

FLAWED FINDINGS
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Part II

How NYC dismisses
business displacement
and its impact on
communities

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ABOUT THIS REPORT

This report is a companion to Pratt Center's 2018 *Flawed Findings Part I: How NYC's Approach to Measuring Residential Displacement Risk Fails Communities*.



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The Pratt Center for Community Development works for a more just, equitable, and sustainable city for all New Yorkers by empowering communities to plan for and realize their futures. As part of Pratt Institute, Pratt Center leverages professional skills in planning, architecture, design and public policy to support community-based organizations in their efforts to attack the causes of poverty and inequality, and advance sustainable development.

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1 EXECUTIVE SUMMARY

Neighborhood businesses are critical community assets, providing essential services, employment and entrepreneurial opportunities, and creating a sense of place, familiarity and security. They are fundamental to our basic conception of community and the city’s urban fabric. Yet, New York City’s sole tool to analyze business displacement—the NYC City Environmental Quality Review (CEQR) and the associated CEQR Technical Manual¹—dismisses the intrinsic value businesses of all types contribute not only at the neighborhood level, but at the city level as well. Business turnover is an inevitable reality. While the periodic opening and closing of businesses is an inescapable fact of urban life, what communities find unacceptable is government intervention that leads to widespread displacement of companies that collectively form a core part of a community’s identity, provide essential goods and services to area residents and workers, or form an ecosystem that adds vitality to particular business sectors.

Following the release of Pratt Center’s 2018 companion report on residential displacement, we conducted a similar detailed evaluation of the way New York City evaluates indirect business displacement risk, defined in the Technical Manual as “the involuntary displacement of businesses or employees that results from a change in socioeconomic conditions created by the proposed project.”² The Technical Manual requires three lenses of analysis: a) general business displacement due to increased property values/rents or other disruptive trends; b) displacement due to retail market saturation; and c) displacement due to adverse effects on specific industries.

FINDINGS

An analysis of the Technical Manual's guidance on how to conduct the displacement review explains why there have been no positive impact determinations: the methodology is so flawed and full of loopholes that arriving at a positive finding is virtually impossible. We identified 8 overarching flaws that break down into 5 main categories.

These flaws lead to inadequately informed decision-making, which fail to correctly identify the true cost of government action or opportunities for mitigation: for decision-makers who do not have the thorough, robust or accurate analysis they require to adequately weigh in on rezonings; for local residents and businesses that would otherwise have mitigation measures to offset real displacement impacts; and for the city as a whole.

● Eroding the meaning of displacement

- 1. Because business relocation anywhere in the city is theoretically possible, displacement from a current location is not considered to be displacement.**
After the analysis is complete, a major loophole remains to avoid a declaration of impact: if a business can move to another location, then there is not a negative impact. This dismisses the very real impacts of moving a business including breaking ties with a community, finding and building out affordable space, tending to employees changing transportation needs, and reestablishing an identity in a new location, among other challenges.
- 2. All displacement is assumed to be legal.**
By assuming all displacement is legal, the analysis overlooks the likelihood of tenant harassment, which is a major challenge for businesses in many sectors, including manufacturing, and particularly for immigrant-owned businesses.

● Failing to require metrics or other substantiation for conclusions

- 3. EIS authors are given broad discretion in determining impact significance and which, if any, businesses are evaluated for potential displacement.** To determine impact, EIS authors are directed to decide whether businesses to be displaced provide products or services essential to the local economy, but do not include any guidance for the definitions of essential or local. A similar lack of guidance allows EIS authors to subjectively determine if a potentially displaced business has an important or substantial economic value to the city. If not, a finding of adverse impact can be avoided.

● Failing to regard the neighborhood by failing to describe the neighborhood

- 4. Local businesses' value and contributions as defining elements of neighborhood character are ignored.**
In previous iterations of the Technical Manual, the analysis had to include an evaluation on how business displacement would impact a neighborhood's character. Without this analysis, the impacts on neighborhood identity are overlooked.

5. The impacts of breaking up industry clusters are not adequately analyzed.

Similar type businesses tend to locate near each other, creating competitive advantages. The guidance for evaluating clusters is limited to those businesses that do not provide comparable goods or services, the exact opposite of a cluster, and as a result this important aspect of business location is neglected.

6. All customers are assumed to be the same, with little to no appreciation for how changes in price point or cultural preferences will impact businesses.

While the Technical Manual focuses on a company's ability to stay in a neighborhood in the face of rising real estate costs, it dismisses the notion that bringing a new residential population to the area with demographics different from the existing community will impact the viability of existing businesses.

- **Divorcing impacts on businesses from impact on workers and economic policy**

7. The impact indirect business displacement has on employees barely figures into the analysis.

The Technical Manual does not consider how a change in employment mix can impact wages when bringing in new business sectors to a community.

- **Ignoring potential disparate impacts by race or ethnicity**

8. The collective impact of these flaws masks disparate impacts on immigrants and people of color.

The Manual does not provide any guidance on analyzing impacts on immigrants and people of color, which ignores the added challenges these populations face, and overlooks the impact on specialized economies that cannot be easily replicated if dispersed.

RECOMMENDATIONS

A revised CEQR approach alone, which is limited to project-specific analysis, is not the sole answer to honestly addressing business risk and the effects major development has on communities, but it is one of several critical steps to tackling this urgent need. To reform CEQR and to advance more informed decision-making, Pratt Center recommends the following.

NYC should:

- 1. Convene a Task Force of technical and economic development experts and other stakeholders to revamp the CEQR Technical Manual's approach to evaluating business displacement.**
- 2. Conduct a citywide business existing conditions analysis and use it to inform economic development policy.**
- 3. Undertake and support planning for commercial and industrial districts as part of any substantial rezoning.**
- 4. Assess the success and value of the myriad of business assistance and relocation programs stemming from rezonings.**