

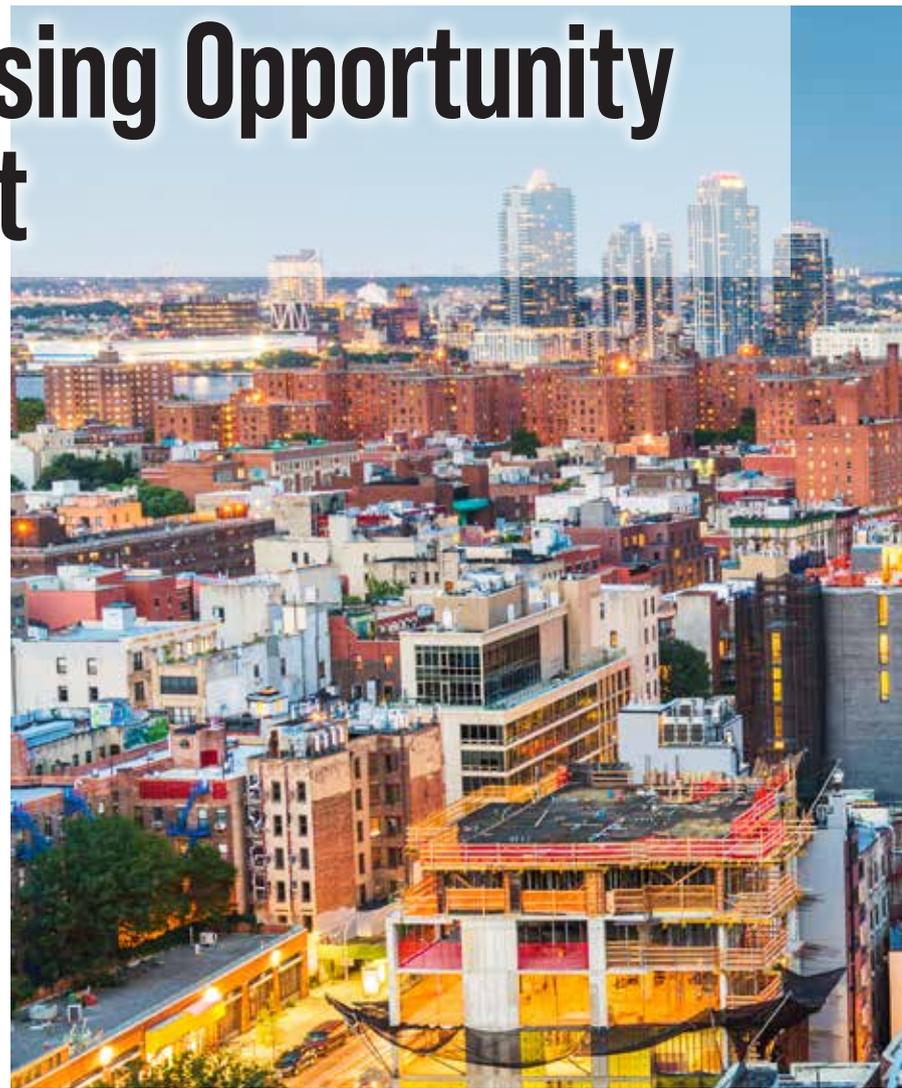
BY DAN  
EGERS  
AND  
ED  
WALLACE

## City of Yes for Housing Opportunity Challenged in Court

In late March, opponents of City of Yes for Housing Opportunity (COYHO), the Adams Administration’s comprehensive amendment to New York City’s Zoning Resolution, dozens of elected officials, community groups, and civic association leaders from throughout the city, filed an Article 78 proceeding in New York State Supreme Court in Staten Island to overturn COYHO (*Old Town Civic Association et. al. v. City of New York*, Index Number 85065/2025).

COYHO is designed primarily to address the housing shortage. The Department of City Planning has estimated COYHO would enable the creation of 82,000 homes over the next 15 years by making it possible to build “a little more housing in every neighborhood.” The suit argues that the city failed to follow the requirements for environmental review set forth in the New York State Environmental Quality Review Act (SEQRA) and the New York City Environmental Quality Review (CEQR).

COYHO was enacted by the City Council last December as the third of the Adams administration’s “City of Yes” proposals. First was the enactment of “City of Yes for Carbon Neutrality” in December 2023, which was devised to make it easier to



Dan Egers

Ed Wallace

install green energy technology, among other things. Second was “City of Yes for Economic Opportunity,” enacted in June 2024, which primarily updated the zoning resolution’s regulations to expand locations where various types of businesses can locate. COYHO included many components intended to allow for conversions to and construction of new housing.

The petitioners allege the city’s environmental review was deficient in three ways. First, by failing to take a hard look at significant areas of environmental concern, such as neighborhood character, socioeconomic conditions, open space, shadows, water and sewer infrastructure, solid waste and sanitation services, community facilities and services, without providing a rational basis or reasoned elaboration for this failure. Second, by impermissibly “segmenting” the City of Yes program into three distinct stages as if each stage were an independent program, which served to avoid assessing the cumulative environmental impacts of each phase of City of Yes. And third, that the city failed to propose any mitigation to reduce major areas of adverse and significant negative environmental consequences such as on water and sewer infrastructure that petitioners say would result if not for the segmented analysis.

A focus of the lawsuit is the claim of segmentation. Federal, state and local environmental laws



PHOTO BY GETTY IMAGES

are clear that a governmental agency cannot, for example, approve a highway project one mile at a time without considering the comprehensive environmental impact of the full highway plan. Here, the lawsuit alleges that the City improperly divided the environmental determinations of City of Yes into three distinct separate actions, as if each piece of what the petitioners claim was an integrated City plan was separate and independent, which resulted in each phase of City of Yes receiving a separate and segmented environmental review. In doing so, the City failed to look at the cumulative environmental impacts of the combined three phases of City of Yes, the petitioners say.

In analyzing segmentation, the CEQR Technical Manual refers to guidance in the SEQR Handbook published by the New York State Department of Environmental Conservation. The SEQR Handbook offers eight criteria that are considered in determining whether individual actions should be reviewed together for environmental impacts:

**Purpose:** Is there a common purpose or goal for each segment?

**Time:** Is there a common reason for each

segment being completed at or about the same time?

**Location:** Is there a common geographic location involved?

**Impacts:** Do any of the activities being considered for segmentation share a common impact that may, if the activities are reviewed as one project, result in a potentially significant adverse impact, even if the impacts of single activities are not necessarily significant by themselves?

**Ownership:** Are the different segments under the same or common ownership or control?

**Common Plan:** Is a given segment a component of an identifiable overall plan? Will the initial phase direct the development of subsequent phases or will it preclude or limit the consideration of alternatives in subsequent phases?

**Utility:** Can any of the interrelated phases of various projects be considered functionally dependent on each other?

**Inducement:** Does the approval of one phase or segment commit the agency to approve other phases?

The SEQR Handbook states that if the answer to one or more of these questions is yes, the lead agency for the environmental review should be concerned that segmentation is taking place, which for City of Yes was the Department of City Planning. Assessing whether a sufficient number of these factors weigh in favor of finding segmentation is now in the hands of the courts.

In response to the announcement of the lawsuit's filing, a spokesperson at City Hall said:

"When it comes to housing, there will always be those who say, 'Not in my backyard,' but we stand by the city's thorough and transparent review process and will address any lawsuit when it is received."

This lawsuit is certain to be closely watched in the months to come.

**Dan Egers**, a shareholder of Greenberg Traurig, LLP, focuses his practice on New York City land use and zoning. The views expressed are his own.

**Ed Wallace**, Co-Chair of the New York Office of the law firm Greenberg Traurig, served as the last Manhattan City Councilmember at-Large and Chief of Staff to the City Council President. He has represented Columbia, Fordham and NYU in obtaining land use approvals. He is Counsel to the Citizens Budget Commission.