

THE COUNCIL

Minutes of the Proceedings for the
STATED MEETING

of

Wednesday, May 27, 2015, 1:56 p.m.

The Public Advocate (Ms. James)
Acting President Pro Tempore and Presiding Officer

Council Members

Melissa Mark-Viverito, Speaker

| | | |
|---------------------------|---------------------|---------------------|
| Maria del Carmen Arroyo | Vincent J. Gentile | Carlos Menchaca |
| Inez D. Barron | Vanessa L. Gibson | Rosie Mendez |
| Fernando Cabrera | David G. Greenfield | I. Daneek Miller |
| Margaret S. Chin | Vincent M. Ignizio | Antonio Reynoso |
| Andrew Cohen | Corey D. Johnson | Donovan J. Richards |
| Costa G. Constantinides | Ben Kallos | Ydanis A. Rodriguez |
| Robert E. Cornegy, Jr. | Andy L. King | Deborah L. Rose |
| Elizabeth S. Crowley | Peter A. Koo | Helen K. Rosenthal |
| Laurie A. Cumbo | Karen Koslowitz | Ritchie J. Torres |
| Chaim M. Deutsch | Rory I. Lancman | Mark Treyger |
| Inez E. Dickens | Bradford S. Lander | Eric A. Ulrich |
| Daniel Dromm | Stephen T. Levin | James Vacca |
| Rafael L. Espinal, Jr. | Mark Levine | Paul A. Vallone |
| Mathieu Eugene | Alan N. Maisel | James G. Van Bramer |
| Julissa Ferreras-Copeland | Steven Matteo | Jumaane D. Williams |
| Daniel R. Garodnick | Darlene Mealy | Ruben Wills |

Absent: Council Members Palma and Weprin.

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The Public Advocate (Ms. James) assumed the Chair as the Acting President Pro Tempore and Presiding Officer.

After consulting with the City Clerk and Clerk of the Council (Mr. McSweeney), the presence of a quorum was announced by the Public Advocate (Ms. James).

There were 49 Council Members marked present at this Stated Meeting held in the Council Chambers of City Hall, New York, N.Y.

INVOCATION

The Invocation was delivered by Abbot Bhante Kondanna, Staten Island Buddhist Vihara, 115 John Street, Staten Island, N.Y. 10302.

Good afternoon.

[Speaking in foreign language before reverting to English]

Oh, the Blessed One, the Exalted One, the fully enlightened one, peaceful and calm, and wise and skillful.

Not proud and demanding in nature.

Let them not do the slightest thing that the wise would later reprove, wishing in gladness and in safety.

May all beings be at peace, whatever living being there may be, whether they are weak or strong omitting none, the great or the mighty, medium, short or small, the seen and the unseen. Those living near and far away. Those born and to be born.

May all beings be at peace.

Let none deceive another or despise any being in any state.

Let none show anger or ill will, wish harm upon another.

Even as a mother protects with her life her child, her only child so with a boundless heart should one cherish all living beings radiating kindness over the entire world.

Spreading upward to the skies, and downward to the depths, outwards and unbound, free from hatred and ill will.

May everyone in the City Council thus be well, happy, peaceful and secure.

May all those who are working hard to improve quality of life of everyone in this great city, in this nation be well, happy and peaceful and secure.

May all beings including all those who experienced terrible effects of earthquake and who are still suffering in Nepal be well, happy, peaceful and secure.

May we all and all beings be free from suffering,
be free from fear, be free from grief.
May we all and all beings attain peace and happiness.
Sadhu, Sadhu, Sadhu.

As several weeks ago, a terrible earthquake took place in Nepal where many Buddhists live. Eight thousand plus people died. Out of those, 200 some were Monks and nuns. Many became homeless. So, we Buddhists are grateful, too, for support received from many people from various countries including the U.S.A. Earthquakes, floods, fire, and hurricanes are familiar things in the world. They come and go. Can we stop them? No, we cannot do anything against nature. We have to understand the nature. Nature elements are so powerful. We cannot be distrustful to the nature. If we become too greedy we cause harm to them--nature. Nature will harm us. Therefore, we have to be mindful what we do. Let's not do anything harmful to any being. All beings happy and secure. [sings]
Thank you.

Council Member Rose moved to spread the Invocation in full upon the Record.

ADOPTION OF MINUTES

Council Member Dromm moved that the Minutes of the Stated Meeting of April 28, 2015 be adopted as printed.

COMMUNICATION FROM CITY, COUNTY & BOROUGH OFFICES

M-293

Communication from the New York City Banking Commission - Transmitting recommendations of the interest rate to be charged for Fiscal Year 2016 for non-payment of taxes on real estate, and for non-payment of water and sewer rents and the discount rate to be allowed for early payment of real estate taxes for Fiscal Year 2016, pursuant to the New York city charter and the administrative code of the city of New York.

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May 13, 2015

Honorable Melissa Mark-Viverito Speaker, New York City Council

ATTN: Gary Altman
City Hall
New York, NY 10007

Re: Interest Rates for Fiscal Year (FY) 2016 for:

Non-Payment of Real Estate Taxes;
Non-Payment of Water and Sewer Rents; and
Early Payment (Discount) of Real Estate Taxes.

Dear Speaker Mark-Viverito:

Pursuant to Sections 11-224.1, 11.312(c), 11-313(e) of the New York City Administrative Code and Section 1519(a) of the New York City Charter, at its meeting on May 12, 2015, the NYC Banking Commission approved resolutions recommending to the City Council the following proposed interest rates to be charged for non-payment of real estate taxes and for non-payment of water and sewer rents, and the discount rate for early payment of real estate taxes for fiscal year 2016:

- a. Nine percent (9.0%) per annum for non-payment of taxes for real estate with an assessed value of not more than two hundred fifty thousand dollars (\$250,000.00), or not more than two hundred fifty thousand dollars (\$250,000.00) per residential unit for co-ops;
- b. Eighteen percent (**18.0%**) per annum for non-payment of taxes for real estate with an assessed value of more than two hundred fifty thousand dollars (\$250,000.00), or more than two hundred fifty thousand dollars (\$250,000.00) per residential unit for co-ops, or where irrespective of the assessed value, the parcel consists of vacant or unimproved land;
- c. One-half of one percent (**0.5%**) discount per annum for early payment of real estate taxes;
- d. Nine percent (**9.0%**) per annum for non-payment of water and sewer rents for real estate with an assessed value of not more than two hundred fifty thousand dollars (\$250,000.00), or not more than two hundred fifty thousand dollars (\$250,000.00) per residential unit for co-ops;
- e. Eighteen percent (**18.0%**) per annum for non-payment of water and sewer rents for real estate with an assessed value of more than two hundred fifty thousand dollars (\$250,000.00), or more than two hundred fifty thousand dollars (\$250,000.00) per residential unit for co-ops.

Sincerely,

Elaine A. Kloss

Assistant Commissioner and Treasurer NYC Department of Finance

Referred to the Committee on Finance.

PETITIONS & COMMUNICATIONS

Preconsidered M-294

Stanley Richards, Candidate for appointment by the Council to the New York City Board of Correction pursuant to § 626 of the New York City Charter.

(For related material, please see the Report of the Committee on Rules, Privileges and Elections for M-294 & Res No. 721 printed in these Minutes)

Referred to the Committee on Rules, Privileges and Elections.

Preconsidered M-295

Patricia Machir, Candidate for recommendation by the Council to the Youth Board, pursuant to § 734 of the New York City Charter.

(For related material, please see the Report of the Committee on Rules, Privileges and Elections for M-295 & Res No. 722 printed in these Minutes)

Referred to the Committee on Rules, Privileges and Elections.

At a later point in the Meeting, the Speaker (Council Member Mark-Viverito) recognized Stanley Richards, Council candidate for the New York City Board of Corrections, who was seated by the front dais in the Council Chambers. She noted that Mr. Richards was the first formerly incarcerated nominee to be appointed by the Council for a position on the Board (please see the Report of the Committee on Rules, Privileges and Elections for M-294 & Res No. 271 printed in these Minutes). The Speaker (Council Member Mark-Viverito) congratulated Mr. Richards and commended him for dedicating his professional career to improving the lives of others.

REPORTS OF THE STANDING COMMITTEES**Report of the Committee on Courts and Legal Services**

Report for Int. No. 736-A

Report of the Committee on Courts and Legal Services in favor of approving and adopting, as amended, a Local Law to amend the New York city charter, in relation to an office of civil justice.

The Committee on Courts and Legal Services, to which the annexed amended proposed local law was referred on March 31, 2015 (Minutes, page 1003), respectfully

REPORTS:**Introduction**

On May 26, 2015, the Committee on Courts and Legal Services, chaired by Council Member Rory Lancman, will hold a vote on Proposed Introductory Bill Number 736-A, a Local Law to amend the New York city charter, in relation to creating an office of civil justice. This will be the second hearing on the bill; the first hearing was held on April 15, 2015. At the initial hearing, Human Resources Administration (“HRA”) Commissioner Steven Banks, and several legal service providers, advocates, and other interested parties, testified. Amendments were made to the bill after the first hearing, which are described below.

Background

In 1963, the Supreme Court established a right to counsel for indigent criminal defendants who face imprisonment in the landmark case of *Gideon v. Wainwright*.¹ This right recognizes that legal counsel is indispensable in those cases in which an individual’s liberty is at risk. The reality, however, is that many civil cases feature stakes as high as some criminal matters. Civil case judgments can result in the loss of a home, a country, and even a family member. Although there is a federal right to counsel for low-income individuals who face civil forfeiture of their primary residence, such a right does not exist for the vast majority of civil cases, even those involving basic human needs.² For low-income New Yorkers, there has been a growing need for civil legal services that has until now been managed through a patchwork of programs and stopgap solutions.³

¹ 372 U.S. 335 (1963).

² The Civil Forfeiture Reform Act of 2000, 42 U.S.C. § 2996f(a)(11).

³ The need for civil legal services has grown due to disasters such as Hurricane Sandy and Hurricane Irene.

From litigants fighting eviction proceedings in Housing Court, to individuals being held in the Rikers Island complex on detainer warrants, to victims of domestic violence seeking refuge from their abusers, the inability to afford a lawyer often tips the scale against these low earners and creates an outcome that can be life altering. The negative consequences of the lack of legal representation in these cases go beyond individual litigants in these cases. The results of these cases often end up costing New York City more than the cost to provide proper civil legal services in the first place.

In recognizing the urgent need to provide equal justice for civil legal services for low-income residents of this state, the State Judiciary has paved the path in raising awareness. In 2010, as part of Chief Judge Lippman's approach to provide adequate civil legal services to low-income residents of New York, Judge Lippman created a task force that concentrated its efforts on establishing recommendations and solutions to the ever growing problem of low-income individuals going without representation in civil court in New York State.⁴ From 2010 to the present, Judge Lippman's task force, with the cooperation of the Legislature and Governor, has secured millions of public dollars for New Yorkers who are in need of civil legal assistance. Based on the recommendation of the Task Force, the State has increased the funding from \$15 million in FY2010 to \$55 million in FY2015.⁵ Each year, the funds are allocated on a need basis, and awarded through grants that are decided by a competitive bidding process managed by the State. This additional state funding has directly resulted in the representation of thousands of New Yorkers who would have otherwise been unrepresented, and been instrumental in beginning to narrow the justice gap between low income New Yorkers and their wealthier counterparts who can afford legal representation in civil cases.⁶

Providing civil legal service where the need would otherwise go unmet has a significant impact beyond the low-income individuals who are gaining some much needed assistance. The State and City save millions of dollars in costs that would be expended on other safety net areas due to these initiatives. For example, in the report, *The State of the Homeless 2014*, the Coalition for the Homeless⁷ identifies evictions as one of the major immediate causes of family homelessness in New York City.⁸ According to tenant advocates, at least half of the families that find themselves homeless due to eviction could have avoided this severe outcome, had they had the assistance of legal representation.⁹ In the area of domestic abuse, millions of dollars are saved by the added funds that are allotted to the prevention of domestic violence instead of the money that is currently being spent on victims who require extensive legal services in the aftermath of domestic violence.¹⁰ Family matters that involve support payments are another example where the proper coordination of civil legal

⁴ Titled "The Task Force to Expand Access to Legal Services in New York." Their reports and more information available at <https://www.nycourts.gov/ip/access-civil-legal-services/index.shtml>.

⁵ Report of the Chief Judge, November 2013 – The Continuing Urgent Need To Bridge The Access-to-Justice Gap In New York State

⁶*Id.*

⁷ A national not-for-profit advocacy group for the homeless.

⁸<http://www.coalitionforthehomeless.org/state-of-the-homeless-2014/>

⁹ http://www.nytimes.com/2014/12/17/nyregion/push-to-provide-lawyers-in-new-york-city-housing-courts-gains-momentum.html?_r=0

¹⁰ 2013 Task force report, pgs.23-27

services would result in significant benefit to the City. For the 2013 report of Judge Lippman's task force, an update study was conducted to evaluate what effect, if any, the provision of civil legal services had on low-income New Yorkers attempting to claim their spousal or child support. The study found that in 2012, the provision of civil legal services helped low-income New Yorkers claim a total of \$3.9 million in child support and \$1.2 million in spousal support payment.¹¹ Overall, the task force estimated that every dollar invested in civil legal services creates more than six dollars in economic payback to the State.¹²

The Council has recognized the importance of this issue by undertaking a number of significant initiatives in recent years. For example, the Council has nearly doubled its funding for legal services in New York City from last year's budget of approximately \$12.5 million to over \$23 million in the present year. The funding for anti-eviction and SRO legal services increased from \$2 million in FY2014 to approximately \$5 million in FY2015, and citywide civil legal services was allotted \$3.75 million in FY 2015 compared to \$1.5 million in FY2014. Funding for legal services for the working poor increased by \$500,000 to \$1.5 million from FY 2014 to FY 2015, and funding for immigrant battered women's legal services increased more than \$500,000 dollars between FY 2014 and FY 2015.¹³ Finally, the Council provided funding to ensure that unaccompanied minors facing deportation, and a substantial number of indigent immigrants facing deportation, are represented by an attorney. The City's expansion of civil legal services has already provided significant savings to New Yorkers, and Proposed Int. No. 736-A could result in additional savings by creating the Office of Civil Justice to expand and further develop available legal service programs.

Proposed Int. No. 736-A is intended as a step toward remedying the unjust imbalance between those with the financial resources who can afford adequate civil counsel and those forced to face the life-altering power of the courts without the help of an attorney. The purpose of the Office of Civil Justice would be to work toward ensuring that the civil legal needs of low-income individuals are sufficiently met by identifying and evaluating the needs for such services in a central office, and then coordinating the provision of such services. The proposed legislation's requirement for a five-year plan to provide civil legal services to low-income residents of the City would have impacts relating to such basic needs as housing, immigration and family law, and represent an important step towards providing legal counseling to historically underserved communities.

On April 15, 2015, the Committee on Courts and Legal Services conducted a hearing which heard testimony on Int. No. 736. At that hearing, HRA Commissioner Steven Banks, and several legal service providers, advocates, and other interested parties, testified in support of the bill and praised the Administration and the Council for their unprecedented commitment to improving New York City's access to civil legal services. Commissioner Banks highlighted several of HRA's current legal assistance programs that were a direct result of the Mayor's action of consolidating the City's civil legal assistance programs under HRA's umbrella of services.

¹¹ The Task Force To Expand Access To Civil Legal Services In New York, November 2013, pg 25

¹² Id. pg 25

¹³ Figures compiled by the Finance Division of the New York City Council.

Analysis: Proposed Int. No. 736-A

Proposed Int. No. 736-A would require the creation of an Office of Civil Justice, to be headed by a Civil Justice Coordinator (“CJC”). This position, similar to that of the Criminal Justice Coordinator, would be responsible for the oversight and coordination in a number of areas relating to the provision of civil legal services. The CJC would advise the Mayor on implementing and coordinating the provision of civil legal services among agencies, and would review budget requests and make recommendations on budget priorities with respect to such requests.

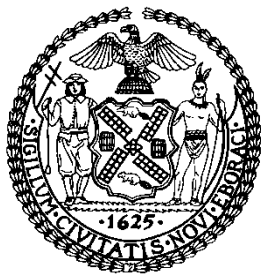
The CJC would be responsible for assessing the efficacy and capacity of civil legal provider programs, pro bono programs, and law school programs such as clinics, to determine how many low-income New York City residents are actually being served and, more importantly, how many such residents have unmet needs for civil legal services. The CJC would be required to identify areas and populations of the City that have the most unmet needs. The bill would require the CJC to report this information to the Mayor and the Council on an annual basis. The CJC would also be required to make recommendations on the expansion of (1) free and low-cost civil legal services programs, (2) mediation and alternative dispute resolution programs, (3) mechanisms for providing free and low-cost civil legal services during and after emergencies, and (4) the expansion of free and low-cost civil legal services programs intended to address housing-related civil legal service needs of low-income city residents.

The bill would also require that the CJC prepare a plan for providing free or low-cost civil legal services to low-income New Yorkers who need such services. The plan would be due within one year after the first civil legal services need report and would have to be updated every five years thereafter.

Although there were some technical changes to the bill, the substantive changes made between the hearing and today’s vote were few. One such change clarified that the annual report assessment of needs is of “low-income” city residents. Another notable amendment was changing the phrase “free **or** low cost legal service” to “free **and** low cost legal services,” to clarify that the administration is required to look at both rather than either or.

This bill would take effect immediately.

(The following is the text of the Fiscal Impact Statement for Int. No. 736-A:)



**THE COUNCIL OF THE CITY OF
NEW YORK
FINANCE DIVISION**

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO. No. 736-A

COMMITTEE: Office
of Civil Justice

TITLE: A Local Law to amend the New York city charter, in relation to an office of civil justice.

SPONSORS: Levine, The Speaker (Council Member Mark-Viverito), Chin, Dromm, Johnson, Lancman, Lander, Rose, Rosenthal and Rodriguez

SUMMARY OF LEGISLATION: Proposed Intro. No. 736-A would require the Mayor to establish an Office of Civil Justice, either as part of the Mayor's Office or a mayoral agency, to be headed by a Civil Justice Coordinator (CJC). The CJC would be appointed by either the Mayor or, if applicable, the commissioner of the agency in which the Office of Civil Justice would be housed. The Office of Civil Justice would be responsible for overseeing all aspects of civil justice programs and would facilitate the provision of civil legal services to low-income New York City residents.

The duties of the CJC would include advising the Mayor on implementing and coordinating the provision of civil legal services among agencies, and reviewing budget requests and making recommendations on budget priorities with respect to such requests. The CJC would be responsible for assessing the efficacy and capacity of civil legal provider programs, pro bono programs, and law school programs such as clinics, to determine how many low-income New York City residents are served, and how many such residents have unmet needs for civil legal services. Additionally, the CJC would evaluate and recommend mechanisms for providing free and low-cost civil legal services during and after emergencies. Finally, the CJC would be required to identify areas and populations of the City that have the most unmet needs.

The CJC would also be required to annually prepare and report its findings to the Mayor and City Council, and to submit a five-year plan for providing for free and low-cost civil legal services to those low-income city residents who need such services. In addition, the plan would also identify obstacles to making such services available to all those who need them and describe what additional resources would be necessary to do so.

Effective Date: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: 2016

FISCAL IMPACT STATEMENT:

| | Effective FY16 | FY Succeeding Effective FY17 | Full Fiscal Impact FY16 |
|-------------------------|-----------------------|---|--------------------------------|
| Revenues (+) | \$0 | \$0 | \$0 |
| Expenditures (-) | \$0 | \$0 | \$0 |
| Net | \$0 | \$0 | \$0 |

IMPACT ON REVENUES: There would be no impact on revenues resulting from this legislation.

IMPACT ON EXPENDITURES: It is anticipated that this legislation would have no impact on expenditures. According to the Human Resources Administration (HRA), based on the current infrastructure and staffing at HRA, the cost would be zero to implement the legislation, and if new or emerging needs arise in the future HRA would consult with the Office of Management and Budget. Of note, in Fiscal 2015, the de Blasio administration shifted funding and responsibility for civil legal services from the Departments of Homeless Services, Housing and Preservation Development, Youth and Community Development, Aging, and the Mayor's Office of Criminal Justice to HRA in an effort to ensure maximum service impact to low-income New Yorkers and provide accountability. HRA has established and staffed a new unit to handle legal matters. The Fiscal 2016 Executive Budget includes \$49.2 million in Fiscal 2016 increasing to \$65.2 million in Fiscal 2017 and in the outyears to for legal services at HRA.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCES OF INFORMATION: Human Resources Administration
New York City Council Finance Division

ESTIMATE PREPARED BY: Eisha Wright, Unit Head, Finance Division

ESTIMATE REVIEWED BY: Regina Poreda Ryan, Deputy Director, Finance Division
Rebecca Chasan, Assistant Counsel, Finance Division
Tanisha Edwards, Chief Counsel, Finance Division

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LEGISLATIVE HISTORY: Intro. No. 736 was introduced by the Council on March 31, 2015 and referred to the Committee on Courts and Legal Services. The Committee considered the legislation at a hearing on April 15, 2015 and the legislation was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 736-A, will be voted on by the Committee at a hearing on May 26, 2015. Upon successful vote of the Committee, Proposed Intro. No. 736-A will be submitted to the full Council for a vote on May 27, 2015.

DATE PREPARED: May 26, 2015

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 736-A:)

Int. No. 736-A

By Council Member Levine, The Speaker (Council Member Mark-Viverito), Chin, Dromm, Johnson, Lancman, Lander, Rose, Rosenthal, Rodriguez, Kallos, Menchaca, Barron and Van Bramer.

A Local Law to amend the New York city charter, in relation to an office of civil justice

Be it enacted by the Council as follows:

Section 1. Chapter 1 of the New York city charter is amended by adding a new section 13-b to read as follows:

§ 13-b. Office of civil justice. a. The mayor shall establish an office of civil justice. Such office may, but need not, be established in the executive office of the mayor and may be established as a separate office, within any other office of the mayor or within any department, the head of which is appointed by the mayor. Such office shall be headed by a coordinator who shall be appointed by the mayor or the head of such department. For the purposes of this section only, "coordinator" shall mean the coordinator of the office of civil justice.

b. Powers and duties. The coordinator shall have the power and the duty to:

1. advise and assist the mayor in planning and implementing for coordination and cooperation among agencies under the jurisdiction of the mayor that are involved in civil justice programs;

2. review the budget requests of all agencies for programs related to civil justice, and recommend to the mayor budget priorities among such programs and assist the mayor in prioritizing such requests;

3. prepare and submit to the mayor and the council an annual report of the civil legal service needs of low-income city residents and the availability of free and low-cost civil legal services to meet such needs, which shall include but not be limited to (i) an assessment of the civil legal service needs of such residents, as well as the type

and frequency of civil legal matters, including but not limited to matters concerning housing, health insurance, medical expenses and debts relating thereto, personal finances, employment, immigration, public benefits and domestic and family matters, (ii) identification and assessment of the efficacy and capacity of free and low-cost civil legal services available for such residents, (iii) identification of the areas or populations within the city in which low-income residents with civil legal service needs reside and (iv) identification of areas or populations within the city that have disproportionately low access to free and low-cost civil legal services;

4. study the effectiveness of, and make recommendations with respect to, the expansion of (i) free and low-cost civil legal services programs, (ii) mediation and alternative dispute resolution programs and (iii) mechanisms for providing free and low-cost civil legal services during and after emergencies; provided that the coordinator shall, to the extent practicable, prioritize the study of, and making of recommendations with respect to, the expansion of free and low-cost civil legal services programs intended to address housing-related civil legal service needs of low-income city residents;

5. serve as liaison for the city with providers of free and low-cost civil legal services and coordinate among such providers to (i) maximize the number of low-income city residents who obtain free and low-cost civil legal services sufficient to meet the needs of such residents and (ii) ensure that such residents have access to such services during and after emergencies;

6. provide outreach and education on the availability of free and low-cost civil legal service programs; and

7. perform other duties as the mayor may assign.

c. Five-year plan. Within one year after the completion of the first annual report required by paragraph three of subdivision b of this section, and in every fifth calendar year thereafter, the coordinator shall prepare and submit to the mayor and the council a five-year plan for providing free and low-cost civil legal services to those low-income city residents who need such services. Such plan shall also identify obstacles to making such services available to all those who need them and describe what additional resources would be necessary to do so.

§ 2. This local law takes effect immediately.

RORY I. LANCMAN, *Chairperson*, VANESSA L. GIBSON, BEN KALLOS, CARLOS MENCHACA, VINCENT IGNIZIO. Committee on Courts and Legal Services, May 26, 2015.

On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report of the Committee on Education

Report for Int. No. 511-A

Report of the Committee on Education in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New

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York, in relation to requiring the department of education to report annually on student demographics in community school districts and high schools.

The Committee on Education, to which the annexed amended proposed local law was referred on October 22, 2014 (Minutes, page 3790), respectfully

REPORTS:

INTRODUCTION

On Tuesday, March 26, 2015, the Committee on Education, chaired by Council Member Daniel Dromm, will consider Proposed Int. No. 511-A, a Local Law to amend the administrative code of the city of New York, in relation to requiring the department of education (DOE) to report annually on student demographics in community school districts and high schools. This will be the second hearing held by the Committee on this legislation. The first hearing was held on Thursday, December 11, 2014. At that hearing, the New York City Department of Education, and education advocates provided testimony. Amendments have been made to the bill following the December 11, 2014 hearing.

ANALYSIS

Section one of Proposed Int. No. 511-A would amend the administrative code of the city of New York by adding a new chapter 6 titled "Reporting on Demographic Data in New York City Public Schools."

Section 21-956 of Chapter 6 of title 21-A would provide the following definitions for the purposes of this section: "Over the counter" would mean a process of enrollment for high school students other than the citywide high school admissions processes; "Performance level" would mean the classification of test scores received on the New York state English language arts and mathematics examinations into four proficiency categories as reported by the state; "Reside in temporary housing" would mean satisfying the definition of "homeless child" as set forth in chancellor's regulation A-780; "School" would mean a school of the city school district of the city of New York; "Special programs" would mean academic programs including but not limited to gifted and talented programs in grades kindergarten through five and dual language programs in grades kindergarten through eight.

Section 21-957 of Chapter 6 of title 21-A would require that the DOE submit to the council and post on its website, a report on the demographics of students in kindergarten through grade 8, not later than December 31 and annually thereafter not later than November 1.

Subdivision a of section 21-957 would require the DOE to report the following information for each community school district, school within the district, and special program within the school; the total number of public school students enrolled in the

preceding school year in grades kindergarten through eight and the number and percentage of students who:

1. receive special education services;
2. are English language learners;
3. receive free or reduced price school lunch;
4. reside in temporary housing; and
5. are attending school out of the community school district in which the student resides.

Subdivision b of section 21-957 would require that the information required pursuant to subdivision a also be disaggregated by; (1) grade level; (2) race or ethnicity; (3) gender; and (4) for students who are English language learners, primary home language.

Subdivision c of section 21-957 would require that for students in grades three through eight, the data provided pursuant to subdivision a of this section would indicate; (1) the number of students who completed the New York state mathematics examination, disaggregated by performance level; and (2) the number of students who completed the New York state English language arts examination, disaggregated by performance level.

Subdivision d of section 21-957 would require the DOE to report the following information for each school and each special program within a school; (1) the admissions process used by such school or special program, such as whether admission to such school or special program is based on a lottery, a geographic zone, a screening of candidates for such school, or a standardized test; and (2) whether other criteria or methods are used for admission, including but not limited to waitlists or a principal's discretion.

Subdivision e of section 21-957 would require the DOE to report on any efforts during the preceding school year to encourage a diverse student body in its schools and special programs including, but not limited to, strategic site selection of new schools and special programs, making recommendations to the community education council to draw attendance zones with recognition of the demographics of neighborhoods, the allocation of resources for schools and special programs, and targeted outreach and recruitment efforts.

Subdivision f of section 21-957 would provide that no information that is otherwise required to be reported pursuant to this section would be reported in a manner that would violate any applicable provision of federal, state or local law relating to the privacy of student information or that would interfere with law enforcement investigations or otherwise conflict with the interests of law enforcement. If a category contains between 0 and 5 students, or allows another category to be narrowed to between 0 and 5 students, the number would be replaced

with a symbol.

Section 21-958 of Chapter 6 of Title 21-A would require the DOE to report all of the data required pursuant to subdivisions a, b, and e of section 21-957 for each public high school, grades nine through twelve. Subdivision c of section 21-958 would also require the DOE to report, for students in the ninth grade; (1) the number of students who completed the New York state mathematics examination administered in eighth grade, disaggregated by performance level; and (2) the number of students who completed the New York state English language arts examination administered in eighth grade, disaggregated by performance level.

Subdivision d of section 21-958 would require the DOE to provide; (1) the admissions process used by such school, such as whether admission to such school is based on a lottery, a geographic zone, a screening of candidates for such school, or a standardized test; and (2) whether other criteria or methods are used for admissions including, but not limited to, over the counter admissions, waitlists, or a principal's discretion.

Subdivision f of section 21-958 would provide that no information that is otherwise required to be reported pursuant to this section would be reported in a manner that would violate any applicable provision of federal, state or local law relating to the privacy of student information or that would interfere with law enforcement investigations or otherwise conflict with the interests of law enforcement. If a category contains between 0 and 5 students, or allows another category to be narrowed to between 0 and 5 students, the number would be replaced with a symbol.

Section 21-959 would require the DOE to provide information regarding students in pre-kindergarten programs. Subdivision a of section 21-959 would require the DOE to provide the total number of students enrolled in pre-kindergarten programs, disaggregated by race or ethnicity and gender.

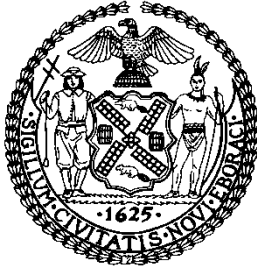
Subdivision b of section 21-959 would provide that no information that is otherwise required to be reported pursuant to this section would be reported in a manner that would violate any applicable provision of federal, state or local law relating to the privacy of student information or that would interfere with law enforcement investigations or otherwise conflict with the interests of law enforcement. If a category contains between 0 and 5 students, or allows another category to be narrowed to between 0 and 5 students, the number would be replaced with a symbol.

Section 2 of Chapter 6 would mandate that this local law will take effect immediately after its enactment into law.

(The following is the text of the Fiscal Impact Statement for Int. No. 511-A:)

1801

May 27, 2015



**THE COUNCIL OF THE CITY OF
NEW YORK**

FINANCE DIVISION

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO. 511-A

COMMITTEE:

EDUCATION

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to requiring the Department of Education to report annually on student demographics in community school districts and high schools.

SPONSORS: Council Members Lander, Barron, Torres, Dromm, Rodriguez, Levine, Treyger, Maisel, Chin, Johnson, Lancman, Mendez, Reynoso, Rosenthal, Kallos, Levin and the Public Advocate (Ms. James)

SUMMARY OF LEGISLATION: Proposed Introduction No. 511-A would require the Department of Education (DOE) to submit to the City Council and post on its website, an annual report regarding student demographics and the DOE's efforts to encourage diversity within schools. The bill would require the DOE to report the following demographic data for students in grades kindergarten through eight, for each community school district, each school within a district, and each program within a school: the total number and percentage of students who (1) receive special education services; (2) are English language learners (ELLs); (3) receive free or reduced price lunch; (4) reside in temporary housing; and (5) are attending a school outside of the community school district. This information would be further disaggregated by grade, race/ethnicity, gender and primary home language (for students who are ELLs). The bill would require the same information to be reported for students in the high school grades. For pre-kindergarten, the DOE would be required to report the number of students in pre-Kindergarten programs and their race/ethnicity and gender. Proposed Introduction No. 511-A would also require information regarding performance level on the state math and English language arts exam for students in grades 3 through 8, as well as information pertaining to the admissions criteria used by the school or special program. The DOE shall submit the annual report on demographics of students in kindergarten through grade 12 to the Council not later than December 31, 2015 and by November 1 of each year thereafter. The DOE annual report on the demographics of students in pre-Kindergarten programs operated by the DOE should be submitted to the Council not later than November 1, 2016 and by November 1 annually thereafter.

May 27, 2015

1802

Proposed Introduction No. 511-A would also require the DOE to report on any efforts during the preceding school year to diversify the student body in its schools and special programs, including; strategic site selection of new schools and special programs, considering demographics of neighborhoods when drawing attendance zones, and targeted outreach and recruitment efforts.

Effective Date: This local law takes effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: FISCAL YEAR 2016

FISCAL IMPACT STATEMENT:

| | Effective FY16 | FY Succeeding Effective FY17 | Full Fiscal Impact FY16 |
|-------------------------|---------------------------|---|------------------------------------|
| Revenues (+) | \$0 | \$0 | \$0 |
| Expenditures (-) | \$0 | \$0 | \$0 |
| Net | \$0 | \$0 | \$0 |

IMPACT ON REVENUES: It is anticipated that there would be no impact on revenues resulting from this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from this legislation since the Department of Education has indicated that the agency would be able to comply with all of the requirements of the proposed legislation using existing resources.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCES OF INFORMATION: New York City Council Finance Division
Department of Education
Office of Management and Budget

ESTIMATE PREPARED BY: Madina Nizamitdin, Legislative Financial Analyst

ESTIMATED REVIEWED BY: Regina Poreda Ryan, Deputy Director, Finance Division
Rebecca Chasan, Assistant Counsel, Finance Division
Tanisha Edwards, Chief Counsel, Finance Division

LEGISLATIVE HISTORY: This legislation was introduced to the Council as Intro. No. 511 on October 22, 2014 and referred to the Committee on Education. A hearing was held by the Committee on an amended version of the legislation on December 11, 2014 and the legislation was laid over. The legislation was subsequently amended and the amended legislation, Proposed Intro. No. 511-A, will be considered by the Committee on May 26, 2015. Upon a successful vote by the Committee, Proposed Intro. 511-A will be submitted to the full Council for a vote on May 27, 2015.

DATE PREPARED: May 22, 2015

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 511-A:)

Int. No. 511-A

By Council Members Lander, Barron, Torres, Dromm, Rodriguez, Levine, Treyger, Maisel, Chin, Johnson, Lancman, Mendez, Reynoso, Rosenthal, Kallos, Levin, Menchaca, Rose, Cohen, Williams, Deutsch, Eugene, Van Bramer and the Public Advocate (Ms. James).

A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of education to report annually on student demographics in community school districts and high schools.

Be it enacted by the Council as follows:

Section 1. Title 21-A of the administrative code of the city of New York is amended by adding a new chapter 6 to read as follows:

Chapter 6

6. Reporting on Demographic Data in New York City Public Schools

§21-956 Definitions. For the purposes of this chapter, the following terms shall have the following meanings:

"Over the counter" shall mean a process of enrollment for high school students other than the citywide high school admissions processes.

"Performance level" shall mean the classification of test scores received on the New York state English language arts and mathematics examinations into four proficiency categories as reported by the state.

"Reside in temporary housing" shall mean satisfying the definition of "homeless child" as set forth in chancellor's regulation A-780.

"School" shall mean a school of the city school district of the city of New York.

"Special programs" shall mean academic programs including but not limited to gifted and talented programs in grades kindergarten through five and dual language programs in grades kindergarten through eight.

§ 21-957 Annual report on the demographics of students in kindergarten through grade eight. Not later than December 31, 2015, and by November 1 of each year thereafter, the department shall submit to the council and post on its website a report regarding the following:

a. For each community school district, school within such district, and special program within such school, the total number of public school students enrolled in the preceding school year in grades kindergarten through eight and the number and percentage of such students who:

- 1. receive special education services;*
- 2. are English language learners;*
- 3. receive free or reduced price school lunch;*
- 4. reside in temporary housing; and*
- 5. are attending school out of the community school district in which the student resides.*

b. The data provided pursuant to subdivision a shall be disaggregated by:

- 1. grade level;*
- 2. race or ethnicity;*
- 3. gender; and*
- 4. for students who are English language learners, primary home language.*

c. For students in grades three through eight, the data provided pursuant to subdivision a of this section shall indicate:

- 1. the number of students who completed the New York state mathematics examination, disaggregated by performance level; and*
- 2. the number of students who completed the New York state English language arts examination, disaggregated by performance level.*

d. For each school and special program set forth in subdivision a of this section, the department shall report:

- 1. the admissions process used by such school or special program, such as whether admission to such school or special program is based on a lottery, a geographic zone, a screening of candidates for such school, or a standardized test; and*
- 2. whether other criteria or methods are used for admission, including but not limited to waitlists or a principal's discretion.*

e. The department shall report on any efforts during the preceding school year to encourage a diverse student body in its schools and special programs including, but not limited to, strategic site selection of new schools and special programs, making recommendations to the community education council to draw attendance zones with recognition of the demographics of neighborhoods, the allocation of resources for schools and special programs, and targeted outreach and recruitment efforts.

f. No information that is otherwise required to be reported pursuant to this section shall be reported in a manner that would violate any applicable provision of federal, state or local law relating to the privacy of student information or that would interfere with law enforcement investigations or otherwise conflict with the interests of law enforcement. If a category contains between 0 and 5 students, or contains an amount that would allow another category that contains between 0 and 5 students to be deduced, the number shall be replaced with a symbol, or shall be subject to some other form of data suppression.

§ 21-958 Annual report on high school student demographics. Not later than December 31, 2015, and by November 1 of each year thereafter, the department shall submit to the council and post on its website a report regarding the following:

- a. For each public high school, the total number of students enrolled in grades nine through twelve in the preceding school year and the number and percentage of such students who:

 - 1. receive special education services;*
 - 2. are English language learners;*
 - 3. receive free or reduced price school lunch;*
 - 4. reside in temporary housing; and*
 - 5. are enrolled over the counter.**
- b. The data provided pursuant to subdivision a of this section shall be disaggregated by:

 - 1. grade level;*
 - 2. race or ethnicity;*
 - 3. gender; and*
 - 4. for students who are English language learners, primary home language.**
- c. For students in grade nine, the data provided pursuant to subdivision a of this section shall provide:

 - 1. the number of students who completed the New York state mathematics examination administered in eighth grade, disaggregated by performance level; and*
 - 2. the number of students who completed the New York state English language arts examination administered in eighth grade, disaggregated by performance level.**
- d. For each high school set forth in subdivision a of this section, the department shall report:

 - 1. the admissions process used by such school, such as whether admission to such school is based on a lottery, a geographic zone, a screening of candidates for such school, or a standardized test; and*
 - 2. whether other criteria or methods are used for admissions including, but not limited to, over the counter admissions, waitlists, or a principal's discretion.**
- e. The department shall report on any efforts during the preceding school year to encourage a diverse student body in its high schools including, but not limited to, strategic site selection of new schools and special programs, the allocation of*

resources for schools and special programs, and targeted outreach and recruitment efforts.

f. No information that is otherwise required to be reported pursuant to this section shall be reported in a manner that would violate any applicable provision of federal, state or local law relating to the privacy of student information or that would interfere with law enforcement investigations or otherwise conflict with the interests of law enforcement. If a category contains between 0 and 5 students, or contains an amount that would allow another category that contains between 0 and 5 students to be deduced, the number shall be replaced with a symbol, or shall be subject to some other form of data suppression.

§ 21-959 Annual report on the demographics of students in pre-kindergarten programs operated by the department. Not later than November 1, 2016, and annually thereafter not later than November 1, the department shall submit to the council and post on its website a report regarding the following:

a. For each school that offers a pre-kindergarten program, the total number of students enrolled in the preceding school year in such program, disaggregated by race or ethnicity and gender.

b. No information that is otherwise required to be reported pursuant to this section shall be reported in a manner that would violate any applicable provision of federal, state or local law relating to the privacy of student information or that would interfere with law enforcement investigations or otherwise conflict with the interests of law enforcement. If a category contains between 0 and 5 students, or contains an amount that would allow another category that contains between 0 and 5 students to be deduced, the number shall be replaced with a symbol, or shall be subject to some other form of data suppression.

§ 2. This local law takes effect immediately.

DANIEL DROMM, *Chairperson*; VINCENT J. GENTILE, DANIEL R. GARODNICK, MARGARET S. CHIN, STEPHEN T. LEVIN, DEBORAH L. ROSE, ANDY L. KING, INEZ D. BARRON, CHAIM M. DEUTSCH, MARK LEVINE, ALAN N. MAISEL, ANTONIO REYNOSO, MARK TREYGER; Committee on Education, May 26, 2015.

On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report of the Committee on Finance

Report for Int. No. 764

Report of the Committee on Finance in favor of approving and adopting a Local Law to amend the administrative code of the city of New York, in relation to amending the district plan of the Lower East Side business improvement district to modify existing services for the district and to change the method of assessment upon which the district charge is based.

The Committee on Finance, to which the annexed proposed local law was referred on April 28, 2015 (Minutes, page 1517), respectfully

REPORTS:

BACKGROUND

Pursuant to the authority granted by chapter 4 of title 25 of the Administrative Code of the City of New York (hereinafter the “Law”), the Mayor and the Council are authorized to establish and extend Business Improvement Districts (hereinafter “BIDs”) in New York City and thereafter amend each BID’s district plan or authorize an increase in annual expenditures. BIDs, which are specifically established areas, use the City’s property tax collection mechanism to approve a special tax assessment with which to fund additional services that would enhance the area and improve local business. The additional services are normally in the areas of security, sanitation, physical/capital improvements (lighting, landscaping, sidewalks, etc.), seasonal activities (Christmas lighting) and related business services (marketing and advertising). The District Management Association of a BID carries out the activities described in the BID’s district plan.

The Lower East Side BID was first established in 1993 and is located in southeastern Manhattan. Developed primarily during the last half of the nineteenth century, the Lower East Side has served as the receiving neighborhood for successive waves of immigrants coming mostly from eastern and southern Europe. The densely-built four to six story tenements developed to accommodate these immigrants and their ground and first floor shops continue to constitute a large part of the Lower East Side today. The majority of the BID is comprised of ground floor commercial units with residential units on upper floors in most buildings. While historically a “bargain district” a mixture of commercial uses now exists throughout the BID. These include boutique apparel shops, dining and lounge establishments, art galleries, general retailers, and hotels.

The Lower East Side BID is seeking Council approval to amend its district plan to change the method of assessment on which the district charge is based and to modify the existing services provided by the BID.

MAY 14, 2015 HEARING

On May 14, 2015, the Committee on Finance approved Resolution 666 which set the public hearing date, time, and place for the consideration of Int. 764 as May 27, 2015, in the City Council Committee Room, 2nd Floor, City Hall at 10:00 a.m. before the Committee on Finance.

Resolution 666 also directed the Lower East Side District Management Association to publish in a newspaper of general circulation in the District, not less than ten days prior to the public hearing, a notice stating the time and place of the public hearing.

INT. 764

Int. 764 would approve an amendment to the Lower East Side's district plan to change the method of assessment on which the district charge is based and to modify the existing services provided by the BID.

Change in Method of Assessment

Currently, the BID calculates the assessment owed by each property in the BID through a formula based on assessed value. The Lower East Side BID now seeks an amendment to its district plan to change the method of assessing the properties within the BID's boundaries. Specifically, the BID proposes creating two sub-districts within the BID – 1) the Contextual Sub-District (“CSD”), and 2) the Non-Contextual Sub-District (“NCSD”). The NCSD will be comprised of five tax lots within the Seward Park Extension Urban Renewal Area (“SPEURA”). SPEURA is an area located near Delancey Street and Essex Street which has largely sat vacant for more than four decades and which is now being developed into a 1.65-million-square-foot development anchored by 1,000 units of housing, half of which will be permanently affordable, a 15,000-square-foot open space, a new and expanded Essex Street Market, a dual-generation school, a community center, 250,000 square feet of office space, and a diverse mix of retail space. The remainder of the tax lots in the BID, specifically 251 other tax lots, will be in the CSD.

Under the proposed district plan amendment, commercial and mixed use properties within the CSD will be assessed by a formula based upon assessed value (the “AV rate”) and square footage (the “SF rate”). Commercial properties, defined as properties devoted in whole to commercial uses, with a total floor area of 34,999 gross square feet or more will be assessed at 100% of the AV rate and SF rate, while commercial properties with less square footage will be assessed at 40% of the AV rate and 35% of the SF rate. Mixed use properties will be assessed at 40% of the AV rate and 20% of the SF rate. Residential and vacant properties will be assessed \$1 per year and government and not-for-profit owned property is exempt from assessment.

Commercial properties within the NCSD, defined as properties devoted in whole or in part to commercial uses, will be assessed by a formula based upon commercial square footage (the “CSF rate”). Vacant and undeveloped properties within the NCSD, including properties currently undergoing development but which do not yet have a certificate of occupancy from the Department of Buildings, will be assessed at a rate of \$1 per square foot. Upon receipt of a certificate of occupancy, these properties will be reclassified according to their proper uses. Residential properties will be assessed \$1 per year and government and not-for-profit owned property is exempt from assessment.

The following is a breakdown of the high, low, average, and median assessments expected to be paid under this proposed assessment scheme:

| | CSD – Large Commercial | CSD – Small Commercial | CSD – Mixed Use | NCSD – Vacant and Undeveloped ¹ |
|---------|------------------------|------------------------|-----------------|--|
| High | \$109,478 | \$7,576 | \$5,154 | \$60,800 |
| Low | \$11,087 | \$3 | \$314 | \$15,265 |
| Median | \$41,554 | \$1,005 | \$1,480 | \$21,075 |
| Average | \$50,918 | \$1,602 | \$1,572 | \$29,554 |

The BID is not seeking a change to the maximum amount of annual assessment at this time, so that amount remains \$974,600.

Modify Existing Services

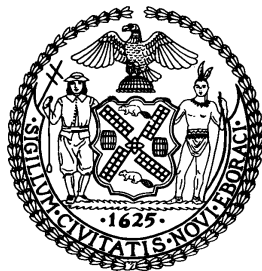
The Lower East Side BID is proposing to modify its existing services. The service categories in the original plan were as follows: Promotion; Parking Maintenance and Improvement; Sanitation; Administration; and Additional Services. The service categories in the proposed amended district plan are as follows: Marketing; Supplemental Sanitation; Economic and Community Development; Advocacy and Administration; and Additional Services.

The most notable change in the proposed amended district plan is the inclusion of Economic and Community Development as a core service. Under this category, the BID will provide capital and technical assistance programs directly to BID stakeholders; undertake traffic, transportation and pedestrian safety planning programs that improve the district's public realm; and continue to manage public assets, such as municipal parking lots, that benefit quality of life within the district.

¹ Currently, all five of the properties that would be within the NCSD would be classified as vacant and undeveloped. When they are developed as part of the SPEURA development, they will be classified according to their proper usage.

(For text of the Amended BID Plan, please refer to the Office of the City Clerk at 141 Worth Street, 1st floor Executive Offices , New York, N.Y. 10013)

The following is the text of the Fiscal Impact Statement for Int. No. 764:



**THE COUNCIL OF THE CITY OF
NEW YORK
FINANCE DIVISION**

**LATONIA MCKINNEY,
DIRECTOR**

FISCAL IMPACT STATEMENT

INTRO. NO: 764

COMMITTEE: Finance

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to amending the district plan of the Lower East Side business improvement district to modify existing services for the district and to change the method of assessment upon which the district charge is based.

Sponsors: Council Members Ferreras and Chin (by request of the Mayor)

SUMMARY OF LEGISLATION: This legislation would amend Chapter 5 of title 25 of the administrative code of the city of New York by adding a new section 25-428.2 to modify existing services for the Lower East Side Business Improvement District (“BID”) and to change the method of assessment upon which the district charge is based.

EFFECTIVE DATE: This local law would take effect immediately, except that if it becomes a law subsequent to July 1, 2015, it would be retroactive to and deemed to have been in full force and effect as of July 1, 2015.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: 2016

FISCAL IMPACT STATEMENT:

| | Effective FY16 | FY Succeeding Effective FY17 | Full Fiscal Impact FY16 |
|-------------------------|---------------------------|---|------------------------------------|
| Revenues (+) | \$0 | \$0 | \$0 |
| Expenditures (-) | \$0 | \$0 | \$0 |
| Net | \$0 | \$0 | \$0 |

IMPACT ON REVENUES AND EXPENDITURES: This local law would result in no fiscal impact upon the City's revenues or expenditures. Under the administrative code of the city of New York, proceeds authorized to be assessed by the District are collected by the City on behalf of the District. None of these proceeds are those of the City and they may not be used for any purpose other than those set forth in the BID’s District Plan. The Lower East Side BID is funded through a self-assessment by property owners within the district and will cover the BID's expenses, as proposed by the amended district plan.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division
Department of Small Business Services

ESTIMATE PREPARED BY: Rebecca Chasan, Assistant Counsel, Finance Division

ESTIMATE REVIEWED BY: Tanisha Edwards, Chief Counsel, Finance Division

LEGISLATIVE HISTORY: Intro. No. 764 was introduced by the Council on April 28, 2015 and referred to the Committee on Finance. The Committee will consider Intro. No. 764 at a hearing on May 27, 2015 and, upon a successful vote by the Committee, Intro. No. 764 will be submitted to the full Council for a vote on May 27, 2015.

DATE PREPARED: May 22, 2015

Accordingly, this Committee recommends its adoption.

(The following is the text of Int. No. 764:)

Int. No. 764

By Council Members Ferreras, Chin and Kallos (by request of the Mayor).

A Local Law to amend the administrative code of the city of New York, in relation to amending the district plan of the Lower East Side business improvement district to modify existing services for the district and to change the method of assessment upon which the district charge is based

Be it enacted by the Council as follows:

Section 1. Chapter 5 of title 25 of the administrative code of the city of New York is amended by adding a new section 25-428.2 to read as follows:

§25-428.2 Lower East Side business improvement district; amendments to the district plan. a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to modify existing services for the Lower East Side business improvement district and to authorize a change in the method of assessment upon which the district charge in the Lower East Side business improvement district is based, and the council having determined further that the tax and debt limitations prescribed in section 25-412 of chapter four of this title will not be exceeded by such changes, there are hereby authorized in the Lower East Side business improvement district such changes as set

May 27, 2015

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forth in the amended district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law, the council shall file with the city clerk the amended district plan setting forth the modification of existing services and containing the change in the method of assessment authorized by subdivision a of this section.

§ 2. This local law shall take effect immediately, except that if it shall have become a law subsequent to July 1, 2015, it shall be retroactive to and deemed to have been in full force and effect as of July 1, 2015.

JULISSA FERRERAS-COPELAND, *Chairperson*; YDANIS A. RODRIGUEZ, JAMES VAN BRAMER, VANESSA L. GIBSON, ROBERT E. CORNEGY, Jr., LAURIE A. CUMBO, COREY D. JOHNSON, MARK LEVINE, HELEN K. ROSENTHAL, VINCENT M. IGNIZIO; Committee on Finance, May 27, 2015.
Other Council Members Attending: Chin.

On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report of the Committee on Health

Report for Int. No. 440-A

Report of the Committee on Health in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to health services in city correctional facilities.

The Committee on Health, to which the annexed amended proposed local law was referred on August 21, 2014 (Minutes, page 3120), respectfully

REPORTS:

I. Introduction

Today, the Committee on Health, chaired by Corey Johnson, will hold a vote on Proposed Int. No. 440-A. The Committee previously heard this legislation as part of a joint hearing with the Committee on Fire and Criminal Justice Services on March 3, 2015. Among those testifying were the Department of Health and Mental Hygiene, Corizon Health, and advocates for the health of inmates.

II. Overview of Health Care Services in the City's Jails

The Department of Corrections (DOC) provides for the care, custody and control of inmates, including pre-trial defendants and those sentenced to terms of one year or

less.¹ In fiscal year 2014, DOC had 77,141 admissions with an average daily inmate population of 11,408.² Approximately 80% of the population is housed in one of 10 facilities on Rikers Island. In addition to Rikers Island and the four borough-based jails, DOC operates 16 court pens and two hospital prison wards.³

The Department of Health and Mental Hygiene (DOHMH) is mandated by the New York City Charter to promote or provide medical and health services for the inmates of correctional facilities maintained and operated by the city.⁴ The Board of Corrections (BOC), in turn, is responsible for establishing standards for the care and treatment of those held by DOC.⁵ Accordingly, the BOC created the *Health Care Minimum Standards* in 1991.⁶ Since the creation of Rikers Island as a correctional facility in 1932, the provision of health services can be divided roughly into three eras⁷: During the first period, from 1932 to 1973, a number of city agencies provided medical services directly; in the second period, between 1973 and 1996, the City provided health care through a contract with Montefiore Hospital; and finally, from 1996 to the present, health care has been managed through contracts with for-profit entities.

Currently, DOHMH, through its Bureau of Correctional Health Services, provides direct medical services and monitors services contracted to Corizon Health Inc., a for-profit correctional health care company that oversees services to all but one of the DOC facilities. Because New York State Education Law generally prohibits the corporate practice of medicine,⁸ Corizon manages the medical and mental health services in the City, while two professional corporations—Correctional Medical Associates, P.C. (CMA) and Correctional Dental Associates, P.C. (CDA)—actually provide the services.⁹ Corizon and its predecessor company, Prison Health Services, Inc. (PHS), have held the contract since 2001.¹⁰ The City entered a new three-year, \$406 million agreement with the contracted parties—Corizon, CMA and CDA—on January 1, 2013 by means of a Negotiated Acquisition method of procurement, with an opportunity for a three-year renewal.¹¹ Corizon's current contract with the City expires on December 31, 2015.¹²

There are over 1,100 health workers providing services in the City's jail system.¹³ According to the Administration, a disproportionate number of people placed in the City's correctional system come from some of New York City's lowest income neighborhoods, including the South Bronx, central Brooklyn, northern Manhattan and eastern Queens.¹⁴ Inmates typically enter the system "with a high burden of disease," and rates of HIV, hepatitis C, asthma, hypertension and substance use are all significantly higher than they are among the general population.¹⁵

Inmates receive a full medical intake examination within the first 24 hours of being taken into custody; intake includes a comprehensive health assessment, sexually transmitted disease screening and initial mental health assessment, which can help guide further treatment, discharge planning and entitlement applications.¹⁶ In Fiscal Year 2014, the total number of correctional health clinical visits (including intake exams, sick calls, follow-up, mental health, and dental) was 802,405, down from 858,172 such visits in FY 2013.¹⁷ In June 2014, DOHMH testified that each month it provides over 63,000 health care visits in jail facilities, including 5,300 comprehensive intake exams, 40,000 medical and dental visits, 2,300 specialty clinic

visits and 20,000 mental health visits.¹⁸ These visits take place mostly at Rikers.¹⁹

Corizon, Inc., CMA & CDA: Overview & Scope of Service

With corporate headquarters in Brentwood, Tenn., and the operational headquarters in St. Louis, Mo., Corizon provides healthcare services at nearly 531 correctional facilities across the country serving over 345,000 inmates in 27 states.²⁰ The latest contract requires Corizon, CMA and CDA to provide medical, dental, pharmaceutical, diagnostic and chronic care, as well as administrative, staffing, information technology and management services at the Manhattan and Brooklyn Detention Complexes as well the following Rikers facilities:

- Anna M. Kross Center (AMKC)
- Robert N. Davoren Center (RNDC)
- Eric M. Taylor Center (EMTC)
- George R. Vierno Center (GRVC)
- North Infirmary Command (NIC)
- Otis Bantum Correctional Center (OBCC)
- Rose M. Singer Center (RMSC)
- West Facility²¹

At Rikers Island alone, there are 30 on-island clinics that handled more than 112,000 sick-call visits in 2013.²² RMSC features the nation's first modern 25-bed jail-based baby nursery and houses adolescent females. The West Facility was designed to be a 940 bed facility. Part of the facility has been converted into the Department's Contagious Disease Unit (CDU), which contains 140 specially air-conditioned housing units reserved for male and female inmates with contagious diseases such as tuberculosis. NIC consists of two infirmary buildings. The facility has 153 beds for housing infirmary care inmates, and 263 beds in specialized units for inmates who require extreme protective custody because of the notoriety or the nature of their cases.

The contracted parties are responsible for all medically necessary services not provided by HHC for inmates,²³ including prenatal care and infant care,²⁴ and the following specialty outpatient services: cardiology, nephrology, optometry, orthopedics, oral surgery, physical therapy, podiatry, surgery, and OB/GYN.²⁵ Emergency first aid and post-exposure prophylaxis must also be provided to employees but, per the contract, does not include primary care or prescribing nonemergency medication.²⁶

One or more physicians must be on the premises of each institution at all times.²⁷ Each inmate must have a timely physical examination upon intake, including an assessment of alcohol and drug dependency and symptoms of withdrawal.²⁸ Patients referred for mental health services must be evaluated within 72 hours and emergency referrals must be processed immediately.²⁹

The contract specifies the level of staff at each facility, provides that such staffing is sufficient to provide all required services, and requires Corizon to notify DOHMH immediately if it is unable to provide adequate staffing levels.³⁰ DOHMH retains the right to elect to increase or modify staffing in consultation with Corizon.³¹ Corizon must keep track of and report to DOHMH clinic wait times and any instance of patient encounter that could not occur because of lack of available clinical staff.³² Corizon's compliance with the contract is evaluated annually, and the contract provides that DOHMH meet with Corizon quarterly to discuss its performance.³³ DOHMH may request information on performance indicators as needed and may inspect or review programs at any time.

Orientation for new Corizon employees must cover the policies and procedures of DOHMH and Corizon, electronic health record training, a review of security procedures, infection control, confidentiality, cultural sensitivity, courtesy and respect training, and the appropriate response to emergency situations.³⁴ Staff must be available to attend security orientation and seminars conducted periodically by DOC.³⁵ Corizon must also provide mental health training at the DOC Academy.³⁶

Damian Family Care Centers

Medical, dental and mental health services for the Vernon C. Bain Center ("VCBC" or the "Barge") are provided through a contract with Damian Family Care Centers, a Federally Qualified Health Center based in Queens. Previously, DOHMH had an agreement with New York City Health and Hospitals Corporation (HHC), under which DOHMH provided staff to perform direct clinical health services and HHC administered the payroll for most of the clinical staff. However, these services were contracted out to Damian as a cost saving measure in 2013. HHC continues to provide hospital and outpatient specialty services not covered in the Corizon contract and has prison hospital wards at Bellevue and Elmhurst hospitals.³⁷

III. Recent Incidents Involving Health Care of Inmates

In the past five years, there have been over 15 deaths at Rikers Island jail in which the quality or timeliness of the health care was an issue.³⁸ The deaths reported include: a 36-year-old man with a severe seizure disorder who died two days after he was placed in solitary confinement and denied his medication³⁹; a 59-year-old drug addict who was not properly assessed for constipation, a common side effect of methadone, and died of a bacterial infection in his stomach and intestines after days of bloody stools⁴⁰; inmates suffering from asthma that were not properly treated⁴¹; an inmate who died of sepsis after being turned away from the clinic because of a high number of emergency patients before him⁴²; an inmate that within two days of arriving at Rikers died of a diabetic coma⁴³; an inmate that after being placed in a

holding cell with his hands cuffed behind his back died of a sudden heart problem⁴⁴; and an inmate that was confined to a cell for seven days and denied access to food, water, medical care for his schizophrenia or insulin for his diabetes.⁴⁵

A number of incidents involved arguably preventable deaths due to lack of timely and quality care. In one case, Andy Henriquez, died of a torn aorta at age 19 in 2013 while an inmate at Rikers—a condition that could have been treated at a hospital.⁴⁶ Henriquez complained of chest pain in September 2012, seven months before his death, and a physician's assistant at the jail's medical clinic diagnosed him with costochondritis or joint pain near his heart.⁴⁷ According to news reports, he was given that diagnosis at least eight separate times over the ensuing seven months, but the clinic repeatedly sent him back to his cell without further testing that could have revealed the tear in his artery.⁴⁸ The day before he died, Henriquez complained various times but it was not until his mother and girlfriend called 311 that he was finally seen at the jail clinic.⁴⁹ He was given anti-inflammatory drug and muscle relaxant and sent back to his cell.⁵⁰ Later that day he was given a hand cream that was prescribed to a different name.⁵¹ Henriquez died later that night. According to a physician who provided expert testimony in Henriquez's family's lawsuit against Corizon, "[i]t was a gross departure from proper medical standards' to put Henriquez in solitary confinement without a full medical exam and testing If Corizon's medical team had followed 'standard medical protocols for recurring chest pain...they could have easily established a diagnosis [and] prevented his suffering and untimely death.'"⁵² This case is still being litigated.

IV. Safety of Health and Mental Health Staff

The safety of health professionals complicates the provision of health services in the City's jails system. Correctional facilities have seen a spike in assaults against health and mental health staff in the past several years. Since July 1, 2013, 39 assaults have occurred on civilian staff, which mostly consists of health care workers, an increase of 144 percent compared to the same period the year before.⁵³ According to union leaders, in 2009 and 2010, there were seven and five staff injuries across facilities on Rikers, respectively, whereas in 2013 there were 32 injuries to clinic staff alone.⁵⁴ In 2013, health care staff members suffered facial bruises, bone fractures and back, neck and eye injuries in altercations with inmates.⁵⁵

According to the *New York Times*, on April 16 of 2014, inmate Joseph McRae, who was incarcerated on charges of assaulting a woman, allegedly beat a 24-year-old medical intern, resulting in the intern sustaining a broken jaw and numerous facial fractures.⁵⁶ In 2013, Mr. McRae had been charged with attacking two women in a similar fashion at Pennsylvania Station.⁵⁷ Following this and another incident involving the sexual assault of an intern by an inmate, DOC ordered a review of safety protocols, and DOC Commissioner Ponte stated that, for the first time, officers on duty will have access to an inmate's criminal history, enabling correction officers and the civilian staff to better evaluate potential threats.⁵⁸

Correction officers are supposed to provide workers protection, but union leaders and health care workers report a shortage in guards, leading to workers being left alone with inmates and delays in responding to assaults.⁵⁹ Unions have recommended

an increase in correction officers, providing health and mental health staff with panic buttons,⁶⁰ protective barriers, and reconfiguring treatment areas to make it easier for employees to avoid attacks.⁶¹ Health care workers remain concerned for their safety.⁶²

V. Concerns Regarding the Quality of Care

Recent incidents at Rikers have led to increased scrutiny of the quality of care being provided. According to DOHMH, complaints about health care in city jails have nearly doubled since 2012. The Department received 1,137 complaints in 2014, as compared with 616 in 2012 and 751 in 2013.⁶³ DOHMH has stated that the number of complaints may have increased due to changes in the 311 reporting structure that formalized how calls were routed and an increase in reporting from advocates.⁶⁴

Despite the staffing, training and performance requirements mandated by Corizon's contract with the City, staff have reported severe deficiencies. According to social workers at Rikers, they see as many as 70 patients a week and can only provide a few minutes to each inmate, resulting in inmates lashing out to get attention and refusing to take medication⁶⁵ According to a recent *New York Times* article, of the 65,000 planned inmate medical visits in 2013, 47 percent had to be rescheduled.⁶⁶

Potential Sources of Quality Issues

Explaining the problems with the care provided, experts have cited the many obstacles to delivering quality care, most significantly the flood of mostly poor inmates who enter the City's correctional system with high rates of chronic health conditions, mental health problems and substance addictions that have gone untreated for years.⁶⁷ Other explanations include the size of the population being served, the difficulty of coordinating services with DOC in a high security environment, and the challenges in attracting qualified candidates to such an environment, including the risk practitioners are exposed to by sometimes violent patients.⁶⁸ Others have cited policies entitling inmates to only "minimum standards" of care, often less than what is provided in the outside world; pressure to keep costs down; and guards who can be cynical and dismissive of inmate complaints.⁶⁹

Finally, the structure of the City's contract with the provider has been cited as a source of quality issues. Prior to Corizon and PHS, in the 1990s, the City awarded a contract for correctional health services to the for-profit St. Barnabas Medical Center.⁷⁰ During St. Barnabas's three-year tenure, allegations surfaced that the hospital denied basic services to inmates to cut down on cost.⁷¹ According to news reports, the contract with St. Barnabas was set up so the medical center "could pocket any extra profits, providing an incentive for it to keep health costs at a minimum. That meant steep reductions in hospital visits and keeping specialists out of the island's locked hallways."⁷² DOHMH has stated that the contract with Corizon is structured differently now, avoiding this risk to quality of care because it is based on the cost of care and does not incentivize Corizon to reduce care in order to save money.⁷³

History of Underperformance and Recent Investigations

Correctional health services have a history of underperformance in New York City. PHS, which held this contract previously and merged with Corizon, failed to meet many of its contract obligations and was fined \$249,500 in 2005, \$299,500 in 2006 and \$244,000 in 2007.⁷⁴ In February 2005, the *New York Times* reported that the New York State Commission of Correction had repeatedly recommended that the State discipline PHS doctors and nurses and denounced PHS' unwillingness to address problems in its policies and conduct.⁷⁵ In 2013, DOHMH downgraded Corizon's performance from "good" to "fair," citing inconsistent leadership and care in several mental observation units.⁷⁶

Corizon has been the subject of multiple investigations by the New York State Commission of Correction (SCOC), including inquiries into inmate injuries and deaths.⁷⁷ Recently, the SCOC called for a federal civil rights investigation into the death of Bradley Ballard, as well as more comprehensive investigations of Corizon and the Rikers facility where Ballard was held.⁷⁸ Ballard was a mentally ill inmate who died in solitary confinement in 2013 after being denied access to his required medical and psychiatric care.⁷⁹ The SCOC report cited lapses by the City and Corizon violated state law and "were directly implicated in his death." The report concluded "[h]ad Ballard received adequate and appropriate medical and mental health care and supervision and intervention when he became critically ill, his death would have been prevented The medical and mental health care . . . was so incompetent and inadequate as to shock the conscience."⁸⁰ Among the report's recommendations were for DOHMH to consider whether Corizon "is fit to continue . . . in light of delivery of flagrantly inadequate, substandard and dangerous medical and mental health care to Bradley Ballard."⁸¹ Recently, the de Blasio administration stated that it has begun a "comprehensive review" of Corizon, and that it may seek replacing Corizon entirely.

Corizon, which is one of the nation's largest providers of health services in correctional facilities, has also been the target of multiple probes involving its hiring practices and quality of care.⁸² Last year, Corizon was issued the highest level of censure by the federal Occupation Safety and Health Administration (OSHA) for failing to protect its employees from violence at Rikers and was fined \$71,000.⁸³

In April 2014, the United States Attorney's Office for the Southern District of New York (SDNY) released a report on the treatment of male inmates between the ages of 16 and 18 at Rikers.⁸⁴ The report focused on staff use of force, inmate-on-inmate violence, and the use of punitive segregation. While the SDNY investigation did not undertake a review of the adequacy of medical or mental health services provided to adolescent inmates at Rikers, the report states that serious concerns were raised about the quality of mental health services at Rikers and that this issue might be addressed in a future investigation.⁸⁵

Past Efforts to Find an Alternate Provider

In 2007, DOHMH sought to replace Corizon's predecessor, PHS, through a bidding process, but no major city hospitals or community organizations responded to the Request for Proposal (RFP).⁸⁶ The DOHMH RFP and the 2006 Concept Paper that the RFP was based on called for creative approaches to the delivery of care.⁸⁷ It outlined a new model for supplying health care in the correctional system that would involve a shift from a single provider of care to multiple providers.⁸⁸ The Concept Paper emphasized continuity of care from correctional facility to the community.⁸⁹ Providers would have to design a service model that allowed patients to receive care while incarcerated, during the transition from jail to the community and after their discharge to the New York City community.⁹⁰ No health care providers submitted proposals, leading to the renewal of the contract with PHS for the three facilities mentioned in the Concept Paper.⁹¹

VI. Analysis of Proposed Int. No. 440-A

Proposed Int. No. 440-A would require DOHMH to submit quarterly reports on the medical and mental health services provided to inmates in City correctional facilities to the Mayor and the Speaker of the Council, beginning on July 15, 2015. The report would be required to include performance indicators reported to DOHMH by entities such as Corizon that perform health services in City correctional facilities. These performance indicators would be required to include a description of the methodology used in measuring performance, metrics used in determining whether DOHMH-created targets have been met, and the results of any such determinations. Finally, the reports would be required to include any actions that DOHMH has taken or plans to take in response to the performance indicators. If performance indicators are not reported to DOHMH by a health care service provider, DOHMH would be required to report data in five areas: intake, follow-up care, patient safety, preventable hospitalizations, and preventable errors in medical care.

The report would be required to be posted on the DOHMH website in a non-proprietary machine-readable format for at least ten years from its issuance.

Proposed Int. No. 440-A would take effect immediately, with the first report due by July 15, 2015.

Proposed Int. No. 440-A was amended after the original version was heard on March 3, 2015. These changes included clarifying that any performance indicators reported to DOHMH by a health care service provider in one or more City correctional facilities are required to be reported under the bill. The reports were changed from annual to quarterly. The date of the first report was moved from April 1, 2015 to July 15, 2015.

¹ New York City Department of Correction, "Facilities Overview," <http://www.nyc.gov/html/doc/html/about/facilities-overview.shtml> (last accessed Aug. 12, 2014).

² City of New York, Preliminary Mayor's Management Report, February 2015, http://www.nyc.gov/html/ops/downloads/pdf/pmmr2015/2015_pmmr.pdf (last accessed Mar. 2, 2015).

Total admissions and average daily inmate population decreased in 2014 from 81,758 admissions and an average daily inmate population of 11,827 in fiscal year 2013. *Id.*

³ New York City Department of Correction, "DOC At a Glance, on file with the Fire and Criminal Justice Services Committee.

⁴ N.Y.C. Charter § 556(d)(8).

⁵ N.Y.C. Charter § 626(e) (2008).

⁶ New York City Board of Correction, *Health Care Minimum Standards*, http://www.nyc.gov/html/boc/downloads/pdf/healthcare_standards.pdf (last accessed Feb. 27, 2015); see 40 RCNY § 3-01 *et seq* (2015).

⁷ See Noga Shalev, “From Public to Private Care The Historical Trajectory of Medical Services in a New York City Jail,” AM. J. PUB. HEALTH (June 2009) 988–995.

⁸ See generally N.Y.S. Ed. Law Art. 131-A; see also *People v. John H. Woodbury Dermatological Instit.*, 192 N.Y. 454 (N.Y. 1908).

⁹ Contract between City of N.Y. Depart. of Health & Mental Hygiene, Corizon Health, Inc., Correctional Medical Associates of New York, P.C. & Correctional Dental Associates of New York, P.C., Jan. 1, 2013–December 31, 2015. [hereinafter *Contract*].

¹⁰ Corizon, “Corizon News: Corizon Awarded Rikers Island Contract,” Jan. 28, 2013, <http://www.corizonhealth.com/Corizon-News/corizon-awarded-rikers-island-contract>.

¹¹ See *Contract*, *supra* note.

¹² Michael Schwartz, “Rikers Health Contractor Fined for Worker Assaults,” N.Y. Times (Aug. 7, 2014) available at http://www.nytimes.com/2014/08/08/nyregion/rikers-health-contractor-fined-for-worker-assaults.html?_r=0.

¹³ New York City Council, Committees on Fire & Criminal Justice Services, Health and Mental Health, Developmental Disability, Alcoholism, Substance Abuse and Disability Services Mental Health, Oversight – Examination of Violence and the Provision of Mental Health and Medical Services in New York City Jails, June 12, 2014 available at <http://legistar.council.nyc.gov/MeetingDetail.aspx?ID=319270&GUID=186287B3-B01B-490C-9B8C-DEF98788C0A5&Options=info&Search=> (hereinafter *June 2014 Hearing*)

¹⁴ City of New York, Preliminary Mayor’s Management Report, February 2015, http://www.nyc.gov/html/ops/downloads/pdf/pmmr2015/2015_pmmr.pdf (last accessed Mar. 2, 2015).

¹⁵ See *June 2014 Hearing*, *supra* note

¹⁶ *Id.*

¹⁷ City of New York, Preliminary Mayor’s Management Report, February 2014, http://www.nyc.gov/html/ops/downloads/pdf/pmmr2014/2014_pmmr.pdf (last accessed Mar. 2, 2015).

¹⁸ *June 2014 Hearing*, *supra* note.

¹⁹ *Id.*

²⁰ Corizon Health, Inc., “About Corizon: Partner Locations,” <http://www.corizonhealth.com/About-Corizon/Locations> (last accessed Mar. 2, 2015).

²¹ *Contract*, *supra* note 3.

²² “Medical Care Questioned In 15 Rikers Island Deaths,” CBSNewYork/AP (Oct. 22, 2014) available at <http://newyork.cbslocal.com/2014/10/22/ap-rikers-island-deaths-suggest-poor-medical-treatment-of-inmates/>.

²³ *Contract*, *supra* note 3 at Annex A: Scope of Services, 1.

²⁴ *Id.* at Annex A: Scope of Services, 7.

²⁵ *Id.* at Annex A: Scope of Services, 3.

²⁶ *Id.* at Annex A: Scope of Services, 11.

²⁷ *Id.* at 1.

²⁸ *Id.* at 1 and 4.

²⁹ *Id.* at Annex A: Scope of Services, 9.

³⁰ *Id.* at Annex A: Scope of Services, 13-14 and Attachment 1 (Staffing Requirements).

³¹ *Id.*

³² *Id.* at Annex A: Scope of Services, 15.

³³ *Id.* at 15.

³⁴ *Id.* at Annex A: Scope of Services, 17.

³⁵ *Id.* at Annex A: Scope of Services, 12.

³⁶ *Id.* at Annex A: Scope of Services, 30.

³⁷ New York City Department of Correction, “About DOC: Facility Locations,” <http://www.nyc.gov/html/doc/html/about/locate-facilities.shtml> (last accessed June 5, 2014).

³⁸ “Medical Care Questioned In 15 Rikers Island Deaths,” CBSNewYork/AP (Oct. 22, 2014) available at <http://newyork.cbslocal.com/2014/10/22/ap-rikers-island-deaths-suggest-poor-medical-treatment-of-inmates/>.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ Rosa Goldensohn, “Teen’s Death in Solitary Cell Shows Health Failures at Rikers Island: Suit,” DNAINFO (Aug. 18, 2014) available at <http://www.dnainfo.com/new-york/20140818/washington-heights/teens-death-solitary-cell-shows-health-failures-at-rikers-island-suit>.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ Michael Schwartz, “Inmate Attacks on Civilian Staff Climb at Rikers,” N.Y. TIMES (May 21, 2014) available at <http://www.nytimes.com/2014/05/22/nyregion/rising-hazard-for-civilian-staff-at-rikers-attacks-by-mentally-ill-inmates.html>.

⁵⁴ Conor Skelding, “Rikers Health Care Workers Protest Inmate Assaults,” CAPITAL NEW YORK (May 8, 2014) available at <http://www.capitalnewyork.com/article/city-hall/2014/05/8545013/rikers-health-care-workers-protest-inmate-assaults>.

⁵⁵ *Id.*

⁵⁶ Michael Schwartz, “Inmate Attacks on Civilian Staff Climb at Rikers,” N.Y. TIMES (May 21, 2014) available at <http://www.nytimes.com/2014/05/22/nyregion/rising-hazard-for-civilian-staff-at-rikers-attacks-by-mentally-ill-inmates.html>.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ See New York City Council, Committee on Fire & Criminal Justice Services, Executive Budget Hearing, June 2, 2014, available at <http://legistar.council.nyc.gov/MeetingDetail.aspx?ID=312904&GUID=C1F19C0F-747B-40B4-8276-070EDF451F20&Options=info&Search=>.

⁶⁰ *Id.*

⁶¹ June 2014 Hearing, *supra* note.

⁶² See *id.*

⁶³ Rosa Goldensohn, “Health Care Complaints at City Jails Nearly Doubled Since 2012: Records,” DNAINFO (Feb. 2, 2015), available at <http://www.dnainfo.com/new-york/20150202/civic-center/health-care-complaints-at-city-jails-nearly-doubled-since-2012-records>.

⁶⁴ *Id.*

⁶⁵ Michael Schwartz, “Inmate Attacks on Civilian Staff Climb at Rikers,” N.Y. TIMES (May 21, 2014) available at <http://www.nytimes.com/2014/05/22/nyregion/rising-hazard-for-civilian-staff-at-rikers-attacks-by-mentally-ill-inmates.html>.

⁶⁶ *Id.*

⁶⁷ “Medical Care Questioned In 15 Rikers Island Deaths,” CBSNewYork/AP (Oct. 22, 2014) available at <http://newyork.cbslocal.com/2014/10/22/ap-rikers-island-deaths-suggest-poor-medical-treatment-of-inmates/>.

⁶⁸ June 2014 Hearing, *supra* note.

⁶⁹ *Id.*

⁷⁰ Courtney Gross, “Barred Medicine: Health Care on Rikers Island,” GOTHAM GAZETTE (Feb. 11, 2008) available at <http://www.gothamgazette.com/article/issueoftheweek/20080211/200/2427>; see also Paul von Zielbauer, “Inmates’ Medical Care Failing in Evaluation by Health Dept.,” N.Y. TIMES (Jun. 10, 2005) available at <http://www.nytimes.com/2005/06/10/nyregion/10jail.html>.

⁷¹ *Id.*

⁷² Courtney Gross, “Barred Medicine: Health Care on Rikers Island,” GOTHAM GAZETTE (Feb. 11, 2008) available at <http://www.gothamgazette.com/article/issueoftheweek/20080211/200/2427>; see also Paul von Zielbauer, “Inmates’ Medical Care Failing in Evaluation by Health Dept.,” N.Y. TIMES (Jun. 10, 2005) available at <http://www.nytimes.com/2005/06/10/nyregion/10jail.html>.

⁷³ Courtney Gross, “Barred Medicine: Health Care on Rikers Island,” GOTHAM GAZETTE (Feb. 11, 2008) available at <http://www.gothamgazette.com/article/issueoftheweek/20080211/200/2427>.

⁷⁴ *Id.*

⁷⁵ Paul von Zielbauer, “As Health Care in Jails Goes Private, 10 Days Can Be a Death Sentence,” N.Y. TIMES (Feb. 27, 2005) available at <http://www.nytimes.com/2005/02/27/nyregion/27jail.html>.

⁷⁶ Jake Pearson, “Care Questioned in 15 New York Jail Deaths,” EPOCH TIMES (Oct. 22, 2014) available at <http://www.theepochtimes.com/n3/1035518-care-questioned-in-15-new-york-jail-deaths/>.

⁷⁷ Rosa Goldensohn, “Teen’s Death in Solitary Cell Shows Health Failures at Rikers Island: Suit,” DNAINFO (Aug. 18, 2014) available at <http://www.dnainfo.com/new-york/20140818/washington-heights/teens-death-solitary-cell-shows-health-failures-at-rikers-island-suit>.

⁷⁸ New York State Commission on Correction, *In the Matter of the Death of Bradley Ballard, an inmate of the Anna M. Kross Center, Final Report of the New York State Commission of Correction* (Dec. 2014). See also Jake Pearson, “New York Asks Federal Prosecutors To Launch Civil Rights Probe Into Rikers Island Inmate’s Death,” *Huffington Post* (Jan. 23, 2015) available at http://www.huffingtonpost.com/2015/01/23/rikers-island-inmate-death_n_6529160.html.

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ Michael Schwartz, “Rikers Health Contractor Fined for Worker Assaults,” N.Y. Times (Aug. 7, 2014) available at http://www.nytimes.com/2014/08/08/nyregion/rikers-health-contractor-fined-for-worker-assaults.html?_r=0.

⁸⁴ U.S. Department of Justice, United States Attorney Southern District of New York, *CRIPA Investigation of the New York City Department of Correction Jails on Rikers Island* at footnote 2 (Aug. 4, 2014) available at <http://www.justice.gov/usao/nys/pressreleases/August14/RikersReportPR/SDNY%20Rikers%20Report.pdf>.

⁸⁵ *Id.*

⁸⁶ Rosa Goldensohn, “City Renewed Contracts With Rikers Health Provider Despite 4 Inmate Deaths,” DNAINFO (Sept. 24, 2014) available at <http://www.dnainfo.com/new-york/20140924/east-elmhurst/state-renewed-contracts-with-rikers-health-provider-despite-4-inmate-deaths>.

⁸⁷ New York City Department of Health & Mental Hygiene, “Concept Paper: Comprehensive Approach to Health and Mental Health Services for Patients in City Jails” 2–3 (2006).

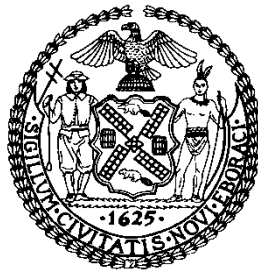
⁸⁸ *Id.* at 2.

⁸⁹ *Id.* at 2.

⁹⁰ *Id.* at 2.

⁹¹ See Courtney Gross, “Barred Medicine: Health Care on Rikers Island,” *GOTHAM GAZETTE* (Feb. 11, 2008) available at <http://www.gothamgazette.com/article/issueoftheweek/20080211/200/2427>.

(The following is the text of the Fiscal Impact Statement for Int. No. 440-A:)



THE COUNCIL OF THE CITY OF
 NEW YORK
 FINANCE DIVISION
 LATONIA MCKINNEY, DIRECTOR
 FISCAL IMPACT STATEMENT
 PROPOSED INTRO. NO.: 440-A

COMMITTEE:
 Health

TITLE: A local law to amend the administrative code of the city of New York, relation to health services in city correctional facilities.

SPONSORS: Council Members Johnson, Arroyo, Barron, Chin, Dromm, Espinal, Koo, Levin, Mendez, Miller, Richards, Rodriguez,

Rosenthal, Crowley, Cohen, Eugene,
Menchaca and the Public Advocate
(Ms. James)

SUMMARY OF LEGISLATION:

Proposed Intro. No. 440-A would require Department of Health and Mental Hygiene (DOHMH) to submit a quarterly report to the Mayor and the Speaker of the City Council detailing the health (physical or mental health) of inmates in city correctional facilities.

DOHMH would be required to issue the first report no later than July 15, 2015, and every three months thereafter. The report would be required to cover five areas of inmate health—intake, follow-up care, patient safety, preventable hospitalizations, and preventable errors in medical care. Additionally, reports shall include information regarding the methodology used in measuring such performance; metrics utilized to assess such performance measures; results of such determination; and actions taken or planned by the DOHMH in response to data reported. DOHMH is required to post the report on its website in a format that is accessible and searchable.

EFFECTIVE DATE: This local law would take effect immediately, with the first report due July 15, 2015.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2016

FISCAL IMPACT STATEMENT:

| | Effective FY15 | FY Succeeding Effective FY16 | Full Fiscal Impact FY16 |
|---------------------|-----------------------|-------------------------------------|--------------------------------|
| Revenues | \$0 | \$0 | \$0 |
| Expenditures | \$0 | \$0 | \$0 |
| Net | \$0 | \$0 | \$0 |

IMPACT ON REVENUES: It is anticipated that there will be no impact on revenues as a result of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there will be no impact on expenses as a result of this legislation as DOHMH plans to utilize existing resources to comply with this legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

May 27, 2015

1824

New York Department of Health and
Mental Hygiene

ESTIMATE PREPARED BY:

Cirilhien R. Francisco, Senior Legislative
Financial Analyst

ESTIMATED REVIEWED BY:

Regina Poreda Ryan, Deputy Director,
New York City Council Finance Division
David Seitzer, Health Committee Counsel,
New York City Council

LEGISLATIVE HISTORY: Intro. No. 440 was introduced to the Council on August 21, 2014 and referred to the Committee on Health. The Committee on Health held a hearing on Intro. No. 440 on March 3, 2015 and the legislation was laid over. The legislation was subsequently amended and the amended legislation, Proposed Intro. No. 440-A will be voted on by the Committee on Health on May 26, 2015. Upon successful vote by the Committee, Proposed Intro. No.440-A will be submitted to the full Council for a vote on May 27, 2015.

DATE PREPARED: July 7, 2015

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 440-A:)

Int. No. 440-A

By Council Members Johnson, Arroyo, Barron, Chin, Dromm, Espinal, Koo, Levin, Mendez, Miller, Richards, Rodriguez, Rosenthal, Crowley, Cohen, Eugene, Menchaca, Kallos, Lander, Van Bramer and the Public Advocate (Ms. James).

A Local Law to amend the administrative code of the city of New York, in relation to health services in city correctional facilities.

Be it enacted by the Council as follows:

Section 1. Chapter one of title 17 of the administrative code of the city of New York is amended by adding a new section 17-199 to read as follows:

§ 17-199 *Health services in correctional facilities.* a. *The department shall submit to the mayor and the speaker of the council no later than July 15, 2015, and every three months thereafter, a report regarding the medical and mental health services provided to inmates in city correctional facilities during the previous three calendar months that includes, but need not be limited to:*

(i) performance indicators reported to the department by any entity providing such services;

(ii) a description of the methodology used in measuring such performance;

(iii) the metrics utilized to determine whether such performance measures meet targets established by the department and any entity providing such services;

(iv) the results of such determinations; and

(v) any actions that the department has taken or plans to take in response to the data reported, including the imposition of liquidated damages.

b. The report required by subdivision a of this section shall also be posted on the department's website, with the data in such report posted in a non-proprietary searchable machine-readable format, and shall be maintained on such website for no fewer than ten years.

c. If no such performance indicators relating to (i) intake, (ii) follow-up care, (iii) patient safety, (iv) preventable hospitalizations, or (v) preventable errors in medical care, are reported to the department, the department shall include performance data relating to such indicators as a part of the report required by subdivision a of this section.

d. Notwithstanding any other requirement of this section, personally identifiable information contained in health records shall not be included in the report required by subdivision a of this section if such disclosure of such information would violate any federal, state or local law or regulation.

§ 2. This local law shall take effect immediately.

COREY D. JOHNSON, *Chairperson*; ROSIE MENDEZ, MATHIEU EUGENE, JAMES G. VAN BRAMER, INEZ D. BARRON, ROBERT E. CORNEGY, Jr., RAFAEL L. ESPINAL, Jr.; Committee on Health, May 26, 2015.

On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Reports of the Committee on Land Use

Report for L.U. No. 223

Report of the Committee on Land Use in favor of approving Application No. N 090311 ZRM submitted by the 22-23 Corp. c/o Park It Management pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Article IX, Chapter 8 (Special West Chelsea District), Borough of Manhattan, Community Board 4, Council District 3.

The Committee on Land Use, to which the annexed Land Use item was referred on May 14, 2015 (Minutes, page 1774), respectfully

REPORTS:

May 27, 2015

1826

SUBJECT

MANHATTAN CB 4

N 090311 ZRM

City Planning Commission decision approving an application submitted by 22-23 Corp. c/o Park It Management, pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, concerning the transfer of development rights from the High Line Transfer Corridor in Article IX Chapter 8, Special West Chelsea District, Section 98-33, Borough of Manhattan.

INTENT

This zoning text amendment would facilitate the transfer of the maximum allowable residential or commercial floor area, whichever is greater, from a granting site in the C6-2A and C6-3A districts and not within a subarea to an eligible receiving site in Community District 4, Borough of Manhattan.

PUBLIC HEARING

DATE: May 19, 2015

Witnesses in Favor: Two

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: May 19, 2015

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission with modifications.

In Favor: Weprin, Gentile, Garodnick, Williams, Richards, Reynoso, Ignizio

Against: *None*

Abstain: *None*

COMMITTEE ACTION

DATE: May 21, 2015

The Committee recommends that the Council approve the attached resolution.

In Favor: Greenfield, Gentile, Palma, Arroyo, Dickens, Garodnick, Mealy, Mendez, Rodriquez, Koo, Lander, Levin, Weprin, Williams, Wills, Richards, Barron, Cohen, Kallos, Torres, Treyger, Ignizio

Against: *None* **Abstain:** *None*

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, RUBEN WILLS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, RITCHIE J. TORRES, MARK TREYGER, VINCENT M. IGNIZIO; Committee on Land Use, May 21, 2015.

Approved with Modifications and Referred to the City Planning Commission pursuant to Rule 11.70(b) of the Rules of the Council and Section 197-(d) of the New York City Charter.

Report for L.U. No. 224

Report of the Committee on Land Use in favor of approving Application No. 20155636 PNK pursuant to §1301(2)(f) of the New York City Charter concerning a proposed maritime lease between the New York City Department of Small Business Services and the New York City Economic Development Corporation for approximately 72 acres of City-owned land, known as the South Brooklyn Marine Terminal, located at 81 39th Street (Block 662, Lots 136 and parts of Lots 1, 130 and 155), Borough of Brooklyn, Community Board 7, Council District 38.

The Committee on Land Use, to which the annexed Land Use item was referred on May 14, 2015 (Minutes, page 1774) and was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 7

20155636 PNK

Application pursuant to §1301 (2)(f) of the New York City Charter concerning a proposed maritime lease between the New York City Department of Small Business Services (DSBS) and the New York City Economic Development Corporation (EDC) for approximately 72 acres of City-owned land, known as the South Brooklyn Marine Terminal, located at 81 39th Street (Block 662, Lots 136 and parts of Lots 1, 130 and 155), in the Borough of Brooklyn.

May 27, 2015

1828

INTENT

To approve a thirty-nine year lease between DSBS and EDC for approximately 72 acres of city-owned land on the South Brooklyn Marine Terminal for maritime uses.

PUBLIC HEARING

DATE: May 19, 2015

Witnesses in Favor: Eleven

Witnesses Against: One

SUBCOMMITTEE RECOMMENDATION (I)

DATE: May 19, 2015

The Subcommittee recommends that the Land Use Committee approve the Lease Agreement.

In Favor: Koo, Palma, Arroyo, Mendez, Barron, Kallos

COMMITTEE ACTION

DATE: May 21, 2015

The Committee recommends that the Council approve the attached resolution.

In Favor: Greenfield, Gentile, Palma, Arroyo, Dickens, Garodnick, Mealy, Mendez, Rodriguez, Koo, Lander, Levin, Weprin, Williams, Wills, Richards, Barron, Cohen, Kallos, Torres, Treyger, Ignizio

Against: *None*

Abstain: *None*

In connection herewith, Council Members Greenfield and Koo offered the following resolution:

Res. No. 712

Resolution approving a proposed Lease Agreement for maritime uses for approximately 72 acres of City-owned land, known as the South Brooklyn Marine Terminal, located at 81 39th Street (Block 662, Lots 136, parts of Lots 1, 130 and 155), Borough of Brooklyn (20155636 PNK; L.U. No. 224).

By Council Members Greenfield and Koo.

WHEREAS, The City of New York Department of Small Business Services filed with the Council on May 5, 2015, pursuant to Sections 1301(2)(f) of the New York City Charter, a proposed lease agreement between The City of New York Department of Small Business Services (“DSBS”), as landlord, and the New York City Economic Development Corporation (“Tenant”) for approximately 72 acres of City-owned land, known as the South Brooklyn Marine Terminal, located at 81 39th Street (Block 662, Lots 136, parts of Lots 1, 130 and 155), for a thirty-nine (39) year lease term for maritime uses, upon terms and conditions set forth in the lease agreement, which will be substantially in the form attached hereto (the "Lease Agreement"), Community District 7, Borough of Brooklyn;

WHEREAS, the Lease Agreement is subject to review and action by the Council pursuant to Section 1301(2)(f) of the New York City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Lease Agreement on May 19, 2015;

WHEREAS, the Council has considered the land use and financial implications and other policy issues relating to the Lease Agreement;

WHEREAS, the Council has considered the relevant environmental issues, including the determination by DSBS, dated April 7, 2015, that the Lease Agreement is a Type II action pursuant to 6 NYCRR Part 617.5(c)(26) and requires no further review under CEQR (the “Type II Determination”).

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment pursuant to the Type II Determination.

Pursuant to Section 1301(2)(f) of the New York City Charter, the Council approves the terms and conditions set forth in the Lease Agreement a copy of which is attached hereto.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, RUBEN WILLS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, RITCHIE J. TORRES, MARK TREYGER, VINCENT M. IGNIZIO; Committee on Land Use, May 21, 2015.

On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

May 27, 2015

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Report for L.U. No. 225

Report of the Committee on Land Use in favor of approving Application No. 20155570 HAX submitted by the New York City Department of Housing Preservation and Development pursuant to Sections 123(4), 125, and 577 of the Private Housing Finance Law for a real property tax exemption, termination of the prior tax exemption and voluntary dissolution of the current owner for properties identified as Block 2713, Lot 2 and Block 2878, Lots 170 and 178, Borough of the Bronx, Community Boards 2 and 5, Council Districts 14 and 17.

The Committee on Land Use, to which the annexed Land Use item was referred on May 14, 2015 (Minutes, page 1775) and was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

BRONX CB's - 2 and 5

20155570 HAX

Application submitted by the New York City Department of Housing Preservation and Development for an exemption from real property taxation, termination of the prior tax exemption and voluntary dissolution of current owner for properties located on Block 2713, Lot 2 and Block 2878, Lots 170 and 178, Borough of the Bronx, Council Districts 14 and 17.

INTENT

To approve a real property tax exemption, termination of the prior tax exemption, and voluntary dissolution of current owner pursuant to Sections 577, 125, and 123(4) of the Private Housing Finance Law for an exemption area that contains four multiple-dwellings, known as PRC Andrews Avenue, which provides rental housing for low-income families.

PUBLIC HEARING

DATE: May 19, 2015

Witnesses in Favor: Three

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: May 19, 2015

The Subcommittee recommends that the Land Use Committee approve the requests made by the New York City Department of Housing Preservation and Development.

In Favor: Dickens, Mealy, Rodriguez, Cohen, Treyger

Against: *None* **Abstain:** *None*

COMMITTEE ACTION

DATE: May 21, 2015

The Committee recommends that the Council approve the attached resolution.

In Favor: Greenfield, Gentile, Palma, Arroyo, Dickens, Garodnick, Mealy, Mendez, Rodriguez, Koo, Lander, Levin, Weprin, Williams, Wills, Richards, Barron, Cohen, Kallos, Torres, Treyger, Ignizio

Against: *None* **Abstain:** *None*

In connection herewith, Council Members Greenfield and Koo offered the following resolution:

Res. No. 713

Resolution to approve a real property tax exemption pursuant to Sections 577 of the Private Housing Finance Law (PHFL), approve the termination of a prior exemption under PHFL Section 125, and consent to the voluntary dissolution of the prior owner under PHFL 123(4) for property located on Block 2713, Lot 2; Block 2878, Lots 170 and 178), Community Districts 2 and 5, Borough of the Bronx (L.U. No. 225; 20155570 HAX).

By Council Members Greenfield and Dickens.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on April 22, 2015 its request dated April 6, 2015 that the Council take the following actions regarding a tax exemption for real property located on Block 2713, Lot 2; Block 2878, Lots 170 and 178), Community Districts 2 and 5, Borough of the Bronx (the "Exemption Area"):

Approve an exemption of the Exemption Area from real property taxes pursuant to the Private Housing Finance Law (PHFL) Section 577 (the "Tax Exemption");

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Approve the termination of a prior exemption for the Exemption Area pursuant to PHFL Section 125 (the "Termination");

Consent to the voluntary dissolution of the current owner pursuant to PHFL Section 123(4) (the "Dissolution");

WHEREAS, upon due notice, the Council held a public hearing on the Tax Exemption, Termination, and Dissolution on May 19, 2015; and

WHEREAS, the Council has considered the land use and financial implications and other policy issues relating to the Tax Exemption, Termination, and Dissolution;

RESOLVED:

The Council approves the Tax Exemption for the Exemption Area pursuant to Section 577 of the Private Housing Finance Law as follows:

- a. For the purposes hereof, the following terms shall have the following meanings:
 - (1) "Company" shall mean PRC Andrews Avenue LLC.
 - (2) "Current Owner" shall mean Esperanza Village Associates L.P. and Maria Estela Houses II Associates L.P.
 - (3) "Effective Date" shall mean the later of (i) the date of conveyance of the Exemption Area to the HDFC, or (ii) the date that HPD and the New Owner enter into the HPD Regulatory Agreement.
 - (4) "Exemption Area" shall mean the real property located in the Borough of Bronx, City and State of New York, identified as Block 2713, Lot 2, and Block 2878, Lots 170 and 178 on the Tax Map of the City of New York.
 - (5) "Expiration Date" shall mean the earlier to occur of (i) a date which is thirty-five (35) years from the Effective Date, (ii) the date of the expiration or termination of the HPD Regulatory Agreement, or (iii) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.

- (6) "HDFC" shall mean Andrews/Kelly Housing Development Fund Corporation.
 - (7) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
 - (8) "HPD Regulatory Agreement" shall mean the regulatory agreement between HPD and the New Owner establishing certain controls upon the operation of the Exemption Area during the term of the New Exemption.
 - (9) "New Exemption" shall mean the exemption from real property taxation provided hereunder with respect to the Exemption Area.
 - (10) "New Owner" shall mean, collectively, the HDFC and the Company.
 - (11) "PHFL" shall mean the Private Housing Finance Law.
 - (12) "Prior Exemption" shall mean the exemptions from real property taxation for the Exemption Area approved by the Board of Estimate on July 17, 1980 (Cal. No. 35) and September 18, 1980 (Cal. No. 48).
 - (13) "Shelter Rent" shall mean the total rents received from the commercial and residential occupants of the Exemption Area, including any federal subsidy (including, but not limited to, Section 8, rent supplements, and rental assistance), less the cost of providing to such occupants electricity, gas, heat and other utilities.
 - (14) "Shelter Rent Tax" shall mean an amount equal to ten percent (10%) of Shelter Rent.
- b. All of the value of the property in the Exemption Area, including both the land and any improvements (excluding those portions, if any, devoted to business or commercial use), shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date.
- c. Commencing upon the Effective Date, and during each year thereafter until the Expiration Date, the New Owner shall make real property tax payments in the sum of the Shelter Rent Tax.

Notwithstanding the foregoing, the total annual real property tax payment by the New Owner shall not at any time exceed the amount of real property taxes that would otherwise be due in the absence of any form of exemption from or abatement of real property taxation provided by any existing or future local, state, or federal law, rule or regulation.

- d. Notwithstanding any provision hereof to the contrary:
- (1) The New Exemption shall terminate if HPD determines at any time that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Exemption Area is not being operated in accordance with the requirements of the HPD Regulatory Agreement, (iii) the Exemption Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, (iv) the Exemption Area is conveyed to a new owner without the prior written approval of HPD, or (v) the demolition of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the New Owner and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the New Exemption shall prospectively terminate.
 - (2) The New Exemption shall apply to all land in the Exemption Area, but shall only apply to buildings in the Exemption Area that exist on the Effective Date.
 - (3) Nothing herein shall entitle the HDFC to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.
- e. In consideration of the New Exemption, the owner of the Exemption Area shall, for so long as the New Exemption shall remain in effect, waive the benefits of any additional or concurrent exemption from or abatement of real property taxation which may be authorized under any existing or future local, state or federal law, rule or regulation.

The Council approves, pursuant to Section 125 of the PHFL, the Termination of the Prior Exemption, which termination shall become effective one day preceding the conveyance of the Exemption Area from the Current Owner to the New Owner.

The Council consents, pursuant to Section 123(4) of the PHFL, to the voluntary Dissolution of the Current Owner.

If (i) the conveyance of the Exemption Area from the Current Owner to the New Owner does not occur within one day following the termination of the Prior Exemption, or (ii) the conveyance of the Exemption Area from the Current Owner to the New Owner does not occur on the same day as the voluntary dissolution of the Current Owner, then all of the approvals and consents set forth above shall be null and void and both the obligations of the Current Owner to remain an Article V redevelopment company and the Prior Exemption shall be reinstated as though they had never been terminated or interrupted.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, RUBEN WILLS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, RITCHIE J. TORRES, MARK TREYGER, VINCENT M. IGNIZIO; Committee on Land Use, May 21, 2015.

On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 226

Report of the Committee on Land Use in favor of approving Application No. 20155631 HAX submitted by the New York City Department of Housing Preservation and Development pursuant to Section 577 of the Private Housing Finance Law for a real property tax exemption for properties identified as Block 2696, Lot 1 and Block 2699, Lot 48, Borough of the Bronx, Community Board 2, Council District 17.

The Committee on Land Use, to which the annexed Land Use item was referred on May 14, 2015 (Minutes, page 1775) and was coupled with the resolution shown below, respectfully

REPORTS:

May 27, 2015

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SUBJECT

BRONX CB - 02

20155631 HAX

Application submitted by the New York City Department of Housing Preservation and Development for the grant of a real property tax exemption pursuant to Section 577 of the Private Housing Finance Law for property located on Block 2696, Lot 1 and Block 2699, Lot 48, in Council District 17, Borough of the Bronx.

INTENT

To approve a real property tax exemption pursuant to Section 577 of the Private Housing Finance Law for an exemption area that contains two multiple-dwellings, known as 911 Longwood Portfolio, which provide rental housing for low-income families.

PUBLIC HEARING

DATE: May 19, 2015

Witnesses in Favor: Two

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: May 19, 2015

The Subcommittee recommends that the Land Use Committee approve the requests made by the New York City Department of Housing Preservation and Development.

In Favor: Dickens, Mealy, Rodriguez, Cohen, Treyger

Against: *None*

Abstain: *None*

COMMITTEE ACTION

DATE: May 21, 2015

The Committee recommends that the Council approve the attached resolution.

In Favor: Greenfield, Gentile, Palma, Arroyo, Dickens, Garodnick, Mealy, Mendez, Rodriguez, Koo, Lander, Levin, Weprin, Williams, Wills, Richards, Barron, Cohen, Kallos, Torres, Treyger, Ignizio

Against: *None*

Abstain: *None*

In connection herewith, Council Members Greenfield and Dickens offered the following resolution:

Res. No. 714

Resolution to approve a real property tax exemption pursuant to Section 577 of the Private Housing Finance Law (PHFL), for property located on Block 2696, Lot 1 and Block 2699, Lot 48, Community District 2, Borough of the Bronx (L.U. No. 226; 20155631 HAX).

By Council Members Greenfield and Dickens.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on May 1, 2015 its request dated April 20, 2015 that the Council take the following actions regarding a tax exemption for real property located on Block 2696, Lot 1 and Block 2699, Lot 48, Community District 2, Borough of the Bronx (the "Exemption Area"):

Approve an exemption of the Exemption Area from real property taxes pursuant to the Private Housing Finance Law (PHFL) Section 577 (the "Tax Exemption");

WHEREAS, upon due notice, the Council held a public hearing on the Tax Exemption on May 19, 2015; and

WHEREAS, the Council has considered the land use and financial implications and other policy issues relating to the Tax Exemption;

RESOLVED:

The Council approves the Tax Exemption for the Exemption Area pursuant to Section 577 of the Private Housing Finance Law as follows:

1. For the purposes hereof, the following terms shall have the following meanings:
 - a. "Effective Date" shall mean the later of (i) the date of conveyance of exemption area to the HDFC, (ii) the date that HPD and the Owner enter into the Regulatory Agreement. .

- b. "Exemption Area" shall mean real property located in the Borough of the Bronx, City and State of New York, identified as Block 2696, Lot 1 and Block 2699, Lot 48 on the Tax Map of the City of New York.
 - c. "Expiration Date" shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (ii) the date of the expiration or termination of the Regulatory Agreement, or (iii) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.
 - d. "HDFC" shall mean the Banana Kelly Longwood Housing Development Fund Corporation, Inc.
 - e. "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
 - f. "New Exemption" shall mean the exemption from real property taxation provided hereunder with respect to the Exemption Area.
 - g. "Owner" shall mean the HDFC or any future owner of the Exemption Area.
 - h. "Prior Exemption" shall mean the exemption from real property taxation for the Exemption Area approved by the Council on December 15, 2003 (Cal. No. 1218).
 - i. "Regulatory Agreement" shall mean the new regulatory agreement between HPD and the Owner entered into on or after June 1, 2015 establishing certain controls upon the operation of the Exemption Area during the term of the New Exemption.
2. The Prior Exemption shall terminate with respect to the Exemption Area upon the Effective Date.
 3. All of the value of the property in the Exemption Area, including both the land and any improvements (excluding those portions, if any, devoted to business or commercial use), shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date.
 4. Notwithstanding any provision hereof to the contrary:

- a. The New Exemption shall terminate if HPD determines at any time that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Exemption Area is not being operated in accordance with the requirements of the Regulatory Agreement, (iii) the Exemption Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, (iv) the Exemption Area is conveyed to a new owner without the prior written approval of HPD, or (v) the demolition of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to Owner and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the New Exemption shall prospectively terminate.
 - b. The New Exemption shall apply to all land in the Exemption Area, but shall only apply to buildings on the Exemption Area that exist on the Effective Date.
 - c. Nothing herein shall entitle the HDFC to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.
 - d. All previous resolutions, if any, providing an exemption from or abatement of real property taxation with respect to the Exemption Area are hereby revoked.
5. In consideration of the New Exemption, the owner of the Exemption Area, for so long as the New Exemption shall remain in effect, shall waive the benefits of any additional or concurrent exemption from or abatement of real property taxation which may be authorized under any existing or future local, state or federal law, rule or regulation.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, RUBEN WILLS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, RITCHIE J. TORRES, MARK TREYGER, VINCENT M. IGNIZIO; Committee on Land Use, May 21, 2015.

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On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 227

Report of the Committee on Land Use in favor of approving Application No. 20155632 HAX submitted by the New York City Department of Housing Preservation and Development pursuant to Section 577 of the Private Housing Finance Law for a real property tax exemption for properties identified as Block 3014, Lots 5 and 45, Borough of the Bronx, Community Board 3, Council District 17.

The Committee on Land Use, to which the annexed Land Use item was referred on May 14, 2015 (Minutes, page 1775) and was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

BRONX CB - 03

20155632 HAX

Application submitted by the New York City Department of Housing Preservation and Development for the grant of a real property tax exemption pursuant to Section 577 of the Private Housing Finance Law for property located at 1524 Boone Avenue (Block 3014, Lots 5 and 45), in Council District 17, Borough of the Bronx.

INTENT

To approve a real property tax exemption for pursuant to Section 577 of the Private Housing Finance Law for an exemption area that will be developed with one building that contains 128 affordable rental units.

PUBLIC HEARING

DATE: May 19, 2015

Witnesses in Favor: Two

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: May 19, 2015

The Subcommittee recommends that the Land Use Committee approve the requests made by the New York City Department of Housing Preservation and Development.

In Favor: Dickens, Mealy, Rodriguez, Cohen, Treyger

Against: *None* **Abstain:** *None*

COMMITTEE ACTION

DATE: May 21, 2015

The Committee recommends that the Council approve the attached resolution.

In Favor: Greenfield, Gentile, Palma, Arroyo, Dickens, Garodnick, Mealy, Mendez, Rodriguez, Koo, Lander, Levin, Weprin, Williams, Wills, Richards, Barron, Cohen, Kallos, Torres, Treyger, Ignizio

Against: *None* **Abstain:** *None*

In connection herewith, Council Members Greenfield and Dickens offered the following resolution:

Res. No. 715

Resolution to approve a real property tax exemption pursuant to Section 577 of the Private Housing Finance Law, for property located at 1524 Boone Avenue (Block 3014, Lots 5 and 45), Community District 3, Borough of the Bronx (L.U. No. 227; 20155632 HAX).

By Council Members Greenfield and Dickens.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on May 1, 2015 its request dated April 20, 2015 that the Council take the following actions regarding a tax exemption for real property located at 1524 Boone Avenue (Block 3014, Lots 5 and 45), Community District 3, Borough of the Bronx (the "Exemption Area"):

Approve an exemption of the Exemption Area from real property taxes pursuant to the Private Housing Finance Law Section 577 (the "Tax Exemption");

WHEREAS, upon due notice, the Council held a public hearing on the Tax Exemption on May 19, 2015; and

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WHEREAS, the Council has considered the land use and financial implications and other policy issues relating to the Tax Exemption;

RESOLVED:

The Council approves the Tax Exemption for the Exemption Area pursuant to Section 577 of the Private Housing Finance Law as follows:

1. For the purposes hereof, the following terms shall have the following meanings:

(a) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.

(b) "HDC" shall mean the New York City Housing Development Corporation.

(c) "HDFC" shall mean MBD Compass Two A Housing Development Fund Corporation.

(d) "LLC" shall mean Compass Two A LLC.

(e) "Owner" shall mean the HDFC and the LLC or any future owner of the Exemption Area.

(f) "Exemption" shall mean the exemption from real property taxation provided hereunder.

(g) "Disposition Area" shall mean the real property located on the Tax Map of the City of New York in the Borough of the Bronx, City and State of New York, identified as Block 3014, Lot 45.

(h) "Effective Date" shall mean the later of (i) the date of conveyance of the Disposition Area to the HDFC, and (ii) the date that HPD, HDC and the Owner enter into the Regulatory Agreement in their respective sole discretion.

(i) "Exemption Area" shall mean the real property located on the Tax Map of the City of New York in the Borough of the Bronx, City and State of New York, identified as Block 3014, Lots 5 and 45.

(j) "Expiration Date" shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (ii) the date of the expiration or termination of the Regulatory Agreement, or (iii) the date upon which the Exemption Area ceases to be

owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.

(k) "Project" shall mean the construction of a multiple dwelling on the Exemption Area containing approximately 128 rental dwelling units and approximately 10,816 square feet of open space.

(l) "Regulatory Agreement" shall mean the regulatory agreement between HPD, HDC and the Owner establishing certain controls upon the operation of the Exemption Area during the term of the Exemption.

2. All of the value of the property in the Exemption Area, including both the land and any improvements (excluding those portions, if any devoted to business or commercial use) shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon Expiration Date.

3. (a) Notwithstanding any provision hereof to the contrary, the exemption from real property taxation provided hereunder ("Exemption") shall terminate if HPD determines at any time that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Exemption Area is not being operated in accordance with the requirements of the Regulatory Agreement, (iii) the Exemption Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, or (iv) the Exemption Area is conveyed to a new owner without the prior written consent of HPD, or (v) the demolition or construction of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the Owner and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the Exemption shall prospectively terminate.

(b) Nothing herein shall entitle the Owner to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.

(c) The Exemption shall not apply to any building constructed in the Exemption Area which does not have a temporary certificate of occupancy by September 30, 2017 as such date may be extended in writing by HPD.

4. In consideration of the Exemption, the Owner of the Exemption Area (i) shall execute and record the Regulatory Agreement, and (ii) for so long as the Exemption shall remain in effect, shall waive the benefits of any additional or concurrent

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exemption from or abatement of real property taxation which may be authorized under any existing or future local, state, or federal law, rule, or regulation.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, RUBEN WILLS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, RITCHIE J. TORRES, MARK TREYGER, VINCENT M. IGNIZIO; Committee on Land Use, May 21, 2015.

On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 228

Report of the Committee on Land Use in favor of approving Application No. 20155635 HAQ submitted by the New York City Department of Housing Preservation and Development pursuant to Section 577 of the Private Housing Finance Law for a real property tax exemption for properties identified as Block 15853, Lot 48, Borough of Queens, Community Board 14, Council District 31.

The Committee on Land Use, to which the annexed Land Use item was referred on May 14, 2015 (Minutes, page 1776) and was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

QUEENS CB - 14

20155635 HAQ

Application submitted by the New York City Department of Housing Preservation and Development for the grant of a real property tax exemption pursuant to Section 577 of the Private Housing Finance Law for property located at 45-05 Rockaway Beach Boulevard (Block 15853, Lot 48), in Council District 31, Borough of Queens

INTENT

To approve a real property tax exemption pursuant to Section 577 of the PHFL for an exemption area that will be developed with one building containing 101 affordable units of rental housing.

PUBLIC HEARING

DATE: May 19, 2015

Witnesses in Favor: Four

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: May 19, 2015

The Subcommittee recommends that the Land Use Committee approve the requests made by the New York City Department of Housing Preservation and Development.

In Favor: Dickens, Mealy, Rodriguez, Cohen, Treyger

Against: *None*

Abstain: *None*

COMMITTEE ACTION

DATE: May 21, 2015

The Committee recommends that the Council approve the attached resolution.

In Favor: Greenfield, Gentile, Palma, Arroyo, Dickens, Garodnick, Mealy, Mendez, Rodriguez, Koo, Lander, Levin, Weprin, Williams, Wills, Richards, Barron, Cohen, Kallos, Torres, Treyger, Ignizio

Against: *None*

Abstain: *None*

In connection herewith, Council Members Greenfield and Dickens offered the following resolution:

Res. No. 716

Resolution to approve a real property tax exemption pursuant to Section 577 of the Private Housing Finance Law, for property located at 45-05 Rockaway Beach Boulevard (Block 15853, Lot 48), Community District 14, Borough of Queens (L.U. No. 228; 20155635 HAQ).

By Council Members Greenfield and Dickens.

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WHEREAS, the New York City Department of Housing Preservation and Development submitted to the Council on May 1, 2015 its request dated April 20, 2015 that the Council take the following actions regarding a tax exemption for real property located at 45-05 Rockaway Beach Boulevard (Block 15853, Lot 48), Community District 14, Borough of Queens (the "Exemption Area"):

Approve an exemption of the Exemption Area from real property taxes pursuant to the Private Housing Finance Law Section 577 (the "Tax Exemption");

WHEREAS, upon due notice, the Council held a public hearing on the Tax Exemption on May 19, 2015; and

WHEREAS, the Council has considered the land use and financial implications and other policy issues relating to the Tax Exemption;

RESOLVED:

The Council approves the Tax Exemption for the Exemption Area pursuant to Section 577 of the Private Housing Finance Law as follows:

1. For the purposes hereof, the following terms shall have the following meanings:

(a) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.

(b) "HDC" shall mean the New York City Housing Development Corporation.

(c) "HDFC" shall mean HP Beach Green North Housing Development Fund Company, Inc.

(d) "LLC" shall mean Beach Green North, LLC.

(e) "Owner" shall mean the HDFC and the LLC or any future owner of the Exemption Area.

(f) "Exemption" shall mean the exemption from real property taxation provided hereunder.

(g) "Effective Date" shall mean the later of (i) the date of conveyance of the Exemption Area to the HDFC, and (ii) the date that HPD, HDC and the Owner enter into the Regulatory Agreement in their respective sole discretion.

(h) "Exemption Area" shall mean the real property located on the Tax Map of the City of New York in the Borough of the Queens, City and State of New York, identified as Block 15853, Lot 48.

(i) "Expiration Date" shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (ii) the date of the expiration or termination of the Regulatory Agreement, or (iii) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.

(j) "Project" shall mean the construction of a multiple dwelling on the Exemption Area containing approximately 100 dwelling units, plus one unit for a superintendent, and approximately 486 square feet of commercial space.

(k) "Regulatory Agreement" shall mean the regulatory agreement between HPD, HDC and the Owner establishing certain controls upon the operation of the Exemption Area during the term of the Exemption.

2. All of the value of the property in the Exemption Area, including both the land and any improvements (excluding those portions, if any devoted to business or commercial use) shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon Expiration Date.

3. (a) Notwithstanding any provision hereof to the contrary, the exemption from real property taxation provided hereunder ("Exemption") shall terminate if HPD determines at any time that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Exemption Area is not being operated in accordance with the requirements of the Regulatory Agreement, (iii) the Exemption Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, or (iv) the Exemption Area is conveyed to a new owner without the prior written consent of HPD, or (v) the demolition or construction of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the Owner and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the Exemption shall prospectively terminate.

(b) Nothing herein shall entitle the Owner to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.

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(c) The Exemption shall not apply to any building constructed in the Exemption Area which does not have a temporary certificate of occupancy by March 31, 2017 as such date may be extended in writing by HPD.

4. In consideration of the Exemption, the Owner of the Exemption Area (i) shall execute and record the Regulatory Agreement, and (ii) for so long as the Exemption shall remain in effect, shall waive the benefits of any additional or concurrent exemption from or abatement of real property taxation which may be authorized under any existing or future local, state, or federal law, rule, or regulation.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, RUBEN WILLS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, RITCHIE J. TORRES, MARK TREYGER, VINCENT M. IGNIZIO; Committee on Land Use, May 21, 2015.

On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Reports of the Committee on Rules, Privileges and Elections

Report for M-289

Report of the Committee on Rules, Privileges and Elections in favor of approving the appointment of Karen Redlener as a member of the New York City Board of Health.

The Committee on Rules, Privileges and Elections to which the annexed communication was referred on May 14, 2015 (Minutes, page 1570) and was coupled with the resolution shown below, respectfully

REPORTS:

(For text of the Briefing Paper, please see the Report of the Committee on Rules, Privileges and Elections for M-290 printed in these Minutes).

The Committee on Rules, Privileges and Elections respectfully reports:

Pursuant to §§ 31 and § 553 of the *New York City Charter*, the Committee on Rules, Privileges and Elections, hereby approves the appointment by the Mayor of Karen Redlener as a member of the New York City Board of Health to serve for the remainder of a six-year term that expires on May 31, 2020.

This matter was referred to the Committee on May 14, 2015

Accordingly, this Committee recommends its adoption.

In connection herewith, Council Member Lander offered the following resolution:

Res. No. 717

**RESOLUTION APPROVING THE APPOINTMENT BY THE MAYOR OF
KAREN REDLENER AS A MEMBER OF THE NEW YORK CITY
BOARD OF HEALTH.**

By Council Member Lander.

RESOLVED, That pursuant to §§ 31 and § 553 of the *New York City Charter*, the Council does hereby approve the appointment by the Mayor of Karen Redlener as a member of the New York City Board of Health for the remainder of a six-year term, which will expire on May 31, 2020.

BRADFORD S. LANDER, *Chairperson*; INEZ E. DICKENS, DANIEL R. GARODNICK, YDANIS A. RODRIGUEZ, MARGARET S. CHIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, RAFAEL L. ESPINAL, Jr., MARK LEVINE, VINCENT M. IGNIZIO, MELISSA MARK-VIVERITO; *Committee on Rules, Privileges and Elections, May 27, 2015. Other Council Members Attending: Greenfield, Wills, Vacca, Dromm, and Crowley.*

On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for M-290

**Report of the Committee on Rules, Privileges and Elections in favor of
approving the appointment of Dr. Ramanathan Raju as a member of the
New York City Board of Health.**

The Committee on Rules, Privileges and Elections to which the annexed communication was referred on May 14, 2015 (Minutes, page 1571) and was coupled with the resolution shown below, respectfully

REPORTS:**Topic I: *New York City Board of Health* – (Mayor’s nominee for appointment upon advice and consent of the Council)**

- **Ramanathan Raju, M.D. [M-290]**
- **Karen Redlener [M-289]**
- **Rose M. Gil [M-291]**

Pursuant to *New York City Charter* (“the Charter”) § 553, there shall be in the New York City Department of Health and Mental Hygiene (“the Department”)¹ a Board of Health (“the Board”)², the Chairperson of which shall be the Commissioner of the Department.

The main function of the Board is to promulgate the *New York City Health Code* (“Code”), which can encompass any matter within the jurisdiction of the Department, and has “the force and effect of law.” [*Charter* § 558.] The Board may legislate on “all matters and subjects to which the power and authority of the Department extends.” [*Charter* § 558(c).] The jurisdiction of the Department is among the most extensive and varied of all City agencies. Except as otherwise provided by law, the Department has jurisdiction to regulate all matters affecting health in the City and to perform all those functions and operations performed by the City that relate to the health of the people of the City, including but not limited to the mental health, mental retardation, alcoholism and substance abuse related needs of the people of the City. [*Charter* § 556.] The scope of the Department’s jurisdiction includes such diverse disciplines as communicable diseases, environmental health services, radiological health, food safety, veterinary affairs, water quality, pest control and vital statistics. New emerging pathogens and biological warfare are the most recent additions to the Department’s roster of concerns.

In addition to its primary legislative function in relation to the *Code*, the Board is charged with certain administrative responsibilities. The Board may issue, suspend or revoke permits (e.g., food vendor permits) or may delegate this duty to the Commissioner, in which case a party aggrieved by the decision of the Commissioner has a right of appeal to the Board. [*Charter* § 561.] The Board may declare a state of “great and imminent peril” and take appropriate steps subject to Mayoral approval. [*Charter* § 563.] Other administrative functions of the Board are contained in the *Administrative Code of the City of New York*. One important function is to declare conditions as public nuisances and to order that such conditions be abated or otherwise corrected. [*Administrative Code* § 17-145.]

In addition to the Chairperson, the Board consists of ten members, five of whom shall be doctors of medicine who shall each have had not less than ten years experience in any or all of the following: clinical medicine, neurology, psychiatry,

public health administration or college or university public health teaching. The other five members need not be physicians. However, non-physician members shall hold at least a Masters degree in environmental, biological, veterinary, physical, or behavioral health or science, or rehabilitative science or in a related field, and shall have at least ten years of experience in the field in which they hold such a degree. The Chairperson of the Mental Hygiene Advisory Board³ sits as one of the ten board members, provided that such individual meets the requirements for Board membership of either a physician or non-physician member.

The nine Board members other than the Chairperson and the member who shall be the Chairperson of the Mental Hygiene Advisory Board shall serve without compensation and shall be appointed by the Mayor, each for a term of six-years.⁴ In the case of a vacancy, the Mayor shall appoint a member to serve for the un-expired term. [*Charter* § 553(b).] The Mayor's appointees are subject to the advice and consent of the New York City Council as set forth in *Charter* § 31.

The Commissioner shall designate such Department employees as may be necessary to the service of the Board, including an employee designated by him to serve as the Secretary to the Board. [*Charter* § 553 (c).]

Pursuant to *Charter* § 554, a member of the Board other than the Chairperson may be removed by the Mayor upon proof of official misconduct or of negligence in official duties or of conduct in any manner connected with his/her official duties, that tends to discredit his/her office, or of mental or physical inability to perform his/her duties. Prior to removal, however, the Board member shall receive a copy of the charges and shall be entitled to a hearing before the Mayor and to the assistance of counsel at such hearing.

If appointed, (1) Dr. Raju, a resident of Staten Island, will fill a vacancy and serve the remainder of a six-year term that expires on May 31, 2018, (2) Ms. Redlener, a resident of Manhattan, will fill a vacancy and serve the remainder of a six-year term that expires on May 31, 2020, and (3) Ms. Gil, a resident of Manhattan, will fill a vacancy and serve the remainder of a six-year term that expires on May 31, 2020. A copy of each candidate's résumé is annexed to this briefing paper.

Topic II: *New York City Taxi and Limousine Commission – (Candidate for appointment by the Mayor upon the advice and consent of the Council)*

- **William Aguado [M-292]**

The New York City Taxi and Limousine Commission (“TLC”) was created pursuant to Local Law 12 of 1971. Section 2300 of Chapter 65, of the *New York City Charter* (“*Charter*”) states that there shall be a TLC, which shall have the purposes of further developing and improving the taxi and limousine service in New York City (“the City”). It shall also remain consistent with the promotion and

protection of the public comfort and convenience, adopting and establishing an overall public transportation policy, which will govern taxi, coach, limousine, and wheelchair accessible van services, as it relates to the overall public transportation network of the City. The TLC is also responsible for establishing certain rates, standards and criteria for the licensing of vehicles, drivers, chauffeurs, owners, and operators engaged in such services. TLC shall also provide authorization to persons, to operate commuter van services within the City [*Rules of the City of New York*, Title 35, § 9-02].

The TLC consists of nine members appointed by the Mayor, all with the advice and consent of the New York City Council. Five of the said members must be a resident from each of the five boroughs of the City, and are recommended for appointment by a majority vote of the Council Members of the respective borough [*New York City Charter* § 2301 (a)]. TLC members are appointed for terms of seven years, and can serve until the appointment and qualification of a successor. Vacancies, other than those that occur at the expiration of a term, shall be filled for the unexpired term. The Mayor may remove any such member for cause, upon stated charges [*New York City Charter* § 2301 (b)].

The Mayor designates one member of the TLC to act as the Chairperson and Chief Executive Officer. The Chairperson shall have charge of the organization of his/her office and have authority to employ, assign and superintend the duties of such officers and employees, as may be necessary to carry out the provisions of Chapter 65 of the *Charter*. The *Charter* provides that the Chairperson shall devote his/her full time to this position and, as such, receive compensation as set by the Mayor [*New York City Charter* § 2301 (c)]. The Chair currently receives \$192,198.00 annually. Other members of the TLC are not entitled to compensation [*New York City Charter* § 2301 (d)].

Pursuant to the *Charter*, all proceedings of the TLC and all documents and records in its possession shall be public records and the TLC shall make an annual report to the City Council, on or before the second Monday of January in each year [*New York City Charter* § 2302].

If appointed, Mr. Aguado, a Bronx resident, will fill a vacancy and serve for the remainder of a seven-year term that expires on January 31, 2022. Copies of the following are annexed to this briefing paper; the candidate's résumé, questions with the candidate's associated answers regarding the proposed appointment to the TLC and the related message.

Topic III: New York City Board of Correction – (Candidate for appointment by the Council)

- **Stanley Richards, [Pre-considered M-294]**

The New York City Department of Correction (“DOC”) provides for the care, custody and control of persons accused or convicted of crimes and sentenced to one year or less jail time. DOC manages 15 inmate facilities, 10 of which are on Riker’s Island, handles more than 100,000 admissions each year, and manages an average daily inmate population of approximately 14,000 individuals. *Preliminary Mayor’s Management Report for February 2009*. The New York City Board of Correction (“BOC”) oversees DOC’s operations and evaluates agency performance. Pursuant to *New York City Charter* (“Charter”) §§ 626(c), 626(e), 626(f), BOC, or by written designation of the BOC, any member of it, the Executive Director⁵, or other employee, shall have the power and duty to:

- inspect and visit all institutions and facilities under the jurisdiction of DOC at any time;
- inspect all records of DOC;
- prepare and submit to the Mayor and to the Council, and the DOC Commissioner, proposals for capital planning and improvements, studies and reports concerned with the development of DOC’s correctional program planning, and studies and reports in regard to the methods of promoting closer cooperation of custodial, probation and parole agencies of government and the courts;
- evaluate DOC performance;
- establish minimum standards for the care, custody, correction, treatment, supervision, and discipline of all persons held or confined under the jurisdiction of DOC; and to
- establish procedures for the hearing of grievances and complaints or requests for assistance by or on behalf of any person held or confined by DOC or by any employees of DOC.

BOC is composed of nine members. Three members are appointed by the Mayor, three by the Council, and three by the Mayor on the nomination jointly by the presiding justices of the Appellate Division of the Supreme Court for the First and Second Judicial Departments. Appointments are made by the three respective appointing authorities on a rotating basis to fill any vacancy. Members are appointed to a term of six-years, and vacancies are filled for the remainder of the unexpired term. The Mayor designates the Chair of BOC from among its members from time to time. The Mayor may remove members for cause after a hearing at which they shall be entitled to representation by Counsel. *Charter* § 626(b).

Although BOC members receive no compensation, they may, however, be

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reimbursed for expenses incurred in the performance of their duties. *Charter § 626(a)*.

BOC is required to adopt rules to govern its own proceedings. *Charter § 626(b)*. Within the scope of its authority, BOC may compel the attendance of witnesses, require the production of books, accounts, papers, and other evidence, administer oaths, examine persons, and conduct public or private hearings, studies and investigations. Also, BOC may institute proceedings in a court of appropriate jurisdiction to enforce its subpoena power and other authority. *Charter § 626(g)*.

On an annual basis, and at such other times as it may determine, BOC submits to the Mayor, the Council and the DOC Commissioner, reports, findings and recommendations in regard to matters within its jurisdiction. *Charter § 626(d)*. Members of the Council are authorized to inspect and visit at anytime the institutions and facilities under the jurisdiction of DOC. *Charter § 627*.

If re-appointed by the Council, Mr. Richards, a resident of the Bronx, will serve for the remainder of a six-year term expiring on October 12, 2020. A copy of Mr. Richards résumé and to this Briefing paper.

Topic IV: New York City Youth Board – (Council recommendation subject to appointment by the Mayor)

• **Patricia Machir [Pre-considered M-295]**

Section 734 of the *New York City Charter* (“*Charter*”) states that there shall be a youth board, which shall serve as a forum for representatives of disciplines concerned with the welfare of youth [*Charter §734(a)*]. The Board must be representative of the community, and is required to include persons representing the areas of social service, health care, education, business, industry and labor [*Charter §734(b)*].

The Board serves as an advisory body to the Commissioner of the Department of Youth and Community Development (“DYCD”) with respect to the development of programs and policies relating to youth in the City of New York pursuant to Chapter 30 of the *Charter*, Chapter 4, Title 21 of the *Administrative Code*, Article 19-G of the *New York State Executive Law*, and regulations promulgated by the Director of the Division of Youth pursuant to such Article codified at Title 9 of the *Official Compilation of Codes, Rules and Regulations of the State of New York* (“NYCRR”) Part 164, Subpart 165-1 [New York City Youth Board By-laws, Article II]. According to Article II of the Board’s By-Laws, the powers, duties and responsibilities of the Board are to:

- (i) After consultation with the Commissioner of the Department of Youth and Community Development, recommend policies and/or plans, which promote youth development and prevent delinquency.

- (ii) Advocate for youth with the executive, administrative and legislative bodies and the community at large regarding the development of services and strategies which address locally identified youth problems and needs.
- (iii) Establish closer cooperation among employees, labor, school, churches, recreation and/or youth commission, service clubs, youth and family service providers and other public and private agencies to encourage youth programs on the basis of local community planning.
- (iv) Review and analyze grants given in the Department of Youth and Community Development from federal, state and City governments and from private individuals, corporations and associations, and assist the Commissioner in developing criteria for their allocation.
- (v) In cooperation with the Commissioner of the Department of Youth and Community Development, review, analyze and recommend the acceptance or rejection of, proposals for the creation or expansion of recreational services and youth service projects or other youth programs as defined by laws of the State of New York, and make appropriate recommendations to the Mayor.
- (vi) Receive, review and analyze statistical records and data, including those that reflect the incidence and trends of delinquency and youthful crimes and offenses in the City.
- (vii) Appoint such advisory groups and committees as may be necessary to carry out the powers and duties of the Board.
- (viii) Assist in the development of a comprehensive planning process, except as provided in section 165.2 (a)(4)(I)(a) and (b) of Part 164 of Title 9 of the NYCRR.

The Board consists of up to 28 members appointed by the Mayor, 14 of whom are appointed upon recommendation of the City Council⁶ [*Charter* §734(c)]. The Mayor designates one of the members of the Board to serve as its Chair [*Charter* §734(d)]. The members of the Board are required to meet at least quarterly [*Charter* §734(f)], and serve without compensation [*Charter* §734(e)]. The *Charter* does not define member terms of office.

If recommended by the Council and subsequently appointed by the Mayor, Ms. Machir, a resident of Manhattan, will fill a vacant position and be eligible to serve for an undefined term. Copies of Ms. Machir's résumé are annexed to this briefing paper.

¹ On November 6, 2001, the voters of New York City approved the merger of the New York City Department of Health and the New York City Department of Health, Mental Retardation and Alcoholism Services to create a new agency called the Department of Public Health. The agency is presently known as the Department of Health and Mental Hygiene.

² The ballot proposal approved by the City's voters on November 6, 2001, expanded the Board's membership from five to eleven members (including the Commissioner), while maintaining the current ratio of medical to non-medical personnel. Also, member terms were reduced from eight years to six years, and staggered to assure continuity. The Charter Revision Commission (the "Commission") asserted that these changes would ensure that the Board is better able to address today's "more complex public health threats and meet the new and emerging public health challenges of the future." Also, the Commission reasoned that the expansion of the Board would "provide the opportunities to increase the variety of expertise represented, and allow for inclusion of representatives with experience relating to special health needs of different racial and cultural groups in the City." Moreover, the Commission felt "a larger Board would also bring to bear greater diversity of academic, clinical and community perspectives on the broad spectrum of public health problems and issues that need to be addressed." Report of the New York City Charter Revision Commission, *Making Our City's Progress Permanent*, pp69-70 (September 5, 2001).

³ This body advises the Commissioner of Health and Mental Hygiene and the Deputy Commissioner for Mental Hygiene Services in the development of community mental health, mental retardation, alcoholism and substance abuse facilities and services and programs related thereto. Charter § 568.

⁴ The term of the Board of Health Chair, who is the Commissioner of Health, is not specified. The Chair of the Mental Hygiene Advisory Board can serve an unlimited number of four-year terms on that advisory Board and, thus, on the New York City Board of Health as well. Mental Hygiene Law § 41.11(d) and Charter § 568(a)(1).

⁵ BOC may appoint an Executive Director to serve at its pleasure with such duties and responsibilities as BOC may assign, and other professional, clerical, and support personnel within appropriations for such purpose. DOC's Commissioner shall designate such of DOC's stenographic, clerical and other assistance to BOC as may be necessary for the proper performance of its functions. *Charter* § 626(b).

⁶ The Council's current recommended members are: Anthony Sumpter (Brooklyn); Dr. Sibyl Silbertstein (Queens); Anna Garcia-Reyes (Manhattan); Victoria Sammartino (Bronx); and Kimberley Hayes (Manhattan).

(After interviewing the candidates and reviewing the submitted material, this Committee decided to approve the appointment of the nominees. For nominees Karen Redlener [M-289], Rose M. Gil [M-291], William Aguado [M-292], Stanley Richards [M-294], and Patricia Machir [M-295], please see the Reports of the Committee on Rules, Privileges and Elections for M-289, M-291, M-292, M-294, and M-295, respectively; for nominee Dr. Ramanathan Raju [M-290], please see below:)

The Committee on Rules, Privileges and Elections respectfully reports:

Pursuant to §§ 31 and § 553 of the *New York City Charter*, the Committee on Rules, Privileges and Elections, hereby approves the appointment by the Mayor of Dr. Ramanathan Raju as a member of the New York City Board of Health to serve for the remainder of a six-year term that expires on May 31, 2018.

This matter was referred to the Committee on May 14, 2015

Accordingly, this Committee recommends its adoption.

In connection herewith, Council Member Lander offered the following resolution:

Res. No. 718

RESOLUTION APPROVING THE APPOINTMENT BY THE MAYOR OF DR. RAMANATHAN RAJU AS A MEMBER OF THE NEW YORK CITY BOARD OF HEALTH.

By Council Member Lander.

RESOLVED, That pursuant to §§ 31 and § 553 of the *New York City Charter*, the Council does hereby approve the appointment by the Mayor of Dr. Ramanathan Raju as a member of the New York City Board of Health for the remainder of a six-year term, which will expire on May 31, 2018.

BRADFORD S. LANDER, *Chairperson*; INEZ E. DICKENS, DANIEL R. GARODNICK, YDANIS A. RODRIGUEZ, MARGARET S. CHIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, RAFAEL L. ESPINAL, Jr., MARK LEVINE, VINCENT M. IGNIZIO, MELISSA MARK-VIVERITO; Committee on Rules, Privileges and Elections, May 27, 2015. *Other Council Members Attending: Greenfield, Wills, Vacca, Dromm, and Crowley.*

On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for M-291

Report of the Committee on Rules, Privileges and Elections in favor of approving the appointment of Rose M. Gil as a member of the New York City Board of Health.

The Committee on Rules, Privileges and Elections to which the annexed communication was referred on May 14, 2015 (Minutes, page 1571) and was coupled with the resolution shown below, respectfully

REPORTS:

(For text of the Briefing Paper, please see the Report of the Committee on Rules, Privileges and Elections for M-290 printed in these Minutes).

The Committee on Rules, Privileges and Elections respectfully reports:

May 27, 2015

1858

Pursuant to §§ 31 and § 553 of the *New York City Charter*, the Committee on Rules, Privileges and Elections, hereby approves the appointment by the Mayor of Dr. Rosa M. Gil as a member of the New York City Board of Health to serve for the remainder of a six-year term that expires on May 31, 2020.

This matter was referred to the Committee on May 14, 2015.

Accordingly, this Committee recommends its adoption.

In connection herewith, Council Member Lander offered the following resolution:

Res. No. 719

RESOLUTION APPROVING THE APPOINTMENT BY THE MAYOR OF DR. ROSA M. GIL AS A MEMBER OF THE NEW YORK CITY BOARD OF HEALTH.

By Council Member Lander.

RESOLVED, That pursuant to §§ 31 and § 553 of the *New York City Charter*, the Council does hereby approve the appointment by the Mayor of Dr. Rosa M. Gil as a member of the New York City Board of Health for the remainder of a six-year term, which will expire on May 31, 2020.

BRADFORD S. LANDER, *Chairperson*; INEZ E. DICKENS, DANIEL R. GARODNICK, YDANIS A. RODRIGUEZ, MARGARET S. CHIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, RAFAEL L. ESPINAL, Jr., MARK LEVINE, VINCENT M. IGNIZIO, MELISSA MARK-VIVERITO; Committee on Rules, Privileges and Elections, May 27, 2015. *Other Council Members Attending: Greenfield, Wills, Vacca, Dromm, and Crowley.*

On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for M-292

Report of the Committee on Rules, Privileges and Elections in favor of approving the appointment of William Aguado as a member of the New York City Taxi and Limousine Commission.

The Committee on Rules, Privileges and Elections to which the annexed communication was referred on May 14, 2015 (Minutes, page 1572) and was coupled with the resolution shown below, respectfully

REPORTS:

(For text of the Briefing Paper, please see the Report of the Committee on Rules, Privileges and Elections for M-290 printed in these Minutes).

The Committee on Rules, Privileges and Elections respectfully reports:

Pursuant to §§ 31 and § 2301 of the *New York City Charter*, the Committee on Rules, Privileges and Elections, hereby approves the appointment by the Mayor of William Aguado as a member of the New York City Taxi and Limousine Commission to serve for the remainder of a seven-year term that expires on January 31, 2022.

This matter was referred to the Committee on May 14, 2015.

Accordingly, this Committee recommends its adoption.

In connection herewith, Council Member Lander offered the following resolution:

Res. No. 720

RESOLUTION APPROVING THE APPOINTMENT BY THE MAYOR OF WILLIAM AGUADO AS A MEMBER OF THE NEW YORK CITY TAXI AND LIMOUSINE COMMISSION.

By Council Member Lander.

RESOLVED, That pursuant to §§ 31 and § 2301 of the *New York City Charter*, the Council does hereby approve the appointment by the Mayor of William Aguado as a member of the New York City Taxi and Limousine Commission for the remainder of a seven-year term, which will expire on January 31, 2022.

BRADFORD S. LANDER, *Chairperson*; INEZ E. DICKENS, DANIEL R. GARODNICK, YDANIS A. RODRIGUEZ, MARGARET S. CHIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, RAFAEL L. ESPINAL, Jr., MARK LEVINE, VINCENT M. IGNIZIO, MELISSA MARK-VIVERITO; Committee on Rules, Privileges and Elections, May 27, 2015. *Other Council Members Attending: Greenfield, Wills, Vacca, Dromm, and Crowley.*

On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

May 27, 2015

1860

At this point the Speaker (Council Member Mark-Viverito) announced that the following items had been **preconsidered** by the Committee on Rules, Privileges and Elections and had been favorably reported for adoption.

Report for M-294

Report of the Committee on Rules, Privileges and Elections in favor of approving the recommendation of Stanley Richards as a member of the New York City Board of Correction.

The Committee on Rules, Privileges and Elections to which the annexed preconsidered communication was referred on May 27, 2015 and was coupled with the resolution shown below, respectfully

REPORTS:

(For text of the Briefing Paper, please see the Report of the Committee on Rules, Privileges and Elections for M-290 printed in these Minutes).

The Committee on Rules, Privileges and Elections respectfully reports:

Pursuant to § 626 of the *New York City Charter*, the Committee on Rules, Privileges and Elections, hereby approves the recommendation by the Council of Stanley Richards as a member of the New York City Board of Correction to serve for the remainder of six year term expiring on October 12, 2020 for an undefined term.

This matter was referred to the Committee on May 27, 2015

Accordingly, this Committee recommends its adoption.

In connection herewith, Council Member Lander offered the following resolution:

Res. No. 721

RESOLUTION APPROVING THE RECOMMENDATION BY THE COUNCIL OF STANLEY RICHARDS AS A MEMBER OF THE NEW YORK CITY BOARD OF CORRECTION.

By Council Member Lander.

RESOLVED, That pursuant to § 626 of the *New York City Charter*, the Council does hereby approve the recommendation of Stanley Richards as a member of the New York City Board of Correction to serve for the remainder of six year term expiring on October 12, 2020.

BRADFORD S. LANDER, *Chairperson*; INEZ E. DICKENS, DANIEL R. GARODNICK, YDANIS A. RODRIGUEZ, MARGARET S. CHIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, RAFAEL L. ESPINAL, Jr., MARK LEVINE, VINCENT M. IGNIZIO, MELISSA MARK-VIVERITO; Committee on Rules, Privileges and Elections, May 27, 2015. *Other Council Members Attending: Greenfield, Wills, Vacca, Dromm, and Crowley.*

On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point the Speaker (Council Member Mark-Viverito) announced that the following items had been **preconsidered** by the Committee on Rules, Privileges and Elections and had been favorably reported for adoption.

Report for M-295

Report of the Committee on Rules, Privileges and Elections in favor of approving the recommendation of Patricia Machir as a member of the New York City Youth Board

The Committee on Rules, Privileges and Elections to which the annexed preconsidered communication was referred on May 27, 2015 and was coupled with the resolution shown below, respectfully

REPORTS:

(For text of the Briefing Paper, please see the Report of the Committee on Rules, Privileges and Elections for M-290 printed in these Minutes).

The Committee on Rules, Privileges and Elections respectfully reports:

Pursuant to § 734 of the *New York City Charter*, the Committee on Rules, Privileges and Elections, hereby approves the recommendation by the Council of Patricia Machir as a member of the New York City Youth Board to serve for an undefined term.

This matter was referred to the Committee on May 27, 2015

Accordingly, this Committee recommends its adoption.

May 27, 2015

1862

In connection herewith, Council Member Lander offered the following resolution:

Res. No. 722

RESOLUTION APPROVING THE RECOMMENDATION BY THE COUNCIL OF PATRICIA MACHIR AS A MEMBER OF THE NEW YORK CITY YOUTH BOARD.

By Council Member Lander.

RESOLVED, That pursuant to § 734 of the *New York City Charter*, the Council does hereby approve the recommendation of Patricia Machir as a member of the New York City Youth Board to serve for an undefined term.

BRADFORD S. LANDER, *Chairperson*; INEZ E. DICKENS, DANIEL R. GARODNICK, YDANIS A. RODRIGUEZ, MARGARET S. CHIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, RAFAEL L. ESPINAL, Jr., MARK LEVINE, VINCENT M. IGNIZIO, MELISSA MARK-VIVERITO; Committee on Rules, Privileges and Elections, May 27, 2015. *Other Council Members Attending: Greenfield, Wills, Vacca, Dromm, and Crowley.*

On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Reports of the Committee on Transportation

Report for Int. No. 198-A

Report of the Committee on Transportation in favor of approving and adopting, as amended, a Local law to amend the administrative code of the city of New York, in relation to side guards.

The Committee on Transportation, to which the annexed amended proposed local law was referred on March 26, 2014 (Minutes, page 828), respectfully

REPORTS:

INTRODUCTION

On May 26, 2015, the Committee on Transportation, chaired by Council Member Ydanis Rodriguez, held a hearing on Int. No. 198-A, a local law in relation to side guards; Int. No. 315-A, a local law in relation to a truck route compliance study; and Int. No. 641-A, a local law in relation to requiring a comprehensive study

regarding pedestrian and bicyclist safety on truck routes. The first hearing on Int. No. 198 was on April 30, 2014 and the first hearing on Int. No. 315 and Int. No. 641 was on March 3, 2015. At both hearings, the Committee heard testimony from representatives of the New York City Department of Transportation (“DOT”), interested advocates, and stakeholders. Following the hearings, all three bills were revised. Int. No. 198 was revised to require all large vehicles in the City fleet and City-licensed trade waste hauling vehicles weighing over 10,000 pounds to have side guards by January 1, 2024. Int. No. 315-A was revised to allow DOT more discretion in regard to selecting areas to study and measures they may implement in order to improve truck route compliance. Int. No. 641-A was revised to adjust some of the elements that must appear in the study, including enhancing the details required in relation to crashes on truck routes and the removal of requirement that the DOT provide information on traffic infractions and misdemeanors committed on truck routes due to concerns of the availability of such information. However, the Administration has agreed to use best efforts to analyze available, applicable enforcement data in the report.

BACKGROUND

Trucks are a vital part of New York City’s economy, serving millions of residents and businesses through making deliveries and providing transport and services.¹ Nearly 99 percent of all goods delivered in the City are transported by truck; however, much of the City is not designed to handle such traffic.² The presence of large numbers of heavy commercial vehicles on streets heavily used by pedestrians and cyclists raises concerns regarding how the City’s truck traffic negatively impacts the safety of those that share the streets, as well the quality of life of those who reside where truck traffic occurs.³ Further, the system of tolling entrances and exits to the City leads to additional truck traffic in many neighborhoods as drivers navigating the region “bridge shop” in order to avoid tolls.⁴ For example, the Robert F. Kennedy Bridge—also known as the Triborough Bridge—and the Throgs Neck Bridge feature tolls, while the East River bridges are free, thus leading to additional truck traffic in the areas surrounding the free bridges.⁵

Truck Routes

DOT restricts the operation of trucks with two axels and six tires, or three or more axels, to certain streets in each borough unless such vehicle has an origin or destination within the borough.⁶ The nearly 1,000 miles of streets that may be used as truck routes are designated by DOT in rules.⁷ While operating along City routes, truck drivers must keep copies of any bills of lading, or another document with the truck’s point of origin and destination listed, and allow inspections of such documents by any authorized person.⁸

Truck routes in each borough are divided into two types: through routes and local routes. Through truck routes are for vehicles with neither an origin nor destination within the borough.⁹ Most through truck routes are major arterials roads and highways, such as the Brooklyn-Queens Expressway, Canal Street, and Flatbush

Avenue.¹⁰ Local routes may only be used by trucks that have an origin and destination within that borough, including those making deliveries, loading goods, or being serviced.¹¹ In Manhattan and Staten Island, trucks are further restricted to using certain streets by size limitations and during certain times.¹² Trucks are also prohibited on New York State parkways, such as the Belt Parkway, the Franklin Delano Roosevelt (F.D.R.) East River Drive, and Ocean Parkway.¹³

Truck Collisions and Summonses

According to the most recent available data, between 2002 and 2006, while trucks accounted for just four percent of crashes in New York City involving the death or serious injury of pedestrians—almost a direct reflection of the percentage of registrations trucks comprise—trucks were involved more than 12 percent of fatal collisions.¹⁴ Thus, trucks were three times more likely to be involved in a collision resulting in the death of a pedestrian than other vehicles.¹⁵ More than 30 percent of truck collisions involving death or serious injury to pedestrians resulted from the vehicle making a right turn, ostensibly due to blind spots created due to the height of truck cabs.¹⁶ In 2011, the State began requiring commercial vehicles registered in the State that operate in New York City to install cross over mirrors that reduce blind spots to help reduce such incidents.¹⁷ Cyclists are also particularly vulnerable in collisions involving trucks.¹⁸ Between 1996 and 2005, nearly a third of cyclist traffic deaths in the City involved a truck or bus, though such vehicles only comprise 5 to 17 percent of vehicles on the road.¹⁹

In 2014, the New York City Police Department (“NYPD”) issued 4,654 moving violation summonses in relation to truck routes.²⁰ Large commercial vehicles, those with six or more tires, were involved in 7,887 collisions in 2014, while small commercial vehicles, those with four tires, were involved in over 7,300.²¹

Studies on Truck Traffic

In 2003, DOT partnered with engineering firm Edwards and Kelcey Engineers to examine methods for mitigating negative impacts of truck traffic and improving the City’s truck management framework, while allowing for input on the impact of truck traffic on local communities.²² The effort marked the first major truck study conducted by the City since 1982.²³

The resulting product—the Truck Route Management and Community Impact Reduction Study—was released in 2007, with suggested actions concerning organizational management, regulations and policy, engineering and routing, signage, enforcement, and education and outreach.²⁴ Five technical memoranda were also issued outlining findings on traffic policies and regulations, routing analyses, signage, education, and community outreach.²⁵ As recommended in the study, DOT established the Office of Freight Mobility to coordinate efforts and implement the report’s suggested actions.²⁶ Among the short-term recommendations implemented by DOT by 2007, was the creation of a website with information and resources related to trucks and commercial vehicles, the release of an online version of the

City's truck route map, institution of new truck signage policies, and increased enforcement.²⁷

Though the 2003-2007 effort marked DOT's last major study on trucking in the City, the agency has embarked on smaller projects. In 2010, DOT agreed to study a Brooklyn truck route on 20th Street between Third and Seventh Avenues following complaints from local residents via the local Community Board regarding property damage and congestion linked to the route.²⁸ After the City's initial plan for modifications to the route was rejected by the Community Board, DOT was scheduled to present an alternative analysis to the Board in March 2015.²⁹

Side Guards

Pedestrians and cyclists involved in collisions with large trucks can be pulled between the vehicle's wheels, causing serious and, in many cases, fatal injuries. In recent years, New York City has seen a number of such incidents, often involving City-operated or privately-owned garbage trucks.³⁰ While there is no official data available on the number of fatal incidents involving garbage trucks, advocate-compiled statistics suggest that such vehicles have among the highest fatality rate of any vehicles operating in the City.³¹

Side guards are devices that prevent a pedestrian or bicyclist from falling in the space between the front and rear axles of a large vehicle.³² While side guards are required on certain vehicles in the United Kingdom, Japan, and many members of the European Union, they are fairly rare in the United States ("U.S.") despite their proven ability to reduce fatalities in collisions with pedestrians and cyclists.³³ For example, after side guards were required on trucks in the United Kingdom, the fatality rate for pedestrians and cyclists involved in collisions with trucks decreased by 20 and 61 percent, respectively.³⁴

In early 2015, the Department of Citywide Administrative Services (DCAS) released a report prepared by the U.S. Department of Transportation's Volpe National Transportation Systems Center (Volpe), reviewing the use of side guards and containing recommendations for implementing a pilot side guard program in the City fleet.³⁵ The report identified medium and heavy duty vehicles that could benefit from side guard installation, such as Department of Sanitation collection trucks and salt spreaders, as well as vehicles that should be exempt from side guard requirements, including special purpose vehicles, street sweepers, fire engines, and car carriers.³⁶ In February 2015, the City announced it would retrofit 240 vehicles with side guards per the Volpe report's recommendations.³⁷

ANALYSIS OF INT. NO. 198-A

Section one of Int. No. 198-A would amend chapter 1 of title 6 of the Administrative Code of the city of New York (the Code) by adding a new section 6-141 regarding side guards in the City fleet. Subdivision a would set forth the definitions application to new section 6-141. "Department" would mean DCAS. "Large vehicle" would mean any vehicle weighing more than 10,000 pounds, excluding street sweepers, fire engines, car carriers, off road construction vehicles, or

specialized vehicles or vehicle types on which side guard installation is deemed impractical by DCAS. "Side guard" would mean a device fit to the side of a large vehicle that helps prevent pedestrians and bicyclists from falling into the exposed space between a vehicle's front and rear axle. Except as otherwise authorized by DCAS's rules, side guards would: 1) allow for a maximum 13.8 inch ground clearance, maximum 13.8 inch top clearance up to four feet in height, and a minimum 440 pound impact strength; 2) achieve a smooth and continuous longitudinal (forward to backward) impact surface flush with the vehicle sidewall; 3) can include rail style guards, provided that the rails are no less than four inches tall and no more than 11.8 inches apart; and 4) may incorporate other vehicle features such as tool boxes and ladders.

Subdivision b of new section 6-141 would require that all large vehicles in the City fleet to have side guards by January 1, 2024.

Subdivision c of new section 6-141 would allow DCAS to promulgate the rules necessary to administer new section 6-141, including those that establish specifications for side guards that differ from those set from in subdivision a where necessary, as well as rules on when the installation of side guards on covered City vehicles would be impractical and thus not required. Subdivision c would also give DCAS authority to inspect side guards on City vehicles to ensure compliance with new section 6-141.

Section two would amend section 16-509 of the Code to add a new subdivision f. The new subdivision would allow the Business Integrity Commission (BIC) to refuse to issue a license or registration to an applicant that has not demonstrated that they will meet the side guard requirement for trade waste hauling vehicles (set forth in section four of Int. No. 198-A, see below) at all times.

Section three would amend subdivision a of section 16-513 of the Code to allow BIC to revoke or suspend the license of an owner or operator of a trade waste hauling vehicle found by BIC, a court, or an administration tribunal to be in violation of the side guard requirement (see below).

Section four would amend chapter 1 of title 16-A of the Code to add a new section 16-526 regarding side guards. Subdivision a would set forth definitions applicable to new section 16-526. "Side guard" would mean a device fit to the side of a trade waste hauling vehicle that helps prevent pedestrians and bicyclists from falling into the exposed space between a vehicle's front and rear axle. Except as otherwise authorized by BIC's rules, side guards would: 1) allow for a maximum 13.8 inch ground clearance, maximum 13.8 inch top clearance up to four feet in height, and a minimum 440 pound impact strength; 2) achieve a smooth and continuous longitudinal (forward to backward) impact surface flush with the vehicle sidewall; 3) can include rail style guards, provided that the rails are no less than four inches tall and no more than 11.8 inches apart; and 4) may incorporate other vehicle features such as tool boxes and ladders. "Trade waste hauling vehicle" would mean any vehicle weighing more than 10,000 pounds owned or operated by an entity that must be licensed or registered by BIC for trade waste collection or removal, excluding any specialized vehicles on which BIC deems side guard installation to be impractical.

Subdivision b of new section 16-526 would require all trade waste hauling

vehicles to have side guards by January 1, 2024.

Subdivision c of new section 16-526 would give BIC the authority to enforce the side guard requirement and set forth penalties. Owners or operators of trade waste hauling vehicles that violate any provision of new section 16-526 would be liable for a civil penalty of \$10,000 per vehicle in violation, returnable to the Office of Administrative Trials and Hearings (OATH). Any such notice of violation would contain an order of the Chair of BIC director the owner or operator to rectify the violation and to notify BIC of that correction within 30 days of receiving the order by filing a certification. In addition to the \$10,000 civil penalty, a separate penalty of no more than \$500 per day can be assessed for each day the violation is not corrected beyond 30 days after receiving such an order. If OATH finds that a certification contained material false statements regarding the correction, the certification will be deemed null and void. Owners or operators could assert an affirmative defense that they neither knew nor should have known that the statements were false.

Under subdivision c of new section 16-526, BIC would also have the authority to promulgate rules regarding side guard installation, including those that establish specifications for side guards that differ from those set from in subdivision a where necessary, as well as rules necessary to enforce the provisions of new section 16-526, including procedures for demonstrating compliance.

Section five states that the local law would take effect immediately.

ANALYSIS OF INT. NO. 315-A

Section one of Int. No. 315-A would amend subchapter 3 of chapter 1 of title 19 of the administrative code of the city of New York by adding a new section 19-178.1 regarding a truck route compliance study. New section 19-178.1 would require DOT to conduct study on compliance with truck route rules by truck drivers. The study would include locations where large numbers of truck drivers regularly operate off designated routes, and may include problematic areas identified by Council Members and Community Boards. Based on the study, DOT would be required to institute measures designed to increase truck route compliance, including, but not limited to, converting two-way streets to one-way streets, posting signs regarding permissible use of routes by trucks, and education and outreach to the trucking industry. DOT would be required to post study on its website, including the locations where such measures were instituted, and submit a copy to the Speaker of the Council, by January 1, 2017.

Section two of Int. No. 315-A states that the local law would take effect immediately.

ANALYSIS OF INT. NO. 641-A

Section one of Int. No. 641-A would amend subchapter 3 of chapter 1 of title 19 of the administrative code of the city of New York by adding a new section 19-192 regarding a study of safety on truck routes. New subdivision a would require DOT to conduct a study on the safety of pedestrians and bicyclists on truck routes. "Truck

route” would mean any street or streets that DOT designates by rule as a truck route. The study would include, at a minimum: 1) a review of the impact of tolling policies on the use of truck routes and the designation of certain streets as truck routes; 2) the number of traffic crashes involving pedestrians and bicyclists on truck routes in the most recent five years, disaggregated by truck route, crash types, causes, vehicle types, and by whether those crashes involved a fatality or serious injury; 3) a review of DOT policies and strategies to increase pedestrian and bicyclist safety on truck routes, including but not limited to street redesign and the status of any pending policies and strategies; and 4) recommendations for (a) improving safety on truck routes, including best practices for roadway design, operations, and sustainable delivery practices to reduce conflicts between pedestrians, bicyclists, and trucks on truck routes, (b) outreach to the trucking industry, and (c) implementing safety technology.

Subdivision b of new section 19-192 would require that DOT submit the truck route study to the Mayor and City Council Speaker no later than June 30, 2016. DOT would also be required to post such studies on its website.

Section two of Int. No. 641-A states that the local law would take effect immediately.

UPDATE

On May 26, 2015, the Committee on Transportation passed Int. No. 198-A, Int. No. 315-A, and Int. No.641-A by a vote of ten in the affirmative and zero in the negative, with zero abstentions.

¹ N.Y.C. Department of Transportation, Trucks & Commercial Vehicles, <http://www.nyc.gov/html/dot/html/motorist/trucks.shtml> (last accessed Feb. 28, 2015).

² N.Y.C. Department of Transportation, *Truck Route Management and Community Impact Reduction Study – Executive Summary 1* (Mar. 2007), available at <http://www.nyc.gov/html/dot/downloads/pdf/execsum.pdf>.

<http://www.nyc.gov/html/dot/html/motorist/truckrtemgmt.shtml> (last accessed Feb. 28, 2015).

³ For the purposes of this report, the term “truck” is used in a very general sense, as almost all governmental entities with jurisdiction over the City’s roads, bridges, and tunnels use different definitions. For example, New York City has unique definitions for commercial vehicles and trucks that differ from the State’s Department of Motor Vehicles classifications. Further, the Port Authority has its own definitions, classifying trucks as either light or heavy. *See*, N.Y.C. Department of Transportation, *supra* note 1; The Port Authority of New York & New Jersey, *Regional Roundtable Q1 2015: PA Truck Activity Trends 5* (Jan. 2015), on file with Committee staff.

⁴ Emma G. Fitzsimmons, *Group Seeks New Tolls in Manhattan to Pay for Region’s Transportation Needs*, N.Y. TIMES, Feb. 17, 2015, available at <http://www.nytimes.com/2015/02/17/nyregion/group-seeks-new-tolls-in-manhattan-to-pay-for-regions-transportation-needs.html>.

⁵ *Id.*

⁶ 34 R.C.N.Y. § 4-13(a)(1).

⁷ *Id.* at §§ 4-13(b)-(f); N.Y.C. Department of Transportation, *supra* note 1.

⁸ 34 R.C.N.Y. § 4-13(a)(3).

⁹ *Id.* at § 4-13(b)-(f).

¹⁰ *Id.* at §§ 4-13(b)(1), (d)(1), and (e)(1).

¹¹ N.Y.C. Department of Transportation, Truck Routing, <http://www.nyc.gov/html/dot/html/motorist/truckrouting.shtml> (last accessed Feb. 28, 2015).

¹² 34 R.C.N.Y. §§ 4-13(c)(2) and 4-13(d)(3)-(6).

¹³ N.Y.C. Department of Transportation, Parkway Truck Restrictions,

<http://www.nyc.gov/html/dot/html/motorist/parkway-restrictions.shtml> (last accessed Feb. 28, 2015).

¹⁴ N.Y.C. Department of Transportation, *The New York City Pedestrian Safety Study & Action Plan* 29 (Aug. 2010), available at

http://www.nyc.gov/html/dot/downloads/pdf/nyc_ped_safety_study_action_plan.pdf.

¹⁵ *Id.* at 29-30.

¹⁶ *Id.* at 30.

¹⁷ N.Y.C. Department of Transportation, *supra* note 1; New York, L. 2011, Ch. 138.

¹⁸ City of New York, *Bicyclist Fatalities and Serious Injuries in New York City 1996-2005* 2 (Sept. 2006), available at <http://www.nyc.gov/html/doh/downloads/pdf/episrv/episrv-bike-report.pdf>.

¹⁹ *Id.* at 2 and 17.

²⁰ N.Y.C. Police Department, Traffic Archive 2014 – Collisions and Summonses,

http://www.nyc.gov/html/nypd/html/traffic_reports/traffic_report_archive_2014.shtml (last accessed Feb. 27, 2015).

²¹ *Id.*

²² N.Y.C. Department of Transportation, Truck Route Management and Community Impact Reduction Study, <http://www.nyc.gov/html/dot/html/motorist/truckrtemgmt.shtml> (last accessed Feb. 28, 2015).

²³ N.Y.C. Department of Transportation, *supra* note 2.

²⁴ *Id.* at 2.

²⁵ N.Y.C. Department of Transportation, *supra* note 22.

²⁶ N.Y.C. Department of Transportation, *Truck Route Management and Community Impact Reduction Study – Implementation Update Report 1* (Mar. 2007), available at

<http://www.nyc.gov/html/dot/downloads/pdf/tmimplementationrpt.pdf>.

²⁷ *Id.* at 2-5.

²⁸ N.Y.C. Department of Transportation, *supra* note 1.

²⁹ Alan Neuhauser, *Truck Route Changes Rejected in Sunset Park*, DNAINFO, Jun. 27, 2012, available at <http://www.dnainfo.com/new-york/20120627/sunset-park/truck-route-changes-rejected-sunset-park>; Brooklyn Community Board 7, Calendar, <http://www.brooklyncb7.org/calendar/?current=28-Mar-15#3> (last accessed Feb. 28, 2015).

³⁰ Terence Cullen and Thomas Tracy, *Cyclist in Queens struck, killed by garbage truck Saturday night*, N.Y. DAILY NEWS, Jan. 18, 2015, available at <http://www.nydailynews.com/new-york/queens/cyclist-queens-struck-killed-garbage-truck-saturday-article-1.2082991>;

Aidan Gardiner, *Man Dies After Garbage Truck Drags Him Through Chinatown, Police Say*, DNAINFO, Oct. 31, 2014, available at <http://www.dnainfo.com/new-york/20141031/chinatown/man-dies-as-garbage-truck-drags-him-through-chinatown-police-say>;

Aaron Feis, Daniel Prendergast, & Larry Celona, *Victim ID'd in fatal garbage truck accident*, N.Y. POST, Feb. 23, 2014, available at <http://nypost.com/2014/02/23/man-studying-to-be-rabbi-killed-by-city-garbage-truck/>;

Ravi Somaiya, *Woman Is Killed by Garbage Truck in Manhattan*, N.Y. TIMES, Jan. 4, 2013, available at

<http://cityroom.blogs.nytimes.com/2013/01/04/woman-is-killed-by-garbage-truck-in-manhattan/>; and Edgar Sandoval and Sarah Armaghan, *New York University grad struck and killed by garbage truck in Brooklyn*, N.Y. DAILY NEWS, Dec. 7, 2011, available at <http://www.nydailynews.com/new-york/long-island-woman-25-struck-killed-city-garbage-truck-williamsburg-article-1.988456>.

³¹ Charles Komanoff, *See a Pattern of Deadly Dump Trucks? Don't Bother Federal Safety Officials*, Streetsblog, Jul. 13, 2010, available at <http://www.streetsblog.org/2010/07/13/see-a-pattern-of-deadly-dump-trucks-don%E2%80%99t-bother-federal-safety-officials/>.

³² U.S. Department of Transportation, *Truck Sideguards for Vision Zero: Review and technical recommendations for Safe Fleet Transition Plan and pilot deployment* 9 (Dec. 2014), available at www.nyc.gov/html/dcas/downloads/pdf/fleet/DCASVolpePhaseFinal.pdf.

³³ *Id.* at 19-20.

³⁴ *Id.* at 9.

³⁵ *Id.*

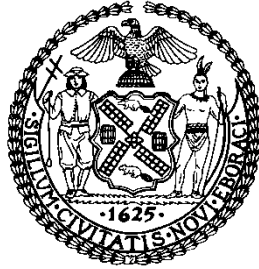
³⁶ *Id.* at 39-45.

³⁷ Press Release, N.Y.C. Office of the Mayor, *City Begins Installing Truck Sideguards To Protect Pedestrians and Cyclists*, Feb. 9, 2015, available at <http://www1.nyc.gov/office-of-the-mayor/news/101-15/city-begins-installing-truck-sideguards-protect-pedestrians-cyclists>.

(The following is the text of the Fiscal Impact Statement for Int. No. 198-A:)

May 27, 2015

1870



**THE COUNCIL OF THE CITY OF
NEW YORK**

FINANCE DIVISION

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO.: 198-A

COMMITTEE:

Transportation

TITLE: A local law to amend the administrative code of the city of New York, in relation to side guards.

SPONSOR(S): Council Members Johnson, Rodriguez, Ferreras, Lander, Rose, Levin, Van Bramer and Menchaca

SUMMARY OF LEGISLATION: Side guards are devices fit to the side of a truck that help prevent pedestrians and cyclists from falling into the exposed space between a vehicle's axles. To date, despite their proven ability to reduce fatalities in collisions with pedestrians and cyclists, the use of side guards is fairly rare in the United States. This bill would require all large vehicles in the City fleet, including the Department of Sanitation collection trucks, and all City-licensed trade waste hauling vehicles weighing over 10,000 pounds, to have side guards by January 1, 2024. However, specialized vehicles on which side guard installation is impractical would be exempt from the requirement.

In addition, under the bill, owners or operators of trade waste hauling vehicles that fail to install side guards would be subject to civil penalties of \$10,000 per vehicle, returnable to the office of administrative trials, and license revocation or denial. In total, the bill would require side guards on approximately 10,000 vehicles operating in the City.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2025

FISCAL IMPACT STATEMENT:

| | Effective FY15 | FY Succeeding Effective FY16 | Full Fiscal Impact FY25 |
|---------------------|-----------------------|---|------------------------------------|
| Revenues | \$0 | \$0 | \$0 |
| Expenditures | (See Below) | (See Below) | (See Below) |
| Net | (See Below) | (See Below) | (See Below) |

IMPACT ON REVENUES: Because the imposition of civil penalties by this legislation is primarily as a deterrent and full compliance with the law is expected, it is estimated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: Currently, the average cost per vehicle for side guard installation is approximately \$3,000. As such, with an estimated 4,000 to 4,500 City vehicles needing side guards, it is estimated that the enactment of this legislation would result in additional City expenditures totaling approximately \$12 million over the next ten fiscal years (Fiscal 2016 to Fiscal 2025). The amount of expenditure for any given fiscal year during the ten-year period would be dependent on the number of side guards installed. Presently, in Europe, where side guards are more prevalent and have been around for a longer time, the cost for side guard installation is roughly \$1,500. For this reason, the above estimate takes into account the anticipated decline in cost over time.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: New York City General Fund

SOURCE OF INFORMATION: New York City Council Finance Division
Mayor's Office of Legislative Affairs

ESTIMATE PREPARED BY: Chima Obichere, Unit Head, New York City Council Finance Division

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director, New York City Council Finance Division

May 27, 2015

1872

Rebecca Chasan, Assistant Counsel, New
York City Council Finance Division

Tanisha Edwards, Chief Counsel, New
York City Council Finance Division

LEGISLATIVE HISTORY: Intro. No. 198 was introduced to the Council on March 26, 2014 and referred to the Committee on Transportation. The Committee on Transportation held a hearing on Intro. No. 198 on April 30, 2014 and the legislation was laid over. Intro. No. 198 was subsequently amended and the amended version, Proposed Intro. No. 198-A will be voted on by the Committee on Transportation on May 26, 2015. Upon successful vote by the Committee, Proposed Intro. No. 198-A will be submitted to the full Council for a vote on May 27, 2015.

DATE PREPARED: May 22, 2015

(For text of Int Nos. 315-A ad 641-A and their Fiscal Impact Statements, please see the Reports of the Committee of Transportation for Int No. 315-A and 641-A, respectively)

Accordingly, this Committee recommends the adoption of Int Nos. 198-A, 315-A, and 641-A.

(The following is the text of Int. No. 198-A:)

Int. No. 198-A

By Council Members Johnson, Rodriguez, Ferreras, Lander, Rose, Levin, Van Bramer, Menchaca, Arroyo, Garodnick, Chin, Rosenthal, Barron, Kallos and Lancman.

A Local Law to amend the administrative code of the city of New York, in relation to side guards

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 6 of the administrative code of the city of New York is amended by adding a new section 6-141 to read as follows:

§ 6-141 Side guards in the city fleet. a. Definitions. For the purposes of this section:

Department. The term “department” means the department of citywide administrative services.

Large vehicle. The term “large vehicle” means a motor vehicle with a manufacturer’s gross vehicle weight rating exceeding 10,000 pounds. “Large vehicle” does not include street sweepers, fire engines, car carriers, off road

construction vehicles, or any specialized vehicles or vehicle types on which side guard installation is deemed impractical by the department pursuant to subdivision c of this section.

Side guard. The term “side guard” means a device fit to the side of a large vehicle designed to prevent pedestrians and bicyclists from falling into the exposed space between the front axle and the rear axle of such vehicles. Except where otherwise authorized by rule of the department, side guards: shall allow for a maximum 13.8 inch ground clearance, maximum 13.8 inch top clearance up to four feet in height, and a minimum 440 pound impact strength; must achieve a smooth and continuous longitudinal (forward to backward) impact surface flush with the vehicle sidewall; may include rail style guards, provided that such rails be no less than four inches tall and no more than 11.8 inches apart; and may incorporate other vehicle features such as tool boxes and ladders.

b. Side guards. No later than January 1, 2024, all large vehicles in the city fleet shall be equipped with side guards.

c. The department shall have the authority to promulgate any rules necessary to administer the provisions of this section, including but not limited to rules establishing side guard specifications that depart from the default specifications set forth in subdivision a of this section when such departure is deemed necessary by the department, as well as rules governing when the installation of side guards on certain city vehicles is impractical and will not be required. The department shall be authorized to inspect side guards and side guard specifications for compliance with the requirements of this section.

§ 2. Section 16-509 of the administrative code of the city of New York, as amended by local law number 145 for the year 2013, is amended to add a new subdivision f to read as follows:

f. On or after January 1, 2024, the commission may refuse to issue a license or registration to an applicant that has failed to demonstrate to the satisfaction of the commission that such applicant will at all times meet the requirements of section 16-526 of the code, or any rule promulgated pursuant thereto, in the performance of such license or registration.

§ 3. Subdivision a of section 16-513 of the administrative code of the city of New York, as amended by local law number 145 for the year 2013, is amended to read as follows:

a. In addition to the penalties provided in section 16-515 of this chapter, the commission may, after due notice and opportunity to be heard, revoke or suspend a license or registration issued pursuant to the provisions of this chapter when the registrant or licensee and/or its principals, employees and/or agents: (i) have been found to be in violation of this chapter or any rules promulgated pursuant thereto; (ii) have been found by a court or administrative tribunal of competent jurisdiction to have violated: (A) any provision of section 16-119 of this code, or any rule promulgated pursuant thereto, relating to illegal dumping, (B) any provision of section 16-120.1 of this code, or any rule promulgated pursuant thereto, relating to the disposal of regulated medical waste and other medical waste or (C) any provision of section 16-117.1 of this code, or any rule promulgated pursuant thereto, relating to the transportation and disposal of waste containing asbestos; (iii) has repeatedly

failed to obey lawful orders of any person authorized by section 16-517 of this chapter to enforce the provisions hereof; (iv) has failed to pay, within the time specified by a court, the department of consumer affairs or an administrative tribunal of competent jurisdiction, any fines or civil penalties imposed pursuant to this chapter or the rules promulgated pursuant thereto; (v) has been found in persistent or substantial violation of any rule promulgated by the commission pursuant to section 16-306 of this code or by the commissioner of consumer affairs pursuant to section 16-306 or former subchapter eighteen of title twenty of this code; (vi) has been found in persistent or substantial violation of any city, state, or federal law, rule or regulation regarding the handling of trade waste, or any laws prohibiting deceptive, unfair, or unconscionable trade practices; (vii) whenever, in relation to an investigation conducted pursuant to this chapter, the commission determines, after consideration of the factors set forth in subdivision a of section 16-509 of this code, that the licensee or registrant as a trade waste broker lacks good character, honesty and integrity; (viii) whenever there has been any false statement or any misrepresentation as to a material fact in the application or accompanying papers upon which the issuance of such license or registration was based; (ix) whenever the licensee or registrant has failed to notify the commission as required by subdivision b of section 16-507 or subdivision c of section 16-508 of this chapter of any change in the ownership interest of the business or other material change in the information required on the application for such license or registration, or of the arrest or criminal conviction of such licensee or registrant or any of his or her principals, employees and/or agents of which the licensee had knowledge or should have known; [or] (x) whenever the licensee or registrant has been found by the commission or a court or administrative tribunal of competent jurisdiction to be in violation of the provisions of section 24-163.11 of the code, or any rule promulgated pursuant thereto; *or* (xi) *whenever the licensee or registrant has been found by the commission or a court or administrative tribunal of competent jurisdiction to be in violation of the provisions of section 16-526 of the code, or any rule promulgated pursuant thereto.*

§ 4. Chapter 1 of title 16-A of the administrative code of the city of New York is amended by adding a new section 16-526 to read as follows:

§ 16-526 *Side guards. a. Definitions. For the purposes of this section:*

Side guard. The term "side guard" means a device fit to the side of a trade waste hauling vehicle designed to prevent pedestrians and bicyclists from falling into the exposed space between the front axle and the rear axle of such vehicles and with such additional specifications as may be established by the commission pursuant to paragraph 3 of subdivision c of this section. Except where otherwise authorized by rule of the commission, side guards: shall allow for a maximum 13.8 inch ground clearance, maximum 13.8 inch top clearance up to four feet in height, and a minimum 440 pound impact strength; must achieve a smooth and continuous longitudinal (forward to backward) impact surface flush with the vehicle sidewall; may include rail style guards, provided such rails be no less than four inches tall and no more than 11.8 inches apart; and may incorporate other vehicle features such as tool boxes and ladders.

Trade waste hauling vehicle. The term "trade waste hauling vehicle" means any motor vehicle with a manufacturer's gross vehicle weight rating exceeding 10,000

pounds that is owned or operated by an entity that is required to be licensed or registered by the commission pursuant to section 16-505 of the code and that is operated in New York city for collection or removal of trade waste. "Trade waste hauling vehicle" does not include any specialized vehicle or vehicle type on which side guard installation is deemed impractical by the commission pursuant to subdivision c of this section.

b. Side guards. No later than January 1, 2024, all trade waste hauling vehicles shall be equipped with side guards.

c. Enforcement. 1. Any owner or operator of a trade waste hauling vehicle that violates any provision of this section shall be liable for a civil penalty of ten thousand dollars per vehicle that is in violation, returnable to the office of administrative trials and hearings. Each notice of violation shall contain an order of the chair of the commission directing the respondent to correct the condition constituting the violation and to file with the commission electronically, or in such other manner as the commission shall authorize, a certification that the condition has been corrected within thirty days from the date of the order. In addition to such civil penalty, a separate additional penalty may be imposed of not more than five hundred dollars for each day that the violation is not corrected beyond thirty days from such order.

2. For the purposes of this section, if the office of administrative trials and hearings finds that a certification of correction filed pursuant to this subdivision contained material false statements relating to the correction of a violation, such certification of correction shall be null and void, in addition to or as an alternative to any other penalties provided by law. It shall be an affirmative defense that the respondent neither knew nor should have known that such statements were false.

3. The commission shall have the authority to promulgate rules requiring the installation of side guards that are to be fit to the side of any trade waste hauling vehicle, and may establish rules establishing side guard specifications that depart from the default specifications outlined in subdivision a of this section when such departure is deemed necessary by the commission. The commission may further promulgate any rules necessary to enforce the provisions of this section, including but not limited to establishing procedures for owners and operators of trade waste hauling vehicles to demonstrate compliance with the requirements of this section.

§ 5. This local law takes effect immediately.

YDANIS A. RODRIGUEZ, *Chairperson*; MARGARET S. CHIN, STEPHEN T. LEVIN, DEBORAH L. ROSE, JAMES G. VAN BRAMER, DAVID G. GREENFIELD, COSTA G. CONSTANTINIDES, CARLOS MENCHACA, I. DANEEK MILLER, ANTONIO REYNOSO; Committee on Transportation, May 26, 2015. *Other Council Members Attending: Johnson and Vallone.*

On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

May 27, 2015

1876

Report for Int. No. 315-A

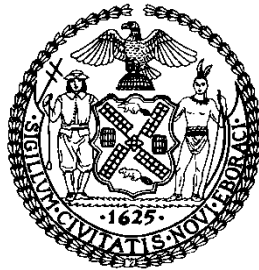
Report of the Committee on Transportation in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to a truck route compliance study.

The Committee on Transportation, to which the annexed amended proposed local law was referred on April 29, 2015 (Minutes, page 1407), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Transportation for Int. No. 198-A printed in the Reports of the Standing Committees section of these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 315-A:



**THE COUNCIL OF THE CITY OF
NEW YORK
FINANCE DIVISION**

**LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

**PROPOSED INTRO. NO.: 315-A
COMMITTEE:
Transportation**

TITLE: A local law to amend the administrative code of the city of New York, in relation to a truck route compliance study.

SPONSOR(S): Council Members Vallone, Chin, Cohen, Gentile, Gibson, Koo, Reynoso, Rose, Vacca, Garodnick, Maisel, Constantinides, Rosenthal, Menchaca, Levin, Van Bramer and Ulrich

SUMMARY OF LEGISLATION: Based on current local laws, the Department of Transportation (DOT) restricts the operation of large trucks to certain streets in each borough designated as truck routes; however, each year thousands of trucks are cited for illegally deviating from these routes, causing safety and traffic concerns in residential areas. The proposed bill would require the DOT to conduct a study on truck route compliance. The study required would include locations where large numbers of truck drivers regularly operate off designated truck routes and may also include areas of concern identified by Council Members and Community Boards. Based on the study, the DOT would institute measures to increase truck route compliance based on best practices for roadway design and operations, including but not limited to, converting two-way streets to one-way streets, posting of signs

regarding the permissible use of certain routes by trucks, and education and outreach to the trucking industry.

The bill would require DOT to post the study, including the locations of such measures, on its website and submit a copy to the Council no later than January 1, 2017.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2017

FISCAL IMPACT STATEMENT:

| | Effective FY16 | FY Succeeding Effective FY17 | Full Fiscal Impact FY17 |
|---------------------|----------------|---------------------------------|----------------------------|
| Revenues | \$0 | \$0 | \$0 |
| Expenditures | \$0 | \$0 | \$0 |
| Net | \$0 | \$0 | \$0 |

IMPACT ON REVENUES: It is estimated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: Because the DOT will use existing resource to implement this legislation, it is estimated that the enactment of this legislation would have no impact on expenditures.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division
Mayor's Office of Legislative Affairs

ESTIMATE PREPARED BY: Chima Obichere, Unit Head, New York
City Council Finance Division

May 27, 2015

1878

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director, New York City Council Finance Division

Rebecca Chasan, Assistant Counsel, New York City Council Finance Division

Tanisha Edwards, Chief Counsel, New York City Council Finance Division

LEGISLATIVE HISTORY: Intro. No. 315 was introduced to the Council on April 29, 2014 and referred to the Committee on Transportation. The Committee on Transportation held a hearing on Intro. No. 315 on March 3, 2015 and the legislation was laid over. Intro. No. 315 was subsequently amended and the amended version, Proposed Intro. No. 315-A, will be voted on by the Committee on Transportation on May 26, 2015. Upon successful vote by the Committee, Proposed Intro. No. 315-A will be submitted to the full Council for a vote on May 27, 2015.

DATE PREPARED: May 22, 2015

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 315-A:)

Int. No. 315-A

By Council Members Vallone, Chin, Cohen, Gentile, Gibson, Koo, Reynoso, Rose, Vacca, Garodnick, Maisel, Constantinides, Rosenthal, Menchaca, Levin, Van Bramer, Arroyo, Rodriguez, Miller, Barron, Kallos, Lancman, Lander and Ulrich.

A Local Law to amend the administrative code of the city of New York, in relation to a truck route compliance study

Be it enacted by the Council as follows:

Section 1. Subchapter 3 of chapter 1 of title 19 of the administrative code of the city of New York is amended to add a new section 19-178.1 to read as follows:

§ 19-178.1 Truck route compliance study. The department shall conduct a study of compliance with the rules of the city of New York by truck drivers related to truck routes. Such study shall also include locations where large numbers of truck drivers routinely operate off designated truck routes, which may include areas identified by council members and community boards. Based on the study, the department shall institute measures designed to increase truck route compliance based on best practices for roadway design and operations, including but not limited to, converting two-way streets to one-way streets, posting of signs regarding the permissible use of certain routes by trucks, as appropriate, and education and outreach to the trucking

industry. The department shall post on the department's website and submit to the speaker of the council such study, including the locations of such measures, no later than January 1, 2017.

§ 2. This local law takes effect immediately.

YDANIS A. RODRIGUEZ, *Chairperson*; MARGARET S. CHIN, STEPHEN T. LEVIN, DEBORAH L. ROSE, JAMES G. VAN BRAMER, DAVID G. GREENFIELD, COSTA G. CONSTANTINIDES, CARLOS MENCHACA, I. DANEEK MILLER, ANTONIO REYNOSO; Committee on Transportation, May 26, 2015. *Other Council Members Attending: Johnson and Vallone.*

On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for Int. No. 641-A

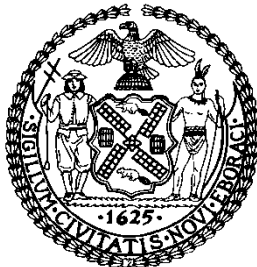
Report of the Committee on Transportation in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to requiring a comprehensive study regarding pedestrian and bicyclist safety on truck routes.

The Committee on Transportation, to which the annexed amended proposed local law was referred on February 12, 2015 (Minutes, page 437), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Transportation for Int. No. 198-A printed in the Reports of the Standing Committees section of these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 641-A:



THE COUNCIL OF THE CITY OF
NEW YORK

FINANCE DIVISION

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO.: 641-A

COMMITTEE:
Transportation

TITLE: A local law to amend the administrative code of the city of New York, in relation to requiring a comprehensive study regarding pedestrian and bicyclist safety on truck routes.

SPONSOR(S): Council Members Chin, Rodriguez, Van Bramer, Arroyo, Cohen, Constantinides, Eugene, Gibson, Johnson, Koo, Rose, Vallone, Mendez, Levin and Rosenthal

SUMMARY OF LEGISLATION: This legislation would require the Department of Transportation (DOT) to conduct a study on the safety of pedestrians and bicyclists along truck routes. The bill requires that the such study, at a minimum, include the following: a review of the impact of tolling policies on the use of City truck routes and the designation of certain streets as truck routes, if appropriate; the number of crashes involving pedestrians and bicyclists on truck routes within the last five years, disaggregated by truck route, crash types, causes, vehicle types, and whether such crashes involved a fatality or serious injury; a review of the policies and strategies utilized by DOT to increase pedestrian and bicyclist safety on truck routes, including but not limited to street redesign and the status of any pending policies and strategies; recommendations for improving safety on truck routes, including best practices for roadway design, operations, and sustainable delivery practices to reduce conflicts between pedestrians, bicyclists, and trucks; recommendations for outreach to the trucking industry; and recommendations for implementing safety technology.

The bill requires the DOT to post the study online and submit copies to the Mayor and Council no later than June 30, 2016.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2016

FISCAL IMPACT STATEMENT:

| | Effective FY16 | FY Succeeding Effective FY17 | Full Fiscal Impact FY16 |
|---------------------|-----------------------|-------------------------------------|--------------------------------|
| Revenues | \$0 | \$0 | \$0 |
| Expenditures | \$0 | \$0 | \$0 |
| Net | \$0 | \$0 | \$0 |

IMPACT ON REVENUES: It is estimated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: Because the DOT will use existing resource to implement this legislation, it is estimated that the enactment of this legislation would have no impact on expenditures.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division
Mayor's Office of Legislative Affairs

ESTIMATE PREPARED BY: Chima Obichere, Unit Head, New York City Council Finance Division

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director, New York City Council Finance Division
Rebecca Chasan, Assistant Counsel, New York City Council Finance Division
Tanisha Edwards, Chief Counsel, New York City Council Finance Division

LEGISLATIVE HISTORY: Intro. No. 641 was introduced to the Council on February 12, 2015 and referred to the Committee on Transportation. The Committee on Transportation held a hearing on Intro. No. 641 on March 3, 2015 and the legislation was laid over. Intro. No. 641 was subsequently amended and the amended version, Proposed Intro. No. 641-A, will be voted on by the Committee on Transportation on May 26, 2015. Upon successful vote by the Committee, Proposed Intro. No. 641-A will be submitted to the full Council for a vote on May 27, 2015.

DATE PREPARED: May 22, 2015

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 641-A:)

Int. No. 641-A

By Council Members Chin, Rodriguez, Van Bramer, Arroyo, Cohen, Constantinides, Eugene, Gibson, Johnson, Koo, Rose, Vallone, Mendez, Levin, Rosenthal, Menchaca, Barron, Kallos, Lancman and Lander.

A Local Law to amend the administrative code of the city of New York, in relation to requiring a comprehensive study regarding pedestrian and bicyclist safety on truck routes

Be it enacted by the Council as follows:

Section 1. Subchapter 3 of chapter 1 of title 19 of the administrative code of the city of New York is amended by adding a new section 19-192 to read as follows:

§ 19-192 *Study of safety on truck routes.* a. *The department shall conduct a study regarding the safety of pedestrians and bicyclists on truck routes, which shall mean any street or streets designated by rule by the department as a truck route. Such study shall include, but not be limited to: i) a review of the impact of tolling policies on the use of truck routes within the city and the designation of certain streets as truck routes, if appropriate; ii) the number of crashes involving pedestrians and bicyclists on truck routes in the most recent five years, disaggregated by truck route, crash types, causes, vehicle types, and whether such crashes involved a fatality or serious injury; iii) a review of the policies and strategies utilized by the department to increase pedestrian and bicyclist safety on truck routes, including but not limited to street redesign and the status of any pending policies and strategies; and iv) recommendations for (1) improving safety on truck routes, including best practices for roadway design, operations, and sustainable delivery practices to reduce conflicts between pedestrians, bicyclists, and trucks on truck routes, (2) outreach to the trucking industry, and (3) implementing safety technology.*

b. *No later than June 30, 2016, the study required under subdivision a of this section shall be submitted to the mayor and speaker of the council and posted on the department's official website.*

§ 2. This local law takes effect immediately.

YDANIS A. RODRIGUEZ, *Chairperson*; MARGARET S. CHIN, STEPHEN T. LEVIN, DEBORAH L. ROSE, JAMES G. VAN BRAMER, DAVID G. GREENFIELD, COSTA G. CONSTANTINIDES, CARLOS MENCHACA, I. DANEEK MILLER, ANTONIO REYNOSO; Committee on Transportation, May 26, 2015. *Other Council Members Attending: Johnson and Vallone.*

On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

GENERAL ORDER CALENDAR

Report for L.U. No. 197 & Res. No. 723

Report of the Committee on Land Use in favor of approving Application No. N 150127 ZRM submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Article VIII, Chapter 1 (Special Midtown District), Borough of Manhattan, Community Districts 5 and 6, Council District 4.

The Committee on Land Use, to which the annexed Land Use item was referred on March 31, 2015 (Minutes, page 1016) and was coupled in committee with the resolution shown below before being sent to the City Planning Commission by the Council for further review on May 14, 2015 (Minutes, page 1702), respectfully

REPORTS:

(For text of the original report, please see the Report of the Committee on Land Use for LU No. 197 printed in the Minutes of the Stated Meeting of May 14, 2015)

FILING OF MODIFICATION WITH THE CITY PLANNING COMMISSION

The Committee's proposed modifications were filed with the City Planning Commission on May 8, 2015. The City Planning Commission filed a letter dated May 18, 2015, with the Council on May 20, 2015, indicating that the proposed modifications are not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

In connection herewith, Council Members Greenfield and Weprin offered the following resolution:

Res. No. 723

Resolution approving with modifications the decision of the City Planning Commission on Application No. N 150127 ZRM, for an amendment of the Zoning Resolution of the City of New York, concerning Article VIII, Chapter 1 (Special Midtown District), Community Districts 5 and 6, Borough of Manhattan (L.U. No. 197).

By Council Members Greenfield and Weprin.

WHEREAS, the City Planning Commission filed with the Council on March 30, 2015 its decision dated March 30, 2015 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by the New York City Department of City Planning, for an amendment of the text of the Zoning Resolution of the City of New York, concerning Article VIII, Chapter 1 (Special Midtown District), to establish and regulate the Vanderbilt Corridor (Application No. N 150127 ZRM), Community Districts 5 and 6, Borough of Manhattan (the "Application");

WHEREAS, the application is related to Application C 140440 MMM (L.U. No. 198), an amendment of the City Map involving the elimination, discontinuance and closing of Vanderbilt Avenue between East 42nd Street and East 43rd Street; the

establishment of Public Place above a lower limiting plane; and the adjustment of grades necessitated thereby;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on April 13, 2015;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement (“FEIS”), for which a Notice of Completion was issued on March 20, 2015 (CEQR No. 14DCP188M), the CEQR Technical Memoranda dated March 27, 2015 and May 15, 2015 (the “CEQR Technical Memoranda”);

RESOLVED:

Having considered the FEIS and the CEQR Technical Memoranda with respect to the Decision and Application, the Council finds that:

- (1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;
- (2) Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action as modified with the modifications adopted herein as analyzed in the FEIS and the CEQR Technical Memoranda, is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable;
- (3) The adverse environmental impacts identified in the FEIS will be minimized or avoided to the maximum extent practicable by the placement of (E) designations (E-357) for Hazardous Materials, Air Quality, and Noise (as set forth in Exhibit B to the CPC Decision (C 150129 ZSM), which form part of the action; and
- (4) The Decision, together with the FEIS and the CEQR Technical Memoranda, constitute the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, N 150127 ZRM, incorporated by reference herein, the Council approves the Decision with the following modifications:

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

- Matter in underline is new, to be added;
- Matter in ~~strikeout~~ is to be deleted;
- Matter in ~~double-strike-out~~ is old, deleted by the Council;
- Matter in double-underline is new, added by the Council;
- Matter with # # is defined in Section 12-10;
- * * * indicates where unchanged text appears in the Zoning

Resolution

Article VIII - Special Purpose Districts

Chapter 1

Special Midtown District

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* * *

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* * *

81-00

GENERAL PURPOSES

The "Special Midtown District" established in this Resolution is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the following specific purposes:

* * *

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- (m) to preserve the midblock area north of the Museum of Modern Art for its special contribution to the historic continuity, function and ambience of Midtown;
- (n) to protect and strengthen the economic vitality and competitiveness of the Grand Central Subdistrict by facilitating the development of exceptional and sustainable buildings within the Vanderbilt Corridor and enabling improvements to the pedestrian and mass transit circulation network;
- (o) to ensure that development within the Vanderbilt Corridor occurs on sites that meet sound site planning criteria and therefore can accommodate additional density as appropriate;
- (p)(e)(n) to protect and enhance the role of Grand Central Terminal as a major transportation hub within the City, to expand and enhance the pedestrian and mass transit circulation network connecting Grand Central Terminal to surrounding development, to minimize pedestrian congestion and to protect the surrounding area's special character;
- (q)(e)(e) to expand the retail, entertainment and commercial character of the area around Pennsylvania Station and to enhance its role as a major transportation hub in the city;
- (r)(e)(p) to provide freedom of architectural design within limits established to assure adequate access of light and air to the street, and thus to encourage more attractive and economic building forms without the need for special development permissions or "negotiated zoning"; and
- (s)(e)(e) to promote the most desirable use of land and building development in accordance with the District Plan for Midtown and thus conserve the value of land and buildings and thereby protect the City's tax revenues.

* * *

81-03 District Plan

The regulations of this Chapter are designed to implement the #Special Midtown District# Plan.

The District Plan ~~partly consists of~~ includes the following ~~four~~ three maps:

Map 1 Special Midtown District and Subdistricts

| | |
|------------------|---|
| Map 2 | Retail and Street Wall Continuity |
| Map 3 | Subway Station and Rail Mass Transit Facility Improvement Areas |
| Map 4 | Network of Pedestrian Circulation |

The maps are located in Appendix A of this Chapter and are hereby incorporated and made a part of this Resolution. They are incorporated for the purpose of specifying locations where special regulations and requirements set forth in the text of this Chapter apply.

* * *

81-20 BULK REGULATIONS

81-21 Floor Area Ratio Regulations

* * *

81-211 Maximum floor area ratio for non-residential or mixed buildings

- (a) For #non-residential buildings# or #mixed buildings#, the basic maximum #floor area ratios# of the underlying districts shall apply as set forth in this Section.
- (b) In the #Special Midtown District#, the basic maximum #floor area ratio# on any #zoning lot# may be increased by bonuses or other #floor area# allowances only in accordance with the provisions of this Chapter, and the maximum #floor area ratio# with such additional #floor area# allowances

shall in no event exceed the amount set forth for each underlying district in the following table:

**MAXIMUM FLOOR AREA ALLOWANCES FOR SPECIFIED FEATURES
AND MAXIMUM FLOOR AREA RATIOS BY DISTRICTS**

| Means for Achieving Permitted FAR Levels on a #Zoning Lot# | Maximum #Floor Area Ratio# (FAR) | | | | | | |
|--|---------------------------------------|-------------|---------------|----------------------|-------|------------------------------|---------------------|
| | Outside the Grand Central Subdistrict | | | | | Grand Central Subdistrict | |
| | C6-4 5 | C6- M1-6 | C5-2.5 4.5 | C6- 5.5 C6-6.5 | C6-7T | C5-3 C6-6 C6-7 | C5-3 C6-6 2.5 |
| C5P | | | | | | | |

A. Basic Maximum FAR

8.0 10.0 12.0 14.0 15.0 12.0 15.0

B. Maximum As-of-Right #Floor Area# Allowances: (District-wide Incentives), #Public plazas# (Section 81-23)

--- 1.0^{1,2} 1.0^{1,3} --- 1.0² --- ---

C. Maximum Total FAR with As-of-Right Incentives

8.0 11.0^{1,2,8} 13.0^{1,3} 14.0 16.0 12.0 15.0

D. Maximum Special Permit #Floor Area# Allowances: (District-wide Incentives), Subway station improvements (Section 74-634)

--- 2.0^{1,7} 2.4¹ --- 3.0 2.4 3.0

E. Maximum Total FAR with District-wide and As-of-Right Incentives

| | | | | | | | |
|----|--|------------------|------|------|------|------|------|
| | 8.0 | 12.0 | 14.4 | 14.0 | 18.0 | 14.4 | 18.0 |
| F. | Maximum Special Permit #Floor Area# Allowances in Penn Center Subdistrict: Mass Transit Facility Improvement (Section 74-634) | | | | | | |
| | --- | 2.0 | --- | --- | 3.0 | --- | --- |
| G. | Maximum Total FAR with As-of-Right, District-wide and Penn Center Subdistrict Incentives | | | | | | |
| | --- | 12.0 | --- | --- | 18.0 | --- | --- |
| H. | Maximum As-of-Right #Floor Area# Allowances in Theater Subdistrict: | | | | | | |
| | Development rights (FAR) of a "granting site" (Section 81-744) | | | | | | |
| | --- | 10.0 | 12.0 | 14.0 | 15.0 | --- | --- |
| | Maximum amount of transferable development rights (FAR) from "granting sites" that may be utilized on a "receiving site" (Section 81-744(a)) | | | | | | |
| | --- | 2.0 | 2.4 | 2.8 | 3.0 | --- | --- |
| | Inclusionary Housing (Sections 23-90 and 81-22) | | | | | | |
| | --- | 2.0 ⁴ | --- | --- | --- | --- | --- |
| I. | Maximum Total FAR with As-of-Right #Floor Area# Allowances in Theater Subdistrict | | | | | | |
| | --- | 12.0 | 14.4 | 16.8 | 18.0 | --- | --- |
| J. | Maximum #Floor Area# Allowances by Authorization in Eighth Avenue Corridor (Section 81-744(b)) | | | | | | |
| | --- | 2.4 | --- | --- | --- | --- | --- |
| K. | Maximum Total FAR with As-of-Right and Theater Subdistrict Authorizations | | | | | | |

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--- 14.4 14.4 16.8 18.0 --- ---

L. Maximum Special Permit #Floor Area# Allowances in Theater Subdistrict:

Rehabilitation of "listed theaters" (Section 81-745)

--- 4.4 2.4 2.8 3.0 --- ---

M. Maximum Total FAR with Theater Subdistrict, District-wide and As-of-Right Incentives

8.0 14.4 14.4 16.8 18.0 --- ---

N. Maximum FAR of Lots Involving Landmarks:

Maximum FAR of a lot containing non-bonusable landmark (Section 74-711 or as-of-right)

8.0 10.0 12.0 14.0 15.0 12.0 15.0

Development rights (FAR) of a landmark lot for transfer purposes (Section 74-79)

8.0 10.0 13.0⁵ 14.0 16.0 12.0 15.0

Maximum amount of transferable development rights (FAR) from landmark #zoning lot# that may be utilized on:

(a) an "adjacent lot" (Section 74-79)

1.6 2.0 2.4 No Limit No Limit 2.4 No Limit

(b) a "receiving lot" (Section 81-634)

--- --- --- --- --- 1.0 1.0

(c) a "receiving lot" (Section 81-635)

--- --- --- --- --- 9.6 6.6

(d) a “receiving lot” located within the Vanderbilt Corridor (Section 81-635)

--- --- --- --- --- 15.0

O. Maximum #Floor Area# Allowances by Special Permit for Grand Central Public Realm Improvement Bonus (Section 81-64)

--- --- --- --- --- 15.0

Ø.P. Maximum Total FAR of a Lot with Transferred Development Rights from Landmark #Zoning Lot#, Theater Subdistrict Incentives, District-wide Incentives and As-of-Right Incentives

9.6 14.4 14.4 No No No⁶
Limit Limit 21.6 Limit

-
- ¹ Not available for #zoning lots# located wholly within Theater Subdistrict Core
 - ² Not available within the Eighth Avenue Corridor
 - ³ Not available within 100 feet of a #wide street# in C5-2.5 Districts
 - ⁴ Applicable only within that portion of the Theater Subdistrict also located within the #Special Clinton District#
 - ⁵ 12.0 in portion of C6-5.5 District within the Theater Subdistrict Core
 - ⁶ Limited to 21.6 FAR on a “receiving lot” pursuant to Section 81-635 in the Grand Central Subdistrict, and limited to 30.0 FAR on a #zoning lot# located within the Vanderbilt Corridor, pursuant to Sections 81-635 or 81-64 in the Grand Central Subdistrict
 - ⁷ Not available on west side of Eighth Avenue within the Eighth Avenue Corridor

8 12.0 for #zoning lots# with full #block# frontage on Seventh Avenue and frontage on West 34th Street, pursuant to Section 81-542 (Retention of floor area bonus for plazas or other public amenities)

* * *

81-213

Special provisions for transfer of development rights from listed theaters within the Special Clinton District

* * *

81-214

Special provisions within the Vanderbilt Corridor in the Grand Central Subdistrict

For #developments# or #enlargements# on #zoning lots# located within the Vanderbilt Corridor, as shown on Map 1 (Special Midtown District and Subdistricts) of Appendix A of this Chapter, additional #floor area# may be permitted by the City Planning Commission pursuant to Section 81-635 (Transfer of development rights by special permit) or Section 81-64 (Special Permit for Grand Central Public Realm Improvement Bonus), or any combination thereof, up to the maximum permitted #floor area# set forth in the table in Section 81-211 (Maximum floor area ratio for non-residential or mixed buildings), respectively. In no event shall the total #floor area ratio# of the #zoning lot# resulting from such proposed #development# or #enlargement# exceed 30.0.

* * *

81-254

Special permit for height and setback modifications

In the #Special Midtown District#, the City Planning Commission may modify the special height and setback regulations set forth in this Chapter only in accordance with the following provisions:

Section 74-711 (Landmark preservation in all districts) as modified by the provisions of Sections 81-266 or 81-277 (Special permit for height and setback modifications)

- Section 74-79 (Transfer of Development Rights from Landmark Sites) where development rights are transferred from a landmark site to an adjacent lot in a C5-3, C6-6 or C6-7 District, as modified by Section 81-212, and the total #floor area# on the adjacent lot resulting from such transfer exceeds the basic maximum #floor area ratio# by more than 20 percent. In such cases, the granting of a special permit by the Commission for height and setback modifications shall be in accordance with the provisions of Sections 81-266 or 81-277
- Section 81-066 (Special permit modifications of Section 81-254, Section 81-40 and certain Sections of Article VII, Chapter 7)
- Section 81-635 (Transfer of development rights by special permit)-
- Section 81-64 (Special Permit for Grand Central Public Realm Improvement Bonus).

* * *

81-60
SPECIAL REGULATIONS FOR THE GRAND CENTRAL SUBDISTRICT

81-61
General Provisions

In order to preserve and protect the character of the Grand Central Subdistrict, as well as to expand and enhance the Subdistrict's extensive pedestrian and mass transit circulation network, and to facilitate the development of exceptional and sustainable buildings within the Vanderbilt Corridor, special regulations are set forth in Section 81-60 (SPECIAL REGULATIONS FOR THE GRAND CENTRAL SUBDISTRICT), inclusive, governing urban design and streetscape relationships, the transfer of development rights from landmarks, and the improvement of the ~~surface and subsurface~~ pedestrian-circulation and mass transit circulation network.

The regulations of Sections 81-60 (SPECIAL REGULATIONS FOR THE GRAND CENTRAL SUBDISTRICT) are applicable only in the Grand Central Subdistrict, the boundaries of which are shown on Map 1 (Special Midtown District and Subdistricts) in Appendix A. These regulations supplement or modify the

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provisions of this Chapter applying generally to the #Special Midtown District#, of which this Subdistrict is a part.

As ~~stated~~ set forth in Section 81-212 (Special provisions for transfer of development rights from landmark sites), transfer of development rights from landmark sites may be allowed pursuant to Section 81-63 ~~(Transfer of Development Rights from Landmark Sites)~~.

The provisions of Section 81-23 (Floor Area Bonus for Public Plazas) are inapplicable to any #zoning lot#, any portion of which is located within the Grand Central Subdistrict.

Where the #lot line# of a #zoning lot# coincides with the boundary of the public place located at the southerly prolongation of Vanderbilt Avenue between East 42nd Street and East 43rd Street, such #lot line# shall be considered to be a #street line# for the purposes of applying the #use#, #bulk# and urban design regulations of this Chapter.

* * *

81-611

Special use provisions

(a) Except as provided in paragraph (b) of this Section, ~~W~~within the Vanderbilt Corridor, as shown in Map 1 (Special Midtown District and Subdistricts) in Appendix A of this Chapter, the #development# of a #building# containing a #transient hotel#, as listed in Use Group 5, or the #conversion# or change of #use# within an existing #building# to a #transient hotel#, shall only be allowed by special permit of the City Planning Commission, pursuant to Section 81-65.

(b) In the event a casualty damages or destroys a #building# within the Vanderbilt Corridor, which was used as a #transient hotel# as of [effective date of amendment], to an extent greater than the limits set forth in Section 52-53, such #building# may be reconstructed and used as a #transient hotel# without obtaining a special permit provided the #floor area# of such reconstructed #building# does not exceed the underlying district #floor area ratio# regulations.

* * *

81-625

Pedestrian circulation space requirements

Any #development# or #enlargement# within the Grand Central Subdistrict shall be subject to the provisions of Sections 81-45 (Pedestrian Circulation Space), 81-46 (Off-Street Relocation or Renovation of a Subway Stair) and 81-48 (Off-Street Improvement of Access to Rail Mass Transit Facility), except that:

- (a) no arcade shall be allowed within the Subdistrict; ~~and~~
- (b) within the Subdistrict, a sidewalk widening may be provided only for a #building# occupying an Avenue frontage, provided that such sidewalk widening extends for the length of the full #block# front; and
- (c) for #developments# or #enlargements# on #zoning lots# located within the Vanderbilt Corridor, as shown on Map 1 (Special Midtown District and Subdistricts) of Appendix A of this Chapter, up to a maximum of 3,000 square feet of on-site improvements to the public realm provided in accordance with a special permit pursuant to Section 81-635 (Transfer of development rights by special permit) or Section 81-64 (Special Permit for Grand Central Public Realm Improvement Bonus) may be applied toward the pedestrian circulation space requirement.

81-626

Retail continuity requirements

For #developments# or #enlargements# on #zoning lots# located within the Vanderbilt Corridor, as shown on Map 1 (Special Midtown District and Subdistricts) of Appendix A of this Chapter, where a #building# fronts upon a designated retail #street#, as shown on Map 2 (Retail and Street Wall Continuity), any portion of such #building's# ground floor level frontage along such designated retail #street# allocated to above or below-grade public realm improvements provided in accordance with a special permit pursuant to Section 81-635 (Transfer of development rights by special permit) or Section 81-64 (Special Permit for Grand Central Public Realm Improvement Bonus) shall be excluded from the retail continuity requirements of Section 81-42 (Retail Continuity along Designated Streets).

81-63

Transfer of Development Rights from Landmark Sites

* * *

81-631

Requirements for application

In addition to the land use review application requirements, an application filed with the City Planning Commission for certification pursuant to Section 81-634 (Transfer of development rights by certification) or special permit pursuant to Section 81-635 (Transfer of development rights by special permit) shall be made jointly by the owners of the "granting lot" and "receiving lot" and shall include:

- (a) site plan and zoning calculations for the "granting lot" and "receiving lot";
- (b) a program for the continuing maintenance of the landmark;
- (c) a report from the Landmarks Preservation Commission concerning the continuing maintenance program of the landmark and, for those "receiving" sites in the immediate vicinity of the landmark, a report concerning the harmonious relationship of the #development# or #enlargement# to the landmark;
- (d) for #developments# or #enlargements# pursuant to Section 81-635, a plan of ~~the~~ any required pedestrian network improvement; and
- (e) any such other information as may be required by the Commission.

* * *

81-635**Transfer of development rights by special permit**

Within the portion of the Subdistrict bounded by East 41st Street, East 48th Street, Lexington and Madison Avenues (the Grand Central Subdistrict Core Area as shown on Map 1 in Appendix A), the City Planning Commission may permit the transfer of development rights from a "granting lot" to a "receiving lot", and, in conjunction with such transfer, the Commission may permit modifications to #bulk# regulations, mandatory plan elements, and provisions regarding #zoning lots# divided by district boundaries, as set forth in paragraph (a) of this Section, provided that the Commission determines that the #development# or #enlargement# complies with the conditions of paragraph (b), the findings of paragraph (c) and the additional requirements of paragraph (d) of this Section.

- (a) The Commission may permit:

- ~~(a)~~(1) a transfer of development rights from a “granting lot” to a “receiving lot” provided that:
- (i) for #zoning lots# located within the Vanderbilt Corridor, as shown in Map 1 (Special Midtown District and Subdistricts) in Appendix A of this Chapter, the resultant #floor area ratio# on the “receiving lot” does not exceed 30.0; and
 - (ii) for #zoning lots# outside the Vanderbilt Corridor, the resultant #floor area ratio# on the “receiving lot” does not exceed 21.6;
- ~~(b)~~(2) modifications of the provisions of Sections 77-02 (Zoning Lots Not Existing Prior to Effective Date or Amendment of Resolution), 77-21 (General Provisions), 77-22 (Floor Area Ratio) and 77-25 (Density Requirements) for any #zoning lot#, whether or not it existed on December 15, 1961, or any applicable subsequent amendment thereto, #floor area#, #dwelling units# or #rooming units# permitted by the district regulations which allow a greater #floor area ratio# may be located within a district that allows a lesser #floor area ratio#;
- ~~(c)~~(3) ~~the modification of #bulk# regulations except #floor area ratio# and height and setback regulations; however,~~ in the case of an #enlargement# to an existing #building# utilizing the transfer of development rights from a designated landmark, ~~the Commission may modify~~ modifications of the provisions of Sections 81-621 (Special street wall requirements), 81-622 (Special height and setback requirements), 81-623 (Building lobby entrance requirements), 81-624 (Curb cut restrictions and loading berth requirements), 81-625 (Pedestrian circulation space requirements), and Sections 81-25 (General Provisions Relating to Height and Setback of Buildings), 81-26 (Height and Setback Regulations-Daylight Compensation) and 81-27 (Alternate Height and Setback Regulations-Daylight Evaluation) in order to accommodate existing structures and conditions; ~~and~~
- ~~(d)~~(4) ~~notwithstanding the provisions of paragraph (c) of this Section, for~~ #zoning lots# of more than 40,000 square feet of #lot area# that occupy an entire #block#, modifications of #bulk# regulations, except #floor area ratio# regulations; and
- (5) for #zoning lots# located within the Vanderbilt Corridor, as shown on Map 1, modifications, whether singly or in any combination, to:

- (i) the #street wall# regulations of Sections 81-43 (Street Wall Continuity Along Designated Streets), or 81-621 (Special street wall requirements), inclusive;
- (ii) the height and setback regulations of Sections 81-26 (Height and Setback Regulations-Daylight Compensation), inclusive, 81-27 (Alternative Height and Setback Regulations-Daylight Evaluation), inclusive, or 81-622 (Special height and setback requirements); or
- (iii) the mandatory district plan elements of Sections 81-42 (Retail Continuity along Designated Streets), 81-44 (Curb Cut Restrictions), 81-45 (Pedestrian Circulation Space), 81-46 (Off-Street Relocation or Renovation of a Subway Stair), 81-47 (Major Building Entrances), 81-48 (Off-street Improvement of Access to Rail Mass Transit Facility), 81-623 (Building lobby entrance requirements), 81-624 (Curb cut restrictions and loading berth requirements), 81-625 (Pedestrian circulation space requirements) or 37-50 (REQUIREMENTS FOR PEDESTRIAN CIRCULATION SPACE), inclusive, except that no modifications to the required amount of pedestrian circulation space set forth in Section 37-51 shall be permitted.

(b) Conditions

[INSERT CONDITIONS FROM BELOW]

(c) Findings

In order to grant a A special permit for the transfer of development rights to a "receiving lot", the Commission shall find that shall be subject to the following findings:

- (1) ~~that~~ a program for the continuing maintenance of the landmark has been established;
- (2) for any proposed improvement required pursuant to this Section:
 - (i) ~~that~~ the improvement to the above- or below-grade surface and subsurface pedestrian or mass transit circulation network provided by the #development# or #enlargement# increases public accessibility to and from Grand Central Terminal, pursuant to the following requirements:

- (i)(ii) ~~that~~ the streetscape, the site design and the location of #building# entrances contribute to the overall improvement of pedestrian circulation within the Subdistrict and minimize congestion on surrounding #streets#; and
- (iii) ~~that~~ a program is established to identify solutions to problems relating to vehicular and pedestrian circulation problems and the pedestrian environment within the Subdistrict;
- (3) where appropriate, for #developments# or #enlargements# on #zoning lots# located within the Vanderbilt Corridor, as shown on Map 1, the design of the #development# or #enlargement# includes provisions for public amenities including, but not limited to, publicly accessible open spaces, and subsurface pedestrian passageways leading to subway or rail mass transit facilities;
- (4) for #developments# or #enlargements# with a proposed #floor area ratio# in excess of 21.6 on #zoning lots# located within the Vanderbilt Corridor, as shown on Map 1, the #building# has met the ground floor level, building design, ~~and~~ sustainable design measures, and, for #zoning lots# not located on two #wide streets#, the site characteristic considerations set forth in the applicable conditions and findings of Section 81-641 (Additional floor area for the provision of public realm improvements);
- (5) where the modification of #bulk# regulations is proposed:
- (i)(ii) ~~that the any proposed~~ modification of #bulk# ~~regulations,~~ regulations governing #zoning lots# divided by district boundaries or the permitted transfer of #floor area# will not unduly increase the #bulk# of any #development# or #enlargement# on the “receiving lot,” density of population or intensity of #use# on any #block# to the detriment of the occupants of #buildings# on the #block# or the surrounding area;
- (ii)(iii) ~~that, for #enlargements# to existing #buildings#, the any~~ proposed modifications of height and setback requirements and the requirements of Section 81-62 are necessary because of the inherent constraints or conditions of the existing #building#, that the modifications are limited to the minimum needed, and that the proposal for modifications of height and setback requirements demonstrates to the satisfaction of the Commission that an integrated design is not feasible for

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the proposed #enlargement# which accommodates the transfer of development rights due to the conditions imposed by the existing #building# or configuration of the site; and

~~(iii) (iv) that, for #developments# or #enlargements# on #zoning lots# of more than 40,000 square feet of #lot area# that occupy an entire #block#, any proposed modifications of #bulk# regulations are necessary because of inherent site constraints and that the modifications are limited to the minimum needed-; or~~

(6) for #developments# or #enlargements# on #zoning lots# located within the Vanderbilt Corridor, as shown on Map 1, any proposed modifications meet the applicable application requirements and findings set forth in Section 81-642 (Permitted modifications in conjunction with additional floor area).

~~The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.~~

[MOVE UP THE FOLLOWING TWO PARAGRAPHS TO NEW PARAGRAPH (b) Conditions]

~~For #developments# or #enlargements# on #zoning lots# located outside of the Vanderbilt Corridor, the following shall apply.~~ As a condition for granting a special permit pursuant to this Section, the design of the #development# or #enlargement# shall include a major improvement of the above or below-grade, surface and/or subsurface pedestrian or mass transit circulation network in the Subdistrict ~~(as shown on Map 4 in Appendix A of this Chapter).~~ However, in the case of #developments# or #enlargements# on #zoning lots# located within the Vanderbilt Corridor, this condition may be waived by the Commission, where appropriate, or may be deemed to have been met by utilization of the provisions of Section 81-64 (Special Permit for Grand Central Public Realm Improvement Bonus). The improvement shall increase the general accessibility and security of the network, reduce points of pedestrian congestion and improve the general network environment through connections into planned expansions of the network. The improvement may include, but is not limited to, widening, straightening or expansion of the existing pedestrian network, reconfiguration of circulation routes to provide more direct pedestrian connections between the #development# or #enlargement# and Grand Central Terminal, and provision for direct daylight access, retail in new and existing passages, and improvements to air quality, lighting, finishes and signage.

The special permit application to the Commission shall include information and justification sufficient to provide the Commission with a basis for evaluating the benefits to the general public from the proposed improvement. As part of the special permit application, the applicant shall submit schematic or concept plans of the proposed improvement to the Department of City Planning, as well as evidence of such submission to the Metropolitan Transportation Authority (MTA) and any other entities that retain control and responsibility for the area of the proposed improvement. Prior to ULURP certification of the special permit application, the MTA and any other entities that retain control and responsibility for the area of the proposed improvement shall each provide a letter to the Commission containing a conceptual approval of the improvement including a statement of any considerations regarding the construction and operation of the improvement.

(d) Additional requirements

Prior to the grant of a special permit, the applicant shall obtain approvals of plans from the MTA and any other entities that retain control and responsibility for the area of the proposed improvement, and, if appropriate, the applicant shall sign a legally enforceable instrument running with the land, setting forth the obligations of the owner and developer, their successors and assigns, to construct and maintain the improvement and shall establish a construction schedule, a program for maintenance and a schedule of hours of public operation and shall provide a performance bond for completion of the improvement.

The written declaration of restrictions and any instrument creating an easement on privately owned property shall be recorded against such private property in the Office of the Register of the City of New York (County of New York) and a certified copy of the instrument shall be submitted to the City Planning Commission.

No temporary certification of occupancy for any #floor area# of the #development# or #enlargement# on a “receiving lot” shall be granted by the Department of Buildings until all required improvements have been substantially completed as determined by the Chairperson of the City Planning Commission and the area is usable by the public. Prior to the issuance of a permanent certificate of occupancy for the #development# or #enlargement#, all improvements shall be 100 percent complete in accordance with the approved plans and such completion shall have been certified by letter from the Metropolitan Transportation Authority.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

Special Permit for Grand Central Public Realm Improvement Bonus

In order to facilitate the development of exceptional and sustainable #buildings# within the Vanderbilt Corridor as well as improvements to the pedestrian and mass transit circulation network in the vicinity of Grand Central Terminal, for #developments# and #enlargements# on #zoning lots# located within the Vanderbilt Corridor, as shown in Map 1 (Special Midtown District and Subdistricts) in Appendix A of this Chapter, the City Planning Commission may permit:

- (a) additional #floor area# for the provision of on-site or off-site, above- or below-grade improvements to the pedestrian or mass transit circulation network in the Grand Central Subdistrict, in accordance with the provisions of Section 81-641 (Additional floor area for the provision of public realm improvements); and
- (b) in conjunction with additional #floor area# granted pursuant to Section 81-641, modifications to #street wall# regulations, height and setback regulations, and mandatory district plan elements, provided such modifications are in accordance with the provisions of Section 81-642 (Permitted modifications in conjunction with additional floor area).

81-641**Additional floor area for the provision of public realm improvements**

For #developments# and #enlargements# on #zoning lots# located within the Vanderbilt Corridor, as shown in Map 1 (Midtown District and Subdistricts) in Appendix A of this Chapter, the City Planning Commission may allow by special permit #floor area# in excess of the basic maximum #floor area ratio# established in the table in Section 81-211 (Maximum floor area ratio for non-residential or mixed buildings), up to the maximum #floor area# set forth in such table, in accordance with the provisions of this Section.

All applications for a special permit for additional #floor area# pursuant to this Section shall include on-site or off-site, above- or below-grade improvements to the pedestrian or mass transit circulation network, or a combination thereof, in the Grand Central Subdistrict. In addition, requirements pertaining to the ground floor level, building design, and sustainable design measures are set forth in this Section in order to ensure that any #development# or #enlargement# receiving additional #floor area# constitutes an exceptional addition to the #Special Midtown District#.

In order for the City Planning Commission to approve a special permit application for additional #floor area#, the Commission shall determine that such #development# or #enlargement# complies with the conditions and application

requirements of paragraph (a), the findings of paragraph (b), and the additional requirements of paragraph (c) of this Section.

(a) Conditions and application requirements

All applications for a special permit for additional #floor area# pursuant to this Section shall include the following:

(1) Above- or below-grade improvements to the pedestrian or mass transit circulation network.

In order to ensure that the proposed #development# or #enlargement# contributes to the improvement of pedestrian and mass transit circulation in the Grand Central Subdistrict, especially in the vicinity of Grand Central Terminal, any #development# or #enlargement# proposed under the provisions of this Section shall include above- or below-grade public realm improvements.

(i) Where a #development# or #enlargement# proposes the inclusion of above-grade public realm improvements, such improvements may consist of on-site or off-site improvements to the pedestrian circulation network, or a combination thereof.

On-site, above-grade public realm improvements shall consist of open or enclosed publicly accessible spaces, of ample size, provided for public use and enjoyment. Such publicly accessible spaces shall include amenities characteristic of #public plazas# or public atriums, as applicable, and include amenities for the comfort and convenience of the public.

Off-site, above-grade public realm improvements shall consist of major improvements to the public right-of-way that support pedestrian circulation in the areas surrounding Grand Central Terminal. Where the area of such improvements is to be established as a pedestrian plaza, such improvements shall be characteristic of best practices in plaza design, as set forth by the Department of Transportation. Where the area of such improvements is along a #street# accommodating both vehicular and pedestrian access, such improvements shall be characteristic of current best practices in #street# design, as set forth by the Department of Transportation, and include improvements to the right-of-way such as: pedestrian

amenities; or streetscape, sidewalk, crosswalk, and median enhancements.

- (ii) Where a #development# or #enlargement# proposes the inclusion of below-grade public realm improvements, such improvements shall consist of on-site or off-site enhancements to the below-grade pedestrian and mass transit circulation network. Such improvements shall be characteristic of current best practice in mass-transit network design, and shall include improvements such as: on-site or off-site widening, straightening, expanding or otherwise enhancing the existing below-grade pedestrian circulation network; additional vertical circulation; reconfiguring circulation routes to provide more direct pedestrian connections to subway or rail mass transit facilities; or providing daylight access, retail #uses#, or enhancements to noise abatement, air quality, lighting, finishes or rider orientation in new or existing passageways.

Applications shall include information and justification sufficient to provide the Commission with the basis for evaluating the benefits to the general public; determining the appropriate amount of bonus #floor area# to grant; and determining whether the applicable findings set forth in paragraph (b) of this Section have been met. Such application materials shall also include initial plans for the maintenance of the proposed improvements.

Where the Metropolitan Transportation Authority or any other City or State agency has control and responsibility for the area of a proposed improvement, the applicant shall submit concept plans for the proposed improvement to such agency and the Commission. At the time of certification of the application, any such agency with control and responsibility for the area of the proposed improvement shall each provide a letter to the Commission containing a conceptual approval of the improvement including a statement of any considerations regarding the construction and operation of the improvement.

(2) Ground floor level

In order to ensure that the proposed #development# or #enlargement# contributes to the improvement of the pedestrian circulation network in the Grand Central Subdistrict, especially in the vicinity of Grand Central Terminal, any #development# or #enlargement# proposed under the provisions of this Section shall

provide enhancements to the ground floor level of the #building#, including, but not limited to, sidewalk widenings, streetscape amenities or enhancements to required pedestrian circulation spaces.

Where a #development# or #enlargement# includes #street# frontage along Madison Avenue or a #narrow street# between East 43rd Street and East 47th Street, sidewalk widenings shall be provided as follows:

- (i) where a #development# or #enlargement# is on a #zoning lot# which occupies the entire #block# frontage along Madison Avenue, a sidewalk widening shall be provided along Madison Avenue, to the extent necessary, so that a minimum sidewalk width of 20 feet is achieved, including portions within and beyond the #zoning lot#. However, no sidewalk widening need exceed 10 feet, as measured perpendicular to the #street line#;
- (ii) where a #development# or #enlargement# is on a #zoning lot# that does not occupy the entire #block# frontage along Madison Avenue, a sidewalk widening shall be provided along Madison Avenue where all existing #buildings# on the #block# frontage have provided such a widening. Such required widening shall match the amount of widened sidewalk provided on adjacent #zoning lots#, provided that no sidewalk widening need exceed 10 feet, as measured perpendicular to the #street line#; or
- (iii) where a #development# or #enlargement# with frontage on a #narrow street# between East 43rd Street and East 47th Street is on a #zoning lot# with a #lot width# of 100 feet or more, as measured along the #narrow street line#, a sidewalk widening shall be provided along such #narrow street#, to the extent necessary, so that a minimum sidewalk width of 15 feet is achieved, including portions within and beyond the #zoning lot#. However, no sidewalk widening need exceed 10 feet, as measured perpendicular to the #street line#.

Applications shall contain a ground floor level site plan, and other supporting documents of sufficient scope and detail to enable the Commission to determine: the type of proposed #uses# on the ground floor level; the location of proposed #building# entrances; the size and location of proposed circulation spaces; the manner in which such spaces will connect to the overall pedestrian circulation

network and the above- or below-grade public realm improvements required pursuant to this Section; and any other details necessary for the Commission to determine whether the applicable findings set forth in paragraph (b) of this Section have been met.

(3) Building design

In order to ensure the proposed #development# or #enlargement# contributes to its immediate surroundings, with particular emphasis on Grand Central Terminal, any #development# or #enlargement# proposed under the provisions of this Section shall demonstrate particular attention to the building design, including, but not limited to, the proposed #uses#, massing, articulation and relationship to #buildings# in close proximity and within the Midtown Manhattan skyline.

Applications shall contain materials of sufficient scope and detail to enable the Commission to determine the proposed #uses# within the #building#, as well as the proposed #building bulk# and architectural design of the #building#, and to evaluate the proposed #building# in the context of adjacent #buildings# and the Midtown Manhattan skyline. Such materials shall include a description of the proposed #uses# within the #building#; measured elevation drawings, axonometric views, and perspective views showing such proposed #building# within the Midtown Manhattan skyline; and any other materials necessary for the Commission to determine whether the applicable findings set forth in paragraph (b) of this Section have been met.

For those “receiving lots” that are contiguous to a lot occupied by Grand Central Terminal or a lot that is across a #street# and opposite to the lot occupied by Grand Central Terminal, or, in the case of a #corner lot#, one that fronts on the same #street# intersection as the lot occupied by Grand Central Terminal, applications shall contain a report from the Landmarks Preservation Commission concerning the harmonious relationship of the #development# or #enlargement# to Grand Central Terminal.

(4) Sustainable design measures

In order to foster the development of sustainable #buildings# in the Grand Central Subdistrict, any #development# or #enlargement# proposed under the provisions of this Section shall include sustainable design measures, including, but not limited to, enhancements to the building’s energy performance; enhanced

water efficiency; utilization of sustainable or locally sourced materials; and attention to indoor environmental air quality.

Applications shall contain materials of sufficient scope and detail to enable the Commission to determine whether the applicable findings in paragraph (b) of this Section have been met. In addition, any application shall include materials demonstrating the building's sustainable design measures, including its anticipated energy performance, and the degree to which such #building's# performance exceeds either the New York City Energy Conservation Code (NYCECC) or the Building Performance Rating method of the applicable version and edition of American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc., Standard 90.1 (ASHRAE 90.1), as referenced within the NYCECC.

(b) Findings

The Commission shall find that:

(1) for a #development# or #enlargement# not located on two #wide streets#, the amount of additional #floor area# being granted is appropriate based on the extent to which any or all of the following physical factors are present: (i) the #development's# direct access to subway stations and other rail mass transit facilities, (ii) the size of the #zoning lot#, (iii) the amount of wide #street# frontage, and (iv) the #development's# adjacency to the open area above Grand Central Terminal;

~~(2)(1)-~~ for above-grade improvements to the pedestrian circulation network that are located:

(i) on-site, the proposed improvements will, to the extent practicable: consist of a prominent space of generous proportions and quality design that is inviting to the public; improve pedestrian circulation and provide suitable amenities for the occupants; front upon a #street# or a pedestrian circulation space in close proximity to and within view of and accessible from an adjoining sidewalk; provide or be surrounded by active #uses#; be surrounded by transparent materials; provide connections to pedestrian circulation spaces in the immediate vicinity; and be designed in a manner that combines the separate elements within such space into a cohesive and harmonious site plan, resulting in a high-quality public space; or

- (ii) off-site, the proposed improvements to the public right-of-way, to the extent practicable, will consist of significant street and sidewalk designs that improve pedestrian circulation in the surrounding area; provide comfortable places for walking and resting, opportunities for planting and improvements to pedestrian safety; and create a better overall user experience of the above-grade pedestrian circulation network that supports the Grand Central Subdistrict as a high-density business district. Where the area of such improvement is to be established into a pedestrian plaza that will undergo a public design and review process through the Department of Transportation subsequent to the approval of this special permit, the Commission may waive this finding;

~~(3)(2)~~ for below-grade improvements to the pedestrian or mass transit circulation network, the proposed improvements will provide:

- (i) significant and generous connections from the above-grade pedestrian circulation network and surrounding #streets# to the below-grade pedestrian circulation network;
- (ii) major improvements to public accessibility in the below-grade pedestrian circulation network between and within subway stations and other rail mass transit facilities in and around Grand Central Terminal through the provision of new connections, or the addition to or reconfigurations of existing connections; or
- (iii) significant enhancements to the environment of subway stations and other rail mass transit facilities including daylight access, noise abatement, air quality improvement, lighting, finishes, way-finding or rider orientation, where practicable.

~~(4)(3)~~ the public benefit derived from the proposed above- or below-grade improvements to the pedestrian or mass transit circulation network merits the amount of additional #floor area# being granted to the proposed #development# or #enlargement# pursuant to this special permit.

~~(5)(4)~~ the design of the ground floor level of the #building#:

- (i) contributes to a lively streetscape through a combination of retail #uses# that enliven the pedestrian experience, ample amounts of transparency and pedestrian connections that facilitate fluid movement between the #building# and

adjoining public spaces; and demonstrates consideration for the location of pedestrian circulation space, #building# entrances, and the types of #uses# fronting upon the #street# or adjoining public spaces;

- (ii) will substantially improve the accessibility of the overall pedestrian circulation network, reduce points of pedestrian congestion and, where applicable, establish more direct and generous pedestrian connections to Grand Central Terminal; and
- (iii) will be well-integrated with on-site, above or below-grade improvements required by this Section, where applicable and practicable;

~~(6)(5)~~ the design of the proposed #building#:

- (i) ensures light and air to the surrounding #streets# and public spaces through the use of setbacks, recesses and other forms of articulation, and the tower top produces a distinctive addition to the Midtown Manhattan skyline which is well-integrated with the remainder of the #building#;
- (ii) demonstrates an integrated and well-designed facade, taking into account factors such as #street wall# articulation and amounts of fenestration, that creates a prominent and distinctive #building# which complements the character of the surrounding area, especially Grand Central Terminal; and
- (iii) involves a program that includes an intensity and mix of #uses# that are harmonious with the type of #uses# in the surrounding area;

~~(7)(6)~~ the proposed #development# or #enlargement# comprehensively integrates sustainable measures into the #building# and site design that:

- (i) meet or exceed best practices in sustainable design; and

- (ii) will substantially reduce energy usage for the #building#, as compared to comparable #buildings#; and

~~(8)(7)~~ _____ in addition to the foregoing:

- (i) the increase in #floor area# being proposed in the #development# or #enlargement# will not unduly increase the #bulk#, density of population or intensity of #uses# to the detriment of the surrounding area; and
- (ii) all of the separate elements within the proposed #development# or #enlargement#, including above- or below-grade improvements, the ground floor level, building design, and sustainable design measures, are well-integrated and will advance the applicable goals of the #Special Midtown District# described in Section 81-00 (GENERAL PURPOSES).

(c) Additional requirements

Prior to the grant of a special permit pursuant to this Section, and to the extent required by the Metropolitan Transportation Authority (MTA) or any other City or State agencies with control and responsibility for the area where a proposed improvement is to be located, the applicant shall execute an agreement, setting forth the obligations of the owner, its successors and assigns, to: establish a process for design development and a preliminary construction schedule for the proposed improvement; construct the proposed improvement; where applicable, establish a program for maintenance; and, where applicable, establish a schedule of hours of public access for the proposed improvement. Where the MTA, or any other City or State agencies with control and responsibility for the area of a proposed improvement, deems necessary, such executed agreement shall set forth obligations of the applicant to provide a performance bond or other security for completion of the improvement in a form acceptable to the MTA or any other such agencies.

Where the proposed #development# or #enlargement# proposes an off-site improvement located in an area to be acquired by a City or State agency, the applicant may propose a phasing plan to sequence the construction of such off-site improvement. To determine if such phasing plan is reasonable, the Commission may consult with the City or State agency that intends to acquire the area of the proposed improvement.

Prior to obtaining a foundation or building permit from the Department of Buildings, a written declaration of restrictions, in a form acceptable to the

Chairperson of the City Planning Commission, setting forth the obligations of the owner to construct, and, where applicable, maintain and provide public access to public improvements provided pursuant to this Section, shall be recorded against such property in the Office of the Register of the City of New York (County of New York). Proof of recordation of the declaration of restrictions shall be submitted in a form acceptable to the Department of City Planning.

Except where a phasing plan is approved by the City Planning Commission, no temporary certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing bonus #floor area# granted pursuant to the provisions of Section 81-64 (Special Permit for Grand Central Public Realm Improvement Bonus) until the required improvements have been substantially completed, as determined by the Chairperson of the City Planning Commission, acting in consultation with the MTA, or any other City or State agencies with control and responsibility for the area where a proposed improvement is to be located, where applicable, and such improvements are usable by the public. Such portion of the #building# utilizing bonus #floor area# shall be designated by the Commission in drawings included in the declaration of restrictions filed pursuant to this paragraph.

No permanent certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing bonus #floor area# until all improvements have been completed in accordance with the approved plans, as determined by the Chairperson, acting in consultation with the MTA, or any other City or State agencies with control and responsibility for the area where a proposed improvement is to be located, where applicable.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

81-642

Permitted modifications in conjunction with additional floor area

In conjunction with the grant of a special permit pursuant to Section 81-641 (Additional floor area for the provision of public realm improvements), the City Planning Commission may permit modifications to #street walls#, height and setback regulations, and mandatory plan elements, as set forth in paragraph (a) of this Section, provided that the Commission determines that the application requirements set forth in paragraph (b) and the findings set forth in paragraph (c) of this Section are met.

a. The Commission may modify the following, whether singly or in any combination:

- (1) the #street wall# regulations of Sections 81-43 (Street Wall Continuity Along Designated Streets), or 81-621 (Special street wall requirements), inclusive;
- (2) the height and setback regulations of Sections 81-26 (Height and Setback Regulations-Daylight Compensation), inclusive, 81-27 (Alternative Height and Setback Regulations-Daylight Evaluation), inclusive, or 81-622 (Special height and setback requirements); or
- (3) the mandatory district plan elements of Sections 81-42 (Retail Continuity along Designated Streets), 81-44 (Curb Cut Restrictions), 81-45 (Pedestrian Circulation Space), 81-46 (Off-Street Relocation or Renovation of a Subway Stair), 81-47 (Major Building Entrances), 81-48 (Off-street Improvement of Access to Rail Mass Transit Facility), 81-623 (Building lobby entrance requirements), 81-624 (Curb cut restrictions and loading berth requirements), 81-625 (Pedestrian circulation space requirements) or 37-50 (REQUIREMENTS FOR PEDESTRIAN CIRCULATION SPACE), inclusive, except that no modifications to the required amount of pedestrian circulation space set forth in Section 37-51 shall be permitted.

(b) Application requirements

Applications for a special permit for modifications pursuant to this Section shall contain materials, of sufficient scope and detail, to enable the Commission to determine the extent of the proposed modifications. In addition, where modifications to #street wall# or height and setback regulations are proposed, any application shall contain the following materials, at a minimum:

- (1) drawings, including but not limited to plan views and axonometric views, that illustrate how the proposed #building# will not comply with the #street wall# regulations of Section 81-43 (Street Wall Continuity Along Designated Streets), or as such provisions are modified pursuant to Section 81-621 (Special street wall requirements), as applicable, and that illustrate how the proposed #building# will not comply with the height and setback regulations of Sections 81-26 (Height and Setback Regulations – Daylight Compensation) or 81-27 (Alternate Height and Setback Regulations – Daylight Evaluation), or as such provisions are modified pursuant to Section 81-622 (Special height and setback requirements), as applicable;

- (2) where applicable, formulas showing the degree to which such proposed #building# will not comply with the length and height rules of Section 81-26, or as such provisions are modified pursuant to Section 81-622; and
- (3) where applicable, #daylight evaluation charts# and the resulting daylight evaluation score showing the degree to which such proposed #building# will not comply with the provisions of Section 81-27 or as such provisions are modified pursuant to Section 81-622.

(c) Findings

The Commission shall find that such proposed modifications:

- (1) to the mandatory district plan elements will result in a better site plan for the proposed #development# or #enlargement# that is harmonious with the mandatory district plan element strategy of the #Special Midtown District#, as set forth in Section 81-41 (General Provisions); and
- (2) to the #street wall# or height and setback regulations will result in an improved distribution of #bulk# on the #zoning lot# that is harmonious with the height and setback goals of the #Special Midtown District# set forth in Section 81-251 (Purpose of height and setback regulations).

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

81-65

Special Permit for Transient Hotels

Within the Vanderbilt Corridor, as shown in Map 1 (Special Midtown District and Subdistricts) in Appendix A of this Chapter, the City Planning Commission may permit the #development# of a #building# containing a #transient hotel#, as listed in Use Group 5, or may permit the #conversion# or change of #use# within an existing #building# to a #transient hotel#, provided the Commission finds that the proposed #transient hotel# will:

- (a) be appropriate to the needs of businesses in the vicinity of Grand Central Terminal; and

(b) provide on-site amenities and services that will support the area’s role as an office district. Such business-oriented amenities and services shall be proportionate to the scale of the #transient hotel# being proposed, and shall include, but shall not be limited to, conference and meeting facilities, and telecommunication services.

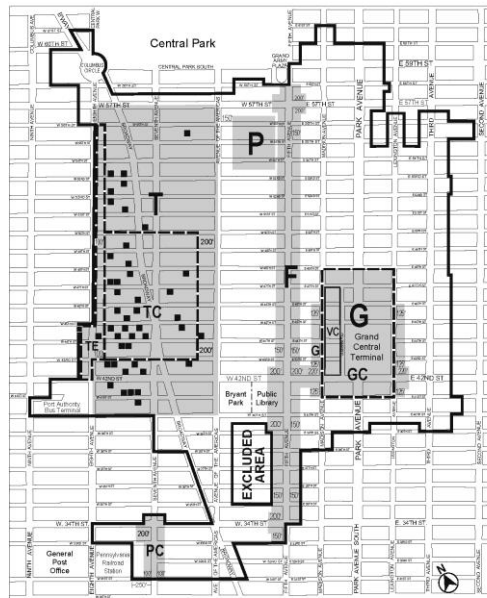
The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.

* * *

Appendix A Midtown District Plan Maps

* * *

Map 1: Special Midtown District and Subdistricts



MIDTOWN DISTRICT PLAN
MAP 1 - Special Midtown District and Subdistricts

- Special Midtown District
- F** Fifth Avenue Subdistrict
- G** Grand Central Subdistrict
- GC** Grand Central Subdistrict Core
- VC** Vanderbilt Corridor
- P** Preservation Subdistrict
- PC** Penn Center Subdistrict
- T** Theater Subdistrict
- TC** Theater Subdistrict Core
- TE** Theater Subdistrict Eighth Avenue Corridor
- Listed Theaters

~~Map 4: Network of Pedestrian Circulation~~
[DELETE EXISTING MAP]

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, RUBEN WILLS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER, VINCENT M. IGNIZIO; Committee on Land Use, May 21, 2015.

On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 198 & Res. No. 724

Report of the Committee on Land Use in favor of approving Application No. C 140440 MMM submitted by the New York City Department of City Planning, pursuant to Sections 197-c and 199 of the New York City Charter, and Section 5-430 et seq. of the New York City Administrative Code for an amendment to the City Map involving: the elimination, discontinuance and closing of Vanderbilt Avenue between East 42nd Street and East 43rd Street, including authorization for any acquisition or disposition of real property related thereto, Community Districts 5, Council District 4. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to Charter Section 197-d(b)(2) or called up by vote of the Council pursuant to Charter Section 197-d(b)(3).

The Committee on Land Use, to which the annexed Land Use item was referred on March 31, 2015 (Minutes, page 1016) and was coupled in committee with the resolution shown below before being sent to the City Planning Commission by the Council for further review on May 14, 2015 (Minutes, page 1703), respectfully

REPORTS:

(For text of the original report, please see the Report of the Committee on Land Use for LU No. 198 printed in the Minutes of the Stated Meeting of May 14, 2015)

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In connection herewith, Council Members Greenfield and Weprin offered the following resolution:

Res. No. 724

Resolution approving the decision of the City Planning Commission on ULURP No. C 140440 MMM, an amendment to the City Map (L.U. No. 198).

By Council Members Greenfield and Weprin.

WHEREAS, the City Planning Commission filed with the Council on March 30, 2015 its decision dated March 30, 2015 (the "Decision"), on the application submitted by the New York City Department of City Planning, pursuant to Sections 197-c and 199 of the New York City Charter, for an amendment to the City Map involving:

- the elimination, discontinuance and closing of Vanderbilt Avenue between East 42nd Street and East 43rd Street;
- the establishment of Public Place above a lower limiting plane; and
- the adjustment of grades necessitated thereby;

including authorization for any acquisition or disposition of real property related thereto, in accordance with Map No. 30244 dated October 17, 2014 and signed by the Borough President, (ULURP No. C 140440 MMM), Community District 5, Borough of Manhattan (the "Application");

WHEREAS, the application is related to Application N 150127 ZRM (L.U. No. 197), a proposed zoning text amendment to the Special Midtown District;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on April 13, 2015;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application;

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement ("FEIS"), for which a Notice of Completion was issued on March 20, 2015 (CEQR No. 14DCP188M), the CEQR Technical Memoranda dated March 27, 2015 and May 15, 2015 (the "CEQR Technical Memoranda");

RESOLVED:

Having considered the FEIS and the CEQR Technical Memoranda with respect to the Decision and Application, the Council finds that:

(1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;

(2) Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action as modified with the modifications adopted herein as analyzed in the FEIS and the CEQR Technical Memoranda, is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable; and;

(3) The adverse environmental impacts identified in the FEIS will be minimized or avoided to the maximum extent practicable by the placement of (E) designations (E-357) for Hazardous Materials, Air Quality, and Noise (as set forth in Exhibit B to the CPC Decision (C 150129 ZSM), which form part of the action; and

(4) The Decision, together with the FEIS and the CEQR Technical Memoranda, constitute the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 199 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, C 140440 MMM, incorporated by reference herein, the Council approves the Decision for an amendment to the City Map involving:

- the elimination, discontinuance and closing of Vanderbilt Avenue between East 42nd Street and East 43rd Street;
- the establishment of Public Place above a lower limiting plane; and
- the adjustment of grades necessitated thereby;

including authorization for any acquisition or disposition of real property related thereto, in the Borough of Manhattan, Community District 5, in accordance with Map No. 30244 dated October 17, 2014 and signed by the Borough President as more particularly described as follows:

BEGINNING at the southeast corner of the intersection of Madison Avenue and East 43rd Street as said streets are shown on Map No. 30244:

1) THENCE running easterly 215.67 feet along the southerly street line of East 43rd Street to THE POINT OF BEGINNING;

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2) THENCE running northeasterly 94.25 feet along a curve to the left having a radius of 60.00 feet and a central angle of 90 degrees 0 minutes and 0 seconds to a point;

3) THENCE running southerly 260.83 feet along a line that is tangent to the last known point to an angle point;

4) THENCE running westerly 60.00 feet, along a line that forms an angle of 90 degrees 0 minutes and 0 seconds on its northerly side with the preceding course to an angle point;

5) THENCE running northerly 200.83 feet, along a line that forms an angle of 90 degrees 0 minutes and 0 seconds on its easterly side with the preceding course to the POINT OF BEGINNING.

Described area being 12,822.37 square feet or 0.29 acres.

All such approvals being subject to the following conditions:

a. The subject amendment to the City Map shall take effect on the day following the day on which certified counterparts of Map No. 30244 dated October 17, 2014, are filed with the appropriate agencies in accordance with Section 198 subsection c of the New York City Charter and Section 5-435 of the New York City Administrative Code; and

b. The subject street to be discontinued and closed shall be discontinued and closed on the day following the day on which such maps adopted by this resolution shall be filed in the offices specified by law.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, RUBEN WILLS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER, VINCENT M. IGNIZIO; Committee on Land Use, May 21, 2015.

On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 199 & Res. No. 725

Report of the Committee on Land Use in favor of approving Application No. C 150128 ZSM submitted by Green 317 Madison LLC and Green 110 East 42nd LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to proposed Section 81-635 of the Zoning Resolution to allow the transfer of floor area from property located at 110 East 42nd Street, a landmark building (Bowery Savings Bank Building) to property bounded by 42nd Street, Madison Avenue, 43rd Street, and Vanderbilt Avenue to facilitate the development of a commercial building, in a C5-3 District, within the Special Midtown District (Grand Central Subdistrict) Community Districts 5 and 6, Council District 4. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to Charter Section 197-d(b)(2) or called up by vote of the Council pursuant to Charter Section 197-d(b)(3).

The Committee on Land Use, to which the annexed Land Use item was referred on March 31, 2015 (Minutes, page 1016) and was coupled in committee with the resolution shown below before being sent to the City Planning Commission by the Council for further review on May 14, 2015 (Minutes, page 1705), respectfully

REPORTS:

(For text of the original report, please see the Report of the Committee on Land Use for LU No. 199 printed in the Minutes of the Stated Meeting of May 14, 2015)

FILING OF MODIFICATION WITH THE CITY PLANNING COMMISSION

The Committee's proposed modifications were filed with the City Planning Commission on May 8, 2015. The City Planning Commission filed a letter dated May 18, 2015, with the Council on May 20, 2015, indicating that the proposed modifications are not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

In connection herewith, Council Members Greenfield and Weprin offered the following resolution:

Res. No. 725

Resolution approving with modifications the decision of the City Planning Commission on ULURP No. C 150128 ZSM (L.U. No. 199), for the grant of a special permit pursuant to Section 81-635 of the Zoning Resolution to

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allow the transfer of 114,050.25 square feet of floor area (2.63 FAR) from property located at 110 East 42nd Street (Block 1296, Lots 1001-1007) that is occupied by a landmark building (Bowery Savings Bank Building) to property bounded by 42nd Street, Madison Avenue, 43rd Street, and Vanderbilt Avenue (Block 1277, Lots 20, 27, 46, and 52) to facilitate the development of a commercial building, in a C5-3 District, within the Special Midtown District (Grand Central Sub-district), in Community Districts 5 and 6, Borough of Manhattan.

By Council Members Greenfield and Weprin.

WHEREAS, the City Planning Commission filed with the Council on March 30, 2015 its decision dated March 30, 2015 (the "Decision"), on the application submitted by Green 317 Madison LLC and Green 110 East 42nd LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 81-635 of the Zoning Resolution to allow the transfer of 114,050.25 square feet of floor area (2.63 FAR) from property located at 110 East 42nd Street (Block 1296, Lots 1001-1007) that is occupied by a landmark building (Bowery Savings Bank Building) to property bounded by 42nd Street, Madison Avenue, 43rd Street, and Vanderbilt Avenue (Block 1277, Lots 20, 27, 46, and 52) to facilitate the development of a commercial building, in a C5-3 District, within the Special Midtown District (Grand Central Subdistrict), (ULURP No. C 150128 ZSM), Community Districts 5 and 6, Borough of Manhattan (the "Application");

WHEREAS, the application is related to Applications N 150127 ZRM (L.U. No. 197), a Zoning Text Amendment, by the Department of City Planning, to the Special Midtown District to establish the Vanderbilt Corridor; C 140440 MMM (L.U. No. 198), an amendment to the City Map, by the Department of City Planning, involving the elimination, discontinuance and closing of Vanderbilt Avenue between East 42nd Street and East 43rd Street; the establishment of Public Place above a lower limiting plane; and the adjustment of grades necessitated thereby; C 150129 ZSM (L.U. No. 200), a Zoning Special Permit pursuant to proposed Section 81-641 granting additional floor area for the provision of public realm improvements; C 150130 (A) ZSM (L.U. No. 201), a Special Permit pursuant to Section 81-642 to modify certain mandatory district plan elements, street wall, height, setback and curb cut regulations;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the City Charter;

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 81-635 of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on April 13, 2015;

WHEREAS, the Council has considered the land use and environmental implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement (“FEIS”), for which a Notice of Completion was issued on March 20, 2015 (CEQR No. 14DCP188M), the CEQR Technical Memoranda dated March 27, 2015 and May 15, 2015 (the “CEQR Technical Memoranda”);

RESOLVED:

Having considered the FEIS and the CEQR Technical Memoranda with respect to the Decision and Application, the Council finds that:

(1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;

(2) Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the Modified Ground Floor Alternative, as modified with the modifications adopted herein and as analyzed in Chapter 17, “Alternatives to the Proposed Actions,” of the FEIS and in the CEQR Technical Memoranda (the “Modified Proposed Action”) is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable; and;

(3) The adverse environmental impacts identified in the Modified Proposed Action will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, pursuant to the Restrictive Declaration dated March 30, 2015, executed by 317 Madison LLC, 51E42 Owner LLC, SLG 48E43 LLC and SGL 331 Madison LLC, as modified by the New York City Council as of May 7, 2015, those mitigation measures that were identified as practicable, and the placement of (E) designations (E-357) for Hazardous Materials, Air Quality, and Noise (as set forth in Exhibit B to the CPC Decision (C 150129 ZSM)), which form part of the action;

(4) The Decision, together with the FEIS and the CEQR Technical Memoranda, constitute the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, C 150128 ZSM, incorporated by reference herein, the Council approves the Decision with the following modifications, subject to the following conditions:

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Matter in ~~double-strikeout~~ is old, deleted by the Council;

Matter in double-underline is new, added by the Council;

1. The property that is the subject of this application (C 150128 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by Kohn Pedersen Fox Associates, P.C. and Stantec Consulting Ltd., filed with this application and incorporated in this resolution:

| <u>Dwg. No.</u> | <u>Title</u> | <u>Last Received Date</u> |
|-----------------|---|---|
| Z-102 | Zoning Calculations | January 23, 2015 <u>05/18/15</u> |
| Z-103 | Zoning Calculations | January 16, 2015 <u>05/18/15</u> |
| Z-104 | Zoning Lot Site Plan | March 25, 2015 <u>05/18/15</u> |
| Z-105 | Ground Floor Plan | March 25, 2015 <u>05/18/15</u> |
| Z-200 | Retail Continuity – South/East 42 nd Street | March 25, 2015 <u>05/18/15</u> |
| Z-201 | Retail Continuity – West/Madison Avenue | January 16, 2015 <u>05/18/15</u> |
| Z-202 | Street Wall and Waivers – Sections | October 20, 2014 |
| Z-203 | Street Wall and Waivers – Section | October 20, 2014 |
| Z-204 | Street Wall and Waivers – Section | October 20, 2014 |
| Z-205 | Street Wall and Waivers – Axons | October 20, 2014 |
| Z-206 | Pedestrian Circulation and Waivers | March 25, 2015 <u>05/18/15</u> |
| Z-207 | Building Entrance Recess and Retail Continuity Waivers | March 25, 2015 <u>05/18/15</u> |
| Z-300 | Daylight Compensation Analyses | October 20, 2014 |
| Z-301 | Daylight Compensation Analyses | October 20, 2014 |
| Z-302 | Daylight Compensation Analysis | October 20, 2014 |
| Z-303 | Daylight Compensation Analyses | October 20, 2014 |
| Z-304 | Daylight Compensation Analyses | October 20, 2014 |
| Z-305 | Daylight Evaluation Analyses | October 20, 2014 |
| Z-306 | Daylight Evaluation Analyses – VP1 | October 20, 2014 |
| Z-307 | Daylight Evaluation Analyses – VP2 | October 20, 2014 |
| Z-308 | Daylight Evaluation Analyses – VP3 | October 20, 2014 |
| Z-309 | Daylight Evaluation Analyses – VP4 | October 20, 2014 |
| Z-310 | Daylight Evaluation Analyses – VP5 | October 20, 2014 |
| Z-311 | Daylight Evaluation Analyses – VP6 | October 20, 2014 |

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| Z-312 | Daylight Evaluation Analyses – VP7 | October 20, 2014 |
| Z-313 | Daylight Evaluation Analyses – VP8 | October 20, 2014 |
| Z-400 | Transit Hall – Plan | March 25, 2015 <u>05/18/15</u> |
| Z-401 | Transit Hall – Sections | March 25, 2015 <u>05/18/15</u> |
| Z-402 | Transit Hall – Details | March 25, 2015 |
| Z-503 | Zoning Envelope – Building Elevations and Sections | March 25, 2015 <u>05/18/15</u> |
| KP-1 | On-site/Key Plan/Ground Level | March 25, 2015 <u>05/18/15</u> |
| KP-2 | On-site/Key Plan/B1 Level | January 16, 2015 <u>05/18/15</u> |
| KP-3 | On-site/Key Plan/B2 Level | October 15, 2014 <u>05/18/15</u> |
| KP-4 | On-site/Key Plan/ESA Level | October 15, 2014 <u>05/18/15</u> |
| PV-1 | On-site/Ground Level | March 25, 2015 <u>05/18/15</u> |
| PV-2 | On-site/B1 Level | January 16, 2015 <u>05/18/15</u> |
| PV-3 | On-site/B2 Level | October 15, 2014 <u>05/18/15</u> |
| PV-4 | On-site/ESA Level | October 15, 2014 <u>05/18/15</u> |
| PV-5 | On-site/Longitudinal Section 1 | October 15, 2014 <u>05/18/15</u> |
| PV-6 | On-site/Longitudinal Section 2 | January 16, 2015 <u>05/18/15</u> |
| PV-7 | On-site /Transverse Section 3 | January 16, 2015 <u>05/18/15</u> |
| KP-1 | Off-site/Key Plan/Ground Level | October 15, 2014 |
| KP-2 | Off-site/Key Plan/Mezzanine Level | October 15, 2014 |
| KP-3 | Off-site/Key Plan/Platform Level | October 15, 2014 |
| PN-1 | Off-site/North End/Ground Level | October 15, 2014 |
| PN-2 | Off-site/North End/Mezzanine Level | October 15, 2014 |
| PN-3 | Off-site/North End/Platform Level | October 15, 2014 |
| PS-1 | Off-site/South End/Mezzanine Level | October 15, 2014 |
| PS-2 | Off-site/South End/Platform Level | October 15, 2014 |
| PM-1 | Off-site/Mobile Passageway/Ground Level | October 15, 2014 |
| PM-2 | Off-site/Mobile Passageway/Mezzanine Level | October 15, 2014 |

(iv) Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.

(v) Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.

(vi) Development pursuant to this resolution shall be allowed only after (1) the Restrictive Declaration dated March 30, 2015, executed by 317 Madison LLC, 51E42 Owner LLC, SLG 48E43 LLC and SGL 331 Madison LLC, as modified by the New York City Council as of May 7, 2015 and (2) Transfer Instrument and Notice of Restrictions pursuant to NYC Zoning Resolution Section 81-633, attached as Exhibit A to the CPC Decision (C 150128 ZSM), with such administrative changes as are acceptable to Counsel to the City Planning Commission, shall have been recorded in the Office of the Register of the City of New York, County of New York. Such Restrictive Declaration and Transfer Instrument and Notice of Restrictions shall be deemed incorporated herein as a condition of this resolution.

(vii) All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.

(viii) Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted.

(ix) Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, RUBEN WILLS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER, VINCENT M. IGNIZIO; Committee on Land Use, May 21, 2015.

On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 200 & Res. No. 726

Report of the Committee on Land Use in favor of approving Application No. C 150129 ZSM submitted by Green 317 Madison LLC and Green 110 East 42nd LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to proposed Section 81-641 of the Zoning Resolution to allow an increase in floor area to facilitate the development of a commercial building on property bounded by 42nd Street, Madison Avenue, 43rd Street, and Vanderbilt Avenue, in a C5-3 District, within the Special Midtown District (Grand Central Subdistrict), Community Districts 5 and 6, Council District 4. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to Charter Section 197-d(b)(2) or called up by vote of the Council pursuant to Charter Section 197-d(b)(3).

The Committee on Land Use, to which the annexed Land Use item was referred on March 31, 2015 (Minutes, page 1017) and was coupled in committee with the resolution shown below before being sent to the City Planning Commission by the Council for further review on May 14, 2015 (Minutes, page 1707), respectfully

REPORTS:

(For text of the original report, please see the Report of the Committee on Land Use for LU No. 200 printed in the Minutes of the Stated Meeting of May 14, 2015)

FILING OF MODIFICATION WITH THE CITY PLANNING COMMISSION

The Committee's proposed modifications were filed with the City Planning Commission on May 8, 2015. The City Planning Commission filed a letter dated May 18, 2015, with the Council on May 20, 2015, indicating that the proposed modifications are not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

In connection herewith, Council Members Greenfield and Weprin offered the following resolution:

Res. No. 726

Resolution approving with modifications the decision of the City Planning Commission on ULURP No. C 150129 ZSM (L.U. No. 200), for the grant of a special permit pursuant to Section 81-641 of the Zoning Resolution to allow an increase in floor area in excess of the basic maximum floor area ratio established in Row A of the Table in Section 81-211 (Maximum floor area ratio for non-residential or mixed buildings) up to a maximum floor area as set forth in Row O of such Table to facilitate the development of a commercial building on property bounded by 42nd Street, Madison Avenue, 43rd Street, and Vanderbilt Avenue (Block 1277, Lots 20, 27, 46, and 52), in a C5-3 District, within the Special Midtown District (Grand Central Subdistrict), in Community Districts 5 and 6, Borough of Manhattan.

By Council Members Greenfield and Weprin.

WHEREAS, the City Planning Commission filed with the Council on March 30, 2015 its decision dated March 30, 2015 (the "Decision"), on the application submitted by Green 317 Madison LLC and Green 110 East 42nd LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 81-641 of the Zoning Resolution to allow an increase in floor area in excess of the basic maximum floor area ratio established in Row A of the Table in Section 81-211 (Maximum floor area ratio for non-residential or mixed buildings) up to a maximum floor area as set forth in Row O of such Table to facilitate the development of a commercial building on property bounded by 42nd Street, Madison Avenue, 43rd Street, and Vanderbilt Avenue (Block 1277, Lots 20, 27, 46, and 52), in a C5-3 District, within the Special Midtown District (Grand Central Subdistrict), (ULURP No. C 150129 ZSM), Community Districts 5 and 6, Borough of Manhattan (the "Application");

WHEREAS, the application is related to Applications N 150127 ZRM (L.U. No. 197), a Zoning Text Amendment, by the Department of City Planning, to the Special Midtown District to establish the Vanderbilt Corridor; C 140440 MMM (L.U. No. 198), an amendment to the City Map, by the Department of City Planning, involving the elimination, discontinuance and closing of Vanderbilt Avenue between East 42nd Street and East 43rd Street; the establishment of Public Place above a lower limiting plane; and the adjustment of grades necessitated thereby; C150128 ZSM (L.U. No. 199), a Zoning Special Permit pursuant to Section 81-635 to transfer development rights from the New York City Landmark Bowery Savings Bank building; and C 150130 (A) ZSM (L.U. No. 201), a Special Permit pursuant to Section 81-642 to modify certain mandatory district plan elements, street wall, height, setback and curb cut regulations;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the City Charter;

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 81-641 of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on April 13, 2015;

WHEREAS, the Council has considered the land use and environmental implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement (“FEIS”), for which a Notice of Completion was issued on March 20, 2015 (CEQR No. 14DCP188M), the CEQR Technical Memoranda dated March 27, 2015 and May 15, 2015 (the “CEQR Technical Memoranda”);

RESOLVED:

Having considered the FEIS and the CEQR Technical Memoranda with respect to the Decision and Application, the Council finds that:

- (1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;
- (2) Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the Modified Ground Floor Alternative, as modified with the modifications adopted herein and as analyzed in Chapter 17, “Alternatives to the Proposed Actions,” of the FEIS and in the CEQR Technical Memoranda (the “Modified Proposed Action”) is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable; and;
- (3) The adverse environmental impacts identified in the Modified Proposed Action will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, pursuant to the Restrictive Declaration dated March 30, 2015, executed by 317 Madison LLC, 51E42 Owner LLC, SLG 48E43 LLC and SGL 331 Madison LLC, as modified by the New York City Council as of May 7, 2015, those mitigation measures that were identified as practicable, and the placement of (E) designations (E-357) for Hazardous Materials, Air Quality, and Noise (as set forth in Exhibit B to the CPC Decision (C 150129 ZSM)), which form part of the action;

(4) The Decision, together with the FEIS and the CEQR Technical Memoranda, constitute the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, C 150129 ZSM, incorporated by reference herein, the Council approves the Decision with the following modifications and subject to the following conditions:

- Matter in ~~double-strikeout~~ is old, deleted by the Council;
- Matter in double-underline is new, added by the Council;

1. The property that is the subject of this application (C 150129 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by Kohn Pedersen Fox Associates, P.C. and Stantec Consulting Ltd., filed with this application and incorporated in this resolution:

| <u>Dwg. No.</u> | <u>Title</u> | <u>Last Received Date</u> |
|-----------------|--|---------------------------------------|
| Z-102 | Zoning Calculations | January 23, 2015 -05/18/15 |
| Z-103 | Zoning Calculations | January 16, 2015 -05/18/15 |
| Z-104 | Zoning Lot Site Plan | March 25, 2015 -05/18/15 |
| Z-105 | Ground Floor Plan | March 25, 2015 -05/18/15 |
| Z-200 | Retail Continuity – South/East 42 nd Street | March 25, 2015 -05/18/15 |
| Z-201 | Retail Continuity – West/Madison Avenue | January 16, 2015 -05/18/15 |
| Z-202 | Street Wall and Waivers – Sections | October 20, 2014 |
| Z-203 | Street Wall and Waivers – Section | October 20, 2014 |
| Z-204 | Street Wall and Waivers – Section | October 20, 2014 |
| Z-205 | Street Wall and Waivers – Axons | October 20, 2014 |
| Z-206 | Pedestrian Circulation and Waivers | March 25, 2015 -05/18/15 |
| Z-207 | Building Entrance Recess and Retail Continuity Waivers | March 25, 2015 -05/18/15 |
| Z-300 | Daylight Compensation Analyses | October 20, 2014 |
| Z-301 | Daylight Compensation Analyses | October 20, 2014 |
| Z-302 | Daylight Compensation Analysis | October 20, 2014 |
| Z-303 | Daylight Compensation Analyses | October 20, 2014 |
| Z-304 | Daylight Compensation Analyses | October 20, 2014 |
| Z-305 | Daylight Evaluation Analyses | October 20, 2014 |
| Z-306 | Daylight Evaluation Analyses – VP1 | October 20, 2014 |
| Z-307 | Daylight Evaluation Analyses – VP2 | October 20, 2014 |
| Z-308 | Daylight Evaluation Analyses – VP3 | October 20, 2014 |
| Z-309 | Daylight Evaluation Analyses – VP4 | October 20, 2014 |

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| Z-310 | Daylight Evaluation Analyses – VP5 | October 20, 2014 |
| Z-311 | Daylight Evaluation Analyses – VP6 | October 20, 2014 |
| Z-312 | Daylight Evaluation Analyses – VP7 | October 20, 2014 |
| Z-313 | Daylight Evaluation Analyses – VP8 | October 20, 2014 |
| Z-400 | Transit Hall – Plan | March 25, 2015 <u>05/18/15</u> |
| Z-401 | Transit Hall – Sections | March 25, 2015 <u>05/18/15</u> |
| Z-402 | Transit Hall – Details | March 25, 2015 |
| Z-503 | Zoning Envelope – Building Elevations and Sections | March 25, 2015 <u>05/18/15</u> |
| KP-1 | On-site/Key Plan/Ground Level | March 25, 2015 <u>05/18/15</u> |
| KP-2 | On-site/Key Plan/B1 Level | January 16, 2015 <u>05/18/15</u> |
| KP-3 | On-site/Key Plan/B2 Level | October 15, 2014 <u>05/18/15</u> |
| KP-4 | On-site/Key Plan/ESA Level | October 15, 2014 <u>05/18/15</u> |
| PV-1 | On-site/Ground Level | March 25, 2015 <u>05/18/15</u> |
| PV-2 | On-site/B1 Level | January 16, 2015 <u>05/18/15</u> |
| PV-3 | On-site/B2 Level | October 15, 2014 <u>05/18/15</u> |
| PV-4 | On-site/ESA Level | October 15, 2014 <u>05/18/15</u> |
| PV-5 | On-site/Longitudinal Section 1 | October 15, 2014 <u>05/18/15</u> |
| PV-6 | On-site/Longitudinal Section 2 | January 16, 2015 <u>05/18/15</u> |
| PV-7 | On-site /Transverse Section 3 | January 16, 2015 <u>05/18/15</u> |
| KP-1 | Off-site/Key Plan/Ground Level | October 15, 2014 |
| KP-2 | Off-site/Key Plan/Mezzanine Level | October 15, 2014 |
| KP-3 | Off-site/Key Plan/Platform Level | October 15, 2014 |
| PN-1 | Off-site/North End/Ground Level | October 15, 2014 |
| PN-2 | Off-site/North End/Mezzanine Level | October 15, 2014 |
| PN-3 | Off-site/North End/Platform Level | October 15, 2014 |
| PS-1 | Off-site/South End/Mezzanine Level | October 15, 2014 |
| PS-2 | Off-site/South End/Platform Level | October 15, 2014 |
| PM-1 | Off-site/Mobile Passageway/Ground Level | October 15, 2014 |
| PM-2 | Off-site/Mobile Passageway/Mezzanine Level | October 15, 2014 |

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.

3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.

4. Development pursuant to this resolution shall be allowed only after the Restrictive Declaration dated March 30, 2015, executed by 317 Madison LLC, 51E42 Owner LLC, SLG 48E43 LLC and SGL 331 Madison LLC, as modified by

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the New York City Council as of May 7, 2015, shall have been recorded in the Office of the Register of the City of New York, County of New York. Such Restrictive Declaration shall be deemed incorporated herein as a condition of this resolution.

5. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.

6. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted.

7. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, RUBEN WILLS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER, VINCENT M. IGNIZIO; Committee on Land Use, May 21, 2015.

On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 201 & Res. No. 727

Report of the Committee on Land Use in favor of approving Application No. C 150130(A) ZSM submitted by Green 317 Madison LLC and Green 110 East 42nd LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to proposed Section 81-642 of the Zoning Resolution to modify, in conjunction with the special

permit pursuant to proposed Section 81-641 (Additional floor area for the provisional of public realm improvements), street wall requirements, height and setback requirements and the mandatory district plan elements of Retail Continuity along Designated Streets, Pedestrian Circulation Space, Major Building Entrances, Building lobby entrance requirements, and Curb cut restrictions and loading requirements to facilitate the development of a commercial building on property bounded by 42nd Street, Madison Avenue, 43rd Street, and Vanderbilt Avenue (Block 1277, Lots 20, 27, 46, and 52), in a C5-3 District, within the Special Midtown District (Grand Central Subdistrict). Community Districts 5 and 6, Council District 4. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to Charter Section 197-d(b)(2) or called up by vote of the Council pursuant to Charter Section 197-d(b)(3).

The Committee on Land Use, to which the annexed Land Use item was referred on March 31, 2015 (Minutes, page 1017) and was coupled in committee with the resolution shown below before being sent to the City Planning Commission by the Council for further review on May 14, 2015 (Minutes, page 1709), respectfully

REPORTS:

(For text of the original report, please see the Report of the Committee on Land Use for LU No. 201 printed in the Minutes of the Stated Meeting of May 14, 2015)

FILING OF MODIFICATION WITH THE CITY PLANNING COMMISSION

The Committee's proposed modifications were filed with the City Planning Commission on May 8, 2015. The City Planning Commission filed a letter dated May 18, 2015, with the Council on May 20, 2015, indicating that the proposed modifications are not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

In connection herewith, Council Members Greenfield and Weprin offered the following resolution:

Res. No. 727

Resolution approving with modifications the decision of the City Planning Commission on ULURP No. C 150130 (A) ZSM (L.U. No. 201), for the grant of a special permit pursuant to Section 81-642 of the Zoning Resolution to modify, in conjunction with the special permit pursuant to Section 81-641 (Additional floor area for the provisional of public realm

improvements); 1) the street wall requirements of Sections 81-43 (Street Wall Continuity along Designated Streets) and 81-621 (Special street wall requirements), 2) the height and setback requirements of Sections 81-26 (Height and Setback Regulations – Daylight Compensation), 81-27 (Alternative Height and Setback Regulations – Daylight Evaluation), and 81-622 (Special height and setback requirements), and 3) the mandatory district plan elements of Sections 81-42 (Retail Continuity along Designated Streets), 81-45 (Pedestrian Circulation Space) and the requirements of Section 37-50 (REQUIREMENTS FOR PEDESTRIAN CIRCULATION SPACE), 81-47 (Major Building Entrances), 81-623 (Building lobby entrance requirements), and 81-624 (Curb cut restrictions and loading requirements); to facilitate the development of a commercial building on property bounded by 42nd Street, Madison Avenue, 43rd Street, and Vanderbilt Avenue (Block 1277, Lots 20, 27, 46, and 52), in a C5-3 District, within the Special Midtown District (Grand Central Subdistrict); in Community Districts 5 and 6, Borough of Manhattan.

By Council Members Greenfield and Weprin.

WHEREAS, the City Planning Commission filed with the Council on March 30, 2015 its decision dated March 30, 2015 (the "Decision"), on the application submitted by Green 317 Madison LLC and Green 110 East 42nd LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 81-642 of the Zoning Resolution to modify, in conjunction with the special permit pursuant to Section 81-641 (Additional floor area for the provisional of public realm improvements); 1) the street wall requirements of Sections 81-43 (Street Wall Continuity along Designated Streets) and 81-621 (Special street wall requirements), 2) the height and setback requirements of Sections 81-26 (Height and Setback Regulations – Daylight Compensation), 81-27 (Alternative Height and Setback Regulations – Daylight Evaluation), and 81-622 (Special height and setback requirements), and 3) the mandatory district plan elements of Sections 81-42 (Retail Continuity along Designated Streets), 81-45 (Pedestrian Circulation Space) and the requirements of Section 37-50 (REQUIREMENTS FOR PEDESTRIAN CIRCULATION SPACE), 81-47 (Major Building Entrances), 81-623 (Building lobby entrance requirements), and 81-624 (Curb cut restrictions and loading requirements); to facilitate the development of a commercial building on property bounded by 42nd Street, Madison Avenue, 43rd Street, and Vanderbilt Avenue (Block 1277, Lots 20, 27, 46, and 52), in a C5-3 District, within the Special Midtown District (Grand Central Subdistrict), (ULURP No. C 150130 (A) ZSM), Community Districts 5 and 6, Borough of Manhattan (the "Application");

WHEREAS, the application is related to Applications N 150127 ZRM (L.U. No. 197), a Zoning Text Amendment, by the Department of City Planning, to the Special Midtown District to establish the Vanderbilt Corridor; C 140440 MMM (L.U. No. 198), an amendment to the City Map, by the Department of City Planning,

involving the elimination, discontinuance and closing of Vanderbilt Avenue between East 42nd Street and East 43rd Street; the establishment of Public Place above a lower limiting plane; and the adjustment of grades necessitated thereby; C150128 ZSM (L.U. No. 199), a Zoning Special Permit pursuant to Section 81-635 to transfer development rights from the New York City Landmark Bowery Savings Bank building; and C 150129 ZSM (L.U. No. 200), a Zoning Special Permit pursuant to proposed Section 81-641 granting additional floor area for the provision of public realm improvements;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the City Charter;

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 81-642 of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on April 13, 2015;

WHEREAS, the Council has considered the land use and environmental implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement (“FEIS”), for which a Notice of Completion was issued on March 20, 2015 (CEQR No. 14DCP188M), the CEQR Technical Memoranda dated March 27, 2015 and May 15, 2015 (the “CEQR Technical Memoranda”);

RESOLVED:

Having considered the FEIS and the CEQR Technical Memoranda with respect to the Decision and Application, the Council finds that:

(1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;

(2) Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the Modified Ground Floor Alternative, as modified with the modifications adopted herein and as analyzed in Chapter 17, “Alternatives to the Proposed Actions,” of the FEIS and in the CEQR Technical Memoranda (the “Modified Proposed Action”) is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable;

(3) The adverse environmental impacts identified in the Modified Proposed Action will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, pursuant to the Restrictive Declaration

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dated March 30, 2015, executed by 317 Madison LLC, 51E42 Owner LLC, SLG 48E43 LLC and SGL 331 Madison LLC, as modified by the New York City Council as of May 7, 2015, those mitigation measures that were identified as practicable, and the placement of (E) designations (E-357) for Hazardous Materials, Air Quality, and Noise (as set forth in Exhibit B to the CPC Decision (C 150129 ZSM)), which form part of the action; and

(4) The Decision, together with the FEIS and the CEQR Technical Memoranda, constitute the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, C 150130 (A) ZSM, incorporated by reference herein, the Council approves the Decision subject to the following conditions:

- Matter in ~~double-strikeout~~ is old, deleted by the Council;
- Matter in double-underline is new, added by the Council;

1. The property that is the subject of this application (C 150130 (A) ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by Kohn Pedersen Fox Associates, P.C. and Stantec Consulting Ltd., filed with this application and incorporated in this resolution:

| <u>Dwg. No.</u> | <u>Title</u> | <u>Last Received Date</u> |
|-----------------|--|---|
| Z-102 | Zoning Calculations | January 23, 2015 <u>05/18/15</u> |
| Z-103 | Zoning Calculations | January 16, 2015 <u>05/18/15</u> |
| Z-104 | Zoning Lot Site Plan | March 25, 2015 <u>05/18/15</u> |
| Z-105 | Ground Floor Plan | March 25, 2015 <u>05/18/15</u> |
| Z-200 | Retail Continuity – South/East 42 nd Street | March 25, 2015 <u>05/18/15</u> |
| Z-201 | Retail Continuity – West/Madison Avenue | January 16, 2015 <u>05/18/15</u> |
| Z-202 | Street Wall and Waivers – Sections | October 20, 2014 |
| Z-203 | Street Wall and Waivers – Section | October 20, 2014 |
| Z-204 | Street Wall and Waivers – Section | October 20, 2014 |
| Z-205 | Street Wall and Waivers – Axons | October 20, 2014 |
| Z-206 | Pedestrian Circulation and Waivers | March 25, 2015 <u>05/18/15</u> |
| Z-207 | Building Entrance Recess and Retail Continuity Waivers | March 25, 2015 <u>05/18/15</u> |
| Z-300 | Daylight Compensation Analyses | October 20, 2014 |
| Z-301 | Daylight Compensation Analyses | October 20, 2014 |
| Z-302 | Daylight Compensation Analysis | October 20, 2014 |
| Z-303 | Daylight Compensation Analyses | October 20, 2014 |
| Z-304 | Daylight Compensation Analyses | October 20, 2014 |
| Z-305 | Daylight Evaluation Analyses | October 20, 2014 |

| | | |
|-------|--|---|
| Z-306 | Daylight Evaluation Analyses – VP1 | October 20, 2014 |
| Z-307 | Daylight Evaluation Analyses – VP2 | October 20, 2014 |
| Z-308 | Daylight Evaluation Analyses – VP3 | October 20, 2014 |
| Z-309 | Daylight Evaluation Analyses – VP4 | October 20, 2014 |
| Z-310 | Daylight Evaluation Analyses – VP5 | October 20, 2014 |
| Z-311 | Daylight Evaluation Analyses – VP6 | October 20, 2014 |
| Z-312 | Daylight Evaluation Analyses – VP7 | October 20, 2014 |
| Z-313 | Daylight Evaluation Analyses – VP8 | October 20, 2014 |
| Z-400 | Transit Hall – Plan | March 25, 2015 <u>05/18/15</u> |
| Z-401 | Transit Hall – Sections | March 25, 2015 <u>05/18/15</u> |
| Z-402 | Transit Hall – Details | March 25, 2015 |
| Z-503 | Zoning Envelope – Building Elevations and Sections | March 25, 2015 <u>05/18/15</u> |
| KP-1 | On-site/Key Plan/Ground Level | March 25, 2015 <u>05/18/15</u> |
| KP-2 | On-site/Key Plan/B1 Level | January 16, 2015 <u>05/18/15</u> |
| KP-3 | On-site/Key Plan/B2 Level | October 15, 2014 <u>05/18/15</u> |
| KP-4 | On-site/Key Plan/ESA Level | October 15, 2014 <u>05/18/15</u> |
| PV-1 | On-site/Ground Level | March 25, 2015 <u>05/18/15</u> |
| PV-2 | On-site/B1 Level | January 16, 2015 <u>05/18/15</u> |
| PV-3 | On-site/B2 Level | October 15, 2014 <u>05/18/15</u> |
| PV-4 | On-site/ESA Level | October 15, 2014 <u>05/18/15</u> |
| PV-5 | On-site/Longitudinal Section 1 | October 15, 2014 <u>05/18/15</u> |
| PV-6 | On-site/Longitudinal Section 2 | January 16, 2015 <u>05/18/15</u> |
| PV-7 | On-site /Transverse Section 3 | January 16, 2015 <u>05/18/15</u> |
| KP-1 | Off-site/Key Plan/Ground Level | October 15, 2014 |
| KP-2 | Off-site/Key Plan/Mezzanine Level | October 15, 2014 |
| KP-3 | Off-site/Key Plan/Platform Level | October 15, 2014 |
| PN-1 | Off-site/North End/Ground Level | October 15, 2014 |
| PN-2 | Off-site/North End/Mezzanine Level | October 15, 2014 |
| PN-3 | Off-site/North End/Platform Level | October 15, 2014 |
| PS-1 | Off-site/South End/Mezzanine Level | October 15, 2014 |
| PS-2 | Off-site/South End/Platform Level | October 15, 2014 |
| PM-1 | Off-site/Mobile Passageway/Ground Level | October 15, 2014 |
| PM-2 | Off-site/Mobile Passageway/Mezzanine Level | October 15, 2014 |

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.

3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.

4. Development pursuant to this resolution shall be allowed only after the Restrictive Declaration dated March 30, 2015, executed by 317 Madison LLC,

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51E42 Owner LLC, SLG 48E43 LLC and SGL 331 Madison LLC, as modified by the New York City Council as of May 7, 2015, shall have been recorded in the Office of the Register of the City of New York, County of New York. Such Restrictive Declaration shall be deemed incorporated herein as a condition of this resolution.

5. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.

6. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted.

7. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, RUBEN WILLS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER, VINCENT M. IGNIZIO; Committee on Land Use, May 21, 2015.

On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 209 & Res. No. 728

Report of the Committee on Land Use in favor of approving Application No. C 140404 ZSM submitted by 39 West 23rd Street, LLC pursuant to Sections

197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution to allow residential use and modify the bulk regulations in connection with the development of mixed use building with a 10-story segment and a 24-story segment on property located at 39-41 West 23rd Street a.k.a. 20-22 West 24th Street, within the Ladies' Mile Historic District, Borough of Manhattan, Community Board 5, Council District 3. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to Charter Section 197-d(b)(2) or called up by vote of the Council pursuant to Charter Section 197-d(b)(3).

The Committee on Land Use, to which the annexed Land Use item was referred on April 16, 2015 (Minutes, page 1309) and was coupled in committee with the resolution shown below before being sent to the City Planning Commission by the Council for further review on May 14, 2015 (Minutes, page 1711), respectfully

REPORTS:

(For text of the original report, please see the Report of the Committee on Land Use for LU No. 209 printed in the Minutes of the Stated Meeting of May 14, 2015)

FILING OF MODIFICATION WITH THE CITY PLANNING COMMISSION

The Committee's proposed modifications were filed with the City Planning Commission on May 8, 2015. The City Planning Commission filed a letter dated May 18, 2015, with the Council on May 20, 2015, indicating that the proposed modifications are not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

In connection herewith, Council Members Greenfield and Weprin offered the following resolution:

Res. No. 728

Resolution approving with modifications the decision of the City Planning Commission on ULURP No. C 140404 ZSM (L.U. No. 209), for the grant of a special permit pursuant to Section 74-711(b) of the Zoning Resolution of the City of New York to modify the use regulations of Section 42-00 to allow residential uses (Use Group 2 uses) on portions of the ground floor, cellar and sub-cellar, and on the 2nd – 24th floors, and the bulk regulations of Section 43-28 (Special Provisions for Through Lots), Section 43-313 (For zoning lots with multiple rear lot lines), and Section 43-43 (Maximum Height of Front Wall and Required Front Setbacks), to facilitate the construction of a mixed-use building on property located at 39-41 West

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23rd Street a.k.a. 20-22 West 24th Street (Block 825, Lots 20, 60, and 1001-1005), in an M1-6 District, within the Ladies' Mile Historic District in Community District 5, Borough of Manhattan.

By Council Members Greenfield and Weprin.

WHEREAS, the City Planning Commission filed with the Council on March 30, 2015 its decision dated March 30, 2015 (the "Decision"), on the application submitted by 39 West 23rd Street, LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 74-711(b) of the Zoning Resolution of the City of New York to modify the use regulations of Section 42-00 to allow residential uses (Use Group 2 uses) on portions of the ground floor, cellar and sub-cellar, and on the 2nd – 24th floors, and the bulk regulations of Section 43-28 (Special Provisions for Through Lots), Section 43-313 (For zoning lots with multiple rear lot lines), and Section 43-43 (Maximum Height of Front Wall and Required Front Setbacks), to facilitate the construction of a mixed-use building with a 10 story segment and a 24 story segment on property located at 39-41 West 23rd Street a.k.a. 20-22 West 24th Street (Block 825, Lots 20, 60, and 1001-1005), in an M1-6 District, within the Ladies' Mile Historic District (ULURP No. C 140404 ZSM), Community District 5, Borough of Manhattan (the "Application");

WHEREAS, the application is related to Application C 140405 ZSM (L.U. No. 210), a special permit pursuant to Sections 13-45 and 13-451 to allow an accessory parking garage containing up to 50 spaces to be located within the building;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the City Charter;

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 74-711(b) of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on April 23, 2015;

WHEREAS, the Council has considered the land use and environmental implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues and the revised negative declaration (CEQR No. 14DCP167M) issued on March 30, 2015 (the "Revised Negative Declaration");

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Revised Negative Declaration.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, C 140404 ZSM, incorporated by reference herein, the Council approves the Decision with the following modifications and subject to the following conditions:

Matter in **bold double-underline** is added by the City Council.

1. The property that is the subject of this application (C 140404 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following approved plans, prepared by Cook Fox Architects, LLP, filed with this application and incorporated in this resolution:

| <u>Drawing No.</u> | <u>Title</u> | <u>Last Date Revised</u> |
|--------------------|------------------------------------|--------------------------|
| A-005 | Zoning Analysis | 3/24/2015 |
| A-006 | Site Plan | 9/5/2014 |
| A-007 | Building Encroachment Plan Diagram | 9/5/2014 |
| A-100 | Floor Plan Subcellar Cellar | 9/5/2014 |
| A-101 | Ground Floor Plan | 9/5/2014 |
| A-200 | Building Section | 9/5/2014 |
| A-201 | Building Section | 9/5/2014 |
| A-202 | Building Section | 9/5/2014 |
| A-203 | Building Section | 9/5/2014 |

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.

3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.

4. Development pursuant to this resolution shall be allowed after the restrictive declaration, executed by 39 West 23rd Street, LLC and the Board of Managers of the

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35 West 23rd Street Condominium, as modified by the New York City Council as of May 7, 2015, the terms of which are hereby incorporated in this resolution, shall have been recorded and filed in the Office of the Register of the City of New York, County of New York.

5. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.

6. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution and the restrictive declaration whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted or of the restrictive declaration.

7. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER, VINCENT M. IGNIZIO; Committee on Land Use, May 7, 2015.

On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 210 & Res. No. 729

Report of the Committee on Land Use in favor of approving Application No. C 140405 ZSM submitted by 39 West 23rd Street, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special

permit pursuant to Section 13-45 and 13-451 of the Zoning Resolution to allow an automated accessory parking facility with a maximum capacity of 50 spaces on portions of the ground floor and sub cellar of a proposed mixed use building on property located at 39-41 West 23rd Street a.k.a. 20-22 West 24th Street, Borough of Manhattan, Community Board 5, Council District 3. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to Charter Section 197-d(b)(2) or called up by vote of the Council pursuant to Charter Section 197-d(b)(3).

The Committee on Land Use, to which the annexed Land Use item was referred on April 16, 2015 (Minutes, page 1309) and was coupled in committee with the resolution shown below before being sent to the City Planning Commission by the Council for further review on May 14, 2015 (Minutes, page 1714), respectfully

REPORTS:

(For text of the original report, please see the Report of the Committee on Land Use for LU No. 210 printed in the Minutes of the Stated Meeting of May 14, 2015)

In connection herewith, Council Members Greenfield and Weprin offered the following resolution:

Res. No. 729

Resolution approving the decision of the City Planning Commission on ULURP No. C 140405 ZSM (L.U. No. 210), for the grant of a special permit pursuant to Sections 13-45 (Special Permits for additional parking spaces) and 13-451 (Additional parking spaces for residential growth) of the Zoning Resolution to allow an automated accessory parking facility with a maximum capacity of 50 spaces on portions of the ground floor and sub-cellar of a proposed mixed-use building on property located at 39-41 West 23rd Street a.k.a. 20-22 West 24th Street (Block 825, Lots 20, 60 and 1001-1005) in an M1-6 District, within the Ladies' Mile Historic District in Community District 5, Borough of Manhattan.

By Council Members Greenfield and Weprin.

WHEREAS, the City Planning Commission filed with the Council on March 30, 2015 its decision dated March 30, 2015 (the "Decision"), on the application submitted by 39 West 23rd Street, LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Sections 13-45 (Special Permits for additional parking spaces) and 13-451 (Additional parking spaces for residential growth) of the Zoning Resolution to allow an automated accessory parking facility with a maximum capacity of 50 spaces on portions of the

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ground floor and sub-cellar of a proposed mixed-use building on property located at 39-41 West 23rd Street a.k.a. 20-22 West 24th Street (Block 825, Lots 20, 60 and 1001-1005) in an M1-6 District, within the Ladies' Mile Historic District (ULURP No. C 140405 ZSM), Community District 5, Borough of Manhattan (the "Application");

WHEREAS, the application is related to Application C 140404 ZSM (L.U. No. 209), a special permit pursuant to Section 74-711 of the Zoning Resolution to modify the use regulations of Section 42-00 to allow residential uses (Use Group 2 uses) on portions of the ground floor, cellar and sub-cellar, and on the 2nd – 24th floors; and the bulk regulations of Section 43-28 (Special Provisions for Through Lots), Section 43-313 (For zoning lots with multiple rear lot lines), and Section 43-43 (Maximum Height of Front Wall and Required Front Setbacks);

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the City Charter;

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 13-45 of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on April 23, 2015;

WHEREAS, the Council has considered the land use and environmental implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues and the revised negative declaration (CEQR No. 14DCP167M) issued on March 30, 2015 (the "Revised Negative Declaration");

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Revised Negative Declaration.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, C 140405 ZSM, incorporated by reference herein, the Council approves the Decision subject to the following conditions:

1. The property that is the subject of this application (C 140405 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by Cook Fox Architects, LLP, filed with this application and incorporated in this resolution:

| <u>Drawing No.</u> | <u>Title</u> | <u>Last Date Revised</u> |
|--------------------|---------------------------|--------------------------|
| A-400 | Ground Floor Plan | 9/5/2014 |
| A-401 | Floor Plan – Sub Cellar | 9/5/2014 |
| A-402 | Enlarged Building Section | 9/5/2014 |

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.

3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.

4. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.

5. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted.

6. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city or such employees or agents failure to act in accordance with the provisions of this special permit.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER, VINCENT M. IGNIZIO; Committee on Land Use, May 7, 2015.

On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 211 & Res. No. 730

Report of the Committee on Land Use in favor of approving Application No. N 150109 ZRK submitted by the Cherry Hill Gourmet Market pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Article IX, Chapter 4 (Special Sheepshead Bay District), Borough of Brooklyn, Community Board 15, Council District 48.

The Committee on Land Use, to which the annexed Land Use item was referred on April 16, 2015 (Minutes, page 1309) and was coupled in committee with the resolution shown below before being sent to the City Planning Commission by the Council for further review on May 14, 2015 (Minutes, page 1715), respectfully

REPORTS:

(For text of the original report, please see the Report of the Committee on Land Use for LU No. 211 printed in the Minutes of the Stated Meeting of May 14, 2015)

FILING OF MODIFICATION WITH THE CITY PLANNING COMMISSION

The Committee's proposed modifications were filed with the City Planning Commission on May 8, 2015. The City Planning Commission filed a letter dated May 18, 2015, with the Council on May 20, 2015, indicating that the proposed modifications are not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

In connection herewith, Council Members Greenfield and Weprin offered the following resolution:

Res. No. 730

Resolution approving with modifications the decision of the City Planning Commission on Application No. N 150109 ZRK, for an amendment of the Zoning Resolution of the City of New York, concerning use regulations in Article IX, Chapter 4 (Special Sheepshead Bay District), Community District 15, Borough of Brooklyn (L.U. No. 211).

By Council Members Greenfield and Weprin.

WHEREAS, the City Planning Commission filed with the Council on March 30, 2015 its decision dated March 30, 2015 (the "Decision"), pursuant to Section 201 of the New York City Charter, concerning use regulations in Article IX, Chapter 4 (Special Sheepshead Bay District) (Application No. N 150109 ZRK), Community District 15, Borough of Brooklyn (the "Application");

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on May 5, 2015;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the revised negative declaration (CEQR No. 15DCP058K) issued on March 30, 2015 (the "Revised Negative Declaration");

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Revised Negative Declaration.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, N 150109 ZRK, incorporated by reference herein, the Council approves the Decision with the following modifications.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter in underline is new, to be added;

Matter in ~~strikeout~~ is old, to be deleted;

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Matter in ~~double-strikeout~~ is old, deleted by the Council;

Matter in **bold double-underline** is new, added by the Council;

Matter within # # is defined in Section 12-10;

* * * indicates where unchanged text appears in the Zoning Resolution

Article IX

SPECIAL PURPOSE DISTRICTS

* * *

Chapter 4

Special Sheepshead Bay District

* * *

94-06

Special Use Regulations

In order to preserve the character of the area and to encourage waterfront and related #uses#, special limitations are imposed on the location, size and kinds of #uses# permitted within the Special District as set forth in this Section.

~~(2/2/11)~~

94-061

Permitted residential, community facility and commercial U uses ~~permitted by right~~

(a) #Residential# and #community facility uses#

#Uses# listed in Use Groups 1, 2, 3 and 4 shall be allowed anywhere within the Special District, except as set forth in Section 94-065 (Restriction on ground floor use).

(b) #Commercial uses#

In ~~a~~ Areas A, B, C, D and E, as indicated in Appendix A (District Map) of this Chapter, only those #commercial uses# ~~shall be limited to those listed in Section~~

94-062 (Use Group SB), and those #uses# listed in Section 62-211 (Water-Dependent (WD) uses) from Use Groups 6, 7, 9 and 14, ~~except~~

~~for~~ and those #uses# permitted under pursuant to Section 94-063 (Uses permitted by special permit), shall be allowed. In addition, in Area B, a food store, as listed in Section 32-15 (Use Group 6), shall also be allowed on a #zoning lot# existing on (effective date of amendment) **for a period of ten (10) years from (effective date of amendment).** Such food store shall be limited to one such establishment per #zoning lot# and shall be limited to 15,000 square feet of #floor area# utilized for the sale of food and non-food grocery products, and further such establishment shall be limited to an additional 6,500 square feet of #floor area# for #accessory# office and storage space. There shall be no limitation on the amount of #floor area# utilized for eating or drinking places as listed in Use Group SB, pursuant to Section 94-062.

In Area F, only #commercial uses# ~~permitted by~~ listed in Use Group 6 and those listed in Section 62-211 from Use Groups 6, 7, 9 and 14 shall be allowed within the underlying #Commercial Districts# ~~boundaries~~.

In Area G, only #commercial uses# ~~permitted by~~ listed in Use Groups 6, 7, 8 and 9 and those listed in Section 62-211 from Use Groups 6, 7, 9 and 14 shall be allowed within the underlying #Commercial Districts# ~~boundaries~~.

In Area H, except for #uses# ~~permitted under~~ pursuant to Section 94-063, #commercial uses# shall be limited to those listed in Section 62-211 from Use Groups 6, 7, 9 and 14 and the following #uses#:

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, RUBEN WILLS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER, VINCENT M. IGNIZIO; Committee on Land Use, May 21, 2015.

On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

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Resolution approving various persons Commissioners of Deeds

By the Presiding Officer –

Resolved, that the following named persons be and hereby are appointed Commissioners of Deeds for a term of two years:

Approved New Applicant's Report

| <u>Name</u> | <u>Address</u> | <u>District #</u> |
|---------------------|--|-------------------|
| Jason Morales | 65 Pike Street #10A New York, N.Y. 10002 | 1 |
| Margaret S. Devlin | 125-09 9th Avenue Queens, N.Y. 11356 | 19 |
| Vairon Inamagua | 25-57 90th Street Queens, N.Y. 11369 | 22 |
| Christina Schneider | 77-57 76th Street Queens, N.Y. 11385 | 30 |
| Monique Mangum | 147-44 225th Street Queens, N.Y. 11413 | 31 |
| Harry Feigen | 477 St. Johns Place #3B Brooklyn, N.Y. 11238 | 35 |
| John M. Johnston | 346 Coney Island Avenue #105 Brooklyn, N.Y. 11218 | 39 |
| Vanessa Ramirez | 1296 Rockland Avenue Staten Island, N.Y. 10314 | 51 |

Approved New Applicants and Reapplicants

| <u>Name</u> | <u>Address</u> | <u>District #</u> |
|-------------------|---|-------------------|
| Lin Yong Luo | 207 Madison Street #16 New York, N.Y. 10002 | 1 |
| Diane Blair | 940 St. Nicholas Avenue #1K New York, N.Y. 10032 | 7 |
| Natalie O. Spence | 3301 Palmer Avenue Bronx, N.Y. 10475 | 12 |
| Susan Nwosu | 1730 Montgomery Avenue #4E Bronx, N.Y. 10453 | 14 |
| Cesar A. Riofrio | 1369 Leland Avenue Bronx, N.Y. 10460 | 18 |

| | 1949 | May 27, 2015 |
|---------------------------|--|--------------|
| Boris Geker | 259-10 62nd Avenue Queens, N.Y. 11362 | 23 |
| Walter Gottschalk | 38-20 47th Avenue Long Island City, N.Y. 11101 | 26 |
| Walter McNeil | 89-00 170th Street Jamaica, N.Y. 11432 | 27 |
| Susan Laino | 87-87 109th Street Richmond Hill, N.Y. 11418 | 28 |
| Carol McPherson | 257-45 149th Avenue Rosedale, N.Y. 11422 | 31 |
| Kim Best | 18 IA Halsey Street Brooklyn, N.Y. 11216 | 36 |
| Delores Crawford | 730 Gates Avenue #2B Brooklyn, N.Y. 11221 | 36 |
| Linda Whitaker | 1096 Park Place Brooklyn, N.Y. 11213 | 36 |
| Diane Alvarez | 125 Richmond Street Brooklyn, N.Y. 11208 | 37 |
| Elent Mantoulides | 1074 64th Street Brooklyn, N.Y. 11219 | 38 |
| Lorraine Richards-Hanbeny | 357 Wortman Avenue #4A Brooklyn, N.Y. 11207 | 42 |
| Donald Frangipani | 6912 17th Avenue Brooklyn, N.Y. 11214 | 43 |
| Ian A. Petersen | 7312 Narrows Avenue Brooklyn, N.Y. 11209 | 43 |
| Patricia Anne Rizzo | 1757 Bath Avenue #2 Brooklyn, N.Y. 11214 | 43 |
| Barry Spitzer | 1624 49th Street Brooklyn, N.Y. 11204 | 44 |
| Jean Herald Similien | 3420 Avenue H #3C Brooklyn, N.Y. 11210 | 45 |
| Carole Wilson | 638 East 59th Street Brooklyn, N.Y. 11234 | 45 |
| Marissa Gangichiodo | 1652 East 56th Street Brooklyn, N.Y. 11234 | 46 |
| Shermaine Gressom | 2075 Rockaway Parkway #6G Brooklyn, N.Y. 11236 | 46 |
| Sara L. Beden | 165 St. Marks Place #3F Staten Island, N.Y. 10301 | 49 |
| Nickcole Danielle Rivera | 185 St. Marks Place #12B | 49 |

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| | | |
|-----------------|---|----|
| Gary A. Tucker | Staten Island, N.Y. 10301 105 Peare Place Staten Island, N.Y. 10312 | 51 |
| Julia Zimmerman | 35 Billings Street Staten Island, N.Y. 10312 | 51 |

On motion of the Speaker (Council Member Mark-Viverito), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

ROLL CALL ON GENERAL ORDERS FOR THE DAY
(Items Coupled on General Order Calendar)

- | | | |
|------|---------------------------------|---|
| (1) | M 289 & Res 717 - | Karen Redlener - As a member of the New York City Board of Health. |
| (2) | M 290 & Res 718 - | Dr. Ramanathan Raju - As a member of the New York City Board of Health. |
| (3) | M 291 & Res 719 - | Rose M. Gil - As a member of the New York City Board of Health. |
| (4) | M 292 & Res 720 - | William Aguado - As a member of the New York City Taxi and Limousine Commission. |
| (5) | M 294 & Res 721 - | Stanley Richards - As a member of the New York City Board of Correction. |
| (6) | M 295 & Res 722 - | Patricia Machir - As a member of the New York City Youth Board. |
| (7) | Int 198-A - | Side guards. |
| (8) | Int 315-A - | Truck route compliance study. |
| (9) | Int 440-A - | Health services in city correctional facilities. |
| (10) | Int 511-A - | Student demographics in community school districts and high schools. |
| (11) | Int 641-A - | Pedestrian and bicyclist safety on truck routes. |
| (12) | Int 736-A - | Office of civil justice. |
| (13) | Int 764 - | Amending the district plan of the Lower East Side business improvement district. |
| (14) | L.U. 197 & Res 723 - | App. N 150127 ZRM , Zoning Resolution, Manhattan, Community Districts 5 and 6, Council District 4. |

- (15) **L.U. 198 & Res 724 -** App. **C 140440 MMM**, City Map Amendment, Manhattan, Community Districts 5, Council District 4.
- (16) **L.U. 199 & Res 725 -** App. **C 150128 ZSM**, Zoning Resolution, Manhattan, Community Districts 5 and 6, Council District 4.
- (17) **L.U. 200 & Res 726 -** App. **C 150129 ZSM**, Zoning Resolution, Manhattan, Community Districts 5 and 6, Council District 4.
- (18) **L.U. 201 & Res 727 -** App. **C 150130(A) ZSM**, Zoning Resolution, Manhattan, Community Districts 5 and 6, Council District 4.
- (19) **L.U. 209 & Res 728 -** App. **C 140404 ZSM**, Zoning Resolution, Manhattan, Community Board 5, Council District 3.
- (20) **L.U. 210 & Res 729 -** App. **C 140405 ZSM**, Zoning Resolution, Manhattan, Community Board 5, Council District 3.
- (21) **L.U. 211 & Res 730 -** App. **N 150109 ZRK**, Zoning Resolution, Brooklyn, Community Board 15, Council District 48.
- (22) **L.U. 224 & Res 712 -** App. **20155636 PNK**, Maritime Lease, Brooklyn, Community Board 7, Council District 38.
- (23) **L.U. 225 & Res 713 -** App. **20155570 HAX**, Real Property Tax Exemption, Bronx, Community Boards 2 and 5, Council Districts 14 and 17.
- (24) **L.U. 226 & Res 714 -** App. **20155631 HAX**, Real Property Tax Exemption, Bronx, Community Board 2, Council District 17.
- (25) **L.U. 227 & Res 715 -** App. **20155632 HAX**, Real Property Tax Exemption, Bronx, Community Board 3, Council District 17.
- (26) **L.U. 228 & Res 716 -** App. **20155635 HAQ**, Real Property Tax Exemption, Queens, Community Board 14, Council District 31.

- (27) **Resolution approving various persons Commissioners of Deeds.**

The Public Advocate (Ms. James) put the question whether the Council would agree with and adopt such reports which were decided in the **affirmative** by the following vote:

Affirmative – Arroyo, Barron, Cabrera, Chin, Cohen, Constantinides, Cornegy, Crowley, Cumbo, Deutsch, Dickens, Dromm, Espinal, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Johnson, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Matteo, Mealy, Menchaca, Mendez, Miller, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Torres, Treyger, Ulrich, Vacca, Vallone, Williams, Wills, Ignizio, Van Bramer, and the Speaker (Council Member Mark-Viverito) – **49**.

The General Order vote recorded for this Stated Meeting was 49-0-0 as shown above with the exception of the votes for the following legislative items:

The following was the vote recorded for **LU No 209 & Res No. 728 and LU No. 210 & Res No. 729:**

Affirmative – Arroyo, Barron, Cabrera, Chin, Cohen, Constantinides, Cornegy, Crowley, Cumbo, Deutsch, Dickens, Dromm, Espinal, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Johnson, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Matteo, Mealy, Menchaca, Mendez, Miller, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Torres, Treyger, Ulrich, Vacca, Vallone, Wills, Ignizio, Van Bramer, and the Speaker (Council Member Mark-Viverito) – **48**.

Abstention – Williams – **1**.

The following Introductions were sent to the Mayor for his consideration and approval: Int Nos. 198-A, 315-A, 440-A, 511-A, 641-A, 736-A, and 764.

At this point, the Speaker (Council Member Mark-Viverito) recognized a special guest who was seated by the front dais in the Council Chambers: Carmen Yulin Cruz Soto, the Mayor of San Juan, Puerto Rico. The floor was yielded to Mayor Cruz Soto who spoke briefly to all assembled. Also recognized were members of her staff: Inez Carmen, Maxino Colona, and Julina Contaro. The Public Advocate (Ms. James) welcomed Mayor Cruz Soto to the City of New York as well.

For **Introduction and Reading of Bills**, see the material following the **Resolutions** section below:

RESOLUTIONS

Presented for voice-vote

The following are the respective Committee Reports for each of the Resolutions referred to the Council for a voice-vote pursuant to Rule 8.50 of the Council:

Report for voice-vote Res. No. 282-A

Report of the Committee on Mental Health, Developmental Disability, Alcoholism, Substance Abuse and Disability Services in favor of approving, as amended, a Resolution calling upon the New York State Legislature to pass, and the Governor to sign, S. 4748 and A. 5565A, legislation increasing the income threshold for the senior citizen homeowners' exemption program.

The Committee on Mental Health, Developmental Disability, Alcoholism, Substance Abuse and Disability Services, to which the annexed amended resolution was referred on June 11, 2014 (Minutes, page 2070), respectfully

REPORTS:

Introduction

On May 27, 2015 the Committee on Mental Health, Developmental Disabilities, Alcoholism, Drug Abuse, and Disability Services, chaired by Council Member Andrew Cohen, will hold a hearing on Proposed Resolution 282-A, "a resolution calling upon the New York State Legislature to pass, and the Governor to sign, legislation increasing the income threshold for the senior citizen homeowners' exemption program" and Proposed Resolution 410-A, a resolution calling upon the New York State Legislature to pass, and the Governor to sign, legislation increasing

the income threshold for the disabled homeowners' exemption program." This will be the second hearing on these resolutions. The first hearing was held on May 20, 2015. At the hearing advocates from the Jewish Association Serving the Aging (JASA) and the Council of New York Cooperatives and Condominiums testified.

Background

New York State authorizes the New York City to provide certain senior citizens and person with disabilities property tax and rent increase exemption that help them remain in their homes. The Senior Citizen Rent Increase Exemption (SCRIE) program was instituted to shield low income seniors, age 62 years and older, from rising housing costs by offering landlords property tax abatement in exchange for freezing the rent of eligible senior tenants. The Senior Citizen Homeowners' Exemption (SCHE) program is a property tax exemption for those who are age 65 and over who meet certain income requirements. The Disability Rent Increase Exemption (DRIE) program exempts those that receive State or Federal disability related assistance from future rent increases if they meet certain income requirements. Lastly, the Disabled Homeowners' Exemption (DHE) program allows certain disabled owners of one, two, and three family homes, condominium, or cooperative apartments a reduction on the assessed value of their home of between five and fifty percent.

The DHE and SCHE programs income requirements are not comparable to the DRIE and SCRIE programs. In fact, the DHE and SCHE program requires that the disabled or senior citizen homeowner's income not exceed \$37,339. On the other hand, SCRIE requires that the senior citizen renter's income not exceed \$50,000 to be eligible for the program.

The State authorized local governments to expand the eligibility requirements of SCRIE in its 2014-2015 Executive Budget. It has not provided for adjustments to the income requirements for the DHE or SCHE programs.

Proposed Res. No. 282-A

Proposed Res. No. 282-A would indicate that New York State law authorizes the City of New York to provide senior citizens and person with disabilities property tax and rent increase exemption benefits that help them remain in affordable housing. The resolution would note that in 1970 New York City instituted the senior rent increase exemption (SCRIE) program to shield low income seniors from rising housing costs by offering landlords property tax abatement in exchange for freezing the rent of eligible senior tenants. The resolution would also note that the eligibility requirements for SCRIE are that the tenant must be at least 62 years of age, have a total income that does not exceed a maximum amount, \$50,000, authorized by State law, and reside in a rent controlled or rent stabilized apartment, rent regulated hotel, or an apartment owned by Mitchell-Lama development, and spend more than one-third of their monthly income on rent.

Proposed Res. No. 282-A would point out the eligibility requirements for SCHE program which are that the homeowner must be age 65 and over and the combined

income of all owners of the property and their spouses cannot exceed \$37,399, and the applicant must maintain the property as their primary residence. The resolution would also point out that New York States 2014-2015 budget authorized localities to adopt a local law to increase the maximum income level qualifying for SCRIE from \$29,000 to \$50,000 for a period of two years. The resolution would also point out that the State Budget did not provide authorization for increases to the income limits for the SCHE program.

Proposed Resolution 282-A would emphasize that even minor cost of living adjustments such as Social Security and disability assistance can cause senior homeowners to lose their SCHE benefit. The resolution would also emphasize that SCHE recipients are no less deserving of regular adjustments to income requirements of such programs than those receiving SCRIE benefits. The resolution would emphasize that there is pending legislation, S. 4748 and A. 5565A, which would amend the income threshold for the SCHE program.

Finally, the resolution would call upon the New York State Legislature to pass, and the Governor to sign S. 4748 and A. 5565A, legislation increasing the income requirement for the senior citizen homeowners' exemption program.

Proposed Res. No. 410-A

Proposed Res. No. 410-A would indicate that New York State law authorizes the City of New York to provide homeowners with disabilities property tax exemption benefits that help them remain in affordable housing if their income is limited because of their disability. The resolution would note that under the disabled homeowners' exemption (DHE) program, certain disabled owners of one, two, and three family homes, condominiums, or cooperative apartments may be eligible for a reduction on the assessed value of their home between five and fifty percent. The resolution would also note that in order to qualify for DHE, a property must be owned by at least one person with a physical or mental disability, or be owned by spouses, registered domestic partners, or siblings, at least one of whom has a disability, and the combined income of all of the owners cannot exceed \$37,399.

Proposed Res. No. 410 would point out that property owners are only eligible for the largest benefit under the DHE program, a fifty percent property tax exemption, if their income does not exceed \$29,000. The resolution would also point out that while the State authorized local governments to expand the eligibility requirements of the SCRIE program in its 2014-2015 Executive Budget, it has not provided adjustments to the income requirements for the DHE program since 2006.

Proposed Res. No. 410 would emphasize that even minor increases income, such as cost-of-living adjustments to entitlement programs such as Social Security and disability assistance can cause homeowners with disabilities to lose the maximum DHE benefit. The resolution would also emphasize that those enrolled in DHE are no less deserving of regular adjustments to the program's income requirements than those receiving SCRIE benefits. The resolution would also emphasize that there is pending State legislation, S. 4748 and A. 5565A, which would amend the income requirement for the DHE program.

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Finally, Proposed Res. No. 410 would assert that the Council of the City of New York calls upon the New York State Legislature to pass, and the Governor to sign S. 4748 and A. 5565A, legislation increasing the income threshold for the disabled homeowners' exemption program.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Res. No. 282-A:)

Res. No. 282-A

Resolution calling upon the New York State Legislature to pass, and the Governor to sign, S. 4748 and A. 5565A, legislation increasing the income threshold for the senior citizen homeowners' exemption program.

By Council Members Rosenthal, Vacca, Arroyo, Chin, Cohen, Constantinides, Dickens, Eugene, Ferreras, Gentile, Johnson, Mendez, Reynoso, Rodriguez, Rose, Vallone, Dromm, Koslowitz, Wills, Kallos, Lander and Van Bramer.

Whereas, New York State law authorizes the City of New York to provide certain senior citizens and persons with disabilities property tax and rent increase exemption benefits that help them remain in affordable housing; and

Whereas, In 1970, New York City instituted the senior citizen rent increase exemption (SCRIE) program to shield low-income seniors from rising housing costs by offering landlords a property tax abatement in exchange for freezing the rent of eligible senior tenants; and

Whereas, Tenants are eligible for the SCRIE program if they are at least 62 years old, have a total household income that does not exceed a maximum amount authorized by State law, reside in a rent controlled or rent stabilized apartment, rent regulated hotel, or an apartment owned by a Mitchell-Lama development, and spend more than one-third of their monthly income on rent; and

Whereas, Under the senior citizen homeowners' exemption (SCHE) program, those age 65 and over are eligible for a property tax exemption if the combined income of all owners of the property and their spouses does not exceed \$37,399 and the applicant maintains the property as their primary residence; and

Whereas, New York State's 2014-2015 Executive Budget contained an authorization for localities in the State to adopt a local law to increase the maximum income level qualifying for SCRIE from \$29,000 to \$50,000 for a period of two years beginning July 1, 2014; and

Whereas, In May 2014, the Council adopted legislation implementing the income threshold increase for SCRIE; and

Whereas, The State Budget did not provide authorization for increases to the income limits for the SCHE program; and

Whereas, Even minor cost-of-living adjustments to entitlement programs such as Social Security and disability assistance can cause senior citizen homeowners to lose their SCHE benefit; and

Whereas, SCHE recipients are no less deserving of regular adjustments to income requirements of such programs than those receiving SCRIE benefits; and

Whereas, in February 2015, New York State Assemblyman Brian Kavanagh introduced A. 5565A, and in April 2015, New York State Senator Diane Savino introduced S. 4748, legislation that would amend the provision related for the SCHE income threshold increases; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass, and the Governor to sign S. 4748 and A. 5565A, legislation increasing the income threshold for the senior citizen homeowners' exemption program.

ANDREW COHEN, *Chairperson*; ELIZABETH S. CROWLEY, RUBEN WILLS, COREY D. JOHNSON, PAUL A. VALLONE; Committee on Mental Health, Developmental Disability, Alcoholism, Substance Abuse and Disability Services, May 27, 2015.

Pursuant to Rule 8.50 of the Council, the Public Advocate (Ms. James) called for a voice vote. Hearing those in favor, the Public Advocate (Ms. James) declared the Resolution to be adopted.

Adopted unanimously by voice-vote.

Report for voice-vote Res. No. 410-A

Report of the Committee on Mental Health, Developmental Disability, Alcoholism, Substance Abuse and Disability Services in favor of approving, as amended, a Resolution calling upon the New York State Legislature to pass, and the Governor to sign S. 4748 and A. 5565A, legislation increasing the income threshold for the disabled homeowners' exemption program.

The Committee on Mental Health, Developmental Disability, Alcoholism, Substance Abuse and Disability Services, to which the annexed amended resolution was referred on September 10, 2014 (Minutes, page 3292), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Mental Health, Developmental Disability, Alcoholism, Substance Abuse and Disability Services for Res. No. 282-A printed in the Voice-Vote Resolutions section of these Minutes)

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Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Res. No. 410-A:)

Res. No. 410-A

Resolution calling upon the New York State Legislature to pass, and the Governor to sign S. 4748 and A. 5565A, legislation increasing the income threshold for the disabled homeowners' exemption program.

By Council Members Williams, Rosenthal, Arroyo, Deutsch, Dickens, Eugene, Gentile, Gibson, Johnson, Koo, Levine, Koslowitz, Cohen, Wills, Barron, Kallos, Lander and Van Bramer.

Whereas, New York State law authorizes the City of New York to provide homeowners with disabilities property tax exemption benefits that help them remain in affordable housing if their income is limited because of their disability; and

Whereas, Under the disabled homeowners' exemption (DHE) program, certain disabled owners of one, two, and three family homes, condominiums, or cooperative apartments may be eligible for a reduction on the assessed value of their home of between five and fifty percent; and

Whereas, In order to qualify for DHE, a property must be owned by at least one person with a physical or mental disability, or be owned by spouses, registered domestic partners, or siblings, at least one of whom has a disability; and

Whereas, In addition, the DHE program mandates that the income of all owners and their spouse or domestic partner cannot exceed \$37,399; and

Whereas, Property owners are only eligible for the largest benefit under the DHE program, a fifty percent property tax exemption, if their income does not exceed \$29,000; and

Whereas, While the State authorized local governments to expand the eligibility requirements of the senior citizen rent increase exemption (SCRIE) program in its 2014-2015 Executive Budget, it has not provided for adjustments to the income requirements for the DHE program since 2006, when the maximum income level for a fifty percent exemption was raised from \$24,000 to \$29,000 over a three-year period; and

Whereas, Even minor increases in income, such as cost-of-living adjustments to entitlement programs such as Social Security and disability assistance, can cause homeowners with disabilities to lose the maximum DHE benefit; and

Whereas, Those enrolled in DHE are no less deserving of regular adjustments to the program's income requirements than those receiving SCRIE benefits; and

Whereas, in February 2015, New York State Assemblyman Brian Kavanagh introduced A. 5565A, and in April 2015, New York State Senator Diane Savino introduced S. 4748, legislation that would amend the provision related for the SCHE income threshold increases; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass, and the Governor to sign S. 4748 and A. 5565A, legislation increasing the income threshold for the disabled homeowners' exemption program.

ANDREW COHEN, *Chairperson*; ELIZABETH S. CROWLEY, RUBEN WILLS, COREY D. JOHNSON, PAUL A. VALLONE; Committee on Mental Health, Developmental Disability, Alcoholism, Substance Abuse and Disability Services, May 27, 2015.

Pursuant to Rule 8.50 of the Council, the Public Advocate (Ms. James) called for a voice vote. Hearing those in favor, the Public Advocate (Ms. James) declared the Resolution to be adopted.

Adopted unanimously by voice-vote.

Report for voice-vote Res. No. 426-A

Report of the Committee on Aging in favor of approving, as amended, a Resolution calling upon the New York State Legislature to pass, and the Governor to sign S.4748 and A.5565A, legislation eliminating the sunset provisions related to income threshold increases for the senior citizen rent increase exemption and disability rent increase exemption programs.

The Committee on Aging, to which the annexed amended resolution was referred on October 7, 2014 (Minutes, page 3593), respectfully

REPORTS:

INTRODUCTION

On May 12, 2015, the Committee on Aging, chaired by Council Member Margaret Chin, will hold a second hearing on Proposed Res. No. 426-A, a Resolution calling upon the New York State Legislature to pass, and the Governor to sign S.4748 and A.5565A, legislation eliminating the sunset provisions related to income threshold increases for the senior citizen rent increase exemption and disability rent increase exemption programs. The Committee first heard this resolution on April 15, 2015. Those testifying at this first hearing included the New York City Department for the Aging (DFTA), advocates, and service providers. After the hearing, the resolution was amended to refer specifically to legislation pending in the State legislature, A. 5565A, introduced by New York State Assemblyman Brian Kavanagh, and S. 4748, introduced by New York State Senator Diane Savino, which would eliminate the sunset provisions for SCRIE and DRIE.

BACKGROUND

Senior Citizens Rent Increase Exemption (SCRIE)

The City of New York began the Senior Citizen Rent Increase Exemption (SCRIE) program in 1970.¹ The program was designed to offer qualifying senior citizens exemption from future rent increases, protecting low-income tenants residing in rent-regulated units. SCRIE was first administered by the Department of Housing Preservation and Development (HPD).² Later, this administration was split between DFTA for rent-controlled and rent-stabilized apartments, and HPD for Mitchell-Lama units.³ In September 2009, the Council enacted legislation which transferred administration of SCRIE for rent controlled and stabilized apartments from DFTA to DOF.⁴

To be eligible for the SCRIE program, an individual must be at least 62 years old, be the head of household as the primary tenant named on the lease/rent order or have been granted succession rights in a rent controlled, rent stabilized, or rent regulated hotel apartment, and spend more than one-third of their monthly income on rent.⁵ Additionally, the combined household income for eligible participants must be \$50,000 or less.⁶ Apartments ineligible for SCRIE include public housing units administered by the New York City Housing Authority (NYCHA), units partially or fully paid by a Section 8 voucher, non-rent regulated apartments (such as apartments in private homes and private cooperative buildings not subject to rent regulation), and apartments that are sublet (regardless of whether the apartment is rent-regulated).⁷

Currently, 52,171 households in New York City are benefitting from the SCRIE program.⁸ This includes 9,015 in the Bronx, 14,582 in Brooklyn, 17,212 in Manhattan, 10,995 in Queens, and 367 on Staten Island.⁹ The average SCRIE participant is 76.5 years old, has been in the program 9.1 years, and has an annual household income of \$16,504.¹⁰ Participants receive an average monthly benefit amount of \$250.¹¹

Disability Rent Increase Exemption (DRIE)

The Disability Rent Increase Exemption Program (DRIE) was established in New York City in 2005.¹² From its inception, the DOF has administered the DRIE program.

Eligible participants in DRIE must be at least 18 years old, and be named on the lease/rent order or have been granted succession rights in a rent controlled, rent stabilized, rent regulated hotel apartment or an apartment located in a building where the mortgage was federally insured under Section 213 of the National Housing Act¹³, owned by a Mitchell-Lama development, Limited Dividend housing company, Redevelopment Company or Housing Development Fund Corporation (HDFC) incorporated under New York State's Private Housing Finance Law.¹⁴ As with SCRIE, the applicant's combined household income must be \$50,000 or less, and the applicant must spend more than one-third of their monthly household income on rent. Finally, DRIE applicants must receive one of the following: Federal Supplemental Security Income (SSI), Federal Social Security Disability Insurance (SSDI), U.S.

Department of Veterans Affairs disability pension or compensation, or disability-related Medicaid if the applicant has received either SSI or SSDI.¹⁵

Currently, 9,148 households in New York City benefit from the DRIE program.¹⁶ This includes 2,821 in the Bronx, 2,051 in Brooklyn, 2,779 in Manhattan, 1,429 in Queens, and 68 in Staten Island.¹⁷ The average DRIE participant is 58 years old, has been in the program 4.4 years, and has an annual household income of \$13,516.¹⁸ Participants receive an average monthly benefit of \$189.¹⁹

Recent Legislative Changes to SCRIE and DRIE

On March 31, 2014, Governor Andrew Cuomo signed into law Chapter 55 of 2014 (“Chapter 55”), which increased the maximum income level qualifying for exemption from rent increases granted to certain senior citizens.²⁰ The State Law authorized localities throughout the State of New York to adopt a local law to increase the maximum income level qualifying for SCRIE from \$29,000 to \$50,000.²¹ Pursuant to Chapter 55, the City enacted Local Law 19 of 2014 in May 2014, which increased the maximum income level for SCRIE eligibility in New York City to \$50,000.²²

Shortly after the State legislature increased the income threshold for SCRIE to \$50,000, it did the same for DRIE, through Chapter 129 of 2014.²³ In August 2014, the Council passed, and Mayor de Blasio signed into law, legislation increasing the DRIE income limit to \$50,000 for qualifying New York City residents.²⁴ This change brought parity between the two programs, as prior to the income threshold increase, the SCRIE income limit had been \$29,000 while the DRIE income limit had been \$20,412 for single-person households and \$29,484 for households with more than two people in residence.²⁵ Additionally, the DRIE income limits had previously been tied to cost of living adjustments issued by the Social Security Administration rather than a strict amount in state and city laws.²⁶

However, the authorizing State laws, both Chapters 55 and 129, provide that the income threshold increases are valid for only a two year period, and will expire on July 1, 2016.²⁷ At that point, qualifying incomes will return to a maximum of \$29,000. The DOF estimated that the recent legislative changes increasing the income threshold limit increased the eligible population of SCRIE by 9% and of DRIE by 10%.²⁸ Approximately 13,403 households are eligible for SCRIE and DRIE under the new threshold, and would lose their eligibility were the increases allowed to sunset in July 2016.²⁹

ANALYSIS

Proposed Res. No. 426-A states that New York State law authorizes the City of New York to provide senior citizens and persons with disabilities rent increase exemption benefits that help them to remain in affordable housing. The resolution then notes that in 1970, New York City instituted the senior citizen rent increase exemption (SCRIE) program to protect low-income seniors from rising housing costs by offering landlords a property tax abatement in exchange for freezing the rent of

eligible seniors. Proposed Res. No. 426-A discusses that tenants are eligible for SCRIE if they are at least 62 years old, have a total household income that does not exceed a maximum amount authorized by State law, spend more than one-third of their monthly income on rent, and reside in a rent controlled or rent stabilized apartment, rent regulated hotel, or an apartment owned by a Mitchell-Lama development. The resolution then states that individuals receiving state or federal disability related assistance are eligible to be exempted from future rent increases under the disability rent increase exemption (DRIE) if they have a total household income that does not exceed a maximum amount authorized by State law, reside in a rent controlled or rent stabilized apartment, rent regulated hotel, or an apartment owned by a Mitchell-Lama development, and spend more than one-third of their monthly income on rent. The resolution notes that as of 2014, SCRIE and DRIE programs combined provide approximately 53,000 households with rent exemption benefits.

Proposed Res. No. 426-A next discusses that New York State's 2014-2015 Executive Budget contained an authorization for localities to adopt a local law to increase the maximum income level qualifying for SCRIE from \$29,000 to \$50,000 for a period of two years beginning July 1, 2014, and in July 2014, that the State Legislature and the Governor authorized an increase of the DRIE income threshold from \$20,412 for a single person household or \$29,484 for households comprised of two or more people to \$50,000 for all households (in order to mirror the SCRIE income threshold increase). The resolution states that the Council adopted and the City enacted legislation implementing the income threshold increase for both SCRIE and DRIE.

Next, the resolution notes that the authorizing State legislation increasing the income threshold increases for SCRIE and DRIE contain provisions that automatically repeal these increases on July 1, 2016. It cites the Department of Finance's finding that approximately 13,403 additional households became eligible for SCRIE and DRIE under the income threshold increase. The resolution then comments that the repeal of these income threshold increases would cause thousands of households in New York City to lose their SCRIE and DRIE benefits, threatening their ability to remain in their homes while paying affordable rents, and that eliminating the sunset provisions would provide stability to many of New York City's most vulnerable residents.

Finally, the resolution states that in February 2015, New York State Assemblyman Brian Kavanagh introduced A. 5565A, and in April 2015, New York State Senator Diane Savino introduced S.4748, legislation that would eliminate the sunset provisions for the SCRIE and DRIE programs.

The resolution thus calls upon the New York State Legislature to pass, and the Governor to sign A.5565A and S.4748, legislation eliminating the sunset provisions related to income threshold increases for the senior citizen rent increase exemption and disability rent increase exemption programs.

¹ N.Y.C. Department of Finance, *NYC Rent Freeze Program: A Guide for Tenants* 1 (February 4, 2015), available at <http://www1.nyc.gov/assets/finance/downloads/pdf/brochures/scriedrie brochure.pdf>.

² N.Y.C. Department of Finance, *Report on the New York City Rent Freeze Program: Identifying and Enrolling Eligible Households* 5 (December 10, 2014), available at

http://www1.nyc.gov/assets/finance/downloads/pdf/scrie/scrie_drie_report.pdf.

³ *Id.*

⁴ L.L. 44/2009.

⁵ N.Y.C. Administrative Code § 26-509.

⁶ *Id.*

⁷ N.Y.C. Department of Finance, Guide for Tenants, *supra* note 1, at 3.

⁸ N.Y.C. Department of Finance, Report on N.Y.C. Rent Freeze Program, *supra* note 2, at 8.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 5.

¹³ Cooperative housing projects where the mortgage has been insured by the United States Department of Housing and Urban Development (HUD). These mortgages have been made by private lending institutions on cooperative housing projects of five or more dwelling units to be occupied by members of nonprofit cooperative ownership housing corporations. U.S. Department of Housing and Urban Development, *Cooperative Housing (Section 213)*, available at <http://portal.hud.gov/hudportal/HUD?src=/hudprograms/cooph> (last accessed April 6, 2015)

¹⁴ N.Y.C. Department of Finance, Guide for Tenants, *supra* note 1, at 2.

¹⁵ N.Y.C. Administrative Code § 26-509.

¹⁶ N.Y.C. Department of Finance, Report on N.Y.C. Rent Freeze Program, *supra* note 2, at 8.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ 2014 Sess. Law News of N.Y. Ch. 55 (A. 8555-D) (McKINNEY'S)

²¹ *Id.*

²² L.L. 19/2014.

²³ 2014 Sess. Law News of N.Y. Ch. 129 (A. 9744) (McKINNEY'S)

²⁴ L.L. 39/2014.

²⁵ N.Y.C. Department of Finance, Report on N.Y.C. Rent Freeze Program, *supra* note 2, at 6.

²⁶ *Id.*

²⁷ 2014 Sess. Law News of N.Y. Ch. 55 (A. 8555-D) (McKINNEY'S)

²⁸ N.Y.C. Department of Finance, Report on N.Y.C. Rent Freeze Program, *supra* note 2, at 14.

²⁹ *Id.* at 15.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Res. No. 426-A:)

Res. No. 426-A

Resolution calling upon the New York State Legislature to pass, and the Governor to sign S.4748 and A.5565A, legislation eliminating the sunset provisions related to income threshold increases for the senior citizen rent increase exemption and disability rent increase exemption programs.

By Council Members Cohen, Rosenthal, Arroyo, Cabrera, Chin, Eugene, Gentile, Gibson, Johnson, Koo, Lander, Levine, Palma, Richards, Rose, Wills, Rodriguez, Koslowitz, Levin, Vallone, Deutsch, Miller, Menchaca, Van Bramer, Kallos, Williams and the Public Advocate (Ms. James).

Whereas, New York State law authorizes the City of New York to provide certain senior citizens and persons with disabilities rent increase exemption benefits that help these individuals remain in affordable housing; and

Whereas, In 1970, New York City instituted the senior citizen rent increase exemption (SCRIE) program to shield low-income seniors from rising housing costs by offering landlords a property tax abatement in exchange for freezing the rent of eligible senior tenants; and

Whereas, Tenants are eligible for the SCRIE program if they are at least 62 years old, have a total household income that does not exceed a maximum amount authorized by State law, reside in a rent controlled or rent stabilized apartment, rent regulated hotel, or an apartment owned by a Mitchell-Lama development, and spend more than one-third of their monthly income on rent; and

Whereas, Under the disability rent increase exemption (DRIE) program, individuals that receive State or federal disability related assistance are eligible to be exempted from future rent increases if they have a total household income that does not exceed a maximum amount authorized by State law, reside in a rent controlled or rent stabilized apartment, rent regulated hotel, or an apartment owned by a Mitchell-Lama development, and spend more than one-third of their monthly income on rent; and

Whereas, As of 2014, the SCRIE and DRIE programs combined provide rent exemption benefits to approximately 53,000 households in New York City; and

Whereas, New York State's 2014-2015 Executive Budget contained an authorization for localities in the State to adopt a local law to increase the maximum income level qualifying for SCRIE from \$29,000 to \$50,000 for a period of two years beginning July 1, 2014; and

Whereas, In July 2014, the State Legislature and the Governor authorized an increase of the DRIE income threshold from \$20,412 for a single-person household or \$29,484 for households comprised of two or more people to \$50,000 for all households, in order to mirror the SCRIE income threshold increase; and

Whereas, The Council adopted and the City enacted legislation implementing the income threshold increase for both SCRIE and DRIE; and

Whereas, The authorizing State legislation increasing the income threshold increases for SCRIE and DRIE contain provisions that automatically repeal such increases on July 1, 2016; and

Whereas, According to the New York City Department of Finance, approximately 13,403 additional households are eligible for SCRIE and DRIE under the new income threshold;

Whereas, The repeal of the income threshold increases would cause thousands of households in New York City to lose their SCRIE and DRIE benefits, threatening their ability to remain in their homes while paying affordable rents; and

Whereas, The elimination of these sunset provisions would provide stability to many of New York's most vulnerable residents;

Whereas, in February 2015, New York State Assemblyman Brian Kavanagh introduced A. 5565A, and in April 2015, New York State Senator Diane Savino introduced S. 4748, legislation that would eliminate the sunset provisions for the SCRIE and DRIE income threshold increases; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass, and the Governor to sign S. 4748 and A. 5565A, legislation

eliminating the sunset provisions related to income threshold increases for the senior citizen rent increase exemption and disability rent increase exemption programs.

MARGARET S. CHIN, *Chairperson*; MARIA del CARMEN ARROYO, KAREN KOSLOWITZ, DEBORAH L. ROSE, CHAIM M. DEUTSCH, MARK TREYGER, PAUL A. VALLONE; Committee on Aging, May 12 , 2015. *Other Council Members Attending: Rosenthal.*

Pursuant to Rule 8.50 of the Council, the Public Advocate (Ms. James) called for a voice vote. Hearing those in favor, the Public Advocate (Ms. James) declared the Resolution to be adopted.

Adopted unanimously by voice-vote.

Report for voice-vote Res. No. 453

Report of the Committee on Education in favor of approving a Resolution calling upon the New York City Department of Education to officially recognize the importance and benefits of school diversity and to set it as a priority when making decisions regarding admissions policies and practices, creation of new schools, school rezoning and other pertinent decisions and commit to having a strategy in each district for overcoming impediments to school diversity.

The Committee on Education, to which the annexed resolution was referred on October 22, 2014 (Minutes, page 3798), respectfully

REPORTS:

INTRODUCTION

On Thursday May 26, 2015, the City Council's Committee on Education, chaired by Council Member Daniel Dromm, will consider Resolution No. 453, calling upon the New York City Department of Education to officially recognize the importance and benefits of school diversity and to set it as a priority when making decisions regarding admissions policies and practices, creation of new schools, school rezoning and other pertinent decisions and commit to having a strategy in each district for overcoming impediments to school diversity.

The Committee held a previous hearing on this resolution on December 11, 2014.

Background

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Despite New York being home to a diverse population, according to a 2014 report by the Civil Rights Project of the University of California, Los Angeles (UCLA) entitled *New York State's Extreme School Segregation: Inequality, Inaction and a Damaged Future*, New York City New York City is home to the largest and one of the most segregated public school systems in the nation.¹ Additionally, according to a 2013 Economic Policy Institute (EPI) report entitled *For Public Schools, Segregation Then, Segregation Since*, "[t]oday, African American students are more isolated than they were 40 years ago, while most education policymakers and reformers have abandoned integration as a cause."²

A significant amount of research indicates that racial and economic diversity of schools is one of the few education reforms that is proven to improve the educational achievement and life opportunities of minority and low-income children systemically.

Resolution No. 453

Resolution No. 453 would note that 2014 marks the 60th anniversary year of the 1954 landmark United States Supreme Court decision in *Brown v. Board of Education*, which found that "separate educational facilities are inherently unequal" and banned separate public schools for black and white students. The Resolution would indicate that despite this landmark ruling, many schools and districts throughout the United States (U.S.) have been alleged to still be "separate" due, in part, to racially and economically isolated housing patterns in many areas. The Resolution would point out that according to a 2013 Economic Policy Institute (EPI) report entitled *For Public Schools, Segregation Then, Segregation Since*, "[t]oday, African American students are more isolated than they were 40 years ago, while most education policymakers and reformers have abandoned integration as a cause."

The Resolution would note that New York State has the most non-diverse schools in the country, according to a 2014 report by The Civil Rights Project of the University of California, Los Angeles (UCLA) entitled *New York State's Extreme School Segregation: Inequality, Inaction, and a Damaged Future*. The Resolution would indicate that according to the Civil Rights Project (CRP) report, in 2009, black and Latino students in the state had the highest concentration of public schools with less than 10% white enrollment, the lowest exposure to white students, and the most uneven distribution with white students across schools. The Resolution would note that heavily impacting New York State's ranking is New York City, home to the largest and one of the most non-diverse public school systems in the nation, according to the CRP report.

Resolution No. 453 would point out that in 2010, New York City students represented nearly 60% of the state's total black students, two-thirds of the total Asian and Latino students, but only 10% of white students. The Resolution would state that while the City's public-school population is diverse - currently more than 40% Hispanic, approximately 26% black, 15% white and 16% Asian - the distribution of students across schools is much less so. The Resolution would note that a 2012 New York Times analysis of schools data for the 2009-10 school year found that more than half the city's schools were at least 90% black and Hispanic.

The Resolution would indicate that furthermore, according to the U.S. Department of Education, in 2010, 93% of public schools in the Bronx, 71% in Brooklyn, 69% in Manhattan, 59% in Queens, and only 8% in Staten Island had less than 10% white students. Resolution No. 453 would state that additionally, a 2013 publication by the Independent Budget Office (IBO) found that, while lack of diversity exists at all levels of City schools, elementary schools are the least diverse and high schools the most diverse. The Resolution would indicate that a considerable body of research indicates that racial and economic diversity of schools is one of the few education reforms that is proven to improve the educational achievement and life opportunities of minority and low-income children systemically.

The Resolution would point out that this is primarily because the best way to ensure that public educational resources are equitably distributed among all children is to allow all children access to the same resources in the same schools. The Resolution would note that further, diverse schools promote better educational outcomes and provide benefits for all students. The Resolution would state that for example, research confirms that African-American and Hispanic students perform better on tests in schools that are diverse, while school diversity has no negative impact on the test scores of white students.

Resolution No. 453 would indicate that in addition, studies have found that prolonged contact with racially diverse students may have significant effects on students' complex thinking and a more diverse classroom environment encourages critical thinking in all students. The Resolution would note that attending diverse schools also improves high school graduation and college matriculation rates for minority students. The Resolution would state that beyond educational benefits, diverse schools provide other societal advantages, including improving cross-racial understanding and reducing racial prejudice. Resolution No. 453 would note that diverse schools also improve the potential for reducing residential lack of diversity. The Resolution would note that diverse schools are linked to a host of positive learning outcomes for white students as well, including the promotion of critical thinking and problem-solving skills and higher academic achievement.

The Resolution would state that attending diverse schools is also linked to social and psychological advantages for white students, including more friendships across racial lines and higher levels of cultural competence, a critical advantage in the modern workplace and today's global economy. Resolution No. 453 would further state that in sum, diverse schools are essential to prepare all children to live and work together in a nation in which Blacks, Latinos, Asians, Native Americans, Pacific Islanders, and other non-Whites will collectively comprise the majority of the U.S. population by 2042. The Resolution would indicate that the Council of the City of New York calls upon the New York City Department of Education to officially recognize the importance and benefits of school diversity and to set it as a priority when making decisions regarding admissions policies and practices, creation of new schools, school rezoning and other pertinent decisions and commit to having a strategy in each district for overcoming impediments to school diversity.

¹ University of California, UCLA, The Civil Rights Project, New York State's Extreme School Segregation: Inequality, Inaction and a Damaged Future available at <http://civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/ny-norfler-report->

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placeholder/Kucsera-New-York-Extreme-Segregation-2014.pdf.

² Rothstein, R. For Public Schools, Segregation Then, Segregation Since, Education and the Unfinished March, Economic Policy Institute, August 27, 2013, available at <http://www.epi.org/publication/unfinished-march-public-school-segregation/> (accessed on 12/9/14).

Accordingly, this Committee recommends its adoption.

(The following is the text of Res. No. 453:)

Res. No. 453

Resolution calling upon the New York City Department of Education to officially recognize the importance and benefits of school diversity and to set it as a priority when making decisions regarding admissions policies and practices, creation of new schools, school rezoning and other pertinent decisions and commit to having a strategy in each district for overcoming impediments to school diversity.

By Council Members Torres, Barron, Lander, Dromm, Rodriguez, Levine, Treyger, Maisel, Chin, Richards, Reynoso, Rosenthal, Kallos, Levin, Rose, Williams, Deutsch, Eugene and Van Bramer.

Whereas, 2014 marks the 60th anniversary year of the 1954 landmark United States Supreme Court decision in *Brown v. Board of Education*, which found that "separate educational facilities are inherently unequal" and banned separate public schools for black and white students; and

Whereas, Despite this landmark ruling, many schools and districts throughout the United States (U.S.) have been alleged to still be "separate" due, in part, to racially and economically isolated housing patterns in many areas; and

Whereas, According to a 2013 Economic Policy Institute (EPI) report entitled *For Public Schools, Segregation Then, Segregation Since*, "[t]oday, African American students are more isolated than they were 40 years ago, while most education policymakers and reformers have abandoned integration as a cause"; and

Whereas, New York State has the most non-diverse schools in the country, according to a 2014 report by The Civil Rights Project of the University of California, Los Angeles (UCLA) entitled *New York State's Extreme School Segregation: Inequality, Inaction, and a Damaged Future*; and

Whereas, According to the Civil Rights Project (CRP) report, in 2009, black and Latino students in the state had the highest concentration of public schools with less than 10% white enrollment, the lowest exposure to white students, and the most uneven distribution with white students across schools; and

Whereas, Heavily impacting New York State's ranking is New York City, home to the largest and one of the most non-diverse public school systems in the nation, according to the CRP report; and

Whereas, In 2010, New York City students represented nearly 60% of the state's total black students, two-thirds of the total Asian and Latino students, but only 10% of white students; and

Whereas, While the City's public-school population is diverse - currently more than 40% Hispanic, approximately 26% black, 15% white and 16% Asian - the distribution of students across schools is much less so; and

Whereas, A 2012 *New York Times* analysis of schools data for the 2009-10 school year found that more than half the city's schools were at least 90% black and Hispanic; and

Whereas, Furthermore, according to the U.S. Department of Education, in 2010, 93% of public schools in the Bronx, 71% in Brooklyn, 69% in Manhattan, 59% in Queens, and only 8% in Staten Island had less than 10% white students; and

Whereas, Additionally, a 2013 publication by the Independent Budget Office (IBO) found that, while lack of diversity exists at all levels of City schools, elementary schools are the least diverse and high schools the most diverse; and

Whereas, A considerable body of research indicates that racial and economic diversity of schools is one of the few education reforms that is proven to improve the educational achievement and life opportunities of minority and low-income children systemically; and

Whereas, This is primarily because the best way to ensure that public educational resources are equitably distributed among all children is to allow all children access to the same resources in the same schools; and

Whereas, Further, diverse schools promote better educational outcomes and provide benefits for all students; and

Whereas, For example, research confirms that African-American and Hispanic students perform better on tests in schools that are diverse, while school diversity has no negative impact on the test scores of white students; and

Whereas, In addition, studies have found that prolonged contact with racially diverse students may have significant effects on students' complex thinking and a more diverse classroom environment encourages critical thinking in all students; and

Whereas, Attending diverse schools also improves high school graduation and college matriculation rates for minority students; and

Whereas, Beyond educational benefits, diverse schools provide other societal advantages, including improving cross-racial understanding and reducing racial prejudice; and

Whereas, Diverse schools also improve the potential for reducing residential lack of diversity; and

Whereas, Further, diverse schools are linked to a host of positive learning outcomes for white students as well, including the promotion of critical thinking and problem-solving skills and higher academic achievement; and

Whereas, Attending diverse schools is also linked to social and psychological advantages for white students, including more friendships across racial lines and higher levels of cultural competence, a critical advantage in the modern workplace and today's global economy; and

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Whereas, In sum, diverse schools are essential to prepare all children to live and work together in a nation in which Blacks, Latinos, Asians, Native Americans, Pacific Islanders, and other non-Whites will collectively comprise the majority of the U.S. population by 2042; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York City Department of Education to officially recognize the importance and benefits of school diversity and to set it as a priority when making decisions regarding admissions policies and practices, creation of new schools, school rezoning and other pertinent decisions and commit to having a strategy in each district for overcoming impediments to school diversity.

DANIEL DROMM, *Chairperson*; VINCENT J. GENTILE, DANIEL R. GARODNICK, MARGARET S. CHIN, STEPHEN T. LEVIN, DEBORAH L. ROSE, ANDY L. KING, INEZ D. BARRON, CHAIM M. DEUTSCH, MARK LEVINE, ALAN N. MAISEL, ANTONIO REYNOSO, MARK TREYGER; Committee on Education, Tuesday, May 26, 2015.

Pursuant to Rule 8.50 of the Council, the Public Advocate (Ms. James) called for a voice vote. Hearing those in favor, the Public Advocate (Ms. James) declared the Resolution to be adopted.

Adopted unanimously by voice-vote.

Report for voice-vote Res. No. 572

Report of the Committee on Finance in favor of approving a Resolution calling on the New York State Legislature to introduce and pass, and the Governor to sign, legislation which would provide a one hundred dollar tax credit to each taxpayer who adopts a dog or a cat from a shelter.

The Committee on Education, to which the annexed resolution was referred on February 12, 2015 (Minutes, page 467), respectfully

REPORTS:

Background

According to the American Society for the Prevention of Cruelty to Animals (“ASPCA”), millions of dogs and cats are euthanized in animal shelters across the country every year because they have not been adopted into loving homes. This is an issue in New York City, as well, where there is a great need to encourage more people to adopt dogs and cats from animal shelters. However, the cost of adopting a dog or cat can be burdensome for many families and may prevent some people willing to open their homes to a shelter dog or cat from doing so and, therefore, a tax credit to defray some of the initial costs could incentivize adoption of a pet from a shelter.

The numbers of available pets for adoption in New York City is striking. For example, at Animal Care and Control of New York City (“AC&C”), a not-for-profit rescue organization in New York City funded by a City contract, there was an intake of 29,809 dogs and cats between October 2013 and September 2014. AC&C is unique because it is the only rescue organization in New York City which will never turn away a dog or a cat that is brought to it. However, in that same time period, only 6,132 dogs and cats, or approximately 21% of the total intake, were adopted from AC&C by members of the public. As a result, there are still thousands or tens of thousands of dogs and cats available for adoption each year.

New York State could be a leader in animal welfare by becoming the first state in the country to provide a tax credit for the adoption of a dog or cat from an animal shelter. Similar legislation has been proposed in other jurisdictions, such as California, Maryland, and Pennsylvania, but it has not yet been approved in those states.

Encouraging New Yorkers to adopt pets is not only compassionate, but would also reduce the stress on the financial resources of the shelters that house and, unfortunately in many cases, are forced to euthanize these adoptable animals.

Owning pets also has important health and social benefits for the pet owner. Several studies funded by the National Institute for Health have demonstrated that pet ownership can improve cardiovascular health, lead to lower heart rate and blood pressure, increase the amount of exercise people get, and help people make and keep social connections.

Resolution 572

This Resolution would call upon the State Legislature to introduce and pass, and the Governor to sign, legislation which would provide a one hundred dollar tax credit to each taxpayer who adopts a dog or a cat from a shelter.

Accordingly, this Committee recommends its adoption.

(The following is the text of Res. No. 572:)

Res. No. 572

Resolution calling on the New York State Legislature to introduce and pass, and the Governor to sign, legislation which would provide a one hundred dollar tax credit to each taxpayer who adopts a dog or a cat from a shelter.

By Council Members Ferreras, Arroyo, Constantinides, Gentile, Gibson, Johnson, Rose, Vallone, Kallos, Lander, Van Bramer and Ignizio.

Whereas, According to the American Society for the Prevention of Cruelty to Animals (“ASPCA”), millions of dogs and cats are euthanized in animal shelters across the country every year because they have not been adopted into loving homes; and

Whereas, In New York City, there is a great need to encourage more people to adopt dogs and cats from animal shelters; and

Whereas, Animal Care and Control of New York City (“AC&C”) is a not-for-profit rescue organization in New York City funded by a City contract; and

Whereas, AC&C is unique because it is the only rescue organization in New York City which will never turn away a dog or a cat that is brought to it; and

Whereas, Between October 2013 and September 2014, AC&C had an intake of 29,809 dogs and cats; and

Whereas, In that same time period, 6,132 dogs and cats, or approximately 21% of the total intake, were adopted from AC&C by members of the public; and

Whereas, As a result, there are still thousands or tens of thousands of dogs and cats available for adoption each year; and

Whereas, New York State could be a leader in animal welfare by becoming the first state in the country to provide a tax credit for the adoption of a dog or cat from an animal shelter; and

Whereas, Similar legislation has been proposed in other jurisdictions, such as California, Maryland, and Pennsylvania, it has not yet been approved in those states; and

Whereas, Encouraging New Yorkers to adopt pets is not only compassionate, but would also reduce the stress on the financial resources of the shelters that house and, unfortunately in many cases, are forced to euthanize these adoptable animals; and

Whereas, Owning pets also has important health and social benefits for the pet owner; and

Whereas, Several studies funded by the National Institute for Health have demonstrated that pet ownership can improve cardiovascular health, lead to lower heart rate and blood pressure, increase the amount of exercise people get, and help people make and keep social connections; and

Whereas, The cost of adopting a dog or cat can be burdensome for many families and may prevent some people willing to open their homes to a shelter dog or cat from doing so; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to introduce and pass, and the Governor to sign, legislation which would provide a one hundred dollar tax credit to each taxpayer who adopts a dog or a cat from a shelter.

JULISSA FERRERAS-COPELAND, *Chairperson*; YDANIS A. RODRIGUEZ, JAMES VAN BRAMER, VANESSA L. GIBSON, ROBERT E. CORNEGY, Jr., LAURIE A. CUMBO, COREY D. JOHNSON, MARK LEVINE, HELEN K. ROSENTHAL, VINCENT M. IGNIZIO; Committee on Finance, May 27, 2015.

Pursuant to Rule 8.50 of the Council, the Public Advocate (Ms. James) called for a voice vote. Hearing those in favor, the Public Advocate (Ms. James) declared the Resolution to be adopted.

Adopted unanimously by voice-vote.

INTRODUCTION AND READING OF BILLS

Int. No. 796

By Council Members Constantinides, Johnson, Kallos, Arroyo, Chin, Cornegy, Espinal, Gentile, Koslowitz, Mendez, Richards and Cohen.

A Local Law to amend the New York city charter, in relation to requiring assistance if requested for individuals signing up to be organ donors as part of the agency-based voter registration program

Be it enacted by the Council as follows:

Section 1. The opening paragraph of section 1057-a of the New York city charter, as amended by local law number 52 for the year 2003, and as amended by local law 63 for the year 2014, is amended to read as follows:

Each agency designated as a participating agency under the provisions of this section shall implement and administer a program of distribution of voter registration forms pursuant to the provisions of this section. The following offices are hereby designated as participating voter registration agencies: The administration for children's services, the business integrity commission, the city clerk, the civilian complaint review board, the commission on human rights, community boards, the department of small business services, the department for the aging, the department of citywide administrative services, the department of city planning, the department of consumer affairs, the department of correction, the department of cultural affairs, the department of environmental protection, the department of finance, the department of health and mental hygiene, the department of homeless services, the department of housing preservation and development, the department of parks and recreation, the department of probation, the department of records and information services, the taxi and limousine commission, the department of transportation, the department of youth and community development, the fire department, and the human resources administration. Participating agencies shall include a mandate in all new or renewed agreements with those subcontractors having regular contact with the public in the daily administration of their business to follow the guidelines of this section. Such participating agencies shall be required to offer voter registration forms to all persons together with written applications for services, renewal or recertification for services and change of address relating to such services, in the same language as such application, renewal, recertification or change of address form where practicable; provided however that this section shall not apply to services that

must be provided to prevent actual or potential danger to the life, health, or safety of any individual or of the public. Such agencies shall provide assistance to applicants in completing voter registration forms, *including the section of the form allowing for registration to become an organ donor*, and in cases in which such an agency would provide assistance with its own form, such agency shall provide the same degree of assistance with regard to the voter registration [form] *and organ donor forms* as is provided with regard to the completion of its own form, if so requested. Such agencies shall also receive and transmit the completed application form from any applicants who request to have such form transmitted to the board of elections for the city of New York.

§ 2. Subdivision 2 of section 1057-a of the New York city charter, as added by local law number 29 for the year 2000, as renumbered by vote of the electors of the city of New York at a general election held on November 6, 2001, and as amended by local law 63 for the year 2014, is amended to read as follows:

2. Participating agencies shall provide and distribute voter registration forms to all persons together with written applications for services, renewal or recertification for services and change of address relating to such services, in the same language as such application, renewal, recertification or change of address form where practicable; provided however that this section shall not apply to services that must be provided to prevent actual or potential danger to life, health or safety of any individual or of the public. Participating agency staff shall provide assistance in completing these distributed voter registration forms, *including the section of the form allowing for registration to become an organ donor*, and in cases in which such an agency would provide assistance with its own form, such agency shall provide the same degree of assistance with regard to the voter registration [form] *and organ donor forms* as is provided with regard to the completion of its own form, if so requested. Participating agencies shall also include a voter registration form with any agency communication sent through the United States mail for the purpose of supplying clients with application, renewal or recertification for services and change of address relating to such services materials. Participating agencies shall also incorporate an opportunity to request a voter registration application into any application for services, renewal or recertification for services and change of address relating to such services provided on computer terminals, the World Wide Web or the Internet. Any person indicating that they wish to be sent a voter registration form, via computer terminals, the World Wide Web or the Internet shall be sent such a form by the participating agency, or directed to a bank on that system where such a form may be downloaded.

§ 3. This local law shall take effect 90 days after it shall have become law.

Referred to the Committee on Governmental Operations.

Int. No. 797

By Council Members Constantinides, Miller, Johnson, Arroyo, Chin and Rose.

A Local Law to amend the administrative code of the city of New York in relation to the provision of sick time earned by employees.

Be it enacted by the Council as follows:

Section 1. Paragraphs 1 and 2 of subdivision a of section 20-914 of the administrative code of the city of New York, as added by local law number 46 for the year 2013, is amended to read as follows:

1. such employee's mental or physical illness, injury or health condition or need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition, [or] need for preventive medical care, *or in order to donate a bodily organ*; or

2. care of a family member who needs medical diagnosis, care or treatment of a mental or physical illness, injury or health condition, [or] need for preventive medical care, *or in order to donate a bodily organ*; or

§ 2. This local law shall take effect immediately upon enactment into law.

Referred to the Committee on Civil Service and Labor.

Int. No. 798

By Council Members Cornegy, Chin, Constantinides, Cumbo, Eugene, Gentile, Gibson, Johnson, King, Koo, Koslowitz, Mendez, Rose, Rosenthal, Vallone and Cohen.

A Local Law to amend the administrative code of the city of New York, in relation to requiring notice to certain applicants for the senior citizen rent increase exemption and disability rent increase exemption programs.

Be it enacted by the Council as follows:

Section 1. Section 26-509 of the administrative code of the city of New York is amended to add new subdivision e to read as follows:

e. When the department of finance finds a tenant ineligible for a rent exemption order and the application submitted by such tenant states a rent that is below the legal rent, the department shall provide to such tenant notice including, but not limited to, an explanation of the department's determination, instructions for determining the legal rent, and an explanation of such tenant's rights if they are paying a rent that is below the legal rent.

§ 2. This local law shall take effect 30 days after its enactment.

Referred to the Committee on Finance.

Res. No. 705

Resolution recognizing the 30th anniversary of the legalization of artistic performances in the New York City subway system.

May 27, 2015

1976

By Council Members Cornegy, Cumbo, Constantinides, Gibson, Koo, Rose and Rosenthal.

Whereas, Artistic performances have become an intrinsic and defining feature of the New York City subway system and the daily transit experience of millions of New Yorkers and visitors; and

Whereas, In a 1985 court case involving guitarist Roger Manning, the court found that a ban on artistic performance in subway stations was unconstitutional; and

Whereas, Today, the New York City Transit Rules of Conduct generally allow “artistic performances, including the acceptance of donations” in subway stations as long as they do not impede transit activities; and

Whereas, More than 350 individuals and ensembles currently participate in the Metropolitan Transportation Authority’s (MTA) Music Under New York program, providing over 7,500 annual performances at approximately 30 locations throughout New York’s transit system; and

Whereas, Through the program, a very diverse variety of performances occur in the transit system 365 days a year and take place in some of its busiest hubs, including Penn Station and Grand Central Terminal; and

Whereas, The year 2015 marks 30 years since the outcome of the Manning case and the recognition of artistic performances in the subway system as constitutionally protected; now, therefore, be it

Resolved, That the Council of the City of New York recognizing the 30th anniversary of the legalization of artistic performances in the New York City subway system.

Referred to the Committee on Cultural Affairs, Libraries and International Intergroup Relations.

Res. No. 706

Resolution calling upon the New York City Department of Education (DOE) to ensure that all public address systems in public schools are fully operational, properly maintained, and installed in all classrooms.

By Council Members Espinal, Gibson, Arroyo, Chin, Constantinides, Cumbo, Dromm, Eugene, Gentile, Johnson, King, Koo, Koslowitz, Maisel, Mealy, Mendez, Richards, Rose and Cohen.

Whereas, Public address (PA) systems are a vital component in school operations and are used by principals and administrators to make announcements, recite the pledge of allegiance and relay instructions during an emergency or drill; and

Whereas, According to a January 2015 article by DNAinfo, public address speakers in at least 29 New York City public schools are not working; and

Whereas, A noted school safety consultant cited in the DNAinfo article stated that the PA system is the foundation of school safety and the first step in communicating an emergency situation within a school; and

Whereas, The New York City Department of Education (DOE) is charged with creating emergency readiness planning and implementing protocols in all school buildings and communities; and

Whereas, Such emergency plans can include actions such as lockdowns, sheltering in place or evacuations; and

Whereas, These safety plans cannot be truly effective without the ability to communicate effectively to staff and students; and

Whereas, In recent lockdown incidents that occurred in several Brooklyn public schools it was reported that some teachers had to leave their classroom in order to notify other teachers about the situation at hand because of a broken PA system; and

Whereas, The DOE's Division of School Facilities is responsible for the maintenance, repair, and the safe, efficient operation of all facilities under the jurisdiction of the school system which is approximately 1,300 buildings; and

Whereas, The safety and security of New York City's school children is of paramount importance and it is critical that all school equipment be functioning; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York City Department of Education (DOE) to ensure that all public address systems in public schools are fully operational, properly maintained, and installed in all classrooms.

Referred to the Committee on Education.

Int. No. 799

By Council Members Garodnick, Rosenthal, Chin, Mendez, Johnson, Kallos, Levine, Ferreras-Copeland, Cornegy, Rodriguez, Dickens, Constantinides, Koo, Koslowitz, Mealy and Rose.

A Local Law to amend the administrative code of the city of New York, in relation to the commercial rent tax

Be it enacted by the Council as follows:

Section 1. Paragraph 2 of subdivision b of section 11-704 of the administrative code of the city of New York, as amended by local law number 38 for the year 2001, is amended to read as follows:

(2) A tenant whose base rent, (i) for tax years beginning on or after June first, nineteen hundred eighty-one and ending on or before May thirty-first, nineteen hundred eighty-four, is not in excess of four thousand nine hundred ninety-nine dollars per year, (ii) for the tax year beginning June first, nineteen hundred eighty-four and ending May thirty-first, nineteen hundred eighty-five, is not in excess of seven thousand nine hundred ninety-nine dollars per year, (iii) for the tax years

beginning on or after June first, nineteen hundred eighty-five and ending on or before May thirty-first, nineteen hundred ninety-four, is not in excess of ten thousand nine hundred ninety-nine dollars per year, (iv) for the tax year beginning June first, nineteen hundred ninety-four and ending May thirty-first, nineteen hundred ninety-five, is not in excess of twenty thousand nine hundred ninety-nine dollars per year, (v) for the tax year beginning June first, nineteen hundred ninety-five and ending May thirty-first, nineteen hundred ninety-six, is not in excess of thirty thousand nine hundred ninety-nine dollars per year, (vi) for the tax year beginning June first, nineteen hundred ninety-six and ending May thirty-first, nineteen hundred ninety-seven, is not in excess of thirty-nine thousand nine hundred ninety-nine dollars per year, and (vii) for tax years beginning on or after June first, nineteen hundred ninety-seven and ending on or before May thirty-first, two thousand, is not in excess of ninety-nine thousand nine hundred ninety-nine dollars per year, calculated without regard to any reduction in base rent allowed by paragraph two of subdivision h of this section, (viii) for the period beginning June first, two thousand and ending November thirtieth, two thousand, is not in excess of ninety-nine thousand nine hundred ninety-nine dollars per year, calculated without regard to any reduction in base rent allowed by paragraph two of subdivision h of this section, (ix) for the period beginning December first, two thousand and ending May thirty-first, two thousand one, is not in excess of one hundred forty-nine thousand nine hundred ninety-nine dollars per year, calculated without regard to any reduction in base rent allowed by paragraph two of subdivision h of this section, [and] (x) for tax years beginning on or after June first, two thousand one *and ending May thirty-first, two thousand sixteen*, is not in excess of two hundred forty-nine thousand nine hundred ninety-nine dollars per year, calculated without regard to any reduction in base rent allowed by paragraph two of subdivision h of this section, *and (xi) for tax years beginning on or after June first, two thousand sixteen, is not in excess of four hundred ninety-nine thousand nine hundred ninety-nine dollars per year, calculated without regard to any reduction in base rent allowed by paragraph two of subdivision h of this section*, shall be exempt from the payment of the tax imposed by this chapter with respect to such rent, provided, however, that where the base rent of such tenant is for a period of less than one year, such base rent shall, for purposes of this paragraph, be determined as if it had been on an equivalent basis for the entire year; and provided further, that for purposes of subparagraphs (viii) and (ix) of this paragraph, base rent for the period specified in each of such subparagraphs shall be separately annualized as if it had been on an equivalent basis for an entire year, irrespective of the actual base rent for the tax year including the period specified in such subparagraph. Notwithstanding the preceding sentence, (xii) a tenant whose base rent for the tax year beginning June first, nineteen hundred eighty-four and ending May thirty-first, nineteen hundred eighty-five, is at least eight thousand dollars per year, but not in excess of ten thousand nine hundred ninety-nine dollars per year, shall be exempt from the payment of the tax imposed by this chapter with respect to such rent for the period beginning December first, nineteen hundred eighty-four and ending May thirty-first, nineteen hundred eighty-five, and (xiii) a tenant whose base rent for the tax year beginning June first, nineteen hundred ninety-five and ending May thirty-first, nineteen hundred ninety-six, is at least thirty-one thousand dollars per year, but not in excess of thirty-nine thousand nine hundred

ninety-nine dollars per year, shall be exempt from the payment of the tax imposed by this chapter with respect to such rent for the period beginning September first, nineteen hundred ninety-five and ending May thirty-first, nineteen hundred ninety-six.

§ 2. Paragraph 2 of subdivision h of section 11-704 of the administrative code of the city of New York, as amended by local law number 57 for the year 1995, is amended to read as follows:

(2) In the case of any taxable premises located in the borough of Manhattan south of the center line of ninety-sixth street, the base rent for such premises shall be reduced by (i) fifteen percent for the period beginning March first, nineteen hundred ninety-six and ending May thirty-first, nineteen hundred ninety-six, (ii) twenty-five percent for the period beginning June first, nineteen hundred ninety-six and ending August thirty-first, nineteen hundred ninety-eight, and (iii) thirty-five percent for [the] period[s] beginning September first, nineteen hundred ninety-eight and [thereafter] *ending May thirty-first, two thousand sixteen, and (iv) thirty-five percent for tax years beginning on or after June first, two thousand sixteen for tenants whose base rent is at least five hundred thousand dollars but not in excess of two million nine hundred ninety-nine thousand nine hundred ninety-nine dollars and thirty percent for tenants whose base rent is at least three million dollars*, such reduction to be made after all other exemptions and deductions authorized by this chapter have been taken.

§ 3. Subdivision (a) of section 11-704.3 of the administrative code of the city of New York, as amended by local law number 38 for the year 2001, is amended to read as follows:

(6) For [each] tax years beginning on or after June first, two thousand one *and ending on May thirty-first, two thousand sixteen*, a credit shall be allowed against the tax imposed by this chapter as follows: a tenant whose base rent is at least two hundred and fifty thousand dollars but not more than three hundred thousand dollars shall be allowed a credit in an amount determined by multiplying three and nine-tenths percent of base rent by a fraction the numerator of which is three hundred thousand dollars minus the amount of base rent and the denominator of which is fifty thousand dollars. If the tenant's base rent is over three hundred thousand dollars, no credit shall be allowed under this paragraph. For purposes of this paragraph, 'base rent' shall be calculated without regard to any reduction in base rent allowed by paragraph two of subdivision h of section 11-704 of this chapter.

(7) *For each tax year beginning on or after June first, two thousand sixteen, a credit shall be allowed against the tax imposed by this chapter as follows:*

(i) a tenant whose base rent is at least five hundred thousand dollars but not more than five hundred and fifty thousand dollars shall be allowed a credit in an amount determined by multiplying three and nine-tenths percent of base rent by a fraction the numerator of which is five hundred and fifty thousand dollars minus the amount of base rent and the denominator of which is fifty thousand dollars. If the tenant's base rent is over five hundred and fifty thousand dollars, no credit shall be allowed under this subparagraph. For purposes of this subparagraph, 'base rent' shall be calculated without regard to any reduction in base rent allowed by paragraph two of subdivision h of section 11-704 of this chapter; and

(ii) a tenant whose base rent is at least three million dollars but not more than four million dollars shall be allowed a credit in an amount determined by multiplying three one-thousandths of one percent of base rent by a fraction the numerator of which is four million dollars minus the amount of base rent and the denominator of which is one million dollars. If the tenant's base rent is over four million dollars, no credit shall be allowed under this subparagraph. For purposes of this subparagraph, 'base rent' shall be calculated without regard to any reduction in base rent allowed by paragraph two of subdivision h of section 11-704 of this chapter.

§ 4. Subdivision a of section 11-705 of the administrative code of the city of New York, as amended by local law number 38 for the year 2001, is amended to read as follows:

a. Every tenant subject to tax under this chapter shall file with the commissioner of finance a return with respect to the taxes payable for the three month periods ending on the last days of August, November and February of each year and a final return with respect to the taxes payable for the tax year ending on the last day of May of each year. Such returns shall be filed within twenty days from the expiration of the period covered thereby. A tenant who is exempt from the tax by reason of paragraph two of subdivision b of section 11-704 of this chapter shall nevertheless be required to file a final return, provided, however, that for tax years beginning on or after June first, nineteen hundred ninety-five and ending on or before May thirty-first, nineteen hundred ninety-seven, no such final return shall be required from such exempt tenant with respect to taxable premises if (1) the tenant's rent for such premises, determined without regard to any deduction from or reduction in rent or base rent allowed by this chapter, does not exceed fifteen thousand dollars for the tax year and (2) in the case of a tenant who has more than one taxable premises, the aggregate rents for all such premises, determined without regard to any deduction from or reduction in rent or base rent allowed by this chapter, do not exceed fifteen thousand dollars for the tax year. For tax years beginning on June first, nineteen hundred ninety-seven and ending on or before May thirty-first, two thousand one, no such final return shall be required from such exempt tenant with respect to any taxable premises if (1) the tenant's rent for such premises, determined without regard to any deduction from or reduction in rent or base rent allowed by this chapter, does not exceed seventy-five thousand dollars for the tax year and (2) the amount of rent received or due from any subtenant of such exempt tenant with respect to such premises does not exceed seventy-five thousand dollars for the tax year. For tax years beginning on or after June first, two thousand one *and ending on May thirty-first, two thousand sixteen*, no such final return shall be required from such exempt tenant with respect to any taxable premises if (1) the tenant's rent for such premises, determined without regard to any deduction from or reduction in rent or base rent allowed by this chapter, does not exceed two hundred thousand dollars for the tax year and (2) the amount of rent received or due from any subtenant of such exempt tenant with respect to such premises does not exceed two hundred thousand dollars for the tax year. *For tax years beginning on or after June first, two thousand sixteen, no such final return shall be required from such exempt tenant with respect to any taxable premises if (1) the tenant's rent for such premises, determined without regard to any deduction from or reduction in rent or base rent allowed by this chapter, does not exceed four*

hundred thousand dollars for the tax year and (2) the amount of rent received or due from any subtenant of such exempt tenant with respect to such premises does not exceed four hundred thousand dollars for the tax year. Notwithstanding anything in this subdivision to the contrary, for tax periods beginning on or after September first, nineteen hundred ninety-five, no return shall be required pursuant to this subdivision with respect to any taxable premises located in that part of the city specified in paragraph one of subdivision h of section 11-704 of this chapter, and no such taxable premises shall be taken into account for purposes of clause two of the preceding sentence. The commissioner of finance may permit or require returns (including final returns) to be made for other periods and upon such dates as the commissioner may specify and if he or she deems it necessary in order to insure the payment of the tax imposed by this chapter, the commissioner may require such returns to be made for shorter periods than those prescribed by the foregoing provisions of this section, and upon such dates as he or she may specify.

§ 5. This local law takes effect immediately.

Referred to the Committee on Finance.

Int. No. 800

By Council Members Kallos, Rosenthal, Constantinides, Eugene, Koo and Mealy.

A Local Law to amend the administrative code of the city of New York, in relation to the use of pesticides by City agencies.

Be it enacted by the Council as follows:

Section 1. Section 17-1203 of chapter 12 of title 17 of the administrative code of the city of New York is amended to read as follows:

§17-1203 Reduction of pesticide use. a. Effective six months after the enactment of the local law that added this section, no city agency or contractor shall apply to any property owned or leased by the city any pesticide classified as Toxicity Category I by the United States environmental protection agency as of April 1, 2005, provided that for any pesticide classified as Toxicity Category I by the United States environmental protection agency after April 1, 2005, no such agency or contractor shall apply such pesticide after six months of its having been so classified, except as provided for in sections 17-1205 or 17-1206 of this chapter.

b. Effective twelve months after the enactment of the local law that added this section, no city agency or contractor shall apply to any property owned or leased by the city any pesticide classified as a human carcinogen, likely to be carcinogenic to humans, a known/likely carcinogen, a probable human carcinogen, or a possible human carcinogen by the office of pesticide programs of the United States environmental protection agency as of April 1, 2005, except as provided for in sections 17-1205 or 17-1206 of this chapter.

c. Effective eighteen months after enactment of the local law that added this section, no city agency or contractor shall apply to any property owned or leased by

the city any pesticide classified by the California office of environmental health hazard assessment as a developmental toxin as of April 1, 2005, except as provided for in sections 17-1205 or 17-1206 of this chapter.

d. Effective twelve months after the enactment of the local law that amended this section, no city agency or contractor shall apply to any property owned or leased by the city any pesticide other than a biological pesticide, except as provided for in sections 17-1205 and 17-1206 of this chapter.

[d.] *e.* On February 1, 2007, and every February 1 thereafter, the department shall submit to the City Council a report listing changes made to the list of pesticides classified as a human carcinogen, likely to be carcinogenic to humans, a known/likely carcinogen, a probable human carcinogen, or a possible human carcinogen by the office of pesticide programs of the United States environmental protection agency and the list of pesticides classified as developmental toxins by the California office of environmental health hazard assessment after April 1, 2005. Such reports shall also include, for each pesticide added to or removed from such classifications, whether and to what extent such pesticide is used by city agencies or contractors in the city of New York.

§ 2. Section 17-1205 of chapter 12 of title 17 of the administrative code of the city of New York is amended to read as follows:

§17-1205 Exemptions. a. The restrictions established pursuant to section 17-1203 of this chapter shall not apply to the following:

(1) pesticides otherwise lawfully used for the purpose of maintaining a safe drinking water supply at drinking water treatment plants, wastewater treatment plants, reservoirs, and related collection, distribution and treatment facilities;

(2) anti-microbial pesticides;

(3) pesticides applied to professional sports playing fields, golf courses or used to maintain water quality in swimming pools;

(4) pesticides used for the purpose of maintaining heating, ventilation and air conditioning systems, cooling towers and other industrial cooling and heating systems;

(5) pesticides used for the purpose of rodent control in containerized baits or placed directly into rodent burrows or placed in areas inaccessible to children or pets;

(6) pesticides or classes of pesticides classified by the United States environmental protection agency as not requiring regulation under the federal insecticide, fungicide and rodenticide act, and therefore exempt from such regulation when intended for use, and used only in the manner specified; *and*

(7) [biological pesticides; and

(8)] boric acid and disodium tetrahydrate, silica gels, diatomaceous earth, and nonvolatile insect bait in tamper resistant containers.

§ 3. This local law shall take effect immediately.

Referred to the Committee on Health.

Res. No. 707

Resolution calling on the New York State Legislature to pass, and the Governor to sign, A.07159, which amends New York State's Environmental Conservation Law in relation to electronic equipment disposal in a city having a population of one million or more.

By Council Members Koslowitz, Ulrich, Cohen, Gentile, Johnson, Koo, Mendez and Rose.

Whereas, According to New York City Department of Sanitation (DSNY) about 3.8 million tons of residential and institutional waste are collected annually; and

Whereas, According to the 2015 OneNYC report, the City plans to send zero waste to landfills by 2030; and

Whereas, According to DSNY electronic waste comprises approximately 1% or 38,000 tons of the City's residential waste stream; and

Whereas, According to the New York State Department of Environmental Conservation, electronic waste can be diverted from the waste stream and reused or recycled; and

Whereas, New York State's Electronic Equipment Recycling and Reuse Act, effective since May 28, 2010, requires manufacturers to provide free and convenient recycling of electronic waste to consumers in the state; and

Whereas, New York State's Electronic Equipment Recycling and Reuse Act states that, on and after January 1, 2015, no individual or household may place or dispose of electronic waste for collection intended for disposal at a solid waste facility; and

Whereas, On January 1, 2015, DSNY stopped collecting curbside electronic waste; and

Whereas, A DSNY rule – section 1-04.2 of chapter 1 of title 16 of the Rules of the City of New York, entitled *Disposal of Electronic Waste* – took effect on March 20, 2015 and makes it a violation, carrying a \$100 civil penalty, for any person to place electronic waste outside for solid waste or recycling collection; and

Whereas, DSNY currently partners with Electronic Recyclers International, which collects electronic waste from buildings with 10 or more units—approximately 41,000 buildings— that request their collection services in a program called e-cycleNYC; and

Whereas, Since the program began in 2013, more than 4,000 buildings have signed up to participate in the e-cycleNYC program; and

Whereas, After January 1, 2015, pursuant to the Electronic Equipment Recycling and Reuse Act, consumers can no longer place their e-waste curbside and those who are not in buildings participating in e-cycleNYC have the option to mail back their electronic waste, bring their electronic waste to a designated drop-off location, bring their electronic waste to a SAFE Disposal Event or a Lower East Side Ecology Center e-waste event, or donate or sell working electronics on NYC Stuff Exchange; and

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Whereas, There are over 230,000 buildings in the City with less than 10 units that are not eligible to participate in the e-cycleNYC program; and

Whereas, There are consumers in such buildings who are not able to use any of the other options currently available for e-waste disposal in a manner that is convenient to them; and

Whereas, The City wants to create more options for curbside collection of e-waste that are convenient to consumers; and

Whereas, State Assembly Bill A.07159 states that any person in a city having a population of one million or more residing in a building with less than 11 residences that does not have a pick-up designation shall be able to contact the department of sanitation of such city and schedule an appointment for removal of electronic equipment for recycling; now, therefore, be it

Resolved, That the Council of the City of New York calls on the New York State Legislature to pass, and the Governor to sign, A.07159, which amends New York State's Environmental Conservation Law in relation to electronic equipment disposal in a city having a population of one million or more.

Referred to the Committee on Sanitation and Solid Waste Management.

Res. No. 708

Resolution calling on the State Legislature to pass and the Governor to sign A.5956-A/S.4327, legislation that would allow pet dogs in outdoor seating areas of food service establishments in certain specified circumstances

By Council Members Lander, Rodriguez, Arroyo, Chin, Menchaca and Mendez.

Whereas, The New York State Sanitary Code does not currently permit live animals in any area of a food service establishment, with the exception of patrol dogs accompanying security police officers or service animals for patrons with disabilities; and

Whereas, For nearly 25 years, research has shown that pets provide certain health benefits such as lower blood pressure, less anxiety and increased immunity; and

Whereas, Additionally, dogs can help start conversations and ease people out of social isolation or shyness; and

Whereas, Bars and restaurants can distinguish themselves in the heavily competitive hospitality industry in New York by allowing dogs at their establishments; and

Whereas, A.5956-A/S.4327, sponsored by Assemblymember Linda Rosenthal and Senator Kemp Hannon, would allow pet dogs in outdoor seating areas in food service establishments in certain specified circumstances; and

Whereas, A.5956-A/S.4327 would detail health and safety parameters to ensure the safety of patrons at establishments that allows dogs; and

Whereas, For example, the establishment must have a separate outdoor entrance so the dog will not be brought indoors, the outdoor area cannot be used for food preparation, any food or water provided to the dog must be in single use disposable

containers and food employees cannot have direct contact with the dog while on duty; and

Whereas, Additionally, the legislation would require local ordinances to be obeyed, the owner of the establishment to give permission to allow dogs, surfaces with dog excrement or bodily fluid to be cleaned and sanitized, dogs to be on a leash or in a pet carrier and dogs not to be permitted on furniture; and

Whereas, In 2014, California passed similar legislation that allowed dogs in outdoor spaces unless prohibited by local ordinance; and

Whereas, A.5956-A/S.4327 would allow pet dogs to accompany their families in outdoor establishments while protecting the public health of patrons; now, therefore, be it

Resolved, That the Council of the City of New York calls on the State Legislature to pass and the Governor to sign A.5956-A/S.4327, legislation that would allow pet dogs in outdoor seating area of food service establishments in certain specified circumstances.

Referred to the Committee on Health.

Res. No. 709

Resolution calling on the United States Congress to pass and for the President to sign H.R. 1013, also known as the Regulate Marijuana Like Alcohol Act.

By Council Members Levine, The Speaker (Council Member Mark-Viverito), Arroyo, Dromm and Mendez.

Whereas, Prohibition has failed to control the use and domestic production of marijuana; and

Whereas, Nationally and locally, arrests for marijuana possession disproportionately affect blacks and Hispanics and reinforce the perception that law enforcement is biased and prejudiced against minorities; and

Whereas, Legalized marijuana would reduce the flow of money from the American economy to international criminal gangs; and

Whereas, Marijuana is not a lethal drug and is arguably safer than alcohol; and

Whereas, Prosecuting marijuana is expensive for our justice system, depletes resources to combat violent crime and should be taxed to fund more important prosecutions and support essential government programs; and

Whereas, Marijuana has medicinal value and provides relief from pain, nausea, spasticity, and other symptoms for many individuals who have not been treated successfully with conventional medications; and

Whereas, On February 20th 2015, U.S. Representative Jared Polis of the State of Colorado introduced H.R. 1013, also known as the Regulate Marijuana Like Alcohol Act (“The Act”); and

Whereas, The Act directs the Attorney General to issue a final order removing marijuana from all schedules of controlled substances under the Controlled Substances Act; and

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Whereas, The Act amends the Controlled Substances Act to: (1) exempt marijuana from the Act with limited exception; (2) revise the definition of "felony drug offense" to exclude conduct relating to marijuana; and (3) eliminates marijuana from provisions setting forth penalties applicable to prohibited conduct under the Controlled Substances Act; and

Whereas, The Act prohibits shipping or transporting marijuana from any place outside a jurisdiction of the United States into a jurisdiction in which its possession, use, or sale is prohibited; and

Whereas, The Act eliminates marijuana as: (1) a controlled substance for purposes of the Controlled Substances Import and Export Act or the National Forest System Drug Control Act of 1986, (2) a dangerous drug for purposes of federal criminal code provisions authorizing interception of communications, and (3) a targeted drug for purposes of provisions of the national youth anti-drug media campaign under the Office of National Drug Control Policy Reauthorization Act of 1998; and

Whereas, The time has come to end the federal marijuana prohibition because the benefits of doing so outweigh liabilities; now, therefore, be it

Resolved, That the Council of the City of New York calls on the United States Congress to pass and for the President to sign H.R. 1013, also known as the Regulate Marijuana Like Alcohol Act.

Referred to the Committee on Public Safety.

Res. No. 710

Resolution calling upon the New York State Legislature to introduce and pass, and the Governor to sign, legislation reinstating a commuter tax and to conduct a study on the results and effects of the tax

By Council Members Rodriguez, Arroyo, Chin, Gentile, Johnson, Mendez, Vallone and Cohen.

Whereas, Between 1966 and 1999, New York City imposed an earnings tax on non-residents who earned an income within the City in order to equitably share the burden of providing services, such as fire, safety, sanitation, and infrastructure, on all users of such services; and

Whereas, This tax is commonly referred to as the commuter tax; and

Whereas, In 1966, New York State authorized New York City to impose a tax on people who earned income in the City but lived elsewhere in the amount of one-fourth of one percent on all wages and three-eighths of one percent on all net earnings from self-employment; and

Whereas, Five years later in 1971, the State authorized an increase of the tax to forty-five hundredths of one percent on all wages and sixty-five hundredths of one percent tax on all net earnings from self-employment; and

Whereas, In 1999, the State amended the definition of people who were subject to the tax to include only those commuters who resided outside of New York State, thereby exempting New York State residents from paying the tax; and

Whereas, In 1999, New York City challenged the State's change to the law; and

Whereas, The New York State Court of Appeals found that the disparate treatment of New York State and non-New York State commuters violated the Privileges and Immunities Clause of the United States Constitution and declared the commuter tax, as amended, unconstitutional; and

Whereas, According to the City's Office of Management and Budget, between 2000 and 2008, New York City lost out on approximately \$5,000,000,000 in tax revenue; and

Whereas, The Independent Budget Office estimates that between 2009 and 2014, New York City lost out on a total of approximately \$4,600,000,000 in tax revenue; and

Whereas, Despite the loss in tax revenue, New York City continues to provide services to all New York City workers, both resident and non-resident, the cost of which is shouldered by New York City residents through the City's personal income and real property taxes; and

Whereas, According to the Fiscal Policy Institute, approximately 900,000 non-resident commuters work in the City and they all rely on the police, fire, sanitation, transportation, and other services the City provides; and

Whereas, The use of New York City resources and infrastructure by these 900,000 commuters is costly to the City and its residents; and

Whereas, For example, one service consistently used by non-resident commuters is subway and bus services managed by the Metropolitan Transit Authority ("MTA"); and

Whereas, Due to record-high ridership levels by City residents and non-resident commuters and the substantial long-term infrastructure needs resulting from age and deterioration due to overuse, the MTA is facing a \$15,000,000,000 capital budget shortfall; and

Whereas, Reinstating the commuter tax would greatly benefit everyone who works in the City by preserving essential infrastructure and services and ensuring that non-residents pay their fair share for the services that they consume; and

Whereas, Despite all of these benefits, some claim that reinstating the commuter tax would create a disincentive for non-residents to look for work in New York City and induce businesses to leave the City, thereby constraining the growth of the City's economy and tax base; and

Whereas, In order to determine whether there is any validity to that claim, after the commuter tax is reinstated, the State should conduct a study reporting on the effects of the tax, taking into account the current economic environment and the fiscal health of the New York City and its infrastructure; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to introduce and pass, and the Governor to sign, legislation reinstating a commuter tax and to conduct a study on the results and effects of the tax.

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Referred to the Committee on Finance.

Int. No. 801

By Council Members Treyger, Rosenthal, The Public Advocate (Ms. James),
Cumbo, Gentile, Koslowitz and Rose.

**A Local Law to amend the administrative code of the city of New York, in
relation to elevator service outage accommodations**

Be it enacted by the Council as follows:

Section 1. Section 28-304.10 of the administrative code of the city of New York, as added by local law number 141 for the year 2013, is amended to read as follows:

§ 28-304.10 Occupant notification. In occupancy groups [R1] R-1 and [R2] R-2, when an elevator is to be put out of service for alteration work, notice shall be given to the residential occupants no fewer than 10 business days before the start of the work, except in the case of emergency repairs. This notification requirement does not apply to minor alterations and ordinary repairs. *Such notification shall include a copy of the elevator service outage accommodation plan required by section 28-304.11.1.*

§ 2. Article 304 of title 28 of the administrative code of the city of New York is amended to add a new section 28-304.11 to read as follows:

§ 28-304.11 Service outage accommodation. *In addition to any reasonable accommodations required by other city, state or federal laws or rules, when a passenger elevator in a building that contains space classified in occupancy group R-1 or R-2 is or will be out of service for more than twenty-four hours, the owner shall, upon request of an affected resident with a disability, as defined by rules promulgated by the department in conjunction with the department of health and mental hygiene and the mayor's office for people with disabilities, provide, for the duration of such outage, a reasonable alternative method of transportation between floors, exclusive of stairs, or a reasonable accommodation for such resident.*

Exceptions:

1. An elevator that serves only one dwelling unit, provided that such unit is occupied by the owner of the building containing such unit.

2. An elevator service outage that results from a general public utility outage, as defined by department rule.

§ 28-304.11.1 Elevator service outage accommodation plan. *An owner of a building that contains space classified in occupancy group R-1 or R-2 must develop*

an elevator service outage accommodation plan detailing any alternative method of transportation or accommodation that will be provided in accordance with section 28-304.11 during an elevator service outage. Such plan must be made available for inspection by the department, the department of housing preservation and development or residents of the building, upon request.

§ 3. This local law shall take effect 120 days after its enactment, except that the commissioner of buildings shall take all actions necessary for its implementation, including the promulgation of rules, prior to such effective date.

Referred to the Committee on Housing and Buildings.

Int. No. 802

By Council Members Vallone, Chin, Arroyo, Constantinides, Cumbo, Eugene, Gentile, Gibson, Johnson, Koo, Mealy, Mendez, Rose and Cohen.

A Local Law to amend the administrative code of the city of New York, in relation to a senior emergency information card.

Be it enacted by the Council as follows:

Section 1. Chapter 2 of title 21 of the administrative code of the city of New York is amended by adding new section 21-206 to read as follows:

§ 21-206 *Senior emergency information card. a. For the purposes of this section, "Qualified applicant" means any individual sixty years of age or older who is a resident of the city of New York and who seeks to obtain a senior emergency information card as authorized by this section.*

b. The department shall establish, produce, and issue a senior emergency information card to all qualified applicants. The senior emergency information card shall display, at a minimum, the applicant's name, date of birth, address, phone number, the name and telephone number of the applicant's emergency contacts, and other information deemed appropriate by the department. The card shall also contain the following information if voluntarily disclosed and requested by the applicant to be displayed on such card: (i) name and telephone number of the applicant's doctor; (ii) the name and telephone number of the hospital used by such applicant, as applicable; (iii) the insurance carried by the applicant; (iv) the applicant's blood type; (v) illnesses and allergies of the applicant.

c. In order to obtain a senior emergency information card, an applicant shall complete an application requiring proof of such applicant's identity, as well as any other information deemed necessary by the department. The department shall prescribe by rule the form of such application, as well as the acceptable proofs of identity.

d. The department shall provide each qualified applicant, in addition to the card required by subdivision b of this section, with a placard which shall be available for display in the applicant's home. Such placard shall have a width of five inches and a

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height of nine inches, and shall contain space for the applicant to write in: (i) the applicant's name and date of birth; (ii) the name and telephone number of the applicant's emergency contacts; (iii) the name and telephone number of the applicant's doctor; (iv) the name and telephone number of the hospital used by such applicant, as applicable; (v) the name and telephone number of the insurance carried by the applicant; (vi) the applicant's blood type; (vii) medications administered to the applicant, including information as to the dosage of each medication; (viii) any illnesses or allergies of the applicant; (ix) any other information that the applicant may deem relevant.

e. No charge shall be assessed to a qualified applicant for the receipt of the senior emergency information card and placard required by this section.

f. The department shall ensure the confidentiality of information contained in applications received pursuant to subdivision c of this section.

§ 2 This local law takes effect 120 days after it becomes law, except that the department, as defined in section 21-201 of the administrative code of the city of New York, may take such measures as are necessary for the implementation of this local law, including the promulgation of rules, prior to such date.

Referred to the Committee on Aging.

Res. No. 711

Resolution calling on the United States Congress to pass and the President to sign the Compassionate Access, Research Expansion and Respect States Act, which seeks to reclassify marijuana from a Schedule I to a Schedule II substance and permit states to set their own medical marijuana policies

By Council Members Williams, Cumbo, Dromm, Johnson, Mealy, Mendez and Rose.

Whereas, Narcotics and other chemicals that are considered controlled substances under the United States Controlled Substances Act ("CSA") are divided into five schedules; and

Whereas, The Schedule I classification applies to a category of substances considered by the United States Drug Enforcement Administration ("DEA") to have no currently accepted medical use in treatment in the United States and exhibit a high potential for dependence and abuse; and

Whereas, Cannabis, commonly known as marijuana, is a narcotic classified by the federal government as a Schedule I substance, which cannot be legally prescribed to patients; and

Whereas, Narcotics that share the same Schedule I classification with marijuana are heroin and ecstasy; and

Whereas, The DEA categorizes Schedule II substances, such as opium and morphine, as drugs that are considered to have a strong potential for abuse or addiction and which may lead to severe psychological or physical dependence but do

have currently accepted medical uses in treatment in the United States or a currently accepted medical use with severe restrictions; and

Whereas, Although Schedule II substances are heavily limited and controlled by the federal government, prescriptions are permitted for some of these substances, such as methadone and amphetamines (Adderall); and

Whereas, In 2009, the American Medical Association announced that it would support clinical research of medical marijuana and urged the federal government to reassess its Schedule I classification of the drug; and

Whereas, According to studies conducted by the University of California Center for Medicinal Cannabis Research, medical marijuana should be the first line of treatment for patients with neuropathy and other serious illnesses; and

Whereas, Initial studies and strong anecdotal evidence suggest cannabidiol (CBD), a compound in marijuana, may drastically reduce seizures; and

Whereas, There are currently twenty-three states, including New York, as well as the District of Columbia, that have enacted laws legalizing the medicinal use of marijuana thereby recognizing and affirming progress in the medical community concerning the therapeutic value of medicinal marijuana; and

Whereas, These states recognize that medical marijuana can be used to alleviate patients' suffering from debilitating medical conditions, such as cancer and multiple sclerosis; and

Whereas, The United States government continues to classify marijuana as a drug for which there is no medicinal value; and

Whereas, The divergence in state and federal law creates a problematic situation where there is no comprehensively regulated system to supply legitimate patients who are in need of medical marijuana; and

Whereas, The Compassionate Access, Research Expansion and Respect States ("CARERS") Act (S. 683/ H.R.1538), was introduced by Senators Cory Booker (D-NJ), Kirsten Gillibrand (D-NY) and Rand Paul (R-KY) and Representative Steve Cohen (D-TN); and

Whereas, The CARERS Act would reclassify marijuana from a Schedule I to a Schedule II substance, paving the way to recognizing that the substance does have accepted medical uses and allowing it to be prescribed under certain circumstances; and

Whereas, The CARERS Act would amend the Controlled Substances Act so that states can set their own medical marijuana policies, removing the threat of federal prosecution from state medical marijuana program participants; and

Whereas, This legislation would amend the Controlled Substances Act to remove specific strains of CBD oil from the federal definition of marijuana, allowing states to import CBD; and

Whereas, Increasing access to CBD will help youth suffering from intractable epilepsy to gain some control over their seizures and allow for more studies on its effectiveness; and

Whereas, The CARERS Act would also permit VA doctors to prescribe veterans medical marijuana to treat serious injuries and chronic conditions; and

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Whereas, The CARERS Act would provide protection to banks and credit unions, their officers and employees that provide financial services to marijuana-related businesses that engage in activities pursuant to state law; and

Whereas, The CARERS Act would remove a federal review process and increases access for researchers to gain government approval to undertake important research on marijuana; and

Whereas, The long-standing classification of marijuana in the United States as a Schedule I substance with no medicinal value is fundamentally flawed and should be changed; now, therefore, be it

Resolved, That the Council of the City of New York calls on the United States Congress to pass and the President to sign the Compassionate Access, Research Expansion and Respect States Act, which seeks to reclassify marijuana from a Schedule I to a Schedule II substance and permit states to set their own medical marijuana policies.

Referred to the Committee on Health.

L.U. No. 231

By Council Member Greenfield:

Application No. 20155451 HKK (N 150321 HKK) pursuant to Section 3020 of the New York City Charter, concerning the designation by the Landmarks Preservation Commission of the Crown Heights North III Historic District (List No. 479, LP-2489), Borough of Brooklyn, Community Board 8, Council Districts 35 and 36.

Referred to the Committee on Land Use and the Subcommittee on Landmarks, Public Siting and Maritime Uses.

L.U. No. 232

By Council Member Greenfield:

Application No. 20155682 HAX submitted by the New York City Department of Housing Preservation and Development pursuant to Sections 123(4), 125, and 577 of the Private Housing Finance Law for a real property tax exemption, termination of the prior tax exemption, voluntary dissolution of the current owner and conveyance from the current owner to a new owner for properties identified as Block 2740, Lot 1, Block 2761, Lots 103, 149, 154, and Block 2762, Lot 153, Borough of the Bronx, Community Board 2, Council District 17.

Referred to the Committee on Land Use and the Subcommittee on Planning, Disposition and Concessions.

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L.U. No. 233

By Council Member Greenfield:

Application No. 20155683 HAQ submitted by the New York City Department of Housing Preservation and Development pursuant to Article 16 of the General Municipal Law for approval of Urban Development Action Area and Project and a real property tax exemption pursuant to Section 696 of the General Municipal Law for properties identified as Block 11164, Lot 28, Block 10318, Lot 17, Block 12736, Lot 38, Block 11137, Lot 146, Block 12622, Lot 29, Block 10848, Lot 5, and Block 11141, Lot 88, Borough of Queens, Community Boards 12 and 13, Council District 27.

Referred to the Committee on Land Use and the Subcommittee on Planning, Disposition and Concessions.

L.U. No. 234

By Council Member Greenfield:

Application No. 20155684 HAQ submitted by the New York City Department of Housing Preservation and Development pursuant to Article 16 of the General Municipal Law for approval of Urban Development Action Area and Project and a real property tax exemption pursuant to Section 696 of the General Municipal Law for properties identified as Block 12934, Lot 127, Block 13101, Lot 32, Block 13128, Lot 4, Block 12977, Lot 34, and Block 12934, Lot 129, Borough of Queens, Community Board 13, Council District 31.

Referred to the Committee on Land Use and the Subcommittee on Planning, Disposition and Concessions.

L.U. No. 235

By Council Member Greenfield:

Application No. 20155685 HAR submitted by the New York City Department of Housing Preservation and Development pursuant to Article 16 of the General Municipal Law for approval of Urban Development Action Area and Project and a real property tax exemption pursuant to Section 696 of the General Municipal Law for property identified as Block 1227, Lot 37, Borough of Staten Island, Community Board 1, Council District 49.

Referred to the Committee on Land Use and the Subcommittee on Planning, Disposition and Concessions.

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L.U. No. 236

By Council Member Greenfield:

Application No. 20155695 HAX submitted by the New York City Department of Housing Preservation and Development pursuant to Article 16 of the General Municipal Law for approval of Urban Development Action Area and Project and a real property tax exemption pursuant to Section 577 of the General Municipal Law for properties located at 384 Grand Concourse, 1038 Rogers Place, 1202, 1183, and 1171 Clay Avenue, and 1129 Morris Avenue, Borough of the Bronx, Community Board 1, Council District 49.

Referred to the Committee on Land Use and the Subcommittee on Planning, Disposition and Concessions.

At this point the Speaker (Council Member Mark-Viverito) made the following announcements:

ANNOUNCEMENTS:

**NEW YORK CITY COUNCIL FISCAL YEAR 2016 EXECUTIVE BUDGET HEARINGS
ALL HELD IN COUNCIL CHAMBERS – CITY HALL**

Thursday, May 28, 2015

| Time | Agency Testifying | Finance Committee jointly with Council Committee |
|---------------|---|---|
| 10:00 – 12:30 | Education (Expense) | Education |
| 1:00 – 3:00 | Education (Capital)/School Construction Authority | Education |

Committee on **PUBLIC HOUSING** **1:00 P.M.**
Oversight - The State's \$100 Million Allocation to NYCHA
Committee Room – City HallRitchie Torres, Chairperson

Friday, May 29, 2015**★ Addition**Committee on **STATE AND FEDERAL LEGISLATION** **10:00 A.M.****Topic** - Disability Pension Reform for Members of New York City Uniformed Services and Related New York State Legislature Home Rule Requests

Committee Room – City Hall Karen Koslowitz, Chairperson

★ *Note Deferred***★★ *Note New Time***

| Time | Agency Testifying | Finance Committee jointly with Council Committee |
|----------------------------|---------------------------------|---|
| ★ 10:30 – 11:30 | Consumer Affairs | Consumer Affairs |
| 11:30 – 1:00 | Youth and Community Development | Youth Services & Community Development |
| ★★ 1:00 – 2:30 | City University of New York | Higher Education |

Monday, June 1, 2015**★ *Note Deferred*****★★ *Note New Time***

| Time | Agency Testifying | Finance Committee jointly with Council Committee |
|----------------------------|----------------------------------|---|
| 10:00 – 11:00 | Fire / Emergency Medical Service | Fire & Criminal Justice Svcs. |
| 11:00 – 12:00 | Correction | Fire & Criminal Justice Svcs. |
| ★ 12:00 – 12:30 | Board of Correction | Fire & Criminal Justice Svcs. |
| ★★ 12:00 – 1:30 | Transportation | Transportation |
| ★★ 1:30 – 2:30 | MTA NYC Transit | Transportation |
| ★★ 2:30 – 3:15 | Taxi & Limousine Commission | Transportation |

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★ **Addition**

Committee on **HOUSING AND BUILDINGS** **10:00 A.M.**

Oversight - The Mayor's Proposed Amendments to the 421-a Tax Benefit Program:
City-Wide Affordable Housing, Deeper Affordability, and a Mansion Tax.

Committee Room – City Hall Jumaane D. Williams, Chairperson

Tuesday, June 2, 2015

Subcommittee on Zoning & Franchises 9:30 a.m.

See Land Use Calendar

Committee Room – 250 Broadway, 16th Floor Mark Weprin, Chairperson

| Time | Agency Testifying | Finance Committee jointly with Council Committee |
|------------------|----------------------------------|---|
| 10:00 – 11:00 | Citywide Administrative Services | Governmental Operations |
| 11:00 – 11:45 | Law Department | Governmental Operations |
| 11:45 – 12:45 | Board of Elections | Governmental Operations |
| 12:45 – 1:15 | Campaign Finance Board | Governmental Operations |

Subcommittee on **LANDMARKS, PUBLIC SITING**

& MARITIME USES **11:00 A.M.**

See Land Use Calendar

Committee Room – 250 Broadway, 16th Floor Peter Koo, Chairperson

Subcommittee on **PLANNING, DISPOSITIONS**

& CONCESSIONS **1:00 P.M.**

See Land Use Calendar

Committee Room – 250 Broadway, 16th Floor Inez Dickens, Chairperson

Thursday, June 4, 2015

| Time | Agency Testifying | Finance Committee jointly with Council Committee and Subcommittee |
|---------------|--|--|
| 10:00 – 11:00 | Information and Technology and Telecommunication | Land Use & Technology |
| 11:00 – 1:00 | Aging | Aging & Subcommittee on Senior Centers |
| 1:00 – 3:00 | Housing Preservation & Development | Housing & Buildings |
| 3:00 – 4:00 | Buildings | Housing & Buildings |

Committee on Land Use 11:00 a.m.

All items reported out of the Subcommittees

AND SUCH OTHER BUSINESS AS MAY BE NECESSARY

Committee Room – City Hall David G. Greenfield, Chairperson

Monday, June 8, 2015

| Time | Agency Testifying | Finance Committee jointly with Council Committee and Subcommittee |
|---------------|--------------------------|---|
| 10:00 – 11:30 | Libraries | Cultural Affairs, Libraries & International Intergroup Relations jointly with Subcommittee on Libraries |
| 11:30 – 1:00 | Cultural Affairs | Cultural Affairs, Libraries & International Intergroup Relations |
| 1:00 – 3:00 | NYCHA | Public Housing |

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Tuesday, June 9, 2015

★ Note Addition

| Time | Agency Testifying | Finance Committee |
|------------------|-------------------------------|--------------------------|
| 10:00 – 12:00 | Office of Management & Budget | Finance |
| ★12:00 – 1:00 | Finance | Finance |
| ★1:00 – 1:30 | Comptroller | Finance |
| 1:30 | Public | |

Wednesday, June 10, 2015

Stated Council Meeting.....Ceremonial Tributes – 1:00 p.m.
.....Agenda – 1:30 p.m.

Whereupon on motion of the Speaker (Council Member Mark-Viverito), the Public Advocate (Ms. James) adjourned these proceedings to meet again for the Stated Meeting on Wednesday, June 10, 2015.

MICHAEL M. McSWEENEY, City Clerk
Clerk of the Council

Editor’s Local Law Note: Int Nos. 51-B, 178-A, 181-A, and 419-A, all adopted by the Council at the April 28, 2015 Stated Meeting, were signed into law by the Mayor on May 18, 2015 as, respectively, Local Law Nos. 43, 44, 45, and 46 of 2015.