

LIHTC Siting in New York City

Summary

The Low-Income Housing Tax Credit (LIHTC) is a federal program that is responsible for the construction and preservation of almost 3 million affordable rental housing units in the United States as of 2015.¹ Despite the program's ability to produce a substantial number of subsidized rental units, the disproportionate geographic distribution of these units is a common criticism in multiple states and municipalities. New York City is no exception to this criticism. Between 1998 and present day, LIHTC properties in NYC have been concentrated in the same areas with high poverty and non-white populations. The degree to which LIHTC siting maintains or even increases poverty concentration and racial segregation is up for debate. However, the concentration in itself is an issue because it only fulfills one-half of LIHTC's dual goals to strengthen distressed communities and increase access to higher opportunity neighborhoods.² The latter is important, as high-opportunity neighborhoods offer a "richer set of resources and opportunities for advancement," which can be measured by low poverty rates, high performing schools, and good access to employment.³ Additionally, access to higher opportunity neighborhoods means more tenant choice, and potentially avoidance of legal action that fair housing advocates might and have taken against public agencies. Potential policy responses to disproportionate LIHTC siting include changes to NYC's Qualified Allocation Plans, allowing for increased density in zoning codes, and more coordination between the LIHTC and Section 8 voucher programs.

The Problem

Most of NYC's LIHTC properties are in areas with high poverty and non-white percentages. In an analysis of LIHTC properties produced between 1998 and 2007 in New York

¹ Ingrid Gould Ellen and Keren Mertens Horn, "Points for Place: Can State Governments Shape Siting Patterns of LIHTC Developments?" Furman Center, 2017.

² Keri-Nicole Dillman, Keren Mertens Horn, & Ann Verrilli. "The What, Where, and When of Place-Based Housing Policy's Neighborhood Effects." *Housing Policy Debate*, 2017.

³ Ellen and Horn, 2017.

City, Kawitzky et al. found that an overwhelming 83% of all LIHTC units were developed in high- or extreme-poverty neighborhoods. Only 4% were developed in low-poverty neighborhoods (Fig. 1).⁴ Additionally, 88% of all low-income units through LIHTC were developed in non-white or predominately non-white neighborhoods. Less than 11% were developed in predominantly white neighborhoods (Fig. 3).⁵ A preliminary glance at LIHTC before and after 2007 show that projects have largely been developed in the same neighborhoods since, with relatively similar spatial patterns of poverty as of 2010 (Fig. 2). Similar spatial patterns of race exist as of 2010 well, although several neighborhoods have become more diverse (Fig. 4). Notably, most of Queens and some of southern Brooklyn have not seen much LIHTC development at all.

NYC's LIHTC siting patterns are in keeping with the fact that LIHTC projects are generally built in neighborhoods with a poverty rate that is higher than that of the average neighborhood in the United States.^{6,7} The degree to which this kind of siting pattern maintains or even increases poverty concentration and racial segregation is unclear.⁸ Some found that LIHTC projects did not increase poverty concentration and in fact may decrease poverty rates in high-poverty neighborhoods over time.⁹ Diamond and McQuade found that LIHTC projects increased property values, lowered crime rate, and stimulated economic and racial integration in neighborhoods that were majority black or Latino.¹⁰ These findings are in line with the views of some community development advocates, who argue that "well-designed, subsidized housing investments can generate positive neighborhood spillovers" and revitalize distressed areas.¹¹

Regardless of whether LIHTC projects directly reenforce or mitigate racial and income inequities, the concentration of LIHTC properties in high-poverty neighborhoods is an issue.

⁴ Simon Kawitzky, Fred Freiberg, Diane L. Houk, and Salimah Hankins. "Choice Constrained, Segregation Maintained: Using Federal Tax Credits to Provide Affordable Housing." Fair Housing Justice Center, 2013.

⁵ Kawitzky, Freiberg, Houk, and Hankins, 2013.

⁶ Ingrid Gould Ellen, Keren M. Horn, and Yiwen Kuai. "Gateway to Opportunity? Disparities in Neighborhood Conditions Among Low-Income Housing Tax Credit Residents." *Housing Policy Debate*, 2018.

⁷ Ingrid Gould Ellen, Keren M. Horn, and Katherine M. O'Regan. "Poverty concentration and the Low Income Housing Tax Credit: Effects of siting and tenant composition." *Journal of Housing Economics*, 2016.

⁸ Ellen and Horn, 2017 and Kawitzky et al., 2013.

⁹ Ellen, Horn, and O'Regan 2016.

¹⁰ Rebecca Diamond and Tim McQuade, "Who Wants Affordable Housing in their Backyard? An Equilibrium Analysis of Low Income Property Development," Stanford GSB, 2017. As cited in Michelle Laysen, "How Affordable Housing Can Chip Away at Residential Segregation." *The Conversation*, 2017.

¹¹ Ingrid Gould Ellen, Katherine M. O'Regan, and Ioan Voicu, "Siting, Spillovers, and Segregation: A Reexamination of the Low Income Housing Tax Credit Program," in *Housing Markets and the Economy: Risk Regulation, and Policy*, 2009.

Building affordable housing in low-income neighborhoods, while could be beneficial for those neighborhoods, should not be the sole outcome of the LIHTC program and indeed the program is not intended to work that way. LIHTC and other housing production programs have the dual goal of “strengthening distressed communities and increasing access to higher opportunity neighborhoods”¹²—at present, it seems that LIHTC is failing to achieve the latter. Studies have found that in its first 10 years, the LIHTC program was “used much more often to provide better housing in poor neighborhoods rather than to provide affordable housing in higher-income neighborhoods.”¹³ During the 1990s, “LIHTC neighborhoods” had disproportionately high African American populations and higher poverty rates, a trend that did not seem to decline in the program’s second decade.¹⁴

Siting LIHTC mostly in low-income neighborhoods is problematic because it limits the housing choices low-income tenants could have, particularly if they want to move to other, higher-income neighborhoods that have more resources like better schools and jobs.¹⁵ Also, the charge that LIHTC concentration contributes to poverty and racial segregation is still widely prevalent among fair housing advocates despite research that might contradict this conclusion. The problem becomes even more pressing given that legal action has been taken. A housing nonprofit in Dallas filed a lawsuit, which reached the Supreme Court in 2015, against the Texas State Department of Housing and Community Affairs. The nonprofit charged that the LIHTC program maintained racial segregation and violated the Fair Housing Act because most projects were built in high-poverty, predominantly black neighborhoods and not enough projects were built in suburban white neighborhoods.^{16,17}

Existing Policies to Address the Problem

To understand how LIHTC developments are sited and to change these disproportionate outcomes, one might first look at the Qualified Allocation Plan (QAP) of the LIHTC-

¹² Dillman, Horn, and Verrilli, 2017.

¹³ Jean L. Cummings and Denise DiPasquale, “The Low-Income Housing Tax Credit: An Analysis of the First Ten Years,” *Housing Policy Debate*, 1999. As cited in Kawitzky et al., 2013.

¹⁴ Kawitzky et al., 2013.

¹⁵ Laysen, 2017.

¹⁶ Laura Sullivan and Meg Anderson, “Affordable Housing Program Costs More, Shelters Fewer.” NPR, 2017: <https://www.npr.org/2017/05/09/527046451/affordable-housing-program-costs-more-shelters-less>

¹⁷ *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.* (2015). <https://www.law.cornell.edu/supremecourt/text/13-1371>. The Supreme Court ruled in favor of the housing nonprofit but reversed the decision in 2016.

administering housing finance agency. QAPs delineate the criteria that the state or municipality use to award tax credits, using a combination of set-asides, threshold requirements that all projects must meet, a competitive point system, basis boosts, and policy statements.¹⁸ Researchers have pointed to QAPs as important in shaping LIHTC allocations to reduce poverty concentration and racial segregation.^{19,20} Additionally, LIHTC practitioners agree that QAPs are very effective, as developers “chase points” when they consider which properties to use LIHTC for.²¹ In New York City and other areas, QAP provisions have been a focus of housing advocacy organizations, like the Fair Housing Justice Center.²² One aspect of the QAP that could be targeted is the degree to which it favors developments in Qualified Census Tracts (QCTs). QCTs are tracts that have a poverty rate of at least 25%, or in which at least half of households have incomes less than 60% of Area Median Income (AMI). Preferencing QCTs is required as part of federal LIHTC statute, but states like Texas and Tennessee have altered the impact of this preference through their QAPs. As part of federal statute, QCTs must also be a part of a “concerted community revitalization plan,” another term that each allocating agency defines differently.²³ Arguments have been made that since the federal LIHTC statute already preferences QCTs, there is no need for allocating agencies to further preference those tracts through their QAPs’ competitive selection criteria, as NYC’s Department of Housing Preservation and Development does.²⁴ Additionally, many allocating agencies, including that of New York City, do not provide standards for a “concerted community revitalization plan”—as long as the QCT is part of a plan of any sort, the agency may accept this as a suitable way to fulfill the statute.²⁵ By providing clear standards, developers are forced to consider how their project will contribute in a meaningful way to the already-disadvantaged QCT.

The aforementioned recommendations about lessening the preference for QCTs and holding stricter definitions for community revitalization plans revolve around the QAP’s competitive point system. However, the other priority-influencing instruments that are built into

¹⁸ Khadduri 2013.

¹⁹ Ellen and Horn, 2017.

²⁰ Ellen et al., “Effect of QAP Incentives on the Location of LIHTC Properties,” HUD, 2015.

²¹ Jill Khadduri, “Creating Balance in the Locations of LIHTC Developments: The Role of Qualified Allocation Plans,” Abt Associates, 2013.

²² New York State Fair Housing Network / Fair Housing Justice Center 2017 letter: <https://prprac.org/pdf/FHJC.Comments.HPD.2017QAP.LIHTC.pdf>.

²³ Khadduri, 2013.

²⁴ Kawitzky et al., 2013.

²⁵ Khadduri, 2013 and Kawitzky et al., 2013.

the QAP can be equally or more important.²⁶ Furthermore, there is no guarantee that changes in QAPs will affect the sites that developers propose for affordable housing development, or the sites that allocating agencies ultimately select. Thus, other policy recommendations like changing zoning regulations and coordinating the LIHTC and Section 8 voucher programs more closely have been suggested. Allowing for increased density, particularly in high-opportunity areas, would free up more development opportunities for LIHTC projects in these areas.²⁷ One way to coordinate the two federal programs is to allow allocating agencies to convert tax credits into tenant-based vouchers, which adds flexibility towards addressing need. It is unclear whether New York City does not need production subsidies, but if so, conversion into vouchers would prevent a “use-it-or-lose-it” situation where HPD must return LIHTC funds back to the federal government.²⁸ Fewer units would be produced. However, conversion into tenant-based vouchers would be beneficial not only in fulfilling demand, but also in circumventing community opposition. McClure notes that building mixed-income properties in high-opportunity neighborhoods seems likely to encounter less resistance than building entirely affordable housing in those same neighborhoods.²⁹

Market Conditions and Other Considerations

Market conditions shape the sites developers identify and propose for affordable housing to begin with.³⁰ It is possible that developers tend to build LIHTC in low-income areas because the “opportunity cost of foregone rent is lower in such areas.”³¹ Additionally, restrictive local zoning codes, opposition from residents, and a lack of affordable and available sites can all contribute to developers’ priorities.³² Neighborhoods with low vacancy rates can limit developers’ interest as well. Vacancy rates may vary widely by neighborhood, but in terms of counties, Queens has had some of the lower vacancy rates, though the Bronx has consistently had the lowest between 2005 and 2019 (Fig. 5).

²⁶ Shelburne, 2008 and Gustafson and Walker, 2002. As cited in Khadduri, 2013.

²⁷ Khadduri, 2013.

²⁸ McClure, 2019.

²⁹ Ibid.

³⁰ Ellen and Horn, 2017, p. 6.

³¹ Lang, as cited in Ellen and Horn, 2017.

³² Ellen and Horn, 2017.

Not only are there fewer LIHTC units in Queens and southern Brooklyn, there is also less development of housing units in general in these areas (Fig. 6). According to a Wall Street Journal and BuildZoom analysis of the period between 2000 and 2015, eight of the ten “toughest-to-build” zip codes across the New York Metropolitan Area are in these areas (Fig. 2, Fig. 4).³³ Some of these zip codes have large concentrations of single- and two-family homes (e.g., Kensington, Brooklyn, 11218 and Astoria, Queens, 11105).³⁴ Additionally, Sunnyside, Queens (11104) has a Historic District spanning several blocks in the neighborhood, was rezoned in 2011 to curb overdevelopment, and rejected a rezoning plan in 2016 that would allow for 200 affordable units.³⁵ Interestingly, however, Sunnyside and surrounding neighborhoods, particularly going west into Long Island City, had one of the highest number of housing units in new buildings completed between 2010 and 2018.³⁶ This is likely because these neighborhoods have become more desirable in the past decade. In Prospect Park Lefferts Gardens, Brooklyn (11225), residents have opposed the introduction of tall buildings and rezoning in 2014 and 2017.³⁷ Overall for all of New York City, much less housing is being built today than during the first three-quarters of the 20th century, even though other high-cost cities in the U.S. have developed new housing more quickly.³⁸

The WSJ analysis also concludes that the toughest places to build are places that are outside downtown, are in the “inner suburbs,” are in gentrifying neighborhoods, and/or have exclusive and wealthy low-density enclaves. While zip codes in the rest of Queens do not place in the top ten “toughest-to-build,” a significant portion of the borough exhibits many of the concluding characteristics. Lower-density zoning is prevalent (Fig. 7), and median household incomes increase towards the east (Fig. 8). It is unlikely that these market trends will change significantly, particularly if existing zoning regulations persist. As the analysis notes, “once density is accepted in an area, it is easy to build more there.”³⁹

³³ Issi Romen, “The Toughest Places to Build: Behind the Scenes of a Wall Street Journal Analysis,” 2017. <https://www.buildzoom.com/blog/the-toughest-places-to-build-behind-the-scenes-of-a-wall-street-journal-analysis>

³⁴ Amy Plitt, “These NYC neighborhoods are where it’s toughest to build new housing,” 2017. <https://ny.curbed.com/2017/7/26/16026496/new-york-affordable-housing-density-buildzoom>

³⁵ Ibid.

³⁶ City of New York, “Where We Live NYC: Fair Housing Together,” November 2020. <https://www1.nyc.gov/assets/hpd/downloads/pdfs/wwl-plan.pdf>

³⁷ Plitt, 2017.

³⁸ City of New York, November 2020.

³⁹ Romen, 2017.

Rationale for Public Action

Created by the Tax Reform Act of 1986, LIHTC is the largest federal subsidy for affordable housing development nationally.⁴⁰ The program is likely to persist, particularly given its bipartisan support. Robustness of production aside, the LIHTC program fails to reach a higher potential because of the disproportionate distribution of projects in poorer and less white neighborhoods. But construction of affordable housing in these neighborhoods should not be eliminated. The key, rather, is balance. Ken Zimmerman, a civil rights attorney formerly of the New Jersey Institute of Social Justice, noted that “Anyone who suggests that building additional affordable housing in urban areas is bad and building additional affordable housing in the suburbs is good is being way too simplistic.”⁴¹ Both place-based outcomes of LIHTC, where projects improve the distressed neighborhood, and choice-based outcomes of LIHTC, where disadvantaged residents have the opportunity to move into higher-opportunity neighborhoods, should be prioritized. Each type of outcome caters to different tenant needs and desires. There is also the potential that locating units in higher-opportunity neighborhoods is more broadly effective: Khadduri argues that “the scale of LIHTC developments is too small to have a major effect on the neighborhood as a whole.”⁴² The most practical reason for ensuring better balance of LIHTC siting might be to avoid lawsuits that target the program for failing to affirmatively further fair housing. Finally, it is entirely reasonable to require that the LIHTC program be more effective, given persistently high levels of segregation in the U.S. (including New York City). That the program currently appears to “do no harm” in terms of racial segregation, and, as some researchers have concluded, possibly some “good,” is not enough given the country’s past and present.⁴³

Summary and Conclusion

LIHTC units tend to be concentrated in high-poverty, high-non-white areas across states and municipalities, New York City included. LIHTC siting patterns in the City remain largely unchanged since 1998, with most of Queens and southern Brooklyn not seeing many LIHTC

⁴⁰ Furman Center, “The Effects of the Low-Income Housing Tax Credit (LIHTC),” 2017.

⁴¹ Robert Neuwirth, “Renovation or Ruin,” *Shelterforce*, 2004. <https://shelterforce.org/2004/09/01/renovation-or-ruin/>

⁴² Khadduri, 2013.

⁴³ Keren M. Horn and Katherine M. O’Regan, “The Low Income Housing Tax Credit and Racial Segregation,” *Housing Policy Debate*, 2011.

units. These areas contain many higher-opportunity neighborhoods (e.g., with low-poverty rates, higher incomes, better schools) that the LIHTC program is also intended to target, yet currently is not targeting to the same degree as it is with disadvantaged neighborhoods. Fair housing advocates argue that this disproportionate concentration of siting reinforces racial segregation and poverty concentration, whereas some researchers have found evidence that LIHTC units either do not do so or actually improve neighborhoods slightly along these dimensions. Community development advocates also argue for affordable housing's positive spillover effects in distressed neighborhoods. The answer is likely not to stop building affordable housing in distressed neighborhoods, but rather to focus efforts on increasing the production of affordable housing in higher-opportunity neighborhoods. This geographically diverse siting can be encouraged through changes in one or several components in the LIHTC allocating agency's QAP. However, policy recommendations can also include allowing for more density through zoning and balancing LIHTC and Section 8 voucher resources depending on need. Ultimately, the goal is to ensure that lower-income residents have more options if they choose to pursue access to neighborhoods with more resources. Although the popular LIHTC program has produced a significant number of affordable housing units since its inception, it can certainly be altered and leveraged to ensure greater housing equity across the City.

Appendix

Fig. 1 (from Kawitzky et al.'s "Choice Constrained, Segregation Maintained," 2013)

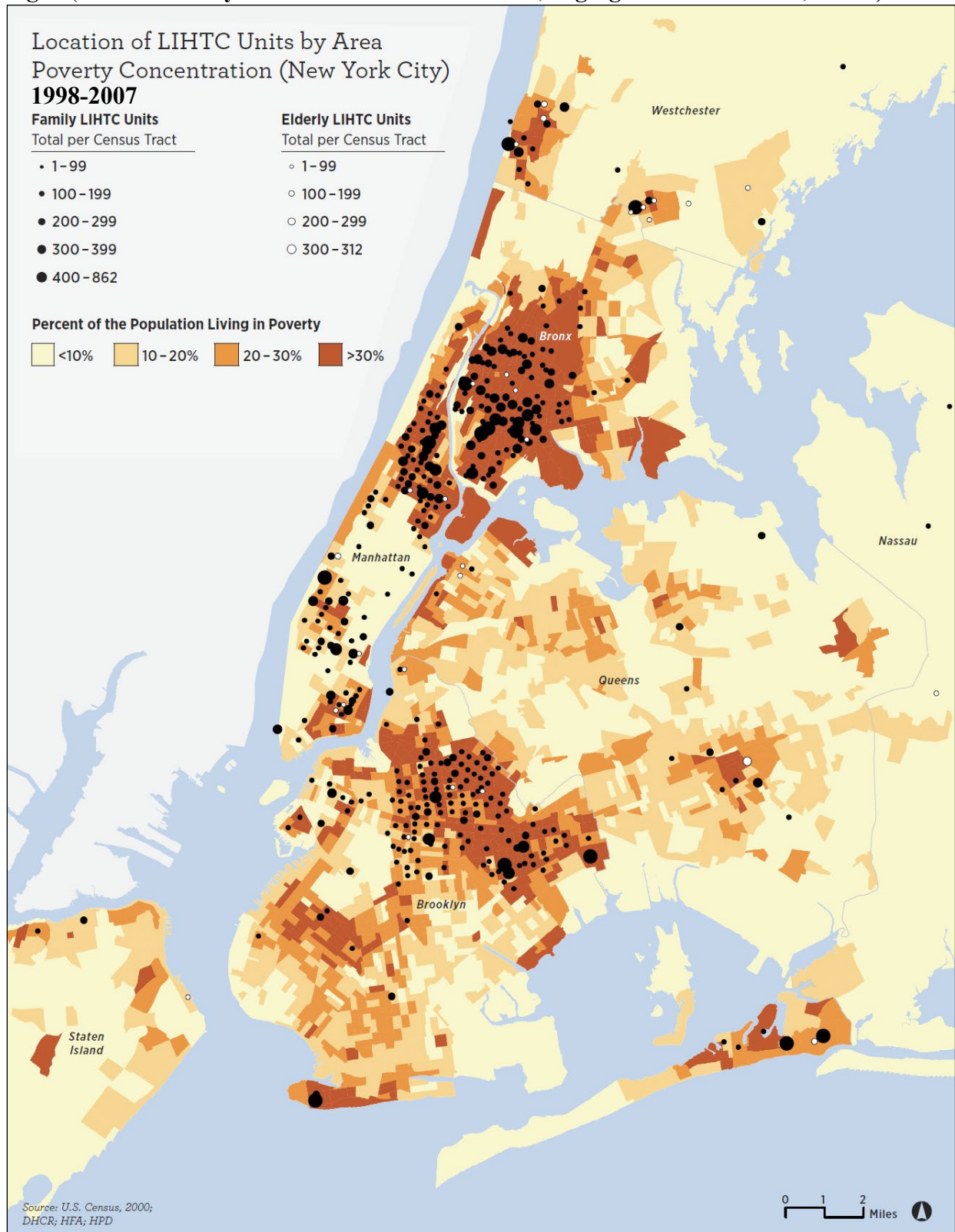


Fig. 2 Location of LIHTC Units Post-2007 by Poverty Concentration (Census 2010) & “Toughest-to-Build” Zip Codes

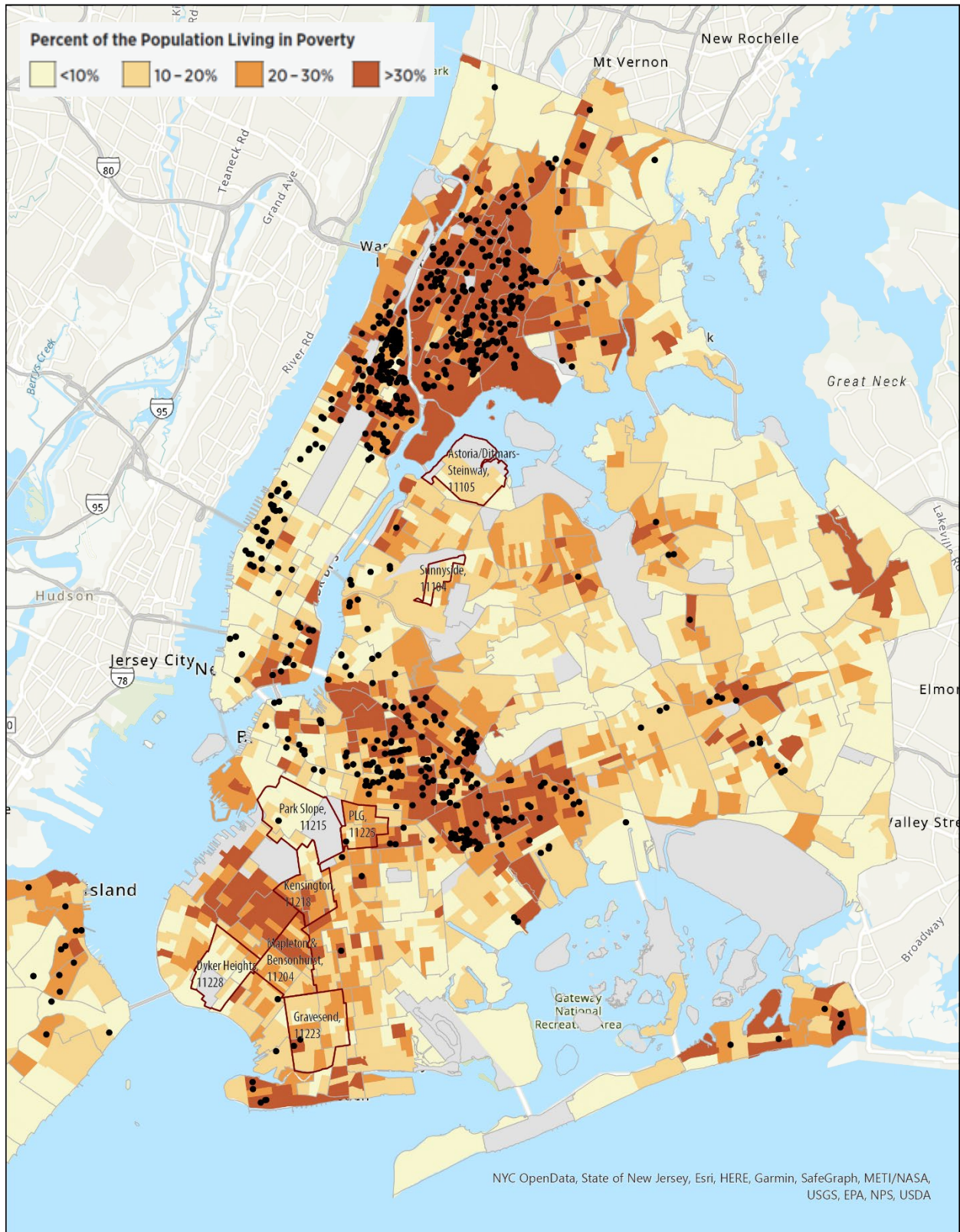


Fig. 3 (from Kawitzky et al.'s "Choice Constrained, Segregation Maintained," 2013)

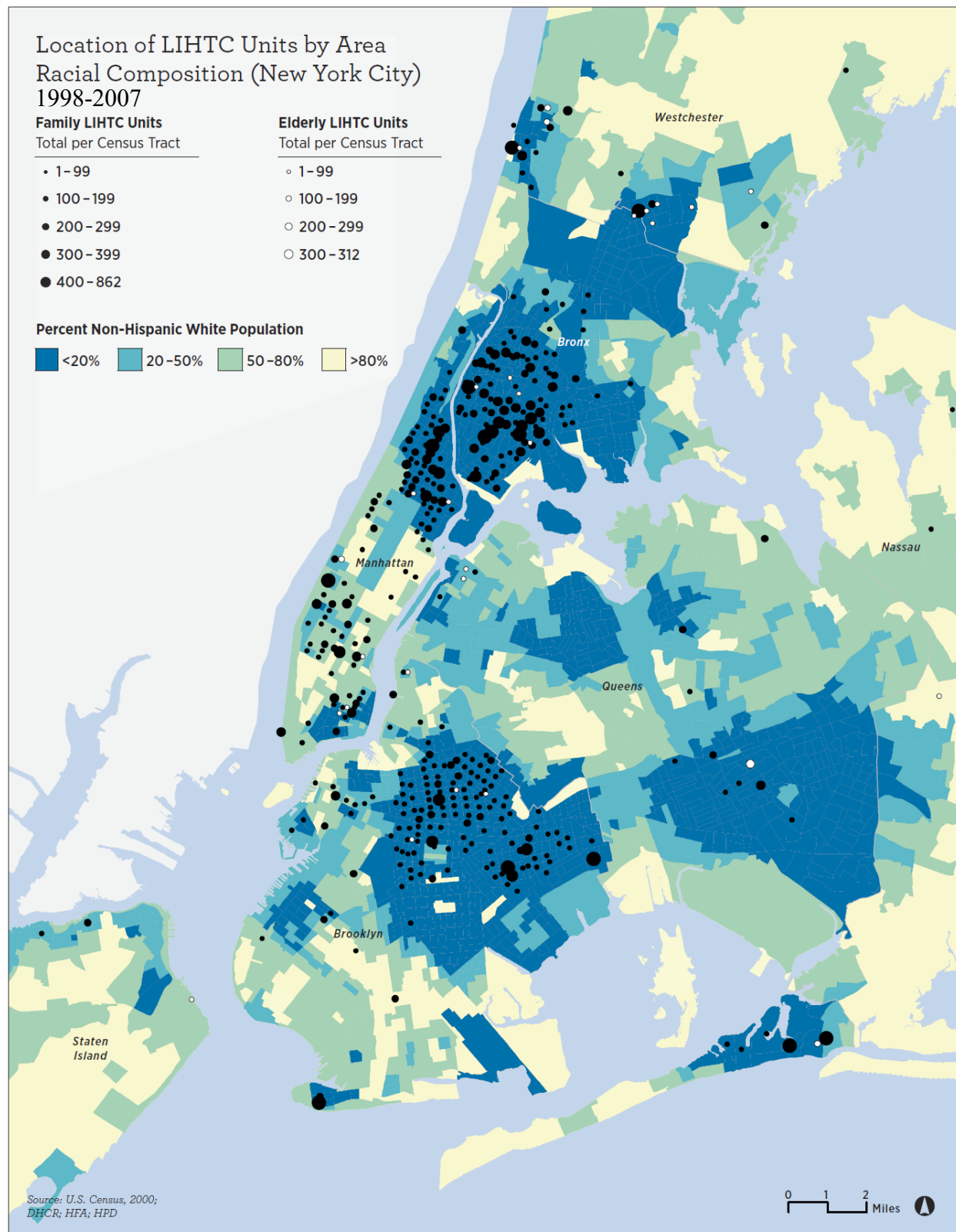


Fig. 4 Location of LIHTC Units Post-2007 by Racial Composition (Census 2010) & “Toughest-to-Build” Zip Codes

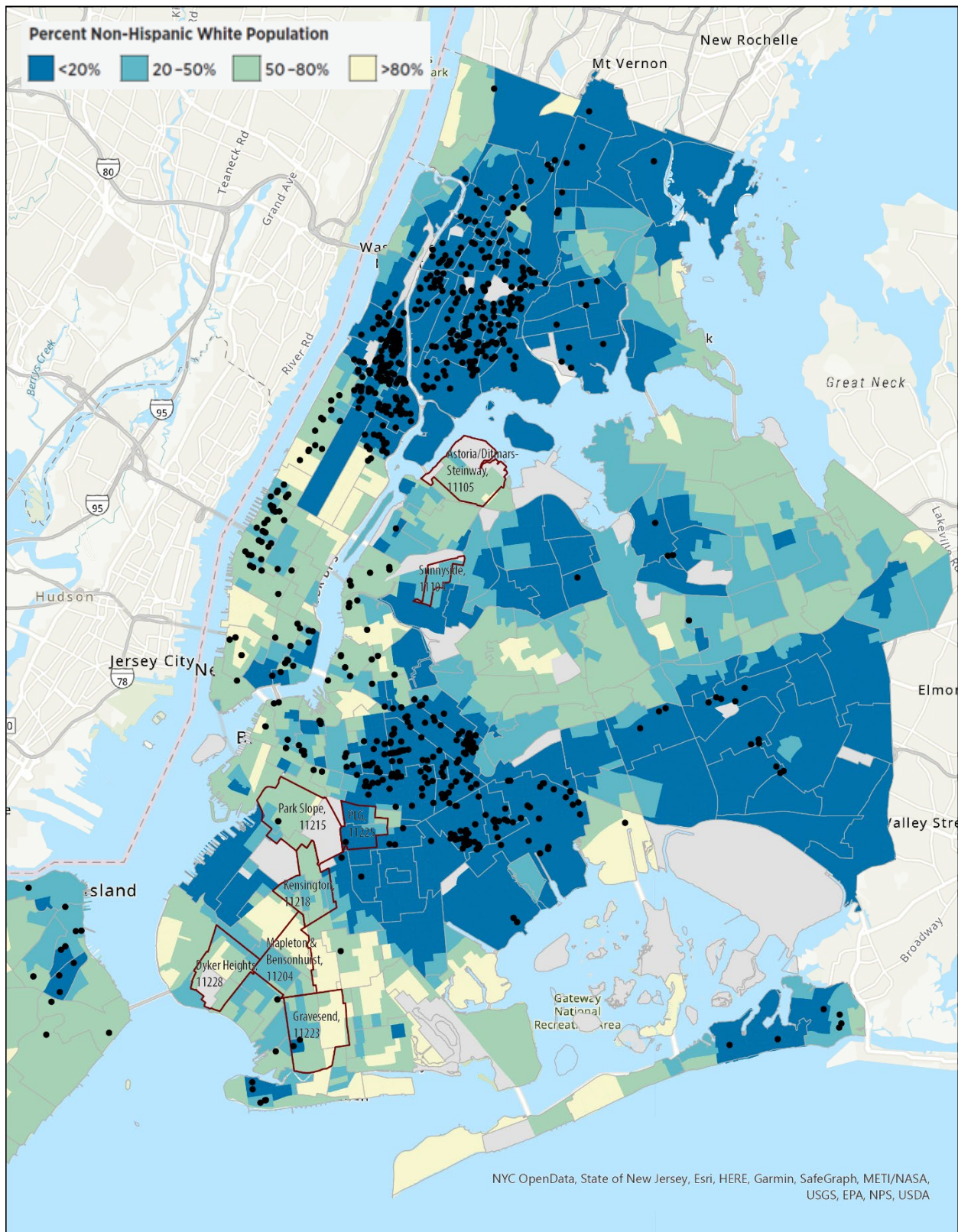


Fig. 5

Vacancy Rate	2015-2019	2010-2014	2005-2009
New York City	9.4%	9.2%	8.5%
Bronx	4.9%	7.3%	7.1%
Brooklyn	8.2%	8.6%	7.9%
Queens	9.4%	7.3%	6.7%
Manhattan	13.7%	13.2%	12.1%
Staten Island	7.8%	7.1%	6.4%

Source: ACS 5-Year Estimates

**Fig. 6 (from City of New York’s “Where We Live NYC: Fair Housing Together,” 2020)
plus “Toughest-to-Build” Zip Codes overlaid**

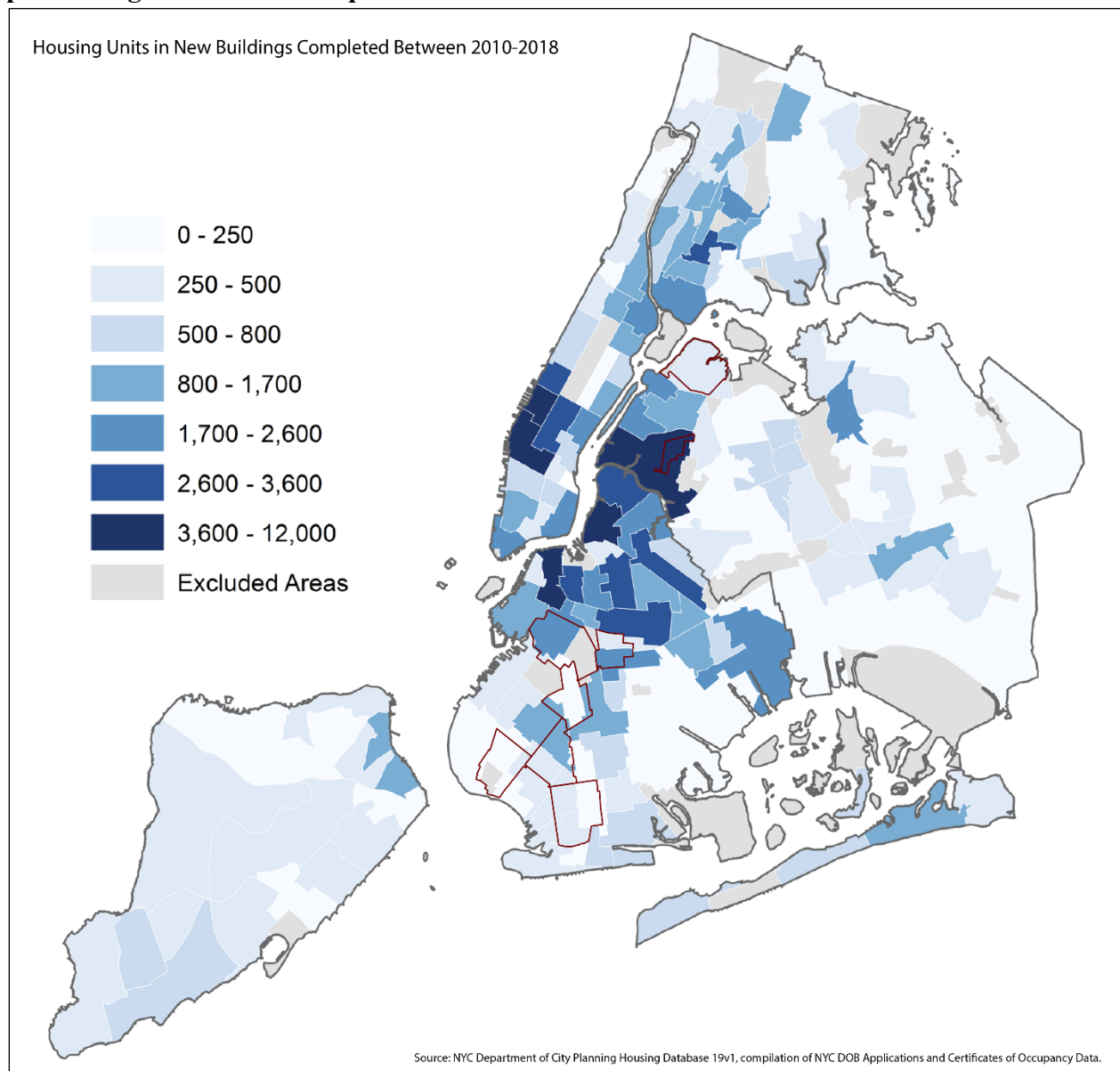


Fig. 7 Location of LIHTC Units Post-2007 by Current Lowest- and Lower-Density Residential Zones (R1, R2, R3)

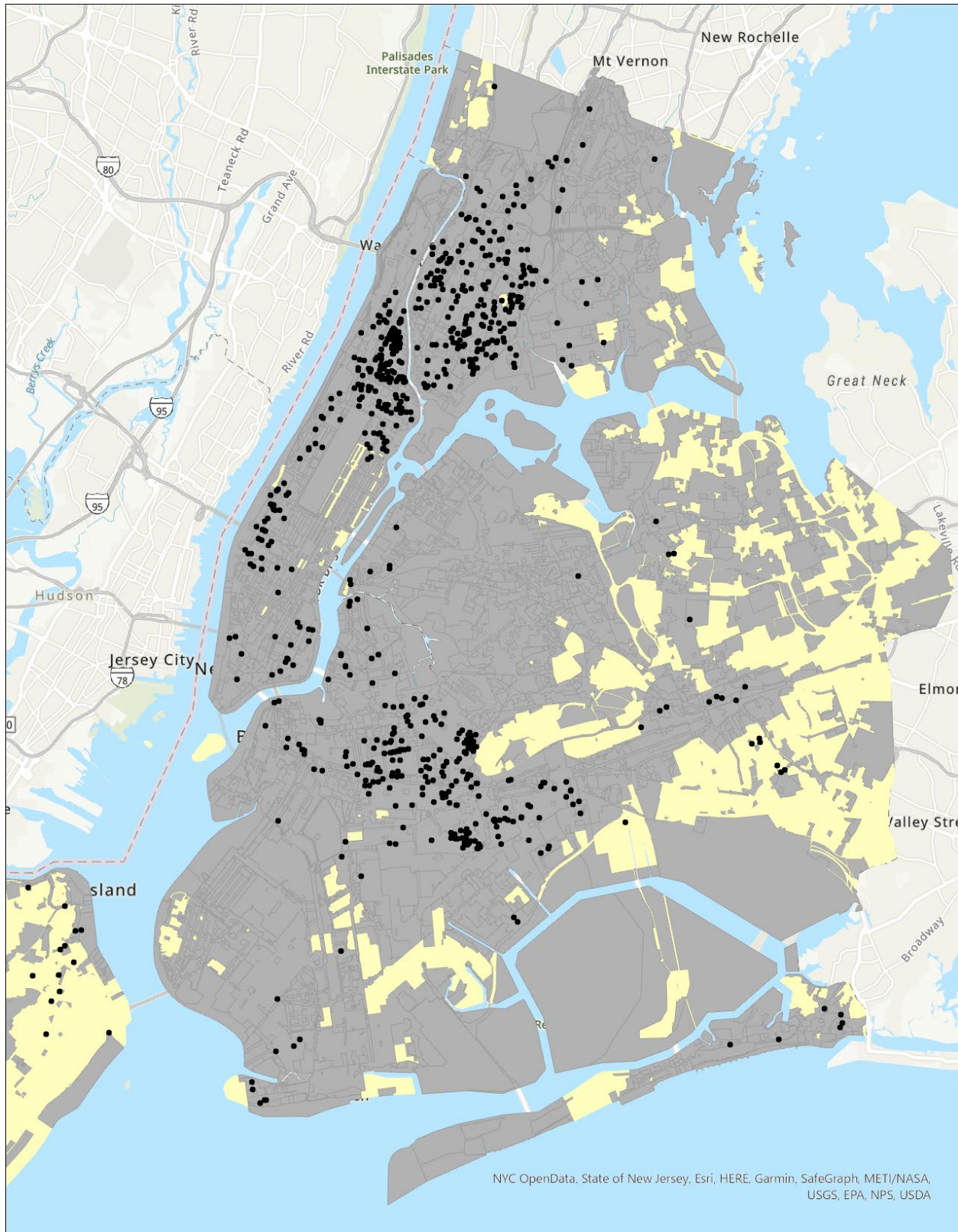


Fig. 8 Location of LIHTC Units Post-2007 by Estimated Median Household Income (ACS 2010-2014)

