) with relatively high rates of the seven major felonies tracked are gentrifying (at some undefined point in time). Subject to those objections, defendant denies knowledge or information sufficient to answer and cannot reasonably discern this purported fact as to do so, the City would have to undertake a new analysis of whether the neighborhoods with relatively high rates of the seven major felonies tracked are gentrifying.		Plaintiffs have framed the request in terms of "some" neighborhoods making it easy for defendant to admit once it discovers that there are "some" (not a complete inventory) of such neighborhoods. [Redacted] As defendant justifies its policy in part as a response to gentrification pressures, it has a working definition of gentrification.		
170	This request concerns unique types of lotteried apartments within an affordable housing development. A unique type of apartment for purposes of this request is one that has a combination of four characteristics – number of bedrooms, rent, minimum and maximum income, and minimum and maximum number of occupants – that is not identical to any other combination within that same housing development. Admit that, for each unique type of apartment, the permitted household income range and household size range is identical regardless of whether an available apartment of that type is awarded to an insider or an outsider.	Defendant objects to this request as vague and unclear insofar as the term "lotteried apartments" is not defined and because it unclear what Plaintiffs mean when they say "that is not identical to any other combination within that same housing development." Subject to those objections, defendant denies this request, except admits that all lottery applicants are reviewed according to standardized income and household size eligibility requirements which are determined by the apartment sizes, rents, and income restrictions of the available units.		Lotteries offer different unit types. A unit type can vary by one or more of the stated characterstics. As made clear by the qualified admission, defendant understands the request and is simply evading salient aspect thereof: that the requirements are the same whether the applicant is an "insider" or an "outsider" (both of which are defined terms). Rule 36 does not permit a responding party to change the language of an admission ("all lottery applicants are reviewed") because the party does not like what the request as posed highlights (that qualified insiders and outsiders for any apartment awarded through a lottery are economically the same -- there is no "gentrifying" aspect to the arrival of the qualified outsider compared to the qualified insider. The request can and must be deemed admitted as posed by plaintifffs.	Y	
171	Admit that defendant frequently engages with local community members, advocacy groups, and local political officials regarding both prospective affordable housing projects and about the housing lottery process.	Defendant objects to this request insofar as the terms "frequently" and "engages" are undefined, vague and unclear. Defendant further objects to this request as it is a compound statement in that "local community members, advocacy groups, and local political officials" are each separate and distinct groups and engagement with each would be separate actions that involve its own evaluation, and that "prospective affordable housing projects and about the housing lottery process" are each separate topics that involve separate consideration. Subject to those objections, Defendant admits this request.		The admission cannot properly be "subject to" the objections because that defeats the purpose of allowing plaintiffs (and the factfinder) to know what is being conclusively established. *See* FRCP 36(b).	Y	
172	Admit that defendant has the ability to emphasize the fact referenced in Request No. 170.	Defendant objects to this request insofar as the term "emphasize" is undefined, vague and unclear. Defendant also objects to this request because what is the "fact" that Plaintiffs is referencing is vague and unclear. Subject to those objections and in light of its response to Request No. 170, Defendant admits this request.		*See* Requests 170 and 171 briefing notes.	Y	
173	Admit that defendant's general practice is not to emphasize the fact referenced in Request No. 170.	Defendant objects to this request insofar as the terms "emphasize" and "general practice" is undefined, vague and unclear. Defendant also objects to this request because what is the "fact" that Plaintiffs is referencing is vague and unclear. Subject to those objections and in light of its response to Request No. 170, Defendant admits this request, and avers that it does emphasize the fact that all applicants are processed by one set of income and household size standards and that one of the purposes of a project's advertisement is to demonstrate that all applicants are processed by one set of income and household size standards.		*See* Request 170 briefing note. The admission cannot properly be "subject to" the objections because that defeats the purpose of allowing plaintiffs (and the factfinder) to know what is being conclusively established. *See* FRCP 36(b). The averment is an evasion -- emphasizing "all processed by the same standard" is not emphasizing that those with outsider status have to meet the same qualifications as the insider group that the Mayor has distinguished by describing the latter as the group that deserves a "special opportunity." *See* excerpt of Mayor de Blasio press conference, Aug. 21, 2015, annexed to Gurian Decl. as Ex. 56, at 4.	Y	Y
174	Admit that defendant has promoted the idea that incumbent residents of a neighborhood have a special right to newly constructed affordable housing in that neighborhood.	Defendant objects to this request insofar as the terms "promoted" and "special right" is undefined, vague and unclear. Subject to those objections, Defendant denies this request. Subject to those objections, Defendant admits subpart a of this request and avers that the community preference policy does not confer a "right" to affordable housing for any resident.	Admit that defendant has promoted the idea that incumbent residents of a neighborhood deserve better chances than other New Yorkers to secure through housing lotteries newly constructed affordable housing in that neighborhood.	*See ,e.g.* , Request 174a briefing note. In addition, the policy itself promotes the idea stated in the request. Given the subject to language, plaintiffs are entitled to know whether the denial is on the basis of the meritless objections or not. In any event, the averment (which does not speak to whether defendant has "prompted the idea" either in the original or reframed version) should be stricken.		Y
174a	If the preceding request is not admitted, admit that Mayor de Blasio has stated that "folks who have built up communities deserve special opportunity to get affordable housing that's created" see transcript of Aug. 21, 2015 groundbreaking ceremony, available at https://www1.nyc.gov/office-of-themayor/news/572-15/transcript-mayor-de-blasio-queens-officials-the-arkercompanies-break-ground-154-new.	Defendant objects to this request insofar as the terms "promoted" and "special right" is undefined, vague and unclear. Subject to those objections, Defendant denies this request. Subject to those objections, Defendant admits subpart a of this request and avers that the community preference policy does not confer a "right" to affordable housing for any resident.		*See* excerpt of Mayor's press conference, Aug. 21, 2015, annexed to Gurian Decl. as Ex. 56, at 4 ("[F]olks who have built up communities deserve a special opportunity to get affordable housing that's created."). The objections have nothing to do with this subpart, so that cannot be allowed to limit the admission. The averment has nothing to do with the request; it is simply a separate point that defendant wishes to make. A response to an RTA is not the place for that, and the averment must be stricken.	Y	Y
175	Admit that defendant does not believe that that each of its rationales for its outsider-restriction policy are equally valid with respect to each and every community district in the City.	Defendant objects to this request insofar as the term "valid" is vague and unclear. Subject to those objections, defendant denies this request, except admits that City-wide policies, including the community preference policy, may be applicable for different reasons at different times in a given neighborhood.	Admit that defendant does not believe that that each of its rationales for its outsider-restriction policy is currently equally valid with respect to each and every community district in the City.	The response does not meet the request. The policy currently exists. The request was framed in the present tense, and the reframed request makes that explicit. The objection to "valid" as "vague" is without merit.		
176	Admit that Mayor de Blasio in the course of his mayoralty wanted to have more than 50 percent of units in a housing lottery subject to community preference.	Defendant objects to this request and its subpart because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1) as it seeks discovery of new facts rather than admission of facts already discovered, and thus is not properly the subject of a request to admit. Defendant objects to this request and its subpart because plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions. This request is an inappropriate attempt to circumvent the Court's ruling that a deposition of the Mayor shall not be permitted in this case. Subject to these objections, Defendant admits that quoted language in subpart a of this request is contained in the cited document.		*See* point III of plaintifs' brief. The request seeks to confirm the Mayor's active role in maintaining outsider restriction, and [Redacted] *See, e.g.,* Request 176(a). *See also* Glen email to Been, June 12, 2014, Bates 124985, annexed to Gurian Decl. as Ex 6 [Redacted]		
176a	If the preceding request is not admitted, admit that, in 2014[Redacted]	Defendant objects to this request and its subpart because it exceeds the scope of requests permissible under Federal Rule of Civil Procedure 36(a)(1) as it seeks discovery of new facts rather than admission of facts already discovered, and thus is not properly the subject of a request to admit. Defendant objects to this request and its subpart because plaintiffs are improperly seeking to expand discovery and obtain new information by attempting to use this request as a substitute for interrogatories, requests for production, and/or depositions. This request is an inappropriate attempt to circumvent the Court's ruling that a deposition of the Mayor shall not be permitted in this case. Subject to these objections, Defendant admits that quoted language in subpart a of this request is contained in the cited document.		For the quote referenced in the request, *see* Bates 130327, annexed to Gurian Decl. as Ex. 20, at 130327. The "subject to" language cannot properly limit the admission, and the request should be deemed admitted as posed by plaintiffs. *See* FRCP 36(a)(4).		

RTA #	RTA	Defendant's Response (Note: In the responses served, the response appears once at the end of the request, whether it has sub-parts or not. Here, for reading across each entry, including each entry for a sub-part, the entire response is replicated for each request and each sub-part)	Plaintiffs' reframing to meet defendant's purported concerns	Briefing notes	Plaintiffs ask that the request be deemed admitted as posed by plaintiffs	Plaintiffs seek to have extraneous averments or other statements stricken
178	Admit that the operational goal of the community preference policy is to increase the percentage of insiders who are awarded lottery apartments as compared to the percentage of insiders who would be awarded lottery apartments absent the policy.	Defendant objects to this request insofar as the term "operational goal" is not defined, vague and unclear. Subject to this objection, defendant denies this request, and avers that the operational effect of the community preference policy is to provide a better opportunity for current community district residents to be awarded a lottery unit and remain in their community district.	Admit that, if the the community preference policy is working as designed, the percentage of insiders who are awarded lottery apartments will be higher than it would have been absent the policy.	Defendant misconstrued what is in fact a clear operational goal of the policy, so plaintiffs reframed the request to make sure there is no room for evasion. *See, e.g.*, Glen depo., annexed to Gurian Decl. as Ex. 12, at 168:12-169:7 (agreeing "that's the point" when asked if "the point is to . . . increase the odds of insiders compared to what they would be if there were no community preference policy," and adding that the "point of the policy is that people who live in that community district have a better chance of getting a unit than if they were part of the citywide pool" and that the "idea is that you are more likely to get an apartment if you . . . lived within the [community] district than you are from without"); Goetz depo., annexed to Gurian Decl. as Ex. 49, at 126:4-16 (confirming that unless community preference is completely ineffectual or does nothing, it reduces the percentage of outsiders who get apartments, stating that "if it were operating in the way . . . that it was designed it would have that effect"). The request as reframed should be deemed admitted as posed by plaintiffs.		
179	Admit that another accurate way to describe the operational goal of the community preference policy is to reduce the percentage of outsiders who are awarded lottery apartments as compared to the percentage of outsiders who would be awarded lottery apartments absent the policy.	Defendant objects to this request insofar as the term "operational goal" is not defined, vague and unclear. Subject to those objections, Defendant denies this request.	Admit that, if the the community preference policy is working as designed, the percentage of outsiders who are awarded lottery apartments will be lower than it would have been absent the policy.	Defendant misconstrued what is in fact a clear goal of the policy, so plaintiffs reframed the request to make sure there is no room for evasion. *See* Request 178 briefing note. The request as reframed should be deemed admitted as posed by plaintiffs.		
180	Admit that five of seven members of HDC's governing body are either: (a) mayoral appointees; or (b) defendant's commissioners who were appointed to their commissionerships by the mayor.	Defendant admits this request.		*See* point I of plaintiffs' brief (addressing general objections).		
181	Admit that, as a practical and functional matter, a principal mission of HDC is to help achieve defendant's housing policies and priorities.	Defendant objects to this request insofar as the terms "practical matter," "functional matter" and "principal" not defined, vague and unclear. Subject to those objections, Defendant denies this request and avers that HDC's mission statement is that "HDC seeks to increase the supply of multi-family housing, stimulate economic growth and revitalize neighborhoods by financing the creation and preservation of affordable housing for low- , moderate- , and middle-income New Yorkers." See http://www.nychdc.com/Mission-Statement		These terms reflect some of the considerations taken into account when determining that one entity is responsible for the conduct of another. In this case, the first entity is defendant, who controls HDC's governing body. *See* admission to Request 180. Defendant's evasive denial also runs directly counter to how both HPD and HDC regularly characterize the latter to the public. *See, e.g.*, HPD press release, Aug. 15, 2018, annexed to Gurian Decl. as Ex. 57, at 4 (emphases added) (describing HDC as being "charged with helping to finance the creation or preservation of affordable housing under Mayor Bill de Blasio's Housing New York plan"); see HDC press release, May 16, 2019, annexed to Gurian Decl. as Ex. 58, at 2 (containing same description of HDC's role). Plaintiffs are entitled to know whether the denial is a function of the meritless objections or whether the denial is intended to fairly respond to the request as posed. The averments do not answer whether "a principal mission" of the agency is as described in the request, and should be striken.		Y
182	Admit that all seven members of NYCHA's board are appointed by the mayor.	Defendant admits this request.		*See* point I of plaintiffs' brief (addressing general objections).		
183	Admit that, as a practical and functional matter, a principal mission of NYCHA is to help achieve defendant's housing policies and priorities.	Defendant objects to this request insofar as the terms "practical matter," "functional matter" and "principal" not defined, vague and unclear. Subject to those objections, Defendant denies this request and avers that NYCHA's mission is "to increase opportunities for low- and moderate-income New Yorkers by providing safe, affordable housing and facilitating access to social and community services." See https://wwwl.nyc.gov/site/nycha/about/aboutnycha.page		These terms reflect some of the considerations taken into account when determining that one entity is responsible for the conduct of another. In this case, the first entity is defendant, who controls NYCHA's board. *See* admission to Request 182. Also, full defendant responsibility for NYCHA has been in the news more than a little bit. *See, e.g.*, excerpts of Deputy Mayor Been press conference comments, Apr. 4, 2019, annexed to Gurian Decl. as Ex. 59, at 6 ("The Mayor is committed to turning NYCHA around.") and at 8 ("My top priorit[y as deputy mayor] is getting NYCHA back on track."); Benjamin Weiser, et al., "De Blasio Cedes Further Control of Nycha but Avoid Federal Takeover," *New York Times*, Jan. 31, 2019, available at https://www.nytimes.com/2019/01/31/nyregion/hud-nycha-deal.html (reporting that Mayor de Blasio "committed the city to spending $2.2 billion over the next decade to repair the authority's dilapidated buildings"; the Mayor also agreed to the appointment of a federal monitor who will be able "to hold the mayor and the city responsible for its failures" to improve living conditions in NYCHA buildings). Plaintiffs are entitled to know whether the denial is a function of the meritless objections or whether the denial is intended to fairly respond to the request as posed. *See* FRCP 36(a)(4). The averments do not answer whether "a principal mission" of the agency is as described in the request, and should be striken.		Y