The Racial Justice Implications of TOPA:

Seizing Preservation Opportunities

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Summary

This report quantifies the number of distressed and potentially overleveraged properties in NYC that might benefit from TOPA and/or preservation purchases.

Tenant Opportunity to Purchase Act (TOPA) and Community Opportunity to Purchase Act (COPA) policies can be a powerful tool against gentrification and displacement in Black, Indigenous, and people of color (BIPOC) neighborhoods.[1] This report empirically examines the potential racial equity benefits of implementing TOPA and housing preservation strategies, by assessing the current state of evictions and housing distress in working-class and lower-income neighborhoods of color in New York City, and by quantifying the number of distressed and potentially overleveraged properties that might benefit from preservation purchases. We find:

- From 2022 to 2023, hazardous and immediately hazardous maintenance violations in working-class BIPOC areas were recorded at a rate over 2.3 times the rate in whiter, wealthier areas. During that period, the eviction filing rate in BIPOC areas was approximately double that of other areas, at about 7 eviction filings per 100 renter households each year versus 3.5 per renter household.
- Over 7% of buildings in working-class communities of color had more than one hazardous or immediately hazardous violation per unit annually, more than double the rate of severely distressed properties in whiter, wealthier areas. These 1,649 buildings in BIPOC communities contain 30,983 units and represent a substantial subset of properties where preservation investments could be explored. In addition, about 2,400 buildings in working-class communities of color containing about 59,000 units had debt levels that might indicate potential financial distress or financial speculation. These debt levels approached or exceeded current sales prices, especially in the outer boroughs.
- Additional preservation investments currently being considered by city and state officials could substantially benefit working-class neighborhoods of color.

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> For example, as a matter of scale, recent proposed additional investments in the Neighborhood Pillars program in New York City could help nonprofits acquire and rehabilitate approximately one fifth of severely physically distressed properties in working-class neighborhoods of color—a considerable improvement in housing quality.

Opportunity to purchase policies combined with preservation investments can be impactful in meeting this moment of high interest rates, when many landlords may be more likely to negotiate with nonprofit and tenant purchasers.

Previous research has also shown that creating a strong preservation ecosystem can pave the way for the adoption and successful implementation of opportunity-to-purchase policies, as occurred in the run-up to passage of the Community Opportunity to Purchase Act in San Francisco. This report demonstrates that COPA and TOPA policies, combined with preservation investments, including fast, flexible acquisition financing and guaranteed permanent financing, can be impactful in meeting this moment, when the prospect of refinancing at relatively high interest rates may make landlords more likely to negotiate with nonprofit and tenant preservation purchasers than they were prior to the pandemic.

Findings in detail

Tenant and community opportunity-to-purchase policies can be a powerful tool against gentrification and displacement in BIPOC neighborhoods.[2] These policies give tenants or qualified nonprofit housing organizations the first chance to buy rental buildings when the owner decides to sell, and the opportunity to match a third-party offer. As described in previous LISC research,[3] strong TOPA/COPA implementation depends on subsidies that allow tenants and community groups to purchase and rehabilitate properties, including fast and flexible acquisition financing and the guarantee of permanent financing, and well-funded programs that help tenants organize and manage their buildings over the long term.

These grant, loan, organizing, and technical-assistance tools are well-tested preservation strategies that can be used to create permanently affordable homes under resident or community control.[4] In fact, TOPA/COPA policies can act as a “multiplier” for such preservation programs because they provide tenants and community groups a statutory right of first offer and first refusal that brings sellers to the table to negotiate, and preservation buyers in turn overwhelmingly prioritize good repair and affordability.[5] But even independent of TOPA/COPA, now is a particularly important moment to invest in housing preservation. With high interest rates and rising costs for multifamily landlords, many of whom own distressed and overleveraged properties in need of refinancing, owners may be more willing to work with tenants and nonprofits than they were prior to the pandemic.[6]

This report empirically examines the potential racial equity benefits of TOPA policies and preservation strategies, by examining the current state of evictions and housing distress in working-class and lower-income neighborhoods of color, and by quantifying the proportion of distressed and potentially overleveraged properties that might represent opportunities for preservation purchase. We ask:

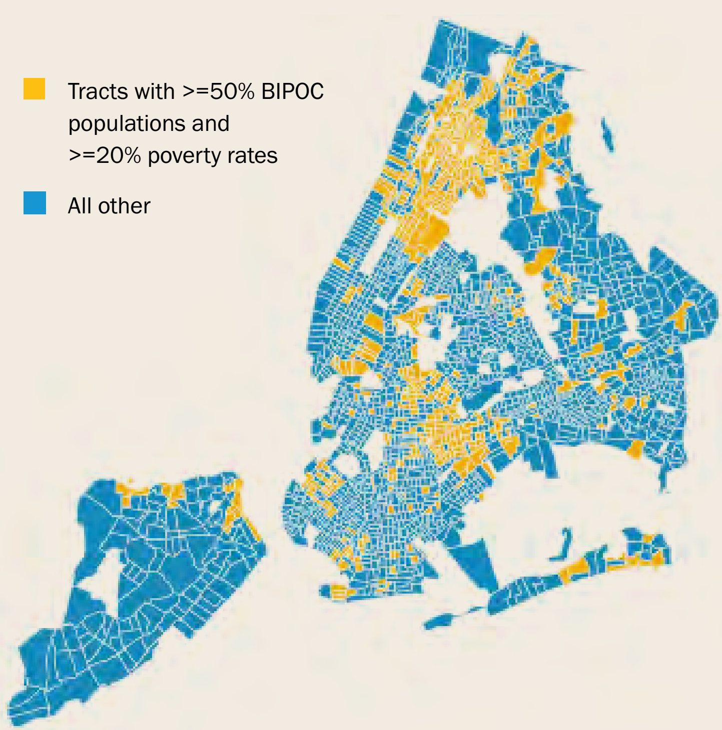
- What harms do tenants in BIPOC communities in New York City currently face, in terms of evictions and housing quality?
- How could well-funded, well-implemented TOPA and/or preservation programs address these harms?

The nation's housing crisis is exacerbated in communities of color, where recent research has shown that roughly one in five Black adult renters every year are subject to an eviction filing.[7] As eviction filings increased the risk of death during the pandemic by tenfold,[8] this research shows how housing preservation investments and policies can advance racial equity and well-being more broadly.

The harm of the status quo in communities of color

According to 2023 U.S. Census estimates, 18% of New Yorkers lived in poverty in the past 12 months, but in this overall estimate only 12% of white, non-Latine[9] individuals were in poverty, compared to 24% of Latine people of any race and 22% of Black people. These racial inequities extend to housing outcomes. **In 2021, 36% of households headed by a Black or Latine tenant paid more than half their income in rent, compared to 28% of white-headed households.**[10] But above and beyond the obvious ways that racialized poverty contributes to negative housing outcomes, research has demonstrated how speculators target neighborhoods of color, adding to these harms.[11] To further explore housing inequities in working-class communities of color, we selected census tracts that were 50% BIPOC or more and had poverty rates of 20% or greater, using 2018–2022 estimates from the American Community Survey. (Although the 2023 poverty rate for Black and Latine people exceeded the 20% mark, we selected these thresholds to account for gentrification in many communities, which has the effect of lowering the overall neighborhood poverty rate.) As shown in Figure 1 and indicated in yellow on the map, these tracts included much of the Bronx, large parts of Harlem, Washington Heights, Sunset Park, central and eastern Brooklyn, parts of western and southeastern Queens, and the Rockaways.

FIGURE 1 ▸ Identifying Focal Neighborhoods



To understand the harm of New York City's housing status quo, we drew on the Building Indicator Project (BIP) of the University Neighborhood Housing Program (UNHP). The BIP has tracked indicators of physical and/or financial distress in multifamily properties in New York City since 2003. In its current form, the BIP has aggregated data for 70,000+ multi-family rental buildings with five or more units in New York City, tracking more than 120 data points for each building.[12] Joining BIP data to the tracts identified above, we explored housing maintenance problems and how they differ in working-class communities of color compared to other areas. And as shown in Table 1, **hazardous or immediately hazardous violations recorded by the city's Department of Housing Preservation and Development occurred in these tracts at a rate about 2.3 times the rate in whiter, wealthier tracts, with approximately 17 violations per 100 units.**

TABLE 1 ▸

Maintenance violations in working-class communities of color and other areas

Category	Total Unit Count	Average Annual Hazardous and Immediately Hazardous Violations Count	Average Hazardous or Immediately Hazardous Violations per Unit (Annual)
>=50% BIPOC and >=20% Poverty Tracts	809,070	140,032	0.173
All Other Tracts	1,629,726	124,447	0.076
All Tracts	2,451,377	264,478	0.108

DATA SOURCE: BUILDING INDICATOR PROJECT, 2022-2023; AMERICAN COMMUNITY SURVEY, 2018-2022, U.S. CENSUS BUREAU.

We also examined eviction dynamics in 2022 and 2023, using information from the Office of Court Administration collected by the Housing Data Coalition. In doing so, we find that there were 205,596 unique evictions filings overall in that two-year period throughout New York City. However, as shown in Table 2, **zip codes with 50% BIPOC populations and 20% poverty rates experienced dramatically higher filing rates, about twice the rate of whiter, wealthier areas, with approximately 7 filings per 100 renter households each year, versus 3.5 per renter household in all other zip codes.**[13] This association between poverty, race, and evictions is well-documented, and is one way that speculators operating in communities of color have sought to increase profits by bringing in higher-income and higher-paying tenants. For example, over ½ of eviction filings across the country are against Black tenants though they comprise 19% of the renter population.[14]

TABLE 2

Eviction filings and rates in working-class communities of color and other areas, 2022–2023

Category	Total Renter Households	Average Annual Filings, 2022–23	Average Annual Filings per Renter Household
>=50% BIPOC and >=20% Poverty Zip Codes	751,096	53,428	0.071
All Other Zip Codes	1,402,781	49,370	0.035
All Zip Codes	2,153,877	102,798	0.048

DATA SOURCE: HOUSING DATA COALITION, 2022-23; AMERICAN COMMUNITY SURVEY, 2018-2022, U.S. CENSUS BUREAU

These recent trends echo findings from LISC's past research, which found that lower-income BIPOC neighborhoods showing signs of gentrification were more likely to experience housing speculation than whiter, wealthier areas, and that properties subject to speculation have substantially higher maintenance violations and an eviction rate 1.5 times the rate of similar properties in comparable neighborhoods.[15]

How TOPA and preservation funding can address these harms

As described above, LISC's past research has demonstrated how speculators have targeted communities of color, accruing profits in ways that harm tenants. In this research, one particularly strong signal of harm was the use of speculative finance—the practice of taking out higher and higher loan amounts on apartment buildings, not to invest in building maintenance but to pull out equity and acquire more properties.[16] However, current interest rates make refinancing relatively more expensive for owners who overleveraged their buildings. Accordingly, we examined the number of rental properties in working-class communities of color that have high levels of maintenance complaints, and that appear to have taken out high levels of debt in the past seven years or since ownership changed during that same period. These properties represent opportunities for preservation by tenant and community stewards, who prioritize affordability and good repair over speculative returns.

As described in Table 3 below, about 7.5% of properties in working-class communities of color had more than one annual hazardous or immediately hazardous violation per unit from 2022 to 2023, representing 1,649 buildings, more than double the rate of distress in whiter, wealthier areas. These buildings contained 30,983 units. However, physical distress is just one signal of a need for preservation purchases and investments, so we also explored debt taken out on these properties, to understand where the prospect of refinancing at higher interest rates may make it more likely for an owner to sell to a nonprofit or tenant collective. To do so we used Automated City Register Information System (ACRIS) records collected in the BIP to identify properties with mortgages or agreements recorded in the last seven years, or since ownership most recently changed, while excluding outliers that might represent regulatory agreements or data-entry errors.[17] We used this strategy as an intentionally conservative way to estimate current debt, as in many cases landlords may have debt terms longer than seven years, and in other situations landlords will assume a seller's debt upon purchasing the property. Using this conservative process created a universe of about 28,000 properties with some amount of debt recorded, or about 38% of all buildings in the BIP.

TABLE 3 ▸

Severely distressed properties

Category	Total Building Count	Distressed Building Count	Rate of Occurrence of Distress (by Building)	Units in Distressed Buildings
>=50% BIPOC and >=20% Poverty Tracts	21,894	1,649	0.075	30,983
All Other Tracts	50,146	1,496	0.023	21,210
All Tracts	72,308	3,145	0.043	52,193

DATA SOURCE: BUILDING INDICATOR PROJECT, 2018-2023; AMERICAN COMMUNITY SURVEY, 2018-2022, U.S. CENSUS BUREAU

We also estimated debt levels per unit for each of these properties, and found that the highest debt levels were more likely to be recorded on buildings in working-class areas of color than in whiter, wealthier areas (Table 4). In working-class areas of color, 11% of properties carried the highest debt levels per unit for the borough, versus 9% in other areas. We defined the highest debt levels as being in the top 25% of loan amounts per unit for that borough, to account for different market conditions. This finding is consistent with our past research showing that loan values increase the fastest in lower-income neighborhoods of color, and suggests the continued use of speculative and extractive finance in BIPOC neighborhoods. In working-class BIPOC tracts, these 2,423 buildings with the highest debt levels contained 58,710 units. A very limited number of properties in working-class areas of color—218, or about one in a hundred buildings—had both severe physical distress *and* had taken out the highest levels of debt in the last seven years, although this also occurred more than three times more frequently than in whiter, wealthier areas. When expanding the lens to *all* properties with signs of severe physical distress and relatively high debt levels, we observe 378 buildings throughout New York City (including whiter, wealthier areas), comprising about 5,708 units.

TABLE 4 ▸ Potentially overleveraged and severely distressed properties

Category	Buildings Carrying Highest Levels of Debt for the Borough	Rate of Occurrence as Proportion of Buildings	Number of Units in Buildings with Highest Levels of Debt	Distressed Buildings Where Debt Was Also Highest for the Borough	Rate of Occurrence of Physical Distress and Highest Debt Levels	Total Units in Distressed Buildings with Highest Debt Levels
>=50% BIPOC and >=20% Poverty Tracts	2,423	0.11	58,710	218	0.01	3,645
All Other Tracts	4,697	0.093	131,930	160	0.003	2,063
All Tracts	7,120	0.098	190,640	378	0.005	5,708

DATA SOURCE: BUILDING INDICATOR PROJECT, 2018-2023; AMERICAN COMMUNITY SURVEY, 2018–2022, U.S. CENSUS BUREAU

It is important to note that debt levels identified through this process approach or exceed recent sales prices per unit for multifamily buildings in the outer boroughs, according to recent market reports. For example, in the Bronx, the 75th percentile of debt was about $157,000 per unit, whereas properties have recently sold for about $170,000 per unit; in Brooklyn, this debt threshold was $320,000 whereas properties were selling for about $300,000; and in Queens, it was $182,000 per unit when sales were about $200,000 per unit.[18]

COPA and TOPA proposals would apply to all privately-owned multifamily rental buildings as they are sold, not just those in working-class communities of color. But as owners of distressed and/or overleveraged properties may be more interested in selling, and as tenants in these properties are often already organizing in response to quality-of-life concerns, these buildings may be especially attractive for preservation purchase. Recent proposals for additional capital funding to acquire distressed housing could make substantial gains in working-class communities of color. According to estimates from the New York City Comptroller's Office, $1.25 billion in additional capital funding to the Neighborhood Pillars program, combined with other sources of funding, could result in the preservation of 6,250 units of housing. While not all funding would support the neighborhoods focused on in this report, as a matter of scale, **this could represent approximately one fifth of severely physically distressed units in working-class neighborhoods of color.** Alternatively, also as a matter of scale, it could reach all severely distressed and potentially overleveraged units throughout New York City (those 5,708 units with the highest debt levels that also had more than one annual open hazardous or immediately hazardous violation per unit). And because LISC's recent modeling of the effects of acquisition-and-rehabilitation programs suggests that buildings in such programs have three times fewer maintenance violations than comparable properties that merely change ownership, this could result in significant quality-of-life improvements for tenants in BIPOC neighborhoods and throughout NYC.[19]

Case studies

Case studies about distressed properties where tenants are organizing for improved conditions and ownership illustrate the potential for preservation investments and TOPA policies.

Additional preservation could substantially benefit tenants living in distressed and/or overleveraged properties in working-class communities of color.

Notorious landlord Daniel Ohebshalom has repeatedly appeared on the NYC Public Advocate's Worst Landlord Watchlist, topping the 2023 list with a record-setting 3,293 open violations across his portfolio of 15 buildings.[20] Two 21-unit buildings at 705 and 709 West 170th Street in predominately low-income and Latine Washington Heights accounted for nearly 700 of these violations.[21] For years, tenants in the buildings have endured rodent and cockroach infestations, ceiling collapses, lead paint, crumbling plaster, mold, and no heat and hot water.[22] Tenants organized with support from Met Council and Legal Services NYC, but despite multiple tenant lawsuits and the Department of Housing Preservation and Development (HPD) issuing millions of dollars in fines and placing the two buildings in its Alternative Enforcement Program, Ohebshalom refused to make court-ordered repairs. In response, HPD took the unprecedented step of seeking his arrest, and Ohebshalom began a 60-day jail sentence on March 21, 2024. However, the buildings remain under his company's control and tenants report only limited repairs so far and an ongoing lack of hot water and heat.[23] While tenants are exploring working with a community-based developer or a community land trust to buy the buildings and ensure their long-term good repair and responsible management, Ohebshalom's severe neglect of the two properties reflects deferred maintenance across his portfolio, and will require significant capital and ongoing organizing and technical support to fully address, though programs such as Neighborhood Pillars are meant to facilitate such a transfer.

Similarly, a group of Black, Latine, and immigrant tenants at 124 East 176th Street in Mount Hope, the Bronx, are organizing with the Northwest Bronx Community and Clergy Coalition to improve conditions in their building and take ownership from notorious absentee landlord David Kleiner, whom they refer to as "Dracu-lord" for his longtime neglect.[24] The building currently has 161 open violations, over half of which are considered immediately hazardous: rodents, bedbugs, cockroaches, mold, leaks, ceiling collapses, no hot water, and no heat.[25] Kleiner also owns 1915 Billingsley Terrace, whose partial collapse in December 2023 left 100 tenants temporarily homeless and is being investigated by the Bronx District Attorney, after Kleiner ignored years of tenant complaints and a lawsuit intended to force him to repair unsafe conditions.[26] The building also experienced severe flooding during heavy rains in March 2024.[27] Despite this pattern of neglect, appearing on the NYC Worst Landlord Watchlist in 2016, a $112,000 settlement with HPD for repeated lead paint violations, and multiple organizing campaigns led by Northwest Bronx Community and Clergy Coalition and CASA-New Settlement, Kleiner's company remains in control of at least 18 buildings.[28]

Conclusion

As described above, opportunity-to-purchase policies can amplify the impact of preservation programs, because they allow tenants and community organizations a seat at the table when a building is sold and the opportunity to leverage affordable subsidies and tenant protections to improve building conditions, in contrast to speculative buyers who evict tenants and neglect their buildings. But regardless of whether TOPA/COPA polices are in place, **this research shows that a substantial proportion of distressed and overleveraged properties could benefit from increased preservation investments, especially in working-class communities of color.** As described in previous research, these preservation resources include grants to subsidize acquisition, fast and flexible preservation financing with guaranteed permanent financing, and resources for organizing and technical assistance that keep residents in their homes over the long term. Given the state of physical distressed properties and the reality of low tenant incomes described in the report, these strategies are especially important. Previous research has also shown that creating a strong preservation ecosystem can pave the way for the adoption and successful implementation of opportunity-to-purchase policies, as occurred in the run-up to passage of COPA in San Francisco and which is being contemplated through investment in New York's Neighborhood Pillars program. Regardless of which is advanced first, **COPA and TOPA policies combined with preservation investments can be an impactful racial justice strategy.**

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Endnotes

1 Our analysis is conducted at the level of U.S. Census tracts. For the purposes of this report, we refer to tracts as “neighborhoods,” ”geographies,” or “areas.”

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