

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON AGING

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HELD AT: Council Chambers - City Hall

B E F O R E: Margaret S. Chin
Chairperson

COUNCIL MEMBERS:

Karen Koslowitz
Paul A. Vallone
Mark S. Treyger
Deborah L. Rose
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A P P E A R A N C E S (CONTINUED)

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CHAIRPERSON CHIN: Good morning, and happy and healthy New Year to all. I'm Council Member Margaret Chin, Chair of the Council's Aging Committee. Social adult day care programs provide functionally impaired older adults with socialization, nutritious meals, structured activity, and other services in a community setting. Unlike senior centers, these programs are specifically designed to serve the most vulnerable in our senior population. They are an essential resource for not only for the individual participant, but for caregivers in need of respite from the crucial care they provide to their loved ones. As New York City's older population continues to grow significantly over the next few decades, a greater number of older adults and their families will look to benefit from social adult daycare programs. In recent years, the growing demand for social adult daycare services, SADC [sic], combined with the lack of oversight and regulation of these programs has created opportunities for dishonest providers to provide subpar services to older New Yorkers, regardless of whether or not they require social daycare programs in exchange for Medicaid reimbursement. These

providers through individuals from senior centers, threatening their ability to stay open in some cases. While the state took limited measure to address these issues, the Council continue to receive reports of businesses holding themselves out as social adult daycare without providing proper services. Instead of waiting on the state to act to prevent the further exploitation of seniors, the council enacted Local Law Nine last year. This legislation sought to bring transparency and accountability to those SADC [sic] programs that operate below the radar and often fail to follow the standards of reputable, direct, publicly-funded social adult daycare programs. We require all these programs to meet the standards and requirement established by the State Office for the Aging, and require Department for the Aging, DFTA, to adopt rules which was penalized provider who failed to comply. I would note that nearly a year after this bill became law, DFTA has not yet proposed any rules concerning social adult daycares. Additionally, we require all social adult daycares in the city to register with DFTA. As of December 30th of last year, 233 have done so. I look forward to hearing from DFTA about how they are enforcing both

the program standards and registration requirements of Local Law Nine. Even one provider giving seniors substandard and unsafe care is one too many.

Finally, we established the Office of the Social Adult Daycare ombudsperson to receive and investigate claims of violations. The ombudsperson's first report indicated only nine complaints were received between July and December of last year and no violations were issued. While it seems great that DFTA receive only a few complaints, I'm skeptical about the low number of complaints with over 230 registered social adult daycare centers throughout the city. I urge the Department to ensure that all program recipients are aware of their ability to hold social adult day care providers accountable for improper practices and to take an active role in making sure operators in New York City are complying with state standards. I would like to acknowledge the member of the Aging Committee who are with us today. We have Council Member Vallone and Council Member Koslowitz. Also I would like to thank the staff of the Aging Committee, Eric Bernstein [sp?], Committee Counsel, Brittany Moresi [sp?] and Doheni Sampora [sp?] from the Finance Division. Before we

begin, I will ask the Committee Council to swear in the Administration.

COMMITTEE COUNSEL: Can you raise your right hand, please? DO you affirm to tell the truth, the whole truth and nothing but the truth in your testimony before this committee and to respond honestly to Council Member questions?

CARYN RESNICK: I do. Good morning, Chairpersons Chin and Vallone and members of the Aging Committee. I'm Caryn Resnick, Deputy Commissioner for External Affairs at the New York City Department for the Aging. I'm joined today by Robin Fenley, who is our Assistant Commissioner for the Bureau of Healthcare Connections at DFTA. On behalf of Commissioner Carrado [sp?], I would like to thank you for this opportunity to testify about Local Law Nine of 2015 in relation to regulating social adult day care. Social adult daycare is a structured program that offers a protective setting to functionally impaired individuals with either cognitive or physical frailty. Generally, these programs provide socialization opportunities, structured activities, personal care, meals, supervision and monitoring. Additionally, SADC

services may include activities designed to maintain and improve daily living skills, transportation, caregiver assistance and case coordinate. Medical adult day programs by contrast are affiliated primarily with hospitals and nursing homes. They furnish social activities as well as more intensive health and therapeutic services like occupational and physical therapy. DFTA currently monitors nine SADC programs that are supported by Council discretionary funding. As you know, the environment for operating SADC programs has changed with the development of long term care service and finance models in New York's Medicaid program. This appears to have led to an increase in recent years in the opening of new SADC programs throughout the five boroughs, although more prominently in Brooklyn and Queens. Social adult daycare is a covered benefit under Medicaid Managed Long Term Care plans. As a result of mandated changes by the Governor's Medicaid Redesign Team, it was a massive influx of Medicaid beneficiaries into MLTC's, many of whom required personal care. Between 2011 and 2013, enrollment in Medicaid MLTC's in New York City has tripled from fewer than 30,000 enrollees to almost 90,000. To

serve this influx of new enrollees in a more cost effective manner, Medicaid MLTC plans expanded their capacity by contracting with comparable, but less expensive community-based long term care service and support services such as SADC programs. The large influx of clients eligible for this comparatively inexpensive service created an environment right for the proliferation of SADC programs in New York and unfortunately the potential for exploitation of a very frail population. It is reported that some are also using SADC's as recruiting sites for their managed care plans. Additional reports of inappropriate use of SADC's including incentivizing membership from neighboring senior centers, attracting seniors who are not functionally impaired and paying program attendees to recruit new participants. Initially, the MLTC programs were directly responsible for the oversight of SADC's. In October of 2013, the New York State Department of Health, DOH, issued a set of policy requirements for oversight of SADC programs in New York State that contract with MLTC programs. Because these new SADC providers are being paid for and contracted through the state Medicaid program, the state has primary

responsibility to provide oversight for ensuring the quality of the services provided and to protect the integrity of the tax payer funded program. The state has taken several actions in response to the reported problems in the proliferation of social adult daycare programs. The State Department of Health established a specific requirement that MLTC plans asses SADC entities for compliance with the minimum New York State Office for the Aging, NYSOFA requirements, prior to an MLTC plan entering into a contract for provision of service. DOH also issued a policy memo to remind MLTC plans that SADC entities must comply with the NYSOFA regulations s per contractual requirements. Additionally, MLTC plans were required to conduct initial and annual onsite visits of all SADC contractors in order to monitor compliance with the minimum requirements. MLTC's were prohibited from contracting with any entity that does not meet NYSOFA requirements. DOH also required MLTC plans to maintain documentation of compliance in their records for all related audit activities. DOH contracted with the Island Peer Review Organization, IPRO, to audit the compliance of MLTC plans with NYSOFA regulations. NYSOFA provided initial training to

IPRO staff on the use of the monitoring tool, which it developed to complement the standards. In May of 2015, DOH required all MLTC contracted SADC's in the state to certify with the New York State Office of the Medicaid Inspector General or OMIG. Last December, the New York State Office of the State Comptroller issued an audit report regarding state monitoring of social adult day service programs. The purpose of this audit was to determine whether state agencies, particularly like NYSOFA and DOH were effectively overseeing social adult day service programs to ensure that providers comply with regulations related to client eligibility, service plans, staffing, training, and physical safety. Local Law Nine of 2015, as you know, required SADC programs to register with the Department for the Aging, set forth civil penalties for violations of regulations regarding SADC programs and designated as the SADC ombudsperson. Last July, DFTA began accepting SADC registrations as required under Local Law Nine. As of December 30th, 233 individual sites have registered. Of the registered sites, 97 are in Brooklyn, 75 are in Queens, 29 in Manhattan, 22 in the Bronx, and 10 are in Staten Island. In addition,

DFTA has recently received the list of OMIG certified SADC programs in December, which we are in the process of reviewing. DFTA has developed an electronic system to receive comments, inquiries and complaints. Since July of 2015, nine complaints were received, and appended to this report and you received prior to this testimony the full report, so I'm not going to go through that at this time. Of the 233 registered SADC sites, 10 indicated on their registration that they were not compliant with the ADA, Americans with Disabilities Act. These sites, OMIG, DOH, NYSOFA, and their affiliated MLTC's [sic] received notifications requesting remediation response to DFTA within 10 days of receipt of the notice. Investigations of these complaints facilitated interagency collaborations with other city and state agencies, such as New York City Department of Health and Mental Hygiene, FDNY, DOH and OMIG. The coordination across agencies has been helpful in shaping our understanding of the responsibilities of other governmental entities in these cases, as well as informing an appropriate DFTA response. Although the numbers of complaints are low, inquiries received indicating interest in

1 establishing a social adult day program remain high
2 with 20 requests received since last July. We're
3 also working with the New York City Law Department,
4 the Office of Administrative trials and hearings and
5 other city agencies as we develop rules in relation
6 to Local Law Nine, which we expect to promulgate this
7 spring. Thank you again for this opportunity to
8 provide testimony on local nine, and I'm pleased to
9 answer any questions that you may have.
10

11 CHAIRPERSON CHIN: Thank you. I'm going
12 to start with a couple questions and then I'm going
13 to turn it over to my colleagues. In your testimony,
14 you're saying that there are a lot of demand for
15 opening up more social adult daycare, right? So, in
16 collecting the registrations and the information, do
17 you know approximately how many individuals are
18 receiving social adult daycare services?

19 CARYN RESNICK: No, we do not know
20 totally at this time.

21 CHAIRPERSON CHIN: I mean, within when the
22 agency, when the social adult daycare register, do
23 they tell you how many participants are in their
24 program or how many people they're serving?

25 CARYN RESNICK: No, they don't.

CHAIRPERSON CHIN: Can DFTA request that information, because that would give us an idea in terms of size and the space that they use, and will it give it an approximation of the total population?

CARYN RESNICK: Certainly that is something that we could request.

CHAIRPERSON CHIN: I hope that DFTA would do that so it will give us a better understanding of how many people are actually getting this service, because in your testimony you're talking about people qualifying for Medicaid through the program has tripled. So you have 90,000 people. So, how many-- out of that 90,000 how many are receiving the service? Because there are so many that popped up, and also within the report, can you also give us some understanding of how many of these social adult daycare opened recently in the last year or two or three, because it was a big number I mean.

CARYN RESNICK: So, a lot of this relates to point in time information. So, when we opened and required registration we don't have really the ability--we don't. We can't look back, so we only know at the point of registration how many were in existence. I mean, we believe that there were many

1 that opened that have since closed, and we can ask
2 about registrants, but again, that's constantly
3 churning. People come in and out of the program.
4 That's kind of the nature of the program, but it
5 could give us a ballpark as to what the numbers look
6 like.
7

8 CHAIRPERSON CHIN: Yeah, because it's
9 just two--I remember two years ago, or more than two
10 years now, before the legislation was passed, but we
11 send, you know, interns to visit some of these
12 programs. I mean, they gave us number openly, telling
13 me how many clients they have and also the
14 reimbursement rate, and when you calculate that,
15 there's a lot of tremendous amount of money that's
16 being spent on this service. So, I think it's really
17 good for us to have a better idea how many people are
18 receiving these programs, and also, I think when they
19 register them they tell you the date that they
20 started that they opened.

21 CARYN RESNICK: Yes, that--

22 CHAIRPERSON CHIN: [interposing] So, you
23 might be able to get a better idea.

24 CARYN RESNICK: Yes, that's on the
25 registration form.

CHAIRPERSON CHIN: Yeah, so can you look through the data of the 233 and then give us an idea of how many started in the last year, two years, so we can have a better idea of, like, when all these--

CARYN RESNICK: [interposing] Definitely.

CHAIRPERSON CHIN: When all these programs started. Thank you. Also, from the report, does it appear to DFTA that a lot of these programs are clustered in specific neighborhoods?

CARYN RESNICK: At this point we know that they're in particular boroughs. We will be looking to see specifically. I believe you wanted to know the, as you're saying, the areas and zip codes. We will look at that and get that information back to you.

CHAIRPERSON CHIN: Yeah, I think that also will be helpful, because I mean, I took a look at the list and just by looking at the address you can assume, I could assume, that a lot of them are clustered in predominantly immigrant neighborhoods. Like in China Town I have--

CARYN RESNICK: [interposing] Right.

CHAIRPERSON CHIN: more than a dozen. So, we just want to see--

CARYN RESNICK: [interposing] We're going to map them. We have not done that, but we have the ability to do that.

CHAIRPERSON CHIN: Yeah, I mean, I think--

CARYN RESNICK: [interposing] We can map that and share with you.

CHAIRPERSON CHIN: it'll be interesting to map to see what neighborhood are getting these services and what neighborhood are not getting these services. So, I think that's really important to look at. And also, in terms of the number of complaints, right, now does DFTA provide a poster in multiple languages that inform participants and their family that they can file a complaint about the social adult daycare program to DFTA?

CARYN RESNICK: That's in the plans. We are still working on our rules, and as we roll all of that out and have our violations in place we will begin to do much more publicity, but as of now we have posted it on the web and done internal to our network outreach about the ombuds [sic] program.

CHAIRPERSON CHIN: I think it's very important to have an official notification from DFTA that is sent to every single social adult daycare

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2 program that are in multiple languages or the
3 language of the clients that they serve to be posted
4 up in a public area where they can access that
5 information easily, that it is an official notice.
6 So when you do your site visit and they don't have it
7 up, then you know that they have a violation. What
8 do you think about that?

9 CARYN RESNICK: No, I agree. We will
10 definitely do outreach and publicity and send
11 notification.

12 CHAIRPERSON CHIN: Yeah, I mean, this is
13 more than outreach. It means that they have to have
14 an official posting of that, the information that
15 people can file a complaint, that there's an official
16 number or email website that they can go to, and it's
17 not just for the participant but also for their
18 family.

19 CARYN RESNICK: On our website is the
20 opportunity for people to register electronically and
21 included among the information about the regs and the
22 standards, etcetera, is also discussion of having the
23 ombuds [sic] posting listing. So, that is there.

24 CHAIRPERSON CHIN: Yeah, but I just want
25 to make sure that the posting is an official poster

1 from the Department of Aging, that they can't just
2 put up anything on their own and post it up. We want
3 something that is official that is in multiple
4 languages that people when they look at it they know
5 that it's from the Department for the Aging from the
6 city. And then, also when you go there and do your
7 site visit and it's not prominently posted, then you
8 get [sic] cited as a violation.

9
10 CARYN RESNICK: We will certainly take
11 that under consideration.

12 CHAIRPERSON CHIN: Okay, I hope so. I'm
13 going to pass it onto my colleague if they have any
14 questions before I continue. Karen?

15 COUNCIL MEMBER KOSLOWITZ: Good morning.

16 CARYN RESNICK: Good morning.

17 COUNCIL MEMBER KOSLOWITZ: I looked at
18 the list and I noticed in my area there are two. The
19 Forest Hill Community House I'm very familiar with
20 and they do a great, great job. I know people that
21 have put, you know, their spouses or children--their
22 parents in the program. there's one in 6405
23 Yellowstone that I don't know anything about, and I
24 was just wondering what the make-up of this adult
25 daycare is, like what it consists of, because we

1 have, you know, different multi-languages in my
2 community, and you know, how are they being served?
3 And in this particular area, you know, there is
4 Bulgarians [sic] that live in that community, and I'm
5 wondering how they're being related to, the people
6 that are the, you know, the adults that are there?

8 CARYN RESNICK: I can't respond to that.
9 You know, as the law is written and what our role is
10 is to go in upon complaint and investigate. So, we
11 are not making site visits to 233 programs, and that
12 really wouldn't be possible for us to do.

13 COUNCIL MEMBER KOSLOWITZ: Then what kind
14 of services if they're not--their needs aren't being
15 met, what do we have to do? Do we have to do
16 legislation in Albany to, you know--

17 CARYN RESNICK: [interposing] No, we're
18 assuming that the needs are being met unless there
19 are complaints to the contrary.

20 COUNCIL MEMBER KOSLOWITZ: Yeah, but some
21 of these people really aren't capable of complaining,
22 you know. They're dropped off and you know, adult
23 daycare is good for the person that's being, you
24 know, being accommodated there and for the person
25 that is able to get around it's also good for them.

1
2 And I know in many cases the Forest Hills Community
3 House, I know people that have been there and have
4 had relatives in there and they do a fantastic job
5 of, you know, relating to the people, you know, in
6 the best way they can, but I wonder, you know, like
7 for instance in this place that I am unfamiliar with,
8 you know, how are they and all the others throughout
9 the whole city how do they get, you know, the
10 services that they really need and understand? Is
11 there a way that--

12 CARYN RESNICK: [interposing] Well, again,
13 the programs are required, the Managed Long Term Care
14 Company contracts with one of the social day
15 providers and they are obligated to follow all of the
16 NYSOFA regulations, which is the way we oversee the
17 nine programs that are funded by the City Council.
18 So--

19 COUNCIL MEMBER KOSLOWITZ: [interposing]
20 Then how do we--

21 CARYN RESNICK: [interposing] obligated
22 to, you know, serve the clients in accordance with
23 the regs.

24 COUNCIL MEMBER KOSLOWITZ: But how do we
25 keep the people that don't register, that aren't on

1
2 this list? What could be done about them that they
3 have to register, that, you know--

4 CARYN RESNICK: [interposing] Well, the
5 law requires that every--

6 COUNCIL MEMBER KOSLOWITZ: [interposing]
7 people have to know about it.

8 CARYN RESNICK: operating in the City of
9 New York register. We are just completing our
10 registration process, and when our rules are in place
11 we will have the ability to fine people and give them
12 violations if they are not registered or if they are
13 not honoring and following the NYSOFA regulations.

14 COUNCIL MEMBER KOSLOWITZ: Right. I
15 mean--

16 CARYN RESNICK: [interposing] With
17 oversight, we can penalize.

18 COUNCIL MEMBER KOSLOWITZ: Nothing,
19 certainly not against, you know, the Department, but
20 I think that certain things have to be looked at to
21 see, you know, for better services and to accommodate
22 the people that attend these, you know, facilities
23 that their needs are being met in whatever, you know,
24 way they can. If we--you know, if it's in English
25 and you don't understand English and you speak

another language, then they're not getting services. They're just being dropped off and you know put down and nothing's going on. So, I think we have to, you know, go deeper into this and see, and I would--I'm going to familiarize myself with the 6405 Yellowstone Boulevard that's in my community to see, you know, maybe we could look at it and see what's going on. Thank you.

CHAIRPERSON CHIN: Thank you, Council Member. I think one other thing that we are looking to do is also to see, try to break down the list and see which are in which council's district and share with my colleagues and so that people are aware that these programs are in their district. But to follow up with Council Member Koslowitz's question, now DFTA right now you do regulate or you have oversight over the nine centers that are funded by the city?

CARYN RESNICK: Yes.

CHAIRPERSON CHIN: So maybe you can explain to us what do you do--in terms of your oversight of those nine centers, and based on that is that you have experience, right, reviewing? So, from the nine expanding it further out to include all of them, it'd doable, right?

CARYN RESNICK: No.

CHAIRPERSON CHIN: With funding.

CARYN RESNICK: It'd be very, very difficult.

CHAIRPERSON CHIN: Because you've got the expertise. You have the expertise, right? So, you can explain to us the procedure that you go through with the one that are funded by the city?

ROBIN FENLEY: Sure. Our expertise is in the programmatic area, and we conduct--

CHAIRPERSON CHIN: [interposing] Can you identify?

ROBIN FENLEY: Certainly. I'm Doctor Robin Fenley, the Assistant Commissioner for the Healthcare, Bureau of Healthcare Connections at the Department. We conduct annual visitation for each social adult day site, and with--it's a review of the files that are there, the clients, the program activities, etcetera, and depending on what the findings are it's a discussion with the program management team, and then determining if any remediation needs to happen and then following up accordingly to ensure that that remediation has happened.

CHAIRPERSON CHIN: So, what's the length of time that you allow to the center to come into compliance?

ROBIN FENLEY: It depends on the issue that is found to be in noncompliance. It could be-- the average is about a week. It could be a very simple turnaround as I'm saying a couple of days to something that could take a little bit longer which could be a couple of weeks. So, on average, figure a week.

CHAIRPERSON CHIN: So, with the new Social Adult Daycare that are registered--so with the new Social Adult Daycare that are registered, wouldn't it make sense for DFTA to pay them a visit?

CARYN RESNICK: The answer is no because we really don't have the oversight. We've had this conversation in the past. The funding mechanism is Medicaid. So, it's not Council discretionary funding. It's not city general operating funds, which is part of--and we don't have a direct contract with any of these entities. So, the law empowers us to go in and levy fines and penalties, but in the end it's the Office of the Medicaid Inspector General. There would be a Medicaid fraud issue if services

aren't being rendered. So, because it's part of the whole Medicaid reform system, it really places all of this outside of our realm of oversight, and--

COUNCIL MEMBER VALLONE: [interposing]
Wouldn't that--

CARYN RESNICK: [interposing] And the and of course is that--

COUNCIL MEMBER VALLONE: [interposing]
Wouldn't that depend--

CARYN RESNICK: if we were to be able to go pay a visit to these 233 sites, it would be very costly. I mean, now we oversee 260 senior centers and we have a very large bureau and staff that do that. Right now, Doctor Fenley and one Program Officer are our ombuds office and staff with no funding.

CHAIRPERSON CHIN: Well--

COUNCIL MEMBER VALLONE: [interposing]
Madam Chair, though--

CHAIRPERSON CHIN: [interposing] Yes.

COUNCIL MEMBER VALLONE: that would depend on an allegation of a violation. Not every complaint that's filed is Medicaid related.

CARYN RESNICK: True.

COUNCIL MEMBER VALLONE: And that's where I disagree. I feel there's a higher responsibility for the New York City residents for these programs on some of the--if you look at the ones that are here today, most of them aren't Medicaid based. They wanted, demanded funding for participant's attendance. Staff members saw it after being physically threatened by a participant. Program occluded space with fire hazards and structural problems. None of that has to do with Medicaid. So, for us as a city agency monitoring those that are being registered for the first time, to say we're not going to have a site visit is not going to cut it. Either we have to enact an automatic 90-day site visit after registration, we have to create some type of annual basis. Now, Doctor, you just said there's a one-year review that's post-violation or notice of some type of allegation.

ROBIN FENLEY: No, it's a routine. It's a routine scheduled annual assessment.

COUNCIL MEMBER VALLONE: But isn't that in contradiction to what the Deputy Commissioner just said, that there are no on-site?

CARYN RESNICK: No, of the nine City Council funded--

COUNCIL MEMBER VALLONE: [interposing] Of the nine.

CARYN RESNICK: SAD's program--

ROBIN FENLEY: [interposing] Yes.

CARYN RESNICK: those we do provide oversight.

COUNCIL MEMBER VALLONE: That's almost like some type of junior program, something based on that. We don't want to overwhelm, but I don't think we can look away either. I think there's some type of phase-in process that we have to--I mean, the tremendous numbers since our Chair enacted this great law, I mean if Council Member Chin didn't start this process through the heat that she took and the Committee took for doing it, and I think it was very important. These are the types of bills and laws that show that agencies have to do a little bit more, but then it becomes a budgetary issue and staffing issue, and we want to be there. This is the time of year. So, I think these are the type of things while we're fighting for funding. I think you've got a report in your hands that we can go straight to the

Administration and say here's proof that we need to do more. It's not like we need the report. It's right here. I was also kind of hoping that we would have some proposed violations or regulations to go over. You're saying spring? I mean, I always like to have those before the hearing, because then we see the three, four months after. We have to schedule a whole another hearing, and that takes another year to get back to the same issue we're talking about today. Is there anything that we can talk about today as proposed violations or civil penalties that may have been discussed? I know it's just possibilities, but it's nice to have some and maybe we can expand on that if--

CARYN RESNICK: [interposing] I'm going to introduce you to Monica Parikh who's our Deputy General Counsel, and--

COUNCIL MEMBER VALLONE: [interposing]
Good morning.

CARYN RESNICK: involved in the rule-making process.

COUNCIL MEMBER VALLONE: Happy New Year.

MONICA PARIKH: Happy new year to you.

COUNCIL MEMBER VALLONE: It's the never ending happy new year.

MONICA PARIKH: So, I've actually been in the process of drafting the rules. We've been working with the Law Department and looking at other city agencies' rules to see how we can most effectively do this. We've been meeting internally in committee to figure out how we can incentivize these programs to come into compliance with the NYSOFA standards, and what we've come up with as a group is that we're probably going to levy the heaviest fines possible as allowable by law because that will hopefully send a message throughout the community that this is serious business. Of course, you know, as Ms. Resnick and Doctor Fenley both stated, our hands are tied a little bit. We don't have direct contracts with these programs. We can make referrals to other city agencies when there is things that we go on site in response to a complaint and see that are in violation, but you know, absent putting it through a process of giving a notice of violation, going through a hearing either internally or externally, you know, it's difficult for us to work as quickly as we want to because these are state

standards, not city standards that the programs are violating, and these are Medicaid which are state rules, not city rules that are being violated.

COUNCIL MEMBER VALLONE: If the Building Department were to go in and on their own conduct an inspection and find out that there's serious Building Department violations on a site, is there any coordination with DFTA as to that site--

MONICA PARIKH: [interposing] Yes.

COUNCIL MEMBER VALLONE: And the violations that they found?

MONICA PARIKH: Yes. So, our team has been actually meeting. We've already had a meeting with the Fire Department. We have a contact at DOB. We have been trying as much as we can to coordinate with city agencies to get them on board to understand the legislation and how it's going to impact these centers and to get them to respond as quickly as possible to violations.

COUNCIL MEMBER VALLONE: Is that voluntary or are they mandated to share that information?

MONICA PARIKH: Well, you know, obviously these agencies--

COUNCIL MEMBER VALLONE: [interposing]
That's a great idea, I think--

MONICA PARIKH: [interposing] have
jurisdiction.

COUNCIL MEMBER VALLONE: to give you a
great handle as to what's going on on these sites
besides especially since you're not doing the on-site
evaluation. You have other city inspectors or
agencies getting in there. At least you can get some
data as to what's going on.

MONICA PARIKH: Well, most of those city
agencies would have jurisdiction for any building
that's already in the city. So, that is part of
their jurisdiction, but some of these issues, you
know, if we find out a center doesn't have the proper
certificate of occupancy. The only thing that we can
do because we aren't--if we had a direct contract
with them, we could immediately, you know, have a
discussion with them to either terminate the contract
or to bring them into compliance, but without a
contractual relationship with them, it's very
difficult for us to do anything except make a
referral to DOB and ask them to do an inspection of
that facility.

COUNCIL MEMBER VALLONE: Well, but that's the critical step. I mean, as long as that's--

MONICA PARIKH: [interposing] It is.

COUNCIL MEMBER VALLONE: happening, I mean, I wouldn't put the onus on you for a lack of CFO wouldn't go to DFTA, but I think if it came to your attention that there's a lack of C--and I'm sure that's happening in all of these pop-up sites if they don't have the proper permits of C of O, and sticking, you know--in a building that's not set for it, you get these type of situations whether they're ADA compliant, whether their sprinkler system's not working, or their food's not standards, numerous--and the staffing issues. So, a lot of that's going to fall outside of DFTA, but I think as the Chair and this Committee is extremely concerned about are our seniors and our citizens that are going and don't know what their rights are when they step in, don't know what--if someone asks them for things that they're not supposed to ask for. It's almost like they need their own bill of rights as to, you know, some type of knowledge. I mean, everyone else gets a bill of rights, landlords, tenants, everything else that happens on the planet. Why not seniors get

something handed to them when they come in, that this is what you're entitled to here?

MONICA PARIKH: Right.

COUNCIL MEMBER VALLONE: If anything happens beyond that, that might be something we can create some type of handout, some type of notice that goes on the wall. So I feel a little more comfortable with my seniors going into places that are "popping up," you know as compared to my senior centers that are here providing-- my regular contractors that are providing these services that have the same regulations. That might be something we could do.

MONICA PARIKH: I mean, again, I would just say that, you know, obviously at our agency we're as concerned about the health and welfare of seniors as all of you are, you know? We--

COUNCIL MEMBER VALLONE: [interposing]
Yeah, but we need to get in there, that's the problem. So if we're not getting into these places--

MONICA PARIKH: [interposing] Well--

COUNCIL MEMBER VALLONE: saying it's state and Medicaid issues, then I don't want to wash our hands of it. We got to find another way in and

we have to find another way to protect if we're not going to have a site visit.

MONICA PARIKH: I mean, I would agree with you. We are also trying to create relationships with the Office of Medicaid Inspector General so that we can work with them that if we go on site and there are numerous violations, that that is actually the more appropriate conduit to do an immediate shut-down of a dangerous facility or to remediate when there have been violations of NYSOFA standards.

COUNCIL MEMBER VALLONE: And I think, if I may, there should be a little bit of a grace period. I'm big on maybe folks just don't know as they start a new business and maybe they're just not--you know, it's the repeat offenders I always like to go after. I think those are the ones in any realm in the city that I have no patience for, that they knowingly have multiple violations for the same thing, have been in business for years and is still doing the same thing. Those are the ones that we need to address while you're looking at penalties and violations to "throw the book at." It's not the ones that are just doing the right thing for the first time and registering their new site and now maybe didn't know, but then

1 after your visit and evaluation, Doctor, I think
2 that'd be a perfect--like, you've already had the
3 visit. You've already given them the advice and
4 they're stilling coming at the same thing. To me,
5 that's the ones that's got to go.

7 ROBIN FENLEY: To that point, we're
8 actually--we're developing procedures to respond to
9 all of this, and that is one of them, to develop a
10 tracking system to identify. So we've had these nine
11 complaints, you know, who are these organizations,
12 and let's, you know, keep an eye on them.

13 COUNCIL MEMBER VALLONE: See, but that
14 works with the nine that have the city contracts.
15 That goes back to Caryn's point.

16 CARYN RESNICK: She's referring to the
17 complaints that we received--

18 ROBIN FENLEY: [interposing] Yeah, sorry,
19 yeah.

20 CARYN RESNICK: about--

21 COUNCIL MEMBER VALLONE: [interposing]
22 About these?

23 CARYN RESNICK: nine programs outside of
24 our DFTA funding.

1
2 COUNCIL MEMBER VALLONE: I think we're
3 close. I think, Madam Chair, I think there's
4 something that we can probably work on to expanding
5 the protections that are there for city funding and
6 trying to work our way to put some additional
7 protections and notices and some basic information
8 into our senior's hands as they go in, some type of
9 site. Now, of the 200 plus that have registered, do
10 we have a guestimate as to how many still haven't?
11 Is there anything that like--

12 CARYN RESNICK: [interposing] No.

13 ROBIN FENLEY: No, not really. No, we had
14 received the list from OMIG as Ms. Resnick had
15 referred to earlier, and we're trying to get that in
16 some sort of order to look to see who's registered
17 versus who's certified, but you have to know that
18 there's an unknown universe of--potential unknown
19 universe of Social Adult Day programs if they are not
20 contracted with DFTA, nor are they contracted with
21 MLTC's. So, we do the best that we can with the
22 information that we have.

23 COUNCIL MEMBER VALLONE: So, if they're
24 not contract what about through state with New York
25 State?

1
2 CARYN RESNICK: We're reconciling the
3 state required that they certify with the state.
4 We've just received that list and we are reconciling
5 our list to that list.

6 COUNCIL MEMBER VALLONE: That was where I
7 was going.

8 CARYN RESNICK: But then there are
9 potentially outliers who are not contracted with
10 anybody who could private.

11 CHAIRPERSON CHIN: And those are the ones
12 that we can send over as a complaint to DFTA. But I
13 think with all the information is that what's
14 bothering me, I think, we had a lot of discussion
15 when we were trying to get the legislation passed was
16 that what agency should have oversight. I mean, when
17 these Social Adult Daycare opened, they are a
18 business, right? They have to have something
19 incorporated or whatever to start. So, whether
20 Department of--maybe that's where you can talk with
21 some of your colleagues, whether Department of
22 Consumer Affairs can help. I mean, these people are
23 operating a business, right? So, are people--are
24 their consumers being taken care of? Are they being
25 cheated? Because some of the complaint talking about

1 people, you know, giving incentives and offering
2 money, I mean, all these rumors are flying around out
3 there and there's a lot of those. Something is not
4 right that's going on in a lot of these programs.
5 So, the city needs to figure out way of really making
6 sure our seniors are protected. Now, the other issue
7 is that with senior center, the provider tells me the
8 Department of Health comes and inspects the kitchen
9 of the senior center. Now, these Social Adult
10 Daycares are supposedly are offering meals to the
11 seniors. Who's checking on their kitchen whether
12 they are complying, you know, with the rules? Why
13 couldn't the Health Department go in there and do the
14 inspection like they do in every single restaurant in
15 the city, right? So, I think that with the
16 interagency there's got to be some ways of working
17 together and divide up the role and to make sure that
18 our seniors are protected, because right now,
19 nobody's inspecting those kitchens.

21 CARYN RESNICK: I think a large majority
22 are actually not cooking on-site, but they bring
23 meals in.

24 CHAIRPERSON CHIN: Yeah, but they bring
25 the food in. They heat it up or whatever.

1
2 MONICA PARIKH: We actually had
3 discussion with the Department of Health about that
4 very issue, and a lot of the food services
5 subcontracted out, but where they are cooking on
6 site, it's every issue you've brought up. We
7 actually have been liaisoning [sic] with those
8 agencies to get them first to notify them of what the
9 Local Law demands, and then try to bring them into
10 partnership to get contacts so that not only are we
11 making referrals to appropriate city agencies, but we
12 can also close the case on our end to know what
13 happened post the inspection. So, what you're
14 concerned about, we are having those conversations on
15 our end.

16 CHAIRPERSON CHIN: Yeah, I wish--I mean, I
17 hope that you will keep us informed, I mean, not just
18 at hearings, but just let us know in terms of the
19 progress and how we can be helpful. I think with the
20 interagency working together, and that's what we
21 wanted in the beginning, to really make sure that we
22 provide the oversight and the protections for our
23 seniors. And in terms of generating the complaint, I
24 think a lot of that will also have to be public
25 outreach because we are hearing a lot of complaint,

and the public needs to know, because in a lot of these centers that they're not. They're not providing the services to the seniors who should be getting it. A lot of healthy or seniors that can manage on their own are going to these Social Adult Daycare, and that's not right. They should be going to our regular senior center, but they are being pulled [sic] and the complaints that I've heard from them when I'm walking down the street or they come to my office is that they are also being forced to take homecare services, and if they don't take homecare services then they cannot stay in the program, and that is just not right, and we've sent those complaints up to the state. So, we just want to make sure that our tax payer's dollars, Medicaid dollars, are not being wasted and that the seniors are being protected. So, I think we should really continue the dialogue and see how we can best enforce the law, and if we need to amend it to include some further oversight like site visits or whatever, we should have some discussion about that to see how we can make that happen. Because right now, I can say we have nine programs out there that are good because they're getting the supervision. They're getting the

oversight, and it's because we provide funding that they have to go through all this, and they're providing good programs, but it's the other 220 something that I'm not sure of that we need oversight for. So, we're also joined by Council Member Deutsch and Council Member Treyger. Do you have any questions before we continue? No? Okay. Now, this Administration thinks that the state should license Social Adult Daycare programs to provide greater oversight?

CARYN RESNICK: We don't have a position at this time. It's been discussed. I know within the community, and you'll hear from them shortly, I don't think there's ever been a consensus that they should be licensed, but I'm not really sure what the current position is, and we have not taken a position as the Administration.

CHAIRPERSON CHIN: Yeah, we will ask the provider that also, because you know, we license daycare that take care of our children. so why aren't we doing better oversight of these Social Adult Daycare that take care of our seniors. I mean, they call themselves daycare, right? So, it just--it doesn't make sense that we're not doing that, and we

1 just want to make sure that we protect our seniors.
2 Now, is DFTA working to provide the managed, long
3 term managed care that--do you work with the MLTC's
4 to make sure that they understand that their
5 responsibility--
6

7 CARYN RESNICK: [interposing] We reached
8 out to the--yes. So, we've reached out to them in
9 order to let everybody know about registration and
10 that was the first step, and ultimately they, when we
11 find--have findings that will be reported to the
12 MLTC's that have a contractual relationship with the
13 SADC. They are actually the ones that have the
14 oversight and the ability to end a contract. So, as
15 we find violations that will all be reported to the
16 MLTC's, and as we move forward we'll be developing
17 stronger relationships with them.

18 CHAIRPERSON CHIN: I mean, one of the
19 things that I'm not comfortable with is that I still
20 feel that there is some inherent conflict of
21 interest, because the MLTC they need client, and I
22 think in your testimony back in September 2014 as you
23 talked about some report that ML--Medicaid MLTC were
24 using the Social Adult Daycare as recruiting sites
25 for their plans. And I've heard from providers in

1 the community that providers of good Social Adult
2 Daycare, the one that the city support, you know,
3 that the Council support, that they have a tough time
4 getting clients, and the MLTC are not referring
5 clients to them, because they are actually the one
6 that's taking care of the frail elderly, and
7 meanwhile, the other Social Adult Daycare that I
8 visited, I mean, the seniors that go there are
9 healthy, they're dancing, they're playing pool,
10 they're playing ping pong, and that's not--that's not
11 the population that should be going to those
12 programs.

13
14 CARYN RESNICK: I am not in disagreement.

15 CHAIRPERSON CHIN: Right?

16 CARYN RESNICK: We have a meeting
17 scheduled or we are in the process of scheduling a
18 meeting with OMIG. So we are sort of still in the
19 infancy of developing a closer working relationship
20 with them, and hopefully that will yield, you know,
21 all of us up until now. We're just sort of sending
22 complaints into cyberspace and not really knowing
23 what happens on the other end.

24 CHAIRPERSON CHIN: Yeah, and we don't get
25 any answer.

1
2 CARYN RESNICK: So, hopefully as we forge
3 that relationship we'll have a much better ability to
4 know exactly what happens when we uncover suspected
5 fraud or abuse.

6 CHAIRPERSON CHIN: Okay. Council Member
7 Treyger?

8 COUNCIL MEMBER TREYGER: I want to thank
9 the Chair for being very diligent and persistent on
10 this very important issue. I think that this is an
11 issue that certainly addresses, I think, the safety
12 and quality of programing and also I think endangers
13 existing programs run by great organizations because
14 there's a lot going on here and the government needs
15 to really keep up with these Social Adult Daycare
16 centers. The question I have is, first, let's look
17 at the issue of liability. If something occurs in
18 one of these centers, who is liable?

19 CARYN RESNICK: [off mic]

20 MONICA PARIKH: I mean, I think it would
21 be a combination of the MLTC's, the--whoever the
22 corporation that the Social Adult Day formed is
23 ultimately liable, but the MLTC who made the
24 referral, and you know--
25

COUNCIL MEMBER TREYGER: So, does the government have any liability if something occurs in one of these centers or places?

MONICA PARIKH: City government?

COUNCIL MEMBER TREYGER: Any form of government, city, state, federal. Is there any liability that the government has if something occurs, if an incident occurs in one of these sites?

MONICA PARIKH: You're talking about legal liability or public relations liability?

COUNCIL MEMBER TREYGER: Both.

MONICA PARIKH: I would say they obviously have public relations liability. Legal liability I can't speak on. I don't think so.

COUNCIL MEMBER TREYGER: So, the government has no liability if an incident occurs, if someone let's say falls and trips or if somebody--if there's--if someone gets sick there and there was some negligence, there's no liability from the government's part?

MONICA PARIKH: Even with our contracted providers, if somebody falls and trips, I mean, they can initiate a suit, but that's a tort, but I don't--

I mean, I don't know if you mean like large scale fire, egress and ingress, or you mean like a--

COUNCIL MEMBER TREYGER: [interposing]

Well, I mean, I'll say this. I mean, for example, DFTA does a very aggressive job in making sure that the centers that DFTA has a contract with, makes sure that there are very strict safety rules that, you know, with regards to egress and all that. I'm well aware of the issues in my district about that, but how do we know that these places are in compliance and there's no liability on the part of the government?

MONICA PARIKH: I mean, again, if we're going to talk about legal liability, the legal liability is because there is a contract with the city, but even with the centers that we contract with personally, we don't have necessarily responsibility if someone falls and trips inside of a center. And if one of those contract providers was not obeying NYSOFA standards because of the contractual relationship, we could take action to terminate the contract, but we don't have contracts with these other centers.

CARYN RESNICK: Right, that's so--

MONICA PARIKH: [interposing] There's no legal relationship between the city and the center.

CARYN RESNICK: That's what makes our oversight role so difficult, because while we will have the ability to levy fines, in the end we can't pull the plug. We can call in, you know, fire and health and safety. They can get fined and, you know, if there are those kinds of--

COUNCIL MEMBER TREYGER: [interposing] The reason why I find this hard to, you know, really accept that there's no liability is that the way, if I'm following this correctly, if the way they're getting funding is through Medicaid or some sort of reimbursements. So, tax payers are on the hook. Tax payers are paying for this, and you're saying there's no liability whatsoever. I mean, there's something wrong here.

MONICA PARIKH: But--

COUNCIL MEMBER TREYGER: [interposing] We the public are paying for them to do this, and they are looking for every single possible way to circumvent any form of sensible regulation or sensible safety rules that DFTA itself will enforce with DFTA contract places, and why does DFTA set

1
2 these rules, because city money and we're dealing
3 with government tax payer money. But I have a
4 problem that where these are centers that are
5 supposedly having our seniors go for some sort of
6 programming and we have no sense of any types of
7 safety or sensible rules being followed or being
8 complied with and tax payers are paying for it.
9 They're on the hook for it. I mean, think about that.

10 CARYN RESNICK: So, the state has set a
11 set of standards and regulations, the NYSOFA
12 guidelines, and the MLTC and the SADC that they
13 contract with are obliged to follow those regs, and
14 so in that way, I mean, they are liable to the state
15 in order to get Medicaid funding to follow those
16 rules and regulations, and if they're out of
17 compliance, then they should be out of business.

18 COUNCIL MEMBER TREYGER: But--

19 MONICA PARIKH: [interposing] So, they do--
20 -sorry, just to be clear. Each SADC even if they're
21 not funded by the city, they have to certify with the
22 Office of the Medicaid Inspector General that they
23 are in compliance with state NYSOFA standards.

24 COUNCIL MEMBER TREYGER: But it's self-
25 certification, is that correct?

MONICA PARIKH: It's self-certification.

CARYN RESNICK: Yes.

MONICA PARIKH: SO, the most that Local Law Nine allows us to do is if we would get a complaint and we would see that they were out of compliance, we don't have the legal authority to basically shut them down because they're not obeying state regulations. They're not city regulations.

COUNCIL MEMBER TREYGER: But you do have the authority to contact the State Attorney General?

MONICA PARIKH: Absolutely.

CARYN RESNICK: Yeah, absolutely.

COUNCIL MEMBER TREYGER: You have the authority to contract--

MONICA PARIKH: [interposing] Yes.

COUNCIL MEMBER TREYGER: the Inspector General.

MONICA PARIKH: Correct.

COUNCIL MEMBER TREYGER: And I believe a complaint from you would carry much more weight than a random--

CARYN RESNICK: [interposing] Yes.

MONICA PARIKH: Correct.

COUNCIL MEMBER TREYGER: 311 person call.

MONICA PARIKH: Correct.

COUNCIL MEMBER TREYGER: Is that correct?

MONICA PARIKH: And that's why we are scheduling meetings with OMIG to develop those relationship because we agree with you 100 percent, but the responsibility lies with OMIG, not with the city.

COUNCIL MEMBER TREYGER: Now, how many complaints has DFTA filed with the state with regards to any of these centers?

CARYN RESNICK: Since the law is enacted, or in general?

COUNCIL MEMBER TREYGER: Well, let's say in the past year.

ROBIN FENLEY: It's hard to give you an exact number, but certainly of these nine examples there were two that were clearly related to Medicaid issues that they, you know, OMIG did get a report on it and State DOH, and prior to Local Law Nine, just about all of them went up, all the complaints that we received went up to the state whether it was DOH and/or--yeah, actually State DOH.

COUNCIL MEMBER TREYGER: But when you say it goes up--

CARYN RESNICK: [interposing] I believe that we make all of our complaints get referred to the state DOH and OMIG.

COUNCIL MEMBER TREYGER: But when you say it goes up to the state, what does that mean? Was there--

CARYN RESNICK: [interposing] There's a contact person who is there to take complaints about Social Adult Day.

COUNCIL MEMBER TREYGER: No, but the question is, are these written? Are these written communications--

CARYN RESNICK: [interposing] Yeah.

COUNCIL MEMBER TREYGER: of something that we can review as well.

CARYN RESNICK: Yes.

COUNCIL MEMBER TREYGER: And was there a response in writing back from the state with regards to these complaints?

CARYN RESNICK: WE have not gotten follow up responses as to what the--

COUNCIL MEMBER TREYGER: [interposing] And to be clear, when you say the state, who in the state specifically? Because I think accountability--

CARYN RESNICK: State Department of Health and the Office of the Medicaid Inspector General.

COUNCIL MEMBER TREYGER: And who oversees the Office of Medicaid Inspector General? Who does that person report to?

CARYN RESNICK: It's the Governor.

COUNCIL MEMBER TREYGER: The Governor directly appoints that person, or is that person given the power by the AG? Because the AG is separate from the governor, and I'm curious as to why we haven't complained to him, or have we complained to him?

ROBIN FENLEY: It's really just been the Office of Medicaid Inspector General that has been sort of on our radar because of the Medicaid dollars associated with the SADC's.

COUNCIL MEMBER TREYGER: I mean, I believe the New York AG would be willing to accept these types of complaints. You know, a big part of his responsibility is also ensuring that rules of the state are being complied in addition to the state agency that oversees seniors, but I think that we need to submit written complaints and written reports

to the AG's office, which monitors all nonprofits or I guess all types of activity that way, but because I don't think we have a clear line of accountability here. I think that we're just kind of just walking in the dark, and meanwhile, we have no sense of what's happening at these centers because everyone is just pointing their finger saying, "Well, it's not us. It's them." And I just think that we at minimum I think that we do have liability in my opinion because tax payer money is being used for programs that we have no idea are benefitting or helping or potentially harming our senior citizens. There's already been allegations in some reports of tax payer fraud, of fraud of these funds, and when we hear about the cost of healthcare going up each year, this contributes to that. So, I just think that we need to--Chair, I think we need to delve further into this issue of accountability of who do we complain to and where is the correspondence, because we're talking about the health and safety of our senior citizens, and in addition, if they're again hurting programs that are following the rules that are doing all that they can to serve our seniors, I'd like for us to

continue having this very important conversation.

Thank you.

CHAIRPERSON CHIN: Thank you. I just want to follow up. So, the complaints that DFTA have forwarded to the state and to OMIG, and you have-- have you gotten and response back on the complaints that you have filed with them?

CARYN RESNICK: We've never gotten a response as to the outcome of the complaint.

CHAIRPERSON CHIN: That's--then that's a big problem, because the same thing. We forwarded complaints to them and we haven't heard. So, I think with your meeting with OMIG, that needs to come up, and I think maybe on the Council side, we would have meetings with them also and with the Attorney General to see how we can assure that there is oversight. I mean, it doesn't make sense. You file a complaint up and they don't tell you what happened, that's unacceptable. So we really need to pursue them because somebody has to be the oversight, because otherwise no matter what, we don't have any teeth to the law. I mean, and why would these Social Adult Daycare bother with us anyway? They can't do anything. So, that's why more and more of them are

opening up and they're making big business out of it, and that's not right. So, I think we really need to have oversight, and we need to, you know, go to the Governor and say, "Hey, you know, you got to be accountable to this." We will. So, let's work together and make sure these agencies are paying attention and working with us.

COUNCIL MEMBER TREYGER: Or Chair, respectfully, if we, you know, the Governor or even the US Attorney's Office as well who's been very active in New York.

CHAIRPERSON CHIN: We just want to make sure our seniors are protected and tax payer dollars are--

CARYN RESNICK: [interposing] We are in complete--

CHAIRPERSON CHIN: protected.

CARYN RESNICK: agreement.

CHAIRPERSON CHIN: Yeah. Council Member Deutsch, you have any questions? Okay. Okay, so we can let you go, but we look forward to continuing talking to you as you develop the rules and we can be helpful in some ways. We should just contact you directly, Caryn?

CARYN RESNICK: Doctor Fenley is actually our ombudsperson.

CHAIRPERSON CHIN: Oh, okay. So, Doctor Fenley, can we set up a meeting with you and really to go through in more detail how we can work together to really promulgate some rules that can help us strengthen the oversight, okay? Thank you.

CARYN RESNICK: Thank you very much.

CHAIRPERSON CHIN: So we're going to call up the next panel, our providers, Bill Young [sp?] from Carton Burden [sp?] Center, Bobbie Sackman, LiveOn New York, Isabel Ching, Hamilton-Madison House, and Sandy Meyer, Selfhelp Community Services.

BOBBIE SACKMAN: We're just setting up who's going to talk when.

CHAIRPERSON CHIN: Okay. I know that's what you're doing, Bobbie. You lay out the framework and--okay. Go ahead.

BOBBIE SACKMAN: Good morning. Thank you for holding this hearing on Adult Daycare. I'm Bobbie Sackman, Director of Public Policy with LiveOn New York. I'm not going to read my testimony. I'm just going to do some quick reflections of what was just discussed and also talk about funding. I agree

1 with all your questions. This issue is just skirting.
2 You know, nobody is drilling down and really no level
3 of government is really taking responsibility, and if
4 you do the math of about 85 dollars a day and over
5 200 programs, we're talking 85 to 100 million
6 dollars. This is not a small ticket item, and so
7 there's financial responsibility, but more
8 importantly humane responsibility here. So, any way
9 we can all be helpful as you pursue this with the
10 Department for the Aging, please know that we're more
11 than pleased to do that. Somebody, some level of
12 government has to really begin to stop what's going
13 on. It is in Local Law Nine. It says that you shall
14 hang something up that--shall post in a conspicuous
15 location on its premises a sign indicating how to
16 contact the ombudsman to state, you know, how they
17 can do this and you know what a complaint is. So it
18 is already in the law and its obviously common sense.
19 We've lest the onus on the community to complain, and
20 I don't know if that's something that can be changed
21 in regulation and the law itself, but we do--and
22 maybe I'm mistaken, but the way I'm reading it it
23 does leave the onus on the community to complain
24 because DFTA doesn't have the resources to go out and
25

1 be proactive. Governor Cuomo vetoed the bill that
2 would have had the state do this, because the state
3 Office for the Aging opposed it because they didn't
4 want an unfunded mandate. They didn't have the
5 resources. So, once again, it just keeps going level
6 to level. Had this bill been approved, we wouldn't
7 be sitting here today or at least we'd be having a
8 different conversation. So, you get the point.
9 Something is just amiss here and it needs to end. I
10 just also wanted to take the rest of my time to talk
11 a little bit about funding. So, as you know, last
12 year and you fought very valiantly, the
13 Administration cut what was base line funding of
14 Adult Day money, what little is in Social Daycare.
15 We're talking about nine programs for the whole city.
16 And so now City Council did put money in and we thank
17 you for that. I think the total is about 950,000
18 altogether, and it's not baseline because obviously
19 it's City Council money. So it always remain
20 precarious and how do you build on it without getting
21 caught up in the budget dance. So, we're asking
22 again for 2.3 million dollars which brings us to a
23 level of six or seven years ago or more when it was
24 totally eliminated under the former Mayor, and so we
25

1 just want to get back to where we once were. This
2 whole conversation shows you the great need, but if
3 you're not eligible for Medicaid you're out in the
4 cold. I keep hearing about programs that are either
5 not totally closing, but ending parts of their
6 programs because they can't continue to operate.
7 They just can't afford it. So, the other thing I
8 just wanted to add is--and I've spoken to a few of
9 you in city and state. They reported a letter that
10 was signed by about half of City Council to ask that
11 the Administration look at five percent across the
12 board savings in all city agencies. That is
13 devastating, devastating for an agency like DFTA. A,
14 DFTA has not shared in the wealth of this
15 Administration as we know. We call it our Fair Share
16 Campaign. So, we certainly don't want it to share in
17 the cuts, and when you do across the board of a small
18 agency versus bigger agencies, it plays out horribly.
19 It just does. A five percent becomes a 30 percent
20 cut literally in one service area. And so I've--in
21 all my years here, which is quite a few, this will be
22 my 27th City Council budget. I'm not term limited
23 yet. So, I've never seen a letter like this. Now
24 maybe it existed and it wasn't public, but I have
25

1 never seen a letter like this. So, please if you've
2 signed it, please tread lightly and really reconsider
3 what this could mean for the Department for the
4 Aging. Right now, the Mayor has baselined very
5 little money since he came into office, and we
6 struggle with every dime we get from the
7 Administration. If it wasn't for City Council we'd
8 be in terrible shape. And so of course we always
9 thank you, but please review that letter and as
10 discussions go forward, really review what that
11 means, okay? Thank you so much.

13 ISABEL CHING: Okay. I don't usually do
14 this. Good morning City Council Aging Committee and
15 Madam Chair for allowing us to speak. I am from--I'm
16 speaking on behalf of Hamilton-Madison House and my
17 name's Isabel Ching. I'm the Assistant Executive
18 Director for Senior Services there, but I also want
19 for transparency, I am the interim Chairperson for
20 the New York City Department Community Advisory
21 Council, but also the Executive Member of LiveOn--
22 yes, two board members here--LiveOn New York. So,
23 part of New York City--HMH is part of Hamilton New
24 York City Settlement House since 1898 located in
25 China Town and primarily serving Lower East Side and

Two Bridges area. In addition to senior services we also provide childcare mental health services citywide, but I want to start off thanking the Council for helping and always supporting our programs and on supporting also the fact that we do need to two points [sic], the hope for the next year, fiscal year, that there would be an additional 2.3 million for social adult day programs like ours throughout the city. That really would make us whole, because some of us are just really partially struggling every day to keep our doors open, but we do appreciate the money. Otherwise, I think we would have shut those doors early on. I've been running a social adult day program for the last 10 years. I have to tell you, for the last 10 year, I think on average we have about three to five MLTC participants annually. That's really minimally. If you look at the other counter part of the ones who are not funded by DFTA, I don't know why there's a big discrepancy, but we all can assume what those reasons are. On a regular basis we have 30 to 40 seniors and those are sometimes not on Medicaid, and those are the people who are more frail who needs those kinds of services, and that's why that particular funding from the City

1 Council keep our doors open. I'm going to talk about,
2 you know, just what I've been experiencing here in
3 China Town, but I also live in Brooklyn. I thank
4 Councilman Treyger. I'm in your district. Our senior
5 programs have, you know, to compete with these pop-
6 up, and they're opening rapidly as you said,
7 Chairperson, Madam Chair. Just a month ago two more
8 in China Town just opened. I don't know how and I
9 don't know how those pay with all those rents, but
10 they open rapidly in our neighborhoods, and Brooklyn
11 too, but what I know from firsthand is that I know
12 our seniors have been coming to us and telling us
13 that, you know, we're divided. We go, we think we're,
14 you know, we're--you know, we want to come to your
15 program for senior centers in the north [sic], but
16 you know, this pop-up just opened up and they're
17 giving us a 20 dollar incentive or some kind of
18 incentive, and you know, it's very hard because we
19 have to come to your programs and we're asked to give
20 a contribution. So, I mean, if you really talk about
21 finances, a dollar, three dollars, it's a lot of
22 money to our seniors if you talk of a day to day, 250
23 days [sic] a week. So, this is a big problem for our
24 community, and I do have to explain to you that I

1 also firsthand know people have come to me and our
2 seniors have come to me and say that they have--in
3 order for them to join adult day they have to--
4 they're forced to get homecare. It's the biggest
5 problem. I don't know how to rectify the problem. I
6 just explain to them it is the law. That's how the
7 policies are made. You need to go back to the MLTC
8 and work with them. But what we also find is that
9 once they go for their meals and recreation they came
10 to our senior centers in New York [sic] for social
11 services, and this is where the more intense, you
12 know--really, we hire our social workers. We hire
13 professional people to help address these issues and
14 they come back to us with all these--you know, which
15 we don't mind helping them, but it comes down to our
16 budgets. You know, units count for us, and this is
17 something that I do want to bring to your attention.
18 So, they prey on--I believe that they do prey on
19 people with Medicaid and they really don't--it's a
20 disservice to people who are not Medicaid. So it's
21 a--that's a big problem for our community. And I
22 think if there is a possibility if there could be
23 more funding for this pro--the ombudsman on this
24 part, because they are--there is no funding to do
25

1 this follow-up, to do the investigation, to follow up
2 on these complaints, because on one part we can make
3 the complaints, but if someone's not going out there,
4 it just makes it really difficult, and I do agree
5 that we do have to put those signs up because our
6 seniors will not go out and, you know, make a call.
7 They'll come to us, but it will be very hard for us.
8 Now I know that there is a--we can make a complaint.
9 I didn't even know that I can make a complaint. So
10 I'm going to do that effectively too, to help them
11 teach them how to do that. And that's--thank you so
12 much for your time.
13

14 BILL DIONNE: Hi. Am I on? Now I am.
15 Hi. I'm Bill Dionne, I'm the Executive Director of
16 the Carter Burden [sic] Center for the Aging, and if
17 we were to--thank you so much, Madam Chair and
18 Committee for holding this. If we had this committee
19 a month ago, I would have been able to tell you that
20 I have two Adult Daycare programs. As a result of
21 everything you've already heard, we have had to close
22 one of our programs, suspend it I should say more
23 appropriately, which is something I really would like
24 to talk about today because I think this is the other
25 side of the program. It is one of the nine funded

1 Adult Day programs. Our two centers are when they
2 decommissioned Goldwater Hospital, what they did was
3 they had to displace 1,700 individuals. Some of them
4 were deemed appropriate with quotes for independent
5 living. One of our Adult Day programs serves that
6 population, and because of balance incentive program
7 through the Department of Health, Medicaid
8 redesigned. We have been able to build that program
9 and right now it's flourishing. I'd like to tell you
10 a story because I think it's important to have a face
11 with this. There is a gentleman who had lived in
12 Goldwater for 11 years and said he never came beyond
13 his curtain by his bed, and as a result of being
14 involved in Adult Day and being involved in the
15 socialization he stood up at one of my board meetings
16 and said, "It is wonderful to feel like I'm in a room
17 where people are not ashamed to be seen with me."
18 You can say anything you want about the dollar value
19 of that. Where it does translate is it is cost
20 savings, because the fact that this man feels so much
21 better about himself. It is part of the joy of this
22 program that we built on 99th Street and First, is
23 that we're really able to study the cost-
24 effectiveness of this. The program that we've closed
25

1 is the program, Madam Chair, that you have been able
2 to visit, and to say that it is so far from a pop-up
3 is an understatement. It is a beautiful program. I
4 have run Adult Daycare for 30 years. When I took the
5 position of Executive Director at the Carter Burden
6 Center, it was with the promise that we could open
7 Adult Daycare in that--by the way, I'm not using my
8 testimony. Everything I've said here is true, but I
9 want to respond to the things I've heard today. With
10 the promise that we would open a much needed Adult
11 Daycare program, which is on now--now it's housed on
12 109th between First and Second. It is a beautiful
13 program. To your point, Madam Chair, they are--
14 managed long term care is not referring. They are
15 not sending people to this beautiful program that is
16 constant programming, wonderful food, transportation
17 curb to curb. So, while I very much appreciate the
18 95,000 dollars that I receive from discretionary
19 funding from City Council, that 95,000 dollars does
20 not even pay for the three escorts that I have to
21 have on vans for a year. Think about that. So, if
22 I'm receiving 95,000 dollars, we want to use that
23 money for people that can't afford to come. So we
24 like to use it for scholarship money, but when you
25

1 put it in perspective, it doesn't even pay for the
2 escort on the van, let alone the occupational
3 therapists and the recreational therapists and all of
4 the programs. This is a program that is literally
5 programmed every minute of the day. That's the point
6 of it. If I could tell another story. I got a phone
7 call from a woman, the daughter of one of our
8 participants and she was sobbing. I couldn't even
9 make out what she was saying, and finally she said,
10 "She said tomato." And I said, "What?" And she
11 said, "I said to my mom, your hands are dirty, and
12 she looked at me and she said, tomato." They had
13 planted tomatoes that day. And she said that's the
14 closest I've had to a conversation with my mother in
15 three years. That is invaluable. What it also meant
16 for this woman was she was able to be at work that
17 day. So, while the daughter was at work the mom was
18 planting tomatoes. This is invaluable. The idea
19 that we constantly--I've had this fight for 30 years.
20 The idea that people are saying, "Well where's the
21 numbers?" The numbers aren't just in the thousands
22 of people that are coming to Adult Day, its whole
23 families that are being effected, like this woman I'm
24 talking to you about. The idea of home care is they
25

1 have to be on homecare. So, okay, they have to be on
2 homecare. What it also means--I'm almost done. I'm
3 sure I've talked too long. What that means is if
4 they're doing--if they have homecare, then they're
5 saying well they can't come to Adult Daycare because
6 they have homecare. So, there's this problem with
7 this system that is combatting one another. There's
8 got to be a way that this--this is very valuable. We
9 need to prove the effectiveness of Adult Daycare, why
10 it's cost-savings, and what it means to whole family
11 unit. I would like to say that as a program that is
12 monitored by the Department for Aging, that
13 monitoring is very effective. It is very important
14 to have folks with expertise coming in and saying
15 this is good, this is great, and the importance of
16 learning from one another, the nine programs coming
17 together and learn which models work. I will tell you
18 that every single program that I have worked with
19 that have been doing this for a long time are all
20 experiencing this very same thing, where managed long
21 term care is not referring. So, while we're looking
22 at the problem of accountability, we have to look at
23 what is motivating managed long term care? Where is
24

the motivation for managed long term care to look at Adult Day? Thank you.

SANDY MEYERS: Hi everyone. My name is Sandy Meyers. I'm representing Selfhelp Community Services. So, some of you know we have our Selfhelp Alzheimer's Resource Program, or SHARP, which is located in our Bayside Campus in Council Member Vallone's District. It's also co-located with some of our housing programs. And our program, like my-- the programs that my colleagues also run, you know, focus on individuals who have been very recently diagnosed with Alzheimer's and dementia. We also provide a robust caregiver services. We're actually excited that in the next few months we'll be launching a website for caregivers in particular that's focused on how-to information, an online forum where caregivers can share and learn from each other. Similarly, we are very grateful to the Council's support both financially and in terms of looking at this legislation and wanting to try to make sure that it's as robust as possible. Similarly, we are one of those nine programs and we would love to see additional investment. We echo what our colleagues shared with the 2.3 million. We really feel like

1
2 there's more need for DFTA to be able to regulate
3 these programs for us to be more aware of what's
4 going on outside of the nine that we're very much
5 aware of. We would also love to see more funding to
6 be able to support individuals who as you heard are
7 not eligible for MLTC or those who are unable to pay
8 privately to attend these programs. We certainly see
9 a lot of need in that part of the community. So,
10 with that I don't want to echo any more, but thank
11 you for the opportunity to testify today and for your
12 commitment on this really important issue.

13 CHAIRPERSON CHIN: Thank you very much for
14 your testimony, and you really helped us, you know
15 answer a lot of our questions, and we know that there
16 were a lot of complaints, and that's why we were very
17 surprised when we got the report that there was only
18 nine, and then, like, what do you do with the
19 complaint, with the complaint that we sent to the
20 state you never hear back. So, I think we really
21 have to figure out a better way of working with DFTA
22 and also with some of the state agencies and the
23 state electeds [sic] to really drill down on this
24 problem, because the seniors who really need the
25 service are not getting it, and that's not right. I

mean, the whole focus on this Medicaid, you know, redesign, you have all these people who are coming into the system. Meanwhile, you have people who don't qualify for Medicaid, and the amount of funding that the City Council provides is not enough. We need more, but we need the Administration. We also need the state to support these funding. And so I think there's a lot more we have to do to figure out how we can protect our seniors and provide the services to our seniors, especially the one that are the frail elderly, the ones with Alzheimer, the one that, Bill, that you talked about. I mean, they're the one that need this program, and that's how these programs were started, but now it's just like--it's just ridiculous the ones that are popping up all over. So we have to figure a way of how to monitor them and make sure that we're not wasting the tax payer's dollars, too.

BILL DIONNE: May I take one more moment of your time.

CHAIRPERSON CHIN: Yes.

BILL DIONNE: I'm sorry. But the other very important thing to note here is that in order for a participant to get Adult Day Service it needs

1 to be requested to the Managed Long Term Care. That
2 is also an issue, because A., our population is not
3 going to be requesting it, and B., most families are
4 not even aware of this as an option. So, when you
5 talk about your campaign, your public relations--you
6 called it something else, but your public relations
7 campaign, that needs to be a part of it. People need
8 to be made aware of the fact that Adult Day Care is
9 an option for them and that in order to exercise that
10 option that they have to ask for it.

12 CHAIRPERSON CHIN: But at the same time,
13 what's been going on is people don't have to ask for
14 it. They get recruited.

15 BILL DIONNE: Well, that is--I think
16 that's a hearing unto itself, don't you?

17 CHAIRPERSON CHIN: Sandy, you want to add
18 something?

19 COUNCIL MEMBER VALLONE: Isabel, Bobbie,
20 Bill, Sandy, thank you as always. Not that I know
21 [sic], Council Member Treyger also wants to say
22 something. I think we're all perplexed, and I think
23 angry and trying to figure it out, and I'm not a big
24 answer of it's not my problem. I think it's
25 everybody's problem. So whether it's state, whether

1 it's city, whether it's federal, I don't care. It's
2 our seniors. So, I think we're all in our
3 responsibility that if we put our mind together we
4 can fix this. The money's there. The demand is
5 there. It's just not being done correctly by some of
6 the groups, not you, but we learn from you and that's
7 what makes us better, and that's why I always say
8 thank you. In my two years on the Council if I
9 didn't have your advice and counsel and questions and
10 guidance I wouldn't be able to do half the things
11 I've done. So, keep those coming, and Bill, I think
12 the stories are important, but it's--today, like the
13 legal side of my brain is focused on this Local Law
14 Nine, and I'm trying with the Administrations here,
15 I'm trying to get your perspective on making this
16 particular law, because this council's going to go
17 right back after this hearing, talk about this, amend
18 it, fix it, put in new laws, put in new LS requests,
19 and I know besides funding and all the important
20 battles that you guys are taking on, we're really
21 looking to make this work because it's what's in
22 front of us right now. I can't cure the world, but
23 right now this bill is there. So, sometimes what
24 happens, I get those recommendations and ideas and we
25

1 take that and we run with it. So, that's what I
2 would appreciate, and I think maybe some of that
3 going forward would be a real big help, because when
4 the iron's hot go with it. So, our Chairwoman is
5 thankfully refocused on this, and whether it's the
6 annual onsite inspection that New York State must do
7 upon the filing of a written registration, whether
8 it's coordination between the city agencies,
9 increasing civil and/or criminal penalties, ways for
10 referrals to be remodeled, I think that's all things
11 we can tackle as a result of today's hearing. So, if
12 there's anything post today, especially Isabel, you
13 gave a great summary of what goes on at your center.
14 I think that's such critical, critical, critical
15 knowledge for me, and I know that's what Sandy and
16 Bobbie have been doing for me. So, I thank you for
17 that. And if there's anything post this afternoon
18 that you want to send to us and to our Chair we will
19 take those. Thank you.

21 COUNCIL MEMBER TREYGER: Thank you.

22 Thanks, Chair, and also I thank my colleague Council
23 Member Vallone as well, and I just--you know, we're
24 dealing also with Medicaid, right? We keep hearing
25 that over and over again. These are federal dollars,

1 and I think that, you know, we've touched on this
2 issue. I think that now, I do think that we need to
3 make sure that our city is not just communicating
4 with the state, but now as well with the federal
5 government. We hear a lot of people who, you know,
6 about making sure that government is protecting tax
7 payer money and making sure it's being spent wisely,
8 you know, and thankful to the advocates and to the
9 people who do this day to day. A big part of your
10 job is ensuring the safety and quality of the
11 programing that you provide to our seniors every day,
12 but a big part of our job is providing oversight and
13 making sure that tax payer money is being spent
14 wisely, and I think that--I agree with the Chair and
15 my colleagues that we can't accept an answer that's
16 not really us, it's them. Well, then we need to
17 communicate with them, and we need to make it very
18 clear in writing that these are very serious problems
19 and very serious allegations. The reason why I asked
20 about the liability part before is because typically
21 the way government works it's very reactionary. Are
22 we going to wait for a high profile incident to occur
23 one day when a tragedy strikes at one of these places
24 and everyone's going to pointing the finger, but
25

1
2 someone, a senior heaven forbid could have gotten
3 hurt or even worse. Then what? Then we'll pass some
4 law. Then we'll have all the experts come in and
5 have a press conference somewhere. Why do we always
6 have to wait for a tragedy to strike? And why do we
7 have to see great existing programs suffer because
8 there's absolutely no oversight, no accountability
9 whatsoever with tax payer money on the line? A lot
10 of it, might I add. So I think that we need to also
11 make the New York AG aware, and I also would argue
12 that we need to communicate with the US Attorney's
13 Office, who I said before has become very active in
14 New York in the last couple of years, and beyond, I'm
15 sure that he'd be happy to hear these complaints as
16 well. Thank you, Chair, for your time.

17 CHAIRPERSON CHIN: I want to thank this
18 panel and thank you for all your advocacy. We'll
19 look forward to continue the discussion. Bill, if
20 you need to come in and talk, I mean, I would love to
21 have a conversation like why and how we can be
22 helpful with the Social Adult Daycare.

23 BILL DIONNE: I will look forward to
24 that.
25

CHAIRPERSON CHIN: Thank you. The next panel, Martha Wolf, Sandra Chaisson [sic], and Tiffany Morgan. Is there anyone else that would like to testify? Please fill out a slip with the Sergeant. Thank you.

MARTHA WOLF: Thank you. My name is Martha Wolfe and I'm President of the New York State Adult Day Services Association, NYSADSA, and Director of Community Dementia Care at Parker Jewish Institute for Healthcare and Rehabilitation. Thank you for the opportunity to present testimony today on Social Adult Day Services. On behalf of NYSADSA and the great majority of older New Yorkers whose preference is to live in their own homes for as long as possible, we are grateful for the opportunity to focus in the ways that high quality social day services can help achieve that goal. I'm not going to read the whole testimony, but what's important is that NYSADSA has a--currently has a contract with the New York State Office for the Aging to provide training throughout the state on the NYSOFA regulations, and this has been going on since 2012, even before our contract. This issue, we've been talking about this issue for over three years. When

1 we knew it was going to come we presented it to City
2 Council. We saw the writing on the wall. So, since
3 2012 we provided over 20 at this point trainings in
4 New York City proper. There were just two in
5 Brooklyn this past summer on the NYSOFA regulations
6 which [sic] also provided training on care
7 assessments and how to provide assessments and
8 eligibility for social adult day, which has been a
9 critical issue for a lot of these pop-ups that you're
10 talking about whose eligible, which you mentioned.
11 So, with this contract with New York State Office for
12 the Aging now, you know, we have been providing
13 statewide training, and it's interesting, we had two
14 trainings now scheduled out in Commack, Long Island
15 the end of this month and March, and we've already
16 had people from Buffalo, from the City, from all of
17 the state coming down to Commack. So when we talk
18 about the programs that are existing in the city now
19 that Caryn mentioned, 233 registered programs, not
20 all of those are NYSADSA members. This is a
21 membership trade association, you know, that we
22 encourage providers to join, because by joining we're
23 able to provide technical assistance to assist people
24 and providers to do things the right way, which is

1 very, very important to us. My program at Parker
2 which serves the late-stage Alzheimer's has been open
3 for 26 years. You got a lot of programs in the city,
4 Fort Washington, and a lot--Bill's program, a lot of
5 programs in the city that have been open for many,
6 many years, and what I'm hearing as a provider, but
7 also state president is that there are a lot of
8 programs that have been around for a very long time
9 in the city doing great work, doing it the right way,
10 following the regulations, and those programs are not
11 getting referrals because the referrals are going to
12 these other programs that aren't doing it the right
13 way, and I say that mildly. We have worked and
14 supported the initiative for statewide oversight.
15 We, NYSADSA, met with Department of Health, with
16 NYSOFA, with OMIG in creating and supporting the idea
17 of statewide certification. We were very, very
18 pleased. This went into place this summer, and we
19 felt that it was obviously a big step in the right
20 direction and very, very supportive of the Council's
21 law to mandate the registry in New York City, which
22 is something we've been talking about for a very long
23 time. Finally, it's come to pass [sic], which is
24 another big step. Again, it's self, a self-

1 examination and self-registry, and so, you know,
2 we're pushing to be able to identify those programs
3 out there and it is difficult. As I said, the
4 programs that are members of New York State Adult Day
5 Services Association we can identify. We've spoken
6 with DFTA. We work with DFTA and all the state
7 agencies in providing information on those programs,
8 but those are the programs that really want to do it
9 the right way. I am still receiving--you think
10 there's a slowdown in this? There isn't. I'm still
11 receiving requests for technical assistance that goes
12 straight to our Albany office and then are shot to me
13 by email of people interested in opening programs,
14 and I say that in a positive way, because if they're
15 interested in opening and they're contacting a state
16 agency to do it the right way, these are good
17 providers. These are people who really want to
18 operate in the right way, and they're asking for
19 assistance. So we're still getting calls. I got
20 three calls from people who are interested in
21 Brooklyn just in the week. So, we're still getting
22 calls from people who want to do it the right way.
23 There's a big need in the city. We were very
24 disturbed to hear about Bill's program having to
25

close. I was getting calls from people in the city wanted to come out to Queens. They didn't realize how far away I was, because they were so desperate to find a program. There are pockets in Manhattan and throughout the city that don't have good programs, we know that. The Upper West Side now has nothing. So there are pockets all around that don't have good programs, which--and there are certain communities that are culturally specific communities that need good programs. So, there's a good--there's a great need. The need still exists for quality programs done the right way with the correct kind of oversight that can provide this vital connection between senior centers and more medical assistance if a person needs. It--Social Adult Day is such a critical part of the continuum of care and provides such a wonderful service, a needed service for our New Yorkers. So, in closing, I just want to say it again that NYSADSA's core principals are related to the operation of social model day services and that all social programs operate according to Elder Law Title Nine for the minimal standards and regulations from NYSOFA, and that programs that inappropriately determine participant eligibility, which is something

you alluded to, Councilwoman, or do not deliver all social adult core services or meet administrative standards of New York State regulations should feel the effects of enforcement and action to including forced closure. So, I thank you for the opportunity to testify, and I thank you for your support in making sure the programs in New York City are operating the correct way that protect our--some of our frailest seniors. Thank you.

SANDRA CHRISTIAN: Hi, thank you. Thank you, Chair Chin and to the Aging Committee for this hearing and my ability to testimony. I'm not going to read my testimony because a lot of it has already bene said. I would just like to say Ridgewood Bushwick--I'm the Assistant Executive Director of Ridgewood Bushwick Senior Citizens Council. We have run a respite and social day program since 1983, and the funds are always coupled together. So, if we have someone staying overnight in our respite apartments, which allow caregivers to handle emergencies, go away for two weeks for vacation, death in the family. We then bring those people to our Social Adult Day program during the day, and with those funds coupled we've been able to keep our

1 programs going. Our agency also supports the case
2 assistance, case management staff that we have
3 because we can't afford that under either our state
4 SOFA Respite Grant or our Social Adult Day Grant of
5 95,000. We are one of the DFTA funded programs. I
6 just want to reiterate on these Social Adult Day pop-
7 ups, in our community these programs are targeting
8 our immigrant minority populations. In one of our
9 centers they come each day. We have a Pilipino
10 population. They come for breakfast at our center.
11 They go around the corner to Wycoff [sp?] Hospital
12 and are taken by bus to their Social Adult Day
13 Program. They are healthy functioning seniors who
14 meet the 120 hours, which if you need 120 hours of
15 long term care homecare really is minimal, and many
16 of our Medicaid population at our senior centers can
17 utilize those services, and that's the draw, and the
18 money that's being taken away in long term care by
19 all these additional people being put into that
20 system is one piece. There are also our seniors that
21 we've been servicing in our Social Adult Day program
22 are very impaired seniors. They're not people that
23 these Social Adult Day pop-ups want. They don't want
24 people that need one-on-one care that need toileting,
25

1 that need that assistance. So, our program for 30
2 years has been servicing those clients, and we're
3 also servicing the people, the caregivers and
4 families that are above the Medicaid level, and so
5 the big piece of this is that they have no options.
6 Nine programs in a city of this size being funded at
7 95,000 dollars, our program used to be 206,000
8 dollars for the DFTA portion. We can barely meet
9 that need. There are no services out there for
10 people. We have families that come to our center
11 from long distance. One of the examples is a
12 daughter that comes. She's been coming, bringing her
13 mother to our Social Adult Day program for 10 years.
14 Her mother has Alzheimer's. It's progressed. She
15 comes every morning at eight o'clock, drops her
16 mother off and goes to her teaching job, teacher's
17 aide job in the New York City public school system,
18 picks her mother up at five o'clock. She has no
19 other respite. That is her respite. She's committed
20 to keeping her mother at home. She does not meet the
21 Medicaid level. She does not want to place mother in
22 a nursing home. She's the person we're serving.
23 She's the caregiver, and without the services she
24 would have no choice but to probably place her mother
25

1 at this time. That's one of the caregivers. Another
2 caregiver who unfortunately is not here today,
3 Tiffany Morgan, she has been bringing her mother from
4 Jamaica to our center. They were coming on Accessa-
5 Ride [sp?], and this is one of the issues. Accessa-
6 Ride, you cannot go if you're not able to go
7 unescorted on Accessa Ride. She can't have a
8 homecare worker. They can't afford that. She was
9 coming, but she's gotten to the point that she cannot
10 go alone on Accessa-Ride anymore. So, now her
11 daughter comes every morning. She is a social
12 service worker in the New York City system. She
13 comes every morning. She drops her mother off with
14 Accessa-Ride. Her granddaughter then comes at night
15 and takes her mother. They had a fire that occurred
16 in their home about two months ago. They've been
17 staying in a shelter. Because we've been able to
18 couple funding for our respite program, her--they are
19 now--she has stayed in our overnight respite,
20 continues to go to Adult Daycare. They don't have to
21 take her from a hotel every day to try to get into
22 our program, and this enables these people to
23 continue to work and get minimal respite. So, I just
24 want to address the funding levels at the Department
25

1 for the Aging. We so appreciate the 95,000
2 discretionary money. It has allowed us to stay open.
3 How long we can do that down the road, we're not
4 sure. We're trying to fund the additional cost of
5 the program. So, we'd like to have that money
6 baselined, and we'd like additional funding for
7 Social Adult Day for the people who are above the
8 Medicaid level. Thank you.

10 CHAIRPERSON CHIN: Thank you so much for
11 your testimony. Can you also enlighten me in terms
12 of is there any funding from the Medicare--

13 SANDRA CHRISTIAN: [interposing] No.

14 CHAIRPERSON CHIN: for Social Adult
15 Daycare?

16 MARTHA WOLF: No, the only thing, you
17 know, with some of the Medicaid managed care
18 providers now, some of them have their FIDA [sic]
19 programs which are the dual eligible, and those are
20 people that have Medicaid/Medicare, and we do have a
21 couple of people in our program that fit that
22 category, but that is you have to--the family has to
23 agree to enroll in that, so it's, you know, it's
24 self-enroll. They have to agree to enroll in that,

but Medicare itself will not pay for Social Day.

It's Medicaid or private--

SANDRA CHRISTIAN: [interposing] Private pay.

MARTHA WOLF: or private pay. That's it. you know, I do want to add that myself included, NYSADSA, and then our regional Co-president here, New York City Downstate is Region Three, would welcome the opportunity to join with Bill and maybe Bobbie and the Council and DFTA if you had meetings regarding Social Day, anyway we can help to identify issues, to discuss issues and how we can move together to help with this issue here in New York City.

CHAIRPERSON CHIN: Were there any past funding from the state for these Social Adult Daycare programs?

MARTHA WOLF: Well, NYSOFA does fund some programs statewide, does provide funding for a few programs statewide through the state, NYSOFA. Just like DFTA has the nine programs in the city, NYSOFA has some programs they fund statewide, but you know, not all programs receive either funding, you know? So, and those programs are going to rely on their

contracts with the MLTC's and those kinds, you know, that kind of billing or private pay.

CHAIRPERSON CHIN: Now, if someone who doesn't qualify for Medicaid, can they still qualify as the MLTC or join an MLTC?

MARTHA WOLF: You have to qualify for Medicaid in order to be enrolled in an MLTC.

SANDRA CHRISTIAN: Yeah, there's no funding.

MARTHA WOLF: you have to qualify for Medicaid first, and then you enroll, and some people haven't enrolled, but you can enroll, you know, if you're eligible into an MLTC.

SANDRA CHRISTIAN: And it would require things like spend down and, you know, we have families that are interdependent where you have a child who is 65 who is disabled and their 90-year-old father, and you know, it--there's many parts of that, the income, the wanting the whole family to stay in the community. There aren't a lot of choices, and it's--we've also, you know, you can't expand. We have the capacity to expand. We can't fund enough workers to do one-on-one care, and we're not going into a large room and playing bingo, which I've seen

1
2 in some of these pop-ups. We are providing one-on-
3 one targeted care for people with dementia, and that
4 just doesn't exist.

5 MARTHA WOLF: And that's what you'll see
6 when you walk into these established great programs
7 in the city, you know, whether it's Ridgewood
8 Bushwick or my program or Fort Washington or Bill's
9 program. That's what you're going to see. You're
10 going to see that concentrated care following the
11 regulations, the activities, engagement, personal
12 care, all those things that you're supposed to do and
13 you're required to do in following the regulations.
14 You know, not let someone just come in independently
15 and play pool. I mean, that person should be in a
16 senior center or a community center. That's what
17 senior centers are for. That's not Social Day.

18 CHAIRPERSON CHIN: That's the problem. I
19 mean, that's the problem that we see, and also, there
20 is a large--I'm sure there are seniors who are on
21 Medicaid who has Alzheimer's and who needs special
22 care, but they're not going to the right program
23 either.

SANDRA CHRISTIAN: And they're not reaching out to them. They're not going to want to enroll that client in one of those programs because--

MARTHA WOLF: And even if--even if the person has some sort of diagnosed long term disability, whatever that is, whether they're frail senior and they have some sort of disability or they have Alzheimer's Disease, and just because they're eligible for an NMLTC [sic] does not make them eligible for Social Day, and that's a big distinction. The Social Day programs by regulation have to have their own assessment in order to determine if a person is eligible for their services. So, just because some--and we talk about this all the time, that a Social Day will get a call from an NMLTC and say I have this person. Well, that's fine, but they have to go through the program's eligibility assessment first before they can say, "Okay, yes, we will accept the referral. This is an appropriate referral. We're able to provide the services for this person." And that's the step sometimes that's missing and overlooked is that assessment that the social days--that's why we do these trainings that the Social Days are required to do by regulation, and

1 that assessment is supposed to go hand in hand with
2 your policy and procedure that you've developed for
3 your program. All of this is in the regulations.
4 All of these standards are supposed to be followed,
5 and they're not, and that's the problem. That's why
6 you see people in Social Day who shouldn't--do not
7 meet the criteria for a Social Day. There are very
8 specific regulations about who's eligible and who's
9 not.
10

11 CHAIRPERSON CHIN: So, it's because these
12 Social Adult Daycare Program, they do their own
13 assessment.

14 MARTHA WOLF: But the assessment, the
15 assessment is to be specifically determined by the
16 regulations. It's not just that something you, you
17 know, you create out of the blue. The assessment
18 tool, the state even has--NYSOFA has an assessment
19 tool that we provide to providers who want to do it
20 the right way to use, you know, in assessing people
21 to come into their program. This is the guidelines.
22 This is what has to be met in order for the person to
23 be eligible for Social Adult Day.

24 CHAIRPERSON CHIN: But right now there is no
25 one is checking on that. That's the problem.

SANDRA CHRISTIAN: They're also MLTC's actually in some of these pop-ups doing the recruitment and doing the assessment piece, and again, it's a minimal standard, 120 days of long term care.

MARTHA WOLF: There's a disconnect between, you know, who's eligible for the an MLTC and whether that person is in fact eligible for Social Adult Day. They may not be.

CHAIRPERSON CHIN: I mean, one of the other questions that I've heard complained about is that there is a finite service, right? I mean, this in terms of the funding, because there are cases where I've heard seniors who sort of used up their benefit, and then when they're sick they end up having to pay. So, in terms of Medicaid, is there a finite dollar amount or?

MARTHA WOLF: You know, with the NMLTC's, I mean, I can't speak directly for Medicaid, but when you look at NMLTC's, each person they work on a budget, you know. So, each person sort of has a budget that their care manager uses in order to determine what services they're going to provide. So, you know, they may authorize Social Adult Day for

1 so many days a week. They can authorize homecare for
2 so many days a week and then other kinds of services,
3 whatever the care plan dictates, and those
4 assessments are made, you know, as far as the care
5 plan or the assessment is made by a third party that
6 then the NMLTC gets that assessment from that third
7 party. That's all dictated by the Department of
8 Health. You know, the Social Adult Day has nothing
9 to do with any of that, with the regulation obviously
10 of the NMLTC. That comes from the Department of
11 Health.
12

13 CHAIRPERSON CHIN: I mean, who is
14 regulate--so the Department of Health is the one that
15 is regulating--

16 SANDRA CHRISTIAN: [interposing] Yes.

17 MARTHA WOLF: The Medicaid, yeah.

18 SANDRA CHRISTIAN: Yes.

19 MARTHA WOLF: NMLTC's.

20 CHAIRPERSON CHIN: But I think we really
21 need to educate the public more on the Social Adult
22 Daycare services and what they are.

23 MARTHA WOLF: We've been trying. We've
24 been doing that for how many years, Bobbie? A long
25 time. You know, we always say it's the best kept

secret, and it is when it's done correctly, and you know, but I still, you know--there's still a lot of misinformation floating around, and you know, particularly when it comes to these regulations and what's required by Social Adult Day. That's why these trainings that we do across the state are so important. You know, we get a lot of discussion and feedback with the people in the room, and that's good too because you listen to questions and you're able to set things straight. Sometimes people have misconceptions about what they can do and can't do and they ask questions, which is good. So, it's always good to have a dialogue, and again, we started doing these care planning and assessment workshops because it was requested. It was something that we knew was so, so important, this eligibility piece, and those workshops are always standing room only. I mean, we have to cut it off usually when we have those kind of workshops. But again, it's specific to who's eligible for Social Adult Day, how you do an assessment, what the tool looks like, what kinds of questions you ask, what kind of documentation you have to have, all the specifics that go back to the New York State Office for the Aging regulations, and

1 the cost that are being lost in the Medicaid system
2 to seniors who now aren't in that system, what are
3 the savings that could come to community based
4 providers? We could enhance and serve more of the
5 population that are above the Medicaid level, that
6 aren't eligible for what this Social Adult Day. Our
7 programs, we tried. We had maybe three clients who
8 were MLTC clients because it allowed us to at least
9 get some funding to serve the clients that are above
10 that level and really needed our services and we
11 struggle every day to do that, but unless you're
12 really going to look at what's being lost in the
13 system for all these clients now going into services
14 they don't need, it's crucial.

16 CHAIRPERSON CHIN: Well, that's why we are
17 doing these oversight hearings. This is just the
18 beginning. We want to make sure we do our best to
19 make sure that our seniors are taken care of. I
20 mean, we have wonderful programs that are not getting
21 referral and that's unacceptable. So, we will follow
22 up with you to have some more conversations and see
23 how we can work together to make it better. And
24 well, and thank you for being here today.

25 SANDRA CHRISTIAN: Thank you very much.

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COMMITTEE ON AGING

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MARTHA WOLF: Thank you very much for
your time and your support.

SANDRA CHRISTIAN: Thank you.

CHAIRPERSON CHIN: Thank you. Anyone else
would like to testify? If not, the hearing is
adjourned. Thank you.

[gavel]

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date January 14, 2016