Randall's Island Park Alliance

November 26, 2018

FOR THE RECORD

Steven Matteo
Chair, Committee on Standards and Ethics
New York City Council
250 Broadway, Suite 1553
New York, NY 10007

Dear Committee Chair Matteo,

We are writing as co-Chairs of the Randall's Island Park Alliance (RIPA), a nonprofit partner with the City acting as the dedicated steward of Randall's Island Park for over 25 years. The Alliance sustains, maintains, develops and programs the Park to support the wellbeing of all New Yorkers.

As RIPA co-Chairs, and on behalf of all RIPA Board Members, we respectfully request that you amend Local Law 181 to clarify that it should not apply to public-private park partners such as the Alliance and other park conservancies around the city. We are seriously concerned that this law might politicize, and compromise, our decades of volunteer efforts to improve Randall's Island Park. The Alliance was founded in 1992 by a group of concerned New Yorkers, private citizens who saw the great potential of the Park, despite its dilapidated state. Modeled on the Central Park Conservancy, the Alliance formed a public-private partnership with the City of New York Department of Parks & Recreation, so that funds could be raised to augment what the City could provide.

In the more than 25 years since its founding, the Alliance has continued to benefit from the leadership, expertise, and generosity of an independent, volunteer Board, dedicated to fostering this precious resource on behalf of all New Yorkers. In the meantime, RIPA has worked alongside – and outlasted – a number of City administrations, staying the course in our mission to support the Park, regardless of political vicissitudes. Our approach has been methodical, and our development as an organization has been steady and encouraging. Beginning with our 1999 Management, Restoration and Development Plan, revised in 2007, and followed by our 2012 Strategic Plan and subsequent smaller planning efforts, RIPA has laid out and carefully followed an explicit, independent mission and guidelines. While major developments to the Park, as a public space, have, of course, required approval by a series of administrations, in no case has RIPA pursued a project at the behest of or on behalf of any elected official or appointee of any elected official. Rather, our role is the opposite: RIPA generates plans and proposals on behalf of Randall's Island Park, and seeks to build support for their realization through a combination of grants, private contributions, and event and concession revenue.

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Toward this end, RIPA has fostered over $250 million in developments, including an IAAF-certified track & field facility; a 20-court tennis center; a renovated golf center; an urban farm; 20 acres of renovated natural areas; nine miles of waterfront pathways; and dozens of new, irrigated and turf playing fields – half the fields in Manhattan. These improvements now draw over 3 million visitors each year. The Alliance also raises over half of the Park's annual budget, employing approximately 100 staff members of all kinds, from administrative staff to on-site maintenance personnel. We fund and offer more than 100 free events and activities at the Park, ranging from weekly yoga and small guided tours to larger, signature events drawing as many as 4,000 attendees on a summer weekend.

This essential work depends upon the ongoing generosity of RIPA donors – and our independence is critical to our ability to fundraise. We especially object that Local Law 181 requires RIPA to certify to which elected official we are affiliated, given that we assert we are guided and/or limited by no such affiliation. Our donors well understand that RIPA functions outside of the political flux, and they trust that their dollars are being used for a specific, and apolitical, mission: stewardship of this crucial local resource for use by all New Yorkers. To classify RIPA as a political affiliate of any sort would severely compromise this absolutely crucial trust, and risk all that has been accomplished over so many years.

Local Law 181 also contains intrusive reporting requirements, further compromising RIPA's ability to secure support by calling for information regarding a donor's spouse and children, and for donor and familial cross-referencing against the City's doing business database. This would have a strongly negative effect on our ability to raise private dollars, which provide critical funds to the Park. Further, these requirements are sufficiently burdensome to cause RIPA considerable expense, simply in order to manage the tracking and reporting of such onerous detail.

Once again, on behalf of the Randall's Island Park Alliance Board of Trustees, we strongly believe that we do not fall within the purview of Local Law 181, and request that the New York City Council amend this law to release us and other park partners from its scope. While this law was clearly meant to regulate campaign finance, the manner in which it was drafted, and its subsequent interpretation by the Conflict of Interest Board, puts at risk decades of careful, generous, and dedicated service by private individuals, working on behalf of greener, cleaner parks, and thus a better city for all New Yorkers.

Thank you for your consideration.

Sincerely,

Nancy F. Neff

Jerome Goldman

Testimony to the City Council Standards and Ethics Committee on Amended Reporting and Donor Disclosure Requirements for City-Affiliated Nonprofits

December 3, 2018

Good morning Chair Matteo and members of the Standards and Ethics committee. My name is Alex Camarda, and I am the Senior Policy Advisor for Reinvent Albany. Reinvent Albany is a government watchdog organization which advocates for open and accountable government. Thank you for holding this important hearing today.

Reinvent Albany is troubled by the proliferation of government-affiliated nonprofits in New York State and New York City, a shadow government which we believe is less transparent and accountable than government agencies. We believe there are well over a hundred city-affiliated nonprofits, but this is only an informed estimate because there is no definition of a city-affiliated nonprofit in law nor is there a public listing of all city-affiliated nonprofits.

Many government-affiliated nonprofits in New York State have a history of ignoring the Open Meetings Law and Freedom of Information Law (FOIL), and not fully reporting their revenues or expenditures. Importantly, government-affiliated nonprofits are not typically covered by agency procurement and conflict of interest rules.

State-affiliated nonprofits were recently embroiled in a one billion dollar bid rigging scandal that resulted in the criminal convictions of top state government officials. The state-affiliated nonprofit at the center of the scandal, Ft. Schuyler Management, rigged bids that were not subject to agency procurement rules requiring comptroller review of contracts. Ft. Schuyler did not follow the Open Meetings Law or FOIL, preventing scrutiny which may have stopped the corruption before it occurred.

Problems with government-affiliated nonprofits are not unique to New York. Economic development entities across the country have been the subject of lawsuits for failing to follow Open Meetings and Freedom of Information Laws. In November, the Mayor's

appointee to the Mayor's Fund in Philadelphia was criminally charged for using the city-affiliated nonprofit's funds for personal use.[1]

Reinvent Albany Recommendations on City-Affiliated Nonprofits

Reinvent Albany provided comprehensive solutions to the 2018 and 2019 Charter Revision Commissions to identify the many city-affiliated nonprofits, and make them more accountable and transparent.[2] These recommendations are provided below.

We think city-affiliated nonprofits should be codified in the charter. A new section of the city charter on city-affiliated profits should:

1. **Provide an online listing of all city-affiliated nonprofits and their associated city agency;**
2. **Create procedures for creating, dissolving and providing Council oversight of city-affiliated nonprofits.** We believe the Council should have to approve the creation of a city-affiliated nonprofit following a public hearing and a statement by the agency as to why the nonprofit is needed;
3. **Require city-affiliated nonprofits follow the Freedom of Information Law (FOIL) and the Open Meetings Law;**
4. **Mandate city-affiliated nonprofits follow procurement procedures of city agencies** with rare exception;
5. **Report revenues and expenditures of city-affiliated nonprofits** to the public, City Council and City Comptroller; and
6. **Establish clear ethics requirements for board members, staff, and fundraising:**
    a. **Limit contributions to** all **nonprofits affiliated with elected officials.** Under Local Law 181 of 2016, donations to nonprofits affiliated with elected officials are limited to $400, but only if the nonprofits spends 10 percent or more of their annual budget on public-facing communications featuring the elected official. The NYC Conflicts of Interest Board (COIB) has issued rules identifying factors that may indicate affiliation of nonprofits with elected officials (Title 53 Chapter

[1] Holden, Joe. "Former Philadelphia City Representative Charged With Using Mayor's Fund To Book Posh Vacations, Flights," CBS Philly. November 13, 2018. Available at: https://philadelphia.cbslocal.com/2018/11/13/desiree-peterkin-bell-former-philadelphia-city-representative-charged-using-mayors-fund-book-vacations-flights/

[2] See: https://reinventalbany.org/2018/05/reinvent-albany-calls-on-charter-revision-commission-to-increase-transparency-of-and-limit-donations-to-city-affiliated-nonprofits/

3-03).[3] We believe donations should be limited by donors doing business even if the public facing communications do not feature the elected official. However, we believe the limit could be higher than the $400 doing business limit, but we do not have a specific number to recommend. We also believe donations should be restricted to the lower limit for 180 days after a donor has ceased doing business with the city and is removed from the doing business database.

b. **Limit donations by donors doing business with the city to city agencies, public authorities, public benefit corporations and local development corporations.** Local Law 181 of 2016 limits contributions to nonprofits affiliated with elected officials who spend 10 percent of their budgets on name or image of the elected official. It does not restrict donors doing business with the city from making contributions directly to government entities. A donor can give unlimited sums to an agency even while bidding on a contract or seeking a favorable determination on a matter before the agency.

c. **Publish as open data the exact amount of all donations by donors doing business with the city to nonprofits affiliated with elected officials, and to all government entities (city agencies, public authorities, public benefit corporations and local development corporations).** Donations should be made known to the public in a machine readable, tabular dataset in the city's Open Data Portal. Currently, donations to government entities and nonprofits are made available to the public in a 500-plus page PDF every six months in

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[3] "Affiliated" is defined in COIB Rules, Title 53, Chapter 3-03.
§3-03 Factors by which the Board Will Determine Whether an Entity is Affiliated with an Elected Official.
For purposes of Administrative Code § 3-901, in determining whether a person holding office as Mayor, Comptroller, Public Advocate, Borough President or member of the Council, or an agent or appointee of such a person, exercises control over a non-profit entity, the Board will consider the totality of the circumstances, including:
(a) whether the organization was created by such an elected official or the official's agent, or by an individual who was previously employed by, or was a paid political consultant of, the elected official, and, if so, how recently such organization was created;
(b) whether the board of the organization is chaired by such an elected official or the official's agent;
(c) whether board members are appointed by such an elected official or the official's agent or only upon nomination of other individuals or entities that are not agents of such elected official;
(d) whether board members serve for fixed terms or can be removed without cause by an elected official or the official's agent;
(e) the degree of involvement or direction by such an elected official or the official's agent in such organization's policies, operations, and activities;
(f) the degree to which public servants, acting under the authority or direction of the elected official or an agent of the elected official, perform duties on behalf of the organization as part of their official City employment; and
(g) the purpose of the organization.

broad ranges showing the dollar amount. Local Law 181 of 2016 requires the exact dollar amount of contributions to nonprofits affiliated with elected officials, along with additional identifying information, be made public beginning in January 2019. However, Local Law 181 does not require disclosure of the exact dollar value of contributions to city agencies, public authorities, public benefit corporations, local development corporations, and city-affiliated nonprofits not affiliated with elected officials.

d. **Require "volunteers" doing major policy work or senior level appointments for the city follow city ethics laws.** The city has, in some instances, utilized people who are not on the city payroll to do policy work or assist in choosing senior officials while they are also fundraising for nonprofits affiliated with elected officials. We do not oppose per diem or unpaid volunteers serving on city boards, task forces and commissions. But they should not also be fundraising simultaneously for nonprofits affiliated with elected officials. If they do, they should follow city ethics laws in some form.

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Reinvent Albany thanks the Council for previously passing legislation to regulate nonprofits affiliated with an elected officials. Local Law 181 of 2016 requires donor disclosure of all nonprofits affiliated with elected officials and limits donations when they are spending 10 percent of their expenditures annually on elected official communications.[4]

The bill before the committee today provides additional transparency by requiring donor disclosure in a machine readable format and makes other clarifications to the law. Currently, donations to government entities and nonprofits are only made available to the public in a 500-plus page PDF every six months in broad ranges showing the dollar amount. Requiring donor disclosure in a machine readable format will enable third parties like government watchdog groups and journalists to analyze donations thereby making donor donations more visible to the public.

Reinvent Albany supports this bill as we are major supporters of open data, particularly when the release of data will assist in ensuring government integrity. We would like to see the Council further consider our recommendations on city-affiliated nonprofits enumerated above. One reform most related to this bill is to require donor disclosure in

[4] See Local Law 181 of 2016

a machine readable format for donations to all city-affiliated nonprofits, city agencies, public benefit corporations, and public authorities. These donations are already disclosed by COIB in the 500-plus page PDF on their website. This recommendation would simply require all donations be disclosed in a machine readable format rather than just those to city-affiliated nonprofits.

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TESTIMONY OF SUSAN LERNER
EXECUTIVE DIRECTOR, COMMON CAUSE/NY
BEFORE THE NEW YORK CITY COUNCIL COMMITTEE ON STANDARDS AND ETHICS COMMITTEE RE: INT. 1272

December 3, 2018

Thank you for the opportunity to address you today. I am Susan Lerner, Executive Director of Common Cause/New York. Common Cause is a national nonpartisan, nonprofit public advocacy organization founded in New York in 1970 by John Gardner as a vehicle for citizens to make their voices heard in the political process and to hold their elected leaders accountable to the public interest. . With nearly 400,000 members and supporters and 36 state organizations, Common Cause is committed to honest, open and accountable government and to encourage citizen participation in democracy. Since its inception, the New York chapter has always been and continues to be one of the most active state organizations in the country, representing nearly 70,000 New Yorkers throughout the state, with more than 20,000 of them in New York City.

Common Cause fights to strengthen public participation and faith in our institutions of self-government and to ensure that government and political processes serve the general interest, and not simply the special interests. For more than 30 years, we have worked at both the state and municipal level to bring about honest, open and accountable government. One of our core issues is seeking to control the warping influence of large amounts of campaign and political money on public policy decisions and governance in general.

We are proud to be strong supporters of New York's well regarded campaign finance system, having worked on and supported it from its inception and contributed substantively to the ongoing successful revisions to the system which has allowed it to remain effective over time. We are equally proud to have brought the complaint against the Campaign for One New York which resulted in the passage of the law which Int. 1272 seeks to amend.

COMMON CAUSE/NY SUPPORTS SIMPLIFYING THE DISCLOSURE REQUIREMENTS AS PROVIDED IN INT. NO. 1272

There is a constant dynamic tension between the public's desire for full and complete disclosure and the administrative burden which very detailed disclosures place on the reporting entities. We believe that the proposed amendments strike an appropriate balance. Common Cause/NY supports the

proposed amendments to NYC Admin. Code 3-902. We do not support raising the amount of donations which trigger disclosures above the $5,000 level.

The Interaction between the Administrative Code and the COIB Advisory Opinions should be specifically addressed.

It is Common Cause/NY's position that Int. No. 1272 should be amended to clarify that NYC Administrative Code Sec. 3-902 is not meant to subplant, substitute for, or eliminate, the disclosures required by the COIB Advisory opinions 2003-4 and 2008-6. It is important that the Advisory opinions create reporting requirements for city agencies and officials; we do not want to see those eliminated. We believe it is essential that the City continue to require its own agencies, officials, and employees to report and not simply shift the entire burden to outside entities. We note that the COIB currently posts static document images for the disclosures made pursuant to these Advisory opinions. We recommend that Intl No. 1272 be amended to require that the disclosures made pursuant to NYC Admin C. Sec 3-902 and those made pursuant to COIB Advisory opinions 2003-4 and 2008-6 must all be made available to the public in machine-readable format.

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DISLCOSURE REQUIREMENTS FOR ELECTED OFFICIALS SHOULD BE EXPANDED

It has long been Common Cause/NY's position that New York City should require that an elected official must disclose when a charitable contribution above a certain size is made to *any* charitable organization, city-affiliated or official-affiliated or not, at the behest of the elected official. California law has had such a requirement for more than 20 years. Municipalities in California, including San Diego and San Francisco, have also instituted disclosure requirements for behested contributions within the last decade. The burden of disclosure should not fall only on outside entities and City agencies. We look forward to working with this committee to develop such a requirement.

December 3, 2018

Good afternoon Chair Matteo, Parks Chair Grodenchik and members of the Committee on Standards and Ethics. I'm Maggie Greenfield. I have a dual title, serving as both Bronx River Administrator for NYC Parks and Executive Director of the Bronx River Alliance (the Alliance), a non-profit organization that works in partnership with local communities, businesses and all levels of government to protect, improve and restore the Bronx River so that it can be a resource for the communities through which it flows.

I am here today in response to an amendment to Local Law 181. This law, which was passed to prevent campaign finance violations, will have the unintended consequence of hampering a successful public-private partnership between the Alliance and the Parks Department, one that has resulted in a dramatic transformation of the river corridor with over $220 million in capital projects for environmental restoration and waterfront park development projects. Equally importantly, this partnership has transformed the way New Yorkers view the river, from an abandoned dumping ground into a cherished community resource. Through our partnerships with NYC parks and local communities, we have created 20 new acres of water front parkland in the South Bronx, built 7 canoe and kayak launches, engaged over 16,000 volunteers (who donated nearly 100,000 hours) in river restoration projects, enabled over 3,200 educators and 16,000 students to use the river as an outdoor classroom, and brought out over 21,000 New Yorkers on paddling adventures on NYC's only freshwater river.

Not only does Law 181 and its amendment subject us to burdensome and invasive reporting requirements, but much more importantly, the Alliance and many parks conservancies have been defined as "affiliated with an elected official", a label that suggests that the mayor has substantial control over our operations and our decision-making. This determination calls into question the independence of our organizations, and therefore our ability to raise funds through private fundraising, which is critical for our continued success.

The proposed amendment should clarify the definition of an "affiliated" nonprofit. In determining substantial control, Law 181 states that the Conflict of Interest Board (COIB) must carefully consider the totality of the circumstances of each of our organizations.

- Was the organization created by an elected official? No. The Bronx River Alliance was formed by local community activists dedicated to reclaiming the Bronx River as a resource for their communities.
- Is our board chaired by an elected official or agent; are board members appointed by an elected official; can board members be removed by an elected official? The answer is no to each of these questions. The Bronx River Alliance has an independent board of directors who are all private citizens. The Parks Commissioner and local Council Members whose districts touch the river are ex-officio directors, but they have no vote on our board.
- What's the degree of involvement by an elected official in our policies, operations and activities? The Parks Commissioners and Council Members have no vote on our board, and are therefore unable to influence policy.

- To what degree do public servants, acting under the authority or direction of the elected official or an agent of the elected official, perform duties on behalf of the organization as part of their official City employment? While the Executive Director and five other staff members of the Bronx River Alliance are employees of NYC Parks, the Alliance reimburses NYC parks for half of the E.D.'s salary as a reflection of the shared responsibility between NYC Parks and local communities for the restoration of the river. The Board of Directors of the Bronx River Alliance has authority to determine policy and overall direction of the Bronx River Alliance. At times, this has resulted in the Alliance taking positions that are contrary to those of the City, demonstrating that this relationship with the City does not prevent the Alliance from taking independent action.
- What is the purpose of the non-profit organization? The Bronx River Alliance's mission is to protect, improve and restore the Bronx River corridor so that it can be a healthy ecological, recreational, educational, and economic resource for the communities through which the river flows. There is no reading of this mission that would include promotion of elected officials.

The Bronx River Alliance does, however, work together with the Parks Department on capital projects, programs and day-to-day operations - that's the nature of a public-private partnership. Because the law lacks clear criteria for an "affiliated organization" that examines the circumstances closely, the Alliance have been determined to be controlled by the Mayor, which is not the case. We, therefore, ask the Council to include language in this amendment to more clearly define the criteria by which the COIB determines which non-profits are affiliated with elected officials.

The current language in the draft amendments would still leave burdensome and invasive requirements for organizations deemed to be affiliated with the City, including asking donors if anyone in their immediate family has had business with the City.

For this reason, defining the Bronx River Alliance as an "affiliated" organization will have a chilling effect on our ability to raise private dollars that help supplement the city's efforts to support, develop and program our public parks along the Bronx River. In many cases, our donors support our work precisely because we are a private organization and are not the city government. Having to indicate to donors that we are affiliated with the city and that we are required to run their names through the city's "Doing Business" database, as well as inquire about immediate family members, would immediately turn away those supporters.

Thank you for the opportunity to testify today on this important matter, and thank you for the City Council's support for the Bronx River Alliance.

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Testimony of Heather Lubov, Executive Director of City Parks Foundation
Local Law 181 of 2016 and Int. 1272-2018

Good afternoon Chair Matteo, Parks Chair Grodenchik and members of the Committee. I'm Heather Lubov, Executive Director of City Parks Foundation (or CPF), a non-profit organization that reaches 300,000 New Yorkers annually through free programs in public parks that create vibrant and healthy communities.

I am here today to testify about Local Law 181 of 2016, which was enacted to prevent candidates from sidestepping contribution and expenditure limits by outsourcing essential campaign activities to these coordinated organizations, following concerns raised about the Mayor's use of the Campaign for One New York as a fundraising mechanism for campaign activities related to governmental programs. Because of the Conflict of Interest Board's (or COIB's) interpretation, this law will have the unintended consequence of chilling a very successful and long-standing public-private partnership between CPF and the Parks Department.

COIB has notified us that we are "affiliated with an elected official" and are therefore subject to the law's restrictions on private fundraising and its burdensome and invasive reporting requirements. Being branded as "affiliated" indicates that the City believes the Parks Commissioner has substantial control over our operations and our decision-making.

While we appreciate proposed amendment 1272-2018 tries to address our concerns, it does not address the underlying issue of COIB's extremely broad interpretation of the definition of "affiliated nonprofit". We urge the Council to clarify this definition.

In adopting Int. 1345-2016 the Council established the criteria to determine whether an organization is affiliated, and COIB must consider the totality of these.

Was the organization created by an elected official? Yes, we were created by former Parks Commissioner Stern, but LL181 states that the passage of time must be considered when determining if the City's role in founding an organization continues to be relevant to the organization's current work. CPF was created 30 years ago. The former commissioner's role in our founding is ancient history and is immaterial to our current operations as an independent nonprofit.

Is our board chaired by an elected official or agent and are board members appointed by an elected official? No. Our board is comprised of private citizens that are nominated by our nominating committee, all members of our board. The Parks commissioner, while invited to serve as an ex-officio member, does not have a vote on our board.

What's the degree of involvement by an elected official in our policies, operations and activities? The commissioner has absolutely no policy role. I am the executive director, appointed by our board, my salary is paid for with private dollars, and I manage our daily operations, along with our team, including raising all of the funds we need to operate.

However, when COIB implemented LL181, they created a final criterion through rulemaking: the degree to which public servants perform duties on behalf of CPF. We work closely with Parks Department staff, a collaboration that is central to our public-private partnership and a testament to the willingness of the Parks Department to creatively improve parks. The Council has even given this successful

(over)

partnership its imprimatur through the Parks Equity Initiative. But because LL181 lacks clear criteria, COIB has branded us "affiliated," essentially an agent of the Mayor, because we work collaboratively with a City agency.

In CPF's case, COIB has one final criteria: we provide limited fiscal sponsorship for the Parks Department. By managing funds that the Parks Department raises, we are ensuring that donors who wish to support the agency can do so. We already provide COIB-required disclosure information for these funds. There is absolutely no reason that providing fiscal sponsorship to the agency would give it any control over our operations. We will be forced to discontinue this service if it is the cause of our "affiliation," placing $3 million in parks support in jeopardy.

Allowing COIB to continue enforcing LL181 in this broad manner will have a detrimental impact on our ability to fulfill our mission. Defining CPF as "affiliated" will have a chilling effect on our ability to raise private dollars that help supplement the city's efforts to support our parks. We spend nearly $15 million each year to provide programs to the public, and we generate almost $16 million worth of volunteer manpower hours. That means more than $30 million worth of free parks programs are at stake. Often our donors support our work precisely because we are private and are not the city government. Complying with the law's requirement that we proactively indicate to donors that we are considered affiliated and as such are required to check their names through the "Doing Business" database would immediately turn away those supporters.

Thank you for the opportunity to testify today and thank you for your support of CPF.

Prospect Park Alliance

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Greetings Chair Matteo, Parks Chair Grodenchik and members of the Committee on Standards and Ethics.

My name is Susan Donoghue and I serve as both the Administrator of Prospect Park and the President of the Prospect Park Alliance. It is my pleasure to submit this testimony today.

As you may know, the Prospect Park Alliance is a not-for-profit that partners with the NYC Parks Department and the community to foster stewardship of Prospect Park. Established in 1987, the Alliance helps to care for the natural environment, preserve the Park's historic design, provide facilities, oversee more than 25,000 permitted events (mainly consisting of small birthday parties and family picnics), and host programs and activities throughout the year for all New Yorkers.

Over the past 31 years, the Prospect Park Alliance has played a pivotal role in restoring the Park to its original glory. During this time, we have worked closely with local elected officials, the Parks Department, and the surrounding communities, to identify, prioritize, design, and complete approximately 50 restoration projects over close to 120 acres of the Park and 5,100 linear feet of our watercourse totaling over $200 million dollars of capital investment. We now estimate that the Park receives some ten million visits each year, and thousands of people each year are engaged in the free educational and volunteer programs offered by the Alliance.

Today, I join my colleagues from across the city to speak on Local Law 181 (LL181) and the proposed amendment to the law. Councilmember Kallos, one of the co-sponsors to LL181, describes this law as "closing [the] Campaign for One New York loophole – by limiting contributions to **non-profits controlled by elected officials** and disclosing donors". Our collective understanding is that LL181 was passed to prevent campaign finance violations and to specifically monitor organizations that are controlled by elected officials.

Prospect Park Alliance is not controlled by any elected official.

Our board of directors is structured such that the Mayor appoints two directors; the Brooklyn Borough President serves as a voting ex-officio director and appoints two directors; our local Council person (currently Councilman Lander) serves as a voting ex-officio director; and the Parks Commissioner also serves as a voting ex-officio director. I myself also serve as a voting ex-officio director and, I should point out, I am an employee of the Prospect Park Alliance, not of the City of New York. In addition to these eight directors our by-laws allow forup to 40 independent directors and the board currently has 37 of these 40 positions filled with independent individuals. While we work closely with our government partners they in no terms control the Prospect Park Alliance. Our staff, and our Community Committee work in tandem with our board of directors to determine our priorities and guide our work to make Prospect Park one of the best parks in New York City. The small number of elected officials serving on our board of directors controls no aspect of this process or of our organization.

For the Prospect Park Alliance the issue of control is paramount. As a non-profit organization we have for 30 years served as an example of a successful and high functioning public-private partnership. From our founding we have operated as a highly local organization, inspiring stewardship from our neighbors and community members around the park who care about parks and open space for all. Our independence from government control has been a crucial factor in our ability to privately fundraise. We have no doubt that many of our donors would choose to direct their giving to another organization if it were determined that we are controlled by elected officials.

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In determining control, Law. 181 states that Conflict of Interests Board (COIB) must carefully consider the totality of the circumstances of each of our organizations.

- Was the organization created by an elected official? No.
- Is our board chaired by an elected official or their agent? No
- Are board members appointed by an elected official? 5 out of 45
- What's the degree of involvement by an elected official in our policies, operations and activities? None to extremely limited. As stated we work in close partnership and work together to build consensus on parks and open space issues, but operate independently from the city.

We assume that based on one or more of these factors the COIB has made the determination that the Prospect Park Alliance is an organization "affiliated with an elected official". The proposed amendment to LL181 does nothing to change this determination by the COIB. We join our colleagues from across the city in asking that this definition of "organization affiliated with an elected official" in § 3-901 of Local Law 181 be clarified.

Prospect Park Alliance and the City of New York have enjoyed an extraordinarily fruitful partnership over three decades and we look forward to continuing this relationship for decades to come. However, we encourage you to take the testimonies that you hear today under serious consideration and provide an amendment that will prevent our organizations from being abandoned by our donors. We all work tirelessly to raise private dollars to supplement the City's efforts in maintaining and providing green space for the benefit of all New Yorkers. This law is a serious threat to our abilities to do that and we hope that you will work with us to correct it.

Thank you for the opportunity to testify today and thank you for the City Council's continued support.

Sincerely,

Susan Donoghue
Park Administrator and President, Prospect Park Alliance

Freshkills Park Alliance Testimony Regarding Local Law 181

Good morning Chair Matteo, Parks Chair Grodenchik, and members of the Committee on Standards and Ethics. I am Eloise Hirsh, President of the Freshkills Park Alliance. Thank you for the opportunity to testify today on Local Law 181. The Freshkills Park Alliance is the not-for-profit that was organized in 2010 to support the development of Freshkills Park. As many of you know, Freshkills Park is the 2200-acre former landfill that is now being transformed into the world's largest landfill-to-park project. This is a complex interagency project that represents extraordinary engineering and stewardship by the Department of Sanitation and Department of Parks working together. The mission of the Freshkills Park Alliance is to foster the creation and stewardship of this incredible resource.

With this mission, the Freshkills Park Alliance is just one of the numerous park partner organizations all over the City who are dedicated to championing our parks. In particular, we are among a group of smaller-scale partners who work very hard raising the money to support our work, often with tiny or even nonexistent staffs. Compared to some of the larger conservancies, you may not hear very much about the outer borough partners in Queens and Staten Island and the Bronx, as well as in the outer regions of Brooklyn and Manhattan, who are supporting a whole range of initiatives – but our efforts would simply fold without private support. So I am testifying today to support all my colleagues as we ask you to amend Local Law 181, to clarify that it should not apply to park partners such as ourselves.

The Board of Directors of the Freshkills Park Alliance is completely independent of the City of New York. It is dedicated to supporting the creation and stewardship of Freshkills Park. Our volunteer Board should not be characterized as "agents of the Mayor" simply because they are working to enhance a public good that is supported by the City. While we understand that the good intent of

this law was campaign finance reform, our inclusion within it implies that we have some sort of political role. However, both our dedicated Board of Directors and the donors who support us know, and rely on, the fact that we are independent of the City administration.

Further, Local Law 181 includes a series of reporting requirements which add an astonishing burden of paperwork, which I and most of my colleagues could not begin to manage; working, as I said, with small or even nonexistent staffs, In addition, the onerous requirement for information concerning a donor's spouse and children will have a strongly chilling effect on the donations we struggle to raise. I am sure that each of you give donations to valued nonprofit organizations, working on behalf of things you care most about. Ask yourself how you would respond, should those organizations inform you they will only accept your contribution if you tell them where your spouse works and who your children are.

This issue is of crucial concern to the Freshkills Park Alliance, as we operate completely through grants and donations. We could not do what we do without the generosity of Staten Islanders, and people all over the city, alongside the generosity and guidance of our Board of Directors. We are working very hard to make improvements and build support, but change takes time. In fact, except for three projects at the edges of the site, Fresh Kills is still closed to the public -- with the exception of the substantial array of programs supported by the Freshkills Park Alliance. Through agreements and rules that allow safe public access, the Alliance supports STEM education programs for middle through high schoolers, scientific research projects in cooperation with regional universities, a series of public art exhibits and performances, public informational tours, birding tours with the Audubon Society, road and bicycle events, and our very popular twice-a-year big open house where we open 800 acres of the site for a full day of outdoor activities. Thousands of people have attended. The Alliance pays for the free bikes that people can borrow to ride the 5 kilometers of paved road, visits by

the Staten Island Philharmonic, craft activities, buses to bring people from the Ferry, and all the things you would imagine could happen in a big huge wide open space.

The goal of all of these activities, sponsored by the Freshkills Park Alliance, is to make the Park real to the public, and build local support. We seek to alter the perception of what was once the worst blight on Staten Island - a cause that so many fought for, for so long - and to change that former perception to reveal the enormous and exciting potential for the development of this great civic asset. It is difficult to raise funds for a park that is not open, but our Board of Directors, and the Park's loyal fans, are dedicated to supporting these programs. With the help of the City Council in amending this law, the Freshkills Park Alliance and our supporters will steward the Park into a better future.

I am respectfully requesting that City Council amend Local Law 181 so that the city's diverse and committed park partner organizations, like the Freshkills Park Alliance, are not included in this law, and we can continue to do our work on behalf of the exciting challenge of developing Freshkills Park.

Thank you for the opportunity to testify today, and thank you for turning your attention to the small organizations, alongside the larger ones.

Testimony by Adrian Benepe
New York City Council Committee on Standards & Ethics
November 27, 2018

Good morning Chair Matteo, Parks Chair Grodenchik, and members of the Committee on Standards and Ethics. Thank you for the opportunity to testify today on Local Law 181.

My name is Adrian Benepe. As some of you may recall, I served as NYC Commissioner of Parks & Recreation for 11 years between 2002 and 2012; prior to that I served in a variety of roles for the Parks Department, including six years as Manhattan Borough Parks Commissioner, and also oversaw the Art & Antiquities and Forestry, Horticulture, & Natural Resources divisions. Between City jobs, I also worked at a high level for two NYC non-profits, the New York Botanical Garden and the Municipal Art Society.

I currently work as SVP and director of National Programs for the Trust for Public Land, overseeing our national urban parks program, and in that capacity I have gained a good deal of knowledge about how cities across the country manage and fund their parks, and especially the role that park conservancies play in improving and managing parks. In fact, I helped create a report we did on conservancies, *Public Spaces, Private Money: the Triumphs and Pitfalls of Urban Park Conservancies*.

I am here today to urge the City Council to amend the law passed in relation to campaign finance donations to elected officials, which in my expert view was too broadly written, allowing a badly mistaken misinterpretation by the NYC Conflict of Interest Board (COIB). Plainly speaking, the COIB interpretation of this law requiring the releasing of details of thousands of donations and donors to park conservancies is a solution in search of a problem. Worse, it will create mountains of unnecessary work, for both conservancies and for the administrative agencies, and worse still, will likely have a chilling effect on donations that provide crucial restoration, upkeep, and programming for a few dozen parks in NYC, ultimately forcing the City to spend more scarce public dollars, or allowing those parks to fall back into disrepair.

I speak from an almost unique perspective, as I was present at the founding of the first major park conservancy in the world, the Central Park Conservancy, in 1980. That model spawned more than a dozen others, and ultimately several hundred in cities across the country. In New York City alone, conservancies provide between $150 million and $200 million a year for the improvement, maintenance, and programing of public parks. And last year, according to the Trust for Public Land's ParkScore analysis, conservancy partnerships in scores of cities across the country provided more than $750 million in private, voluntary contributions to public parks.

To put that funding in context, the money raised and spent by conservancies in NYC represents a 40 percent addition to the money spent by City government on parks, using public tax dollars. If that money were to disappear, the City would be forced to reallocate public funding from within the Parks Department's budget or from other City services. More likely, what we would

witness is a swift decline in park conditions to those we all saw in the 1970s and 1980s—when the NY Times headlined its three-part expose in October, 1980 on the terrible conditions of the entire City park system: "New York City Park System Stands as a Tattered Remnant of Its Past."

It was precisely in response to those terrible conditions—even in world-famous parks like Central Park and Prospect Park—that the first conservancy was created through the leadership of Elizabeth Barlow—then the leader of the non-profit Central Park Task Force and the first Administrator of Central Park—with then-Parks Commissioner Gordon Davis and Mayor Ed Koch.

The rest is history, as they say. Over a billion dollars has been raised since then through **entirely private**, **entirely voluntary charitable donations** made to independent (501) (c) (3) organizations. And that's the key concept. These are **not** donations to city officials. They are **not** donations to candidates for elected office. They are **not** donations to City agencies or commissioners. **They are private gifts to non-profit organizations that are not controlled by the mayor or by other elected or appointed officials.** I know all of this perhaps better than anyone in this room or this city because in my 27 years as a City official at the Parks Department I was an *ex-officio* trustee of more than 75 non-profit organizations that sat on City parkland or in City-owned buildings, or that provided a variety of work and service for the City. I also assisted in the creation of five conservancies—including the City Parks Foundation, the Historic House Trust, the Fort Tryon Park Trust, the Natural Areas Conservancy, and the Jamaica Bay-Rockaway Parks Conservancy. I have also worked for park-related non-profits for over 12 years, and am a national expert providing non-profit consulting services to citizens and cities in the creation and functioning of park conservancies.

So here's the bottom line: There has not been one allegation that a donation to a conservancy was made to a mayor or other elected official, nor is there any evidence that the Mayor or other elected officials control any of the conservancies. The conservancies are valued partners to the City. **They are not in any way "Agents of the City."** To impose these completely unnecessary and burdensome regulations on park conservancies would likely have a chilling effect on their abilities to fundraise, as it is precisely because the donations are **not** going to the mayor or to the government that most donors make these charitable contributions, because most people would not trust government to spend their donations wisely.

Moreover, it is puzzling to me that this regulation and the COIB would single out park conservancy donors for this level of scrutiny, as the City works in partnership with hundreds of non-profit organizations in hundreds of locations—from the museums, performing arts organizations, zoos and botanical gardens, to hospitals, social service agencies, and many more. Would the City Council apply this regulation, and the COIB impose this interpretation, on those organizations as well?

I urge the City Council to amend its well-intended law to omit the independent non-profit park conservancies from this requirement, and I urge the COIB to see the light and revisit the issue, and end this interpretation and reporting requirement.

Testimony of Deborah Maher, VP & GC of Randall's Island Park Alliance
New York City Council's Committee on Standards and Ethics
December 3, 2018

Good afternoon Chair Matteo, Parks Chair Grodenchik, and members of the Committee on Standards and Ethics. I am Deborah Maher, Vice President and General Counsel of Randall's Island Park Alliance, a non-profit that has been the dedicated steward of Randall's Island Park for over 25 years. The Alliance sustains, maintains, develops and programs the Park to support the wellbeing of all New Yorkers. Randall's Island Park offers 60 athletic fields, Icahn Stadium, which is a world class track and field stadium, 20 tennis courts, a golf driving range, miles of pedestrian waterfront pathway and more. The Park attracts over 3 million visitors per year, many of whom are local families from East Harlem, the South Bronx and Queens who participate in the Alliance's free recreational programming.

The Alliance raises over 50% of the Park's annual budget and employs approximately 100 staff members, including gardeners, maintenance workers, environmental educators, communications staff, HR staff, finance staff, and many others. Our staff acts at the direction and reports to our Board of Trustees, not to NYC Parks. The essential work that the Alliance does would not be possible without the generosity of our donors and the leadership of our independent, volunteer, Board of Trustees.

I am here today to respectfully request that you amend Local Law 181 to clarify that it should not apply to public-private park partners such as the Alliance and other park partnerships across the City.

Park partners and supporters are an asset to the City of New York. They are a proven effective management structure that efficiently allows independent non-profit organizations to partner with the NYC Department of Parks & Recreation to better parks for all New Yorkers. The relationship between NYC Parks and non-profit park conservancies is a true public-private partnership. It is premised on working together as two independent entities, and not based on control by a City agency. The Alliance, like many, operates in the Park under fully negotiated, arms-length license agreement, approved and consented to by the NYC Law Department. The Agreement provides clear delineation of roles, accountability, and governance. Independent audits and those done by the City's Comptroller's office on contractual park partners, as well as IRS 990s filed by the non-profits, provide transparency.

Randall's Island Park Alliance leadership is independent. Founded by an independent citizen, chaired throughout its history by independent citizens and governed always by an independent Board of Trustees.

Our independence is critical to our ability to fundraise. Donors demand the accountability that comes from of 501(c)(3) non-profit and the knowledge that their dollars are being used for a specific mission. Thus, the negative impact of Local Law 181 classifying the Alliance as an organization affiliated with an elected official and controlled by the Mayor through the Parks Commissioner cannot be overstated. Parks partners/conservancies should not be politicized. They are not nor should they be depicted as an agent of the Mayor simply because the Parks Commissioner sits *ex-officio* on a board or that one or two Parks' employees also separately work for the Alliance - fully approved and vetted by the COIB. Such categorization would jeopardize support by those who might feel their donations have been politicized, or who may not be a supporter of a particular City Hall administration or Parks Commissioner – whether past, current or future. Our donors donate because they trust us – Randall's Island Park Alliance - and because they believe in open green space and world-class recreational facilities and programming for all.

Since the Alliance's inception, we have raised approximately $80 million in private dollars to support the Park. This year alone, we replaced three synthetic athletic fields – fields on which thousands of NYC children play - at a cost of $1.2 million. This project as well as countless others would not be possible without the Alliance. As we move forward and take on new projects, we must maintain trust with our donors and independence to be successful.

Local Law 181 contains intrusive, burdensome reporting requirements that, among other things, call for information regarding a donor's spouse and children and for the cross-referencing of donors and their family against the City's doing business database. This action that would have a chilling effect on our ability to raise private dollars, which provide critical funds to the park. The law also requires us to certify to which elected official we are affiliated, despite our protest that we are affiliated with none, notwithstanding what the Conflict of Interest Board's staff has initially opined.

This law was meant to regulate campaign finance, and yet, because of the way it was drafted and then interpreted by the Conflict of Interest Board, park partners like ourselves have been unfairly caught up in a net that was never meant to apply to us. We now ask for your help to untangle us.

We respectfully request that the City Council amend Local Law 181 to carve out entities such as the Alliance.

Thank you for the opportunity to testify today and thank you for your support.

New York City Council Committee on Standards & Ethics
Amending reporting & donor disclosure requirements for organizations affiliated with elected officials (Local Law 181)
December 3, 2018
Lynn Kelly, Executive Director

Good afternoon, my name is Lynn Kelly, and I am the Executive Director for New Yorkers for Parks (NY4P). I would like to thank the City Council Committee on Standards and Ethics for allowing us to speak on this issue today.

As New York City's independent organization advocating for parks in all five boroughs, we are particularly concerned about the impact that Local Law 181 would have on conservancies and other public-private park partnerships that support our City's public open spaces. We ask that the Council reconsider the amendment of Local Law 181 and instead fully exclude park conservancies and public-private park partnership organizations from the Conflict of Interest Board reporting requirements set forth in the legislation at all donation levels. If such a change cannot be made, we ask that at a minimum the donation threshold for reporting be significantly increased from the proposed amendment level of $5000, and that the reporting and review requirements set by the COIB be limited to the donor only. Additionally, we believe further clarity is required as to how organizations are considered "affiliated" for the purposes of this legislation and reporting requirement.

We think it's important to highlight the context for the genesis of park conservancies. As the municipal budget for parks shrank at the height of 1970s fiscal crisis, the condition of our public open spaces suffered greatly. Many of the parks we now consider to be the crown jewels of the City's park system were widely viewed as unsafe, poorly maintained, and a liability for residents and neighborhoods. In response, public-private organizations were established to enable private fundraising for capital reinvestment and the ongoing maintenance needs of some of our largest parks. The results of these organizations' efforts speak for themselves. Parks like Central Park and Prospect Park have once again become treasured local open spaces, while also attracting tens of millions of visitors each year.

The need for conservancies has not diminished with time, and the City's parks now benefit from the additional conservancies and similar public private partnerships, both established and more nascent, that operate today. The funding raised by all parks conservancies is funding that the City itself need not spend on the maintenance, programming, or capital construction in those parks. We fear that the reporting requirements set forth by Local Law 181 simply because there are elected and/or government officials on the boards of these organizations in *ex officio* positions will have a significant chilling effect on these organizations' ability to bring in vitally needed private dollars.

Additionally, the City Parks Foundation - which works closely with Parks Department staff and would be subject to Local Law 181 - provides a level of programming and service to local parks that is unmatched and critical for many neighborhood parks. The work done by CPF supports countless grassroots stewardship organizations in communities that lack the resources to financially support their parks on the scale of more resourced conservancies, and whose work is tremendously important to keeping local open spaces clean, safe, well-programmed, and welcoming to all. Without the support of CPF, many local park stewardship groups would not have access to the critical technical assistance resources we believe play an integral role in leveling the playing field for parks citywide.

Year after year, NY4P calls on the City to increase the budget for parks, and other public open spaces, and this call has been substantially unmet. The budget for parks remains at barely half of a percent of the total City budget, meaning that the Parks Department must consistently stretch its resources to the limit to keep our parks in good condition. Simply put, with a stagnant budget for City parks, it is essential that conservancies continue to be able to bring in the funding needed to maintain and grow their transformative upkeep and programming.

Although the proposed amendment to increase the donation threshold triggering reporting requirements would offer relief in some part, we are concerned that the unintended impacts of Local Law 181, even as amended, will force conservancies and other public-private partner organizations to scale back their important work, or in some cases cease their efforts entirely. For the smaller of these affected organizations, a gift at even the $5,000 threshold level would be transformative.

Regardless of organizational size and capacity, the reporting requirements are likely to alienate donors wary of providing the names of their spouse, domestic partner, or children to be run through the Doing Business Database. For a volunteer-driven conservancy, or an organization with few paid staff members, the Conflict of Interest Board reporting requirements will also be an onerous task. And for nascent and small conservancies, many of which are operating in neighborhoods and parks that have traditionally not benefitted from private open space philanthropy, asking that their donors provide what many consider to be private information may preclude potential supporters from making any donations.

As an organization that advocates for increased governmental support for parks and for increased transparency, we can understand the spirit with which Local Law 181 was passed, but we believe the application of these reporting requirements is misguided as it relates to park conservancy and other public-private park organizations. None of these organizations are controlled by elected or City officials as they are structured, even with the presence of such officials on boards in an *ex officio* capacity. This independence has been key to the long-term success of the conservancy and public-private model of park maintenance and improvement, and is one of the reasons NY4P is supportive of this organizational structure. Millions of New Yorkers benefit from the work done by these organizations, and we urge the Council to reconsider this legislation as written.

Thank you very much for the opportunity to speak today.

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For over 100 years, New Yorkers for Parks (NY4P) has built, protected, and promoted parks and open spaces in New York City. Today, NY4P is the citywide independent organization championing quality parks and open spaces for all New Yorkers in all neighborhoods. www.ny4p.org

Testimony before the City Council
Committee on Standards and Ethics
December 3, 2018

Thank you Chair Matteo for the opportunity to testify today. My name is Nicole Brostoff, and I am here representing the Riverside Park Conservancy, or RPC, a private-not-for-profit organization that provides supplemental services to five parks along the Hudson River in Manhattan.

While we very much appreciate the City Council's willingness to address the applicability of Chapter 9 of Title 3 of the New York City Administrative Code to park conservancies, we strongly disagree with the Conflicts of Interest Board's determination that the law applies to RPC in the first instance.

As written, the law applies to entities that are controlled by the Mayor or his agents because of the Council's stated desire to curtail unlimited and undisclosed fundraising to groups controlled by public officials. As I will explain in detail, the RPC is not controlled by the mayor – or the parks commissioner. Accordingly, we believe the most proper route here would be to not otherwise weaken a good law – but instead to carve out conservancies like ours that are so clearly not controlled by the mayor or his agents.

Applying this law to our conservancy would be overwhelmingly burdensome on our small staff. We have donors who routinely make gifts at the $5,000 level – a bench donation, for example, costs $7,000 today. Requiring us to report each one of those gifts, as well as to request that donors disclose their spouse, domestic, partner, un-emancipated child, and/or parent would not only take many hours of every week, but also would likely turn people off from giving generously to support the park in the first instance. Ultimately, it will mean that we can do less work in support of the Park – and we know that that was not the Council's intent.

And it is simply not necessary to apply that burden to us because, as noted earlier, the RPC is not controlled by the Mayor or Parks Commissioner. RPC and the Parks Department have a close affiliation and partnership -- but NYC Parks does not *and cannot* direct RPC. NYC Parks has jurisdiction over Riverside Park, and appropriately, sets not only the rules about what activity can take place within the Park, but also the contours of the services that RPC can provide in relation to the Park. This is set forth in a carefully-negotiated arms-length License Agreement. NYC Parks and RPC are presently negotiating a new License Agreement, to cover

the next 10-year period, and it has been painstakingly negotiated between counsel to the parties over the past nine months

While the License Agreement defines the outside limits of RPC's activities, it does not dictate those activities nor does it control the decisions that RPC makes in regard to fulfilling the obligations stemming from the License Agreement. RPC has this control because all of RPC's personnel are employees of RPC, not of the City. Accordingly, only RPC controls its personnel's work and direction. RPC takes on this responsibility starting from the time it recruits and screens its personnel. Consequently, RPC is the only entity that can determine if its personnel will engage in the activities outlined above or any event that RPC is solely responsible for coordinating.

By way of illustration, RPC spends significant time and resources on horticultural care, free public programming, and a summer camp. NYC Parks focuses on more basic services, such as mowing the grass and picking up trash, maintaining infrastructure and hardscape, and providing security. The NYC Parks Commissioner might very well prefer for RPC to provide additional support for these basic park functions rather than what we actually do. Under no circumstances could the NYC Parks Commissioner, or his agents, direct RPC to redirect its personnel to provide additional support for those functions.

In fact, RPC has significant discretion in the type of work it chooses to have its personnel engage in, or *not* engage in, with NYC Parks, such as providing athletic field maintenance services at other fields throughout Riverside Park; assisting with tree pruning services and ongoing tree care; soliciting and receiving funding to support the cleaning, repair, or other conservation care monuments and antiquities located within Riverside Park, etc. So, although we work side by side -- with a common goal, but different responsibilities, -- NYC Parks simply does not *and cannot* control RPC.

Second, the RPC's President and CEO, does not take direction from any NYC Parks official. Rather, pursuant to RPC's By-Laws, our president is "responsible for the day to day operation of the Conservancy" and reports to and serves "under the direction of the Board of Trustees and the Chair." The By-Laws further direct that the property and affairs of RPC are managed by the Board of Directors, and ensure that RPC's funds are not co-mingled with any of the City's funds. The By-Laws prohibit any public official -- including the Riverside Park Administrator, the NYC Parks Commissioner, or the Mayor -- from having a vote on and from being "considered in the determination of a quorum of" RPC's Board of Trustees. The President of RPC does not have regular contact with the Mayor, the NYC Parks Commissioner or the Manhattan Borough Commissioner about any subject.

Third, RPC regularly challenges NYC Parks and the Mayor to deliver more resources to Riverside Park – and NYC Parks also has no control over what RPC communicates publicly. Under the leadership of our new president, Dan Garodnick, RPC has been critical of the City's lack of investment in Riverside Park, and has called for improvements. Whether or not the NYC Parks Commissioner or the Mayor want to hear it, RPC has autonomy over what it communicates publicly.

The COIB Board Rules Section 3-03, adopted pursuant to Administrative Code Section 3-901, says that it will evaluate the "totality of circumstances" in evaluating whether the Mayor or the NYC Parks Commissioner exercises 'control" over RPC. As noted above, while the mission of RPC is to support Riverside Park, we are a private corporation, with our own rules, By-Laws and governance structure. We decide how to spend our own resources, and while we operate within a mutually-agreed upon License Agreement, we do not take direction from the City of New York. We also do not take direction from the Riverside Park Administrator, a public employee.

The remaining circumstances in the COIB "totality of circumstances" test are clearly in favor of RPC not being deemed controlled by an elected official.

Furthermore, the RPC

- was not created by the Mayor or the NYC Parks Commissioner.
- is not chaired by the Mayor or the NYC Parks Commissioner, or any other city employee.
- Its Board Members are not appointed by the Mayor or the NYC Parks Commissioner, or any other city employee.
- Board Members serve for fixed terms and cannot be removed by the Mayor or the NYC Parks Commissioner, or any other city employee.
- And, the Mayor and the NYC Parks Commissioner can give no direction on RPC's policies operations and activities.

In sum, there is not a single indicator present here that would suggest that the RPC is controlled by the Mayor or Parks Commissioner. The law should not be applied to us, but if COIB continues to do so, we respectfully submit that we should be explicitly carved out of this law.

Your proposed amendments are helpful, and appreciated, but not nearly enough to avoid significant harm to our organization, and to Riverside Park. If this bill proceeds without carving us out, it is critical that you (1) increase the reporting threshold to $25,000 to mitigate the extreme burden this law will have on us; (2) delete the onerous provision requiring that donors disclose their spouse, domestic partner, un-emancipated child, and/or parent so that they can be run through the doing business database; (3) push back the effective date of Local Law 181 to January 1, 2020 to allow us to ensure the necessary staffing to prepare for compliance; (4) impose liability for violations of any provision of Section 3-902 exclusively on the elected official who allegedly "controls" our organization; and (5) define the terms "agent" and "appointee" so that they can have some reasonable limits.

Thank you for the opportunity to testify today; I am happy to answer any questions you may have.

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Testimony before the New York City Council
Committee on Standards and Ethics
Concerning Intro. 1272 of 2018

Ethan A. Carrier
General Counsel, NYC Conflicts of Interest Board

December 3, 2018

Good afternoon, Chair Matteo and members of the Committee on Standards and Ethics. I am Ethan A. Carrier, the General Counsel of the New York City Conflicts of Interest Board. With me is the Board's Executive Director, Carolyn Lisa Miller. We are here on behalf of COIB to offer testimony about Intro. 1272.

Since the enactment of Local Law 181 of 2016, codified at Chapter 9 of Title 3 of the New York City Administrative Code ("Chapter 9"), COIB has been hard at work implementing the new reporting and donor disclosure requirements for organizations affiliated with elected officials. COIB has adopted Board Rules and has advised elected officials and affiliated organizations about their responsibilities under Chapter 9, conducting numerous in-person training sessions for the representatives of affiliated organizations. These experiences with Chapter 9 provide us with unique insight on the impact that its reporting requirements, as well as the amendments to those reporting requirements proposed in Intro. 1272, will have on affiliated organizations, their donors, and the City.

Chapter 9 was enacted to close a regulatory gap identified in connection with the Campaign for One New York ("CONY") by prohibiting certain donations to organizations affiliated with an elected official that spend at least 10% of their annual expenditures on communications featuring the name, voice, or likeness of the elected official. Such organizations are defined in our rules as "restricted organizations." Chapter 9 also requires all organizations affiliated with elected officials or their agents—including those that do not reach the 10% threshold (which we've defined as "unrestricted organizations")—to report for public disclosure certain donor information.

Although Chapter 9 focused on the concerns raised about CONY-type organizations, the Committee Report for Intro. 1272 acknowledges that Chapter 9 as currently written requires an unrestricted organization to report the same information as a restricted organization. Specifically, an unrestricted organization must report a donation in any amount from someone listed in the City's Doing Business Database or from the spouse, domestic partner, or unemancipated child of someone listed, as well as all other donations of $1,000 or more. This poses a significant burden on the organizations that the legislation was least concerned with, some of which are small not-for-profits with few staff to manage compliance with Chapter 9.

The Board adopted rules implementing the textual requirements of Chapter 9 nearly one year ago, rules that apply to restricted and unrestricted organizations alike. Since then, and after having engaged with and trained affiliated organizations on the requirements of Chapter 9 and the corresponding Board Rules, we strongly believe that Chapter 9 should impose fewer, if any, reporting requirements on unrestricted organizations. Many of these organizations do important work on tight budgets. Forcing them to use their limited resources on a disclosure regime that does not substantially further the Council's policy goals is an undesirable outcome for everybody. In addition, and in light of the concerns raised both by unrestricted organizations and by the Council in the Committee Report, we intend to engage in rulemaking to ensure that the reporting process is not unnecessarily complicated.

COIB supports the Council's efforts to reduce these burdens on unrestricted organizations. The most direct and effective way to reduce those burdens would be to remove unrestricted organizations from Chapter 9.

However, if the Council wishes to retain Chapter 9's jurisdiction over unrestricted organizations, COIB has some general ideas on how to amend the law to balance the dual goals of transparency and reducing the burdens on unrestricted organizations. We stand ready to work collaboratively with the Council to help craft legislation that effectively advances these shared goals.

In our testimony today we offer three broad ideas, as well a more detailed list of drafting suggestions for implementing these concepts and for fixing some of the structural inconsistencies in Intro. 1272. That list can be found as an addendum to this testimony.

(1) **Remove Family Members from Disclosure Regime.** Based on the feedback COIB has received, unrestricted organizations almost universally consider it particularly burdensome to obtain and disclose information about a donor's family members. The law should not require an unrestricted organization to report whether a donor is the spouse, domestic partner, or unemancipated child of a person listed in the City's Doing Business Database. The political campaign of a candidate for City elective office does not need to report to the Campaign Finance Board or otherwise inquire whether a family member of a contributor is listed in the Doing Business Database; unrestricted organizations should not be subject to a stricter disclosure regime than in the Campaign Finance Act.

(2) **Remove Doing Business Database from Disclosure Regime.** Because the Doing Business Database is publicly available, and the proposed amendments would require

the Chapter 9 public disclosures to be machine readable, journalists, good government groups, and other motivated members of the public would be able to compare donor information released against the Doing Business Database; it should not fall either on unrestricted organizations or COIB to do so. We believe that the Council's goals are achieved simply by disclosure of donor information and that our limited taxpayer resources should be focused on administering this aspect of the disclosure regime.

(3) **Increase Reporting Threshold for Unrestricted Organizations.** COIB supports Intro. 1272's proposal to increase the reporting threshold from $1,000 to $5,000, below which unrestricted organizations need not disclose any information about donors. As stated in the Committee Report for Intro. 1272, the Board in Advisory Opinion No. 2003-4 selected this amount as the appropriate threshold for public disclosure.

In conclusion, we welcome a reduction of Chapter 9's reporting requirements for unrestricted organizations and are eager to work with the Council to implement these changes.

ADDENDUM

Recommended Edits to Intro. 1272

Paragraph (a)(7)

- Paragraph (a)(7), which pursuant to Intro. 1272 would be applicable only to restricted organizations, refers to "any entity that" donates $1,000 or more to the organization. Administrative Code 3-903(c) provides that a restricted organization "shall not accept donations by any entity," only from a natural person, so the reference to an entity (as well as to the entity's state of incorporation) should be removed from paragraph (a)(7). If this reference remains in Intro. 1272, it could mislead a restricted organization into thinking that it may accept donations from entities, as long as they report these donations.

Paragraph (b)(7)

- As stated in the testimony, COIB recommends deleting paragraph (b)(7) to take a donor's family members out of the reporting framework.

- Paragraph (b)(7) requires an unrestricted organization to ask its donors to fill out a donation form to identify certain family members with City business dealings, but it does not require the donor to provide this information to the organization. An unrestricted organization would thus be violating Chapter 9—and would be subject to an enforcement action and fine—if it failed to ask its donors to fill out a donation form despite the fact that the donor is not required to complete the form. If the law does not require the information to be obtained, it should not regulate unrestricted organizations to ask for it. We recommend eliminating this requirement entirely.

- Paragraph (b)(7) states that an unrestricted organization "shall" ask its donors "on a donation form" whether the donor is the spouse, domestic partner, unemancipated child, or parent of a person with business dealings with the City, without making the use of that form mandatory in Administrative Code Section 3-903(d), as Chapter 9 does for restricted organizations. In order to require the use of such a form, Section 3-903(d) needs to be amended to require unrestricted organizations to make such an inquiry when accepting donations of $5,000 or more, although the amendment should clarify that, unlike restricted organizations, an unrestricted organization is not prohibited from accepting the donation if the donor does not provide the information requested.

- It is unclear whether paragraph (b)(7) requires the organization's disclosure of all family members reported by its donors as part of the public report, or whether COIB only discloses those family members who are listed in the Doing Business Database, once COIB has made that determination pursuant to paragraph (c). If the Council intends the former, it would result in the needless disclosure of a donor's family members; if the Council intends the latter, there will be an inevitable lag time before the appropriate family members' names are disclosed to the public by COIB. COIB reiterates its position that family members should be taken out of the reporting framework.

- Although the aim of Intro. 1272 is to make reporting requirements less burdensome for unrestricted organizations, paragraph (b)(7) would make reporting requirements *more* burdensome by requiring that an unrestricted organization ask whether a donor is the "parent of a person with business dealings with the city." Restricted organizations, however, do not need to make that inquiry because the definition of "person with business dealings with the city" in Administrative Code Section 3-901 only includes the spouse, domestic partner, or unemancipated children of a person listed in the Doing Business Database. The reference to a "parent" in paragraph (b)(7) should be removed.

Paragraph (b)(8)

- Paragraph (b)(8) permits donors to request anonymity, but this opt-out option is available only to donors with business dealings with the City. Given the law's focus on disclosure of donors with City business dealings, it seems counterintuitive here to deny the option of anonymity for donors who do not have City business dealings. If this paragraph is retained, anonymity requests should be available to all donors.

- Paragraph (b)(8) should be harmonized with paragraph (d), which allows an organization to request that disclosure of its donors not be made public when "disclosure may cause harm, threats, harassment, or reprisals to the donor, or to individuals or property affiliated with the donor." Paragraph (d) should include language to make clear that it applies only to donors not given anonymity under paragraph (b)(8).

- The information that an unrestricted organization would disclose pursuant to paragraph (b)(8)—the number of donations received from donors with business dealings with the City who wish to remain anonymous—is not meaningful to the public, because, among other things, it would not reveal if those donations are from one donor or many, or the amount of any single donation, whether $5,000 or $5,000,000. Instead, donations from donors who wish to remain anonymous should be reported like every other donation, except with the name of the donor listed as "Anonymous."

Paragraph (b)(9)

- Paragraph (b)(9) requires an unrestricted organization to certify that it did not spend or does not reasonably expect to spend at least 10% of its expenditures on the production or dissemination of elected official communications. It does not require unrestricted organizations to disclose the cost to produce or disseminate elected official communications. While COIB supports reducing the burdens on unrestricted organizations, this provision has the effect of preventing any independent determination of whether an organization accurately certified as unrestricted. The Council should instead require, as paragraph (a)(8) does for restricted organizations, "an accounting of the expenditures of the organization during the previous calendar year on the production or dissemination of elected official communications."

Paragraph (c)

- Paragraph (c) would shift to the Board the burden of determining whether any donor is a "person with business dealings with the city" either on the date of the donation or within 180 days after the organization's receipt of the donation. Unrestricted organizations have indicated that checking running the names of donors and their family members in the Doing Business Database twice is expected to be one of the most time-consuming aspects of compliance with Chapter 9. Placing that burden on COIB staff, multiplied over the dozens of organizations subject to Chapter 9, will place a significant additional strain on COIB's limited taxpayer resources.

Paragraph (d)

- Paragraph (d) would require the Board to provide the public information submitted by affiliated organizations "in a machine readable format that permits automated processing." What is intended by this requirement is unclear. Also, this change at this time would likely create substantial additional expenses for the Board, which has already spent tens of thousands of taxpayer dollars and hundreds of staff hours to develop an Internet-based portal by which organizations can report, and the public can view, information about donations. Significant changes would require COIB to modify the Internet-based portal at additional taxpayer expense.

FOR THE RECORD

New York City Council Committee on Standards and Ethics
December 3, 2018 - Hearing in relation to amending reporting and donor disclosure requirements for organizations affiliated with elected officials

Thank you to Chair Matteo, the Committee and to this legislation's co-sponsors, Councilmen Grodenchik and Levine, for the opportunity to add our voice on this important subject.

I am Betsy Smith, the President and CEO of the Central Park Conservancy, a private, not-for-profit organization. With 42 million visits each year to its 843 acres, Central Park is the most frequently visited urban park in the United States. The Central Park Conservancy was founded in 1980 by a group of civic and philanthropic New Yorkers who were determined to end Central Park's dramatic decline of the 1970s and restore this famous and beautiful urban greenspace. Today, the Conservancy is responsible for the Park's day-to-day maintenance and operation, and has invested more than $1 billion in restoring, enhancing and managing Central Park. In addition, we provide assistance to many other parks across the City through the work of the Central Park Conservancy Institute for Urban Parks.

While we recognize that the stated subject of today's hearing is reporting and donor disclosure requirements, I want to take this opportunity to address the genesis of the underlying legislation and its applicability to the Central Park Conservancy. Local Law 181 was adopted to provide enhanced transparency for fundraising by elected officials. That the regulatory changes were meant to apply to nonprofits with a political purpose is evident in the legislative history and the emphasis it places on 501(c)(4) and similar organizations. This is a laudable goal, and one that the Central Park Conservancy supports.

We do not, however, believe that the legislation was ever intended to apply to nonprofits, such as the Conservancy, whose sole purpose is the restoration and management of public property for the greater good.

That the Council's primary concern was the use or misuse of nonprofits by elected officials for political purposes is underscored by the legislation's focus on an elected official or their agent exercising control over an organization. The Central Park Conservancy simply does not meet the law's definition of an organization affiliated with an elected official, and the fact of deeming the Conservancy controlled by the City in any context would contradict our very organizing principle; would seriously impact how the Conservancy actually operates on a day-to-day basis; and make carrying out our work nearly impossible. The Conservancy was founded to insulate Central Park from the whims of shifting political priorities and competing economic needs and, for that reason, our independence is a foundational component of our identity and ability to fundraise.

The Central Park Conservancy was formed by combining two pre-existing private entities in an effort to save Central Park at a time when it had fallen into a state of disrepair that the City no longer had the resources to address. In the intervening years, what was once a novel public-private partnership has matured into a formal, contractual relationship with the City, akin to that of an independent contractor. The Conservancy maintains its own staff of over 300 employees, none of whom, including myself and the Central Park Administrator, draws a salary or benefits from the City. While the Commissioner of Parks and Recreation and the Manhattan Borough President serve as Ex Officio Trustees on our Board, the Board also has 46 independent Trustees. Although we work in partnership with the Commissioner

under the terms of our contractual arrangements, neither the Commissioner nor the Borough President has significant involvement or direction in our policies, operations and activities. Indeed, a review of the relevant factors for assessing control listed in the law itself demonstrates that concluding that the Central Park Conservancy is controlled by an elected official would simply be incorrect and a gross mischaracterization of our relationship with the City and our broader mission.

Circumstances Relevant to Determining that an elected official does not "exercise control" over the Central Park Conservancy
(as defined in Section 3-901, "Organization affiliated with an elected official")

Section 3-901	Central Park Conservancy
An elected official or agent appoints a majority of seats on the board of the entity:	No
An elected official or agent is a principal officer of the entity:	No
The organization was created by an elected official or agent and how recently the organization was created:	1 agent involved among many private citizens 38 years ago
The board of the organization is chaired by an elected official or agent:	No
Board members appointed by an elected official serve for terms or appointed only upon nomination of other individuals or entities who are not agents:	5 of 53
The degree of involvement or direction by an elected official in the organization's policies, operations and activities:	None to minimal as Trustees and otherwise as set out in contract

Our donors support us precisely because we are not an agent of the City, and any legislation that fails to make our very real independence indisputably clear is a threat to our existence and continued investment in Central Park.

We are tremendously proud of our nearly 40-year working relationship with the City and all that we have done together to make Central Park both a destination for visitors from across the country and world, and a retreat for New Yorkers from every borough. At a time when the City's population is rising, and opportunities for escape and respite are vanishing, we can ill afford to let any of our parks return to the state that led to the founding of these conservancies in the first place.

I thank you for your time and attention to this vital topic and urge you to protect our independence so that we can continue to protect our parks.

THE BATTERY

Good afternoon. I am Hope Cohen, Chief Operating Officer of The Battery Conservancy, which in partnership with the NYC Department of Parks and Recreation (NYC Parks), maintains, operates, and enlivens The Battery at the southern tip of Manhattan.

Thank you for providing this opportunity to comment on the proposed amendments to Local Law 181. This draft legislation aims to correct a problem with the drafting of Title 3, Chapter 9 of the Administrative Code. The Conflict of Interests Board (CoIB) currently interprets Title 3 as applying to non-profit partners of city agencies—notably park conservancies. As my colleagues at other conservancies have testified, The Battery Conservancy is neither controlled by nor affiliated with any agent of any elected official of the City of New York. We appreciate Council's staff proposed adjustments to Title 3, but they do not go nearly far enough in addressing our concerns.

First, the legislation needs to define more carefully the meaning of "controlled by or affiliated with." While we coordinate our support of The Battery with NYC Parks, neither the agency, its commissioner, nor the elected official to whom the commissioner reports (i.e., the mayor) controls our organization, its finances, personnel, or operations.

Second, the reporting requirements for organizations that are appropriately ruled by Title 3 are extremely burdensome for us to fulfill. We appreciate that the proposed legislation increases the dollar amount that triggers the reporting requirement, $5000 still captures too large a proportion of our donors. The Battery Conservancy has a single employee responsible for managing donor information and simply cannot take on this additional administrative work without impacting our ability to raise funds for our mission to welcome the public to a well-maintained park.

Third, the requirement for disclosure of donor family relationships is invasive of donor privacy and will doubtless discourage those who would otherwise give.

Together the new reporting requirements would significantly decrease the ability of non-profits like The Battery Conservancy to serve the park, city, and people by:

- Redirecting precious donation resources to this new reporting
- Discouraging donors who want their gifts to support the mission of the non-profit rather than administrative overhead
- Discouraging donors who wish to protect the privacy of their family relationships

We hope you will agree that The Battery Conservancy and other non-profits that **partner** with the City work independently of government control. We labor to raise every cent, and believe these precious resources must be dedicated to the work we do to deliver services to all New Yorkers.

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Hon. Steven Matteo, Chair
NYC Council Standards and Ethics Committee
Councilmembers: Chin, Gibson, Koslowitz and Levin

December 3rd, 2018

Dear Chairperson and Council Members of the Standards and Ethics Committee

Re: Testimony for Hearing on Amending reporting and donor disclosure requirements for organizations affiliated with elected officials (T2018-3290)

Thank you for allowing me to testify on behalf of the Friends of Van Cortlandt Park in regards to Local Law 181. Our organization believes that the reporting requirements for organizations that merely have elected officials or government officials serving on their board is an overreach and an unnecessary burden. The requirement for donors to register as if they were "doing business" with the City is equally an overreach and likely to have a terrible impact on donations. The law should be limited to nonprofits that are genuinely controlled or strongly influenced by a city official and donors that give very substantial sums of money to an organization, like a set percentage of the budget or a very high dollar threshold.

The Friends of Van Cortlandt Park is the leading fundraising organization for Van Cortlandt Park, the third largest park in NYC. We carry out vital environmental education and restoration and enhancement of the Park, its forests and trails. We have grown to become Van Cortlandt Parks' primary free educational organization– developing educational and stewardship programs for around 6,000 children and adults each year. We are a small organization with 4 full-time staff members and a budget under $500,000 annually. We work to make sure that as much of our time and effort can go into the Park as possible which is why I am the only staff member whose majority of time isn't spent in the Park running our programs. Local Law 181, as currently written, would require a burdensome amount of my time collecting information from our donors, who would be reluctant to give it, rather than spending time raising additional dollars that are sorely needed for our park. Furthermore, donors have already expressed their concern to us and we feel that several donors will decrease their donation amounts to under the reporting requirement.

The mere presence of a few government officials on a board of directors or serving as ex-officio board members in no way means that an organization is under the control of that person or group of persons. We have a significant ex-officio board with elected officials and at least one government official on our regular board of directors and routinely take positions at odds with the City. While we understand that there are a limited group of nonprofits that are formed by elected officials or directly affiliated with them, park conservancies and friends groups do not fall into that category at all.

If the Council insists that a reporting requirement remain, the trigger amount must be increased to capture only the highest-level donors above $25,000 per year or be a set percentage of an organization's budget.

Please allow groups like ours to continue to support our local parks and not spend more time checking off boxes and doing additional paperwork to meet new requirements. We already spend enough time doing this.

The Friends of Van Cortlandt Park wishes to continue to spend as much time as possible Bringing Youth, Community and Nature Together in our park.

Sincerely,

Christina A. Taylor
Christina Taylor
Executive Director

socratessculpturepark.org
info@socratessculpturepark.org

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32-01 Vernon Blvd.
Long Island City, NY 11106

NYC COUNCIL COMMITTEE ON PARKS & RECREATION
Committee on Standards and Ethics re Local Law 181 of 2016

SOCRATES SCULPTURE PARK TESTIMONY

December 3, 2018

Good afternoon Speaker Johnson, Chair Grodenchik, and members of the City Council Parks Committee. I am Katie Denny Horowitz, Director of External Affairs for Socrates Sculpture Park, located in Long Island City, Queens. Thank you for allowing me to come before you to talk about our organization.

Like other parks conservancies here today, Socrates Sculpture Park is a 501(c)(3) non-profit organization that maintains a lease agreement with the City of New York. Unlike many other parks organizations, Socrates is primarily a visual arts organization and acts as a cultural anchor for Queens and the 200,000 people who visit our Park each year.

The site was once an abandoned riverside landfill and illegal dumpsite until 1986, when a coalition of artists and community members, under the leadership of sculptor Mark di Suvero, transformed it into an open studio and exhibition space for artists and a neighborhood park for local residents. Socrates Sculpture Park opened its first exhibition in 1986, became a 501c3 in 1992, and parkland in 1993.

The park is open every day from 9am till dusk. In our 32-year history, Socrates has hosted over 1,200 artists, has presented more than 80 exhibitions, and currently attracts approximately 200,000 visitors on an annual basis. While known internationally for our contemporary art exhibitions and annual emerging artist residency program, we are perhaps better known in the Queens community as a vital New York City park, offering a wide variety of free public programs, including international cinema, opera recitals, site-specific dance, community festivals, Shakespeare, kayaking, yoga, as well as an arts education program that serves 8,000 local children and teens each year.

As a tax-exempt non-profit, Socrates annually raises its operating budget of approximately $1.4M, which supports 100% of the maintenance, administration and programming of the waterfront park. 100% of our $1.4M annual income is raised privately.

Every program at Socrates is free of charge, and more than 80% of our income comes from private individuals, foundations, and businesses who share our core value that access to green space and the arts should be open to all.

Our local elected officials are also supportive of the free services we provide, and in FY19 we received a total of $10,000 in competitive discretionary City Council and Borough President funding, which made up 0.007 percent of our annual budget.

As we close out our current fiscal year, I'm pleased to report that we raised nearly $300,000 from more than 100 individuals, with an average personal contribution of $2,000.

Identifying, cultivating, and managing individual donors is a significant aspect of any non-profit, especially one that develops and delivers exclusively free programming.

Should a modest organization like Socrates Sculpture Park be required to comply with the stipulations set forth in Local Law 181 as it is currently written, such requirements could put much of this critical support at risk, placing an undue, if not nearly impossible, burden on an already over-capacity staff, and would confuse or, worse, jeopardize our donor relationships by introducing new demands on our individual contributors.

Socrates wholeheartedly supports amending Local Law 181 to more clearly define its target organizations so as not to unintentionally cause harm and put fundraising efforts at risk for a broad and diverse array of non-profit organizations that make our city vibrant.

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Coney Island Beautification Project, Inc.
3207 Mermaid Avenue
Brooklyn, NY 11224
718-265-0814
cibproject@aol.com

December 3, 2018

City Council Committee on Standards and Ethics Hearing
Reporting and Donor Disclosure Requirements

Greetings,

I'm Pamela Pettyjohn, President and Founder of Coney Island Beautification Project Inc. CIBP is comprise of Coney Island residents and advocates of our mission, "Beautification through organization, education, advocacy, greening, sustainability, resiliency... of our public spaces and waterways. " We are grateful of funding by our Councilmember Mark Treyger through NYC Discretionary Fund.

Our initial inclination is to support government transparency but under this reconsidered law these reporting necessities are tremendously daunting and overbearing to a small organization such as ours. To vet possible donors and especially their family and their children seems over reaching. To request such requirements would be humiliating when soliciting funds, therefore limiting aid from potential funders. Please do not handicap our fundraising efforts by strangling us with these onerous conditions.

Thank You

NYRP NEW YORK RESTORATION PROJECT

OR THE R

Written Testimony by Deborah Marton, Executive Director New York Restoration Project

Before the New York City Council Committee on Standards and Ethics

December 3, 2018

NYRP NEW YORK RESTORATION PROJECT

Dear Chair Matteo and members of the Committee on Standards and Ethics:

My name is Deborah Marton and I am sharing written testimony on behalf of the city-wide conservancy that I lead, New York Restoration Project (NYRP), and a vast network of parks and open space conservation partners. Collectively this network raises many millions in private funds each year to deliver capital renovations, crucial maintenance, and programming in our city's parks and gardens. In partnership with NYC Parks, we ensure that our city's open spaces are optimally resourced, highly accessible, and meeting the needs of as many New Yorkers as possible.

NYRP was founded at a time when our city's open spaces were nowhere near as resourced as they are today. Our founder, Bette Midler, established us in 1995 to raise funds for long-neglected open spaces. Over 20 years later we manage 52 gardens and over 80 acres of parkland in all five boroughs. Our users represent every kind of New Yorker: they are young, old, long-time residents, and new arrivals. They rely on us for beautiful green spaces that provide both respite and community connection.

Our work is only made possible because we are a non-profit led by an independent board of 20, which includes one ex-officio member of government office, the Commissioner of the Parks Department. All other members are private individuals who come from a diverse range of professions and commit their vast sets of skills and expertise towards improving the lives of New Yorkers. There is no question that organizations like NYRP operate independently. Our very independence is what makes our work so valuable and attracts so much added investment.

We share many of our peers' concerns about potential implications of Local Law 181 (LL181). We do not understand why a law intended to regulate campaign finances would extend to conservancies. NYRP is clearly not a 'non-profit controlled by elected officials.' LL181's additional parameters of 'organizations affiliated with an elected official,' leave room for much interpretation. We thank Council Member Grodenchik for addressing this important issue and urge you to clarify § 3-901 of Local Law 181 to exclude conservancies in order to avoid the unnecessary burden of additional regulations. These stand to severely limit our abilities to raise badly needed additional funds and operate in the adaptable way that achieves powerful gains for our parks. I thank you for your consideration and encourage you to get in contact with me if you have any questions.

254 WEST 31ST STREET | 10TH FLOOR | NEW YORK NY 10001 | 212.333.2552 nyrp.org

New York City Council
Committee on Standards and Ethics Hearing
Int 1272 - In relation to amending reporting and donor disclosure requirements for organizations affiliated with elected officials.

December 3, 2018

Testimony By: Sarah Charlop-Powers, Natural Areas Conservancy, Executive Director

Good afternoon Chair Matteo, Parks Chair Grodenchik and members of the Committee on Standards and Ethics. I am Sarah Charlop-Powers, Executive Director of the Natural Areas Conservancy (NAC). Thank you for the opportunity to testify today on the proposed amendment to local law 181. The Natural Areas Conservancy is a not for profit organization, formed in 2012 to restore and conserve forests and wetlands within New York City. There are 20,000 acres of forests and wetlands in New York City. 10,000 of these acres are located on NYC parkland.

In the past six years, the NAC has studied the ecology of NYC's natural areas in more than 50 parks across the five boroughs. We have provided paid internships to more than 80 NYC youth. We have built trails and restored coastal and upland areas, making NYC more resilient and supporting local biodiversity. All our efforts have been in the service of making New York City a healthier and better place for New Yorkers. Significantly, all our work has been funded completely by private grants and donations. Our organization, including the work of our nine full-time staff, is guided by our board of directors, who govern the organization in accordance with non-profit law.

The Natural Areas Conservancy is one of the dozens of non-profit organizations across New York City who are committed to championing parks. Conservancies like ours are working very hard to complement, but not replace the work of the public sector. As a young organization that works in remote areas of the city, we work extremely hard to raise our operating budget each year. The value that we and our partners bring to the city is part of the reason that New York City is considered a national leader in parks. I am testifying today to support all my colleagues as we ask you to amend Local Law 181, to clarify that it should not apply to non-profit park conservancies.

The board of directors of the NAC is selected based on the ability of board members to support and lead the organization, in service of our mission. They should not be characterized as "agents of the Mayor" (or other elected officials) just because they are working to enhance a public good that is supported by the City. While we understand that the good intent of this law was for campaign finance reform, our inclusion within it implies that we have some sort of political role. Our board and administration has been set up to insure we are governed independently and not under the direction or control of any City agency or elected official. The donors who support us rely on that fact.

Further, Local Law 181 has a series of reporting requirements which not only add an astonishing burden of paperwork (which would present real hardship to our organization), and the requirement for information about a donor's spouse and children will have a chilling effect on donations.

I support the proposed simplification of the reporting requirements proposed in Int 1272 but also respectfully request that City Council amend Local Law 181 so that independently governed non-profit park conservancies are exempt from this law.

New York City Council Committee on Standards and Ethics
December 3, 2018 - Hearing in relation to amending reporting and donor disclosure requirements for organizations affiliated with elected officials

Thank you to Chair Matteo, the Committee and to this legislation's co-sponsors, Councilmen Grodenchik and Levine, for the opportunity to add our voice on this important subject.

I am Betsy Smith, the President and CEO of the Central Park Conservancy, a private, not-for-profit organization. With 42 million visits each year to its 843 acres, Central Park is the most frequently visited urban park in the United States. The Central Park Conservancy was founded in 1980 by a group of civic and philanthropic New Yorkers who were determined to end Central Park's dramatic decline of the 1970s and restore this famous and beautiful urban greenspace. Today, the Conservancy is responsible for the Park's day-to-day maintenance and operation, and has invested more than $1 billion in restoring, enhancing and managing Central Park. In addition, we provide assistance to many other parks across the City through the work of the Central Park Conservancy Institute for Urban Parks.

While we recognize that the stated subject of today's hearing is reporting and donor disclosure requirements, I want to take this opportunity to address the genesis of the underlying legislation and its applicability to the Central Park Conservancy. Local Law 181 was adopted to provide enhanced transparency for fundraising by elected officials. That the regulatory changes were meant to apply to nonprofits with a political purpose is evident in the legislative history and the emphasis it places on 501(c)(4) and similar organizations. This is a laudable goal, and one that the Central Park Conservancy supports.

We do not, however, believe that the legislation was ever intended to apply to nonprofits, such as the Conservancy, whose sole purpose is the restoration and management of public property for the greater good.

That the Council's primary concern was the use or misuse of nonprofits by elected officials for political purposes is underscored by the legislation's focus on an elected official or their agent exercising control over an organization. The Central Park Conservancy simply does not meet the law's definition of an organization affiliated with an elected official, and the fact of deeming the Conservancy controlled by the City in any context would contradict our very organizing principle; would seriously impact how the Conservancy actually operates on a day-to-day basis; and make carrying out our work nearly impossible. The Conservancy was founded to insulate Central Park from the whims of shifting political priorities and competing economic needs and, for that reason, our independence is a foundational component of our identity and ability to fundraise.

The Central Park Conservancy was formed by combining two pre-existing private entities in an effort to save Central Park at a time when it had fallen into a state of disrepair that the City no longer had the resources to address. In the intervening years, what was once a novel public-private partnership has matured into a formal, contractual relationship with the City, akin to that of an independent contractor. The Conservancy maintains its own staff of over 300 employees, none of whom, including myself and the Central Park Administrator, draws a salary or benefits from the City. While the Commissioner of Parks and Recreation and the Manhattan Borough President serve as Ex Officio Trustees on our Board, the Board also has 46 independent Trustees. Although we work in partnership with the Commissioner

under the terms of our contractual arrangements, neither the Commissioner nor the Borough President has significant involvement or direction in our policies, operations and activities. Indeed, a review of the relevant factors for assessing control listed in the law itself demonstrates that concluding that the Central Park Conservancy is controlled by an elected official would simply be incorrect and a gross mischaracterization of our relationship with the City and our broader mission.

Circumstances Relevant to Determining that an elected official does not "exercise control" over the Central Park Conservancy
(as defined in Section 3-901, "Organization affiliated with an elected official")

Section 3-901	Central Park Conservancy
An elected official or agent appoints a majority of seats on the board of the entity:	No
An elected official or agent is a principal officer of the entity:	No
The organization was created by an elected official or agent and how recently the organization was created:	1 agent involved among many private citizens 38 years ago
The board of the organization is chaired by an elected official or agent:	No
Board members appointed by an elected official serve for terms or appointed only upon nomination of other individuals or entities who are not agents:	5 of 53
The degree of involvement or direction by an elected official in the organization's policies, operations and activities:	None to minimal as Trustees and otherwise as set out in contract

Our donors support us precisely because we are not an agent of the City, and any legislation that fails to make our very real independence indisputably clear is a threat to our existence and continued investment in Central Park.

We are tremendously proud of our nearly 40-year working relationship with the City and all that we have done together to make Central Park both a destination for visitors from across the country and world, and a retreat for New Yorkers from every borough. At a time when the City's population is rising, and opportunities for escape and respite are vanishing, we can ill afford to let any of our parks return to the state that led to the founding of these conservancies in the first place.

I thank you for your time and attention to this vital topic and urge you to protect our independence so that we can continue to protect our parks.

CITIZENS UNION OF THE CITY OF NEW YORK

Testimony before the New York City Council Committee on Standards and Ethics on Int. No. 1272-2018, in Relation to Amending Reporting Requirements for Organizations Affiliated with Elected Officials

December 3rd, 2018

Good morning Chair Matteo and members of the Committee on Standards and Ethics. My name is Rachel Bloom and I am the Director of Public Policy and Programs at Citizens Union. Citizens Union is a nonpartisan good government group dedicated to reforming New York City and State governments to foster accessibility, accountability, and transparency. We serve as a civic watchdog, combating corruption and guiding reform.

In 2016, Citizens Union and others expressed concern over the use of nonprofits formed by or closely aligned with elected City officials to advance their political agendas, and we proposed local legislation that would regulate the operations and reporting of these nonprofits. We applauded the passage of Local Law 181, which is designed to regulate organizations so closely affiliated with an elected City official that they are perceived as extensions of the official and served to boost the position and profile of that official. Though the efforts of these organizations may well serve the public good, they generally also promote the elected official in ways similar to a political campaign.

Prior to the passage of Local Law 181, these organizations operated without any oversight or regulation, with no limits on contributions or requirements to disclose large donors. Thus, officials who had received the maximum allowable contribution from an individual under the City's campaign financing rules – often someone who is doing or seeks to do business with the City – could route limitless additional contributions from that individual through affiliated organizations. We believe that Local Law 181 of 2016 was an important step forward in bringing needed oversight to these types of organizations.

Local Law 181 of 2016

Local Law 181 differentiates official-affiliated organizations that spend 10% or more of their budget on communications that display the name or likeness of the affiliated official (known as "restricted organizations"), and those that spend less than 10% on such communications ("unrestricted organizations"). Under the law, all affiliated organizations must report contributions of donors who have business before the City and those who gave $1000 or more. In addition, restricted organizations may not receive contributions greater than $400 per year from people doing business with the City.

Int. No. 1272-2018

Int. No. 1272-2018 would not change the reporting requirements or contribution restrictions placed on restricted organizations under Local Law 181, but it would change the reporting requirements for unrestricted organizations. The amendment would require unrestricted organizations – those that spend less than 10% of their budget on communications that promote an affiliated elected official – to report only donors of $5000 or more and whether they are related to a person doing business with the City. However, donors of $5000 or more can choose to remain anonymous, in which case only the amount of the donation is disclosed. The organization must check the City's "doing business" database to determine whether such an anonymous donor has business before the City. The Conflicts of Interest Board (COIB) is responsible for making this determination for donors that do not wish to be anonymous.

Notes and Suggestions for Int. No. 1272-2018

1. While the amendment would require the COIB to determine whether donors of $5000 or more have business dealings before the City, we do not see any requirement that the COIB must report its findings. Citizens Union believes that for this transparency measure to effectively curtail pay-to-play schemes and bolster campaign finance rules, an essential component of it must be that the COIB makes its findings public.

2. If donors of $5000 or more do not want their identity to be made public they simply need to indicate that to the unrestricted organization. There is no review of the decision and no requirement to request an exception to disclosure (similar to what the state Joint Commission on Public Ethics requires). Under the amendment the unrestricted organization is responsible for asking donors whether they have business before the City, but it is not clear what the organization must do with that information, and this requirement seems to overlap, at least partially, with the requirement that the COIB identify the donors over $5000 who are doing business with the City. Citizens Union believes that the roles of the unrestricted organization and the COIB in this situation should be clarified. Moreover, there should be some public disclosure of substantial donors who have business before the City.

Impact on Nonprofit Organizations

We have heard concern from nonprofits, in particular park conservancies, about the adverse impact these amended reporting requirements would have on their ability to solicit donations. However, Citizens Union believes these concerns are unfounded as a vast majority of nonprofits do not qualify as organizations affiliated with elected officials. There is a presumptive affiliation if more than half of an organization's board is appointed by an official, or if the official leads the organization. Local Law 181 directs the COIB to consider the totality of circumstances in determining whether an official exercises control. In the case of most nonprofits and conservancies these factors do not amount to affiliation with an elected official.

Furthermore, Int. No. 1272 would not require a nonprofit that believes it is not affiliated to fulfill any of the disclosures required for affiliated organizations, even if the nonprofit has some mayoral appointees. We stress that the overwhelming majority of nonprofits that work with the City and have some mayoral appointees on their boards would not qualify as affiliated organizations and thus would have no reporting requirements whatever under this law. If such nonprofits flag particular situations in which they might inadvertently be seen as affiliated organizations, Citizens Union would support a review of the criteria in the law to try to avoid the problem.

Citizens Union is a strong supporter of measures that limit the influence of big money in City government. I thank you for the opportunity to testify before the Committee on this important subject and we look forward to working with the Council to improve regulations on elected official affiliated organizations.

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☒ in opposition

Date: 12/3/18

(PLEASE PRINT)

Name: LYNN KELLY

Address:

I represent: New Yorkers For Parks

Address: 55 Broad St., NYC

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 12/3/18

(PLEASE PRINT)

Name: Heather Iwbal

Address:

I represent: City Parks Fdn

Address: 830 Fifth Ave

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date:

(PLEASE PRINT)

Name: Deborah Mahler, Randall's Island Park Alliance

Address: 24 W. 61st St. NY, NY 10023

I represent: Randall's Island Park Alliance

Address:

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Adrian Benepe

Address: 666 Broadway #9 NY, NY 10012

I represent: Trust for Public Land

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Alex Camarda

Address: _____

I represent: Reinvent Albany

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☒ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Nicole Brostoff

Address: _____

I represent: Riverside Park Conservancy

Address: _____

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1272 Res. No. _____

☐ in favor ☒ in opposition

Date: 12/3/10

(PLEASE PRINT)

Name: Katie Denny Horowitz

Address: _____

I represent: Socrates Sculpture Park

Address: 32-01 Vernon Blvd LIC NY 11106

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☒ in opposition

Date: _____

(PLEASE PRINT)

Name: Christina Taylor

Address: 80 VCPS Bx NY 10463

I represent: Friends of Van Cortlandt Park

Address: 80 VCPS Bx NY 10463

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☒ in opposition

Date: _____

(PLEASE PRINT)

Name: Pamela Pettyjohn

Address: 3207 Mermaid Ave Brklyn 11224

I represent: Coney Island Beautification Project

Address: _____

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 12/3/2018

(PLEASE PRINT)

Name: Eloise Hirsh

Address: 315 Riverside Dr. NYC

I represent: Freshkills Park Alliance

Address: ~~2440 Richmond Ave. S.I.~~ 100 Gold Street NYC

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Maggie Greenfeld

Address: One Bronx River Parkway

I represent: Bronx River Alliance

Address: Bronx NY 10462

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1592 Res. No. _____

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: MARC A. HALEN

Address: _____

I represent: FRIENDS OF CUNNINGHAM PARK

Address: _____

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Sue Donoghue

Address: 527 1st St

I represent: Prospect Park Alliance

Address: 95 PPW Brooklyn

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 181 Res. No. _____

☐ in favor ☒ in opposition

Date: 12/3/2018

(PLEASE PRINT)

Name: Hope Cohen

Address: 1 Whitehall Street NY NY 10004

I represent: The Battery Conservancy

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1272 Res. No. _____

☐ in favor ☒ in opposition

Date: 12/3/18

(PLEASE PRINT)

Name: Susan Lerner

Address: 80 Broad St., Ste 2703, NY, NY

I represent: Common Cause/NY

Address: 80 Broad St, Ste 2703, NY, NY

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1272 Res. No. _____

☐ in favor ☐ in opposition

Date: 12/3/18

(PLEASE PRINT)

Name: Carolyn Lisa Miller

Address: 2 Lafayette St Suite 1010

I represent: Conflicts of Interest Board

Address: _____

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1272 Res. No. _____

☐ in favor ☐ in opposition

Date: 12/3/15

(PLEASE PRINT)

Name: Ethan A. Carrier

Address: 2 Lafayette St suite 1010

I represent: The Conflicts of Interest Board

Address: _____

Please complete this card and return to the Sergeant-at-Arms