

THE COUNCIL

*Minutes of the Proceedings for the
STATED MEETING
of
Thursday, March 25, 2021, 1:43 p.m.
held remotely via video-conference*

*The Majority Leader (Council Member Cumbo)
presiding as the Acting President Pro Tempore*

Council Members

Corey D. Johnson, *Speaker*

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|--------------------------|---------------------|----------------------|
| Adrienne E. Adams | James F. Gennaro | Bill Perkins |
| Alicka Ampry-Samuel | Vanessa L. Gibson | Keith Powers |
| Diana Ayala | Mark Gjonaj | Antonio Reynoso |
| Inez D. Barron | Barry S. Grodenchik | Kevin C. Riley |
| Joseph C. Borelli | Robert F. Holden | Carlina Rivera |
| Justin L. Brannan | Ben Kallos | Ydanis A. Rodriguez |
| Selvena N. Brooks-Powers | Peter A. Koo | Deborah L. Rose |
| Fernando Cabrera | Karen Koslowitz | Helen K. Rosenthal |
| Margaret S. Chin | Bradford S. Lander | Rafael Salamanca, Jr |
| Costa G. Constantinides | Stephen T. Levin | Mark Treyger |
| Robert E. Cornegy, Jr | Mark D. Levine | Eric A. Ulrich |
| Laurie A. Cumbo | Farah N. Louis | Paul A. Vallone |
| Chaim M. Deutsch | Alan N. Maisel | James G. Van Bramer |
| Darma V. Diaz | Steven Matteo | Kalman Yeger |
| Ruben Diaz, Sr. | Carlos Menchaca | |
| Daniel Dromm | I. Daneek Miller | |
| Mathieu Eugene | Francisco P. Moya | |

At the time of this virtual Stated Meeting, there were two vacant seats in the Council pending the swearing in of the certified winners of two special non-partisan elections held on March 23, 2021 in the 11th and 15th Districts (The Bronx).

The Majority Leader (Council Member Cumbo) assumed the chair as the Acting President Pro Tempore and Presiding Officer for these virtual proceedings. Following the gaveling-in of the Meeting and the recitation of the Pledge of Allegiance, the Roll Call for Attendance was called by the City Clerk and the Clerk of the Council (Mr. McSweeney).

After consulting with the City Clerk and Clerk of the Council (Mr. McSweeney), the presence of a quorum was announced by the Majority Leader and the Acting President Pro Tempore (Council Member Cumbo).

There were 49 Council Members marked present for this virtual Stated Meeting.

INVOCATION

The Invocation was delivered by Rabbi Aryeh Katzin, Executive Director, spiritual leader of Russian American Jewish Experience, located at 2915 Ocean Pkwy. Brooklyn, NY 11235.

Thank you.

We are gathered virtually
and even though each of us is in a separate location
we are nevertheless united.

We are united in our commitment to serve the people
of this great City of New York.

We all share the pain of the families
who have lost their loved ones in this terrible pandemic
and wish a full and speedy recovery to the sick.
We also feel the pain of isolation, poverty, and divisiveness
that the different ways have affected us all.

I am deeply moved today because exactly 40 years ago
I immigrated from the Soviet Union
and for the first time celebrated Passover
not only as the exodus of my people from Egypt,
but also my personal liberation from Soviet slavery.
I share the experience of all immigrants who arrived at the shores
seeking liberty and justice for all.

I'm a Russian Jew.

Many members of my family and millions of my people
were murdered by the Nazis during the Holocaust.
While the survivors became targets of discrimination
and cultural genocide under the brutal Communist regimen,
what made these crimes possible
was that the tyrants first suppressed the freedom of speech.

People were scared to protest hatred,
terrified to protect each other.

Passover is the holiday of freedom,
but in Hebrew *Pesach* hints
that the very basic freedom of all
is the freedom of speech,

because *Pesach* also means the mouth speaks.

On Passover we speak with our family and friends,
sharing the story of freedom and love for others.

There are more than 600 languages spoke in New York.

We need to be courageous to express ourselves in our unique way
and we need to be respectful to protect the rights of others,
to express themselves without fear,
even when we disagree with them.

The Nazis and Communists committed their crimes
because they just followed orders.

They were scared of their tyrants
 and served their dictators, not their citizens.
 They served themselves, failing to feel the pain of their people.
 May God give us a loving and understanding heart
 to feel the pain of the oppressed,
 respecting the image of God in every human being
 regardless of faith, color, or race.
 May we see the good in others
 and in that merit reveal the greatness within ourselves.
 May God bless us with courage to serve our people,
 every single one of them,
 and elevate them all from despair to hope
 and from slavery to freedom.
 God bless America
 and the great City of New York.

Council Member Deutsch moved to spread the Invocation in full upon the record.

During the Communication from the Speaker segment of this meeting, the Speaker (Council Member Johnson) acknowledged that the number of coronavirus deaths in New York City had reached 30,793 as of March 24, 2021. He noted that many New Yorkers were being vaccinated and the Federal stimulus package would soon help in the city's recovery. He also noted the Council would be taking steps to address two other important issues facing New York City: NYPD police accountability and reform and the extension of pandemic protections for commercial tenants.

The Speaker (Council Member Johnson) acknowledged that March 25th marked the anniversaries of two tragedies that changed the city: the Triangle Shirtwaist Factory fire in Manhattan and the Happy Land Social Club fire in the Bronx. On March 25, 1911, a fire at the Triangle Shirtwaist Company Factory in Greenwich Village killed 146 workers. Most of those killed were Jewish and Italian immigrant women and girls who had been working in the sweatshops. He noted that this tragedy helped start the American labor movement by exposing the horrific and dangerous working conditions these workers had endured. On March 25, 1990, 87 people were killed in an act of arson at the Happy Land Social Club in the Bronx. The Club had been ordered to close dating back to 1988 due to building violations that included a lack of fire exits.

The Speaker (Council Member Johnson) acknowledged the death of a New Yorker who lost his life during the course of his employment: sheet metal worker, Scott Keegan, 52, died after falling from an upper floor of the NYU Langone Ambulatory Care Center in Manhattan.

The Speaker (Council Member Johnson) acknowledged the death of several first responders who had recently passed away from 9/11-related illnesses: retired FDNY Captain Frank A. Portelle, 51; retired FDNY Firefighter Joseph M. Boyle, who volunteered in the clean-up efforts at the World Trade Center; and retired NYPD Police Officer Timothy T. Motto, 63. On behalf of the Council, the Speaker (Council Member Johnson) offered his deepest condolences to the families and friends of the deceased.

The Speaker (Council Member Johnson) acknowledged the death of retired NYPD Detective Patrick Caprice, 58, who lost his life on March 15, 2021 after going into medical distress. Detective Caprice had survived being shot three times in 2005 after pulling over a car. On behalf of the Council, the Speaker (Council Member Johnson) praised Detective Caprice's bravery, service, and sacrifice and offered his thoughts and prayers to his loved ones.

The Speaker (Council Member Johnson) acknowledged the March 22, 2021 mass shooting that took place in Boulder, Colorado. Ten individuals, including a police officer, were shot and killed. The Speaker (Council Member Johnson) reiterated that there was an immediate need for gun control in this country.

The Speaker (Council Member Johnson) asked for a Moment of Silence in memory of the individuals named above and in memory of those who had lost their lives to COVID-19.

At this point, a Moment of Silence was observed.

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COMMUNICATION FROM CITY, COUNTY & BOROUGH OFFICES

M-294

Communication from the Board of Elections - Submitting the Certification of Election of Selvena N. Brooks-Powers as the new Council Member of the 31st Councilmanic District, Queens.

(For text of the New York City Board of Elections Certification for the Special Election held on February 23, 2021 in the 31st Council District in Queens, please refer to the attachment section of [the M-294 of 2021 file](#) in the legislation section of the New York City Council website at <https://council.nyc.gov>)

Received, Ordered, Printed and Filed.

LAND USE CALL-UPS

M-295

By The Chair of the Land Use Committee (Council Member Salamanca):

Pursuant to Sections 11.20(b-d) of the Council Rules and Section 197-d(b)(3) of the New York City Charter, the Council hereby resolves that the actions of the City Planning Commission on related Application No. C 200326 ZSK (Suydam Street Rezoning) shall be subject to Council review. This item is related to Application No. C 200344 ZMK.

Coupled on Call-up vote.

The Majority Leader and the Acting President Pro Tempore (Council Member Cumbo) put the question whether the Council would agree with and adopt such motion which was decided in the **affirmative** by the following vote:

Affirmative – Adams, Ampy-Samuel, Ayala, Barron, Borelli, Brannan, Brooks-Powers, Cabrera, Chin, Constantinides, Cornegy, Deutsch, D. Diaz, R. Diaz, Dromm, Eugene, Gennaro, Gibson, Gjonaj, Grodenchik, Holden, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Louis, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Reynoso, Riley, Rivera, Rose, Rosenthal, Salamanca, Treyger, Ulrich, Vallone, Van Bramer, Yeger, the Minority Leader (Council Member Matteo), the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **48**.

Present, Not Voting – Rodriguez.

At this point, the Majority Leader and the Acting President Pro Tempore (Council Member Cumbo) declared the aforementioned item **adopted** and referred this item to the Committee on Land Use and to the appropriate Land Use subcommittee.

REPORTS OF THE STANDING COMMITTEES

Report of the Committee on Civil and Human Rights

Report for Int. No. 2212-A

Report of the Committee on Civil and Human Rights in favor of approving and adopting, as amended, a Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to clarifying that the New York city civilian complaint review board has the power to investigate bias-based policing and racial profiling, requiring such board to investigate past professional conduct by members of the police department determined to have engaged in acts of bias and to make remedial recommendations and requiring the police department to engage an external consultant to perform a review of certain past work done by the equal employment opportunity division of the police department.

The Committee on Civil and Human Rights, to which the annexed proposed amended local law was referred on February 11, 2021 (Minutes, page 219), respectfully

REPORTS:

INTRODUCTION

On March 25, 2021, the Committee on Civil and Human Rights (“Committee”), chaired by Council Member Mathieu Eugene, held a vote on Proposed Int. No. 2212-A, in relation to clarifying that the New York city civilian complaint review board has the power to investigate bias-based policing and racial profiling, requiring such board to investigate past professional conduct by members of the police department determined to have engaged in acts of bias and to make remedial recommendations and requiring the police department to engage an external consultant to perform a review of certain past work done by the equal employment opportunity division of the police department. This was the second hearing on this item. The first hearing was held on February 8, 2021, at which the Committee heard testimony from representatives from the de Blasio administration, advocates, and members of the public. The bill passed with 3 votes in the affirmative, no votes in the negative and 2 abstentions.

BACKGROUND

Current Movement Against Racism and Bias in Law Enforcement

Racism, bias, and hate speech are longstanding and pervasive issues in law enforcement in the United States of America (“U.S.”). In 2020, the U.S. began to undergo a period of reckoning regarding race. The broadcasted May 25, 2020 killing of George Floyd, after a Minneapolis police officer knelt on his neck for more than eight minutes, along with the deaths of hundreds of other Black civilians, sparked months of widespread street protests against racism, bias, and brutality in the country’s law enforcement practices and criminal justice system.¹ The roots of the outrage and unrest – racism and bias in law enforcement – may extend much further back than current trends suggest.² The Brennan Center for Justice stated in a 2020 report that racial disparity has “long pervaded

¹ *In Pictures: A Racial Reckoning in America*, CNN (July 9, 2020, 9:35 PM), <https://www.cnn.com/2020/05/27/us/gallery/george-floyd-demonstrations/index.html>.

² Dara Lind, *The Ugly History of Racist Policing in America*, VOX, (July 7, 2016, 10:06 AM), <https://www.vox.com/michael-brown-shooting-ferguson-mo/2014/8/19/6031759/ferguson-history-riots-police-brutality-civil-rights>.

every step of the criminal justice process,” including police stops, searches, arrests, shootings, charging decisions, wrongful convictions, and sentencing.³

Explicit Racism and Bias on the Part of Law Enforcement Personnel

Racism, bias, and hate speech are most obvious when explicit. The Brennan Center for Justice noted in the same 2020 report that there are instances in which current members of law enforcement agencies have openly expressed racism.⁴ Such instances can include an officer posting racist or xenophobic commentary on social media, participating in violent white supremacist or militant groups, or engaging in racially discriminatory behavior toward the public.⁵ This report highlights that while police departments may know that these types of behavior exist, they may be doing very little to identify and report occasions of racist behavior within their ranks.⁶ Furthermore, the author of the report argues that if no action is taken to address actual explicit forms of racism, any efforts to address implicit bias (unconscious prejudices), such as well-meaning bias exploration and preventative trainings, are unlikely to be effective in reducing racial disparities in the criminal justice system.⁷

The NYPD’s Policies Regarding Explicit Bias

The NYPD’s mission is to “enhance the quality of life in New York City by working in partnership with the community to enforce the law, preserve peace, protect the people, reduce fear, and maintain order.”⁸

Prohibition on Bias-Biased Profiling

Section 14-151 of the Administrative Code prohibits bias-based profiling. Specifically, it prohibits “every member of the police department or other law enforcement officer” from engaging in

an act... that relies on actual or perceived race, national origin, color, creed, age, alienage or citizenship status, gender, sexual orientation, disability, or housing status as the determinative factor in initiating a law enforcement action against an individual, rather than the individual’s behavior or other information or circumstances that link a person or persons to suspected unlawful activity.

Accordingly, the NYPD Patrol Guide (“Patrol Guide”) contains a two-page document entitled “Department Policy Prohibiting Racial Profiling And Bias-Based Policing.”⁹ The policy reminds all NYPD members of service that the NYPD is committed “both to the impartial enforcement of law and to the protection of constitutional rights.”¹⁰ In the Patrol Guide, the NYPD explicitly prohibits the use of racial and bias-based profiling in law enforcement actions.¹¹ Race, color, ethnicity, or national origin cannot be used as a motivating factor for initiating police enforcement action.¹² Further, individuals cannot be targeted for any enforcement action because they are members of a racial or ethnic group that appears more frequently in local crime suspect

³ <https://www.insider.com/police-defensive-deescalation-techniques-implicit-bias-training-2020-6>.

³ Michael German, *Hidden in Plain Sight: Racism, White Supremacy and Far Right Militant Law Enforcement*, BRENNAN CENTER FOR JUSTICE (Aug. 27, 2020), <https://www.brennancenter.org/our-work/research-reports/hidden-plain-sight-racism-white-supremacy-and-far-right-militancy-law>.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸NYPD Patrol Guide, Procedure No. 200-02 “General,” available at https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/public-pguide1.pdf.

⁹ NYPD Patrol Guide, Procedure No. 203-25 “General Regulations,” available at https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/public-pguide1.pdf.

¹⁰ *Id.* See NYPD, Racial and Biased-based Profiling, NYC, <https://www1.nyc.gov/site/nypd/about/departement-policy/racial-bias-based-profiling.page> (last visited Feb. 1, 2021).

¹¹ NYPD Patrol Guide, *supra* note 9.

¹² NYPD Patrol Guide, *supra* note 9.

data; race, color, ethnicity, or national origin may only be considered when a stop is based on a specific and reliable suspect description that includes additional identifying information.¹³

Prohibition on Use of Certain Discourteous or Disrespectful Remarks and Certain Associations

The NYPD asserts that it has a zero tolerance policy for racial and other protected-class slurs.¹⁴ The Patrol Guide prohibits NYPD members from “using discourteous or disrespectful remarks regarding another person’s ethnicity, race, religion, gender, gender identity/expression, sexual orientation, or disability.”¹⁵ NYPD members are also prohibited from knowingly associating with any person or organization:

- Advocating hatred, oppression, or prejudice based on race, religion, gender, gender identity/expression, sexual orientation or disability;
- Disseminating defamatory material;
- Reasonably believed to be engaged in, likely to engage in, or to have engaged in criminal activity; or
- Preventing or interfering with performance of police duty.¹⁶

Social Media Policy

The Patrol Guide states that NYPD members of service who elect to maintain personal social media accounts must not post, transmit, share, and/or disseminate any content involving discourteous or disrespectful remarks, in any form, pertaining to issues of ethnicity, race, gender, gender identity/expression, sexual orientation, and/or disability.¹⁷ Similarly, members may not engage in “any type of social media contact” with any individual or organization advocating oppression or prejudice based on the same enumerated classifications.¹⁸ This contact includes liking, retweeting, sharing, promoting, commenting on, or otherwise endorsing social media posts.¹⁹ The prohibition on posting, transmitting, sharing, and/or disseminating content also applies to any content advocating harassment or violence.²⁰

Instances of NYPD Employee Engagement in Racism/Bias/Hate Speech

Despite the existence of NYPD policies prohibiting racism, bias, and hate speech, certain NYPD employees still exhibit or have exhibited such behavior. For instance, Sergeant Ed Mullins’s history of offensive statements and actions while serving as president of the Sergeants Benevolent Association prompted an NYPD Internal Affairs Bureau (“IAB”) investigation in early 2020.²¹

Acts of and Speech by Former Deputy Inspector James Francis Kobel

Recently, on November 6, 2020, the Council’s Oversight & Investigations Division (“Division”) released a report alleging that a high-ranking NYPD official, identified as Deputy Inspector James Francis Kobel, had posted a series of offensive statements online under an anonymous moniker, “Clouseau,” on an online chat

¹³ NYPD Patrol Guide, *supra* note 9.

¹⁴ NYPD, *NYPD Response to OIG Report*, NYC, <https://www1.nyc.gov/site/nypd/news/s0626/nypd-response-oig-report> (last visited Feb. 1, 2021).

¹⁵ NYPD Patrol Guide, Procedure No. 203-10 “General Regulations,” available at https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/public-pguide1.pdf.

¹⁶ *Id.*

¹⁷ NYPD Patrol Guide, Procedure No. 203-32 “General Regulations,” available at https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/public-pguide1.pdf.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ Jake Offenhardt, *NYPD Opens Investigation Into Police Union Boss After Declaration Of 'War' On De Blasio*, GOTHAMIST (Feb. 20, 2020, 2:22 PM), <https://gothamist.com/news/ed-mullins-sba-iab-investigation-nypd>.

board.²² Said posts included expressions of racist, misogynistic, anti-Semitic, and homophobic sentiments.²³ In its investigation, the Division found striking amounts of shared evidence connecting “Clouseau” and Kobel.²⁴ This prompted an internal investigation by the NYPD.²⁵ Ultimately, NYPD investigators were able to attribute the “Clouseau” posts to Kobel after finding a copy of “Clouseau’s” profile photo on Kobel’s cell phone.²⁶ Kobel was a 28-year veteran of the NYPD²⁷ and served as the commanding officer of the NYPD’s Equal Employment Opportunity Division (“EEO Division”), a sub-unit of the NYPD’s Office of Equity and Inclusion that is “responsible for the prevention and investigation of employment and harassment claims.”²⁸ Initially, Kobel, who denied the allegations despite the evidence against him, was placed on modified assignment.²⁹ In January 2021, the NYPD suspended him for 30 days without pay³⁰ and he filed retirement papers as the NYPD inquiry was winding down.³¹ The NYPD ultimately confirmed Kobel’s identity as the author of the posts.³² On February 3, 2021, Kobel was fired from the NYPD after being found guilty of six departmental disciplinary charges, including lying to investigators, impeding the NYPD investigation, posting the remarks, wrongfully divulging NYPD information, and improperly using NYPD equipment.³³

Council’s Oversight Hearing on Racism, Bias, and Hate Speech in the NYPD

Prompted by the Kobel situation, on December 16, 2020, the Council’s Committee on Oversight and Investigations and Committee on Public Safety held an oversight hearing on racism, bias, and hate speech in the NYPD. The committees heard testimony from the NYPD, community advocates, and members of the public about the NYPD’s overall measures to identify, investigate, and combat implicit and explicit bias in its ranks. NYPD Deputy Commissioner for Equity and Inclusion Tanya Meisenholder testified that individual cases handled by the EEO Division are routinely independently reviewed by two NYPD attorneys and two uniform supervisors. Nonetheless, in light of the revelations about Kobel, Meisenholder recommended that an outside entity be enlisted to conduct an independent review of past EEO Division cases. This hearing highlighted the need for performance of a comprehensive public integrity investigation to identify any instances of previous professional misconduct by an NYPD employee who has been found to have engaged in an act exhibiting racism or bias or in hate speech.

Recent Allegations of Failures of the EEO Division

Furthermore, as recently as February 2, 2021, news broke that Kobel had allegedly not acted upon NYPD Captain Sharon Balli’s sexual harassment allegations against colleagues while Kobel was second in command

²² William K. Rashbaum and Alan Feuer, *N.Y.P.D. Anti-Harassment Official Accused of Racist Rants*, THE NEW YORK TIMES (Nov. 5, 2020), <https://www.nytimes.com/2020/11/05/nyregion/james-kobel-nypd-racism.html?auth=login-email&login=email>. The vitriolic messages were posted on an online message board known as “The Rant,” where NYPD officers have posted secret complaints about their jobs for more than 20 years.

²³ New York City Council Oversight and Investigations Division, *A Report on NYPD Deputy Inspector James Francis Kobel and “Clouseau,”* NYCC (Nov. 2020), <https://council.nyc.gov/press/wp-content/uploads/sites/56/2020/11/PDF-FINAL-combined-Clouseau-Report-public-11-5-20-1-1.pdf>.

²⁴ *Id.*

²⁵ William K. Rashbaum and Alan Feuer, *N.Y.P.D. Concludes Anti-Harassment Official Wrote Racist Online Rants*, THE NEW YORK TIMES (Jan. 11, 2021), <https://www.nytimes.com/2021/01/11/nyregion/nypd-james-kobel-racist.html>.

²⁶ Tori B. Powell, *NYPD Anti-Harassment Head Accused of Posting Hundreds of Racist Messages Online*, DAILY BEAST (Nov. 5, 2020, 5:25 PM), <https://www.thedailybeast.com/nypd-anti-harassment-head-accused-of-posting-hundreds-of-racist-messages-online>.

²⁷ NYC OpenData, *Citywide Payroll Data (Fiscal Year)*, NYC OPENDATA, <https://data.cityofnewyork.us/City-Government/Citywide-Payroll-DataFiscal-Year-/k397-673e> (last visited Feb. 1, 2021).

²⁸ NYPD, *Equity and Inclusion*, NYPD, <https://www1.nyc.gov/site/nypd/bureaus/administrative/equity-inclusion.page> (last visited Feb. 1, 2021).

²⁹ Rashbaum and Feuer, *supra* note 25.

³⁰ Madeline Holcombe and Sonia Moghe, *An NYPD Official Is Suspended Without Pay After Being Connected to Racists Posts on a Message Board*, CNN (Jan. 13, 2021, 9:36 PM), <https://www.cnn.com/2021/01/12/us/nypd-official-racist-posts-suspension/index.html>.

³¹ Rashbaum and Feuer, *supra* note 25.

³² Rashbaum and Feuer, *supra* note 25.

³³ William K. Rashbaum and Ashley Southall, *N.Y.P.D. Anti-Harassment Official Fired Over Racist Online Rants*, THE NEW YORK TIMES (Feb. 3, 2021, 6:10 PM), <https://www.nytimes.com/2021/02/03/nyregion/nypd-james-kobel-racist-fired.html>.

of the EEO Division.³⁴ Apparently, Kobel assured Balli that he would conduct a personal investigation, but then disregarded NYPD confidentiality rules concerning discrimination complaints by informing the targets of Balli's complaints about the allegations and did not formally interview Balli.³⁵ Three weeks after Kobel allegedly promised Balli that he would investigate the complaint, he was promoted to commanding officer of the EEO Division, while Balli's responsibilities were changed.³⁶ Balli alleges that the EEO Division never investigated the complaint.³⁷ These kinds of allegations make clear that an independent public integrity review of past conduct by NYPD employees involved in explicit bias incidents, especially of work performed and cases handled by the EEO Division, is essential to ensure that the NYPD is fulfilling its law enforcement duties and doing so without any sort of prejudice.

Civilian Complaint Review Board (“CCRB”)

There are local governmental bodies that perform investigations, such as the IAB, the Commission to Combat Police Corruption (“CCPC”), and the Department of Investigation (“DOI”). However, to the Council's knowledge, neither the IAB nor the CCPC has yet taken the initiative to proactively investigate past professional conduct by any NYPD employees found to have engaged in racist, biased, or hate speech. The DOI generally looks into corruption through systemic investigations, not into specific instances of misconduct.³⁸

The CCRB is authorized by the Charter to deal with four kinds of public complaints against police officers: excessive force, abuse of authority, discourtesy, and offensive language.³⁹ If a member of the NYPD displays bias while policing, there are two potential routes for investigation of the action: through the IAB⁴⁰ if the allegation is that the actions an officer took (or did not take) were biased, or through the CCRB if the complaint only alleges that offensive language was used.⁴¹ If a complainant alleges both that the NYPD officer took some type of action (or refrained from taking an action) based on the complainant's protected status and an offensive remark was made, the IAB will retain the action allegation while the CCRB will investigate the offensive language allegation.⁴² Proposed Int. No. 2212-A would clarify the CCRB's power to investigate bias-based policing and racial profiling complaints made by the public.

BILL ANALYSIS

Section one of this bill would amend paragraph 1 of subdivision c of section 440 of the Charter to clarify that the CCRB has the power to investigate misconduct by members of the police department involving abuse of authority that includes bias-based policing and racial-profiling. It would amend paragraph 3 of such subdivision to provide that the CCRB may compel the attendance of witnesses and require the production of records and materials it needs to carry out investigations within its jurisdiction pursuant to the entire of chapter 18-A of the Charter. It would also provide that the CCRB may request the Corporation Counsel to enforce the CCRB's subpoena power exercised pursuant to the entirety of such chapter. Additionally, the section would amend paragraph 6 of such subdivision to require the CCRB to include in its semi-annual activity report to the Mayor and the Council details about investigations it has initiated pursuant to proposed section 441 of the Charter (date, current status, date of completion or termination, description of findings and recommendations, and description of responses from the Police Commissioner).

³⁴ Graham Rayman, *NYPD Captain Claims Her Discrimination and Harassment Complaint was Buried by Inspector: Suit*, DAILY NEWS (Feb. 2, 2021, 6:00 AM), <http://www.nydailynews.com/new-york/nyc-crime/ny-nypd-captain-harass-complaint-lawsuit-20210202-nqrvt25cbehlfrtffjjkkui-story.html>.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ NYC Department of Investigation, *About DOI*, NYC DEPARTMENT OF INVESTIGATION, <https://www1.nyc.gov/site/doi/about/about.page> (last visited Feb. 1, 2021).

³⁹ N.Y. City Charter § 440(c)(1).

⁴⁰ NYPD, *Internal Affairs*, NYPD, <https://www1.nyc.gov/site/nypd/bureaus/investigative/internal-affairs.page> (last visited Oct. 5, 2020).

⁴¹ NYC Department of Investigation, *Examination by DOI's Office of the Inspector General for the NYPD Identifies Deficiencies and Recommends Improvements in How NYPD Handles Complaints of Biased Policing*, NYC DEPARTMENT OF INVESTIGATION (June 26, 2019), at 2, available at https://www1.nyc.gov/assets/doi/reports/pdf/2019/Jun/19BiasRpt_62619.pdf.

⁴² *Id.*

Section two of this bill would amend paragraph 1 of subdivision d of section 440 of the Charter to require the NYPD to cooperate (including by providing necessary records and materials to the CCRB upon request) with the CCRB's investigations undertaken pursuant to the entirety of chapter 18-A of the Charter. It would also amend paragraph 2 of such subdivision by requiring the Police Commissioner to ensure that NYPD officers and employees appear before and respond to the CCRB's inquiries in connection with investigations undertaken by CCRB pursuant to the entirety of chapter 18-A of the Charter.

Section three of this bill would add a new section 441 to the Charter:

Subdivision a of proposed section 441 would provide definitions of the terms "act of bias," (act stemming from a specific incident that is motivated by or based on animus against any person on the basis of race, ethnicity, religion, gender, sexual orientation, or disability), "board," and "covered entity" (NYPD, CCRB, New York City Commission on Human Rights ("Commission on Human Rights"), DOI, court, or other office or body designated by the CCRB) for purposes of proposed section 441.

Paragraph 1 of subdivision b of proposed section 441 would provide that based on a final determination by a covered entity that a current or former member of the NYPD engaged in an act of bias (finding reached after the member had an opportunity to respond to the allegations), the CCRB would be empowered to investigate past professional conduct by the member. If the act of bias was "severe," the investigation would be mandatory. The investigation would have to commence less than five years after the final determination was made. It would be of no consequence whether the member was on or off duty when engaging in the act of bias.

Paragraph 2 of subdivision b of proposed section 441 would require the CCRB to define a "severe" act of bias and, in consultation with each covered entity, what constitutes a covered entity's final determination that the NYPD member engaged in an act of bias or severe act of bias. It specifies that the CCRB would be able to rely on a member's off-duty conduct to initiate an investigation only if (i) the conduct could have resulted in removal or discipline by the NYPD, (ii) the CCRB reasonably believes the conduct has had or could have had a disruptive effect on the NYPD's mission, and (iii) the NYPD's interest in preventing actual or potential disruption outweighs the member's speech interest.

Paragraph 3 of subdivision b of proposed section 441 would require the CCRB to communicate a definition it made pursuant to paragraph 2 or any changes to it within 10 days after making or changing the definition, and to make the definition or change publicly available online.

Paragraph 4 of subdivision b of proposed section 441 would require a covered entity that is an agency (like the NYPD, Commission on Human Rights, or DOI) to promptly provide notice to the CCRB of a final determination it made that an NYPD member engaged in an act of bias or severe act of bias. The notice would have to be provided in a time, form, and manner designated by the CCRB through consultation with each covered entity that is an agency.

Paragraph 5 of subdivision b of proposed section 441 would require a covered entity that is an agency, within 120 days after the effective of sections one through four of the bill, to the extent practicable, to provide the CCRB with a written list of NYPD members that the covered entity has finally determined to have engaged in an act of bias or severe act of bias before such effective date and on or after January 1, 2016. This list would have to be provided in a form and manner (and include additional information) as the CCRB may require through consultation with each covered entity that is an agency. This requirement is intended to provide the CCRB with an initial list of existing findings based on which it can initiate investigations.

Paragraph 6 of subdivision b of proposed section 441 would require the CCRB to request, at least once every four months after the effective date of sections one through four of the bill, from each covered entity that is not an agency (except a court) information about final determinations made by the covered entity on or after January 1, 2016 that an NYPD member engaged in an act of bias or severe act of bias.

Paragraph 7 of subdivision b of proposed section 441 would require the CCRB to consult with the Law Department to obtain information about final determinations made by a covered entity that is a court with jurisdiction within the state of New York ("State") on or after January 1, 2016 that an NYPD member has engaged in an act of bias or severe act of bias.

Subdivision c of proposed section 441 would require the CCRB to determine the scope of an NYPD member's past professional conduct to investigate based on the member's professional rank and assigned roles, as well as the nature of the member's act of bias. The CCRB would be required to investigate all or a representative sampling of the member's conduct within that scope.

The CCRB would be required to investigate such conduct by a former NYPD member beginning from the date of hire by the NYPD until and including the last day of employment by the NYPD, and conduct by a current NYPD member beginning from the date of hire by the NYPD until and including the date of initiation of the investigation.

Subdivision d of proposed section 441 sets forth the steps of such an investigation. Paragraph 1 would require the CCRB to provide notice to the NYPD member being investigated and the relevant covered entity that such an investigation has been initiated. Paragraph 2 would require the CCRB to provide a written statement of final determination to the member being investigated within 10 days after completion of such an investigation. This statement would have to include investigation details (e.g., dates of initiation and conclusion, identity of subject, and summary of materials reviewed), investigative findings (e.g., identification of threats of safety to an individual or the public and whether the CCRB found evidence of any additional past acts of bias committed in the course of professional work), any recommendations of the CCRB for remedial action (e.g., training, discipline where consistent with section 75 of the State Civil Service Law, or both), and, if applicable, a statement that the CCRB decided to terminate the investigation and the basis for such decision).

Paragraph 3 of subdivision d of proposed section 441 would require the CCRB to provide an opportunity, within a time period established by rule, for the member being investigated to respond to any of the CCRB's findings or recommendations. If the member submits a timely answer, the CCRB would be required to consider it and decide whether to revise any of its findings or recommendations. Paragraph 4 would require the CCRB to submit a finalized written statement of final determination within 10 days after finalization to the Police Commissioner, any parties who needed to be notified of the investigation, and any other agency or official designated by the CCRB. The Police Commissioner would be required to report to the CCRB in writing, within 120 days after receipt of the CCRB's finalized statement, on actions taken or planned to be taken in response (e.g., level of discipline, any penalty imposed or to be imposed on the NYPD member, and any other remedial action). If the action taken or planned to be taken differs from that recommended by the CCRB, the Police Commissioner would be required to provide in the report a detailed explanation for the deviation and an explanation of how the final disciplinary or remedial decision was determined. If the Police Commissioner takes action in response after such 120-day period, the Police Commissioner would be required to provide an updated version of the report to the CCRB within 30 days after taking the action.

Paragraph 1 of subdivision e of proposed section 441 would permit the CCRB to discretionarily delegate to and revoke from its chair or executive director any responsibility or authority that proposed section 441 assigns to the CCRB. Paragraph 2 would permit the CCRB to designate a third party to assist with an investigation conducted under proposed section 441. The third party would be required to keep all information it obtains during such an investigation confidential and prohibited from disclosing such information except to the CCRB (except where law provides otherwise).

Subdivision f would require the CCRB to do rulemaking to further determine the manner of conducting investigations, presenting findings, making recommendations, providing notice, and providing an opportunity for the member being investigated to respond under proposed section 441.

Subdivision g of proposed section 441 would make clear that such section would not limit or impair the authority of the Police Commissioner to discipline NYPD members or to limit the rights of NYPD members with respect to disciplinary action.

Subdivision h of proposed section 441 would make clear that such section would not prevent or hinder any investigation or prosecution undertaken by any covered entity.

Section four of this bill would amend subdivision a of section 14-190 of the Administrative Code by making some minor grammatical and language corrections for consistency within section 14-190, and by requiring that the NYPD's centralized system to record and evaluate police officer activity include results of investigations conducted by the CCRB pursuant to proposed section 441 of the Charter. It would also clarify the existing requirement that the system include results of investigations of complaints conducted by the CCRB pursuant to section 440 of the Charter.

Subdivision a of section five of the bill would require the NYPD to engage an independent and external consultant to perform an independent, full, and complete review of all – or a statistically significant sampling of – work performed and cases handled by its EEO Division between October 1, 2017 and October 31, 2020, inclusive. The subdivision would provide that the purpose of such an investigation is to determine whether such

work performed and cases handled were done in accordance with the purpose, mission, and protocols of the EEO Division as described by the NYPD in any NYPD policies and in any publicly published materials.

Subdivision b of section five of the bill would require the NYPD to fully cooperate with such a review and provide any assistance requested by the consultant, including by providing the consultant with all materials containing NYPD policies that describe the purpose, mission, or protocols of the EEO Division. The Police Commissioner would be required to ensure that NYPD members and other persons acting on behalf of the NYPD respond to the consultant's inquiries in connection with such a review.

Subdivision c of section five of the bill would require that the agreement between the NYPD and consultant provide that:

1. The consultant and its employees, agents, and representatives would be required to keep any information they obtain in the course of the review confidential and not disclose such information outside the consultant, except where otherwise provided by law;

2. The consultant would be required to publish online and submit to the Mayor, Police Commissioner, and Speaker of the Council, within 30 days after concluding the review, a written report that summarizes the review's findings. The report would have to include recommendations for improving the EEO Division's functions with respect to its purpose, mission, and protocols and for remedying instances in which the EEO Division failed to fulfill its purpose or mission or follow its protocols, excluding any specific recommendations to reinvestigate past EEO Division cases; and

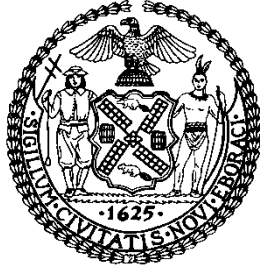
3. The consultant would be permitted to make recommendations to the Police Commissioner that the EEO Division reinvestigate past EEO Division cases.

Subdivision d of section five of the bill would require the Police Commissioner to make publicly available online and submit to the Mayor and Speaker of the Council, within 120 days after receiving the consultant's report, a written statement regarding action taken or planned to be taken in response, similar to what the Police Commissioner would be required to do pursuant to paragraph 4 of subdivision d of proposed section 441 of the Charter.

Subdivision e of bill section five would provide that nothing in such section would require the public of information protected by law. Subdivision f would require that before the NYPD or the consultant makes any report under the section available to the public, the NYPD or an external consultant redact personal identifying information.

Subdivision a of section six of the bill provides that sections one through four of the bill would take effect 270 days after they become law, except that the CCRB would be required to do rulemaking before such date. Subdivision b provides that section five of the bill would take effect 30 days after it becomes law.

(The following is the text of the Fiscal Impact Statement for Int. No. 2212-A:)



THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
 LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO. 2212-A
COMMITTEE: Civil and Human Rights

TITLE: A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to clarifying that the New York city civilian complaint review board has the power to investigate bias-based policing and racial profiling, requiring such board to investigate past professional conduct by members of the police department determined to have engaged in acts of bias and to make remedial recommendations and requiring the police department to engage an external consultant to perform a review of certain past work done by the equal employment opportunity division of the police department.

Sponsors: By Council Members Gibson, Kallos, Constantinides, Louis, Chin, Rosenthal, and Rivera.

SUMMARY OF LEGISLATION: Proposed Intro. No. 2212-A would clarify that the Civilian Complaint Review Board (CCRB) has the power to investigate bias-based policing and racial profiling complaints made by the public. It would also provide that based on a final determination by the New York Police Department (NYPD), the CCRB, the Commission on Human Rights, the Department of Investigation or a court that a member of the NYPD engaged in an act of bias, the CCRB would be empowered to investigate past professional conduct by the member. This bill would require details of any investigation initiated pursuant to this legislation to be included in CCRB's semi-annual report. This legislation would authorize the CCRB to engage a third party to assist with any investigation conducted under the legislation. Lastly, the bill would require the NYPD to engage an independent, external consultant to perform a review cases handled by the NYPD's Equal Employment Opportunity Division (EEO Division) between October 1, 2017 and October 31, 2020.

EFFECTIVE DATE: Sections one through four of this local law, which relates to the CCRB investigation provisions and updates to NYPD centralized system, would take effect 270 days after they become law; section five, which relates to the independent review of NYPD's EEO Division, would take effect 30 days after it becomes law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2022

FISCAL IMPACT STATEMENT:

| | Effective FY21 | FY Succeeding Effective FY22 | Full Fiscal Impact FY22 |
|-------------------------|-----------------------|---|------------------------------------|
| Revenues (+) | \$0 | \$0 | \$0 |
| Expenditures (-) | \$450,000 | \$3,900,000 | \$0 |
| Net | \$450,000 | \$3,900,000 | \$0 |

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

IMPACT ON EXPENDITURES: The legislation is anticipated to have an impact on expenditures for CCRB and NYPD. CCRB will require \$3.9 million annually to comply with the requirements of this legislation, and \$230,000 for a one-time expenditure. The annual cost is based on CCRB's estimate of 57 new positions across two new units - one unit to investigate bias incidents and one unit dedicated to investigating and analyzing the historical conduct of an officer. The positions include 40 investigators and 17 other positions including supervisors, policy analysts, attorneys, and administrative staff. The \$3.9 million annual cost estimate would also account for recurring costs, which include expenditures for Other Than Personal Services (OTPS) such as software, office space, and supplies. Additionally, the one-time OTPS expenditure for CCRB is required for training, computers, and other start-up expenditures. NYPD would require a one-time expenditure of \$220,000 to engage a consultant for the review, analysis, and report on NYPD's EEO Division. The table above lists \$450,000 for Fiscal 2021 which is the total for one-time costs for both NYPD and CCRB.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General Fund

SOURCE OF INFORMATION: Civilian Complaint Review Board
New York City Council Finance Division

ESTIMATE PREPARED BY: Nevin Singh, Financial Analyst

ESTIMATE REVIEWED BY: Eisha Wright, Unit Head
Stephanie Ruiz, Assistant Counsel

LEGISLATIVE HISTORY: This legislation was first considered by the Committee on Civil and Human Rights (Committee) as a Preconsidered Introduction on February 8, 2021 and the bill was laid over. This legislation was introduced to the full Council on February 11, 2021 as Intro. No. 2212 and was referred to the Committee. The legislation was subsequently amended and the amended version, Proposed Intro. No. 2212-A, will be voted on by the Committee at a hearing on March 25, 2021. Upon successful vote by the Committee, Proposed Intro. No. 2212-A will be submitted to the full Council for a vote on March 25, 2021.

DATE PREPARED: March 23, 2021.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 2212-A:)

Int. No. 2212-A

By Council Members Gibson, Kallos, Constantinides, Louis, Chin, Rosenthal, Rivera and Gennaro.

A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to clarifying that the New York city civilian complaint review board has the power to investigate bias-based policing and racial profiling, requiring such board to investigate past professional conduct by members of the police department determined to have engaged in acts of bias and to make remedial recommendations and requiring the police department to engage an external consultant to perform a review of certain past work done by the equal employment opportunity division of the police department

Be it enacted by the Council as follows:

Section 1. Paragraphs 1, 3 and 6 of subdivision c of section 440 of the New York city charter, paragraphs 1 and 3 as amended by a ballot question approved by the voters in the 2019 general election and by local law number 215 for the year 2019 and paragraph 6 as added by local law number 1 for the year 1993, are amended to read as follows:

1. The board shall have the power to receive, investigate, hear, make findings and recommend action upon complaints by members of the public against members of the police department that allege misconduct involving excessive use of force, abuse of authority *including bias-based policing and racial profiling*, discourtesy, or use of offensive language, including, but not limited to, slurs relating to race, ethnicity, religion, gender, sexual orientation and disability. The board shall also have the power to investigate, hear, make findings and recommend action regarding the truthfulness of any material official statement made by a member of the police department who is the subject of a complaint received by the board, if such statement was made during the course of and in relation to the board's resolution of such complaint. The findings and recommendations of the board, and the basis therefor, shall be submitted to the police commissioner. No finding or recommendation shall be based solely upon an unsworn complaint or statement, nor shall prior unsubstantiated, unfounded or withdrawn complaints be the basis for any such finding or recommendation.

3. The board, by majority vote of its members, may compel the attendance of witnesses and require the production of such records and other materials as are necessary for the investigation of matters within its jurisdiction pursuant to this [section] *chapter*. The board may request the corporation counsel to institute proceedings in a court of appropriate jurisdiction to enforce the subpoena power exercised pursuant to this [section] *chapter*, and the board itself may, subject to chapter 17 of the charter, institute such proceedings. The board may, subject to any conditions it deems appropriate, delegate to and revoke from its executive director such subpoena authority and authority to institute proceedings.

6. The board shall issue to the mayor and the city council a semi-annual report which shall describe its activities and summarize its actions. *Such report shall include, for each investigation initiated pursuant to section 441, such investigation's date of initiation, current status and any date of completion or termination, a description of any investigative findings and recommendations set forth in a written statement of final determination and a description of any written reports from the police commissioner in response to a written statement of final determination.*

§ 2. Paragraphs 1 and 2 of subdivision d of section 440 of the New York city charter, as amended by a ballot question approved by the voters in the 2019 general election and by local law number 215 for the year 2019, are amended to read as follows:

1. It shall be the duty of the police department to provide such assistance as the board may reasonably request, to cooperate fully with investigations by the board, and to provide to the board upon request records and other materials which are necessary for investigations undertaken pursuant to this [section] *chapter*, except such records or materials that cannot be disclosed by law.

2. The police commissioner shall ensure that officers and employees of the police department appear before and respond to inquiries of the board and its civilian investigators in connection with investigations undertaken pursuant to this [section] *chapter*, provided that such inquiries are conducted in accordance with department procedures for interrogation of members.

§ 3. Chapter 18-A of the New York city charter is amended by adding a new section 441 to read as follows:

§ 441. *Investigating past professional conduct by members of the police department.* a. *Definitions.* As used in this section, the following terms have the following meanings:

Act of bias. The term “act of bias” means an act stemming from a specific incident:

(i) that is motivated by or based on animus against any person on the basis of race, ethnicity, religion, gender, sexual orientation or disability, and

(ii) that the board is empowered to investigate pursuant to paragraph 1 of subdivision c of section 440.

Board. The term “board” means the civilian complaint review board.

Covered entity. The term “covered entity” means the police department, the board, the commission on human rights, the department of investigation, a court of competent jurisdiction or any other officer or body designated by the board.

b. 1. The board: (i) shall conduct an investigation of past conduct in the course of performance of official duties by a current or former member of the police department whom a covered entity has found, in a final determination reached after such member was afforded an opportunity to respond to the relevant allegations, to have engaged in a severe act of bias, regardless of whether such member was on or off duty when engaging in such act, if the date that such investigation commences would be less than five years after such final determination was made; and (ii) may conduct an investigation of past conduct in the course of performance of official duties by a current or former member of the police department whom a covered entity has found, in a final determination reached after such member was afforded an opportunity to respond to the relevant allegations, to have engaged in an act of bias other than a severe act of bias, regardless of whether such member was on or off duty when engaging in such act, if the date that such investigation commences would be less than five years after such final determination was made.

2. For the purposes of initiating such investigations, the board shall define what constitutes a severe act of bias and, in consultation with each covered entity, what constitutes a covered entity’s final determination that such a member engaged in an act of bias or severe act of bias, provided that off-duty conduct may be the basis for initiating such investigation only if (i) such conduct could have resulted in removal or discipline by the police department, (ii) the board reasonably believes such conduct has had or could have had a disruptive effect on the mission of the police department, and (iii) the police department’s interest in preventing actual or potential disruption outweighs the member’s speech interest.

3. Within 10 days after making or changing a definition made pursuant to paragraph 2 of this subdivision, the board shall communicate such definition or change to each covered entity and shall make such definition or change publicly available online.

4. If a covered entity that is an agency makes a final determination that such a member engaged in an act of bias or a severe act of bias, such covered entity shall promptly provide notice to the board in a time, form and manner designated by the board in consultation with such covered entity.

5. Within 120 days after the effective date of sections one through four of the local law that added this section, each covered entity that is an agency shall, to the extent practicable, provide the board with a written list of such members whom such covered entity has finally determined to have engaged in an act of bias or severe act of bias before such effective date and on or after January 1, 2016; provided that such list shall be provided in a form and manner, and shall include such additional information, as the board may require in consultation with such covered entity.

6. At least once every 4 months after the effective date of sections one through four of the local law that added this section, the board shall request from each covered entity that is not an agency, except a court with jurisdiction within the state of New York, information about final determinations made by such entity that such a member engaged in an act of bias or severe act of bias, including final determinations made on or after January 1, 2016.

7. The board shall consult with the law department to obtain information about final determinations by a covered entity that is a court with jurisdiction within the state of New York that such a member has engaged in an act of bias or severe act of bias, including final determinations made on or after January 1, 2016.

c. The board shall determine the scope of past conduct in the course of performance of official duties by such member to investigate based on the member’s professional rank and assigned roles and the nature of the member’s act of bias. The board shall investigate all or a representative sampling of such member’s past conduct within such scope beginning from the date of hire by the police department until and including, for a former

member of the police department, the last day of employment by the police department, or, for a current member of the police department, the date of initiation of an investigation pursuant to this section.

d. 1. Within 10 days after the board initiates such investigation, the board shall provide written notice to the member being investigated and to the relevant covered entity.

2. Within 10 days after the completion of such investigation, the board shall provide a written statement of final determination to the member being investigated. Such statement shall include (i) the investigation's details, when it was initiated and concluded, the identity of its subject and a summary of the materials reviewed by the board during the investigation; (ii) the board's investigative findings, including the identification of any threat to the safety of an individual or the public and whether the board found evidence of any additional past acts of bias committed in the course of performance of official duties; (iii) if applicable, any recommendations of the board for remedial action, including training, discipline, where consistent with section 75 of the civil service law, or both; and (iv) if applicable, a statement that the board has determined to terminate the investigation and an explanation why.

3. The board shall provide an opportunity for the member being investigated to answer in writing, within a time period established by rule, any findings or recommendations made by the board. If such member timely submits such an answer, the board shall consider it and determine whether to revise any such findings or recommendations in response.

4. Within 10 days after finalizing the written statement of final determination pursuant to paragraphs 2 and 3 of this subdivision, the board shall submit such written statement to the police commissioner, any other parties to whom notice was sent pursuant to paragraph 1 of this subdivision and any other appropriate agency or official as determined by the board. Within 120 days after receiving such written statement, the police commissioner shall report to the board in writing on any action taken or planned to be taken in response, including the level of discipline and any penalty imposed or to be imposed upon such member, as well as any other remedial action. If such action taken or planned to be taken differs from that recommended by the board, the police commissioner shall provide in such written report a detailed explanation for deviating from the board's recommendations and an explanation of how the final disciplinary or remedial decision was determined, including each factor the police commissioner considered in making such decision. If the police commissioner takes action in response to such written statement of final determination after such 120-day period, the police commissioner shall provide an updated version of such written report to the board within 30 days after taking such action.

e. 1. The board may, subject to any conditions it deems appropriate, delegate to and revoke from its chair or executive director any responsibility or authority assigned by this section to the board.

2. The board may, subject to any conditions it deems appropriate, designate a third party to assist with any investigation conducted under this section. Any such third party shall keep confidential and is prohibited from disclosing except to the board any information it obtains in the course of such investigation, except as otherwise required by law.

f. The board shall, in accordance with subdivisions b, c and d of this section, promulgate rules that further prescribe the manner in which the board is to conduct investigations, present findings, make recommendations, provide notice and provide an opportunity for the member being investigated to be heard.

g. This section shall not be construed to limit or impair the police commissioner's authority to discipline members of the police department at any time. Nor shall this section be construed to limit the rights of members of the department with respect to disciplinary action, including but not limited to the right to notice and a hearing, which may be established by any provision of law or otherwise.

h. This section shall not be construed to prevent or hinder any investigation or prosecution undertaken by any covered entity.

§ 4. Subdivision a of section 14-190 of the administrative code of the city of New York, as added by local law number 68 for the year 2020, is amended to read as follows:

a. The department shall maintain a centralized system that is used to record, track, review[,] and evaluate officer activity and to identify officers who may be in need of enhanced training, monitoring[,] or reassignment. Such system shall collect and utilize, at a minimum, the following:

(i) information reported pursuant to section 7-114;

(ii) complaints received and results of investigations *based on such complaints* conducted by the civilian complaint review board pursuant to section 440 of the charter;

(iii) complaints received and *results of investigations* conducted by the department, including but not limited to investigations conducted by the internal affairs bureau, and any disposition resulting from any such investigation;

(iv) complaints received pursuant to section 804 of the charter;

(v) use of force incidents and incidents of excessive force, as those terms are defined in section 14-158;

(vi) arrests and summonses for violations of sections 240.20, 195.05 and 205.30 of the penal law;

(vii) judicial or departmental determinations that detentions of individuals were not legally justified;

(viii) criminal arrests or investigations of an officer, to the extent known to the department;

(ix) judicial determinations that an officer's testimony is not credible;

(x) vehicle pursuits and collisions involving department equipment;

(xi) violations of the department's patrol guide;

(xii) disciplinary actions and ongoing disciplinary proceedings; [and]

(xiii) non-disciplinary corrective actions[.]; *and*

(xiv) *results of investigations conducted by the civilian complaint review board pursuant to section 441 of the charter.*

§ 5. a. The police department shall, in accordance with this section, engage an independent, external consultant to perform an independent, full and complete review of all, or a statistically significant sampling of, work performed and cases handled by the equal employment opportunity division of the police department between October 1, 2017 and October 31, 2020, inclusive, to determine whether such work performed and cases handled by such division were done in accordance with the purpose, mission and protocols of such division as described by the police department in any policies of the police department and any publicly published materials.

b. The police department shall fully cooperate with such review and provide such assistance as such external consultant may request, including by providing such external consultant with any and all materials containing policies of the police department that describe the purpose, mission or protocols of such division. The police commissioner shall ensure that all members of the police department and other persons acting on behalf of such department respond to inquiries by such external consultant in connection with such review.

c. The agreement under which the police department engages such external consultant shall require and provide as follows, in addition to including any other terms and provisions the police department may determine to be appropriate:

1. Except as otherwise provided in this local law or as otherwise required by law, such external consultant and its employees, agents and representatives shall keep confidential and are prohibited from disclosing outside such external consultant any information such external consultant obtains in the course of such review.

2. Within 30 days after the conclusion of such review, such external consultant shall make publicly available online and submit to the mayor, police commissioner and speaker of the council a written report summarizing the findings of such review. Such report shall include recommendations for improving the function of such division with respect to its purpose, mission and protocols and for remedying instances in which such division did not fulfill such purpose or mission or follow its protocols, excluding any recommendations that such division reinvestigate or otherwise reconsider particular past work or cases handled by such division.

3. Such external consultant may make recommendations to the police commissioner that such division reinvestigate or otherwise reconsider particular past work or cases handled by such division.

d. Within 120 days after receiving such report from such external consultant, the police commissioner shall make publicly available online and submit to the mayor and speaker of the council a written statement on the actions that the police department has taken or plans to take in response to the findings and recommendations in such report. In any instance where the action taken or planned to be taken in response to such report differs from that recommended in such report, the police commissioner shall provide in such statement a detailed explanation of the reasons for deviating from such recommendation. If the police commissioner takes any action in response to such report after such 120-day period, and such action was not described in a prior statement prepared by the police commissioner pursuant to this subdivision, the police commissioner shall make publicly available online and provide to the mayor and speaker of the council an updated version of such statement within 10 days after taking such action.

e. Nothing in this section shall require the publication of information that is protected by law.

f. Before making any report available to the public pursuant to this section, the police department or an external consultant engaged by such department shall remove any individual's name, all personal identifying information as defined by subdivision a of section 10-501 of the administrative code of the city of New York and any information that, in conjunction with information available to the general public, may result in the disclosure of an individual's identity.

§ 6. a. Sections one through four of this local law take effect 270 days after they become law, except that the New York city civilian complaint review board shall take such measures as are necessary for the implementation of such sections, including the promulgation of rules, before such date.

b. Section five of this local law takes effect 30 days after it becomes law.

MATHIEU EUGENE, *Chairperson*; DANIEL DROMM, BILL PERKINS; Committee on Civil and Human Rights, March 25, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Rosenthal and Gibson.*

On motion of the Speaker (Council Member Johnson), 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 Governmental Operations

Report for Int. No. 2118-A

Report of the Committee on Governmental Operations 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 press credentials

The Committee on Governmental Operations, to which the annexed proposed amended local law was referred on October 15, 2020 (Minutes, page 2199), respectfully

REPORTS:

I. INTRODUCTION

On March 25, 2021, the Committee on Governmental Operations, chaired by Council Member Fernando Cabrera, will held a second hearing and a vote on Proposed Introduction Number 2118-A, sponsored by Council Member Powers, in relation to press credentials. The bill would give the Mayor’s Office of Media and Entertainment (“MOME”) authority to issue, suspend, and revoke press credentials, and would remove that authority from the New York City Police Department (“NYPD”). The bill was approved by the Committee with 6 votes in the affirmative, 2 votes in the negative, and 0 abstentions.

II. BACKGROUND

a. Media Credentials in New York City

The Office of the Deputy Commissioner for Public Information of the NYPD is the sole entity responsible for issuing media credentials in the City of New York.¹ These credentials enable members of the media to cross police and fire lines (subject to safety and evidence preservation concerns) and attend events sponsored by the City that are open to the press (subject to space limitations).² The NYPD issues three types of press credentials: (1) press cards, issued to individual members of the press for two years;³ (2) reserve press cards, issued to news organizations for use by individuals retained by such organizations;⁴ and (3) single event press cards, issued to individual members of the press entitling them to access a specific event.⁵

Under rules promulgated by the NYPD (“NYPD Rules”), press credentials are only available to members of the press and news organizations that conduct in-person coverage of (i) “emergency, spot or breaking news events and/or public events of a non-emergency nature, where police, fire lines or other restrictions, limitations, or barriers established by the City of New York have been set up for security or crowd control purposes,” or (ii) “events sponsored by the City of New York which are open to members of the press.”⁶ Individuals and organizations applying for press credentials must submit commentaries, books, photographs, videos, film or audio published or broadcast within the twenty-four months immediately preceding the application that are sufficient to show that the individual or organization covered six or more such events occurring on separate

¹ NEW YORK POLICE DEPARTMENT, *Media Credentials*, (last accessed on Feb. 2, 2021), <https://www1.nyc.gov/site/nypd/media/newsroom/media-credentials.page>.

² R.C.N.Y. Tit 38, Chap. 11.

³ R.C.N.Y. Tit 38, § 11-01.

⁴ R.C.N.Y. Tit 38, § 11-02.

⁵ R.C.N.Y. Tit 38, § 11-03.

⁶ *Id.*

days.⁷ In 2012, *Gothamist* published an informal guide offering advice to new members of the press seeking to secure an NYPD press pass for the first time.⁸ It recommended that reporters submit far more reporting excerpts than required, as the NYPD often disputed reporting of events not specifically sponsored by a City agency or the City Council, or incidents where New York State law enforcement was on the scene.⁹

Should an application for press credential be denied, the NYPD Rules entitle the applicant to appeal the decision. The appeal must be submitted in writing, within 20 days of the denial, to the Commanding Officer within the Public Information Division.¹⁰ Upon receipt of the appeal, the NYPD must schedule the applicant for a hearing within 30 days. The applicant may be represented by a lawyer at such hearing.¹¹ The Commanding Officer within the Public Information Division presides over the hearing and is required to issue a written decision within 45 days. If the appeal is denied, the decision must advise the applicant of the basis for the denial.¹²

Printed on the back of each press credential issued by the NYPD is the following statement: “This card is the property of the New York City Police Department. It may be taken away by a competent authority at any time.”¹³ Although the NYPD Rules do not specify who may take away a person’s press credentials or under what circumstances, the Rules do contemplate that credentials may be seized or rescinded, as they require hearings whenever press credentials “are summarily suspended” or “a revocation of [such] credentials is sought.”¹⁴ In the former instance, a hearing must be held within five days of the suspension; in the latter, a hearing must be provided before a revocation takes place (unless a summary suspension leads to a revocation following a hearing).¹⁵ The rules are silent on the criteria the Deputy Commissioner of Public Information must utilize to evaluate the propriety of a summary suspension or revocation of media credentials.¹⁶

b. Controversy

Periodic controversies have surfaced around the NYPD denying, seizing, suspending, and revoking media credentials. Members of the press have alleged that the NYPD has revoked press credentials, or threatened to do so, for reasons unrelated to public safety.¹⁷ In 2015, a freelance journalist, JB Nicholas, formerly a photographer for the *Daily News*, had his press pass revoked for leaving the “designated press area” at the site of a collapsed building construction site to photograph the site (not visible from the press area).¹⁸ Nicholas sued the NYPD, which ultimately returned his press credentials.¹⁹ In the discovery phase of the lawsuit, Nicholas’ lawyers found that the NYPD had revoked media credentials of at least nine other journalists, none of whom knew the reason for the revocation, were asked to attend a hearing, or were informed of their rights to appeal the revocations.²⁰

The NYPD’s authority over press credentials came under additional scrutiny in the Summer of 2020, after news outlets reported multiple instances of NYPD officers threatening and physically attacking credentialed

⁷ NEW YORK POLICE DEPARTMENT, *Press Credentials Application*, (last accessed on Feb. 2, 2021),

<https://www1.nyc.gov/assets/nypd/downloads/pdf/press-credentials-application-rev-2091-12-11a.pdf>.

⁸ Jake Dobkin, *Gothamist Guide: How to Really Get an NYPD Press Pass*, GOTHAMIST, (Mar. 26, 2012),

<https://gothamist.com/news/gothamist-guide-how-to-really-get-an-nypd-press-pass>.

⁹ *Id.*

¹⁰ R.C.N.Y. Tit 38, § 11-11.

¹¹ *Id.*

¹² *Id.*

¹³ Nick Pinto, *The impossible task of covering the NYPD*, COLUMBIA JOURNALISM REVIEW (May 23, 2019),

<https://www.cjr.org/watchdog/nypd-media-journalists.php>.

¹⁴ R.C.N.Y., *supra* note 10.

¹⁵ *Id.*

¹⁶ *See id.*

¹⁷ *See. e.g.*, Danny Lewis, *Should The NYPD Get To Decide Who's A Journalist?*, GOTHAMIST, (Aug. 19, 2020),

<https://gothamist.com/news/should-nypd-get-decide-whos-journalist>; New York Times Editorial Board, *Why Does the N.Y.P.D. Want to Punish Journalists?*, NEW YORK TIMES, (Jul. 15, 2020), <https://www.nytimes.com/2020/07/15/opinion/nyc-police-journalists.html>.

¹⁸ JB Nicholas, *The NYPD's New Rules for Journalists Are Actually a Huge Step Forward*, GOTHAMIST, (Jul. 19, 2021),

<https://gothamist.com/news/the-nypds-new-rules-for-journalists-are-actually-a-huge-step-forward>

¹⁹ *Id.*; Nick Pinto, *Federal Judge Says NYC's Regulation of the Press Will Go on Trial*, THE VILLAGE VOICE, (Mar. 1, 2017),

<https://www.villagevoice.com/2017/03/01/federal-judge-says-nycs-regulation-of-the-press-will-go-on-trial/>

²⁰ JB Nicholas, *supra* note 18.

journalists covering the George Floyd protests.²¹ Since then, a number of public officials have called on the City to remove NYPD's authority over press credentials and transfer it to another entity.²²

c. New NYPD Rules

In July 2020, the NYPD proposed to amend the rules governing media credentials, “to clarify its policy governing when summary suspensions or revocations of NYPD-issued press credentials may be appropriate, and further set forth governing procedures for hearings associated with summary suspensions and/or revocations.”²³ The proposed rules would allow an individual to appeal a decision to uphold a revocation of media credentials to the Deputy Commissioner for Public Information, who would retain ultimate authority to uphold or vacate the initial revocation.²⁴ In addition, the proposed rules delineate six reasons for a summary suspension of an individual's media credential, including:

- Lawful arrest based on the commission of a violation or crime;
- Failure to comply with a lawful order of a police officer;
- Interference or attempt to interfere with the performance of a police officer's official function;
- Misuse or misrepresentation of the press credential while not acting in a news gathering capacity;
- Unauthorized transfer or assignment of such press credential to an individual who has not been assigned any press credentials; or
- Other conduct that endangers public safety or interferes with legitimate law enforcement needs.²⁵

The proposed rules provide for press credential seizure by a member of the NYPD, guaranteeing a notice via email within two business days of the seizure, advising the individual of:

- The summary suspension of the press credential;
- The reason(s) for suspension;
- The individual's right to request a hearing to appeal the decision;
- How to request a new hearing; and
- The maximum length for a summary suspension, which may last no more than six months, unless the suspension is related to the commission of a violation or crime, in which case the suspension will extend to the length of the resolution of the criminal proceedings and may be further extended up an additional six months or for the period of the imprisonment that results from conviction or guilty plea.²⁶

The proposed rule sets forth procedures for seeking a hearing with the Deputy Commissioner for Public Information to contest a suspension of press credentials,²⁷ and would require the Deputy Commissioner to assign an investigator to each hearing. This investigator would be permitted, but not required, to prepare a report on the matter. If such a report were prepared, the investigator would be required to share it with the journalist or their attorney at least two business days before the hearing, and enter into the record of the hearing. In addition, the investigator would be required to enter into the hearing record any documentary, photographic, and video

²¹ See, e.g., ASSOCIATED PRESS, *Police Shove, Make AP Journalists Stop Covering Protest* (Jun. 3, 2020), <https://apnews.com/article/1d2d9e4afdd822b27bfce570e0cbdb5>; Robert Pozarski, *NYPD Should be Relieved of Press Credential Duties, Stringer Tells De Blasio*, AMNY (Jun. 6, 2012), <https://www.amny.com/news/nypd-should-be-relieved-of-press-credential-duties-stringer-tells-de-blasio/>; Marc Tracy and Rachel Abrams, *Police Target Journalists as Trump Blames 'Lamestream Media' for Protests*, NEW YORK TIMES (Jun. 12, 2020), <https://www.nytimes.com/2020/06/01/business/media/reporters-protests-george-floyd.html>.

²² See Danny Lewis, *supra* note 17; see also N.Y. Times Editorial Board, *supra* note 17.

²³ NEW YORK POLICE DEPARTMENT, *Notice of Public Hearing and Opportunity for Public Comment*, (Jul. 2020), https://rules.cityofnewyork.us/wp-content/uploads/2020/07/NYPD_Proposed_Suspension-or_Revocation_Press_Credentials.pdf.

²⁴ Proposed R.C.N.Y. Tit 38, § 11-11 (a) (1), available at https://rules.cityofnewyork.us/wp-content/uploads/2020/07/NYPD_Proposed_Suspension-or_Revocation_Press_Credentials.pdf.

²⁵ Proposed R.C.N.Y. Tit 38, § 11-11 (b) (1), available at https://rules.cityofnewyork.us/wp-content/uploads/2020/07/NYPD_Proposed_Suspension-or_Revocation_Press_Credentials.pdf.

²⁶ Proposed R.C.N.Y. Tit 38, § 11-11 (b) (2), available at https://rules.cityofnewyork.us/wp-content/uploads/2020/07/NYPD_Proposed_Suspension-or_Revocation_Press_Credentials.pdf.

²⁷ Proposed R.C.N.Y. Tit 38, § 11-11 (b) (3), available at https://rules.cityofnewyork.us/wp-content/uploads/2020/07/NYPD_Proposed_Suspension-or_Revocation_Press_Credentials.pdf.

evidence (including NYPD records) and share such evidence with the journalist or their attorney two business days before the hearing.²⁸

The proposed rules lay out the rights of a journalist at a hearing, which would include the rights to be represented by counsel, give testimony, provide evidence, and call witnesses. In addition, the journalist's attorney would be granted permission to cross-examine the NYPD's investigator, but would not be granted a right to subpoena any records of the NYPD.²⁹

The hearing officer would be the Commanding Officer of the NYPD's Public Information Division, save in the instance of a conflict.³⁰ The hearing officer would be required to disclose on the hearing record any contacts with the assigned investigator, journalist, and any witnesses, and would be empowered to question the investigator, journalist, and such witnesses. In addition, the hearing officer would have the discretion to disallow any questions as irrelevant, duplicitous, or harassing, would only be permitted to consider evidence on the record, and would not be required to "observe the rules of evidence observed by courts during the hearing."³¹

The proposed rules would further clarify that counsel to the NYPD may be present at the hearing and confer with the hearing officer, but that NYPD counsel may not question witnesses.³² The burden of proof would be placed on the NYPD.³³ Decisions would be required within 21 days of the conclusion of the hearing.³⁴ The proposed rules additionally lay out criteria for the hearing officer to consider as they determine the length of a summary suspension, such as whether misconduct actually occurred and its severity, the length of time the journalist has been without the suspended press credential, the risk for future misconduct, the penalties imposed in other cases, and any other factors raised at the hearing.³⁵

The proposed rules governing revocations of press credentials are similar to suspensions,³⁶ with the specification that individuals with revoked press credentials may not reapply for new credentials until one year after the date of a revocation decision.³⁷

The deadline for public comment on these proposed rules was August 18, 2020, and comments are partially viewable online.³⁸ Notably, journalists disagreed on the value of these rules – some pointed to the fact that the rules expressly maintain the NYPD's broad authority over the issuance and ultimate revocation of media credentials, with no options to appeal outside the NYPD.³⁹ Others argued that the proposed rules are a significant improvement, as they provide critical detail on reasons for suspension, revocation and seizure. Up until now, none of these details were known to the public, and could not be used to defend an appeal by a journalist who had their press credentials suspended or revoked.⁴⁰

²⁸ Proposed R.C.N.Y. Tit 38, § 11-11 (b) (4), available at https://rules.cityofnewyork.us/wp-content/uploads/2020/07/NYPD_Proposed_Suspension-or_Revocation_Press_Credentials.pdf

²⁹ Proposed R.C.N.Y. Tit 38, § 11-11 (b) (5), available at https://rules.cityofnewyork.us/wp-content/uploads/2020/07/NYPD_Proposed_Suspension-or_Revocation_Press_Credentials.pdf

³⁰ Defined as including but not limited to "if the Commanding Officer participated in or witnessed the events in question, participated in the decision to seize the press credential at issue, or participated in the investigation;" in which case, the Commanding Officer would be required to designate a neutral and detached hearing officer. Proposed R.C.N.Y. Tit 38, § 11-11 (b) (6), available at https://rules.cityofnewyork.us/wp-content/uploads/2020/07/NYPD_Proposed_Suspension-or_Revocation_Press_Credentials.pdf

³¹ Proposed R.C.N.Y. Tit 38, § 11-11 (b) (6), available at https://rules.cityofnewyork.us/wp-content/uploads/2020/07/NYPD_Proposed_Suspension-or_Revocation_Press_Credentials.pdf

³² Proposed R.C.N.Y. Tit 38, § 11-11 (b) (7), available at https://rules.cityofnewyork.us/wp-content/uploads/2020/07/NYPD_Proposed_Suspension-or_Revocation_Press_Credentials.pdf

³³ Proposed R.C.N.Y. Tit 38, § 11-11 (b) (9), available at https://rules.cityofnewyork.us/wp-content/uploads/2020/07/NYPD_Proposed_Suspension-or_Revocation_Press_Credentials.pdf

³⁴ Proposed R.C.N.Y. Tit 38, § 11-11 (b) (11), available at [available at https://rules.cityofnewyork.us/wp-content/uploads/2020/07/NYPD_Proposed_Suspension-or_Revocation_Press_Credentials.pdf](https://rules.cityofnewyork.us/wp-content/uploads/2020/07/NYPD_Proposed_Suspension-or_Revocation_Press_Credentials.pdf)

³⁵ Proposed R.C.N.Y. Tit 38, § 11-11 (b) (12), available at https://rules.cityofnewyork.us/wp-content/uploads/2020/07/NYPD_Proposed_Suspension-or_Revocation_Press_Credentials.pdf

³⁶ See Proposed R.C.N.Y. Tit 38, § 11-11 (c), available at https://rules.cityofnewyork.us/wp-content/uploads/2020/07/NYPD_Proposed_Suspension-or_Revocation_Press_Credentials.pdf

³⁷ Proposed R.C.N.Y. Tit 38, § 11-11 (c) (7), available at https://rules.cityofnewyork.us/wp-content/uploads/2020/07/NYPD_Proposed_Suspension-or_Revocation_Press_Credentials.pdf

³⁸ Some commenters submitted their comments as attachments, which are not available online. See <https://rules.cityofnewyork.us/rule/31926/>

³⁹ E.g., compare, JB Nicholas, *The NYPD's New Rules For Journalists Are Actually A Huge Step Forward*, GOTHAMIST, (Jul. 19, 2020), <https://gothamist.com/news/the-nypds-new-rules-for-journalists-are-actually-a-huge-step-forward>; New York Times Editorial Board, *Why Does the N.Y.P.D. Want to Punish Journalists?*, NEW YORK TIMES, (Jul. 15, 2020), <https://www.nytimes.com/2020/07/15/opinion/nyc-police-journalists.html>.

⁴⁰ *Id.*

The NYPD adopted its final rules on March 12, 2021.⁴¹ Although the final rules largely resemble the proposed rules, the details differ in a number of respects.⁴² For instance, the final rules include a new provision providing that whenever NYPD denies an application for press credentials, it must notify the applicant in writing of the applicant’s right to appeal the denial and request a hearing.⁴³ Furthermore, whereas the proposed rules did not specify which members of the Police Department could summarily seize press credentials, the final rules provide that only members of the service with the rank of Sergeant or above may do so.⁴⁴

Despite these and other differences, however, the final rules preserve much of the proposed rules’ original framework. For instance, the criteria for suspending and revoking press credentials under the final rules are largely the same as they were under the proposed rules.⁴⁵ In addition, the final rules incorporate the hearing procedures set forth in the proposed rules with minimal changes.⁴⁶ Notably, as was the case under the proposed rules, all hearings under the final rules are adjudicated by an NYPD official.⁴⁷

III. LEGISLATIVE ANALYSIS

Int. No. 2118-A

Int. No. 2118-A (Powers) would give MOME sole authority to issue, suspend, and revoke press credentials, thereby removing that authority from the NYPD. The bill would also codify the existing division of press credentials into three types—press cards, reserve press cards, and single event press cards—and would empower MOME to establish additional types of press credentials by rule.

Under Int. No. 2118-A, MOME would be required to establish rules setting forth application procedures for press credentials, criteria for the denial of an application for a press credential, and criteria for the suspension and revocation of a credential. Such rules would be required to ensure that press credentials are issued, suspended, and revoked in a manner that promotes a free and independent press, subject to reasonable safety and evidence preservation concerns.

Any person whose application for a press credential is denied would be entitled to challenge such denial at a hearing. In addition, a hearing would be required before any press credential could be seized, suspended, or revoked. Accordingly, police officers would not be permitted to summarily seize press credentials from members of the press.

All hearings regarding the denial, suspension, or revocation of press credentials would be conducted by the Office of Administrative Trials and Hearings (“OATH”) in accordance with the due process procedures of section 1046 of the Charter and the OATH rules. Press credentials previously issued by the Police Department

⁴¹ See R.C.N.Y. Tit 38, § 11-11, available at <https://a856-cityrecord.nyc.gov/RequestDetail/20210309006>.

⁴² See *id.*

⁴³ See R.C.N.Y. Tit 38, § 11-11(a)(1), available at <https://a856-cityrecord.nyc.gov/RequestDetail/20210309006>.

⁴⁴ Compare R.C.N.Y. Tit 38, § 11-11(b)(1), available at <https://a856-cityrecord.nyc.gov/RequestDetail/20210309006>, with Proposed R.C.N.Y. Tit 38, § 11-11(b)(1), available at https://rules.cityofnewyork.us/wp-content/uploads/2020/07/NYPD_Proposed_Suspension-or_Revocation_Press_Credentials.pdf.

⁴⁵ Compare R.C.N.Y. Tit 38, § 11-11(b)(1), (c)(1), available at <https://a856-cityrecord.nyc.gov/RequestDetail/20210309006>, with Proposed R.C.N.Y. Tit 38, § 11-11(b)(1), (c)(1) available at https://rules.cityofnewyork.us/wp-content/uploads/2020/07/NYPD_Proposed_Suspension-or_Revocation_Press_Credentials.pdf.

⁴⁶ Compare R.C.N.Y. Tit 38, § 11-11(b)(2)-(14), (c)(2)-(8), available at <https://a856-cityrecord.nyc.gov/RequestDetail/20210309006>, with Proposed R.C.N.Y. Tit 38, § 11-11(b)(2)-(13), (c)(2)-(8), available at https://rules.cityofnewyork.us/wp-content/uploads/2020/07/NYPD_Proposed_Suspension-or_Revocation_Press_Credentials.pdf.

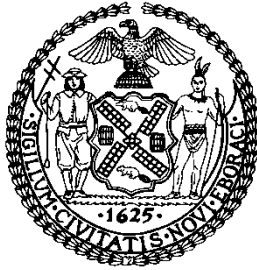
⁴⁷ Compare R.C.N.Y. Tit 38, § 11-11(b)(7), available at <https://a856-cityrecord.nyc.gov/RequestDetail/20210309006>, with Proposed R.C.N.Y. Tit 38, § 11-11(b)(6), available at https://rules.cityofnewyork.us/wp-content/uploads/2020/07/NYPD_Proposed_Suspension-or_Revocation_Press_Credentials.pdf.

(The following is the text of the Fiscal Impact Statement for Int. No. 2118-A:)

would remain in effect until their expiration date or until 270 days after the effective date of the bill, whichever is later.

The bill would take effect 270 days after becoming law.

(The following is the text of the Fiscal Impact Statement for Int. No. 2118-A:)



THE COUNCIL OF THE CITY OF NEW YORK

FINANCE DIVISION

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO NO. 2118-A

COMMITTEE: Governmental Operations

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to press credentials.

SPONSORS: Council Members Powers, Adams, Kallos, Constantinides, Levine, Chin and the Public Advocate (Mr. Williams).

SUMMARY OF LEGISLATION: Intro. No. 2118-A would give the Mayor’s Office of Media and Entertainment (MOME) sole authority to issue, suspend, and revoke press credentials. Any person whose application for a press credential is denied would be entitled to a hearing. In addition, a hearing would be required before any press credential could be seized, suspended, or revoked. All hearings would be conducted by the Office of Administrative Trials and Hearings (OATH), in accordance with the due process procedures of the Charter and the OATH rules. Press credentials previously issued by the Police Department (NYPD) would remain in effect until their expiration date or until 270 days after the effective date of this local law, whichever is later.

EFFECTIVE DATE: This local law would take effect 270 days after it becomes law, except that MOME and OATH would be required to take any necessary actions to implement this local law, including the promulgation of rules, prior to such effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2023

FISCAL IMPACT STATEMENT:

| | Effective FY22 | FY Succeeding Effective FY23 | Full Fiscal Impact FY23 |
|-------------------------|-----------------------|-------------------------------------|--------------------------------|
| Revenues (-) | \$0 | \$0 | \$0 |
| Expenditures (+) | \$660,000 | \$1,320,000 | \$1,320,000 |
| 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: The enactment of this bill would require additional resources at MOME, including \$1.2 million for nine new staff and \$120,000 in related Other Than Personal Services (OTPS) costs for the purchase of equipment, supplies and fit out of office space at MOME. It is estimated that the additional costs would begin in January of Fiscal 2022 with the first full year of costs in Fiscal 2023.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General Fund

SOURCES OF INFORMATION: Mayor's Office of Legislative Affairs
Office of Management and Budget

ESTIMATE PREPARED BY: Sebastian Palacio Bacchi, Senior Financial Analyst

ESTIMATE REVIEWED BY: Nathaniel Toth, Deputy Director
John Russell, Unit Head
Noah Brick, Assistant Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the Council as Intro. No. 2118 on October 15, 2020 and was referred to the Committee on Governmental Operations (Committee). A hearing on the legislation was held by the Committee on February 9, 2021, and the legislation was laid over. The legislation was subsequently amended, and the amended version, Proposed Int. No. 2118-A, will be considered by the Committee on March 25, 2021. Upon a successful vote by the Committee, Proposed Int. No. 2118-A will be submitted to the full Council for a vote on March 25, 2021.

DATE PREPARED: March 23, 2021.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 2118-A:)

Int. No. 2118-A

By Council Members Powers, Adams, Kallos, Constantinides, Levine, Louis, Chin, Rosenthal, Barron, Gennaro and the Public Advocate (Mr. Williams).

A Local Law to amend the administrative code of the city of New York, in relation to press credentials

Be it enacted by the Council as follows:

Section 1. Section 3-120 of the administrative code of the city of New York, as added by local law number 60 for the year 2018, is renumbered section 3-119.3.

§ 2. Subchapter 1 of chapter 1 of title 3 of the administrative code of the city of New York is amended by adding a new section 3-119.4 to read as follows:

§ 3-119.4 *Press credentials. a. Definitions. For the purposes of this section, the following terms have the following meanings:*

Mayor's office of media and entertainment. The term "mayor's office of media and entertainment" means the mayor's office of media and entertainment as established by mayoral executive order number 31 for the year 2018, as amended, or any successor to such office.

Press card. The term "press card" means a press credential that is issued to an individual member of the press and which may be used at multiple events during the period in which the press card is valid.

Press credential. The term "press credential" means a document that confers upon the bearer the rights set forth in subdivision b of this section.

Reserve press card. The term "reserve press card" means a press credential that is issued to a news organization for use by individuals retained by such news organization.

Single event press card. The term "single event press card" means a press credential that is issued to an individual member of the press for use only at a single event.

b. Subject to reasonable safety and evidence preservation concerns and space limitations, the bearer of a valid press credential shall be entitled to:

1. cross police lines, fire lines or other restrictions, limitations or barriers established by the city at emergency, spot, or breaking news events and public events of a non-emergency nature where police lines, fire lines or other restrictions, limitations or barriers established by the city have been set up for security or crowd control purposes, and

2. attend events sponsored by the city which are open to members of the press.

c. The mayor's office of media and entertainment shall issue press cards, reserve press cards and single event press cards and may establish by rule additional types of press credentials. The mayor's office of media and entertainment shall have the sole authority to issue, suspend and revoke press credentials.

d. 1. The mayor's office of media and entertainment shall by rule establish:

(a) application procedures for press credentials;

(b) criteria for denial of an application for a press credential; and

(c) criteria for suspension or revocation of a press credential.

2. Such rules shall ensure that press credentials are issued, suspended and revoked in a manner that promotes a free and independent press, subject to reasonable safety and evidence preservation concerns.

e. Any news organization or individual member of the press whose application for a press credential has been denied shall have the right to challenge such denial at a hearing.

f. No press credential may be seized, suspended or revoked except following a hearing at which the mayor's office of media and entertainment has demonstrated, by clear and convincing evidence, that a suspension or revocation is justified based on the criteria established by rules promulgated pursuant to subdivision d of this section.

g. All hearings regarding the denial of an application for a press credential or the suspension or revocation of a press credential shall be conducted by the office of administrative trials and hearings in accordance with the procedures set forth in section 1046 of the charter and any additional procedures established by rule by the chief administrative law judge. Notwithstanding subdivision c of this section, the decisions of the office of administrative trials and hearings shall constitute final determinations.

§ 3. Any press credential issued by the police department and valid on the effective date of this local law shall remain valid until the later of (i) its expiration date or (ii) 270 days after the effective date of this local law.

§ 4. This local law takes effect 270 days after it becomes law, except that the mayor's office of media and entertainment and the office of administrative trials and hearings shall take any necessary actions to implement this local law, including the promulgation of rules, prior to such effective date.

YDANIS A. RODRIGUEZ, BEN KALLOS, STEPHEN T. LEVIN, ALAN N. MAISEL, KEITH POWERS, DARMA V. DIAZ; Committee on Governmental Operations, March 25, 2021 (Remote Hearing). *Other Council Members Attending: Council Member R. Diaz, Sr.*

On motion of the Speaker (Council Member Johnson), 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 Land Use

Report for L.U. No. 733

Report of the Committee on Land Use in favor of approving, as modified, Application No. C 200029 ZMK (737 Fourth Avenue Rezoning) submitted by 737 Fourth Avenue, LLC, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 16d, changing from an M1-1D District to an R8A District, establishing within the proposed R8A District a C2-4 District, and establishing a Special Enhanced Commercial District (EC-1), Borough of Brooklyn, Community District 7, Council District 38.

The Committee on Land Use, to which the annexed Land Use item was referred on February 25, 2021 (Minutes, page 458), respectfully

SUBJECT

BROOKLYN CB-7 - TWO APPLICATIONS RELATED TO 737 FOURTH AVENUE REZONING

C 200029 ZMK (Pre. L.U. No. 733)

City Planning Commission decision approving an application submitted by 737 Fourth Avenue, LLC, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 16d:

1. changing from an M1-1D District to an R8A District property bounded by 24th Street, a line 100 feet southeasterly of 4th Avenue, 25th Street, and 4th Avenue;
2. establishing within the proposed R8A District a C2-4 District bounded by 24th Street, a line 100 feet southeasterly of 4th Avenue, 25th Street, and 4th Avenue;
3. establishing a Special Enhanced Commercial District (EC-1) bounded by 24th Street, a line 100 feet southeasterly of 4th Avenue, 25th Street, and 4th Avenue;

as shown on a diagram (for illustrative purposes only) dated September 14, 2020, and subject to the conditions of CEQR Declaration E-575.

N 200030 ZRK (Pre. L.U. No. 734)

City Planning Commission decision approving an application submitted by 737 Fourth Avenue, LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, extending the boundary of Special Enhanced Commercial District 1 in Article XIII, Chapter 2 (Special Enhanced Commercial District), and modifying APPENDIX F for the purpose of establishing a Mandatory Inclusionary Housing Area, Borough of Brooklyn, Community District 7.

INTENT

To approve an amendment to rezone the Project Area (Block 652, Lots 1 and 7) from M1-1D to R8A/C2-4 and extend the Special Enhanced Commercial District (EC-1) and amend zoning text to establish the Project Area as a Mandatory Inclusionary Housing (“MIH”) area and by including the Project Area within the Special Enhanced Commercial District (EC-1) to facilitate a mixed-use development containing 142 dwelling units, of which approximately 35 would be designated permanently affordable under Option 1 of the Mandatory Inclusionary Housing (MIH) Program, and approximately 8,600 square feet of commercial floor area on the ground floor, at 737 Fourth Avenue in the Sunset Park neighborhood of Community District 7, Brooklyn.

PUBLIC HEARING

DATE: February 23, 2021

Witnesses in Favor: Thirty-four

Witnesses Against: Five

SUBCOMMITTEE RECOMMENDATION

DATE: March 16, 2021

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission on L.U. No. 733 and approve with modifications the decision of the City Planning Commission on L.U. No. 734.

In Favor:

Moya, Levin, Reynoso, Grodenchik, Ayala, Rivera, Borelli.

Against:

None

Abstain:

None.

COMMITTEE ACTION

DATE: March 23, 2021

The Committee recommends that the Council approve the attached resolutions.

In Favor:

Salamanca, Gibson, Barron, Deutsch, Koo, Levin, Miller, Reynoso, Grodenchik, Adams, Ayala, Diaz Sr., Moya, Rivera, Riley, Borelli.

Against:

None

Abstain:

None.

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, INEZ D. BARRON, CHAIM M. DEUTSCH, I. DANEEK MILLER, ANTONIO REYNOSO, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, DIANA AYALA, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, March 23, 2021

(Remote Hearing). *Other Council Members Attending: Council Members Menchaca, Brooks-Powers and Van Bramer.*

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

Report for L.U. No. 734

Report of the Committee on Land Use in favor of approving, as modified, Application No. N 200030 ZRK (737 Fourth Avenue Rezoning) submitted by 737 Fourth Avenue, LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, extending the boundary of Special Enhanced Commercial District 1 in Article XIII, Chapter 2 (Special Enhanced Commercial District), and modifying APPENDIX F for the purpose of establishing a Mandatory Inclusionary Housing area, Borough of Brooklyn, Community District 7, Council District 38.

The Committee on Land Use, to which the annexed Land Use item was referred on February 25, 2021 (Minutes, page 459), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Land Use for L.U. No. 733 printed in these Minutes)

Accordingly, this Committee recommends its adoption, as modified.

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, INEZ D. BARRON, CHAIM M. DEUTSCH, I. DANEEK MILLER, ANTONIO REYNOSO, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, DIANA AYALA, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, March 23, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Menchaca, Brooks-Powers and Van Bramer.*

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

Report for L.U. No. 738

Report of the Committee on Land Use in favor of approving Application No. N 210069 HNQ (Arverne East) submitted by the Department of Housing Preservation and Development (HPD), pursuant to Article 16 of the General Municipal Law of New York State for the designation of an Urban Development Action Area and an Urban Development Action Area Project for 40 parcels within the Arverne Urban Renewal Area, Borough of Queens, Community District 14, Council District 31.

The Committee on Land Use, to which the annexed Land Use item was referred on February 25, 2021 (Minutes, page 460) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:**SUBJECT****QUEENS CB – 14 - THREE APPLICATIONS RELATED TO ARVERNE EAST****N 210069 HNQ (Pre. L.U. No. 738)**

City Planning Commission decision approving an application submitted by the New York City Department of Housing Preservation and Development (HPD):

- 1) pursuant to Article 16 of the General Municipal Law of New York State for:
 - a. the designation of 40 parcels within the Arverne Urban Renewal Area generally bounded as an Urban Development Action Area; and
 - b. Urban Development Action Area Project for such area:

to facilitate a natural area preserve and residential, commercial and community facility space in the Arverne Urban Renewal Area.

C 210070 ZMQ (Pre. L.U. No. 739)

City Planning Commission decision approving an application submitted by the New York City Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 31a:

1. Changing from a C4-4 District to an M1-4/R6 District property bounded by a line 120 feet westerly of Beach 35th Street, a line perpendicular to the westerly street line of Beach 35th Street distant 370 feet northerly (as measured along the street line) from the point of intersection of the northerly street line of Ocean Front Road and the westerly street line of Beach 35th Street, Beach 35th Street, and Ocean Front Road; and
2. Establishing a Special Mixed Use District (MX-21) bounded by a line 120 feet westerly of Beach 35th Street, a line perpendicular to the westerly street line of Beach 35th Street distant 370 feet northerly (as measured along the street line) from the point of the intersection of the northerly street line of Ocean Front Road and the westerly street line of Beach 35th Street, Beach 35th Street, and Ocean Front Road;

as shown on a diagram (for illustrative purposes only) dated September 14, 2020.

N 210071 ZRQ (Pre. L.U. No. 740)

City Planning Commission decision approving an application submitted by the New York City Department of Housing Preservation and Development pursuant to Section 201 of the New York City Charter, for an amendment to the Zoning Resolution of the City of New York to amend Article XII, Chapter 3 (Special Mixed Use District) to establish Special Mixed Use District 21.

INTENT

To approve the urban development action area designation and project, amend from C4-4 to a Special Mixed Use District (MX-21:M1-4/R6), and amend zoning text to establish a Special Mixed Use District (MX-21) to facilitate a new-mixed use development with residential, commercial, community facility, and open space uses on property generally bounded by Rockaway Freeway, Rockaway Beach and Boardwalk, Beach 32nd Street and Beach 56th Place in the Arverne neighborhood of Queens, Community District 14.

PUBLIC HEARING

DATE: February 23, 2021

Witnesses in Favor: Ten

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: March 23, 2021

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

In Favor:

Moya, Levin, Reynoso, Grodenchik, Ayala, Rivera, Borelli.

Against:

None

Abstain:

None

COMMITTEE ACTION

DATE: March 23, 2021

The Committee recommends that the Council approve the attached resolutions.

In Favor:

Salamanca, Gibson, Barron, Deutsch, Koo, Levin, Miller, Reynoso, Grodenchik, Adams, Ayala, Diaz Sr., Moya, Rivera, Riley, Borelli.

Against:

None

Abstain:

None.

In connection herewith, Council Members Salamanca and Moya offered the following resolution:

Res. No. 1585

Resolution approving the application submitted by the New York City Department of Housing Preservation and Development (“HPD”) and the decision of the City Planning Commission, ULURP No. N 210069 HNQ, approving the designation of 40 parcels within the Arverne Urban Renewal Area as an Urban Development Action Area (the “Area”) and approving an Urban Development Action Area Project for the Area, Community District 14, Borough of Queens (Preconsidered L.U. No. 738; N 210069 HNQ).

By Council Members Salamanca and Moya.

WHEREAS, the City Planning Commission filed with the Council on February 19, 2021 its decision dated February 17, 2021 (the "Decision"), on the application submitted by the New York City Department of Housing Preservation and Development (“HPD”) pursuant to Article 16 of the General Municipal Law of New York State regarding:

- a) the designation of 40 parcels within the Arverne Urban Renewal Area generally bounded as an Urban Development Action Area; and
- b) Urban Development Action Area Project for such area (the “Project”):

to facilitate a new-mixed use development with residential, commercial, community facility, and open space uses on property generally bounded by Rockaway Freeway, Rockaway Beach and Boardwalk, Beach 32nd Street and Beach 56th Place in the Arverne neighborhood of Queens, Community District 14 (ULURP No. N 210069 HNQ) (the “Application”);

WHEREAS, the Application is related to applications C 210070 ZMQ (Pre. L.U. No. 739), a zoning map amendment from C4-4 to a Special Mixed Use District (MX-21:M1-4/R6) and N 210071 ZRQ (Pre. L.U. No. 740), a zoning text amendment to establish a Special Mixed Use District (MX-21);

WHEREAS, the Application and Decision are subject to review and action by the Council pursuant to Article 16 of the General Municipal Law of New York State;

WHEREAS, by letter dated January 5, 2021 and submitted to the Council on March 16, 2021, HPD submitted its requests (the “HPD Requests”) respecting the Application including the submission of the project summary for the Project (the “Project Summary”);

WHEREAS, upon due notice, the Council held a public hearing on the Application and Decision and the HPD Requests on February 23, 2021;

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

WHEREAS, the Council has considered the relevant environmental issues, including the negative declaration issued on August 27, 2020 and revised negative declaration issued on February 22, 2021 (CEQR No. 20HPD081Q) (the “Negative Declaration”).

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Negative Declaration.

Pursuant to Article 16 of the General Municipal Law of the New York State, based on the environmental determination and the consideration described in the report (N 210069 HNQ) and incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission and the HPD Requests.

The Council finds that the present status of the Project Area tends to impair or arrest the sound growth and development of the municipality and that the proposed Urban Development Action Area Project is consistent with the policy and purposes of Section 691 of the General Municipal Law.

The Council approves the designation of the Project Area as an Urban Development Action Area pursuant to Section 693 of the General Municipal Law.

The Council approves the project as an Urban Development Action Area Project pursuant to Section 694 of the General Municipal Law.

The Project shall be developed in a manner consistent with Project Summary submitted by HPD, copy of which is attached hereto and made a part hereof.

ATTACHMENT:

PROJECT SUMMARY

| | | |
|-------------------------------|--|----------------------|
| 1. PROGRAM: | New Construction Finance Programs | |
| 2. PROJECT: | Arverne East | |
| 3. LOCATION: | | |
| a. BOROUGH: | Queens | |
| b. COMMUNITY DISTRICT: | 14 | |
| c. COUNCIL DISTRICT: | 31 | |
| d. PROJECT AREA: | <u>BLOCK</u> | <u>LOT(S)</u> |
| | 15877 | 1 |
| | 15878 | 1 |
| | 15879 | 1 |
| | 15880 | 1 |
| | 15881 | 1 |
| | 15882 | 1 |
| | 15883 | 1 |
| | 15884 | 1 |
| | 15885 | 1 |
| | 15886 | 1 |
| | 15887 | 1 |
| | 15888 | 1 |
| | 15919 | 1 |

| | |
|-------|--------|
| 15921 | 1, 112 |
| 15922 | 1, 101 |
| 15923 | 1 |
| 15859 | 1 |
| 15860 | 1 |
| 15861 | 1, 47 |
| 15862 | 1 |
| 15863 | 1 |
| 15864 | 1 |
| 15865 | 1 |
| 15866 | 1 |
| 15867 | 1 |
| 15868 | 1 |
| 15869 | 1 |
| 15870 | 60, 71 |
| 15871 | 1 |
| 15873 | 1 |
| 15874 | 8, 41 |
| 15875 | 1 |
| 15876 | 1 |
| 15947 | 1 |
| 15948 | 1 |

Demapped Roadbed of Beach 56th Street north of Public Beach, south of Edgemere Avenue
Demapped Roadbed of Beach 55th Street north of Public Beach, south of Edgemere Avenue
Demapped Roadbed of Beach 54th Street north of Public Beach, south of Edgemere Avenue
Demapped Roadbed of Beach 52nd Street north of Public Beach, south of Edgemere Avenue
Demapped Roadbed of Beach 51st Street north of Public Beach, south of Edgemere Avenue
Demapped Roadbed of Beach 50th Street north of Public Beach, south of Edgemere Avenue
Demapped Roadbed of Beach 49th Street north of Public Beach, south of Edgemere Avenue
Demapped Roadbed of Beach 48th Street north of Public Beach, south of Edgemere Avenue
Demapped Roadbed of Beach 48th Way north of Public Beach, south of Edgemere Avenue
Demapped Roadbed of Beach 47th Street north of Public Beach, south of Edgemere Avenue
Demapped Roadbed of Beach 47th Way north of Public Beach, south of Edgemere Avenue
Demapped Roadbed of Beach 46th Place north of Public Beach, south of Edgemere Avenue
Demapped Roadbed of Beach 46th Way north of Public Beach, south of Edgemere Avenue
Demapped Roadbed of Beach 46th Street north of Public Beach, south of Edgemere Avenue
Demapped Roadbed of Beach 45th Street north of Public Beach, south of Edgemere Avenue
Mapped Roadbed of Beach 44th Street north of Public Beach, south of Edgemere Avenue
Demapped Roadbed of Beach 43rd Street north of Public Beach, south of Edgemere Avenue
Demapped Roadbed of Beach 42nd Street north of Public Beach, south of Edgemere Avenue
Demapped Roadbed of Beach 41st Street north of Public Beach, south of Edgemere Avenue
Demapped Roadbed of Beach 40th Street north of Public Beach, south of Edgemere Avenue
Demapped Roadbed of Beach 39th Street north of Public Beach, south of Edgemere Avenue
Demapped Roadbed of Beach 38th Street north of Public Beach, south of Sprayview Avenue/Ocean Front Road
Mapped Roadbed of Beach 38th Street north of Sprayview Avenue/Ocean Front Road, south of Edgemere Avenue
Demapped Roadbed of Beach 37th Street north of Public Beach, south of Edgemere Avenue
Demapped Roadbed of Beach 36th Street north of Public Beach, south of Edgemere Avenue
Mapped Roadbed of Beach 35th Street north of Public Beach, south of Edgemere Avenue
Mapped Roadbed portion of Beach 34th Street north of Public Beach, south of Edgemere Avenue

Demapped Roadbed portion of southernly Beach 34th Street north of Public Beach, south of Edgemere Avenue

Mapped Roadbed of Beach 34th Street north of Edgemere Avenue, south of Seagirt Avenue

Demapped Roadbed of Beach 33rd Street north of Public Beach, south of Edgemere Avenue

Mapped Roadbed of Sprayview Avenue/Ocean Front Road between Beach 32nd and Beach 38th Streets

Mapped Roadbed of Edgemere Avenue between Beach 32nd Street and Beach 56th Place

| e. DISPOSITION AREA: | <u>BLOCK</u> | <u>LOT(S)</u> |
|----------------------|--------------|---------------|
| | 15859 | 1 |
| | 15860 | 1 |
| | 15861 | 1, 47 |
| | 15862 | 1 |
| | 15863 | 1 |
| | 15864 | 1 |
| | 15865 | 1 |
| | 15866 | 1 |
| | 15867 | 1 |
| | 15868 | 1 |
| | 15869 | 1 |
| | 15870 | 60, 71 |
| | 15871 | 1 |
| | 15873 | 1 |
| | 15874 | 8, 41 |
| | 15875 | 1 |
| | 15876 | 1 |
| | 15947 | 1 |
| | 15948 | 1 |

Demapped Roadbed of Beach 43rd Street north of Public Beach, south of Edgemere Avenue

Demapped Roadbed of Beach 42nd Street north of Public Beach, south of Edgemere Avenue

Demapped Roadbed of Beach 41st Street north of Public Beach, south of Edgemere Avenue

Demapped Roadbed of Beach 40th Street north of Public Beach, south of Edgemere Avenue

Demapped Roadbed of Beach 39th Street north of Public Beach, south of Edgemere Avenue

Demapped Roadbed of Beach 38th Street north of Public Beach, south of Sprayview Avenue/Ocean Front Road

Demapped Roadbed of Beach 37th Street north of Public Beach, south of Edgemere Avenue

Demapped Roadbed of Beach 36th Street north of Public Beach, south of Edgemere Avenue

Demapped Roadbed portion of southernly Beach 34th Street north of Public Beach, south of Edgemere Avenue

Demapped Roadbed of Beach 33rd Street north of Public Beach, south of Edgemere Avenue

4. BASIS OF DISPOSITION PRICE:

Phases with affordable housing: Nominal. Sponsor will pay one dollar per lot and deliver a note and mortgage for the remainder of the appraised value ("Land Debt"). For a period of at least thirty (30) years following completion of construction, the Land Debt or the City's capital subsidy may be repayable out of resale or refinancing profits. The remaining balance, if any, may be forgiven at the end of the term.

Phases without affordable housing: Negotiated. May include a purchase money note and mortgage and a credit for any City-approved infrastructure or site improvement costs that are paid by the Sponsor.

- 5. TYPE OF PROJECT:** New Construction
- 6. APPROXIMATE NUMBER OF BUILDINGS:** 11 multifamily and/or mixed-use buildings
190 one- and two-family homes
- 7. APPROXIMATE NUMBER OF UNITS:** 1,650 including 1,320 affordable units and 330 market rate units
- 8. HOUSING TYPE:** Rental and Homeownership
- Approximately 5% of the affordable units may be cooperative homeownership units, with the remaining units to be rental units. All market rate units will be homeownership units.
- If any affordable homeownership unit remains unsold at the end of the marketing period and HPD determines in writing that (i) a sale is not feasible within a reasonable time, and (ii) a rental fallback is the best available alternative, then Sponsor may operate units as rental housing in accordance with the written instructions of HPD.
- 9. ESTIMATE OF INITIAL RENTS/PRICES:** Rents for affordable units will be affordable to households with annual household incomes between 30% and 130% of the area median income (AMI). All affordable rental units will be subject to rent stabilization.
- Sales prices for any affordable homeownership units will be affordable to families with annual household incomes between 80% and 130% of AMI.
- 10. INCOME TARGETS:** For affordable rental units, 30% to 165% of AMI
- For any affordable homeownership units, 80% to 130% of AMI
- 11. LIENS FOR LAND DEBT/CITY SUBSIDY:** For any affordable homeownership units, each of the Land Debt and the amount of any construction financing provided through loans from the City ("City Subsidy") will be secured by a mortgage on the Disposition Area. Upon conversion to a cooperative, the HDFC cooperative will repay the Land Debt and City Subsidy, if any, attributable to the property by delivering a note and mortgage and/or conditional grant agreement to the City. At such time, HPD may unsecure or forgive all or a portion of the Land Debt,

and unsecure, but not forgive, all or a portion of the City Subsidy, based on the appraised value of a homeownership unit and/or, in the case of forgiveness of Land Debt, if HPD determines that the forgiveness is necessary to reduce the taxable consideration for a unit. The sum evidenced by the note and secured by the mortgage will be reduced to zero upon maturity of the Land Debt and City Subsidy, respectively, if the owner has complied with the program's restrictions.

- 12. PROPOSED FACILITIES:** Approximately 290,000 square feet of commercial, approximately 25,300 square feet of community facility, approximately 10,000 square feet of manufacturing, approximately 3.3 acres of private open space, approximately 35 acres of public open space, improvements to infrastructure and existing streets
- 13. PROPOSED CODES/ORDINANCES:** None
- 14. ENVIRONMENTAL STATUS:** Negative Declaration
- 15. PROPOSED TIME SCHEDULE:** To be developed in phases. Approximately 10 years from the first closing to the final completion of construction

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, INEZ D. BARRON, CHAIM M. DEUTSCH, I. DANEEK MILLER, ANTONIO REYNOSO, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, DIANA AYALA, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, March 23, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Menchaca, Brooks-Powers and Van Bramer.*

On motion of the Speaker (Council Member Johnson), 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. 739

Report of the Committee on Land Use in favor of approving Application No. C 210070 ZMQ (Arverne East) submitted by the Department of Housing Preservation and Development (HPD), pursuant to Sections 197-c and 201 of the New York City Charter for an amendment to the Zoning Map, Section No. 31a, changing from a C4-4 District to an M1-4/R6 District and establishing a Special Mixed Use District (MX-21), Borough of Queens, Community District 14, Council District 31.

The Committee on Land Use, to which the annexed Land Use item was referred on February 25, 2021 (Minutes, page 460) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Land Use for L.U. No. 738 printed in these Minutes)

Accordingly, this Committee recommends its adoption.

In connection herewith, Council Members Salamanca and Moya offered the following resolution:

Res. No. 1586

Resolution approving the decision of the City Planning Commission on ULURP No. C 210070 ZMQ, a Zoning Map amendment (Preconsidered L.U. No. 739).

By Council Members Salamanca and Moya.

WHEREAS, New York City Department of Housing Preservation and Development, filed an application pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 31a, changing from a C4-4 District to an M1-4/R6 District and establishing a Special Mixed Use District (MX-21), which in conjunction with the related actions would facilitate a new-mixed use development with residential, commercial, community facility, and open space uses on property generally bounded by Rockaway Freeway, Rockaway Beach and Boardwalk, Beach 32nd Street and Beach 56th Place in the Arverne neighborhood of Queens, Community District 14 (ULURP No. C 210070 ZMQ), (the "Application");

WHEREAS, the City Planning Commission filed with the Council on February 19, 2021, its decision dated February 17, 2021 (the "Decision") on the Application;

WHEREAS, the Application is related to applications N 210069 HNQ (Pre. L.U. No. 738), a designation of an Urban Development Action Area and Urban Development Action Area Project and N 210071 ZRQ (Pre. L.U. No. 740), a zoning text amendment to establish a Special Mixed Use District (MX-21);

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

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on February 23, 2021;

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

WHEREAS, the Council has considered the relevant environmental issues, including the negative declaration issued on August 27, 2020 and revised negative declaration issued on February 22, 2021 (CEQR No. 20HPD081Q) (the "Negative Declaration").

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the 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, C 210070 ZMQ, incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is hereby amended by changing the Zoning Map, Section No. 31a:

1. changing from a C4-4 District to an M1-4/R6 District property bounded by a line 120 feet westerly of Beach 35th Street, a line perpendicular to the westerly street line of Beach 35th Street distant 370 feet northerly (as measured along the street line) from the point of intersection of the northerly street line of Ocean Front Road and the westerly street line of Beach 35th Street, Beach 35th Street, and Ocean Front Road; and
2. establishing a Special Mixed Use District (MX-21) bounded by a line 120 feet westerly of Beach 35th Street, a line perpendicular to the westerly street line of Beach 35th Street distant 370 feet northerly (as measured along the street line) from the point of the intersection of the northerly street line of Ocean Front Road and the westerly street line of Beach 35th Street, Beach 35th Street, and Ocean Front Road Borough of Queens, Community District 14, as shown on a diagram (for illustrative purposes only) dated September 14, 2020.

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, INEZ D. BARRON, CHAIM M. DEUTSCH, I. DANEEK MILLER, ANTONIO REYNOSO, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, DIANA AYALA, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, March 23, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Menchaca, Brooks-Powers and Van Bramer.*

On motion of the Speaker (Council Member Johnson), 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 LU No. 740

Report of the Committee on Land Use in favor of approving Application No. N 210071 ZRQ (Arverne East) submitted by the Department of Housing Preservation and Development (HPD), pursuant to Section 201 of the New York City Charter, for an amendment to the Zoning Resolution of the City of New York to amend Article XII, Chapter 3 (Special Mixed Use District) to establish Special Mixed Use District 21, Borough of Queens, Community District 14, Council District 31.

The Committee on Land Use, to which the annexed Land Use item was referred on February 25, 2021 (Minutes, page 460) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Land Use for L.U. No. 738 printed in these Minutes)

Accordingly, this Committee recommends its adoption.

In connection herewith, Council Members Salamanca and Moya offered the following resolution:

Res. No. 1587

Resolution approving the decision of the City Planning Commission on Application No. N 210071 ZRQ, for an amendment of the text of the Zoning Resolution (Preconsidered L.U. No. 740).

By Council Members Salamanca and Moya.

WHEREAS, New York City Department of Housing Preservation and Development, filed an application pursuant to Section 201 of the New York City Charter, for an amendment of the text of the Zoning Resolution of the City of New York, to amend Article XII, Chapter 3 (Special Mixed Use District) to establish Special Mixed Use District 21, which in conjunction with the related actions would facilitate a new-mixed use development with residential, commercial, community facility, and open space uses on property generally bounded by Rockaway Freeway, Rockaway Beach and Boardwalk, Beach 32nd Street and Beach 56th Place in the Arverne neighborhood of Queens, Community District 14 (ULURP No. N 210071 ZRQ), (the "Application");

WHEREAS, the City Planning Commission filed with the Council on February 19, 2021, its decision dated February 17, 2021 (the "Decision") on the Application;

WHEREAS, the Application is related to applications N 210069 HNQ (Pre. L.U. No. 738), a designation of an Urban Development Action Area and Urban Development Action Area Project and C 210070 ZMQ (Pre. L.U. No. 739), a zoning map amendment from C4-4 to a Special Mixed Use District (MX-21:M1-4/R6);

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

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on February 23, 2021;

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 negative declaration issued on August 27, 2020 and revised negative declaration issued on February 22, 2021 (CEQR No. 20HPD081Q) (the "Negative Declaration").

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the 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 210071 ZRQ, incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission.

Matter underlined is new, to be added;

Matter ~~struck out~~ is to be deleted;

Matter within # # is defined in Section 12-10;

* * * indicates where unchanged text appears in the Zoning Resolution

* * *

Article XII - Special Purpose Districts
Chapter 3
Special Mixed Use District

123-00
GENERAL PURPOSES

The "Special Mixed Use District" regulations established in this Chapter of the Resolution are designed to promote and protect public health, safety and general welfare. These general goals include, among others, the following specific purposes:

- (a) to encourage investment in mixed residential and industrial neighborhoods by permitting expansion and new development of a wide variety of uses in a manner ensuring the health and safety of people using the area;
- (b) to promote the opportunity for workers to live in the vicinity of their work;
- (c) to create new opportunities for mixed use neighborhoods;
- (d) to recognize and enhance the vitality and character of existing and potential mixed use neighborhoods;
- (e) and to promote the most desirable use of land in accordance with a well-considered plan and thus conserve the value of land and buildings and thereby protect City tax revenues.

* * *

123-90
SPECIAL MIXED USE DISTRICTS SPECIFIED

The #Special Mixed Use District# is mapped in the following areas:

* * *

#Special Mixed Use District# - 18: (10/17/19)
 Mott Haven, The Bronx

The #Special Mixed Use District# - 18 is established in Mott Haven in The Bronx as indicated on the #zoning maps#.

#Special Mixed Use District# - 20: (5/8/19)
 Crown Heights West, Brooklyn

The #Special Mixed Use District# - 20 is established in Crown Heights West in Brooklyn as indicated on the #zoning maps#.

#Special Mixed Use District# - 21: [date of adoption]
 Arverne, Queens

The #Special Mixed Use District# - 21 is established in Arverne in Queens as indicated on the #zoning maps#.

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, INEZ D. BARRON, CHAIM M. DEUTSCH, I. DANEEK MILLER, ANTONIO REYNOSO, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, DIANA AYALA, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, March 23, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Menchaca, Brooks-Powers and Van Bramer.*

On motion of the Speaker (Council Member Johnson), 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. 741

Report of the Committee on Land Use in favor of approving Application No. 20215016 HAM (Lower East Side Cluster) submitted by the New York City Department of Housing Preservation and Development pursuant to Article 16 of the General Municipal Law and Article XI of the Private Housing Finance Law, requesting waiver of the designation requirements of General Municipal Law and the requirements of 197-c and 197-d of the Charter, approval of an Urban Development Action Area Project, and approval of an exemption from real property taxation, for property located at 406-08 East 10 Street (Block 379, Lot 12), 533 East 11 Street (Block 405, Lot 46), 656 East 12 Street (Block 394, Lot 37), Borough of Manhattan, Community District 3, Council District 2.

The Committee on Land Use, to which the annexed Land Use item was referred on February 25, 2021 (Minutes, page 461) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:**SUBJECT****MANHATTAN CB - 3****20215016 HAM**

Application submitted by the Department of Housing Preservation and Development pursuant to Article 16 of the General Municipal Law and Section 577 of Article XI of the Private Housing Finance Law for approval of an urban development action area project, waiver of the area designation requirement, waiver of the requirements of Sections 197-c and 197-d of the New York City Charter, and approval of a real property tax exemption for property located at 406-08 East 10th Street (Block 379, Lot 12), 533 East 11th Street (Block 405, Lot 46), and 656 East 12th Street (Block 394, Lot 37), Council District 2, Community District 3.

INTENT

To approve the Project as an Urban Development Action Area Project and a real property tax exemption pursuant to Article XI of the Private Housing Finance Law and Section 696 of the General Municipal Law for the project consisting rehabilitation of forty-four (44) affordable cooperative dwelling units and three (3) storefront commercial spaces.

PUBLIC HEARING**DATE:** March 8, 2021**Witnesses in Favor:** Four**Witnesses Against:** None**SUBCOMMITTEE RECOMMENDATION****DATE:** March 22, 2021

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:

Riley, Koo, Miller, Treyger.

Against:

Barron

Abstain:

None

COMMITTEE ACTION

DATE: March 23, 2021

The Committee recommends that the Council approve the attached resolution.

In Favor:

Salamanca, Gibson, Deutsch, Koo, Levin, Miller, Reynoso, Grodenchik, Adams, Ayala, Diaz Sr., Moya, Rivera, Riley, Borelli.

Against:

Barron

Abstain:

None.

In connection herewith, Council Members Salamanca and Riley offered the following resolution:

Res. No. 1588

Resolution approving an Urban Development Action Area Project and waiving the urban development action area designation requirement and the Uniform Land Use Review Procedure pursuant to Article 16 of the General Municipal Law, and approving a real property tax exemption pursuant to Article XI of the Private Housing Finance Law for property located at 406-08 East 10th Street (Block 379, Lot 12), 533 East 11th Street (Block 405, Lot 46), and 656 East 12th Street (Block 394, Lot 37), Borough of Manhattan, Community District 3 (L.U. No. 741; 20215016 HAM).

By Council Members Salamanca and Riley.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on February 24, 2021 its request dated February 24, 2021 that the Council take the following actions regarding the proposed Urban Development Action Area Project (the "Project") located at 406-08 East 10th Street (Block 379, Lot 12), 533 East 11th Street (Block 405, Lot 46), and 656 East 12th Street (Block 394, Lot 37), Community District 3, Borough of Manhattan (the "Disposition Area or Exemption Area"):

1. Find that the present status of the Disposition Area tends to impair or arrest the sound growth and development of the municipality and that the proposed Urban Development Action Area Project is consistent with the policy and purposes of Section 691 of the General Municipal Law;
2. Waive the area designation requirement of Section 693 of the General Municipal Law pursuant to Section 693 of the General Municipal Law;
3. Waive the requirements of Sections 197-c and 197-d of the Charter pursuant to Section 694 of the General Municipal Law;
4. Approve the project as an Urban Development Action Area Project pursuant to Section 694 of the General Municipal Law; and

5. Approve an exemption of the Exemption Area from real property taxes pursuant to Section 577 of Article XI of the Private Housing Finance Law.

WHEREAS, the Project is to be developed on land that is an eligible area as defined in Section 692 of the General Municipal Law, consists solely of the rehabilitation or conservation of existing private or multiple dwellings or the construction of one to four unit dwellings, and does not require any change in land use permitted under the New York City Zoning Resolution;

WHEREAS, upon due notice, the Council held a public hearing on the Project on March 8, 2021; and

WHEREAS, the Council has considered the land use and financial implications and other policy issues relating to the Project.

RESOLVED:

The Council finds that the present status of the Disposition Area tends to impair or arrest the sound growth and development of the City of New York and that a designation of the Project as an Urban Development Action Area Project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law.

The Council waives the area designation requirement pursuant to Section 693 of the General Municipal Law.

The Council waives the requirements of Sections 197-c and 197-d of the New York City Charter pursuant to Section 694 of the General Municipal Law.

The Council approves the Project as an Urban Development Action Area Project pursuant to Section 694 of the General Municipal Law.

The Project shall be developed in a manner consistent with the Project Summary that HPD has submitted to the Council on February 8, 2021, a copy of which is attached hereto.

Pursuant to Section 577 of Article XI of the Private Housing Finance Law, the Council approves an exemption of the Exemption Area from real property taxes as follows:

- a. All of the value of the property in the Disposition Area, including both the land and any improvements (excluding those portions, if any, devoted to business, commercial use or community facility use), shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the later of (i) the date of conveyance of the Disposition Area to the Sponsor, or (ii) the date that HPD and the Sponsor enter into a regulatory agreement governing the operation of the Disposition Area ("Effective Date") and terminating upon 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 between HPD and the Sponsor, or (iii) the date upon which the Disposition Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company ("Expiration Date").
- b. 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 Disposition Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Disposition Area is not being operated in accordance with the requirements of the regulatory agreement between HPD and the Sponsor, (iii) the Disposition 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 demolition of any private or multiple dwelling on the Disposition Area has commenced

without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the owner of the Disposition Area 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 herein, the Exemption shall prospectively terminate.

- c. In consideration of the Exemption, the Sponsor and any future owner of the Disposition Area, for so long as the Exemption shall remain in effect, shall waive the benefits, if any, 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. Notwithstanding the foregoing, nothing herein shall prohibit the granting of any real property tax abatement pursuant to Sections 467-b or 467-c of the Real Property Tax Law to real property occupied by senior citizens or persons with disabilities.

ATTACHMENT:

PROJECT SUMMARY

- | | | | |
|--|--|------------|-----------------------|
| 1. PROGRAM: | AFFORDABLE NEIGHBORHOOD COOPERATIVE PROGRAM | | |
| 2. PROJECT: | Lower East Side Cluster | | |
| 3. LOCATION: | | | |
| a. BOROUGH: | Manhattan | | |
| b. COMMUNITY DISTRICT: | 3 | | |
| c. COUNCIL DISTRICT: | 2 | | |
| d. DISPOSITION AREA: | <u>BLOCK</u> | <u>LOT</u> | <u>ADDRESS</u> |
| | 379 | 12 | 406-08 East 10 Street |
| | 405 | 46 | 533 East 11 Street |
| | 394 | 37 | 656 East 12 Street |
| 4. BASIS OF DISPOSITION PRICE: | Nominal (\$1.00 per building). The Sponsor will also deliver a note and mortgage for the remainder of the appraised value ("Land Debt"). For a period of up to sixty (60) years, the Land Debt or the City's capital subsidy may be repayable out of resale or refinancing profits. The remaining balance, if any, may be forgiven in the final year of that period. | | |
| 5. TYPE OF PROJECT: | Rehabilitation | | |
| 6. APPROXIMATE NUMBER OF BUILDINGS: | 3 Multiple Dwellings | | |
| 7. APPROXIMATE NUMBER OF UNITS: | 44 Dwelling Units | | |

- 8. HOUSING TYPE:** Cooperative. If units remain unsold at the end of the marketing period and HPD determines in writing that (i) sale is not feasible within a reasonable time, and (ii) a rental fallback is the best available alternative, then Sponsor may operate the building as rental housing in accordance with the written instructions of HPD.
- 9. ESTIMATE OF INITIAL PRICE:** The cooperative interests attributable to occupied apartments will be sold to the existing tenants for \$2,500 per apartment. The cooperative interests attributable to vacant apartments will be sold for a price affordable to families earning no more than 165% of the area median income.
- 10. INCOME TARGETS:** The Disposition Area contains partially occupied buildings which will be sold subject to existing tenancies. After sale, units must be resold in compliance with federal regulations, where applicable. Units not subject to such regulation may be resold to purchasers with annual household incomes up to 165% of the area median.
- 11. PROPOSED FACILITIES:** Three (3) storefront commercial spaces; two (2) at 406-08 East 10th Street and one (1) at 656 East 12th Street.
- 12. PROPOSED CODES/ORDINANCES:** None
- 13. ENVIRONMENTAL STATUS:** Type II
- 14. PROPOSED TIME SCHEDULE:** Approximately 36 months from closing to cooperative conversion.

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, CHAIM M. DEUTSCH, I. DANEEK MILLER, ANTONIO REYNOSO, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, DIANA AYALA, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, March 23, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Menchaca, Brooks-Powers and Van Bramer.*

On motion of the Speaker (Council Member Johnson), 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. 743

Report of the Committee on Land Use in favor of approving Application No. C 200276 HAM (Harlem Open Door Cluster) submitted by the Department of Housing Preservation and Development (HPD), pursuant to Article 16 of the General Municipal Law for approval of the designation of an Urban Development Action Area, an Urban Development Action Area Project and disposition, for property located at 2735 Frederick Douglass Boulevard (Block 2045, Lot 13), 2752 Frederick Douglass Boulevard (Block 2032, Lot 2) 131 West 133rd Street (Block 1918, Lot 16), 130 West 134th Street (Block 1918, Lot 53), Borough of Manhattan, Community District 10, Council District 9.

The Committee on Land Use, to which the annexed Land Use item was referred on March 18, 2021 (Minutes, page 605) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:**SUBJECT****MANHATTAN CB - 10 - TWO APPLICATIONS RELATED TO HARLEM OPEN DOOR CLUSTER****C 200276 HAM (Pre. L.U. No. 743)**

City Planning Commission decision approving an application submitted by the Department of Housing Preservation and Development (HPD):

- 1) pursuant to Article 16 of the General Municipal Law of New York State for:
 - a) the designation of property located at 2735 Frederick Douglass Boulevard (Block 2045, Lot 13), 2752 Frederick Douglass Boulevard (Block 2032, Lot 2) 131 West 133rd Street (Block 1918, Lot 16), 130 West 134th Street (Block 1918, Lot 53) as an Urban Development Action Area; and
 - b) an Urban Development Action Area Project for such area; and
- 2) pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer to be selected by HPD.

to facilitate the development of two six-story buildings, one seven-story building, and one 10-story building containing an approximate total of 48 affordable housing units, Borough of Manhattan, Community District 10.

20215017 HAM (Pre. L.U. No. 744)

Application submitted by the New York City Department of Housing Preservation and Development pursuant to Article XI of the Private Housing Finance Law for approval of an exemption from real property taxes for property located at 2735 Frederick Douglass Boulevard (Block 2045, Lot 13), 2752 Frederick Douglass Boulevard (Block 2032, Lot 2), 131 West 133rd Street (Block 1918, Lot 16), and 130 West 134th Street (Block 1918, Lot 53).

INTENT

To approve the urban development action area designation, project approval, and disposition of city-owned property pursuant to Article 16 of the General Municipal Law and approve a real property tax exemption pursuant to Section 577 of Article XI of the Private Housing Finance Law for property located at 2735 Frederick Douglass Boulevard (Block 2045, Lot 13), 2752 Frederick Douglass Boulevard (Block 2032, Lot 2), 131 West 133rd Street (Block 1918, Lot 16), and 130 West 134th Street (Block 1918, Lot 53) to facilitate the development of two six-story buildings, one seven-story building and one 10-story building for a total of 48, affordable homeownership units in Central Harlem, Manhattan Community District 10.

PUBLIC HEARING

DATE: March 8, 2021

Witnesses in Favor: Nine

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: March 22, 2021

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission and the HPD request.

In Favor:

Riley, Koo, Miller, Treyger.

Against:

None

Abstain:

Barron

COMMITTEE ACTION

DATE: March 23, 2021

The Committee recommends that the Council approve the attached resolutions.

(Pre. L.U. No. 743)**In Favor:**

Salamanca, Gibson, Deutsch, Koo, Levin, Miller, Reynoso, Grodenchik, Adams, Ayala, Diaz Sr., Moya, Rivera, Riley, Borelli.

Against:

None

Abstain:

Barron

(Pre. L.U. No. 744)**In Favor:**

Salamanca, Gibson, Barron, Deutsch, Koo, Levin, Miller, Reynoso, Grodenchik, Adams, Ayala, Diaz Sr., Moya, Rivera, Riley, Borelli.

Against:

None

Abstain:

None

In connection herewith, Council Members Salamanca and Riley offered the following resolution:

Res. No. 1589

Resolution approving the application submitted by the New York City Department of Housing Preservation and Development (“HPD”) and the decision of the City Planning Commission, ULURP No. C 200276 HAM, approving the designation of an Urban Development Action Area, an Urban Development Action Area Project, and the disposition of city-owned property located at 2735 Frederick Douglass Boulevard (Block 2045, Lot 13), 2752 Frederick Douglass Boulevard (Block 2032, Lot 2) 131 West 133rd Street (Block 1918, Lot 16), and 130 West 134th Street (Block 1918, Lot 53), Borough of Manhattan, Community District 10, to a developer selected by HPD (Preconsidered L.U. No. 743; C 200276 HAM).

By Council Members Salamanca and Riley.

WHEREAS, the City Planning Commission filed with the Council on March 5, 2021 its decision dated March 3, 2021 (the "Decision"), on the application submitted by New York City Department of Housing Preservation and Development (“HPD”) regarding city-owned property located at 2735 Frederick Douglass Boulevard (Block 2045, Lot 13), 2752 Frederick Douglass Boulevard (Block 2032, Lot 2) 131 West 133rd Street (Block 1918, Lot 16), and 130 West 134th Street (Block 1918, Lot 53) (the “Disposition Area”), approving:

- a) pursuant to Article 16 of the General Municipal Law of New York State the designation of Disposition Area as an Urban Development Action Area;
- b) pursuant to Article 16 of the General Municipal Law of New York State an Urban Development Action Area Project for the Disposition Area (the "Project"); and
- c) pursuant to Section 197-c of the New York City Charter the disposition of the Disposition Area to a developer to be selected by the New York City Department of Housing Preservation and Development;

to facilitate the development of two six-story buildings, one seven-story building and one 10-story building for a total of 48 affordable homeownership units in Central Harlem, Manhattan Community District 10 (ULURP No. C 200276 HAM) (the “Application”);

WHEREAS, the City Planning Commission has certified its unqualified approval of UDAAP pursuant to Article 16 of the General Municipal Law;

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

WHEREAS, by letter dated March 16, 2021 and submitted to the Council on March 16, 2021, HPD submitted its requests (the “HPD Requests”) respecting the Application including the submission of the project summary for the Project (the “Project Summary”);

WHEREAS, upon due notice, the Council held a public hearing on the Application and Decision and the HPD Requests on March 8, 2021;

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

WHEREAS, the Council has considered the relevant environmental issues, including the negative declaration issued on October 2, 2020 (CEQR No. 19HPD056M) (the “Negative Declaration”).

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Negative Declaration.

Pursuant to Section 197-d of the New York City Charter, based on the environmental determination and the consideration described in the report C 200276 HAM and incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission and the HPD Requests.

Pursuant to Article 16 of the General Municipal Law of the New York State, based on the environmental determination and the consideration described in the report C 200276 HAM and incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission and the HPD Requests.

The Council finds that the present status of the Area tends to impair or arrest the sound growth and development of the City of New York and that a designation of the Project as an urban development action area project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law.

The Council approves the designation of the Disposition Area as an urban development action area pursuant to Section 693 of the General Municipal Law.

The Council approves the Project as an urban development action area project pursuant to Section 694 of the General Municipal Law and subject to the terms and conditions of the Project Summary.

The Council approves the disposition of the Disposition Area pursuant to Section 197-d of the New York City Charter, to a developer to be selected by HPD for the development of the Project consistent with the Project Summary.

ATTACHMENT:

PROJECT SUMMARY

- | | |
|---------------------|---|
| 1. PROGRAM: | OPEN DOOR PROGRAM |
| 2. PROJECT: | Central Harlem Infill - Open Door Cluster |
| 3. LOCATION: | |

- a. **BOROUGH:** Manhattan
- b. **COMMUNITY DISTRICT:** 10
- c. **COUNCIL DISTRICT:** 9
- d. **DISPOSITION AREA:**
- | <u>BLOCKS</u> | <u>LOTS</u> |
|---------------|-------------|
| 2045 | 13 |
| 1918 | 16 |
| 1918 | 53 |
| 2032 | 2 |
4. **BASIS OF DISPOSITION PRICE:** Nominal. Sponsor will pay one dollar per tax lot and deliver a note and mortgage for the remainder of the appraised value (“Land Debt”).
5. **TYPE OF PROJECT:** New Construction
6. **APPROXIMATE NUMBER OF BUILDINGS:** 4
7. **APPROXIMATE NUMBER OF UNITS:** 48
8. **HOUSING TYPE:** Cooperative Units. If homes remain unsold at the end of the Marketing Period and HPD determines in writing that (i) sale is not feasible within a reasonable time, and (ii) a rental fallback is the best available alternative, then the unsold homes may be rented in accordance with the written instructions of HPD.
9. **ESTIMATE OF INITIAL PRICE:** Sales prices will be affordable to families with annual household incomes between 80% and 130% of the area median income (AMI).
10. **LIENS FOR LAND DEBT/CITY SUBSIDY:** Each of the Land Debt and the amount of any construction financing provided through loans from the City ("City Subsidy") will be secured by a mortgage on the Disposition Area. Upon conversion to a cooperative, the cooperative corporation will repay the Land Debt and City Subsidy, if any, attributable to the property by delivering a note and mortgage and/or conditional grant agreement to the City. At such time, HPD may unsecure or forgive all or a portion of the Land Debt, and unsecure, but not forgive, all or a portion of the City Subsidy, based on the appraised value of a homeownership unit and/or, in the case of forgiveness of Land Debt, if HPD determines that the forgiveness is necessary to reduce the taxable consideration for a unit. The sum evidenced by the note and secured by the mortgage will be reduced to zero upon maturity of the Land Debt and City Subsidy, respectively, if the owner has complied with the program’s restrictions.

- | | |
|---------------------------------------|---|
| 11. INCOME TARGETS: | Families with annual household incomes between 80% and 130% AMI. |
| 12. PROPOSED FACILITIES: | Approximately 329 square feet of commercial space |
| 13. PROPOSED CODES/ORDINANCES: | None |
| 14. ENVIRONMENTAL STATUS: | Negative Declaration |
| 15. PROPOSED TIME SCHEDULE: | Approximately 24 months from closing to completion of construction. |

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, CHAIM M. DEUTSCH, I. DANEEK MILLER, ANTONIO REYNOSO, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, DIANA AYALA, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, March 23, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Menchaca, Brooks-Powers and Van Bramer.*

On motion of the Speaker (Council Member Johnson), 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. 744

Report of the Committee on Land Use in favor of approving Application No. 20215017 HAM (Harlem Open Door Cluster—Article XI) submitted by the New York City Department of Housing Preservation and Development pursuant to Article XI of the Private Housing Finance Law for approval of an exemption from real property taxes for property located at 2735 Frederick Douglass Boulevard (Block 2045, Lot 13), 2752 Frederick Douglass Boulevard (Block 2032, Lot 2), 131 West 133rd Street (Block 1918, Lot 16), and 130 West 134th Street (Block 1918, Lot 53), Borough of Manhattan, Community District 10, Council District 9.

The Committee on Land Use, to which the annexed Land Use item was referred on March 18, 2021 (Minutes, page 605) and which same Land Use item was coupled with the resolution shown below, respectfully

SUBJECT

MANHATTAN CB - 11

C 200277 HAM

City Planning Commission decision approving an application submitted by the Department of Housing Preservation and Development (HPD):

- 1) pursuant to Article 16 of the General Municipal Law of New York State for:
 - a) the designation of property located at 2 East 130th Street (Block 1754, Lot 68) as an Urban Development Action Area; and

- b) an Urban Development Action Area Project for such area; and
- 2) pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer to be selected by HPD.

to facilitate the development of one four-story building containing a total of seven affordable housing units, Borough of Manhattan, Community District 11.

INTENT

To approve the urban development action area designation, project approval, and disposition of city-owned property pursuant to Article 16 of the General Municipal Law to facilitate the development of a four-story building with seven affordable studio rental units in the neighborhood of East Harlem, Manhattan Community District 11.

PUBLIC HEARING

DATE: March 8, 2021

Witnesses in Favor: Nine

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: March 22, 2021

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission and the HPD request.

In Favor:

Riley, Koo, Barron, Miller, Treyger.

Against:

None

Abstain:

None

COMMITTEE ACTION

DATE: March 23, 2021

The Committee recommends that the Council approve the attached resolution.

In Favor:

Salamanca, Gibson, Barron, Deutsch, Koo, Levin, Miller, Reynoso, Grodenchik, Adams, Ayala, Diaz Sr., Moya, Rivera, Riley, Borelli.

Against:

None

Abstain:

None

In connection herewith, Council Members Salamanca and Riley offered the following resolution:

Res. No. 1590

Resolution approving a tax exemption pursuant to Article XI of the Private Housing Finance Law (Preconsidered L.U. No. 744; Non-ULURP No. 20215017 HAM).

By Council Members Salamanca and Riley.

WHEREAS, the New York City Department of Housing Preservation and Development (“HPD”) submitted to the Council on March 16, 2021 its request dated March 16, 2021 that the Council approve a real property tax exemption pursuant to Section 577 of the Private Housing Finance Law (the “Tax Exemption Request”) for properties located at 2735 Frederick Douglass Boulevard (Block 2045, Lot 13), 2752 Frederick Douglass Boulevard (Block 2032, Lot 2), 131 West 133rd Street (Block 1918, Lot 16), and 130 West 134th Street (Block 1918, Lot 53), Community District No. 10, Borough of Manhattan, Council District No. 9 (the “Exemption Area”);

WHEREAS, the Tax Exemption Request is related to application C 200276 HAM (Pre. L.U. No. 743), an urban development action area designation, project approval, and disposition of city-owned property;

WHEREAS, upon due notice, the Council held a public hearing on the Tax Exemption Request on March 8, 2021; and

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

RESOLVED:

Pursuant to Section 577 of the Private Housing Finance Law, the Council approves an exemption of the Exemption Area from real property taxes as follows:

- a. For the purposes hereof, the following terms shall have the following meanings:
 - (1) “Company” shall mean Iris Lemor Harlem LLC or another entity that acquires the beneficial interest in the Exemption Area with the prior written consent of HPD.
 - (2) “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 Owner enter into the Regulatory Agreement.
 - (3) “Exemption” shall mean the exemption from real property taxation provided hereunder.

- (4) “Exemption Area” shall mean the real property located in the Borough of Manhattan, City and State of New York, identified as Block 2045, Lot 13; Block 2032, Lot 2; and Block 1918, Lots 16 and 53 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 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.
 - (6) “HDFC” shall mean HCCI Central Harlem Owners Housing Development Fund Corporation or a housing development fund company that acquires the Exemption Area with the prior written consent of HPD.
 - (7) “HPD” shall mean the Department of Housing Preservation and Development of the City of New York.
 - (8) “Owner” shall mean, collectively, the HDFC and the Company.
 - (9) “Regulatory Agreement” shall mean the regulatory agreement between HPD and the Owner establishing certain controls upon the operation of the Exemption Area during the term of the Exemption.
- 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, commercial, or community facility 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. Notwithstanding any provision hereof to the contrary:
- (1) The 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) any interest in the Exemption Area is conveyed or transferred to a new owner without the prior written approval of HPD, or (v) the construction or 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 60 days. If the noncompliance specified in such notice is not cured within the time period specified therein, the Exemption shall prospectively terminate.
 - (2) The Exemption shall apply to all land in the Exemption Area, but shall only apply to a building on the Exemption Area that has a permanent certificate of occupancy or a temporary certificate of occupancy for all of the residential areas on or before five years from the Effective Date.
 - (3) Nothing herein shall entitle the HDFC, the Owner, or any other person or entity 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. In consideration of the Exemption, the owner of the Exemption Area, 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. Notwithstanding the foregoing, nothing herein shall prohibit the granting of any real property tax abatement pursuant to Sections 467-b or 467-c of the Real Property Tax Law to real property occupied by senior citizens or persons with disabilities.

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, INEZ D. BARRON, CHAIM M. DEUTSCH, I. DANEEK MILLER, ANTONIO REYNOSO, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, DIANA AYALA, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, March 23, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Menchaca, Brooks-Powers and Van Bramer.*

On motion of the Speaker (Council Member Johnson), 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. 745

Report of the Committee on Land Use in favor of approving Application No. C 200277 HAM (Harlem NCP CB 11 Site) submitted by the Department of Housing Preservation and Development (HPD) pursuant to Article 16 of the General Municipal Law for approval of the designation of an Urban Development Action Area, an Urban Development Action Area Project and disposition, for property located at 2 East 130th Street (Block 1754, Lot 68), Borough of Manhattan, Community District 11, Council District, 9.

The Committee on Land Use, to which the annexed Land Use item was referred on March 18, 2021 (Minutes, page 605) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 10

C 200278 HAM

City Planning Commission decision approving an application submitted by the Department of Housing Preservation and Development (HPD):

- 1) pursuant to Article 16 of the General Municipal Law of New York State for:
 - a) the designation of property located at 2803 Frederick Douglass Boulevard (Block 2045, Lot 89), 136 West 137th Street (Block 1921, Lot 49), 203 West 135th Street (Block 1941, Lot 27), 61 West 130th Street (Block 1728, Lot 9), 142 West 129th Street (Block 1913, Lot 52) and 109 West 126th Street (Block 1911, Lot 26) as an Urban Development Action Area; and
 - b) an Urban Development Action Area Project for such area; and
- 2) pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer to be selected by HPD.

to facilitate the development of five six-story buildings and one four-story building containing a total of 58 affordable housing units, Borough of Manhattan, Community District 10.

INTENT

To approve the urban development action area designation, project approval, and disposition of city-owned property pursuant to Article 16 of the General Municipal Law to facilitate the development of five six-story buildings and one four-story building with a total of 58 affordable rental units in the Central Harlem, Manhattan Community District 10.

PUBLIC HEARING

DATE: March 8, 2021

Witnesses in Favor: Nine

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: March 22, 2021

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission and the HPD request.

In Favor:

Riley, Koo, Barron, Miller, Treyger.

Against:

None

Abstain:

None

COMMITTEE ACTION

DATE: March 23, 2021

The Committee recommends that the Council approve the attached resolution.

In Favor:

Salamanca, Gibson, Barron, Deutsch, Koo, Levin, Miller, Reynoso, Grodenchik, Adams, Ayala, Diaz Sr., Moya, Rivera, Riley, Borelli.

Against:

None

Abstain:

None.

In connection herewith, Council Members Salamanca and Reilly offered the following resolution:

Res. No. 1591

Resolution approving the application submitted by the New York City Department of Housing Preservation and Development (“HPD”) and the decision of the City Planning Commission, ULURP No. C 200277 HAM, approving the designation of an Urban Development Action Area, an Urban Development Action Area Project, and the disposition of city-owned property located at 2 East 130th Street (Block 1754, Lot 68), Borough of Manhattan, Community District 11, to a developer selected by HPD (Preconsidered L.U. No. 745; C 200277 HAM).

By Council Members Salamanca and Riley.

WHEREAS, the City Planning Commission filed with the Council on March 5, 2021 its decision dated March 3, 2021 (the "Decision"), on the application submitted by New York City Department of Housing Preservation and Development (“HPD”) regarding city-owned property located at 2 East 130th Street (Block 1754, Lot 68), (the “Disposition Area”), approving:

- a) pursuant to Article 16 of the General Municipal Law of New York State the designation of Disposition Area as an Urban Development Action Area;
- d) pursuant to Article 16 of the General Municipal Law of New York State an Urban Development Action Area Project for the Disposition Area (the "Project"); and
- e) pursuant to Section 197-c of the New York City Charter the disposition of the Disposition Area to a developer to be selected by the New York City Department of Housing Preservation and Development;

to facilitate the development of a four-story building with seven affordable studio rental units in the neighborhood of East Harlem, Manhattan Community District 11 (ULURP No. C 200277 HAM) (the “Application”);

WHEREAS, the City Planning Commission has certified its unqualified approval of UDAAP pursuant to Article 16 of the General Municipal Law;

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

WHEREAS, by letter dated March 16, 2021 and submitted to the Council on March 16, 2021, HPD submitted its requests (the “HPD Requests”) respecting the Application including the submission of the project summary for the Project (the “Project Summary”);

WHEREAS, upon due notice, the Council held a public hearing on the Application and Decision and the HPD Requests on March 8, 2021;

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

WHEREAS, the Council has considered the relevant environmental issues, including the negative declaration issued on October 2, 2020 (CEQR No. 19HPD056M) (the “Negative Declaration”).

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Negative Declaration.

Pursuant to Section 197-d of the New York City Charter, based on the environmental determination and the consideration described in the report C 200277 HAM and incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission and the HPD Requests.

Pursuant to Article 16 of the General Municipal Law of the New York State, based on the environmental determination and the consideration described in the report C 200277 HAM and incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission and the HPD Requests.

The Council finds that the present status of the Area tends to impair or arrest the sound growth and development of the City of New York and that a designation of the Project as an urban development action area project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law.

The Council approves the designation of the Disposition Area as an urban development action area pursuant to Section 693 of the General Municipal Law.

The Council approves the Project as an urban development action area project pursuant to Section 694 of the General Municipal Law and subject to the terms and conditions of the Project Summary.

The Council approves the disposition of the Disposition Area pursuant to Section 197-d of the New York City Charter, to a developer to be selected by HPD for the development of the Project consistent with the Project Summary.

ATTACHMENT:

PROJECT SUMMARY

- | | |
|---------------------------------------|---|
| 1. PROGRAM: | NEIGHBORHOOD CONSTRUCTION PROGRAM |
| 2. PROJECT: | Central Harlem Infill - NCP CB11 |
| 3. LOCATION: | |
| a. BOROUGH: | Manhattan |
| b. COMMUNITY DISTRICT: | 11 |
| c. COUNCIL DISTRICT: | 9 |
| d. DISPOSITION AREA 1: | <u>BLOCKS</u> <u>LOTS</u> <u>ADDRESSES</u> |
| | 1754 68 2 E. 130 Street |
| 4. BASIS OF DISPOSITION PRICE: | Nominal. Sponsor will pay one dollar per lot and deliver a note and mortgage for the remainder of the |

appraised value (“Land Debt”). For a period of at least thirty (30) years following completion of construction, the Land Debt or the City’s capital subsidy may be repayable out of resale or refinancing profits. The remaining balance, if any, may be forgiven at the end of the term.

- 5. TYPE OF PROJECT:** New Construction
- 6. APPROXIMATE NUMBER OF BUILDINGS:** 1
- 7. APPROXIMATE NUMBER OF UNITS:** 7 dwelling units
- 8. HOUSING TYPE:** Rental
- 9. ESTIMATE OF INITIAL RENTS** Rents will be affordable to families with incomes between 30% and 80% of area median income (AMI). Formerly homeless tenants referred by DHS and other City agencies will pay up to 30% of their income as rent. All units will be subject to rent stabilization.
- 10. INCOME TARGETS** Up to 80% of AMI.
- 11. PROPOSED FACILITIES:** None
- 12. PROPOSED CODES/ORDINANCES:** None
- 13. ENVIRONMENTAL STATUS:** Negative Declaration
- 14. PROPOSED TIME SCHEDULE:** Approximately 24 months from closing to completion of construction

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, INEZ D. BARRON, CHAIM M. DEUTSCH, I. DANEEK MILLER, ANTONIO REYNOSO, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, DIANA AYALA, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; *Committee on Land Use, March 23, 2021 (Remote Hearing). Other Council Members Attending: Council Members Menchaca, Brooks-Powers and Van Bramer.*

On motion of the Speaker (Council Member Johnson), 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. 746

Report of the Committee on Land Use in favor of approving Application No. C 200278 HAM (Central Harlem Infill NCP) submitted by the Department of Housing Preservation and Development (HPD) pursuant to Article 16 of the General Municipal Law for approval of the designation of an Urban Development Action Area, an Urban Development Action Area Project and disposition, for property located at 2803 Frederick Douglass Boulevard (Block 2045, Lot 89), 136 West 137th Street (Block 1921, Lot 49), 203 West 135th Street (Block 1941, Lot 27), 61 West 130th Street (Block 1728, Lot 9), 142 West 129th Street (Block 1913, Lot 52) and 109 West 126th Street (Block 1911, Lot 26), Borough of Manhattan, Community District 10, Council District 9.

The Committee on Land Use, to which the annexed Land Use item was referred on March 18, 2021 (Minutes, page 606) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:**SUBJECT****MANHATTAN CB - 10****C 200278 HAM**

City Planning Commission decision approving an application submitted by the Department of Housing Preservation and Development (HPD):

- 1) pursuant to Article 16 of the General Municipal Law of New York State for:
 - a) the designation of property located at 2803 Frederick Douglass Boulevard (Block 2045, Lot 89), 136 West 137th Street (Block 1921, Lot 49), 203 West 135th Street (Block 1941, Lot 27), 61 West 130th Street (Block 1728, Lot 9), 142 West 129th Street (Block 1913, Lot 52) and 109 West 126th Street (Block 1911, Lot 26) as an Urban Development Action Area; and
 - b) an Urban Development Action Area Project for such area; and
- 2) pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer to be selected by HPD.

to facilitate the development of five six-story buildings and one four-story building containing a total of 58 affordable housing units, Borough of Manhattan, Community District 10.

INTENT

To approve the urban development action area designation, project approval, and disposition of city-owned property pursuant to Article 16 of the General Municipal Law to facilitate the development of five six-story buildings and one four-story building with a total of 58 affordable rental units in the Central Harlem, Manhattan Community District 10.

PUBLIC HEARING**DATE:** March 8, 2021**Witnesses in Favor:** Nine**Witnesses Against:** None

SUBCOMMITTEE RECOMMENDATION**DATE:** March 22, 2021

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission and the HPD request.

In Favor:

Riley, Koo, Barron, Miller, Treyger

Against:

None

Abstain:

None

COMMITTEE ACTION**DATE:** March 23, 2021

The Committee recommends that the Council approve the attached resolution.

In Favor:

Salamanca, Gibson, Barron, Deutsch, Koo, Levin, Miller, Reynoso, Grodenchik, Adams, Ayala, Diaz Sr., Moya, Rivera, Riley, Borelli.

Against:

None

Abstain:

None.

In connection herewith, Council Members Salamanca and Riley offered the following resolution:

Res. No. 1592

Resolution approving the application submitted by the New York City Department of Housing Preservation and Development (“HPD”) and the decision of the City Planning Commission, ULURP No. C 200278 HAM, approving the designation of an Urban Development Action Area, an Urban Development Action Area Project, and the disposition of city-owned property located at 2803 Frederick Douglass Boulevard (Block 2045, Lot 89), 136 West 137th Street (Block 1921, Lot 49), 203 West 135th Street (Block 1941, Lot 27), 61 West 130th Street (Block 1728, Lot 9), 142 West 129th Street (Block 1913, Lot 52) and 109 West 126th Street (Block 1911, Lot 26), Borough of Manhattan, Community District 10, to a developer selected by HPD (Preconsidered L.U. No. 746; C 200278 HAM).

By Council Members Salamanca and Riley.

WHEREAS, the City Planning Commission filed with the Council on March 5, 2021 its decision dated March 3, 2021 (the "Decision"), on the application submitted by New York City Department of Housing Preservation and Development (“HPD”) regarding city-owned property located at 2803 Frederick Douglass Boulevard (Block 2045, Lot 89), 136 West 137th Street (Block 1921, Lot 49), 203 West 135th Street (Block 1941, Lot 27), 61 West 130th Street (Block 1728, Lot 9), 142 West 129th Street (Block 1913, Lot 52) and 109 West 126th Street (Block 1911, Lot 26), (the “Disposition Area”), approving:

- a) pursuant to Article 16 of the General Municipal Law of New York State the designation of Disposition Area as an Urban Development Action Area;
- b) pursuant to Article 16 of the General Municipal Law of New York State an Urban Development Action Area Project for the Disposition Area (the "Project"); and
- c) pursuant to Section 197-c of the New York City Charter the disposition of the Disposition Area to a developer to be selected by the New York City Department of Housing Preservation and Development;

to facilitate the development of five six-story buildings and one four-story building with a total of 58 affordable rental units in the Central Harlem, Manhattan Community District 10 (ULURP No. C 200278 HAM) (the "Application");

WHEREAS, the City Planning Commission has certified its unqualified approval of UDAAP pursuant to Article 16 of the General Municipal Law;

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

WHEREAS, by letter dated March 16, 2021 and submitted to the Council on March 16, 2021, HPD submitted its requests (the "HPD Requests") respecting the Application including the submission of the project summary for the Project (the "Project Summary");

WHEREAS, upon due notice, the Council held a public hearing on the Application and Decision and the HPD Requests on March 8, 2021;

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

WHEREAS, the Council has considered the relevant environmental issues, including the negative declaration issued on October 2, 2020 (CEQR No. 19HPD056M) (the "Negative Declaration").

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Negative Declaration.

Pursuant to Section 197-d of the New York City Charter, based on the environmental determination and the consideration described in the report C 200278 HAM and incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission and the HPD Requests.

Pursuant to Article 16 of the General Municipal Law of the New York State, based on the environmental determination and the consideration described in the report C 200278 HAM and incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission and the HPD Requests.

The Council finds that the present status of the Area tends to impair or arrest the sound growth and development of the City of New York and that a designation of the Project as an urban development action area project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law.

The Council approves the designation of the Disposition Area as an urban development action area pursuant to Section 693 of the General Municipal Law.

The Council approves the Project as an urban development action area project pursuant to Section 694 of the General Municipal Law and subject to the terms and conditions of the Project Summary.

The Council approves the disposition of the Disposition Area pursuant to Section 197-d of the New York City Charter, to a developer to be selected by HPD for the development of the Project consistent with the Project Summary.

ATTACHMENT:

PROJECT SUMMARY

1. **PROGRAM:** NEIGHBORHOOD CONSTRUCTION PROGRAM
2. **PROJECT:** Central Harlem Infill - NCP
3. **LOCATION:**
 - a. **BOROUGH:** Manhattan
 - b. **COMMUNITY DISTRICT:** 10
 - c. **COUNCIL DISTRICT:** 9
 - d. **DISPOSITION AREA 1:**

| <u>BLOCKS</u> | <u>LOTS</u> | <u>ADDRESSES</u> |
|---------------|-------------|------------------------------|
| 2045 | 89 | 2803 Frederick Douglass Blv. |
| 1921 | 49 | 136 W. 137 Street |
| 1941 | 27 | 203 W.135 Street |
| 1728 | 9 | 61 W. 130 Street |
| 1911 | 26 | 109 W. 126 Street |
| 1913 | 52 | 142 W. 129 Street |
4. **BASIS OF DISPOSITION PRICE:** Nominal. Sponsor will pay one dollar per lot and deliver a note and mortgage for the remainder of the appraised value ("Land Debt"). For a period of at least thirty (30) years following completion of construction, the Land Debt or the City's capital subsidy may be repayable out of resale or refinancing profits. The remaining balance, if any, may be forgiven at the end of the term.
5. **TYPE OF PROJECT:** New Construction
6. **APPROXIMATE NUMBER OF BUILDINGS:** 6
7. **APPROXIMATE NUMBER OF UNITS:** 57, plus one unit for a superintendent

- | | |
|---------------------------------------|---|
| 8. HOUSING TYPE: | Rental |
| 9. ESTIMATE OF INITIAL RENTS | Rents will be affordable to families with incomes between 30% and 80% of area median income (AMI). Formerly homeless tenants referred by DHS and other City agencies will pay up to 30% of their income as rent. All units will be subject to rent stabilization. |
| 10. INCOME TARGETS | Up to 80% of AMI. |
| 11. PROPOSED FACILITIES: | None |
| 12. PROPOSED CODES/ORDINANCES: | None |
| 13. ENVIRONMENTAL STATUS: | Negative Declaration |
| 14. PROPOSED TIME SCHEDULE: | Approximately 24 months from closing to completion of construction |

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, INEZ D. BARRON, CHAIM M. DEUTSCH, I. DANEEK MILLER, ANTONIO REYNOSO, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, DIANA AYALA, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, March 23, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Menchaca, Brooks-Powers and Van Bramer.*

On motion of the Speaker (Council Member Johnson), 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. 747

Report of the Committee on Land Use in favor of approving Application No. C 200279 HAM (Harlem NCP Western Site) submitted by the Department of Housing Preservation and Development (HPD) pursuant to Article 16 of the General Municipal Law for approval of the designation of an Urban Development Action Area, an Urban Development Action Area Project and disposition, for property located at 313 West 112th Street (Block 1847, Lot 13), Borough of Manhattan, Community District 10, Council District 9.

The Committee on Land Use, to which the annexed Land Use item was referred on March 18, 2021 (Minutes, page 606) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 10

C 200279 HAM

City Planning Commission decision approving an application submitted by the Department of Housing Preservation and Development (HPD):

- 1) pursuant to Article 16 of the General Municipal Law of New York State for:
 - b) the designation of property located at 313 West 112th Street (Block 1847, Lot 13) as an Urban Development Action Area; and
 - b) an Urban Development Action Area Project for such area; and
- 2) pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer to be selected by HPD.

to facilitate the development of a six-story building containing approximately 6 affordable housing units, Borough of Manhattan, Community District 10.

INTENT

To approve the urban development action area designation, project approval, and disposition of city-owned property pursuant to Article 16 of the General Municipal Law to facilitate the development of a six-story residential building with six affordable studio rental units in the Central Harlem neighborhood, Community District 10.

PUBLIC HEARING

DATE: March 8, 2021

Witnesses in Favor: Nine

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: March 22, 2021

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission and the HPD request.

In Favor:

Riley, Koo, Barron, Miller, Treyger.

Against:

None

Abstain:

None

COMMITTEE ACTION

DATE: March 23, 2021

The Committee recommends that the Council approve the attached resolution.

In Favor:

Salamanca, Gibson, Barron, Deutsch, Koo, Levin, Miller, Reynoso, Grodenchik, Adams, Ayala, Diaz Sr., Moya, Rivera, Riley, Borelli.

Against:

None

Abstain:

None

In connection herewith, Council Members Salamanca and Riley offered the following resolution:

Res. No. 1593

Resolution approving the application submitted by the New York City Department of Housing Preservation and Development (“HPD”) and the decision of the City Planning Commission, ULURP No. C 200279 HAM, approving the designation of an Urban Development Action Area, an Urban Development Action Area Project, and the disposition of city-owned property located at 313 West 112th Street (Block 1847, Lot 13), Borough of Manhattan, Community District 10, to a developer selected by HPD (Preconsidered L.U. No. 747; C 200279 HAM).

By Council Members Salamanca and Riley.

WHEREAS, the City Planning Commission filed with the Council on March 5, 2021 its decision dated March 3, 2021 (the "Decision"), on the application submitted by New York City Department of Housing Preservation and Development (“HPD”) regarding city-owned property located at 313 West 112th Street (Block 1847, Lot 13), (the “Disposition Area”), approving:

- a) pursuant to Article 16 of the General Municipal Law of New York State the designation of Disposition Area as an Urban Development Action Area;
- d) pursuant to Article 16 of the General Municipal Law of New York State an Urban Development Action Area Project for the Disposition Area (the "Project"); and
- e) pursuant to Section 197-c of the New York City Charter the disposition of the Disposition Area to a developer to be selected by the New York City Department of Housing Preservation and Development;

to facilitate the development of a six-story residential building with six affordable studio rental units in the Central Harlem neighborhood, Community District 10 (ULURP No. C 200279 HAM) (the “Application”);

WHEREAS, the City Planning Commission has certified its unqualified approval of UDAAP pursuant to Article 16 of the General Municipal Law;

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

WHEREAS, by letter dated March 16, 2021 and submitted to the Council on March 16, 2021, HPD submitted its requests (the “HPD Requests”) respecting the Application including the submission of the project summary for the Project (the “Project Summary”);

WHEREAS, upon due notice, the Council held a public hearing on the Application and Decision and the HPD Requests on March 8, 2021;

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

WHEREAS, the Council has considered the relevant environmental issues, including the negative declaration issued on October 2, 2020 (CEQR No. 19HPD056M) (the “Negative Declaration”).

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Negative Declaration.

Pursuant to Article 16 of the General Municipal Law of the New York State and Section 197-d of the New York City Charter, based on the environmental determination and the consideration described in the report C 200279 HAM and incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission and the HPD Requests.

The Council finds that the present status of the Area tends to impair or arrest the sound growth and development of the City of New York and that a designation of the Project as an urban development action area project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law.

The Council approves the designation of the Disposition Area as an urban development action area pursuant to Section 693 of the General Municipal Law.

The Council approves the Project as an urban development action area project pursuant to Section 694 of the General Municipal Law and subject to the terms and conditions of the Project Summary.

The Council approves the disposition of the Disposition Area under Section 197-d of the New York City Charter, to a developer to be selected by the New York City Department of Housing Preservation and Development for the development of the Project consistent with the Project Summary.

ATTACHMENT:

PROJECT SUMMARY

- | | |
|-------------------------------|-----------------------------------|
| 1. PROGRAM: | NEIGHBORHOOD CONSTRUCTION PROGRAM |
| 2. PROJECT: | Central Harlem Infill - NCP West |
| 3. LOCATION: | |
| a. BOROUGH: | Manhattan |
| b. COMMUNITY DISTRICT: | 10 |
| c. COUNCIL DISTRICT: | 9 |

| | |
|--|---|
| d. DISPOSITION AREA 1: | <u>BLOCKS</u> <u>LOTS</u> <u>ADDRESSES</u> |
| | 1847 13 313 W. 112 Street |
| 4. BASIS OF DISPOSITION PRICE: | Nominal. Sponsor will pay one dollar per lot and deliver a note and mortgage for the remainder of the appraised value (“Land Debt”). For a period of at least thirty (30) years following completion of construction, the Land Debt or the City’s capital subsidy may be repayable out of resale or refinancing profits. The remaining balance, if any, may be forgiven at the end of the term. |
| 5. TYPE OF PROJECT: | New Construction |
| 6. APPROXIMATE NUMBER OF BUILDINGS: | 1 |
| 7. APPROXIMATE NUMBER OF UNITS: | 7 dwelling units |
| 8. HOUSING TYPE: | Rental |
| 9. ESTIMATE OF INITIAL RENTS | Rents will be affordable to families with incomes between 30% and 80% of area median income (AMI). Formerly homeless tenants referred by DHS and other City agencies will pay up to 30% of their income as rent. All units will be subject to rent stabilization. |
| 10. INCOME TARGETS | Up to 80% of AMI. |
| 11. PROPOSED FACILITIES: | None |
| 12. PROPOSED CODES/ORDINANCES: | None |
| 13. ENVIRONMENTAL STATUS: | Negative Declaration |
| 14. PROPOSED TIME SCHEDULE: | Approximately 24 months from closing to completion of construction |

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, INEZ D. BARRON, CHAIM M. DEUTSCH, I. DANEEK MILLER, ANTONIO REYNOSO, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, DIANA AYALA, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, March 23, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Menchaca, Brooks-Powers and Van Bramer.*

On motion of the Speaker (Council Member Johnson), 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. 748

Report of the Committee on Land Use in favor of approving Application No. C 200243 ZMQ (50-25 Barnett Avenue Rezoning) submitted by Phipps Houses, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section Nos. 9b and 9d, changing from an M1-1 District to an R6A District, as shown on a diagram (for illustrative purposes only) dated October 5, 2020, and subject to the conditions of CEQR Declaration E-573, Borough of Queens, Community District 2, Council District 26.

The Committee on Land Use, to which the annexed Land Use item was referred on March 18, 2021 (Minutes, page 606) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:**SUBJECT****QUEENS CB-2 - TWO APPLICATIONS RELATED TO 50-25 BARNETT AVENUE REZONING****C 200243 ZMQ (Pre. L.U. No. 748)**

City Planning Commission decision approving an application submitted by Phipps Houses, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section Nos. 9b and 9d, changing from an M1-1 District to an R6A District property bounded by the southerly boundary line of the Long Island Railroad Right-of-Way (Main Line), the northerly centerline prolongation of 52nd Street, Barnett Avenue, and the northerly prolongation of the westerly street line of 50st Street, Borough of Queens, Community District 2, as shown on a diagram (for illustrative purposes only) dated October 5, 2020, and subject to the conditions of CEQR Declaration E-573.

N 200244 ZRQ (Pre. L.U. No. 749)

City Planning Commission decision approving an application submitted by Phipps Houses pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing Area.

INTENT

To approve an amendment to rezone the Project Area from M1-1 to R6A and amend a zoning text to modify Appendix F to designate a Mandatory Inclusionary Housing (MIH) area utilizing Option 1 to facilitate the development of a seven-story mixed-use building with residential and community facility uses located at 50-25 Barnett Avenue in the Sunnyside neighborhood of Queens, Community District 2.

PUBLIC HEARING

DATE: March 4, 2021

Witnesses in Favor: Seven

Witnesses Against: Eleven

SUBCOMMITTEE RECOMMENDATION**DATE:** March 16, 2021

The Subcommittee recommends that the Land Use Committee approve the decisions of the City Planning Commission on Pre. L.U. Nos. 748 and 749.

In Favor:

Moya, Levin, Reynoso, Grodenchik, Ayala, Rivera, Borelli.

Against:

None

Abstain:

None

COMMITTEE ACTION**DATE:** March 23, 2021

The Committee recommends that the Council approve the attached resolutions.

In Favor:

Salamanca, Gibson, Barron, Deutsch, Koo, Levin, Miller, Reynoso, Grodenchik, Adams, Ayala, Diaz Sr., Moya, Rivera, Riley, Borelli.

Against:

None

Abstain:

None

In connection herewith, Council Members Salamanca and Riley offered the following resolution:

Res. No. 1594

Resolution approving the decision of the City Planning Commission on ULURP No. C 200243 ZMQ, a Zoning Map amendment (Preconsidered L.U. No. 748).

By Council Members Salamanca and Moya.

WHEREAS, Phipps Houses, filed an application pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section Nos. 9b and 9d, changing from an M1-1 District to an R6A District, which in conjunction with the related action would facilitate the development of a seven-story mixed-use building with residential and community facility uses located at 50-25 Barnett Avenue in the Sunnyside neighborhood of Queens, Community District 2 (ULURP No. C 200243 ZMQ), (the "Application");

WHEREAS, the City Planning Commission filed with the Council on March 3, 2021, its decision dated March 3, 2021 (the "Decision") on the Application;

WHEREAS, the Application is related to application N 200244 ZRQ (Pre. L.U. No. 749), a zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area;

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

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on March 4, 2021;

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

WHEREAS, the Council has considered the relevant environmental issues, including the negative declaration issued October 5, 2020 (CEQR No. 20DCP038Q), which includes an (E) designation to avoid the potential for significant adverse impacts related to noise and hazardous materials (E-573) (the “Negative Declaration”).

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the (E) Designation (E-573) and 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, C 200243 ZMQ, incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section Nos. 9b and 9d, changing from an M1-1 District to an R6A District property bounded by the southerly boundary line of the Long Island Railroad Right-of-Way (Main Line), the northerly centerline prolongation of 52nd Street, Barnett Avenue, and the northerly prolongation of the westerly street line of 50st Street, Borough of Queens, Community District 2, as shown on a diagram (for illustrative purposes only) dated October 5, 2020, and subject to the conditions of CEQR Declaration E-573.

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, INEZ D. BARRON, CHAIM M. DEUTSCH, I. DANEEK MILLER, ANTONIO REYNOSO, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, DIANA AYALA, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, March 23, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Menchaca, Brooks-Powers and Van Bramer.*

On motion of the Speaker (Council Member Johnson), 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. 749

Report of the Committee on Land Use in favor of approving Application No. N 200244 ZRQ (50-25 Barnett Avenue Rezoning) submitted by Phipps Houses, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying

Appendix F for the purpose of establishing a Mandatory Inclusionary Housing Area, Borough of Queens, Community District 2, Council District 26.

The Committee on Land Use, to which the annexed Land Use item was referred on March 18, 2021 (Minutes, page 607) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Land Use for L.U. No. 748 printed in these Minutes)

Accordingly, this Committee recommends its adoption.

In connection herewith, Council Members Salamanca and Riley offered the following resolution:

Res. No. 1595

Resolution approving the decision of the City Planning Commission on Application No. N 200244 ZRQ, for an amendment of the text of the Zoning Resolution (Preconsidered L.U. No. 749).

By Council Members Salamanca and Moya.

WHEREAS, Phipps Houses, filed an application pursuant to Section 201 of the New York City Charter, for an amendment of the text of the Zoning Resolution of the City of New York, modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area utilizing Option 1, which in conjunction with the related action would facilitate the development of a seven-story mixed-use building with residential and community facility uses located at 50-25 Barnett Avenue in the Sunnyside neighborhood of Queens, Community District 2, ULURP No. N 200244 ZRQ), (the “Application”);

WHEREAS, the City Planning Commission filed with the Council on March 3, 2021, its decision dated March 3, 2021 (the "Decision") on the Application;

WHEREAS, the Application is related to application C 200243 ZMQ (Pre. L.U. No. 748), a zoning map amendment to change an M1-1 district to R6A;

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

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on March 4, 2021;

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 negative declaration issued October 5, 2020 (CEQR No. 20DCP038Q), which includes an (E) designation to avoid the potential for significant adverse impacts related to noise and hazardous materials (E-573) (the “Negative Declaration”).

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the (E) Designation (E-573) and 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 200244 ZRQ, incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission:

Matter underlined is new, to be added;

Matter ~~struck out~~ is to be deleted;

Matter within # # is defined in Section 12-10;

*** indicates where unchanged text appears in the Zoning Resolution.

* * *

APPENDIX F

Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas

* * *

QUEENS

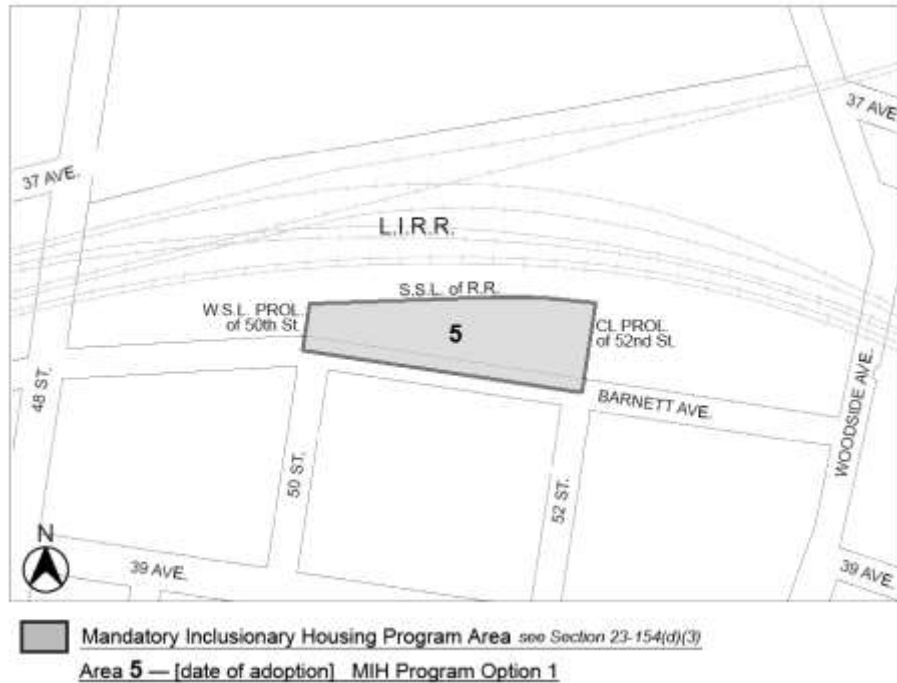
* * *

Queens Community District 2

* * *

Map 4 – [date of adoption]

[PROPOSED MAP]



Portion of Community District 2, Queens

* * *

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, INEZ D. BARRON, CHAIM M. DEUTSCH, I. DANEEK MILLER, ANTONIO REYNOSO, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, DIANA AYALA, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, March 23, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Menchaca, Brooks-Powers and Van Bramer.*

On motion of the Speaker (Council Member Johnson), 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. 750

Report of the Committee on Land Use in favor of approving Application No. C 210103 ZMX (1099 Webster Avenue) submitted by Webster 1099 Realty, LLC, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 3d, eliminating from within an existing R7-1 District a C1-4 District, changing from an R7-1 District to an R7X District, changing from an M1-1 District to an R7X District, establishing within the proposed R7X District a C2-4 District, as shown on a diagram (for illustrative purposes only) dated October 19, 2020, and subject to the conditions of CEQR Declaration E-576, Borough of the Bronx, Community District 4, Council District 16.

The Committee on Land Use, to which the annexed Land Use item was referred on March 18, 2021 (Minutes, page 607) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

BRONX CB-4 – TWO APPLICATIONS RELATED TO 1099 WEBSTER AVENUE

C 210103 ZMX (Pre. L.U. No. 750)

City Planning Commission decision approving an application submitted by WEBSTER 1099 REALTY LLC, pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 3d by:

1. eliminating from within an existing R7-1 District a C1-4 District bounded by a line 100 feet northwesterly of Webster Avenue, East 167th Street, a line midway between Clay Avenue and Webster Avenue, and a line 150 feet southwesterly of East 167th Street;
2. changing from an R7-1 District to an R7X District property bounded by a line 100 feet northwesterly of Webster Avenue, East 167th Street, a line midway between Clay Avenue and Webster Avenue, and East 166th Street;
3. changing from an M1-1 District to an R7X District property bounded by a line midway between Clay Avenue and Webster Avenue, East 167th Street, Webster Avenue, and East 166th Street; and
4. establishing within the proposed R7X District a C2-4 District bounded by a line 100 feet northwesterly of Webster Avenue, East 167th Street, and East 166th Street;

as shown on a diagram (for illustrative purposes only) dated October 19, 2020, and subject to the conditions of CEQR Declaration E-576.

N 210104 ZRX (Pre. L.U. No. 751)

City Planning Commission decision approving an application submitted by WEBSTER 1099 REALTY LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying APPENDIX F for the purpose of establishing a Mandatory Inclusionary Housing area.

INTENT

To approve the amendment to the Zoning Map Section No. 3d, to rezone an M1-1, R7-1 and R7-1/C1-4 district to an R7X/C2-4 district and amend zoning text to designate a Mandatory Inclusionary Housing (MIH) to facilitate a 280,000-square-foot mixed-used development with approximately 238 residential units and 30,000 square feet of ground-floor commercial uses at 1099 Webster Avenue in the East Concourse neighborhood of Bronx Community District 4.

PUBLIC HEARING

DATE: March 4, 2021

Witnesses in Favor: Five

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: March 16, 2021

The Subcommittee recommends that the Land Use Committee approve the decisions of the City Planning Commission on Pre. L.U. Nos. 750 and 751.

In Favor:

Moya, Levin, Reynoso, Grodenchik, Ayala, Rivera, Borelli.

Against:

None

Abstain:

None

COMMITTEE ACTION

DATE: March 23, 2021

The Committee recommends that the Council approve the attached resolutions.

In Favor:

Salamanca, Gibson, Barron, Deutsch, Koo, Levin, Miller, Reynoso, Grodenchik, Adams, Ayala, Diaz Sr., Moya, Rivera, Riley, Borelli.

Against:

None

Abstain:

None.

In connection herewith, Council Members Salamanca and Riley offered the following resolution:

Res. No. 1596

Resolution approving the decision of the City Planning Commission on ULURP No. C 210103 ZMX, a Zoning Map amendment (Preconsidered L.U. No. 750).

By Council Members Salamanca and Moya.

WHEREAS, WEBSTER 1099 REALTY LLC, filed an application pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 3d, eliminating from within an existing R7-1 District a C1-4 District, changing from an R7-1 District to an R7X District, changing from an M1-1 District to an R7X District, and establishing within the proposed R7X District a C2-4 District, which in conjunction with the related action would facilitate a 280,000-square-foot mixed-used development with approximately 238 residential units and 30,000 square feet of ground-floor commercial uses at 1099 Webster Avenue in the East Concourse neighborhood of Bronx Community District 4 (ULURP No. C 210103 ZMX) (the "Application");

WHEREAS the City Planning Commission filed with the Council on March 3, 2021, its decision dated March 3, 2021 (the "Decision") on the Application;

WHEREAS, the Application is related to application N 210104 ZRX (Pre. L.U. No. 751), a zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area;

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

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on March 4, 2021;

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

WHEREAS, the Council has considered the relevant environmental issues, including the negative declaration issued October 19th, 2020 (CEQR No. 19DCP115X) which includes an (E) designation to avoid the potential for significant adverse impacts related to air quality and noise (E-576) (the “Negative Declaration”).

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the (E) Designation (E-576) and 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, C 210103 ZMX, incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 3d:

1. eliminating from within an existing R7-1 District a C1-4 District bounded by a line 100 feet northwesterly of Webster Avenue, East 167th Street, a line midway between Clay Avenue and Webster Avenue, and a line 150 feet southwesterly of East 167th Street;
2. changing from an R7-1 District to an R7X District property bounded by a line 100 feet northwesterly of Webster Avenue, East 167th Street, a line midway between Clay Avenue and Webster Avenue, and East 166th Street;
3. changing from an M1-1 District to an R7X District property bounded by a line midway between Clay Avenue and Webster Avenue, East 167th Street, Webster Avenue, and East 166th Street; and
4. establishing within the proposed R7X District a C2-4 property bounded by a line 100 feet northwesterly of Webster Avenue, East 167th Street, Webster Avenue and East 166th Street;

as shown on a diagram (for illustrative purposes only) dated October 19, 2020, and subject to the conditions of CEQR Declaration E-576, Borough of the Bronx, Community District 4.

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, INEZ D. BARRON, CHAIM M. DEUTSCH, I. DANEEK MILLER, ANTONIO REYNOSO, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, DIANA AYALA, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, March 23, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Menchaca, Brooks-Powers and Van Bramer.*

On motion of the Speaker (Council Member Johnson), 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. 751

Report of the Committee on Land Use in favor of approving Application No. N 210104 ZRX (1099 Webster Avenue) submitted by Webster 1099 Realty, LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying APPENDIX F for the purpose of establishing a Mandatory Inclusionary Housing area, Borough of the Bronx, Community District 4, Council District 16.

The Committee on Land Use, to which the annexed Land Use item was referred on March 18, 2021 (Minutes, page 607) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Land Use for L.U. No. 750 printed in these Minutes)

Accordingly, this Committee recommends its adoption.

In connection herewith, Council Members Salamanca and Riley offered the following resolution:

Res. No. 1597

Resolution approving the decision of the City Planning Commission on Application No. N 210104 ZRX, for an amendment of the text of the Zoning Resolution (Preconsidered L.U. No. 751).

By Council Members Salamanca and Moya.

WHEREAS, WEBSTER 1099 REALTY LLC, filed an application pursuant to Section 201 of the New York City Charter, for an amendment of the text of the Zoning Resolution of the City of New York, modifying APPENDIX F for the purpose of establishing a Mandatory Inclusionary Housing area, which in conjunction with the related action would facilitate a mixed-used development consisting of one nine-story and one 11-story building, totaling 280,000-square-feet with residential and 30,000 square feet of ground-floor commercial uses at 1099 Webster Avenue in the East Concourse neighborhood of Bronx, Community District 4 (Application No. N 210104 ZRX) (the “Application”);

WHEREAS, the City Planning Commission filed with the Council on March 3, 2021, its decision dated March 3, 2021 (the “Decision”), on the Application;

WHEREAS, the Application is related to application C 210103 ZMX (Pre. L.U. No. 750), a zoning map amendment to rezone an M1-1, R7-1 and R7-1/C1-4 district to an R7X/C2-4 district;

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

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on March 4, 2021;

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 negative declaration issued October 19th, 2020 (CEQR No. 19DCP115X) which includes an (E) designation to avoid the potential for significant adverse impacts related to air quality and noise (E-576) (the “Negative Declaration”).

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the (E) Designation (E-576) and 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 210104 ZRX, incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission.

Matter underlined is new, to be added;

Matter ~~struck out~~ is to be deleted;

Matter within # # is defined in Section 12-10;

* * * indicates where unchanged text appears in the Zoning Resolution

* * *

APPENDIX F

Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas

* * *

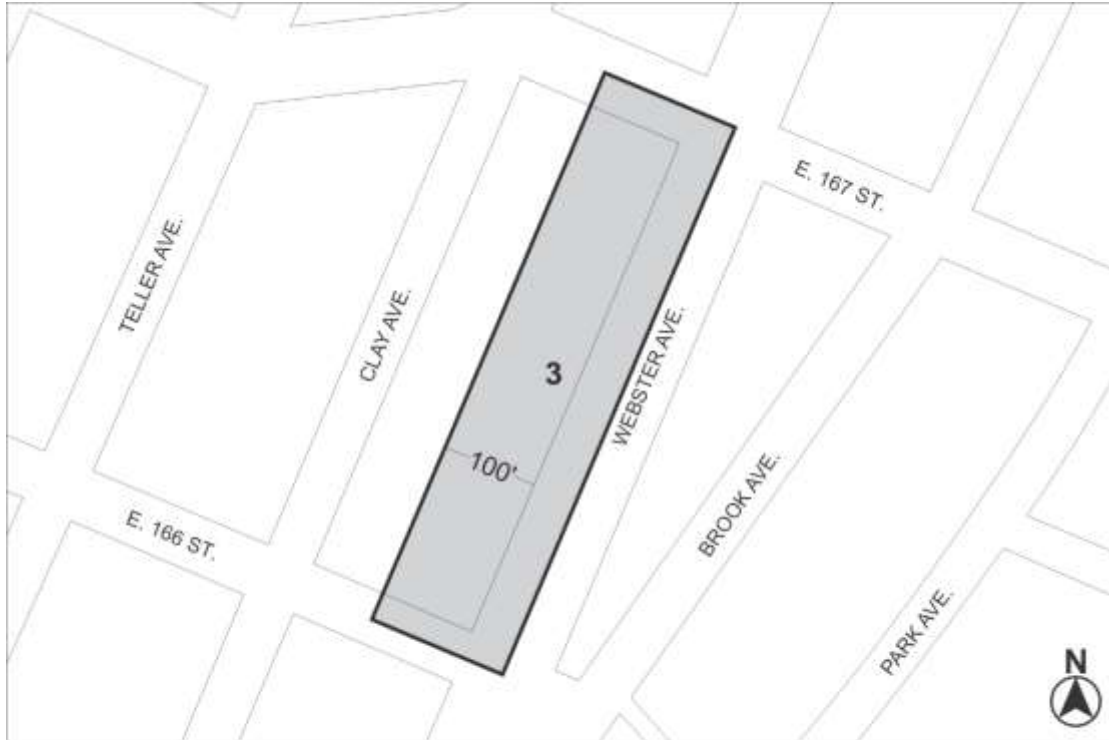
BRONX

* * *

Bronx Community District 4

* * *

Map 3- March 3, 2021



Mandatory Inclusionary Housing Area see Section 23-154(d)(3)

Area 3 — [date of adoption] — MIH Program Option 1

Portion of Community District 4, The Bronx

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, INEZ D. BARRON, CHAIM M. DEUTSCH, I. DANEEK MILLER, ANTONIO REYNOSO, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, DIANA AYALA, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, March 23, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Menchaca, Brooks-Powers and Van Bramer.*

On motion of the Speaker (Council Member Johnson), 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 Public Safety

Report for Int. No. 1671-A

Report of the Committee on Public Safety 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 the police department to report on traffic encounters.

The Committee on Public Safety, to which the annexed proposed amended local law was referred on August 14, 2019 (Minutes, page 2753), respectfully

REPORTS:

I. INTRODUCTION

On March 25, 2021, the Committee on Public Safety (“Committee”), chaired by Council Member Adrienne Adams, will hold a vote on:

- Proposed Int. No. 1671-A, in relation to requiring the police department to report on traffic encounters;
- Proposed Int. No. 2220-A, in relation to creating a right of security against unreasonable search and seizure, and against excessive force regardless of whether such force is used in connection with a search or seizure, that is enforceable by civil action and requiring the law department to post online certain information regarding such civil actions;
- Proposed Res. No. 1538-A, a resolution calling on the New York State Legislature to pass, and the Governor to sign, legislation removing the New York City Police Commissioner’s exclusive authority over police discipline;
- Res. No. 1547, a resolution calling upon the New York State Legislature to pass, and the Governor to sign, S2984/A1951, which would require New York Police Department officers to live within the five boroughs of New York City; and
- Preconsidered Res. No. 1584, a resolution adopting a plan pursuant to State Executive Order Number 203.

This is the second hearing on these items, except for Presconsidered Res. No. 1584. The first hearing on the other items was held on February 16, 2021, at which the Committee heard testimony from the New York City Police Department (“NYPD”), advocates, and members of the public. The Committee heard testimony regarding the plan required pursuant to Executive Order Number 203 on January 11, 2021 and March 16, 2021, at which time the Committee heard testimony from the NYPD, the First Deputy Mayor’s Office, the Mayor’s Office of Criminal Justice (“MOCJ”), the Civilian Complaint Review Board (“CCRB”), advocates, and members of the public

II. BACKGROUND

Proposed Int. No. 1671-A

Racial Bias in Traffic Stops

The NYPD Patrol Guide (“Patrol Guide”) contains specific policies to ensure that police officers conducting stops are doing so in a lawful and unbiased manner.¹ In the Patrol Guide, the NYPD explicitly prohibits the use of racial and bias-based profiling in law enforcement actions.² Race, color, ethnicity, or national origin

¹NYPD Patrol Guide, Procedure No. 203-25 “General Regulations,” available at https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/public-pguide1.pdf.

² *Id.*

cannot be used as a motivating factor for initiating police enforcement action.³ Further, individuals cannot be targeted for any enforcement action because they are members of a racial or ethnic group that appears more frequently in local crime suspect data; race, color, ethnicity, or national origin may only be considered when a stop is based on a specific and reliable suspect description that includes additional identifying information.⁴

National data shows evidence that there is racial bias in how traffic stops are conducted. Researchers at Stanford University conducted a study of traffic stops made by 21 state patrol agencies and 35 municipal police departments from 2001 to 2018.⁵ They looked at how time of day and visibility of the driver impacted the race of the person stopped. Their report concluded that, during daylight hours (before 7 p.m.) on average, Black drivers are 20% more likely than white drivers to be pulled over; however, after 7 p.m., during what they call a “veil of darkness” period, Black drivers are much less likely to be stopped since their race is concealed.⁶ Researchers also found that, once pulled over, Black and Hispanic drivers were more likely to have their vehicles searched than white drivers.⁷ In Washington and Colorado, where marijuana is legal, there were fewer searches overall, yet Black and Hispanic drivers were still more likely to have their vehicles searched than white drivers who had been pulled over.⁸

Traffic stops began being turned into criminal patrols in the 1980s as part of the War on Drugs.⁹ Today, traffic stops continue to be used as a method of searching for drugs or paraphernalia.¹⁰ When a police officer observes a traffic or moving violation and pulls a vehicle over, the officer can use this as an opportunity to do a field interview and even search the car.¹¹ The Supreme Court ruled on this matter in 1996, holding that if an officer can determine a moving or traffic violation, searching that vehicle does not violate the Fourth Amendment’s protection against unreasonable search and seizure.¹²

Based on recent traffic stop data from North Carolina, researchers found that Black drivers are more than twice as likely to be pulled over and four times as likely to be searched once pulled over than white drivers.¹³ Interestingly, researchers found that white drivers, once searched, were more likely to have been found with “contraband” than Black and Hispanic drivers.¹⁴ Researchers noted that it becomes very difficult to argue that searches are based on perceived criminality when a particular demographic is in fact less likely to have illegal paraphernalia.¹⁵

Perceived and documented bias in traffic stops further erodes the public’s trust in police.¹⁶ Researchers at Yale University have found that Black drivers are significantly less likely than white drivers to believe they were stopped for legitimate reasons and that people subject to a traffic stop in the last year were less likely to go to the police when they needed police intervention.¹⁷

Currently, the NYPD publishes monthly the number and the type of moving violation summonses issued by borough and precinct.¹⁸ The data does not include demographic information of the person the summons was issued to nor does the NYPD report on the number of traffic stops.

³ *Id.*

⁴ *Id.*

⁵ Tom Abate, *Black Drivers Get Pulled Over by Police Less at Night When Their Race Is Obscured by ‘Veil of Darkness,’ Stanford Study Finds*, STANFORD NEWS (May 5, 2020), available at <https://news.stanford.edu/2020/05/05/veil-darkness-reduces-racial-bias-traffic-stops/>

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ John Wilkens, *The Politics of Traffic Stops: Are They Good Policing, or Racial Profiling?*, THE SAN DIEGO UNION TRIBUNE (June 14, 2020, 6:00 AM), available at <https://www.sandiegouniontribune.com/news/public-safety/story/2020-06-14/traffic-stops-racial-profiling>.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ John Sides, *What Data on 20 Million Traffic Stops Can Tell Us About ‘Driving While Black’*, THE WASHINGTON POST (July 17, 2018, 5:30 AM) available at <https://www.washingtonpost.com/news/monkey-cage/wp/2018/07/17/what-data-on-20-million-traffic-stops-can-tell-us-about-driving-while-black/>.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Megan Quattlebaum, Tracey Meares, & Tom Tyler, *Principles of Procedurally Just Policing*, THE JUSTICE COLLABORATORY AT YALE LAW SCHOOL (Jan. 2018), at 37, available at https://law.yale.edu/sites/default/files/area/center/justice/principles_of_procedurally_just_policing_report.pdf.

¹⁷ *Id.* at 39.

¹⁸ NYPD, *Moving Violation Summonses*, NYPD, available at <https://www1.nyc.gov/site/nypd/stats/traffic-data/traffic-data-moving.page> (last visited Feb. 11, 2021).

Proposed Int. No. 2220-A

Applicability of Qualified Immunity to Police Officers

In 2020, the United States of America (“U.S.”) began to undergo a period of reckoning regarding race. The broadcasted May 25, 2020 killing of George Floyd, after a Minneapolis police officer knelt on his neck for more than eight minutes, along with the deaths of hundreds of other Black civilians, sparked months of widespread street protests against racism, bias, and brutality in the country’s law enforcement practices and criminal justice system.¹⁹ This popular unrest has raised questions regarding the regulation of the conduct of police officers.²⁰ One issue that has risen to the forefront of public discourse and consciousness is qualified immunity, a doctrine created by courts that shields public officials who are performing discretionary functions from civil liability.²¹

Police officers comprise a category of public official that the Supreme Court of the U.S. (“Supreme Court”) has determined possesses qualified immunity.²² In contrast, the concept of absolute immunity, which courts have not extended to police officers, is the complete and unqualified protection from liability while acting within the scope of official duties.²³ The New York State (“State”) Court of Appeals has held in the same vein that qualified, not absolute, immunity, is appropriately afforded to police officers, “who ordinarily have neither the duty nor the authority to exert control or discipline over the people in society at large, where the right of the individual to be free from unwarranted police regulation and interference is fundamental.”²⁴

Law enforcement and courts have presented rationales for the utility of qualified immunity doctrine. Police leaders claim that qualified immunity is necessary to allow officers to respond to situations and make split-second decisions, while victims of police brutality and their families often encounter qualified immunity as an obstacle to obtaining financial or other damages.²⁵ The Supreme Court has held that qualified immunity “balances two important interests—the need to hold public officials accountable when they exercise power irresponsibly and the need to shield officials from harassment, distraction, and liability when they perform their duties reasonably.”²⁶ The State Court of Appeals has described immunity, whether absolute or qualified, as reflecting a “value judgment that... the broader interest in having government officers and employees free to exercise judgment and discretion in their official functions, unhampered by fear or second-guessing and retaliatory lawsuits, outweighs the benefits to be had from imposing liability for that injury.”²⁷

Development of Federal Qualified Immunity Doctrine

The federal statute that provides the basis for qualified immunity doctrine is 42 U.S. Code § 1983 (“Section 1983”), which provides in relevant part that

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress....

¹⁹ *In Pictures: A Racial Reckoning in America*, CNN (July 9, 2020, 9:35 PM), <https://www.cnn.com/2020/05/27/us/gallery/george-floyd-demonstrations/index.html>.

²⁰ Congressional Research Service, *Policing the Police: Qualified Immunity and Considerations for Congress*, CONGRESSIONAL RESEARCH SERVICE (June 25, 2020), at 1, available at <https://crsreports.congress.gov/product/pdf/LSB/LSB10492>.

²¹ *See id.*

²² *See Pierson v. Ray*, 386 U.S. 547 (1967).

²³ *Pierson v. Ray*, 386 U.S. 547, 555 (1967) (stating that the “common law has never granted police officers an absolute and unqualified immunity....”).

²⁴ *Arteaga v. State*, 72 N.Y.2d 212, 220 (1988) (contrasting the situation of correctional officers who make “difficult decisions” in “closed setting[s]”).

²⁵ Hailey Fuchs, *Qualified Immunity Protection for Police Emerges as Flash Point Amid Protests*, THE NEW YORK TIMES (July 20, 2020), <https://www.nytimes.com/2020/06/23/us/politics/qualified-immunity.html>.

²⁶ *Pearson v. Callahan*, 555 U.S. 223, 231 (2009).

²⁷ *Haddock v. City of New York*, 75 N.Y.2d 478, 484 (1990).

This provision, which provides a federal cause of action, was originally part of the 1871 Ku Klux Klan Act, passed by the U.S. Congress to combat violations of constitutional and civil rights, especially in the southern states of the U.S. during the post-Civil War period.²⁸ A high-profile example of a deprivation of a constitutional right under Section 1983 is the use of “excessive force,” which the federal Second Circuit Court of Appeals (“Second Circuit”) has characterized as an unreasonable “seizure” of a person and thus a violation of the Fourth Amendment that is actionable under Section 1983.²⁹

While Section 1983 itself does not present “immunity” as a defense for a person who subjects another person to the deprivation of a constitutional or civil right, the Supreme Court has interpreted immunity to be such a defense, meaning that immunity is purely judicial, or judge-made, doctrine.³⁰ From 1871 until the 1960s, government actors did not enjoy qualified immunity as a defense for violating rights.³¹ In 1961, the Supreme Court made its first foray into immunity doctrine (although no question of immunity was actually presented or decided) in *Monroe v. Pape*; it interpreted the Section 1983 phrase “under color of law” to apply to “those who carry a badge of authority of a State and represent it in some capacity,” including police officers of the city of Chicago.³² The Supreme Court then made a critical immunity doctrine development in the 1967 case *Pierson v. Ray*. Focusing on police officers, the Supreme Court declared that the common law (custom and judicial precedent) has never granted them absolute immunity, but based on the background of common law tort liability in false arrest and imprisonment actions, police officers are afforded the defense of “good faith and probable cause” in Section 1983 actions.³³

Fifteen years later, the Supreme Court established modern qualified immunity doctrine in the 1982 case *Harlow v. Fitzgerald*, rejecting a defense based on subjective evaluations of intent and instead embracing one based on public policy. At the outset of its opinion in *Harlow*, the Supreme Court distinguished two kinds of immunity defenses: (i) absolute immunity for officials like legislators in their legislative functions, judges in their judicial functions, and certain officials of the executive branch (such as prosecutors, executive officers engaged in adjudicative functions, and the U.S. President); and (ii) qualified immunity as “the norm” for “executive officials in general.”³⁴ Broadly speaking, police departments are agencies of the executive branch of government, making police officers executive officials. The Supreme Court then presented a new definition of qualified immunity. Government officials performing “discretionary functions” are protected against liability for civil damages as long as their conduct does not violate “clearly established statutory or constitutional rights” of which a “reasonable person” would have known.³⁵

In rejecting an assessment of the “subjective good faith of government officials” in *Harlow*, the Supreme Court cited the substantial costs of that kind of litigation: duty-based costs such as the distraction of officials from their responsibilities, the “inhibition of discretionary action,” and the “deterrence of able people from public service;” and practical costs such as “no clear end to the relevant evidence” and “broad-ranging discovery and the deposing of numerous persons” which can be “peculiarly disruptive of effective government.”³⁶ The Supreme Court instead decided to hinge the qualified immunity defense on the supposed “objective reasonableness” of an official’s conduct.³⁷

²⁸Ending Qualified Immunity Act, H.R. 7085, 116th Cong. § 2 (2020), available at <https://www.congress.gov/bill/116th-congress/house-bill/7085/text>; see Congressional Research Service, *supra* note 2, at 2.

²⁹ *Shamir v. City of New York*, 804 F.3d 553, 556 (2d Cir. 2015) (holding in an analysis of a Section 1983 action that “use of excessive force renders a seizure of the person unreasonable and for that reason violates the Fourth Amendment.”).

³⁰ Congressional Research Service, *supra* note 2, at 1.

³¹Ending Qualified Immunity Act, H.R. 7085, 116th Cong. § 2 (2020), available at <https://www.congress.gov/bill/116th-congress/house-bill/7085/text>.

³² See *Monroe v. Pape*, 365 U.S. 167, 169, 172 (1961), overruled by *Monell v. Dep’t of Soc. Servs. of City of New York*, 436 U.S. 658 (1978).

³³ *Pierson*, 386 U.S. at 555-57.

³⁴ *Harlow v. Fitzgerald*, 457 U.S. 800, 807 (1982).

³⁵ *Id.* at 818.

³⁶ *Id.* at 816-17.

³⁷ *Id.* at 818.

Development of New York Qualified Immunity Doctrine

According to the Second Circuit, the federal “qualified immunity” doctrine only protects officials from liability arising under a federal cause of action (Section 1983), but “a similar doctrine exists under New York common-law” based on tort immunities, such that if officials “were entitled to qualified immunity under federal law, summary judgment would be similarly appropriate [under State law]. . . .”³⁸

State courts have generated their own version of qualified immunity doctrine based in the common law of tort, sometimes calling it by different names and setting forth a qualified immunity standard that seems somewhat similar to the one ultimately established by the Supreme Court. For the most part, State courts seem to have titled qualified immunity as “governmental immunity”³⁹ or “governmental function immunity.”⁴⁰ In the 2011 case *Valdez v. City of New York*, the State Court of Appeals set forth the governmental immunity/governmental function immunity defense as follows: “. . . [A] defense. . . is potentially available to the City—the governmental function immunity defense. The common-law doctrine of governmental immunity continues to shield public entities from liability for discretionary acts taken during the performance of governmental functions. . . .”⁴¹ Citing previous holdings, the State Court of Appeals emphasized that the term “discretionary acts” means “conduct involving the exercise of reasoned judgment”⁴² which could “typically produce different acceptable results.”⁴³ The key to this defense is whether the official committed a “discretionary act” (and actually exercised discretion⁴⁴), for which the official would be protected from liability, as opposed to a “ministerial act,” which “envisions direct adherence to a governing rule or standard with a compulsory result” for which the official would not be protected from liability.⁴⁵ The State Court of Appeals has held that the “provision of police protection” is “the most complex governmental function,”⁴⁶ making clear that the governmental immunity/governmental function immunity defense is available to police officers.

Significant Deficiencies of Qualified Immunity Doctrine

Difficulties for Plaintiffs

The further evolution of qualified immunity doctrine in the federal and State courts has resulted in significant struggles for plaintiffs alleging violations of Section 1983 and bringing common law tort actions against police officers.

Federal courts resolving qualified immunity claims have made it increasingly difficult for plaintiffs to show, and have not been consistent with holding, that a particular right is “clearly established.”⁴⁷ Relatedly, in the 2009 case *Pearson v. Callahan*, the Supreme Court determined that a court addressing a qualified immunity claim does not need to first determine whether the facts alleged or shown by the plaintiff make out a violation of a constitutional right; the court can simply evaluate the qualified immunity defense and resolve on those grounds.⁴⁸ The Supreme Court held so based on the “substantial expenditure of scarce judicial resources on difficult questions that have no effect on the outcome of the case” and the wasting of parties’ resources.⁴⁹ The consequence of this opinion is that there are fewer federal court decisions on the merits, meaning that there are fewer judicial opportunities to “clearly establish” the law.

³⁸ *Jenkins v. City of New York*, 478 F.3d 76, 86-87 (2d Cir. 2007).

³⁹ *In re World Trade Ctr. Bombing Litig.*, 17 N.Y.3d 428, 452 (2011).

⁴⁰ *Valdez v. City of New York*, 18 N.Y.3d 69, 75 (2011).

⁴¹ *Id.* at 75-76.

⁴² *Lauer v. City of New York*, 95 N.Y.2d 95, 99 (2000).

⁴³ *Tango v. Tulevech*, 61 N.Y.2d 34, 41 (1983).

⁴⁴ *Metz v. State*, 86 A.D.3d 748, 751, *rev'd*, 20 N.Y.3d 175 (2012) (asserting that “it is well settled that, where a government actor is entrusted with discretionary authority, but fails to exercise any discretion in carrying out that authority, defendant will not be entitled to governmental immunity from liability,” though the court order was overturned on other grounds).

⁴⁵ *Tango*, 61 N.Y.2d at 41.

⁴⁶ *In re World Trade Ctr. Bombing Litig.*, 17 N.Y.3d at 446.

⁴⁷ Congressional Research Service, *supra* note 2, at 3.

⁴⁸ *Pearson v. Callahan*, 555 U.S. 223 (2009).

⁴⁹ *Id.* at 236-37.

Thus, federal qualified immunity doctrine in its current state may have reduced Section 1983 to a less effective tool for allowing plaintiffs to recover for constitutional and civil violations.⁵⁰ Supreme Court Justice Sonia Sotomayor went further in a 2015 dissenting opinion, arguing that application of the qualified immunity doctrine “renders the protections of the Fourth Amendment hollow.”⁵¹ Illustrating this phenomenon, a 2020 Reuters report indicates that in a study of 252 appellate cases from 2015 to 2019 involving police officers accused of using excessive force, the courts granted qualified immunity to police officers in more than half of the cases during this period.⁵²

Under State qualified immunity doctrine, discretionary acts by public entities are protected. However, acts are discretionary if there is no State statute or court decision requiring the official to act as they did; and there are only a few statutes or decisions requiring so, as most sources of law broadly set forth what the government must do in contrast with setting forth how exactly it must do it.⁵³ This means that a police officer can ostensibly secure a qualified immunity defense simply by pointing out that there is no State statute or court decision setting forth steps for an officer’s action – a likely situation.⁵⁴

Failure of Doctrine to Achieve Its Original Policy Goals

As discussed above, the Supreme Court succinctly articulated the policy objectives of qualified immunity doctrine in *Harlow*, stating that claims against public officials come with certain social costs:

... the expenses of litigation, the diversion of official energy from pressing public issues, and the deterrence of able citizens from acceptance of public office. Finally, there is the danger that fear of being sued will dampen the ardor of all but the most resolute... in the unflinching discharge of their duties.⁵⁵

However, research seems to show that qualified immunity doctrine does not provide protection against these supposed social costs. Qualified immunity is likely unnecessary to protect law enforcement officers from the financial burdens of being sued because they are almost always indemnified and accordingly do not have to contribute to judgments and settlements against them.⁵⁶ A detailed study of 81 state and local law enforcement agencies by University of California, Los Angeles law professor Joanna C. Schwartz, who has studied qualified immunity doctrine in depth,⁵⁷ revealed that police officers across the U.S. are “virtually always indemnified” by governments who “almost always satisfy settlements and judgments in full.”⁵⁸ Supreme Court Justice Stephen Breyer has argued that an increased likelihood of employee indemnification “reduces the employment-discouraging fear of unwarranted liability.”⁵⁹

Furthermore, the Supreme Court highlighted in its 2009 case *Ashcroft v. Iqbal* that the “basic thrust of the qualified-immunity doctrine is to free officials from the concerns of litigations, including ‘avoidance of disruptive discovery.’”⁶⁰ However, Schwartz concluded that qualified immunity does not necessarily shield a public official from the burdens of participating in discovery and trial, finding in part that there are cases in

⁵⁰ Congressional Research Service, *supra* note 2, at 3.

⁵¹ *Mullenix v. Luna*, 577 U.S. 7, 26 (2015).

⁵² Andrew Chung, Lawrence Hurley, Jackie Botts, Andrea Januta, & Guillermo Gomez, *Shielded: A Reuters Investigation – Supreme Defense*, REUTERS (May 8, 2020, 12:00 PM), <https://www.reuters.com/investigates/special-report/usa-police-immunity-scotus/>.

⁵³ ACLU Connecticut, *What is Qualified Immunity?*, ACLU CONNECTICUT (July 22, 2020, 12:00 PM), <https://www.acluct.org/en/news/what-qualified-immunity>.

⁵⁴ *Id.*

⁵⁵ *Harlow*, 457 U.S. at 814.

⁵⁶ Joanna C. Schwartz, *The Case Against Qualified Immunity*, 93 NOTRE DAME L. REV. 1797, 1804 (2018), available at <https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=4796&context=ndlr#page=8>; Joanna C. Schwartz, *Police Indemnification*, 89 N.Y.U. L. REV. 885, 890 (2014), available at <https://www.nyulawreview.org/wp-content/uploads/2018/08/NYULawReview-89-3-Schwartz.pdf#page=6>.

⁵⁷ Fuchs, *supra* note 7.

⁵⁸ Schwartz, *Police Indemnification*, *supra* note 38, at 936-37.

⁵⁹ *Richardson v. McKnight*, 521 U.S. 399, 400 (1997).

⁶⁰ *Ashcroft v. Iqbal*, 556 U.S. 662, 685 (2009) (citing in part *Siegert v. Gilley*, 500 U.S. 226, 236 (1991)).

which qualified immunity was granted through motions to dismiss or for summary judgment but the cases were not dismissed because there were additional claims or additional defendants in the case.⁶¹ Schwartz also found that when defendants raised qualified immunity in summary judgment motions, courts “more often than not granted those motions on other grounds.”⁶²

Additionally, Schwartz has posited based on various studies that the threat of being sued does not play a meaningful role in law enforcement officers’ decisions to apply for jobs or their professional activity.⁶³ Schwartz has cited criminal justice professor Arthur H. Garrison, who concluded on the basis of a 1995 survey of 50 police officers that police officers as a whole do not think about being sued on a daily basis.⁶⁴

Recent Movement to Limit Qualified Immunity

Colorado Statute

In June 2020, the Colorado General Assembly passed⁶⁵ and Colorado Governor Jared Polis signed into law the Enhance Law Enforcement Integrity Act (SB20-217).⁶⁶ Through addition of a new section 13-21-131 to the Colorado Revised Statutes, this Act created a new civil action that allows a person to sue a “peace officer, as defined in section 24-31-901(3) [of the Colorado Revised Statutes]” for damages in state court if that peace officer subjects such person or causes such person to be subjected to a violation of the Colorado Constitution’s bill of rights.⁶⁷ This Act explicitly states that “qualified immunity is not a defense to liability” and additionally exempts claims brought under this section from the Colorado Governmental Immunity Act.⁶⁸ The Colorado General Assembly also toyed with the reach of indemnification, generally requiring indemnification of peace officers for claims arising under the section, but holding such officers personally liable for 5% of the judgment or settlement or \$25,000 (whichever is less) if the officer’s employer “determines that the officer did not act upon a good faith and reasonable belief that the action was lawful.”⁶⁹ Through passage of this Act, Colorado became the first state to enact legislation that prohibits qualified immunity as a defense to state constitutional claims.⁷⁰

Connecticut Statute

In July 2020, the Connecticut General Assembly passed and Connecticut governor Ned Lamont signed into law An Act Concerning Police Accountability (H.B. No. 6004).⁷¹ This Act, like Colorado’s Act, created a new civil action that allows a person to sue a “police officer,” as defined in section 7-294a of the Connecticut General Statutes, for damages in Connecticut Superior Court if that police officer deprives such person of a right

⁶¹ Joanna C. Schwartz, *How Qualified Immunity Fails*, 127 YALE L.J., available at https://www.yalelawjournal.org/article/how-qualified-immunity-fails#_ftnref17.

⁶² Schwartz, *The Case Against Qualified Immunity*, *supra* note 38, at 1808-11.

⁶³ Schwartz, *The Case Against Qualified Immunity*, *supra* note 38, at 1804.

⁶⁴ Arthur H. Garrison, *Law Enforcement Civil Liability Under Federal Law and Attitudes on Civil Liability: A Survey of University, Municipal and State Police Officers*, 18 POLICE STUD.: INT’L REV. POLICE DEV. 19 (1995), available at <https://heinonline.org/HOL/LandingPage?handle=hein.journals/police18&div=23&id=&page=&t=1560363645>.

⁶⁵ Saja Hindi, *Colorado Among First in U.S. to Pass Historic Police Reforms Following Protests*, DENVER POST (June 13, 2020, 5:40PM), <https://www.denverpost.com/2020/06/13/colorado-police-reform-bill-passes-legislature/>.

⁶⁶ Nick Sibilla, *Colorado Passes Landmark Law Against Qualified Immunity, Creates New Way to Protect Civil Rights*, FORBES (June 21, 2020, 7:36 PM), <https://www.forbes.com/sites/nicksibilla/2020/06/21/colorado-passes-landmark-law-against-qualified-immunity-creates-new-way-to-protect-civil-rights/?sh=5215fe7a378a>; Enhance Law Enforcement Integrity Act, S.B. 20-217, 73rd Gen. Assemb., Reg. Sess. (Colo. 2020), available at <https://leg.colorado.gov/bills/sb20-217>.

⁶⁷ Sibilla, *Colorado Passes Landmark Law*, *supra* note 48; Enhance Law Enforcement Integrity Act, S.B. 20-217, 73rd Gen. Assemb., Reg. Sess. (Colo. 2020), available at <https://leg.colorado.gov/bills/sb20-217>.

⁶⁸ Enhance Law Enforcement Integrity Act, S.B. 20-217, 73rd Gen. Assemb., Reg. Sess. (Colo. 2020), available at <https://leg.colorado.gov/bills/sb20-217>.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ Nick Sibilla, *New Connecticut Law Limits Police Immunity in Civil Rights Lawsuits, but Loopholes Remain*, FORBES (July 31, 2020, 9:09 PM), <https://www.forbes.com/sites/nicksibilla/2020/07/31/new-connecticut-law-limits-police-immunity-in-civil-rights-lawsuits-but-loopholes-remain/?sh=7575eea8ce8d>; An Act Concerning Police Accountability, H.B. 6004, 2020 Gen. Assemb., July Spec. Sess. (Conn. 2020), available at https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&which_year=2020&bill_num=6004.

guaranteed under the Connecticut Constitution’s bill of rights.⁷² However, this Act does not completely prohibit qualified immunity as a defense. Rather, it provides that “governmental immunity” is only allowed as a defense to a damages claim when the police officer “had an objectively good faith belief that such officer’s conduct did not violate the law,” and that “governmental immunity” is totally prohibited as a defense in a civil action brought only for equitable relief.⁷³ This Act requires Connecticut municipalities and law enforcement units (as defined in section 7-294a of the Connecticut General Statutes) to indemnify police officers and pay for their legal defense for claims arising out of this kind of action; but if a court has determined that a police officer’s act was “malicious, wanton or willful,” the police officer must reimburse the municipality for defense expenses and the municipality will not be held liable for financial losses or expenses resulting from the act.⁷⁴ Upon passing this Act, Connecticut became the second state to limit qualified immunity as a defense to state constitutional claims.⁷⁵

New York Bills

In the summer of 2020, State Senator Zellnor Myrie introduced Senate Bill 8669, or “The Restoring Accountability and Civil Equity Act,” which is currently in the State Senate Rules Committee.⁷⁶ This bill seeks to create a new article 3-A in the State Civil Rights Law that would allow a person to bring a civil action in State court against “any person who, under the color of any statute, ordinance, regulation, custom, or usage, of this state or any of its political subdivisions” deprived the person bringing the action of a right guaranteed under the State Constitution.⁷⁷ The bill does not explicitly refer to “qualified immunity,” “governmental immunity,” or “governmental function immunity.” The bill justification states that the bill is “intended to operate independently of federal law and the federal doctrine of qualified immunity to the extent that a staff official or officials are acting under the color of the state constitution and the law of the state,” and the bill allows a unique “exemption” defense.⁷⁸ The bill also does not broach the subjects of indemnification and personal liability.

During the same summer, State Senator Robert Jackson introduced Senate Bill 8668, which is Senate Bill 1991 in the current 2021-2022 State legislative session (“S1991”).⁷⁹ S1991 is currently in the State Senate Investigations and Government Operations Committee.⁸⁰ S1991 seeks to create a new section 79-Q in the Civil Rights Law and would provide a private civil right of action for deprivation of rights, privileges, or immunities secured by the U.S. or State Constitution or laws caused by “a person or public entity acting under color of law.”⁸¹ Specifically, it would prohibit a qualified immunity defense by providing that “shall not be a defense or immunity... that such defendant was acting in good faith, or that the defendant believed, reasonably or otherwise, that their conduct was lawful at the time such conduct was committed” or that rights “were not clearly established at the time of their deprivation by the defendant, or that the state of law was otherwise such that the defendant could not reasonably have been expected to know whether their conduct was lawful.”⁸² This bill would not permit indemnification of a public employee for liability if the employee was convicted of a criminal violation for conduct alleged in a claim arising under the section.⁸³ Under S1991, the State Attorney General would be authorized to bring a civil action for relief on behalf of the State and the injured party.⁸⁴

⁷² An Act Concerning Police Accountability, H.B. 6004, 2020 Gen. Assemb., July Spec. Sess. (Conn. 2020), available at https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&which_year=2020&bill_num=6004.

⁷³ *Id.*

⁷⁴ Sibilla, *New Connecticut Law Limits Police Immunity*, supra note 53; An Act Concerning Police Accountability, H.B. 6004, 2020 Gen. Assemb., July Spec. Sess. (Conn. 2020), available at https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&which_year=2020&bill_num=6004.

⁷⁵ Sibilla, *New Connecticut Law Limits Police Immunity*, supra note 53.

⁷⁶ The Restoring Accountability and Civil Equity Act, S.B. 8669, 2019-2020 Leg., Reg. Sess. (N.Y. 2020), available at <https://www.nysenate.gov/legislation/bills/2019/s8669>.

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ S.B. 1991, 2021-2022 Leg., Reg. Sess. (N.Y. 2021), available at <https://www.nysenate.gov/legislation/bills/2021/S1991>.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

Federal Bills

In June 2020, now former U.S. Representative for Michigan’s 3rd Congressional District, Justin Amash, a Republican, introduced a federal bill titled the “Ending Qualified Immunity Act.”⁸⁵ This bill proposes the amendment of Section 1983 by adding language intended to make clear that qualified immunity is not a defense to any action brought under Section 1983.⁸⁶ Specifically, the added language would provide that it would not be a defense that (i) the defendant was acting in good faith or that the defendant believed (reasonably or otherwise) that the defendant’s conduct was lawful or that (ii) constitutional or legal rights were not clearly established at the time of their deprivation by the defendant or that the state of the law was otherwise such that the defendant could not reasonably have been expected to know whether the defendant’s conduct was lawful.⁸⁷

In February 2021, U.S. Representative Karen Bass introduced a federal bill titled the “George Floyd Justice in Policing Act of 2021.”⁸⁸ The bill passed in the House of Representatives on March 3, 2021.⁸⁹ It would provide in part that it shall not be a defense or immunity in any action brought under Section 1983 against a “local law enforcement officer” or against a “Federal investigative or law enforcement officer” that (i) the defendant was acting in good faith, or that the defendant believed, reasonably or otherwise, that the defendant’s conduct was lawful at the time when the conduct was committed; or (ii) the rights, privileges, or immunities secured by the U.S. Constitution and laws were not clearly established at the time of their deprivation by the defendant, or that at such time, the state of the law was otherwise such that the defendant could not reasonably have been expected to know whether the defendant’s conduct was lawful.⁹⁰

Proposed Res. No. 1538-A

The New York City Police Commissioner’s Disciplinary Authority

The Police Commissioner has the exclusive authority to determine the final disposition of all disciplinary matters concerning members of the NYPD and to impose penalties.⁹¹ This includes such authority over cases investigated internally, most notably by the NYPD’s Internal Affairs Bureau (“IAB”), as well as over cases investigated by the “CCRB”, an independent body consisting of appointees of the Mayor, the Police Commissioner, the Council, and the Public Advocate. The CCRB investigates civilian complaints involving excessive use of force, abuse of authority, discourtesy, and offensive language (sometimes referred to as “FADO”).⁹²

The most serious cases, known as Charges and Specifications, are adjudicated in a departmental trial before the NYPD Deputy (or Assistant Deputy) Commissioner for Trials (“DCT”), during which the NYPD Department Advocate’s Office, in IAB cases, or the CCRB’s Administrative Prosecution Unit (“APU”), in CCRB cases, prosecutes the case. The APU’s role is governed by a Memorandum of Understanding between the NYPD and the CCRB.⁹³ The DCT’s decision and recommended penalty, which can include loss of vacation days, suspension without pay, or termination, is ultimately forwarded to the Police Commissioner for a final determination.

The rate at which the Police Commissioner departs from the recommended penalty, especially in CCRB cases, has been pointed out many times over the years and, by any measure, such departure is not infrequent. As noted in Proposed Res. No. 1538-A, an analysis published by *The New York Times* in November 2020 found that the NYPD “regularly ignored the [CCRB’s] recommendations, overruled them or downgraded the punishments, even when police officials confirmed that the officers had violated regulations,” and also found

⁸⁵ Ending Qualified Immunity Act, H.R. 7085, 116th Cong. (2020), available at <https://www.congress.gov/bill/116th-congress/house-bill/7085/text>.

⁸⁶ *Id.* at § 4.

⁸⁷ *Id.* at § 4.

⁸⁸ George Floyd Justice in Policing Act of 2021, H.R. 1280, 117th Cong. (2021), available at <https://www.congress.gov/bill/117th-congress/house-bill/1280/text#toc-H5A0B5A5505624C60B7132DBF904D86E8>.

⁸⁹ *Id.*

⁹⁰ *Id.* at § 102.

⁹¹ N.Y. City Charter § 434; N.Y. City Administrative Code § 14-115.

⁹² N.Y. City Charter § 440(c)(1).

⁹³ NYPD & CCRB, Memorandum of Understanding Between the CCRB and the NYPD of the City of New York Concerning the Processing of Substantiated Complaints (Apr. 2, 2012), available at https://www1.nyc.gov/assets/ccrb/downloads/pdf/about_pdf/apu_mou.pdf.

that this “pattern of lenient punishment holds true for about 71 percent of the 6,900 misconduct charges over the last two decades in which the [CCRB] recommended the highest level of discipline and a final outcome was recorded.”⁹⁴ In January 2019, the Independent Panel on the Disciplinary System of the NYPD (“Panel”) asserted that both the number of departures from the recommended discipline and the lack of detailed explanations for those departures “may undermine the legitimacy of the trial process.”⁹⁵ The Panel also pointed out that the CCRB is, in general, significantly more transparent regarding its cases than the NYPD is, regularly publishing reports that include statistical data about disciplinary outcomes.⁹⁶

Res. No. 1547

NYPD Residency Requirements

Most City employees, including civilian employees of the NYPD, are required to live in New York City during their first two years of employment, after which they are also allowed to reside in Nassau, Suffolk, Rockland, Westchester, Putnam, and Orange counties.⁹⁷ Uniformed NYPD officers, on the other hand, can live in one of those surrounding counties from the beginning of their employment, as can firefighters and correction officers.⁹⁸ City Department of Education employees are not subject to any residency requirements.⁹⁹ Police officers are also not allowed to live in the police precinct to which they are assigned.¹⁰⁰ As of August 2020, 49% of uniformed police officers lived in the City, down from 58% in 2016.¹⁰¹ A June 2020 *USA Today* analysis found a wide variety of views among advocates and experts regarding the benefits and drawbacks of police officer residency requirements.¹⁰²

Presconsidered Res. No. 1584

Background

On June 12, 2020, following massive protests against police brutality and systemic racism in the wake of the murder of George Floyd by a police officer in Minnesota, Governor Andrew Cuomo issued Executive Order No. 203, directing each local government in the State to create a plan to reform and reinvent their police force.¹⁰³ The reform process mandated by the Executive Order, known as the New York State Police Reform and Reinvention Collaborative, was designed to help rebuild police-community relations through an inclusive process that involves a wide array of stakeholders throughout the development and adoption of the plan.¹⁰⁴ If a plan is not adopted by the Council by April 1, 2021, the State Director of the Division of the Budget is authorized to deny New York City future State funding.¹⁰⁵

⁹⁴ Ashley Southall, Ali Watkins, and Blacki Migliozi, *A Watchdog Accused Officers of Serious Misconduct. Few Were Punished*, N.Y. TIMES (Nov. 15, 2020), available at <https://www.nytimes.com/2020/11/15/nyregion/ccrb-nyc-police-misconduct.html>.

⁹⁵ Mary Jo White, Robert L. Capers, & Barbara S. Jones, *Report of the Independent Panel on the Disciplinary System of the NYPD*, (Jan. 25, 2019), at 27-28, including n.77, available at <https://www.independentpanelreportnypd.net/assets/report.pdf>.

⁹⁶ *Id.* at 46-47.

⁹⁷ N.Y. City Administrative Code § 12-120.

⁹⁸ See NYPD Patrol Guide, Procedure No. 203-18 “General Regulations,” available at https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/public-pguide1.pdf; FDNY, *Get Hired*, FDNY, available at <https://www.joinfdny.com/careers/firefighter/> (last visited Feb. 11, 2021); NYC Correction Department, *How to Qualify*, NYC CORRECTION DEPARTMENT, available at <https://www1.nyc.gov/site/jointheboldest/officer/how-to-qualify.page>.

⁹⁹ New York City Independent Budget Office, *Budget Options for New York City*, NEW YORK CITY INDEPENDENT BUDGET OFFICE (Dec. 2013), at 92, available at <https://ibo.nyc.ny.us/iboreports/falloptions2013.pdf>.

¹⁰⁰ NYPD Patrol Guide, Procedure No. 203-18, *supra* note 100.

¹⁰¹ David Cruz, *A Majority Of NYPD Officers Don't Live in New York City, New Figures Show*, GOTHAMIST (Aug. 8, 2020, 1:37 PM), available at <https://gothamist.com/news/majority-nypd-officers-dont-live-new-york-city-new-figures-show>.

¹⁰² Grace Hauck and Mark Nichols, *Should Police Officers Be Required to Live in the Cities They Patrol? There's No Evidence It Matters*, USA TODAY (June 13, 2020, 4:00 AM), available at <https://www.usatoday.com/story/news/nation/2020/06/13/police-residency-data/5327640002/>.

¹⁰³ N.Y. Exec. Order No. 203 (Jun. 12, 2020), available at <https://www.governor.ny.gov/news/no-203-new-york-state-police-reform-and-reinvention-collaborative>.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

Executive Order No. 203

Executive Order No. 203 sets the overarching goals for the policing reform process, the strategies that must be considered, the collaboration that must occur, and a number of procedural requirements. First, the City must “perform a comprehensive review of current [NYPD] deployments, strategies, policies, procedures, and practices,” then “develop a plan to improve such deployments, strategies, policies, procedures, and practices.” That plan must address community needs, “promote community engagement to foster trust, fairness, and legitimacy,” and “address any racial bias and disproportionate policing of communities of color.”¹⁰⁶

Once a draft plan is developed, it must be offered for public comment. The City must consider those comments before submitting a plan to the Council. The Council then has until April 1, 2021 to approve a plan.

State Guidance

On August 17, 2020, the Governor released a 117-page guidance on running a Police Reform and Reinvention Collaborative for localities.¹⁰⁷ The guidance contains detailed information on suggested “key questions and insights” to consider during the Collaborative. Four areas are highlighted: 1) what functions should the police perform; 2) employing smart and effective policing standards and strategies; 3) fostering community-oriented leadership, culture and accountability; and 4) recruiting and supporting excellent personnel.¹⁰⁸ For these areas, the guidance offers questions to ask to help determine whether the locality should explore further reforms in that area, issues to consider in determining potential reforms, examples of reforms implemented in other jurisdictions, relevant legal standards, and relevant research.¹⁰⁹

The guidance also contains information to help localities design their reform process, including suggested key organizing principles for designing the Collaborative and a timeline.¹¹⁰ Transparency throughout the process is strongly suggested, including:

- making planning and deliberation meetings public;
- polling and surveying the public for their views on specific issues, if feasible;
- providing periodic updates as the planning process moves forward;
- engaging local media;
- making all research materials public; and
- having a plan to incorporate public comment feedback in the final plan.¹¹¹

The proposed timeline breaks the Collaborative into four phases, with key objectives for each and community engagement throughout, beginning in August 2020:¹¹²

- August to September: Planning
 - Create an operations plan, identify staff, and gather information
 - Coordinate with neighboring localities
 - Convene key stakeholders
 - Assess where you are now
- September to October: Listening and learning
 - Conduct listening sessions

¹⁰⁶ *Id.*

¹⁰⁷ N.Y. State, *New York State Police Reform and Reinvention Collaborative: Resources & Guide for Public Officials and Citizens* (Aug. 2020), https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Police_Reform_Workbook81720.pdf (hereinafter N.Y. State Guidance).

¹⁰⁸ N.Y. State Guidance at 9-108.

¹⁰⁹ *Id.*

¹¹⁰ *Id.* at 109-116.

¹¹¹ *Id.* at 111.

¹¹² *Id.* at 112-115.

- Engage experts
- Request comments and information
- November to December: Draft a plan
 - Identify areas of focus
 - Identify measurable goals
 - Draft a reform and reinvention plan
 - Keep the public engaged
- January to March: Public comment and ratification
 - Release draft plan for public comment
 - Educate the public
 - Revise the plan to incorporate public comment
 - Ratify the plan
 - Certify with New York State

New York City’s Reform Process

The City did not formally begin its reform process until five months after the issuance of Executive Order No. 203 and is now four months behind on fulfilling its timeline for the plan’s ratification. On October 13, 2020, the City announced a partnership with Jennifer Jones Austin, CEO and Executive Director of the Federation of Protestant Welfare Agencies; Arva Rice, President and CEO of the New York Urban League; and Wes Moore, CEO of Robin Hood, to engage communities on policing and serve as “key advisors” to Police Commissioner Dermot Shea.¹¹³ In addition, the NYPD announced that it would host a series of eight “listening sessions” on policing throughout the five boroughs that began the following day.¹¹⁴ A ninth session was added in December to accommodate those with limited English proficiency.¹¹⁵

On March 5, 2021, the City released the initial version of the New York City Police Reform and Reinvention Collaborative draft plan¹¹⁶ four months after its planned release in December.¹¹⁷ The plan outlined the following 36 reforms:¹¹⁸

1. Transparency and Accountability to the People of New York City

- Hold police officers accountable for misconduct through internal NYPD disciplinary decisions that are transparent, consistent, and fair
- Strengthening the CCRB via the David Dinkins Plan
- Consolidate NYPD oversight by expanding the authority of CCRB to include the powers of the NYPD OIG and the CCPC
- Supporting a change in State law to give CCRB access to sealed PD records for purposes of investigations, especially biased-policing investigations
- Public and comprehensive reporting on key police reform metrics

¹¹³ Press Release, N.Y.P.D., *New York City Announces Partnership with Federation of Protestant Welfare Agencies, the New York Urban League and Robin Hood to Transform the Future of New York City Policing*, Oct. 13, 2020, <https://www1.nyc.gov/site/nypd/news/p1013b/new-york-city-partnership-the-federation-protestant-welfare-agencies-new>.

¹¹⁴ *Id.*

¹¹⁵ N.Y.P.D., *Police Reform & Reinvention Listening Sessions: Multi-Lingual Meeting*, Dec. 9, 2020, <https://www.youtube.com/watch?v=wuhbosKrch4>.

¹¹⁶ Press Release, City of New York, *A Recovery for All of Us: Mayor de Blasio Outlines Next Phase of Comprehensive Police Reform Effort*, Mar. 5, 2020, <https://www1.nyc.gov/office-of-the-mayor/news/158-21/recovery-all-us-mayor-de-blasio-outlines-next-phase-comprehensive-police-reform-effort> and City of New York, *NYC Police Reform and Reinvention Collaborative Draft Plan* (Mar. 5, 2021), <https://www1.nyc.gov/assets/home/downloads/pdf/reports/2021/Final-Policing-Report.pdf>.

¹¹⁷ N.Y.P.D., *In Focus Strategic Plan – October 2020*, https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/nypd-in-focus-presentation-all-meetings-2020-10-29.pdf.

¹¹⁸ Press Release, City of New York, *A Recovery for All of Us: Mayor de Blasio Outlines Next Phase of Comprehensive Police Reform Effort*, Mar. 5, 2020, <https://www1.nyc.gov/office-of-the-mayor/news/158-21/recovery-all-us-mayor-de-blasio-outlines-next-phase-comprehensive-police-reform-effort>.

2. Community Representation and Partnership

- Working with communities to implement a Joint Force to End Gun Violence
- Incorporate direct community participation in the selection of Precinct Commanders
- Involving the community in training and education by expanding the People's Police Academy
- Immersing officers in the neighborhoods they serve
- Elevate the feedback of the community through CompStat and Enhanced Neighborhood Policing
- Launching the Neighborhood Policing App and expanding training
- Improving policing of citywide demonstrations
- Expanding the Precinct Commander's Advisory Councils
- Expanding Pop Up with a Cop
- Supporting and expanding the Citizen's Police Academy
- Enhancing Youth Leadership Councils
- Expanding the Law Enforcement Explorers Program.
- Transforming public space to improve community safety

3. Recognition and Continual Examination of Historical and Modern-Day Racialized Policing in New York City

- Acknowledging the experiences of communities of color in New York City and begin reconciliation
- Eliminating the use of unnecessary force by changing culture through policy, training, accountability, and transparency
- Augmenting racial bias training for NYPD leadership
- Comprehensive restorative justice training for NYPD leadership and NCOs to repair relationships with communities.
- Train all officers on Active Bystandership in Law Enforcement (ABLE) by the end of this year
- Enhancing positive reinforcement, formally and informally, to change culture
- Consistently assessing practices and policies through accreditation.

4. The Decriminalization of Poverty

- Consistently assessing practices and policies through accreditation.
- Developing a health-centered response to mental health crises
- New approaches to safety, outreach and regulation through civilian agencies
- Interrupt violence through expanded community-based interventions
- Expanding the successful Brownsville pilot via the community solutions program
- Consolidating all crime victim services within MOCJ to support survivors
- Strengthening community partnerships with domestic and gender-based violence providers

5. A Diverse, Resilient, and Supportive NYPD

- Recruiting officers who reflect the communities they serve, with a commitment to recruit and retain more people of color and women
- Reform the discretionary promotions process to improve equity and inclusion
- Expanding mental health support for officers
- Supporting professional development through the Commander's Course and leadership development programs

- Updating the patrol guide so it is more user friendly and less complex for officer and transparent to the public

According to the March 5th report, the Reform and Reinvention Collaborative hosted “over 85 meetings—public listening sessions, town halls, and roundtable discussions—with a range of groups and organizations.”¹¹⁹ The report’s appendix includes a list of 63 meetings held between October 2020 and February 2021, most of which were described in very general terms (e.g., “Muslim Community Leaders” and “Community Activists”).¹²⁰ Five of the 63 meetings were held during December with “impacted communities,” but the report fails to include any detail on how the City defined an “impacted community,” who participated, or how the City solicited those participants.¹²¹ Eleven of the 63 meetings appear to have been held exclusively with members of the NYPD.¹²²

The report itself and 147-page appendix provide little insight into the research or data that informed the City’s recommendations and instead primarily republishes materials that are already available to the public, such as the text of Executive Order No. 203 and various NYPD reports, dashboards, and presentations.¹²³ Though the appendix of the report includes the NYPD Precinct Public Feedback Survey Questions, the report does not appear to include any consideration or summary of New Yorkers’ survey responses.¹²⁴ In lieu of survey data, research citations, copies of public testimony, meeting transcripts or summaries, or information about meeting participants, the report instead includes 27 unattributed quotes from New Yorkers’ public testimony that align to the report’s recommendations.¹²⁵

The small scope of the City’s engagement process and lack of information about the City’s research methodology is notably lacking when compared with the reports and appendices produced by other cities in New York State in response to Executive Order No. 203. For instance, Albany, a City whose population is about one percent of New York City’s, also completed 63 meetings on top of its 14 hours of public comment periods.¹²⁶ Albany’s amended final draft report includes a full list of working group participants, participant biographies, detailed reports from each working group, and the full text of the articles and research that informed its recommendations.¹²⁷ Ithaca/Tompkins County made public a detailed report on the City’s findings from its qualitative data and community input process, including the total number of participants for each source of community input, demographic targets for focus groups, a description of the researchers’ methodology for data analysis, a detailed report on key findings, and a discussion of the limitations of the City’s community input process and recruitment efforts.¹²⁸

Executive Order No. 203 requires the City to offer the draft plan for public comment to “all citizens” in the locality. The City’s press release indicates that the draft plan will now “move through a public comment period where it will undergo further revision based on the feedback of the public and through a process with the Council.”¹²⁹ The press release then links to a new City website dedicated to the Police Reform and Reinvention Collaborative, which directs New Yorkers to fill out a general form to “contact the police reform and reinvention collaborative.”¹³⁰ Neither the Collaborative’s website nor the draft report articulate a timeline or deadline for

¹¹⁹ City of New York, *NYC Police Reform and Reinvention Collaborative Draft Plan* (Mar. 5, 2021), <https://www1.nyc.gov/assets/home/downloads/pdf/reports/2021/Final-Policing-Report.pdf> at pg. 45.

¹²⁰ *Id.* at 47.

¹²¹ *Id.* at 46.

¹²² *Id.* at 45-47.

¹²³ *Id.* at 41-187.

¹²⁴ *Id.*

¹²⁵ *Id.* at 9-12.

¹²⁶ City of Albany, *City of Albany Policing Reform and Reinvention Collaborative: Amended Final Draft Report* (Feb. 2021), <https://www.albanyny.gov/DocumentCenter/View/4889/ALBANY-POLICING-REFORM-PLAN-AMENDED-FINAL-DRAFT-PDF?bidId=>.

¹²⁷ City of Albany, Police Reform & Reinvention Collaborative, <https://www.albanyny.gov/641/Police-Reform-Reinvention-Collaborative> (last accessed Mar. 11, 2021).

¹²⁸ City of Ithaca & Tompkins County N.Y., *Reimagining Public Safety Collaborative*, <http://bit.ly/RPS-report-folder> (last accessed Mar. 11, 2021).

¹²⁹ Press Release, City of New York, *A Recovery for All of Us: Mayor de Blasio Outlines Next Phase of Comprehensive Police Reform Effort*, Mar. 5, 2020, <https://www1.nyc.gov/office-of-the-mayor/news/158-21/recovery-all-us-mayor-de-blasio-outlines-next-phase-comprehensive-police-reform-effort>.

¹³⁰ City of New York, NYC Police Reform and Reinvention Collaborative, <https://www1.nyc.gov/site/police-reform/index.page> (last accessed Mar. 11, 2021).

public comment submissions – and there is no indication that the City intends to engage in any additional outreach about the draft plan to solicit additional feedback or increase the diversity of participants.

One week later, on March 12, 2021, the City released “part two” of that plan, which outlined 27 additional recommendations.¹³¹ The report does not provide any indication of the City’s process or rationale for these additions, such as the City’s review of public comments or further stakeholder engagement.¹³² The additional recommendations are as follows:¹³³

1. The Decriminalization of Poverty.
 1. The City will systematically examine and end policies that lead to over-policing lower-income and people of color communities, perpetuating the cycle of impoverishment and incarceration.
 2. The City prioritizes principles of budget justice and will provide key services to support low-income individuals, families, and communities, and reduce the likelihood of justice involvement.
 3. To break the school to prison pipeline, the City will prioritize the health and wellbeing of youth while minimizing potential exposure to trauma in City schools through the investment in human resources and trauma-informed practices, mobbing school safety agents from NYPD to the Department of Education and retraining them, and revising policies that govern school safety.
 4. The City supports adopting important new public health approaches to reducing overdoses.
 5. The City will develop new policies and approaches to combatting sex trafficking which focus on the traffickers and do not entangle victims or those selling sex in the criminal justice system.
 6. The City will improve support for victims of domestic, gender-based and family violence through access to critical resources and customized training for officers.
 7. The City will enhance community-based approaches to combatting bias and hate crimes.

2. Recognition and Continual Examination of Historical and Modern-Day Racialized Policing in New York City.
 1. The City will create a dedicated process to acknowledge, address, and repair past and present injustices and trauma caused by the practice of racialized policing.
 2. The NYPD will participate in a comprehensive, independent review to identify and assess persistent structures of racism within the Department.
 3. NYPD will require supervisors to proactively monitor discretionary officer activity for indications of biased-based policing and take corrective measures immediately.

3. Transparency and Accountability to the People of New York City.
 1. NYPD will ensure that at-risk officers are identified, and that swift, appropriate interventions occur.
 2. NYPD will continually review the Disciplinary Matrix and take other measures to ensure that members of service that engage in misconduct, cause harm, and violate policy are held accountable.
 3. NYPD must be transparent about the personal data that is collected and how it is used, which is critical to earning and maintaining the trust of the community.
 4. NYPD policy changes that are identified as having a potential public impact and that aren’t otherwise statutorily mandated will be subjected to public comment.
 5. CCRB occupies a critical role in the accountability system, which should be evaluated for potential further expansion to additional NYPD employees.
 6. In certain egregious cases, the City should have the ability to impose suspensions without pay for longer than 30 days while the disciplinary process is underway.
 7. Pension forfeiture must be a more meaningful and use disciplinary penalty for the most egregious instances of misconduct.

¹³¹ City of New York, *NYC Police Reform and Reinvention Collaborative Draft Plan: Part 2* (Mar. 12, 2021), https://www1.nyc.gov/assets/policerreform/downloads/Police_Reform_Part_2_Final.pdf.

¹³² *Id.*

¹³³ *Id.*

8. The City must hold officers accountable for “failure to take police action.”
 9. The City will create a citywide policy to strengthen transparency and accountability in the use of biometric technology.
 10. The City will equip NYC Sherriff’s Deputies with Body-Worn Cameras.
4. Community Representation and Partnership.
 1. The NYPD will consistently solicit real-time feedback from members of the community related to both positive and negative experiences and interactions and will work to implement programs that enhance precinct-based customer experiences.
 2. The NYPD will invest in enhancing productive partnerships with community members and organizations and increasing officers’ cultural competence.
 3. The NYPD will ensure that the composition of its workforce is reflective of the community it serves at all levels of the organization.
 4. The NYPD will work with the Mayor’s Office for People with Disabilities to expand the reach and scope of services provided by the NYPD Disability Services Facilitator.
 5. NYPD will take important steps to improve relationships with NYC’s immigrant communities.
 6. The City will pilot the Advance Peace Model, a new approach to helping youth who are at risk for involvement with gun violence.
 5. A Diverse, Resilient, and Supported NYPD.
 1. The City will make residence in New York City a more significant factor in hiring police officers.

In addition to the above recommendations, the March 12th report supplemented the March 5th report’s initial recommendation on reforming the NYPD’s promotion process to include additional language on “systematically” incorporating accountability measures into the decision-making process before a member of service is promoted, with a commitment to codify how experience, tenure, performance history, positive attributes, as well as disciplinary history all factor into consideration for assignments and promotions.¹³⁴ In addition, the March 12th report committed to implementing “systemic checks” within the discretionary and civil service promotion process to identify disparities in which members of service are eligible for consideration, including assessments of the composition of promoted candidates compared to the “broader makeup” of the applicable candidate pool, as well as the Department as a whole.¹³⁵

Prior to its finalization, the Council amended the Plan to focus on prospective goals and policies, to add deadlines and responsible parties for fulfilling requirements in the plan, to enhance public transparency, public notice, and stakeholder engagement requirements in its implementation, and included integral funding commitments totaling in over \$72 million put towards existing and new initiatives to support and expand public safety alternatives to policing and incarceration and ensure that the City lives up to its commitments. The Council’s programmatic and budgetary additions include, but are not limited to:

- At least \$30 million for the Department of Education to ensure that every school can effectively support students’ social emotional and behavioral needs with a trauma-informed approach.
- \$15 million toward the Council’s critical anti-violence, social safety net, and hate violence prevention initiatives.
- \$14.5 million to fund a new mental health case management program, CONNECT2T, to provide 850 people with mobile and site-based intensive, ongoing case management services.
- \$25 million in funding for the City’s Cure Violence programs starting in Summer 2022 and a commitment to triple the City’s Cure Violence program workforce, increasing the City’s current budget for this program by more than \$7 million.

¹³⁴ *Id.* at 26.

¹³⁵ *Id.*

- An additional \$4.4 million to double FY2021's available funds for Intensive Mobile Treatment (IMT) Teams, which serve those with recent and frequent contact with the mental health, criminal justice, and homeless services systems, recent behavior that is unsafe and escalating, and those who were poorly served by traditional treatment models.
- \$1.28 million for the Department of Social Services Homebase budget for the creation of a two-year pilot program to expand prevention services to families with children experiencing chronic school absenteeism or justice-system involvement and at risk of homelessness.
- The expansion of Summer Youth Employment through the addition of 5,000 new spots in summer 2021 for CUNY students.
- The restoration of funding for vital agencies that are critical to the social and emotional well-being of New Yorkers, including the Department of Parks and Recreation and the Department of Youth and Community Development.

In addition to the above budgetary commitments, the amended Plan now includes a commitment to increase the transparency of the NYPD's budget by making public a more particularized breakdown of the agency's spending during the FY 2022 Executive Budget. The Council also added explicit reference to the Mayor's support for and the Council's commitment to pass the following legislative proposals:

- Int. No. 2118 to move press credentialing services from the NYPD to the Mayor's Office of Media and Entertainment.
- Int. No. 2224 to establish a crash investigation and analysis unit within the Department of Transportation.
- Int. No. 1671 to require the NYPD to report specific information on all vehicle encounters, including the demographic information of the driver.
- Int. No. 2212 to give CCRB the authority to investigate allegations of racial profiling and biased policing.
- Int. No. 2220 to ensure that officers who violate Constitutional rights in the course of a search and seizure or by the use of excessive force are not entitled to Qualified Immunity.
- Int. No. 66 to codify and strengthen the Mayor's Office to Prevent Gun Violence.

With respect to disciplinary reforms, the Council added a requirement for the NYPD to make public "deviation letters" that set out the Police Commissioner's specific rationale for exercising his discretion to deviate from guidelines set by the NYPD's new disciplinary matrix. The Council's additions also require the City to assess and ameliorate the impacts of the militarization of the NYPD and to complete an independent review of the NYPD's Special Victims Division's policies and procedures for investigating sexual assault to ensure alignment with best practices, particularly focusing on a victim-centered and trauma-informed techniques.

The Council's amended Plan notably eliminated several of the Administration's draft recommendations where the Council found such recommendations would unnecessarily increase the NYPD's footprint and budget or would otherwise fail to achieve Executive Order 203's core goal to "reform and reinvent" the City's police force. Eliminated proposals include the expansion of the Citizen's Police Academy and Law Enforcement Explorers Program, among other NYPD-run programs and initiatives that the City's draft Plan proposed for creation or enhancement.

Finally, the Council's amendments removed recommendations and language from the Administration's initial drafts where the City described existing initiatives, previously announced commitments, or progress toward reform but was unwilling to make any additional substantive commitments to expand or improve those initiatives moving forward (i.e., "The NYPD will eliminate the use of unnecessary force by changing culture through policy, training, accountability, and transparency"). With these deletions, the Plan now exclusively outlines the commitments made in response to Executive Order No. 203, to ensure greater transparency and lay the groundwork for rigorous public and Council oversight of the City's implementation of the Plan in coming months.

III. ANALYSIS

Analysis of Proposed Int. No. 1671-A

Bill section one of Proposed Int. No. 1671-A would amend title 14 of the Administrative Code of the City of New York (“Administrative Code”) by adding a new section 14-191.

Subdivision a of new section 14-191 would state that no later than April 30, 2022, and no later than 30 days after the end of each quarter thereafter, the Police Commissioner must submit a report to the Speaker of the Council and the Mayor and post on the NYPD’s website a report. The report would contain the following information for the previous quarter:

1. The total number of traffic stops conducted by officers;
2. The total number of vehicles stopped by officers at roadblocks or checkpoints except those established due to an emergency, such as a crime scene, fire, building collapse or damage caused by extreme weather conditions or other natural disasters;
3. the total number of summonses issued in connection with a vehicle stop, roadblock stop, or checkpoint stop;
4. the total number of arrests made in connection with a vehicle stop, roadblock stop, or checkpoint stop;
5. the total number of vehicle stops, roadblock stops, and checkpoint stops;
6. the total number of vehicles stopped that were vehicles licensed by the Taxi and Limousine Commission, were cars or sports utility vehicles, and were trucks or busses, motorcycles, or bicycles;
7. the total number of summonses issued, disaggregated by whether civil or criminal offenses were charged;
8. the total number of arrests made and the top offenses charged;
9. the total number of vehicles seized as the result of a vehicle stop, a roadblock or checkpoint;
10. the total number of searches of vehicles, disaggregated by whether consent was provided for such searches; and
11. total number of use of force incidents that occurred in connection with a vehicle stop, a roadblock or checkpoint.

Subdivision b would require that the information required by subdivision a be disaggregated by precinct and the apparent race/ethnicity, gender and age of the driver.

Subdivision c would mandate that the information required by this new section be stored permanently and be accessible from the NYPD’s website and be provided in a format that permits automated processing. Further, each report would be required to include a comparison of the current reporting period to the prior four reporting periods after such information becomes available.

Bill section two of Proposed Int. No. 1671-A specifies that this local law would take effect immediately.

Analysis of Proposed Int. No. 2220-A

Proposed Int. No. 2220-A would create a right of security against unreasonable search and seizure, and against the use of excessive force regardless of whether such force is used in connection with a search or seizure, enforceable by civil action. It would explicitly prohibit qualified immunity, or any substantially equivalent immunity, as a defense to such an action. It would also require the City Law Department to post online certain information about such civil actions.

Bill section one would add a new chapter 8 to title 8 of the Administrative Code:

Proposed section 8-801 would define for the chapter the term “covered individual,” meaning an employee of the NYPD or a person appointed by the Police Commissioner as a special patrolman pursuant to subdivision c or e of section 14-106 of the Administrative Code. This section would also define the terms “person aggrieved” and “state” for the chapter; and it would define the term “prevailing plaintiff,” by reference to subdivision g of section 8-502 of the Administrative Code, as a plaintiff whose commencement of litigation has acted as a catalyst to effect policy change on the part of the defendant, regardless of whether that change has been implemented voluntarily, as a result of a settlement, or as a result of a judgment in the plaintiff’s favor.

Proposed section 8-802 would establish a local civil right of natural persons to have security against unreasonable searches and seizures, and against the use of excessive force regardless of whether such force is used in connection with a search or seizure.

Proposed section 8-803 would create a civil action for deprivation of a right established by proposed section 8-802. Under subdivision a, a “covered individual,” who, under color of any law, ordinance, rule, regulation, custom or usage, violates (including through failure to intervene) a person’s right under proposed section 8-802 would be liable to such person for legal or equitable relief, or any other appropriate relief. Under subdivision b, the employer of such covered individual would also be liable, based upon the conduct of such covered individual, to such person for such relief. Under subdivision c, such person would be able to make a claim of deprivation of a right under proposed section 8-802 in court by filing a complaint detailing facts pertaining to such deprivation and requesting relief. Subdivision d provides that proposed section 8-803 would not limit or abolish any claim or cause of action that such person has under common law or pursuant to any other law or rule. Even if there is an alternative remedy available under common law or pursuant to another law or rule, such person would be able to maintain a private right of action under proposed section 8-803. Such person would not be required to exhaust other administrative remedies before commencing a civil action under proposed section 8-803. Such person would not be limited to the remedies provided by the proposed chapter.

Proposed section 8-804 makes clear that qualified immunity, or any other substantially equivalent immunity, would not be available as a defense to liability under proposed chapter 8, including to a “covered individual” and the employer of such covered individual subject to a civil action brought under proposed section 8-803.

Subdivision a of proposed section 8-805 would impose requirements on a court addressing a civil action involving a claim made under proposed section 8-803 to follow, with discretion: (1) (i) award compensatory damages, and punitive damages at the court’s discretion, to the plaintiff or (ii) \$1,000 in damages if the plaintiff alternatively chooses; (2) award reasonable attorney’s fees and court costs to the plaintiff; and (3) issue a restraining order against the covered individual from engaging in further conduct in violation of proposed section 8-803. Subdivision b would require such court, when choosing to factor an hourly rate into calculation of an attorney’s fee award, to use the hourly rate charged by attorneys of similar skill and experience litigating similar cases.

Proposed section 8-806 would require a person who wishes to bring a claim under proposed section 8-803 to do so within three years after the alleged deprivation of a right established by proposed section 8-802.

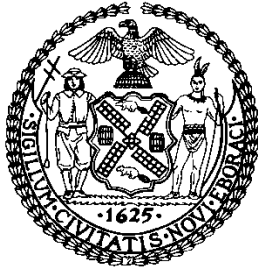
Proposed section 8-807 would require that the right of security against unreasonable search and seizure established by proposed section 8-802, including against excessive force used in connection with a search or seizure, be interpreted in the same manner as such right established by the Fourth Amendment of the United States Constitution, section 12 of article I of the State Constitution, and section 8 of the State Civil Rights Law. The section would also require that the right of security against the use of excessive force, other than excessive force used in connection with a search or seizure, be interpreted in the same manner as such right established by the Fourteenth Amendment of the United States Constitution and section 6 of article I of the State Constitution. These two requirements would apply except as otherwise provided in the proposed chapter and despite any language to the contrary in section 8-130 of the Administrative Code (construction of title 8 of the Administrative Code).

Bill section two would amend section 7-114 of the Administrative Code, which concerns civil actions regarding the NYPD. It would provide that the section also applies to civil actions regarding “covered individuals.” Subdivision a of such section would be amended to define the term “covered individual” for the section with reference to proposed section 8-801 of the Administrative Code. This bill section would move the existing language in current subdivision a into a new subdivision b. New subdivision b would require the City Law Department to post on its website, and provide notice of the posting to the individual responsible for implementing the duties set forth in paragraph 1 of subdivision c of section 803 of the City Charter, the City Comptroller, the NYPD, the Civilian Complaint Review Board, and the Commission to Combat Police Corruption, certain information regarding civil actions filed in local, State, or federal court against covered individuals resulting from allegations of deprivation of a right under proposed chapter 8 of title 8 of the Administrative Code. The City Law Department is already required to post online (and provide notification) regarding civil actions filed in State or federal court against the NYPD resulting from allegations of improper police conduct.

Paragraph 1 of proposed subdivision b of section 7-114 of the Administrative Code would require the City Law Department to post (and provide notification of such posting) a list of civil actions filed against a covered individual during the five-year period before each January 1 or July 1 immediately preceding each posting. Paragraph 2 of proposed subdivision b would require the City Law Department to post the identities of the plaintiffs and defendants for each action filed against the NYPD or a covered individual. Paragraph 2 of proposed subdivision b would also require the City Law Department to post, for an action filed against a covered individual, the court in which the action was filed, the name of the law firm representing the plaintiff, the name of the law firm or agency representing each defendant, the date the action was filed, and whether the plaintiff alleged improper police conduct, including deprivation of a right under proposed chapter 8 of title 8 of the Administrative Code. Paragraph 3 of proposed subdivision b would require the City Law Department to post, if an action against a covered individual has been resolved, (i) the date on which it was resolved, (ii) the manner in which it was resolved; and (iii) whether the resolution included the City, the covered individual, or an employer or other person paying on behalf of a covered individual making a payment to the plaintiff, as well as the amount of any such payment.

Bill section three provides that this local law would take effect immediately, and that it would apply to deprivation of rights established by this local law that occur on and after the effective date.

(The following is the text of the Fiscal Impact Statement for Int. No. 1671-A:)



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO. 1671-A

COMMITTEE: Public Safety

TITLE: A local law to amend the administrative code of the city of New York, in relation to requiring the police department to report on traffic encounters. **Sponsors:** By Council Members Adams, Van Bramer, Brannan, Cornegy, Chin, Salamanca, Rosenthal, Miller, Constantinides, the Public Advocate (Mr. Williams), Kallos, Louis, Rivera, (by request of the Queens Borough President).

SUMMARY OF LEGISLATION: Proposed Intro. No. 1671-A would require the New York City Police Department (NYPD) to issue a quarterly report, beginning on April 30, 2022, on vehicle stops, roadblocks, and checkpoints, including the number of summonses, arrests, vehicles seized, searches of vehicles, and use of force incidents. The NYPD would be required to report this information disaggregated by precinct, the apparent race/ethnicity, gender, and age of the driver. This information would be required to be posted online, stored permanently, and provided in a format that permits automated processing.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2021

FISCAL IMPACT STATEMENT:

| | Effective FY21 | FY Succeeding Effective FY22 | Full Fiscal Impact FY22 |
|-------------------------|-----------------------|-------------------------------------|--------------------------------|
| 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 the enactment of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation. The Police Department plans to have all uniform members watch a short training video to update the officers of the reporting requirements. The Police Department estimates the bill will have a cost of approximately \$830,000, based on removing the officers from normal duties for 30 minutes to complete the training. The Council Finance Division estimates the training could be completed during breaks, muster time, or during the regular refresher trainings that occur throughout the year. The cost of creating a video is minimal and could be absorbed by the existing training budget in NYPD. Additionally, the reporting requirement can be completed by utilizing existing resources.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York Police Department
New York City Council Finance Division

ESTIMATE PREPARED BY: Nevin Singh, Financial Analyst

ESTIMATE REVIEWED BY: Eisha Wright, Unit Head
Stephanie Ruiz, Assistant Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the Council on August 14, 2019 as Intro. No. 1671 and was referred to the Committee on Public Safety (Committee). The Committee heard the legislation on February 16, 2021 and the legislation was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 1671-A, will be voted on by the Committee at a hearing on March 25, 2021. Upon successful vote by the Committee, Proposed Intro. No. 1671-A will be submitted to the full Council for a vote on March 25, 2021.

DATE PREPARED: March 23, 2021.

(For text of Int. No. 2220-A and its Fiscal Impact Statement, please see the Report of the Committee on Public Safety for Int. No. 2220-A printed in these Minutes; for text of Res. Nos. 1538-A, 1547, and 1584, please see the Reports of the Committee on Public Safety for Res. Nos. 1538-A, 1547, and 1584, respectively, printed in the voice-vote Resolutions calendar section of these Minutes; for text of Int. No. 1671-A, please see below)

Accordingly, this Committee recommends the adoption of Int. Nos. 1671-A and 2220-A and Res. Nos. 1538-A, 1547, and 1584.

(The following is the text of Int. No. 1671-A:)

Int. No. 1671-A

By Council Members Adams, Van Bramer, Brannan, Cornegy, Chin, Salamanca, Rosenthal, Miller, Constantinides, Kallos, Louis, Rivera, Ayala, Ampry-Samuel, Barron and the Public Advocate (Mr. Williams) (by request of the Queens Borough President).

A Local Law to amend the administrative code of the city of New York, in relation to requiring the police department to report on traffic encounters

Be it enacted by the Council as follows:

Section 1. Title 14 of the administrative code of the city of New York is amended by adding a new section 14-191 to read as follows:

§ 14-191 Vehicle encounter reports. a. No later than April 30, 2022 and no later than 30 days after the end of each quarter thereafter, the commissioner shall submit to the speaker of the council and the mayor and post on the department's website a report containing the following information for the previous quarter:

- 1. the total number of vehicle stops conducted by officers;*
- 2. the total number of vehicles stopped by officers at roadblocks or checkpoints except those established due to an emergency, such as a crime scene, fire, building collapse or damage caused by extreme weather conditions or other natural disaster events;*
- 3. the total number of summonses issued in connection with a vehicle stop, roadblock stop, or checkpoint stop;*
- 4. the total number of arrests made in connection with a vehicle stop, roadblock stop, or checkpoint stop;*
- 5. the total number of vehicle stops, roadblock stops, and checkpoint stops;*

6. the total number of vehicles stopped that were vehicles licensed by the taxi and limousine commission, were cars or sports utility vehicles, and were trucks or busses, motorcycles, or bicycles;
 7. the total number of summonses issued, disaggregated by whether civil or criminal offenses were charged;
 8. the total number of arrests made and the top offenses charged;
 9. the total number of vehicles seized as the result of a vehicle stop, a roadblock or checkpoint;
 10. the total number of searches of vehicles, disaggregated by whether consent was provided for such searches; and
 11. total number of use of force incidents, as defined in section 14-158, that occurred in connection with a vehicle stop, a roadblock or checkpoint.
 - b. The information required by subdivision a of this section shall be disaggregated by precinct and the apparent race/ethnicity, gender and age of the driver.
 - c. The information required by this section shall be stored permanently; accessible from the department's website; and provided in a format that permits automated processing. Each report shall include, once such information is available, a comparison of the current reporting period with reports from the prior four reporting periods.
- § 2. This local law takes effect immediately.

ADRIENNE E. ADAMS, *Chairperson*; YDANIS A. RODRIGUEZ, FERNANDO CABRERA, VANESSA L. GIBSON, CARLOS MENCHACA, I. DANEEK MILLER, JUSTIN L. BRANNAN, KEITH POWERS, KEVIN C. RILEY; Committee on Public Safety, March 25, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Rosenthal and Rose.*

On motion of the Speaker (Council Member Johnson), 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. 2220-A

Report of the Committee on Public Safety 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 creating a right of security against unreasonable search and seizure, and against excessive force regardless of whether such force is used in connection with a search or seizure, that is enforceable by civil action and requiring the law department to post online certain information regarding such civil actions.

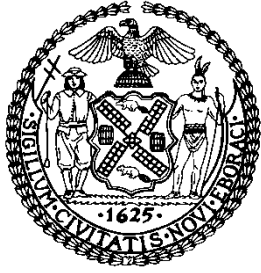
The Committee on Public Safety, to which the annexed proposed amended local law was referred on February 11, 2021 (Minutes, page 230), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Public Safety for Int. No. 1671-A printed in these Minutes)

Accordingly, this Committee recommends its adoption, as amended.

The following is the text of the Fiscal Impact Statement for Int. No. 2220-A:



THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
 LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO. 2220-A

COMMITTEE: Public Safety

TITLE: A local law to amend the administrative code of the city of New York, in relation to requiring a right of security against unreasonable search and seizure, and against excessive force, that is enforceable by civil action.

Sponsors: By Council Members Council Members Levin, Rosenthal, Kallos, Van Bramer, and Koslowitz.

SUMMARY OF LEGISLATION: Proposed Intro. No. 2220-A would establish a local right of security against unreasonable search and seizure and against excessive force regardless of whether such force is used in connection with a search or seizure. If an NYPD employee, or a person appointed by the Police Commissioner as a special patrolman, allegedly deprives a person of this right, the person would be able to bring a civil action against the employee or appointee, as well as against the employee or appointee's employer, within three years. The employee or appointee (or their employer) would not be allowed qualified immunity, or any substantially equivalent immunity, as a defense. The bill would require the Law Department to post details of these kinds of civil actions online.

EFFECTIVE DATE: This legislation would take effect immediately

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2021

FISCAL IMPACT STATEMENT:

| | Effective FY21 | FY Succeeding Effective FY22 | Full Fiscal Impact FY22 |
|-------------------------|-----------------------|-------------------------------------|--------------------------------|
| 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 the enactment of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there could potentially be costs incurred by the Law Department in defending officers. However, the estimation of fiscal impacts of legislation is based on the presumption of good faith actors; when acting in good faith, the NYPD should not incur additional lawsuits and therefore result in no new costs to the City.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York Police Department
 New York City Council Finance Division

ESTIMATE PREPARED BY: Nevin Singh, Financial Analyst

ESTIMATE REVIEWED BY: Eisha Wright, Unit Head
 Stephanie Ruiz, Assistant Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the Council on February 11, 2021 as Intro. No. 2220 and was referred to the Committee on Public Safety (Committee). The Committee heard the legislation on February 16, 2021 and the legislation was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 2220-A, will be voted on by the Committee at a hearing on March 25, 2021. Upon successful vote by the Committee, Proposed Intro. No. 1671-A will be submitted to the full Council for a vote on March 25, 2021.

DATE PREPARED: March 23, 2021.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 2220-A:)

Int. No. 2220-A

By Council Members Levin, Rosenthal, Kallos, Van Bramer, Koslowitz, Constantinides, Ampry-Samuel, Louis, Chin, Rivera, Barron and Gennaro.

A Local Law to amend the administrative code of the city of New York, in relation to creating a right of security against unreasonable search and seizure, and against excessive force regardless of whether such force is used in connection with a search or seizure, that is enforceable by civil action and requiring the law department to post online certain information regarding such civil actions

Be it enacted by the Council as follows:

Section 1. Title 8 of the administrative code of the city of New York is amended by adding a new chapter 8 to read as follows:

CHAPTER 8

THE RIGHT OF SECURITY AGAINST UNREASONABLE SEARCH AND SEIZURE AND AGAINST EXCESSIVE FORCE REGARDLESS OF WHETHER SUCH FORCE IS USED IN CONNECTION WITH A SEARCH OR SEIZURE

§ 8-801 Definitions.

§ 8-802 Right of security against unreasonable search and seizure and against excessive force regardless of whether such force is used in connection with a search or seizure.

§ 8-803 Civil action for deprivation of rights.

§ 8-804 Immunity not a defense.

§ 8-805 Relief.

§ 8-806 Statute of limitations.

§ 8-807 Construction.

§ 8-801 Definitions. For purposes of this chapter, the following terms have the following meanings:

Covered individual. The term “covered individual” means (i) an employee of the police department or (ii) a person who is appointed by the police commissioner as a special patrolman pursuant to subdivision c or e of section 14-106.

Person aggrieved. The term “person aggrieved” means a natural person who is allegedly subjected to, or allegedly caused to be subjected to, the deprivation of a right created, granted or protected by section 8-802 by a covered individual even if the only injury allegedly suffered by such natural person is the deprivation of such right.

Prevailing plaintiff. The term “prevailing plaintiff” has the meaning ascribed to such term in subdivision g of section 8-502.

State. The term “state” means the state of New York.

§ 8-802 *Right of security against unreasonable search and seizure and against excessive force regardless of whether such force is used in connection with a search or seizure.* The right of natural persons to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, and to be secure against the use of excessive force regardless of whether such force is used in connection with a search or seizure, shall not be violated; and no warrants shall be issued but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

§ 8-803 *Civil action for deprivation of rights.* a. A covered individual who, under color of any law, ordinance, rule, regulation, custom or usage, subjects or causes to be subjected, including through failure to intervene, any other natural person to the deprivation of any right that is created, granted or protected by section 8-802 is liable to the person aggrieved for legal or equitable relief or any other appropriate relief.

b. The employer of a covered individual who, under color of any law, ordinance, rule, regulation, custom or usage, subjects or causes to be subjected, including through failure to intervene, any other natural person to the deprivation of any right that is created, granted or protected by section 8-802 is liable, based upon the conduct of such covered individual, to the person aggrieved for legal or equitable relief or any other appropriate relief.

c. A person aggrieved may make a claim pursuant to subdivision a of this section in a civil action in any court of competent jurisdiction by filing a complaint setting forth facts pertaining to the deprivation of any right created, granted or protected by section 8-802 and requesting such relief as such person aggrieved considers necessary to insure the full enjoyment of such right.

d. This section does not limit or abrogate any claim or cause of action a person aggrieved has under common law or pursuant to any other law or rule. Despite the availability of an alternative remedy under common law or pursuant to any other law or rule, the person aggrieved has and maintains a private right of action pursuant to this section. Exhaustion of any administrative remedies is not required for a person aggrieved to commence a civil action pursuant to this section. The remedies provided by this chapter are in addition to any other remedies that may be provided for under common law or pursuant to any other law or rule.

§ 8-804 *Immunity not a defense.* It is not a defense to liability pursuant to this chapter that a covered individual has qualified immunity or any other substantially equivalent immunity.

§ 8-805 *Relief.* a. In any civil action involving a claim made pursuant to section 8-803 against a covered individual or an employer thereof, a court shall, in addition to awarding any other relief, including injunctive or other equitable relief, as such court determines to be appropriate:

1. Award to a prevailing plaintiff on such claim (i) compensatory damages and, in such court’s discretion, punitive damages or (ii) at the election of such plaintiff, damages of \$1,000;
2. Award to such plaintiff reasonable attorney’s fees and court costs; and
3. Issue an order restraining such covered individual from engaging in further conduct in violation of such section.

b. The court shall apply the hourly rate charged by attorneys of similar skill and experience litigating similar cases when it chooses to factor the hourly rate into an attorney’s fee award.

§ 8-806 *Statute of limitations.* Notwithstanding any provision to the contrary in section 50-k of the general municipal law or any other provision of law, a person aggrieved must make a claim pursuant to section 8-803 in a civil action within 3 years after the alleged deprivation of a right created, granted or protected by section 8-802 occurred.

§ 8-807 *Construction.* Except as otherwise provided in this chapter and notwithstanding section 8-130, (i) the right against unreasonable search and seizure, including excessive force used in connection with a search or seizure, created, granted or protected by section 8-802 shall be construed in the same manner as the right against unreasonable search and seizure, including excessive force used in connection with a search or seizure, created, granted or protected by the fourth amendment of the federal constitution, section 12 of article I of the state constitution and section 8 of the civil rights law and (ii) the right against excessive force, other than excessive force used in connection with a search or seizure, created, granted or protected by section 8-802 shall be construed in the same manner as the right against excessive force, other than excessive force used in

connection with a search or seizure, created, granted or protected by the fourteenth amendment of the federal constitution and section 6 of article I of the state constitution.

§ 2. Section 7-114 of the administrative code of the city of New York, as added by local law number 166 for the year 2017, is amended to read as follows:

§ 7-114 Civil actions regarding the police department *and covered individuals*. a. *For purposes of this section, the term “covered individual” has the meaning ascribed to such term in section 8-801.*

b. No later than January 31, 2018 and no later than each July 31 and January 31 thereafter, the law department shall post on its website, and provide notice of such posting to the individual responsible for implementing the duties set forth in paragraph one of subdivision c of section 803 of the charter, the comptroller, the police department, the civilian complaint review board, and the commission to combat police corruption the following information regarding civil actions filed in *local*, state or federal court against the police department or [individual police officers] *a covered individual*, or both, resulting from allegations of improper police conduct, including, but not limited to, claims involving the use of force, assault and battery, malicious prosecution, [or] false arrest or imprisonment, *or deprivation of a right pursuant to chapter 8 of title 8*:

1. a list of civil actions filed against the police department or [individual police officers] *a covered individual*, or both, during the five-year period preceding each January 1 or July 1 immediately preceding each report;

2. for each such action: (i) *the identities of the plaintiffs and defendants*; (ii) the court in which the action was filed; [(ii)] (iii) the name of the law firm representing the plaintiff; [(iii)] (iv) the name of the law firm or agency representing each defendant; [(iv)] (v) the date the action was filed; and [(v)] (vi) whether the plaintiff alleged improper police conduct, including, but not limited to, claims involving use of force, assault and battery, malicious prosecution, [or] false arrest or imprisonment, *or deprivation of a right pursuant to chapter 8 of title 8*; and

3. if an action has been resolved: (i) the date on which it was resolved; (ii) the manner in which it was resolved; and (iii) whether the resolution included a payment to the plaintiff by the city, *or by a covered individual or an employer or other person paying on behalf of a covered individual*, and, if so, the amount of such payment.

§ 3. This local law takes effect immediately, and applies to deprivations of rights created, granted or protected by this local law that occur on and after its effective date.

ADRIENNE E. ADAMS, *Chairperson*; YDANIS A. RODRIGUEZ, CARLOS MENCHACA, , JUSTIN L. BRANNAN, KEITH POWERS, KEVIN C. RILEY; Committee on Public Safety, March 25, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Rosenthal and Rose.*

On motion of the Speaker (Council Member Johnson), 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 Rules, Privileges and Elections

At this point, the Speaker (Council Member Johnson) 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 Res. No. 1582

Report of the Committee on Rules, Privileges and Elections in favor of approving a Resolution amending Rule 7.00 of the Rules of the Council in relation to changes in membership of the Standing Committees and Subcommittees of the Council.

The Committee on Rules, Privileges and Elections, to which the annexed preconsidered resolution was referred on March 25, 2021, respectfully

REPORTS:

PRECONSIDERED RES. NO. 1582: By Council Member Karen Koslowitz

SUBJECT: Preconsidered resolution amending Rule 7.00 of the Rules of the Council in relation to changes in membership of the Standing Committees and Subcommittees of the Council

ANALYSIS: Before the Committee, for its consideration, are proposed changes to the membership of certain Standing Committees and Subcommittees, through changes to the Rules of the Council. Pursuant to Chapter 2 § 46 of the New York City Charter, the Council sets the rules of its proceedings at the first Stated meeting of each calendar year. These rules may be amended by a resolution introduced and passed by the Council’s Committee on Rules, Privileges and Elections (“Rules Committee”) pursuant to Rules 7.00(a) and 7.70(a), followed by a majority vote of all Council Members pursuant to Rules 7.00(a) and 10.20.

See attached for the changes to membership.

(For the related Standing Committees of the Council listing as of March 25, 2021 following the adoption of the resolution below, please refer to the attachments section of [the Res. No. 1582 of 2021 legislative file](#) found on the New York City Council website at <https://council.nyc.gov>)

Accordingly, this Committee recommends its adoption.

(The following is the text of Res. No. 1582:)

Preconsidered Res. No. 1582

Resolution amending Rule 7.00 of the Rules of the Council in relation to changes in membership of the Standing Committees and Subcommittees of the Council.

By Council Member Koslowitz:

RESOLVED, pursuant to Rule 7.00(a) of the Rules of the Council, the Council does hereby consent to the following changes in Membership to certain Standing Committees and the Finance Subcommittee.

STANDING COMMITTEES**AGING**Brooks-Powers**FINANCE**Brooks-Powers**HEALTH**Brooks-Powers**IMMIGRATION**Brooks-Powers**LAND USE**Brooks-Powers**PARKS AND RECREATION**Brooks-Powers**SMALL BUSINESS**Brooks-Powers**TRANSPORTATION**Brooks-Powers**SUBCOMMITTEES****CAPITAL BUDGET (FINANCE)**Brooks-Powers

KAREN KOSLOWITZ, *Chairperson*; MARGARET S. CHIN, DEBORAH L. ROSE, MARK TREYGER, PAUL A. VALLONE, ADRIENNE E. ADAMS, KEITH POWERS, THE MINORITY LEADER (STEVEN MATTEO), THE SPEAKER (COUNCIL MEMBER COREY D. JOHNSON); Committee on Rules, Privileges and Elections, March 25, 2021 (Remote Hearing). *Other Council Members Attending: Council Barron, Rosenthal, Gjonaj and Gibson.*

On motion of the Speaker (Council Member Johnson), 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 Small Business

Report for Int. No. 2243-A

Report of the Committee on Small Business 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 extending temporary personal guaranty protection provisions for commercial tenants impacted by COVID-19.

The Committee on Small Business, to which the annexed proposed amended local law was referred on March 18, 2021 (Minutes, page 601), respectfully

REPORTS:

I. INTRODUCTION

On March 25, 2020, the Committee on Small Business, chaired by Council Member Mark Gjonaj, held a vote on Proposed Int. No. 2243-A, by Council Member Rivera and the Speaker (Council Member Johnson), to amend the administrative code of the city of New York, in relation to extending temporary personal guaranty protection provisions for commercial tenants impacted by COVID-19.

The Committee previously heard testimony on the bill during a hearing on March 17, 2021. Those invited to testify at the hearing include representatives of the Department of Small Business Services (SBS), small business advocates, chambers of commerce, Business Improvement Districts (BIDs) and other organizations. At the vote on March 25, the Committee voted 5 in favor, 0 opposed and 0 abstentions on the bill.

II. BACKGROUND

In late December 2019, a new virus, SARS-CoV-2, was detected in Wuhan, China and by January 30, 2020, the World Health Organization (WHO) declared that COVID-19, the disease caused by the SARS-CoV-2 virus, was now a Public Health Emergency of International Concern (PHEIC).¹ As of March 10, 2021, COVID-19 has infected over 118 million people across 219 countries and territories, and has killed over 2.5 million.² In the United States alone, there have been nearly 30 million infections and over 520,000 deaths.³ To date, New York has had over 1.7 million infections and over 48,000 deaths.⁴ Over 760,000 infections have occurred within the City itself, and nearly 30,000 City residents have likely died because of the virus.⁵

The progressive nature by which the virus spreads has caused governments across the globe to shut down businesses, schools, religious and cultural institutions, and mandate various levels of social isolation. While this has seemingly helped to limit the spread of the virus, stay-at-home orders have had a catastrophic impact on economic markets, particularly small businesses that thrive from regular contact with their community and neighbors.

¹ World Health Organization “Rolling updates on coronavirus disease (COVID-19)”, Updated July 31, 2020, available at: <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/events-as-they-happen>

² Worldometer “Countries where COVID-19 has spread”, Updated March 10, 2021, available at: <https://www.worldometers.info/coronavirus/countries-where-coronavirus-has-spread/>.

³ Johns Hopkins University of Medicine, Coronavirus Resource Center, Updated March 10, 2021, available at: <https://coronavirus.jhu.edu/>.

⁴ “New York Coronavirus Map and Case Count” The New York Times, Updated March 11, 2020, available at: <https://www.nytimes.com/interactive/2020/us/new-york-coronavirus-cases.html>

⁵ “COVID 19: Data”, NYC Health, Updated March 11, 2021, Available at: <https://www1.nyc.gov/site/doh/covid/covid-19-data-totals.page#summary>

1. Limitations on City Businesses in Response to COVID-19

In New York, Governor Andrew Cuomo issued a series of executive orders to help stop the spread of SARS-CoV-2. Executive Order 202.3 prohibited all on-premises service by restaurants and bars, and ordered gyms, fitness centers, and movie theaters to cease operations entirely as of March 16, 2020.⁶ Drive-in theaters were allowed to open as of May 15, 2020,⁷ although indoor, movie theater service remained prohibited. Movie theatres in NYC were allowed to reopen at 25 percent capacity, with no more than 50 people per screen at a time, on March 5, 2021.⁸ When New York City entered Phase Two of the Governor’s reopening plan on June 22, 2020, restaurants and bars were allowed to begin outdoor dining, however they were unable to host any indoor dining until September 30, 2020, at which point the Governor announced they can operate at 25 percent capacity indoors.⁹ However, an increase in COVID-19 infections in NYC in the fall led Governor Cuomo to close indoor dining in the City on December 11, 2020.¹⁰ On February 8, 2021, Governor Cuomo announced that indoor dining in NYC could reopen at 25 percent capacity starting on February 12,¹¹ and indoor dining was then allowed to expand to 35 percent starting on February 26, 2021.¹² On March 10, 2021, Governor Cuomo announced that indoor dining in NYC could expand to 50 percent capacity starting on March 19.¹³ On August 17, 2020, the Governor announced that gyms and fitness centers could reopen at 33 percent indoor occupancy across the state, starting August 24, 2020, subject to the assent of local elected officials.¹⁴ However, Mayor de Blasio chose to delay the opening of gyms and fitness centers until September 2, 2020.¹⁵ Thus, by March of 2021, restaurants and bars, gyms, fitness centers and movie theaters will have been either prohibited from serving customers indoors, or subject to significant indoor occupancy restrictions for over 12 months.

Executive Order 202.7, issued by the Governor on March 19, 2020, restricted the operation of personal care services.¹⁶ Barbershops, hair salons, nail salons, tattoo or piercing parlors, and related personal care services were required to close to the public as of March 21, 2020.¹⁷ Barbershops and hair salons were then allowed to re-open at 50 percent capacity on June 22, 2020, when NYC entered Phase Two of the Governor’s reopening plan.¹⁸ Nail salons, tattoo parlors, piercing parlors, and other related personal care services subject to Executive

⁶ Governor Andrew M. Cuomo, *Executive Order No. 202.3: Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency*, March 16, 2020, available at: <https://www.governor.ny.gov/news/no-2023-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>.

⁷ Governor Andrew M. Cuomo, *Executive Order No. 202.31: Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency*, May 14, 2020, available at: <https://www.governor.ny.gov/news/no-20231-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>.

⁸ Joseph Spector, “NYC movie theaters to reopen next month with mask requirement, social distancing”, February 22, 2021, Available at: <https://www.usatoday.com/story/entertainment/movies/2021/02/22/ny-movie-theaters-pool-halls-can-open/4550111001/>

⁹ Governor Andrew M. Cuomo, *Governor Cuomo Announces Indoor Dining in New York City Allowed to Resume Beginning September 30 with 25 Percent Occupancy Limit*, September 9, 2020, available at: <https://www.governor.ny.gov/news/governor-cuomo-announces-indoor-dining-new-york-city-allowed-resume-beginning-september-30-25>.

¹⁰ Michael Gold, “Indoor Dining Will Shut Down in New York City Again” *The New York Times*, December 11, 2020, available at: <https://www.nytimes.com/2020/12/11/nyregion/indoor-dining-nyc.html>

¹¹ “Governor Cuomo Announces New York City Indoor Dining Can Reopen Early on February 12”, February 8, 2021, available at: <https://www.governor.ny.gov/news/governor-cuomo-announces-new-york-city-indoor-dining-can-reopen-early-february-12>

¹² “Governor Cuomo Announces Nursing Home Visitations to Resume in Accordance with CMS and CDC Guidelines” February 19, 2021, available at: <https://www.governor.ny.gov/news/governor-cuomo-announces-nursing-home-visitations-resume-accordance-cms-and-cdc-guidelines>

¹³ “Governor Cuomo and Governor Murphy Announce Indoor Dining in New York City and New Jersey Will Expand to 50 Percent Capacity Beginning March 19”, March 10, 2021, available at: <https://www.governor.ny.gov/news/governor-cuomo-and-governor-murphy-announce-indoor-dining-new-york-city-and-new-jersey-will>

¹⁴ Governor Andrew M. Cuomo, *Governor Cuomo Announces Gyms and Fitness Centers Can Reopen Starting August 24*, August 17, 2020, available at: <https://www.governor.ny.gov/news/governor-cuomo-announces-gyms-and-fitness-centers-can-reopen-starting-august-24>.

¹⁵ City of New York, Office of the Mayor, *Transcript: Mayor de Blasio Holds Media Availability*, August 18, 2020, <https://www1.nyc.gov/office-of-the-mayor/news/597-20/transcript-mayor-de-blasio-holds-media-availability>.

¹⁶ Governor Andrew M. Cuomo, *Executive Order No. 202.7: Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency*, March 19, 2020, available at: <https://www.governor.ny.gov/news/no-2027-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>.

¹⁷ Governor Andrew M. Cuomo, *Executive Order No. 202.7: Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency*, March 19, 2020, available at: <https://www.governor.ny.gov/news/no-2027-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>.

¹⁸ See New York State, *New York Forward: Phase Two Industries*, available at: <https://forward.ny.gov/phase-two-industries>, and Governor Andrew M. Cuomo, *Governor Cuomo Announces New York City Cleared by Global Public Health Experts to Begin Phase*

Order 202.7 were allowed to re-open at 50 percent capacity on July 6, 2020, when NYC entered Phase Three of the Governor’s reopening plan.¹⁹ Thus, by the end of March 2021, these businesses will have been fully closed for over three months and open at half capacity for nine months.

With the issuance of the Governor’s Executive Order 202.8, which modified Executive Order 202.6, non-essential businesses were closed beginning March 22, 2020.²⁰ When New York City entered Phase Two on June 22, 2020,²¹ many of these non-essential businesses were allowed to reopen at 50 percent capacity, including retail businesses.²² As was the case with personal care businesses, non-essential businesses subject to this guidance will have been closed for three months and open at half capacity for nine months by the end of March 2021.

While it has been over a year since businesses in New York City have either been prohibited from operating with any indoor occupancy at all or subject to significant indoor occupancy restrictions, the timeline for when businesses in the City will be able to completely reopen for full customer capacity remains unclear. According to The New York Times, New York City is still an area where residents are at “extremely high risk” for contracting COVID-19.²³ As of March 11, 2021, only 657,110 adult New Yorkers have been fully vaccinated.²⁴ It may therefore take months to vaccinate enough City residents for the risk of contracting COVID-19 to decrease to the point where COVID-19 related restrictions on businesses are relaxed.

2. The Impact on Small Businesses Amid the COVID-19 Crisis

As businesses were subject to operational restrictions and New Yorkers stayed home to stop the spread of the virus, consumer spending declined in the City. In late March 2020, consumer spending dropped 44 percent year-over-year, according to Mastercard.²⁵ The Manhattan Chamber of Commerce reported that foot traffic in Manhattan at the end of August 2020 was down nearly 40 percent compared to pre-COVID times.²⁶ According to another August 2020 report by the City Comptroller, small business revenues had dropped 26.4 percent since the previous January, ranking New York City 40th among the 52 largest American cities.²⁷ Opportunity Insights reported that as of February 22, 2021, small business revenues in the City were down around 60 percent in comparison to February of 2020.²⁸

The drastic drop in consumer spending in the City and resulting loss in revenue for businesses has made it difficult for business owners to continue paying rent. The Hospitality Alliance surveyed over 400 restaurants, bars, nightclubs, and event venues in New York City about their rent obligations in December. The resulting report found that approximately 92 percent of respondents did not pay their full rent in December, while around

Two of Reopening Monday, June 19, 2020, available at <https://www.governor.ny.gov/news/governor-cuomo-announces-new-york-city-cleared-global-public-health-experts-begin-phase-two>

¹⁹ See New York State, *New York Forward: Phase Three Industries*, available at: <https://forward.ny.gov/phase-three-industries>; and Governor Andrew M. Cuomo, *Governor Cuomo Announces New York City Enters Phase III of Reopening Without Indoor Dining and Subject to State Guidance Today*, July 6, 2020, available at: <https://www.governor.ny.gov/news/governor-cuomo-announces-new-york-city-enters-phase-iii-reopening-without-indoor-dining-and#:~:text=in%2045%20Counties-Governor%20Andrew%20M.,IV%20on%20Wednesday%2C%20July%208>

²⁰ Governor Andrew M. Cuomo, *Executive Order No. 202.8: Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency*, March 20, 2020, available at: <https://www.governor.ny.gov/news/no-2028-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>.

²¹ Governor Andrew M. Cuomo, *Governor Cuomo Announces New York City Cleared by Global Public Health Experts to Begin Phase Two of Reopening Monday*, June 19, 2020, available at: <https://www.governor.ny.gov/news/governor-cuomo-announces-new-york-city-cleared-global-public-health-experts-begin-phase-two>.

²² See New York State, *New York Forward: Phase Two Industries*, available at: <https://forward.ny.gov/phase-two-industries>.

²³ Eleanor Lutz, Aliza Aufrichtig, Charlie Smart, Albert Sun, Rich Harris and Gabriel Gianordoli, “See Covid-19 Risk in Your County and a Guide for Daily Life Near You”, The New York Times, Updated March 10, 2021, available at:

<https://www.nytimes.com/interactive/2021/us/covid-risk-map.html>
map.html?action=click&module=Spotlight&pgtype=Homepage

²⁴ “COVID-19 Vaccines: All Adults Vaccinated”, NYC Health, Updated March 11, 2021, available at: <https://www1.nyc.gov/site/doh/covid/covid-19-data-vaccines.page>

²⁵ “A Call for Action and Collaboration”, Partnership for New York City, July 2020, pg. 14 <https://pfny.org/research/a-call-for-action-and-collaboration/>

²⁶ “Indicators of Progress,” Manhattan Chamber of Commerce, <https://www.nycindicators.com/>

²⁷ “Save Main Street: A Crash Program to Help Save NYC Small Businesses”, New York City Comptroller Scott M. Stringer, August 5, 2020, available at: https://comptroller.nyc.gov/wp-content/uploads/documents/Save_Main_Street_8_5_20.pdf

²⁸ “Percent Change in Small Business Revenue” Opportunity Insights, available at: <https://tracktherecovery.org>.

60 percent of landlords did not waive rent payments for restaurants, bars and nightclubs.²⁹ The current outlook for many small businesses is dire as they experience massive revenue declines but must continue paying the same fixed costs, such as rent, as pre-COVID times. Camilla Marcus, the owner of the restaurant west~bourne in Soho wrote in an op-ed about her business's closure, "Restaurants are universally facing a simple and stark equation: our income has been cut by 75%, but most of our operating costs, including our rent, remain the same. And, there's no end of the tunnel in sight."³⁰ Over 300 city restaurateurs have since joined a class action lawsuit against the City and the State over the prohibition on serving customers indoors;³¹ the NYC Hospitality Alliance has also threatened a lawsuit.³² On September 9, 2020, Governor Cuomo announced the indoor dining may resume in New York City beginning September 30, but even then only at 25 percent capacity.³³ As mentioned previously, an increase in COVID-19 infections in New York City in the fall led Governor Cuomo to close indoor dining in the City on December 11, 2020.³⁴ On February 8, 2021, Governor Cuomo announced that indoor dining in the City could reopen at 25 percent capacity starting on February 12, 2021,³⁵ and indoor dining was then allowed to expand to 35 percent starting on February 26, 2021.³⁶ On March 10, 2021, Governor Cuomo announced that indoor dining in the City could expand to 50 percent capacity starting on March 19, 2021.³⁷

Because of the high cost of rent and the inability to make adequate revenue, restaurant and other small business owners affected by COVID-19-related restrictions on their operations had urged the Council to extend Local Law 55 of 2020 (Int. No. 1932-A), which protects certain COVID-19-impacted commercial tenants from personal liability when a default of other such event occurs between March 7, 2020 and September 30, 2020. Personal liability provisions in commercial leases may hold a business owner personally responsible if they are unable to pay rent by threatening the seizure of their personal assets or property.³⁸ In order to prevent this, an owner must turn in the keys to the property, effectively ending their lease. According to one restaurant owner, "Come September 30... if [Local Law 55] doesn't get extended – [you] might see a massive number of evictions. Evictions will continue to happen at an exponential rate, and I think this will be the specific last straw many restaurateurs are holding onto."³⁹ The owner predicted that if Local Law 55 is not extended, it would be "a fatal blow to the restaurant industry."⁴⁰ Another owner predicted that many restaurants that have not already closed

²⁹ "December 2020 Rent Report", NYC Hospitality Alliance, available at:

<https://thenycalliance.org/assets/documents/informationitems/Jl65e.pdf>.

³⁰ Camilla Marcus, "I'm closing my restaurant thanks to Covid-19, but it won't be goodbye", CNN, September 3, 2020,

<https://www.cnn.com/2020/09/03/opinions/westbourne-restaurant-closing-covid-19-marcus/index.html>

³¹ See Luke Fortney, "More than 300 Restaurateurs Sue NYC for \$2B over Ongoing Indoor Dining Ban," Eater New York, September 1, 2020, <https://ny.eater.com/2020/9/1/21408660/300-restaurateurs-sue-nyc-over-indoor-dining-ban>; "Restaurants Sue New York State and NYC for Indoor Dining," Crain's, <https://www.crainnewyork.com/small-business/restaurants-sue-city-and-state-more-2b-over-indoor-dining-ban>, Ben Yakas, "Queens Restaurant Leads \$2 Billion Indoor Dining Lawsuit against NY," September 1, 2020, Gothamist, <https://gothamist.com/food/queens-restaurant-leads-2-billion-indoor-dining-lawsuit-against-ny>.

³² Luke Fortney, "More than 300 Restaurateurs Sue NYC for \$2B over Ongoing Indoor Dining Ban," Eater New York, September 1, 2020, <https://ny.eater.com/2020/9/1/21408660/300-restaurateurs-sue-nyc-over-indoor-dining-ban>; Ben Yakas, "Queens Restaurant Leads \$2 Billion Indoor Dining Lawsuit against NY," September 1, 2020, Gothamist, <https://gothamist.com/food/queens-restaurant-leads-2-billion-indoor-dining-lawsuit-against-ny>.

³³ Governor Andrew M. Cuomo, *Governor Cuomo Announces Indoor Dining in New York City Allowed to Resume Beginning September 30 with 25 Percent Occupancy Limit*, September 9, 2020, available at: <https://www.governor.ny.gov/news/governor-cuomo-announces-indoor-dining-new-york-city-allowed-resume-beginning-september-30-25>.

³⁴ Michael Gold, "Indoor Dining Will Shut Down in New York City Again" The New York Times, December 11, 2020, available at: <https://www.nytimes.com/2020/12/11/nyregion/indoor-dining-nyc.html>

³⁵ "Governor Cuomo Announces New York City Indoor Dining Can Reopen Early on February 12", February 8, 2021, available at:

<https://www.governor.ny.gov/news/governor-cuomo-announces-new-york-city-indoor-dining-can-reopen-early-february-12>

³⁶ "Governor Cuomo Announces Nursing Home Visitations to Resume in Accordance with CMS and CDC Guidelines" February 19, 2021, available at: <https://www.governor.ny.gov/news/governor-cuomo-announces-nursing-home-visitations-resume-accordance-cms-and-cdc-guidelines>

³⁷ "Governor Cuomo and Governor Murphy Announce Indoor Dining in New York City and New Jersey Will Expand to 50 Percent Capacity Beginning March 19", March 10, 2021, available at, <https://www.governor.ny.gov/news/governor-cuomo-and-governor-murphy-announce-indoor-dining-new-york-city-and-new-jersey-will>

³⁸ NYC Department of Small Business Services, *Comprehensive Guide to Commercial Leasing in New York City*, pg. 21,

<https://www1.nyc.gov/assets/sbs/downloads/pdf/about/reports/commercial-lease-guide-accessible.pdf>.

³⁹ Chris Crowley, "What Is Local Law 1932-A, and Why Are Restaurant Owners So Worried about It?" NY Mag, July 28, 2020, <https://www.grubstreet.com/2020/07/local-law-1932-nyc-restaurant-leases.html>.

⁴⁰ Chris Crowley, "What Is Local Law 1932-A, and Why Are Restaurant Owners So Worried about It?" NY Mag, July 28, 2020, <https://www.grubstreet.com/2020/07/local-law-1932-nyc-restaurant-leases.html>.

would “giv[e] up, thinking there’s no real help at all.”⁴¹ The Council extended Local Law 55 through the passage of Local Law 98, which extended the protections offered by Local Law 55 through March 31, 2021.

In addition to paying rent, small businesses have had the added burden of locating and purchasing personal protective equipment (PPE). To both ensure the safety of their employees and create a safe environment for consumers to shop, small business owners have purchased stockpiles of PPE, plexiglass shields, and other safety devices. Restaurants, retail stores, grocery stores, and other establishments have had to retrofit their spaces to abide by the State’s reopening guidelines.⁴² A recent report by McKinsey concluded that small grocery stores could spend up to 1 percent of their revenue in cleaning products and possible additional labor costs.⁴³ According to Dr. Susan Bailey, president of the American Medical Association, the dramatic increase in need for PPE will continue to be a problem for “churches, schools, businesses, everyone that’s trying to reopen needs PPE, and we’re all competing for the same small supply.”⁴⁴ To assist small businesses in this effort, the City has been distributing free face coverings for reopening businesses of 100 employees or less.⁴⁵ Additionally, the City has created an online, searchable directory of PPE suppliers.⁴⁶

Thousands of small businesses have closed in New York due to their inability to continue paying their fixed costs such as rent and the new safety COVID-related equipment they must purchase. In his May 22nd press conference, Governor Cuomo reported that over 100,000 small businesses have closed across the State since the pandemic began.⁴⁷ According to the City Comptroller report, at least 2,800 small businesses closed permanently between March 1st and July 10th.⁴⁸ Partnership for New York City predicts that as many as a third of the 230,000 small businesses in New York City may never reopen.⁴⁹

As small businesses have shut their doors, the livelihoods they generate for both employees and business owners have drastically decreased. The unemployment rate in the City, at 11.4 percent as of December 2020,⁵⁰ was over 7.5 percentage points higher than the previous December,⁵¹ and may continue to be high even after the pandemic subsides as thousands of small businesses might permanently close. Labor statistics from the New York State Department of Labor indicate that employment in the “Food Services and Drinking Places” industries are down 43.4 percent in December 2020 as compared to December 2019,⁵² and employment in “Full Service Restaurants” is down 55.3 percent.⁵³ From February 2020 to December 2020, the City lost over 131,000 jobs in the food services and drinking subsector.⁵⁴

According to the Department of Labor report, many “Retail Trade” businesses are also down. For example, employment in “Clothing Stores” is down 49.9 percent.⁵⁵ Employment in “Furniture and Home Furnishings

⁴¹ Chris Crowley, “What Is Local Law 1932-A, and Why Are Restaurant Owners So Worried about It?” NY Mag, July 28, 2020, <https://www.grubstreet.com/2020/07/local-law-1932-nyc-restaurant-leases.html>.

⁴² Courtenay Brown, “Small businesses are drowning in coronavirus expenses” Axios, July 27, 2020, <https://www.axios.com/small-business-coronavirus-expenses-87b59746-7a44-45e8-b1d9-3c6e56735b1a.html>

⁴³ André Dua, Deepa Mahajan, Lucienne Oyer, and Sree Ramaswamy, “US small-business recovery after the COVID-19 crisis” McKinsey & Company, July 7, 2020, <https://www.mckinsey.com/industries/public-and-social-sector/our-insights/us-small-business-recovery-after-the-covid-19-crisis>

⁴⁴ Joel Rose, “Yep, Masks And Protective Gear Are Still Hard To Get — Especially For Small Buyers” NPR wNYC, August 19, 2020, <https://www.npr.org/2020/08/19/903612006/yep-masks-and-protective-gear-are-still-hard-get-especially-for-small-buyers>

⁴⁵ NYC Business, “Free Face Coverings for Small Businesses & Their Employees,” (last accessed on September 8, 2020), available at: <https://www1.nyc.gov/nycbusiness/article/free-face-coverings>.

⁴⁶ “PPE + Reopening Supplies Marketplace” (last accessed on September 8, 2020), available at: <https://maic.nyc/reopening-supplies/>.

⁴⁷ “Andrew Cuomo New York May 22 COVID-19 Press Conference Transcript” <https://www.rev.com/blog/transcripts/andrew-cuomo-new-york-may-22-covid-19-press-conference-transcript>

⁴⁸ “Save Main Street: A Crash Program to Help Save NYC Small Businesses”, New York City Comptroller Scott M. Stringer, August 5, 2020, available at: https://comptroller.nyc.gov/wp-content/uploads/documents/Save_Main_Street_8_5_20.pdf

⁴⁹ “A Call for Action and Collaboration”, Partnership for New York City, July 2020, pg. 4, <https://pfnyc.org/research/a-call-for-action-and-collaboration/>.

⁵⁰ New York State Department of Labor, “NYS Unemployment Rate Falls to 8.2% in December 2020”, January 21, 2021, available at: <https://labor.ny.gov/stats/pressreleases/pruistat.shtm#:~:text=In%20August%2C%20the%20statewide%20unemployment,from%2013.1%25%20to%209.9%25>.

⁵¹ *Id.*

⁵² See New York State Department of Labor, *Labor Statistics for the New York City Region: NYC Current Employment Statistics (CES) Latest Month*, available at: <https://www.labor.ny.gov/stats/nyc/> (last accessed on March 10, 2020).

⁵³ *Id.*

⁵⁴ See New York State Department of Labor, *Labor Statistics for the New York City Region: NYC Current Employment Statistics (CES) history*, available at: <https://www.labor.ny.gov/stats/nyc/>

⁵⁵ *Id.*

Stores” is down 27.3 percent,⁵⁶ and in “Sporting Goods, Hobby, Book, and Music Stores,” it is down 17.6 percent.⁵⁷ The increase in unemployment in these retail sectors led the City to lose around 25,200 jobs between February 2020 and December 2020.⁵⁸ Employment in the “Personal and Laundry Services” subsector, which includes barbershops, hair salons, and the other personal care businesses, is down 30.7 percent.⁵⁹ Between February 2020 and December 2020, the industry lost 19,900 jobs.⁶⁰

A May 2020 report from the New York City Independent Budget Office projected that a total of 115,000 leisure and hospitality jobs would be lost by October 2020,⁶¹ and that even if distancing restrictions are relaxed, industries with “strong ties to tourism,” such as hospitality, would continue to lose jobs due to a decline in foreign tourists.⁶² A Partnership for New York City report from July 2020 classifies an estimated 679,000 accommodation and food service jobs as vulnerable to loss – the most of any sector in the city – 58 percent coming from small businesses that employ fewer than 100 people.⁶³ The closure of City businesses will leave households “struggling to feed their families and pay rent,”⁶⁴ and the impact of job loss in the City may disproportionately affect Black, Hispanic and Asian residents. The report estimates that 40-50 percent of jobs held by people of color are at risk of loss,⁶⁵ as opposed to 30 percent for white residents.⁶⁶ The survival of the small business economy is essential to ensure the City can have a strong, equitable economic recovery from the financial collapse caused by the pandemic.

IV. LEGISLATIVE ANALYSIS

Int. No. 2243-A, A Local Law to amend the administrative code of the city of New York, in relation to extending temporary personal guaranty protection provisions for commercial tenants impacted by COVID-19

Section one of the bill sets forth the Council’s legislative findings and intent. Section two of the bill would amend Local Law 98 of 2020, which had in turn amended Local Law 55 of 2020, by extending the time period during which the laws’ protections would apply. This bill would therefore temporarily prohibit the enforcement of personal liability provisions in commercial leases or rental agreements, or relating to such leases or agreements, involving certain COVID-19 impacted tenants if the default or other event causing the natural person to be liable occurred between March 7, 2020 and June 30, 2021. Local Law 98 had established that such protections applied if the default or other event occurred up until March 31, 2021, extended from Local Law 55’s end date of September 30, 2020.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ See New York State Department of Labor, *Labor Statistics for the New York City Region: NYC Current Employment Statistics (CES) history*, available at: <https://www.labor.ny.gov/stats/nyc/>

⁵⁹ See New York State Department of Labor, *Labor Statistics for the New York City Region: NYC Current Employment Statistics (CES) Latest Month*, available at: <https://www.labor.ny.gov/stats/nyc/> (last accessed on March 10, 2020).

⁶⁰ See New York State Department of Labor, *Labor Statistics for the New York City Region: NYC Current Employment Statistics (CES) history*, available at: <https://www.labor.ny.gov/stats/nyc/>

⁶¹ New York City Independent Budget Office, *Tumbling Tax Revenues, Shrinking Reserves, Growing Budget Gaps: New York City Faces Substantial Fiscal Challenges in the Weeks and Months Ahead*, May 2020, pg. 5, available at: <https://ibo.nyc.ny.us/iboreports/tumbling-tax-revenues-shrinking-reserves-growing-budget-gaps-new-york-city-faces-substantial-fiscal-challenges-in-the-weeks-and-months-ahead-may-2020.pdf>.

⁶² *Id.* at pg. 6.

⁶³ “A Call for Action and Collaboration”, Partnership for New York City, July 2020, pg. 34, <https://pfnyc.org/wp-content/uploads/2020/07/actionandcollaboration.pdf>. See also McKinsey & Company, “Lives and livelihoods: Assessing the near-term impact of COVID-19 on US workers,” April 2, 2020, <https://www.mckinsey.com/industries/public-and-social-sector/our-insights/lives-and-livelihoods-assessing-the-near-term-impact-of-covid-19-on-us-workers> (projecting that the food services industry has the highest number of vulnerable jobs nationwide – Exhibit 3).

⁶⁴ “A Call for Action and Collaboration”, Partnership for New York City, July 2020, pg. 58, <https://pfnyc.org/wp-content/uploads/2020/07/actionandcollaboration.pdf>

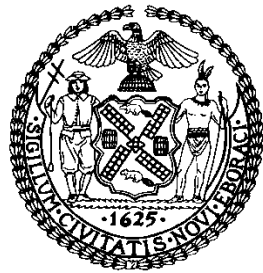
⁶⁵ “Jobs at risk” is calculated in the report as a percentage equal to the number of vulnerable jobs by race over the total employment figures by race. The percentage of jobs at risk for Asian and Black city residents is about 40%; for Hispanic residents, the percentage is about 50%.

⁶⁶ “A Call for Action and Collaboration”, Partnership for New York City, July 2020, pg. 58, <https://pfnyc.org/wp-content/uploads/2020/07/actionandcollaboration.pdf>

The local laws that would be extended by this bill provide protection to businesses that have been impacted by mandated closures and service limitations in the Governor's Executive Orders, as extended. Specifically, the local laws cover (1) businesses required to stop serving food or beverages on-premises or to cease operations altogether under Executive Order Number 202.3 issued by the Governor on March 16, 2020; (2) non-essential retail businesses subject to in-person limitations under guidance issued by the New York State Department of Economic Development pursuant to Executive Order Number 202.6 issued by the Governor on March 18, 2020; and (3) businesses required to close to the public under Executive Order Number 202.7 issued by the Governor on March 19, 2020. Threatening to or attempting to enforce a personal liability provision is also considered an illegal form of commercial tenant harassment under the local laws.

Additionally, the local laws require SBS, or another agency or office designated by the mayor to conduct an information and outreach campaign in order to educate commercial tenants affected by the legislation about the laws' protections.

(The following is the text of the Fiscal Impact Statement for Int. No. 2243-A:)



THE COUNCIL OF THE CITY OF NEW YORK

FINANCE DIVISION

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INT. NO.: 2243-A

COMMITTEE: Small Business

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to extending temporary personal guaranty protection provisions for commercial tenants impacted by COVID-19

Sponsors: By Council Member Rivera, the Speaker (Council Member Johnson), Council Members Constantinides, Kallos, Chin and Rosenthal

SUMMARY OF LEGISLATION: Int. No. 2243 would amend Local Law 98 of 2020, which temporarily prohibits the enforcement of personal liability provisions in commercial leases or rental agreements involving certain COVID-19 impacted tenants, to extend this protection from March 31, 2021 to June 30, 2021.

EFFECTIVE DATE: This local law would take effect immediately, provided that if it shall have become a law subsequent to March 31, 2021, this local would be retroactive to and deemed to have been in full force and effect as of such day.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2022

FISCAL IMPACT STATEMENT:

| | Effective FY21 | FY Succeeding Effective FY22 | Full Fiscal Impact FY22 |
|-------------------------|---------------------------|---|------------------------------------|
| Revenues (+) | \$0 | \$0 | \$0 |
| Expenditures (-) | \$0 | \$0 | \$0 |
| Net | \$0 | \$0 | \$0 |

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

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

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: Aliya Ali, Principal Financial Analyst

ESTIMATE REVIEWED BY: Noah Brick, Assistant Counsel
Nathan Toth, Deputy Director
Cirilhien Francisco, Unit Head

LEGISLATIVE HISTORY: The Committee on Small Business (Committee) heard this legislation as preconsidered item on March 17, 2021. This legislation was introduced to the full Council as Int. No. 2243 on March 18, 2021 and was referred to the Committee. The legislation was amended, and the amended version, Proposed Intro. No. 2243-A, will be considered by the Committee on March 25, 2021. Following a successful vote by the Committee, Proposed Intro. No. 2243-A will be submitted to the full Council for a vote on March 25, 2021.

DATE PREPARED: March 22, 2021.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 2243-A:)

Int. No. 2243-A

By Council Members Rivera, the Speaker (Council Member Johnson), Constantinides, Kallos, Chin, Rosenthal and Ayala.

A Local Law to amend the administrative code of the city of New York, in relation to extending temporary personal guaranty protection provisions for commercial tenants impacted by COVID-19

Be it enacted by the Council as follows:

Section 1. Declaration of legislative intent and findings. a. The council finds and declares that:

1. The city is in the midst of a local, state, and federally declared disaster emergency due to a global pandemic. While the numbers increase daily, the 2019 novel coronavirus, or COVID-19, has killed over 2.5 million people worldwide, over 513,000 people in the United States, and about 47,200 people in New York state. Within the city itself, about 755,000 people have been infected with the disease and more than 29,000 people have likely died because of it.

2. Governments around the world, the country, and the state, including the city, have taken drastic measures to limit the spread of COVID-19. While many of these measures appear to have helped slow the progress of the disease, many have also contributed to a catastrophic impact on the city's economic and social livelihood.

3. For example, as part of the effort to stop the spread of COVID-19, the governor in March 2020 issued executive order numbers 202.3, 202.6, and 202.7. These orders, as subsequently amended and extended through other executive orders, and interpreted through guidance issued by the New York state departments of economic development and health, effectively prohibited restaurants, bars, gyms, fitness centers, movie theaters, non-essential retail stores, barbershops, hair salons, nail salons, tattoo or piercing parlors, and related personal care services from operating with any indoor occupancy.

4. These operational limitations, while necessary to combat the spread of a global pandemic, have contributed to the severe economic damage suffered by the city. For example, the most recently available labor

statistics from the New York state department of labor relating to the businesses subject to these orders indicate that:

(a) The city lost 131,300 jobs in the food services and drinking places subsector from February 2020 to December 2020, leaving employment in that subsector down 43.4% in December 2020 compared to December 2019. This includes a loss of 89,000 jobs in the full service restaurants industry between February 2020 and December 2020, which left employment in that industry down 54.4% in December 2020 compared to December 2019.

(b) Within the retail trade sector, the city lost about 25,200 jobs from the clothing stores industry, the furniture and home furnishings stores subsector, and the sporting goods, hobby, book, and music stores subsector between February 2020 and December 2020, which left employment in those industries and subsectors down 49.9%, 27.2%, and 17.6%, respectively, in December 2020 compared to December 2019.

(c) Within the personal and laundry services subsector, which includes barbershops, hair salons, and other personal care businesses, the city lost 19,900 jobs, leaving employment in that subsector down 30.7% in December 2020 compared to December 2019.

5. While businesses may be willing to weather the economic hardships imposed upon them by governmental measures to combat COVID-19 by either staying open or temporarily closing and later reopening, individual owners and other natural persons who personally guarantee the financial obligations of these businesses face a different and more substantial risk than losing revenue and profit. They risk losing their personal assets, including their possessions and even their own homes, transforming a business loss into a devastating personal loss. This is particularly a risk for small businesses, as the scale of the financial obligations of larger businesses generally renders having a natural person guarantee those obligations impracticable.

6. If these individual owners and natural persons are forced to close their businesses permanently now or to suffer grave personal economic losses like the loss of a home, the economic and social damage caused to the city will be greatly exacerbated and will be significantly worse than if these businesses are able to temporarily close and return or, failing that, to close later, gradually, and not all at once.

7. For the foregoing reasons, the council passed, and the mayor signed, local law number 55 for the year 2020 and local law number 98 for the year 2020, which provided and extended temporary protections to natural persons who personally guarantee the financial obligations of businesses subject to the substantial occupancy limitations imposed by the above-described executive orders issued by the governor. These protections are, however, due to expire on March 31, 2021.

8. As of March 31, 2021, these businesses will have been either prohibited from operating with any indoor occupancy at all, or subject to significant indoor occupancy restrictions, for over 12 months, and it is likely that such significant indoor occupancy restrictions will continue for the foreseeable future as the existing COVID-19 crisis has not yet subsided, new variants of COVID-19 have emerged in the city and elsewhere, and the rate at which the COVID-19 vaccine is being administered in the city indicates that it will take several months at a minimum to vaccinate enough of the population to achieve “herd immunity” to COVID-19 and its variants. As of March 9, 2021, only 623,719 adults in New York city had been fully vaccinated.

9. Extending the duration of the personal liability protections contained within local law number 98 for the year 2020 by three months, as this local law does, is intended to provide these businesses a reasonable recovery period with a duration that is comparable to the period of time that these businesses were forced to close or operate with significant limitations on indoor occupancy and thereby to provide them with an opportunity to not only survive but also to generate sufficient revenues to defray owed financial obligations.

10. As with local law number 55 for the year 2020 and local law number 98 for the year 2020, this local law does not, nor is it intended to, limit any other lawful remedies that a landlord may be able to seek against a commercial tenant itself, such as bringing suit against that tenant for damages; collecting or offsetting financial obligations by using the revenues, inventory, equipment, or other assets of that tenant; or evicting or declining to renew the lease or rental agreement of that tenant.

b. For the foregoing reasons, the council finds that it is necessary and appropriate to extend the duration of the personal liability protections in local law number 55 for the year 2020 and local law number 98 for the year 2020.

§ 2. Paragraph 2 of section 22-1005 of the administrative code of the city of New York, as added by local law number 98 for the year 2020, is amended to read as follows:

2. The default or other event causing such natural persons to become wholly or partially personally liable for such obligation occurred between March 7, 2020 and [March 31, 2021] *June 30, 2021*, inclusive.

§ 3. The department of small business services, or another mayoral agency or office designated by the mayor, shall conduct an information and outreach campaign to educate commercial tenants affected by this local law about its protections.

§ 4. This local law takes effect immediately, provided that if it shall have become a law subsequent to March 31, 2021, this local law shall be retroactive to and deemed to have been in full force and effect as of such day.

MARK GJONAJ, *Chairperson*; STEPHEN T. LEVIN, BILL PERKINS, YDANIS A. RODRIGUEZ, HELEN K. ROSENTHAL; Committee on Small Business, March 25, 2021 (Remote Hearing). *Other Council Members Attending: Council Member Gibson.*

On motion of the Speaker (Council Member Johnson), 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 Transportation

Report for Int. No. 2224-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 the establishment of a crash investigation and analysis unit within the department of transportation.

The Committee on Transportation, to which the annexed proposed amended local law was referred on February 11, 2021 (Minutes, page 235), respectfully

REPORTS:

INTRODUCTION

On March 25, 2021, the Committee on Transportation, chaired by Council Member Ydanis Rodriguez, held a hearing to vote on Int. No. 2224-A. Int. No. 2224-A, introduced by Council Members Rodriguez, Lander, the Speaker, and Council Member Levin, is in relation to the establishment of a crash investigation and analysis unit within the New York City (NYC or City) Department of Transportation (DOT). This was the second hearing that the Committee had held on this legislation. The first hearing on Int. No. 2224 was held on February 24, 2021. At that hearing, the Committee heard testimony from representatives of the DOT, the NYC Police Department (NYPD), transportation advocates, and other interested parties.

On March 25, 2021, the Committee on Transportation passed Int. No. 2224-A by a vote of nine in the affirmative, three in the negative, with zero abstentions.

BACKGROUND

DOT

DOT's goal is to provide for the safe, efficient, and environmentally responsible movement of people and goods in NYC.¹ In addition, DOT is tasked with maintaining and enhancing the transportation infrastructure that

¹ NYC, Department of Transportation, *About DOT*, available at: <https://www1.nyc.gov/html/dot/html/about/about.shtml>.

is important to ensuring the economic vitality and quality of life in the City.² The steps that the agency takes to ensure this include: facilitating safe, efficient and environmentally responsible movement of pedestrians, goods and vehicular traffic on streets, highways, bridges and waterways in NYC; improving traffic mobility throughout NYC; maintaining NYC's transportation infrastructure; encouraging mass transit use and other modes of transportation; and holding traffic safety educational programs.³ DOT has over 5,000 employees, and manages an annual operating budget of \$900 million and a five-year \$10.1 billion capital program, while also overseeing 6,000 miles of streets and highways, 12,000 miles of sidewalks, and 794 bridges and tunnels.⁴

NYPD

The NYPD was established in 1845, and is the largest and one of the oldest municipal police departments in the United States, with approximately 36,000 officers and 19,000 civilian employees.⁵ The NYPD is responsible for policing an 8.5-million-person city, and for performing a wide variety of public safety, law enforcement, traffic management, counterterrorism, and emergency response roles throughout the city.⁶ To manage these roles, the NYPD is divided into major bureaus for enforcement, investigations, and administration, with: 77 patrol precincts with patrol officers and detectives; 12 transit districts to police the subway system; nine police service areas to patrol the city's public housing developments; and uniformed civilians serving as traffic safety agents and school safety agents.⁷

The Transportation Bureau, which was established in 1997, oversees pedestrian, cyclist and motorist safety on the city's highways and local streets and manages traffic control.⁸ The bureau oversees, among other units, the:

- Traffic Management Center, which monitors traffic conditions using closed-circuit televisions, radios, and other advanced technologies, and coordinates responses to traffic incidents, often working with City and other agencies;⁹
- Highway District, which has officers patrolling the City's highways and maintaining traffic safety, responding to vehicular accidents on the highways and conducting investigations involving collisions that result in a death, among other things;¹⁰
- Traffic Operations District, which designs, develops and implements strategies to improve the flow of traffic, removes obstacles impeding traffic flow, expedites vehicular traffic, and develops traffic control plans for special events and other unusual conditions;¹¹ and
- Traffic Enforcement District, which enforces laws and regulations involving moving and parked vehicles, including expediting the flow of traffic.¹²

Under the jurisdiction of the Highway District is the NYPD's Collision Investigation Squad (CIS). The CIS is the unit that responds to every fatal and likely to be fatal crash in NYC, determining what, how, where and why a crash occurred.¹³ The unit is staffed with NYPD officers that are trained in collision forensics, but it has faced recent criticism as to how effective it truly is.¹⁴ According to Charles Komanoff, a transportation researcher, the majority of crash reports that detail crash geometries, vehicle speeds inferred from skid marks

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ NYPD, *About NYPD*, Available at: <https://www1.nyc.gov/site/nypd/about/about-nypd/about-nypd-landing.page>.

⁶ *Id.*

⁷ *Id.*

⁸ NYPD, *Bureaus, Transit and Housing*. Available at: <https://www1.nyc.gov/site/nypd/bureaus/transit-housing/transit-housing-landing.page>.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ NYC Streetsblog, Charles Komanoff, "Komanoff: Disband NYPD's Collision Investigation Squad," Available at: <https://nyc.streetsblog.org/2020/04/16/komanoff-disband-nypds-collision-investigation-squad/>.

¹⁴ *Id.*

and such, are not made publicly available.¹⁵ In addition, the Highway District does not produce an annual report providing aggregated data and distilling the individual analyses of the CIS, thus preventing the public from understanding the extent to which traffic fatalities and injuries are happening, how they are occurring, and how policies can be implemented to reduce them.¹⁶ Street-safety advocates have offered suggestions to reform the CIS for years, with the NYPD providing little public insight into how the squad operates or performs its duties.¹⁷ This has caused many to call for the replacement of the CIS with a civilian unit outside of the NYPD.¹⁸

Vision Zero

Since 2014, NYC, under the de Blasio Administration, has instituted Vision Zero, a citywide initiative that operates to improve the safety of its streets throughout every neighborhood and in every borough.¹⁹ The initiative includes: expanded enforcement against dangerous moving violations, such as speeding and failing to yield to pedestrians; new street designs and configurations; broad public outreach and communication; and a sweeping legislative agenda to increase penalties for dangerous drivers.²⁰ The main premise behind Vision Zero is the belief that deaths and serious injuries in traffic incidents are not inevitable “accidents,” but preventable crashes that can be reduced through engineering, enforcement and education.²¹ Through a collaborative effort, a number of agencies have worked together to show encouraging results, including, among other things, utilizing the City’s expanded speed camera program to reduce speeding by over 60% in locations near schools where the cameras operate; increased enforcement by the NYPD Traffic Bureau to penalize offenders who are driving dangerously; and ensuring that drivers of for-hire vehicles, MTA buses and the City fleet vehicles receive increased, state-of-the-art training and safety education.²² Traffic fatalities in NYC have fallen significantly since 1990, from 701 in 1990 to 381 in 2000, to an all-time low of 202 in 2018, with traffic deaths in NYC having fallen by a third since the year before Vision Zero began.²³

Although the data is encouraging when looking at fatalities from 1990 to 2018, the citywide initiative has received a number of criticisms, mainly with the rapid increase in deaths occurring on City streets in the past two years. During a media availability on December 22, 2020, the Mayor stated that 2020 had been one of the safest years for pedestrians, but not for motorists and cyclists.²⁴ According to stats from Vision Zero View, a data dashboard relaying data regarding Vision Zero, including data about traffic crashes, street design, speed limits, and outreach, as of December 30, 2020, there were 244 traffic fatalities and 43,866 traffic injuries in 2020.²⁵ A recent New York Times article indicated that the total number of traffic fatalities in 2020 makes it the deadliest year on record since Mayor de Blasio introduced Vision Zero, and the second straight year of increased road fatalities.²⁶ Notably, for a nearly two month period during the novel coronavirus (COVID-19) pandemic in 2020 there were zero pedestrian fatalities in NYC, largely attributed to the lack of congestion and lack of commuters in the city at that time.²⁷ However, this period did not last long, as the trend quickly reversed, with increases in overnight motorist and motorcyclist deaths, and a nationwide increase in speeding that began when streets emptied due to the pandemic and subsequent lockdowns.²⁸ Although unprecedented external factors in recent times, namely the pandemic, have impacted transit systems, safe streets advocates contradict the Mayor’s assertion that Vision Zero is currently effective, by contending that a lack of targeted action by the

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ NYC, Vision Zero, available at: <https://www1.nyc.gov/content/visionzero/pages/>

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ NYC, Transcript: “Mayor de Blasio Holds Media Availability,” December 22, 2020, available at <https://www1.nyc.gov/office-of-the-mayor/news/884-20/transcript-mayor-de-blasio-holds-media-availability>.

²⁵ NYC, Vision Zero View, Traffic Crashes, Available at: <https://vzv.nyc/>.

²⁶ New York Times, Christina Goldbaum, “Why Empty Streets Meant an Especially Deadly Year for Traffic Deaths,” Updated on January 1, 2021, available at: <https://www.nytimes.com/2021/01/01/nyregion/nyc-traffic-deaths.html>.

²⁷ The Gothamist, Jake Offenhardt, “Vision Zero Sputter as NYC Traffic Deaths Reach Highest Level of De Blasio Era,” Updated October 23, 2020, available at: <https://gothamist.com/news/vision-zero-sputters-nyc-traffic-deaths-reach-highest-level-de-blasio-era>.

²⁸ *Id.*

Administration is to blame for the increase in fatalities. They note that reducing the budgets for Vision Zero and the Green Wave program; delaying implementation of reckless driver legislation passed by the City Council; and ignoring advice from his own expert transportation panel, has resulted in these preventable increases.²⁹

ANALYSIS OF INT. NO. 2224-A

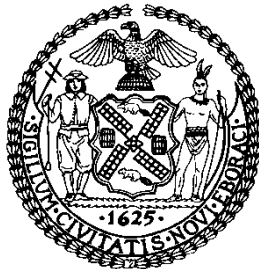
Int. No. 2224-A, introduced by Council Members Ydanis Rodriguez, Brad Lander, Speaker Corey Johnson and Council Member Steven Levin would require the DOT to create a crash investigation and analysis unit tasked with analyzing and reporting on all vehicle crashes involving significant injury.

The legislation would increase the number of crashes that are analyzed beyond the several hundred that currently take place each year by broadening the unit's mandate to include all crashes that result in significant injury. In addition to its crash analysis functions, the unit created by this legislation would be responsible for public statements regarding serious vehicular crashes, and would be required to make recommendations for safety-improving changes to street design and infrastructure and to post quarterly reports regarding its crash reviews on the department of transportation website. The legislation also makes clear that nothing in the bill inhibits or interferes with the ability of the police department to pursue criminal investigations or to fulfill their State law obligations with regard to investigating certain crashes.

UPDATE

On March 25, 2021, the Committee on Transportation passed Int. No. 2224-A by a vote of nine in the affirmative, three in the negative, with zero abstentions.

(The following is the text of the Fiscal Impact Statement for Int. No. 2224-A:)



THE COUNCIL OF THE CITY OF NEW YORK

FINANCE DIVISION

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO: 2224-A

COMMITTEE: Transportation

TITLE: A Local Law to amend the administrative code of the City of New York, in relation to the establishment of a crash investigation and analysis unit within the Department of Transportation.

SPONSORS: Council Members Rodriguez, Lander, Speaker (Council Member Johnson), Levin Van Bramer, Constantinides, Kallos, Louis, Chin, Rosenthal and Rivera.

SUMMARY OF LEGISLATION: Proposed Intro. No. 2224-A would require the Department of Transportation (DOT) to create a crash investigation and analysis unit responsible for investigating, analyzing and reporting on all vehicle crashes involving a significant injury. In addition to its crash investigation functions, the unit created by this legislation would be required to review existing street design, infrastructure, and driver behavior at the location of each crash the unit investigates. After conducting its review, the unit would determine whether changes to street design or improvements to infrastructure could reduce the risk of subsequent serious vehicular crashes and make recommendations, if any, for safety maximizing changes at such locations or citywide. Beginning no later than April 30, 2022, and every three months thereafter, DOT would be required to post reports regarding its crash reviews on its website. The legislation does not allow the crash investigation unit to inhibit

²⁹ *Id.*

or interfere with the ability of the New York City Police Department (NYPD) to pursue criminal investigations. DOT would be required to establish a crash investigation and analysis unit no later than January 1, 2022.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2023

FISCAL IMPACT STATEMENT:

| | Effective FY21 | FY Succeeding Effective FY22 | Full Fiscal Impact FY23 |
|---------------------|-----------------------|-------------------------------------|--------------------------------|
| Revenues | \$0 | \$0 | \$0 |
| Expenditures | \$0 | \$2,054,000 | \$2,954,000 |
| Net | \$0 | \$2,054,000 | \$2,954,000 |

IMPACT ON REVENUES: It is estimated that this legislation would have no impact on revenues.

IMPACT ON EXPENDITURES: It is estimated that this legislation would require the DOT to increase its agency headcount by 32 positions to staff the crash investigation and analysis unit and increase the agency budget by approximately \$2.95 million. Personal Services costs would total approximately \$2.7 million. During Fiscal 2022, the first year of operation, DOT would hire about half of the new staff for a total cost of \$1.35 million in Fiscal 2022. In addition, it is estimated that there will be an Other Than Personal Services cost of \$704,000 in Fiscal 2022 and \$254,000 in subsequent years. Overall, it is estimated that this legislation would require expenditures of \$2.05 million in Fiscal 2022 and \$2.95 million in Fiscal 2023 and beyond.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General Fund

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

ESTIMATE PREPARED BY: John Basile, Senior Financial Analyst

ESTIMATE REVIEWED BY: Regina Poreda Ryan, Deputy Director
Chima Obichere, Unit Head
Stephanie Ruiz, Assistant Counsel

LEGISLATIVE HISTORY: This legislation was first introduced to the full Council as Intro. No. 2224 on February 11, 2021 and referred to the Committee on Transportation (Committee). A hearing was held by the Committee on February 24, 2021 and the bill was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 2224-A, will be considered by the Committee on March 25, 2021. Upon a successful vote by the Committee, Proposed Intro. No. 2224-A will be submitted to the full Council for a vote on March 25, 2021.

DATE PREPARED: March 24, 2021.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 2224-A:)

Int. No. 2224-A

By Council Members Rodriguez, Lander, the Speaker (Council Member Johnson), Levin, Van Bramer, Constantinides, Kallos, Louis, Chin, Rosenthal, Rivera, Ampry-Samuel, Barron and Gennaro.

A Local Law to amend the administrative code of the city of New York, in relation to the establishment of a crash investigation and analysis unit within the department of transportation

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 19-182.3 to read as follows:

§ 19-182.3 *Crash investigation and analysis unit. a. Definitions. For the purposes of this section, the following terms have the following meanings:*

Serious vehicular crash. The term “serious vehicular crash” means any collision between a motor vehicle and a pedestrian, cyclist, motorist or any other person that results in significant injury to or the death of any person.

Significant injury. The term “significant injury” means any injury categorized as an “A” injury by the New York state department of motor vehicles, or any injury which requires hospitalization, or any other injury as determined by the department.

b. Powers and duties. No later than January 1, 2022, the department shall establish a crash investigation and analysis unit, which shall have the duty to analyze and report on serious vehicular crashes. In coordination with the police department, such unit shall have all powers necessary to investigate serious vehicular crashes or any other crash, including but not limited to, inspecting crash sites, documenting vehicle and party positions, measuring and collecting data, interviewing witnesses, and conducting collision reconstructions. The unit shall also have the primary responsibility for all public statements, press releases or any other public communications regarding serious vehicular crashes and related investigations. Nothing contained in this subdivision shall be construed to inhibit or interfere with the ability of the police department to pursue criminal investigations, or as otherwise conflicting with any obligation under the vehicle and traffic law regarding the investigation of vehicle crashes.

c. Review of street design. As part of any investigation undertaken pursuant to subdivision b of this section in which the department determines that street design or infrastructure contributed to a serious vehicular crash, the crash investigation and analysis unit shall review the existing street design, infrastructure and driver behavior at the location of each such crash, and as part of each such review, any available crash data or reports on locations with similar street design or infrastructure. In conducting the review, the unit may coordinate with the police department, the department of health and mental hygiene, the office of the chief medical examiner, or any other agency, office or organization deemed relevant by the department. Following each such review, the unit shall determine whether changes to street design or improvements to infrastructure could reduce the risk of subsequent serious vehicular crashes and make recommendations, if any, for safety maximizing changes to street design or infrastructure at the location of such crash, or citywide.

d. Reporting. No later than April 30, 2022, and every three months thereafter, the department shall post on its website a report with information on each investigation completed during the preceding three month period ending thirty days prior. Nothing contained in this subdivision shall be construed to inhibit or interfere with the ability of the police department to pursue criminal investigations, or as otherwise conflicting with any obligation under the vehicle and traffic law regarding the investigation of vehicle crashes. Furthermore, nothing required to be reported by this subdivision shall be reported in a manner that would reveal the identity of a person or persons involved in a serious vehicular crash. Each such report shall include, but need not be limited to, the following:

- 1. The total number of investigations completed;*
- 2. All evidence and data collected pursuant to each investigation;*
- 3. Determinations as to fault, including any potential criminal wrongdoing;*
- 4. Any factors that may have contributed to each crash, or increased or mitigated the severity of each such crash; and*
- 5. Whether changes to street design or improvements to infrastructure could reduce the risk of subsequent serious vehicular crashes, at each crash location or other similar locations, and a recommendation as to any such changes or improvements that should be made.*

§ 2. This local law takes effect immediately.

YDANIS A. RODRIGUEZ, *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, DEBORAH L. ROSE, CHAIM M. DEUTSCH, MARK D. LEVINE, CARLOS MENCHACA, ANTONIO REYNOSO, RUBEN DIAZ, Sr.; Committee on Transportation, March 25, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Riley, Yeger, Powers and Perkins.*

On motion of the Speaker (Council Member Johnson), 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

There were no additional items listed on the General Order Calendar.

ROLL CALL ON GENERAL ORDERS FOR THE DAY
(Items Coupled on General Order Calendar)

- (1) **Int. 1671-A -** Police Department to report on traffic encounters.
- (2) **Int. 2118-A -** Press credentials.
- (3) **Int. 2212-A -** New York City Civilian Complaint Review Board power to investigate bias-based policing and racial profiling, and requiring an external consultant to review work by the Equal Employment Opportunity Division of the Police Department.
- (4) **Int. 2220-A -** Security against unreasonable search and seizure, and against excessive force and requiring the Law Department to post online certain information regarding such civil actions.
- (5) **Int. 2224-A -** Establishment of a crash investigation and analysis unit within the Department of Transportation.
- (6) **Int. 2243-A -** Extending temporary personal guaranty protection provisions for commercial tenants impacted by COVID-19.
- (7) **Res. 1582 -** Resolution amending Rule 7.00 of the Rules of the Council in relation to **Changes in Membership of the Standing Committees and Subcommittees of the Council.**
- (8) **L.U. 738 & Res. 1585 -** **App. N 210069 HNQ (Arverne East)** Borough of Queens, Community District 14, Council District 31.
- (9) **L.U. 739 & Res. 1586 -** **App. C 210070 ZMQ (Arverne East)** Borough of Queens, Community District 14, Council District 31.
- (10) **L.U. 740 & Res. 1587 -** **Application No. N 210071 ZRQ (Arverne East)** Borough of Queens, Community District 14, Council District 31.

- (11) L.U. 741 & Res. 1588 - **App. 20215016 HAM (Lower East Side Cluster)** Borough of Manhattan, Community District 3, Council District 2.
- (12) L.U. 743 & Res. 1589 - **App. C 200276 HAM (Harlem Open Door Cluster)** Borough of Manhattan, Community District 10, Council District 9.
- (13) L.U. 744 & Res. 1590 - **App. 20215017 HAM (Harlem Open Door Cluster—Article XI)** Borough of Manhattan, Community District 10, Council District 9.
- (14) L.U. 745 & Res. 1591 - **App. C 200277 HAM (Harlem NCP CB 11 Site)** Borough of Manhattan, Community District 11, Council District, 9.
- (15) L.U. 746 & Res. 1592 - **App. C 200278 HAM (Central Harlem Infill NCP)** Borough of Manhattan, Community District 10, Council District 9.
- (16) L.U. 747 & Res. 1593 - **App. C 200279 HAM (Harlem NCP Western Site)** Borough of Manhattan, Community District 10, Council District 9.
- (17) L.U. 748 & Res. 1594 - **App. C 200243 ZMQ (50-25 Barnett Avenue Rezoning)** Borough of Queens, Community District 2, Council District 26.
- (18) L.U. 749 & Res. 1595 - **App. N 200244 ZRQ (50-25 Barnett Avenue Rezoning)** Borough of Queens, Community District 2, Council District 26.
- (19) L.U. 750 & Res. 1596 - **App. C 210103 ZMX (1099 Webster Avenue)** Borough of the Bronx, Community District 4, Council District 16.
- (20) L.U. 751 & Res. 1597 - **App. N 210104 ZRX (1099 Webster Avenue)** Borough of the Bronx, Community District 4, Council District 16.

The Majority Leader and Acting President Pro Tempore (Council Member Cumbo) put the question whether the Council would agree with and adopt such reports which were decided in the **affirmative** by the following vote:

Affirmative – Adams, Ampry-Samuel, Ayala, Barron, Borelli, Brannan, Brooks-Powers, Cabrera, Chin, Constantinides, Cornegy, Deutsch, D. Diaz, R. Diaz, Dromm, Eugene, Gennaro, Gibson, Gjonaj, Grodenchik, Holden, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Louis, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Reynoso, Riley, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Ulrich, Vallone, Van Bramer, Yeger, the Minority Leader (Council Member Matteo), the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **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 **Int. No. 1671-A**:

Affirmative – Adams, Ampry-Samuel, Ayala, Barron, Brannan, Brooks-Powers, Cabrera, Chin, Constantinides, Cornegy, D. Diaz, R. Diaz, Dromm, Eugene, Gibson, Gjonaj, Grodenchik, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Louis, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Reynoso, Riley, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Vallone, Van Bramer, Yeger, the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **43**.

Negative – Borelli, Deutsch, Gennaro, Holden, Ulrich, and the Minority Leader (Council Member Matteo) – **6**.

The following was the vote recorded for **Int. No. 2118-A**:

Affirmative – Adams, Ampry-Samuel, Ayala, Barron, Brannan, Brooks-Powers, Chin, Constantinides, Cornegy, D. Diaz, R. Diaz, Dromm, Eugene, Gennaro, Gibson, Gjonaj, Grodenchik, Holden, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Louis, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Reynoso, Riley, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Vallone, Van Bramer, the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **43**.

Negative – Borelli, Cabrera, Deutsch, Ulrich, Yeger, and the Minority Leader (Council Member Matteo) – **6**.

The following was the vote recorded for **Int. No. 2212-A**:

Affirmative – Adams, Ampry-Samuel, Ayala, Brannan, Brooks-Powers, Cabrera, Chin, Constantinides, Cornegy, D. Diaz, R. Diaz, Dromm, Eugene, Gennaro, Gibson, Grodenchik, Kallos, Koo, Koslowitz, Levin, Levine, Louis, Maisel, Miller, Moya, Powers, Reynoso, Riley, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **36**.

Negative – Barron, Borelli, Deutsch, Gjonaj, Holden, Lander, Menchaca, Perkins, Ulrich, Van Bramer, Yeger, and the Minority Leader (Council Member Matteo) – **12**.

Abstention – Vallone – **1**.

The following was the vote recorded for **Int. No. 2220-A**:

Affirmative – Adams, Ampry-Samuel, Ayala, Barron, Brannan, Brooks-Powers, Chin, Constantinides, Cornegy, D. Diaz, R. Diaz, Dromm, Eugene, Gennaro, Grodenchik, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Louis, Menchaca, Moya, Perkins, Powers, Reynoso, Riley, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Van Bramer, the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **37**.

Negative – Borelli, Cabrera, Deutsch, Gjonaj, Holden, Maisel, Ulrich, Vallone, Yeger, and the Minority Leader (Council Member Matteo) – **10**.

Abstention – Gibson and Miller – **2**.

The following was the vote recorded for **Int. No. 2224-A**:

Affirmative – Ampry-Samuel, Ayala, Barron, Brannan, Brooks-Powers, Chin, Constantinides, Cornegy, Deutsch, D. Diaz, R. Diaz, Dromm, Eugene, Gennaro, Gibson, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Louis, Maisel, Menchaca, Moya, Perkins, Powers, Reynoso, Riley, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Vallone, Van Bramer, the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **39**.

Negative – Adams, Borelli, Cabrera, Gjonaj, Grodenchik, Holden, Miller, Ulrich, Yeger, and the Minority Leader (Council Member Matteo) – **10**.

The following was the vote recorded for **Int. No. 2243-A**:

Affirmative – Adams, Ampry-Samuel, Ayala, Barron, Brannan, Brooks-Powers, Cabrera, Chin, Constantinides, Cornegy, D. Diaz, R. Diaz, Dromm, Eugene, Gennaro, Gibson, Gjonaj, Holden, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Louis, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Reynoso, Riley, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Vallone, Van Bramer, the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **43**.

Negative – Borelli, Deutsch, Grodenchik, Ulrich, Yeger, and the Minority Leader (Council Member Matteo) – **6**.

The following was the vote recorded for **L.U. No. 741 & Res. No. 1588**:

Affirmative – Adams, Ampry-Samuel, Ayala, Borelli, Brannan, Brooks-Powers, Cabrera, Chin, Constantinides, Cornegy, Deutsch, D. Diaz, R. Diaz, Dromm, Eugene, Gennaro, Gibson, Gjonaj, Grodenchik, Holden, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Louis, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Reynoso, Riley, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Ulrich, Vallone, Van Bramer, Yeger, the Minority Leader (Council Member Matteo), the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **48**.

Negative – Barron – **1**.

The following was the vote recorded for **L.U. No. 743 & Res. No. 1589** and **L.U. No. 744 & Res. No. 1590**:

Affirmative – Adams, Ampy-Samuel, Ayala, Borelli, Brannan, Brooks-Powers, Cabrera, Chin, Constantinides, Cornegy, Deutsch, D. Diaz, R. Diaz, Dromm, Eugene, Gennaro, Gibson, Gjonaj, Grodenchik, Holden, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Louis, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Reynoso, Riley, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Ulrich, Vallone, Van Bramer, Yeger, the Minority Leader (Council Member Matteo), the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **48**.

Abstention – Barron – **1**.

*The following Introductions were sent to the Mayor for his consideration and approval:
Int. Nos. 1671-A, 2118-A, 2212-A, 2220-A, 2224-A, and 2243-A.*

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 item Res. No. 1538-A

Report of the Committee on Public Safety in favor of approving, as amended, a Resolution calling on the New York State Legislature to pass, and the Governor to sign, S5252/A6012, which would remove the New York City Police Commissioner’s exclusive authority over police discipline.

The Committee on Public Safety, to which the annexed amended resolution was referred on February 11, 2021 (Minutes, page 218), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Public Safety for Int. No. 1671-A printed in the Reports of the Standing Committees section of these Minutes)

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Res. No. 1538-A:)

Res. No. 1538-A

Resolution calling on the New York State Legislature to pass, and the Governor to sign, S5252/A6012, which would remove the New York City Police Commissioner’s exclusive authority over police discipline.

By Council Members Cumbo, Levin, Rosenthal, Van Bramer, Kallos, Miller, Koslowitz, Constantinides, Louis, Chin, Rivera, Ampry-Samuel and Barron.

Whereas, The Civilian Complaint Review Board (CCRB) is a police oversight body made up of appointees from the Mayor, the Police Commissioner, the City Council, and the Public Advocate; and

Whereas, The CCRB is responsible for receiving, investigating, hearing, making findings, and recommending actions regarding complaints against members of the New York City Police Department (NYPD) alleging excessive use of force, abuse of authority, discourtesy, or use of offensive language; and

Whereas, While the CCRB can recommend discipline against officers, the Police Commissioner has final authority over discipline and can choose to disregard these recommendations and may impose lesser or greater discipline, or no discipline at all; and

Whereas, The CCRB tracks the rate at which the Police Commissioner follows the CCRB’s recommendations, which is known as the “concurrency rate”; and

Whereas, According to the CCRB’s most recent annual report, the concurrency rate was only 51 percent in 2019, and for the most serious cases—those where “charges and specifications” are recommended by the CCRB for prosecution at an administrative trial—the concurrency rate was only 32 percent; and

Whereas, An analysis published by *The New York Times* in November 2020 found that the NYPD “regularly ignored the [CCRB’s] recommendations, overruled them or downgraded the punishments, even when police officials confirmed that the officers had violated regulations,” and found this “pattern of lenient punishment holds true for about 71 percent of the 6,900 misconduct charges over the last two decades in which the [CCRB] recommended the highest level of discipline and a final outcome was recorded”; and

Whereas, That same analysis “shows that since [Mayor] de Blasio took office in 2014, the [NYPD] has overruled the [CCRB’s] recommendations in more than half of the cases in which the [CCRB] sought the most severe discipline”; and

Whereas, S5252/A6012, sponsored by Senator Jamaal T. Bailey and Assembly Member Catalina Cruz, would remove the Police Commissioner’s discretion to modify or reject a determination or recommendation made by the CCRB; and

Whereas, In addition, S5252/A6012 would provide due process and a fair and impartial determination of civilian complaints by a hearing officer who is independent of the Police Department; and

Whereas, Removing the Police Commissioner’s exclusive authority over police discipline and allowing the CCRB to impose discipline in certain cases would increase accountability and public trust in the NYPD; 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, S5252/A6012, which would remove the New York City Police Commissioner’s exclusive authority over police discipline.

ADRIENNE E. ADAMS, *Chairperson*; YDANIS A. RODRIGUEZ, CARLOS MENCHACA, I. DANEEK MILLER, JUSTIN L. BRANNAN, KEITH POWERS, KEVIN C. RILEY; Committee on Public Safety, March 25, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Rosenthal and Rose.*

Pursuant to Rule 8.50 of the Council, the Majority Leader and Acting President Pro Tempore (Council Member Cumbo) called for a voice vote. Hearing those in favor, the Majority Leader and Acting President Pro Tempore (Council Member Cumbo) declared the Resolution to be adopted.

The following 10 Council Members formally noted their intent to vote negative on this item: Council Members Borelli, Cabrera, Deutsch, Gennaro, Holden, Maisel, Treyger, Vallone, Yeger and the Minority Leader (Council Member Matteo).

The following Council Member formally noted her intent to abstain from voting on this item: Council Member Gibson.

Adopted by the Council by voice-vote.

Report for voice-vote item Res. No. 1547

Report of the Committee on Public Safety in favor of approving a Resolution calling upon the New York State Legislature to pass, and the Governor to sign, S2984/A1951, which would require New York Police Department officers to live within the five boroughs of New York City.

The Committee on Public Safety, to which the annexed resolution was referred on February 11, 2021 (Minutes, page 457), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Public Safety for Int. No. 1671-A printed in the Reports of the Standing Committees section of these Minutes)

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Res. No. 1547:)

Res. No. 1547

Resolution calling upon the New York State Legislature to pass, and the Governor to sign, S2984/A1951, which would require New York Police Department officers to live within the five boroughs of New York City.

By Council Members Moya, Kallos, Constantinides, Louis, Chin, Rosenthal, Rivera, Ampy-Samuel and Barron.

Whereas, S2984/A1951, sponsored by State Senator Kevin Parker and Assembly Member Catalina Cruz, were introduced in the New York State Senate to establish a residency requirement for police officers in cities with a population of one million or more residents, which includes New York City; and

Whereas, S2984/A1951, if passed, would require newly hired New York Police Department (NYPD) officers to live within one of the five boroughs of New York City within a year of appointment; and

Whereas, According to the NYPD Patrol Guide, NYPD officers are currently allowed to live in the five boroughs or the counties of Nassau, Suffolk, Rockland, Westchester, Putnam, or Orange, unlike NYPD's own civilian staff and other City agency staff who are subject to a two year New York City residency requirement; and

Whereas, Data from the NYPD shows that a majority of uniformed officers—51%—currently live outside of New York City, which is a decline from 2016 when 58% of officers lived in New York City; and

Whereas, A city residency requirement for NYPD officers has the potential to improve community-police relations, with officers having more of a stake in the city they patrol, and would increase the likelihood New York City taxpayer dollars, which pay for officers' salaries, remain in the communities served by the NYPD; 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, S2984/A1951, which would require New York Police Department officers to live within the five boroughs of New York City.

ADRIENNE E. ADAMS, *Chairperson*; YDANIS A. RODRIGUEZ, CARLOS MENCHACA, I. DANEEK MILLER, JUSTIN L. BRANNAN, KEITH POWERS, KEVIN C. RILEY; Committee on Public Safety, March 25, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Rosenthal and Rose.*

Pursuant to Rule 8.50 of the Council, the Majority Leader and Acting President Pro Tempore (Council Member Cumbo) called for a voice vote. Hearing those in favor, the Majority Leader and Acting President Pro Tempore (Council Member Cumbo) declared the Resolution to be adopted.

The following 7 Council Members formally noted their intent to vote negative on this item: Council Members Borelli, Cabrera, Deutsch, Gennaro, Holden, Yeger and the Minority Leader (Council Member Matteo).

The following Council Member formally noted her intent to abstain from voting on this item: Council Member Gibson.

Adopted by the Council by voice-vote.

At this point, the Speaker (Council Member Johnson) announced that the following items had been **preconsidered** by the Committee on Finance and had been favorably reported for adoption.

Report for voice-vote item Res. No. 1583

Report of the Committee on Finance in favor of approving a Resolution calling upon the New York State Legislature to pass, and the Governor to sign, S.4482/A.5092, which would establish the billionaire mark to market tax act, and to use the revenue generated to establish an excluded worker fund.

The Committee on Finance, to which the annexed preconsidered resolution was referred on March 25, 2021, respectfully

REPORTS:

I. Introduction

On March 25, 2021, the Committee on Finance, chaired by Council Member Daniel Dromm, will hold a hearing on Preconsidered Res. No., 1583 sponsored by Council Moya, calling upon the New York State Legislature to pass, and the Governor to sign, S.4482/A.5092, which would establish the billionaire mark to market tax act, and to use the revenue generated to establish an excluded worker fund.

II. Mark to Market taxation of Billionaires (S.4482/A.5092)

In the wake of the COVID-19 pandemic, wealth inequality is exploding across New York State. While regular New Yorkers struggle to make ends meet, the State's 120 billionaires are \$87.7 billion richer than they were at the beginning of the pandemic, their collective wealth jumping by 17%.¹

The Mark to Market Tax Act, S.4482/A.5092, sponsored by State Senator Jessica Ramos and Assembly Member Carmen N. De La Rosa, would tax the growth in wealth of these billionaires. Specifically, the tax would target the billionaires' unrealized capital gains at the same rate as ordinary income – presently 8.82%.² According to a group of legal and economic experts, the unrealized capital gains of these billionaires is real income that could be taxed, but that has not yet been taxed because of “special privileges granted for reasons of administrative convenience” under existing tax code.³ According to the State Legislature's fiscal estimate, the Act will generate \$23.3 billion in additional revenue for the State of New York for 2020, and another \$1.2 billion in each subsequent year.

III. Funding Excluded Workers

There are many unfunded needs in New York State. One unfunded priority is the need for funding to assist the hundreds of thousands of workers who have been excluded from receiving unemployment and certain federal stimulus benefits because of their immigration status or recent incarceration.

¹ Americans for Tax Fairness and Health Care for America Now!, New York Billionaires Grew \$88 Billion Richer Over First 10 Months of Pandemic, Their Collective Wealth Jumping By 17%, February 9, 2021, available at: <https://americansfortaxfairness.org/wp-content/uploads/New-York-State-Billionaires-Report-FINAL-2-8-2021.pdf>

² See NY Tax § 601.

³ See Letter of Legal and Economic Scholars to Governor Cuomo, Speaker Stewart-Cousins, and Speaker Heastie, December 9, 2020, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3766547

The New York State Assembly and Senate both included \$2.1 billion in their one-house budgets for a fund to provide unemployment insurance to workers who are excluded from the unemployment insurance system.⁴ This \$2.1 billion would be used to provide eligible workers with benefits retroactive to March 27, 2020 and through to September 6, 2021, in the amount of the applicable federal stimulus supplemental weekly benefit of \$600 from March 27, 2020 to July 31, 2020, and \$300 from August 1, 2020 to September 6, 2021.

These bills would not provide any benefits equivalent to what non-excluded workers received from state Unemployment Insurance. In the analysis of the Fiscal Policy Institute, matching for excluded workers the minimum level of benefits that other unemployed New Yorkers receive, including both state Unemployment Insurance benefits as well as federal supplement thereto, retroactive to April 1, 2020 and extending that aid through December 31, 2021, would require \$3.5 billion.⁵

IV. Preconsidered Resolution No. 1583

Preconsidered Resolution No. would call upon the New York State Legislature to pass, and the Governor to sign, S.4482/A.5092, which would establish the billionaire mark to market tax act, and to use the revenue generated to establish an excluded worker fund. The resolution specifically requests that the excluded worker fund receive a minimum of \$3.5 billion.

Accordingly, this Committee recommends its adoption.

(For text of the preconsidered resolution, please see the Introduction and Reading of Bills section printed in these Minutes)

DANIEL DROMM, *Chairperson*; KAREN KOSLOWITZ, JAMES G. VAN BRAMER, LAURIE A. CUMBO, VANESSA L. GIBSON, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, ALICKA AMPRY-SAMUEL, FRANCISCO P. MOYA, KEITH POWERS, FARAH N. LOUIS, DARMA V. DIAZ, JAMES F. GENNARO; Committee on Finance, March 25, 2021 (Remote Hearing).

Pursuant to Rule 8.50 of the Council, the Majority Leader and Acting President Pro Tempore (Council Member Cumbo) called for a voice vote. Hearing those in favor, the Majority Leader and Acting President Pro Tempore (Council Member Cumbo) declared the Resolution to be adopted.

The following 3 Council Members formally noted their intent to vote negative on this item: Council Members Deutsch, Yeger and the Minority Leader (Council Member Matteo).

The following Council Members formally noted his intent to abstain from voting on this item: Council Member Vallone.

Adopted by the Council by voice-vote.

⁴ See, S.B. 2506 (Education, Labor and Family Assistance budget bill), Part MM, 2021-2022 Session (N.Y. 2021), <https://www.nysenate.gov/legislation/bills/2021/s2506/amendment/original>, and A.B. 3003 (Aid to Localities budget bill), 2021-2022 Session (N.Y. 2021),

https://assembly.state.ny.us/leg/?default_fld=&bn=A03003&term=2021&Text=Y
⁵Fiscal Policy Institute, Brief Look: Unemployment Compensation for Excluded Workers; \$3.5 Billion Needed for 2020 and 2021, March 18, 2021, available at: <https://fiscalpolicy.org/wp-content/uploads/2021/03/FPI-Excluded-Workers-March-FINAL.pdf>.

At this point, the Speaker (Council Member Johnson) announced that the following items had been **preconsidered** by the Committee on Public Safety and had been favorably reported for adoption.

Report for voice-vote item Res. No. 1584

Report of the Committee on Public Safety in favor of approving a Resolution adopting a plan pursuant to State Executive Order Number 203.

The Committee on Public Safety, to which the annexed preconsidered resolution was referred on March 25, 2021, respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Public Safety for Int. No. 1671-A printed in the Reports of the Standing Committees section of these Minutes)

Accordingly, this Committee recommends its adoption.

(The following is the text of Res. No. 1584:)

Preconsidered Res. No. 1584

By the Committee on Public Safety (by request of the Mayor).

Resolution adopting a plan pursuant to State Executive Order Number 203.

Whereas, On June 12, 2020, Governor Andrew Cuomo issued Executive Order No. 203, directing each local government in the State to create a plan to reform and reinvent their police force; and

Whereas, If a plan is not adopted by the Council by April 1, 2021, the State Director of the Division of the Budget is authorized to withhold future appropriated State or federal funds for which New York City would otherwise be eligible; and

Whereas, The Mayor released part one of the Administration's draft plan on March 5, 2021 and part two on March 12, 2021; and

Whereas, A final, revised Police Reform and Reinvention Collaborative Plan is attached as an Appendix; now, therefore, be it

Resolved, That the Council of the City of New York adopts a plan pursuant to State Executive Order Number 203.

APPENDIX BELOW

APPENDIX

New York City Police Reform and Reinvention Collaborative Plan

This plan, which is responsive to New York State Executive Order 203, has been informed by the full community and stakeholder engagement process as well as public comments received from Part 1, issued on March 5th, and Part 2, issued on March 12th, as well as feedback from City Council.

Developing the New York City Police Reform and Reinvention Collaborative

The City's Reform and Reinvention Collaborative was convened by the Mayor, and led by the First Deputy Mayor working in partnership with the Police Commissioner, leaders across City Hall, the Mayor's Office of Criminal Justice, Community Affairs Unit, Legislative Affairs Unit, and the Law Department.

Listening to New Yorkers

The New York City Police Reform and Reinvention Collaborative held more than 85 meetings and town halls, including nine public listening sessions, over several months to get testimony and feedback from a broad range of New Yorkers.

There were meetings with external stakeholders including CBOs, advocacy groups, clergy, racial justice advocates, cure violence providers, youth groups and youth voices, ethnic and religious organizations, BIDs and small business owners, non-profits, LGBTQIA+ community leaders, the deaf and hard-of-hearing community, people with disabilities, tenants' associations, shelter-based and affordable housing communities and providers, people involved in the justice system, crime victims, policy experts, prosecutors, oversight bodies, elected officials, academic leaders, and many others.

The New York City Police Reform and Reinvention Collaborative hosted meetings with uniform and civilian members of the NYPD. These meetings paralleled the community meetings, focusing on members assigned to work in the very same highly policed neighborhoods as the residents who offered testimony. Uniform and civilian members of all ranks, ages, races, genders, orientations, ethnic backgrounds, and assignments participated, along with leaders from the NYPD's police unions and 36 different fraternal organizations.

Following the submission of the second part of the plan, the Council reviewed and revised the plan based on feedback from advocates, stakeholders, and Council Members.

The New York City Police Reform and Reinvention Collaborative Plan

All initiatives in this plan will be launched, and many fully implemented, in 2021. By May 1, 2021, the City will publish a commitments tracker that includes implementation timelines, implementation status, and metrics for all the following proposals.

The City's plan focuses on five goals:

1. The Decriminalization of Poverty.
2. Recognition and Continual Examination of Historical and Modern-Day Racialized Policing in New York City.
3. Transparency and Accountability to the People of New York City.
4. Community Representation and Partnership.
5. A Diverse, Resilient, and Supportive NYPD.

I. The Decriminalization of Poverty.

For far too many New Yorkers, there is an inescapable cycle of disadvantage and criminal justice involvement. We need a coordinated response to analyze and interrupt this painful cycle. Following the death of George Floyd, there were widespread calls – including during the listening sessions and focus groups as a part of this process – to reimagine community safety infrastructure. As the responsibilities of law enforcement officers have ballooned over the past few decades, social issues such as homelessness, mental illness, substance abuse, and access to transportation, have been addressed with criminal justice responses, ultimately criminalizing poverty.

The role of police when responding to non-emergency and non-crime situations must be critically and vigorously reassessed. The City must address this for the communities that have been harmed by current practices, and for our police officers who are put in situations they are not adequately or appropriately trained to handle. This reality puts community members and law enforcement in an impossible situation that has too often had deadly consequences. Alternative programs and models must be reimaged, developed, piloted, and established to better assist and support individuals, families and communities in crises that are not criminal in nature.

Police have become the default “front door” for many complex social, emotional, and behavioral situations in our society, in part because they are the fastest to arrive and because they simply must respond when called. This pattern is particularly true in low-income and communities of color, which had experienced decades of under-investment in critical services. This unnecessary entanglement with the criminal justice system has created a poverty-to-prison pipeline for too many people.

True police reform must also be paired with comprehensive, radical economic justice, and budget justice. The City will combat the unemployment crisis in communities of color by directly supporting small businesses with new tax credits and loans, grant more contracts to minority- and women-owned businesses, expand access to apprenticeship programs, and push forward community hiring requirements that guarantee jobs in low-income communities. The City will also continue to use its regulatory power, procurement power, budgeting, and convening power to fight for economic justice in the private sector and civil society. This is the social and economic justice required to build an inclusive city.

As we invest in building neighborhood resilience, we must constantly examine how safety is created. Police play an essential role in keeping our communities safe, but they cannot do it alone. Communities must be co-creators of public safety along with police. Together, residents and police officers can determine their preferred strategies for reinforcing neighborhood policing, preventing crime, and partnering with community organizations.

The City will systematically examine and end policies that lead to over-policing lower-income and people of color communities, perpetuating the cycle of impoverishment and incarceration. These assessments will focus on disparities in enforcement, as well as the disparate impact these policies have on these communities.

- a) The Mayor’s Office of Criminal Justice will assess current summons practices to determine if and how they are disproportionately affecting low-income and/or minority communities and make all data used in this analysis public. Any changes to City policies resulting from this assessment will undergo a notice and comment period to ensure in the input of stakeholders and impacted communities.
- b) The Mayor’s Office of Criminal Justice will assess disparities in the use and impact of different enforcement tools such as warnings, summonses, arrests, and desk appearance tickets, among others, for comparable offenses. This assessment will also include review of the practices of the District Attorneys’ Offices. All data used in this analysis will be made public. Any changes to City policies resulting from this assessment will undergo a notice and comment period to ensure in the input of stakeholders and impacted communities.

- c) The Mayor's Office of Criminal Justice will systematically examine policies that affect low-income New Yorkers' access to public transportation and may result in contacts with the criminal justice system.
- d) The City has abolished all fees and mandatory surcharges associated with supervision and diversion programs and will work with Council to pass legislation that ensures that no such fees are charged.
- e) The City supports legislation to amend the Administrative Code, in relation to prohibiting housing discrimination based on arrest or criminal record.
- f) The City supports the reimagining of State parole supervision via the passage of the Less is More: Community Supervision Revocation Reform Act, which eliminates reincarceration for most minor non-criminal violations, requires prompt judicial review of parole warrants, caps revocation sanctions, and incentives parole compliance by shortening supervision terms based on good behavior.
- g) The Mayor's Office of Criminal Justice will analyze the collateral consequences of drug-related arrests or convictions, including City agency policies regarding findings of drug use or to discovery of drug convictions or arrests.

The City will expand SYEP by adding 5,000 new spots this summer for CUNY Students.

The City will dedicate an additional 5,000 slots within the Summer Youth Employment Program (SYEP) to high-need CUNY students. DYCD and CUNY will recruit CUNY students from Taskforce neighborhoods and NYCHA developments. Students will be placed in summer jobs that support City's economic recovery and racial equity and inclusion goals.

The City prioritizes principles of budget justice and will provide key services to support low-income individuals, families, and communities, and reduce the likelihood of justice involvement.

- a) Starting June 1, 2021 the City will create an Ending Poverty to Prison Pipeline initiative to prevent and reduce justice system contact and connect low-income and justice-involved clients and their families with streamlined services. The initiative will:
 - Analyze and map the pathways between poverty and the criminal justice system. Develop or deepen available programming to prevent communities afflicted with poverty from ending up on these pathways.
 - Coordinate and streamline care across City agencies and use experiences of low-income and justice system affected individuals to create recommendations.
 - Develop service-coordination strategies and build continuums of care in consultation with affected individuals, as well as stakeholders, including community-based health and social providers and people with past justice involvement.
 - Establish formal agreements among health and human services agencies to coordinate care for justice-involved individuals and families.
 - Develop opportunities for faith leaders and other allied professionals to connect low-income and justice-involved individuals and families with health and human services.
- b) The Mayor will issue an Executive Order requiring City agencies to establish service plans to ensure access to health and human services for individuals and families affected by the criminal justice system, similar to the City mandated Language Access Plan for health and human services agencies. The Executive Order, which will be signed by July 1, 2021, will:

- Require health and human services agencies to develop service plans to identify and respond to the acute needs of those affected by the justice system.
 - Support the implementation of service plans by requiring dedicated systems navigation staff within each health and human services City agency to troubleshoot service provision issues and coordinate access to services.
 - The City will explore structural opportunities to ensure that health and human services are provided in a supportive, and client-centric manner, and develop an alternative model with funding for responding to and addressing these behaviors and activities at the individual and community level. Realigning funding and ownership of these services from criminal justice agencies, the health and human services sector would streamline and more efficiently connect clients to a full range of supportive health and human services.
 - The City will examine whether health and human services Requests for Proposals could include score components that support best practices for serving justice-system affected families and individuals.
- c) The City will standardize service entry-points to develop a “no wrong door” approach. Currently, many health and human services are specialized and siloed, requiring that clients seek out services at multiple agencies to address the full extent of their needs. This process is made worse by time consuming, redundant, and stressful intake practices and conditions that discourage client engagement, and lack of cross-agency collaboration and communication. This standardization will include:
- Removal of administrative barriers to care.
 - Standardized intake practices and data-sharing across City agencies.
 - Ensuring that agencies provide consistent information about available resources for low-income and justice system affected individuals and families.
 - Collaborations between City agencies, faith leaders, and academic institutions to create accessible and consistently available resources for low-income and justice system affected individuals.
- d) The City will build a trauma-informed health and human services sector to prevent justice system contact due to trauma-related mental health and/or substance use issues, support mental and long-term physical health outcomes, and address trauma experienced by low-income and justice-involved individuals and families.
- e) The City will commit \$15 million to allow the Council to fund programs to fund critical anti-violence, social safety net, and hate violence prevention programming.
- f) The Administration, working with the City Council, will restore funding for vital agencies that are critical to the social and emotional well-being of New Yorkers, including the Department of Parks and Recreation and the Department of Youth and Community Development.

To break the school to prison pipeline, the City will prioritize the health and wellbeing of youth while minimizing potential exposure to trauma in City schools through the investment in human resources and trauma-informed practices, moving school safety agents from the NYPD to the Department of Education and retraining them, and revising policies that govern school safety.

- a) The City will invest at least \$30 million to ensure that every school can effectively support students’ social emotional and behavioral needs with a trauma-informed approach. This may include investing in staff trained and coached in providing direct services to students, such as social workers, behavioral specialists, trauma-informed de-escalation staff, conflict resolution specialists, peacemakers, and school climate and restorative justice staff.

- b) The City will redesign the role of school safety agents and prioritize the specific needs of the school community. The Transition Team will work with students, parents, administrators, educators, advocates, labor and others to develop critical aspects of this two-year transition. Outreach to an initial cohort of advocates will begin this week and will end in about a month. This will include outreach to many of our longstanding partners on school climate and school safety environment issues as well as groups focused on students with disabilities. The City will engage with this group throughout the transition process to ensure a smooth and just transition.
- c) Following the transition of school safety agents to the Department of Education, the City and Department of Education will critically review all policies related to school safety officers' use of physical interventions on students, including metal handcuffs for students 16 and older, to ensure they are trauma-informed, guided by best practices, and ultimately reduce existing racial disparities.

The City will develop a health-centered response to mental health crises.

In November 2020, the City announced that for the first time we will be launching a health only response to 911 mental health calls in high need communities. B-HEARD (the Behavioral Health Emergency Assistance Response Division) will be a critical step forward in the City's commitment to treat mental health crises as public-health not public-safety issues.

Currently, the NYPD officers and FDNY Emergency Medical Services Emergency Medical Technicians (EMTs) respond to nearly all mental health 911 calls, regardless of the severity of health needs, whether a crime is involved, or whether there is an imminent risk of violence. Beginning in Spring 2021 in Northern Manhattan (the 32nd, 25th and 28th precincts in Harlem and East Harlem), the new Mental Health Teams of social workers and FDNY/EMS emergency medical technicians will be the new default response to mental health emergencies. In situations involving a weapon or imminent risk of harm, the NYPD and EMS will respond.

B-HEARD teams will have the experience and expertise to de-escalate crisis situations and respond to a range of behavioral health problems, such as suicidal thinking, substance misuse, and serious mental illness, as well as physical health problems, which can be exacerbated by or mask mental health problems.

The overall number of mental health 911 calls fell by over 8,000 in 2019 and by nearly 10,000 in 2020, the first decline following a decade in which 911 mental health calls increased every year and in every precinct in the city. This decline follows a concerted effort to strengthen how the City prevents and responds to mental health crises, including the introduction of new mobile intervention and treatment teams over the last several years and other strategies developed by the NYC Crisis Prevention and Response Task Force. B-HEARD will be a critical component of this work. The City looks forward to significantly and rapidly expanding this program, laying the groundwork for it to become a citywide initiative.

The City will also commit to eliminating the disparities in access to mental health care. As part of the plan, the City will fund:

- The launch of a new intensive case management program, in underserved communities, called CONNEC2T to provide both mobile and site-based care based on intensive, ongoing engagement. With a new \$14.5 million investment, the City can fund intensive case management services for 850 people. These clients are similar to those served by Assertive Community Treatment (ACT) Teams, though there is a State Medicaid cap that precludes further expansion of those teams.
- Expansion of Intensive Mobile Treatment (IMT) Teams to serve those with recent and frequent contact with the mental health, criminal justice, and homeless services systems, recent behavior that is unsafe

and escalating, and who were poorly served by traditional treatment model. The City provided \$4.4 million in FY 2021 for four IMT Teams. The City will double this investment for FY 2022.

The City supports adopting important new public health approaches to reducing overdoses.

The City renews its call for New York State to allow the Overdose Prevention Center pilot, which use safe injection as a strategy to reduce opioid overdose and public injection. Overdose Prevention Centers will save the lives of New Yorkers, and we can't wait any longer. The City is committed to a public health approach to reducing overdose including harm reduction practices, as shown through investments made in HealingNYC. intervention and treatment teams over the last several years and other strategies developed by the New York City Crisis Prevention and Response Task Force. B-HEARD will be a critical component of this work. The City looks forward to significantly and rapidly expanding this program, laying the groundwork for it to become a citywide initiative.

The City is pursuing new approaches to outreach and regulation through civilian agencies. The City has identified several important areas of daily life, where outreach and regulatory functions should be handled by non-law-enforcement personnel and is in the process of completing these changes.

- a) Homeless outreach: The City has been shifting primary responsibility for homeless outreach efforts from the NYPD to the Department of Homeless Services (DHS), with the NYPD moving to a more supportive role. DHS and contracted not-for-profit organizations are conducting outreach to individuals experiencing street homelessness without a police presence.
- b) Street Vending: On January 15, 2021, enforcement of street vending moved to the Department of Consumer and Worker Protection (DCWP). DCWP is the coordinating agency for all street vending activity, working with other agencies to provide community support, equitable enforcement, and access to resources.
- c) Press Credentialing: Press credentialing is an important process in which journalists receive identification to cross police lines to cover important events. This process is currently run by the NYPD. The Council will vote on Int. No. 2118 (sponsored by Council Member Powers), which removes this service from NYPD and transition it to the Mayor's Office of Media and Entertainment, which is better suited to perform this role, and will ensure the credentialing process is efficient, transparent, and fair. The Mayor is supportive of this bill.

The Council will vote on legislation to establish a crash investigation and analysis unit within the Department of Transportation.

It is the City's duty to ensure that our streets are safe for pedestrians, cyclists, and drivers. This means going beyond a law-enforcement-focused approach and further examining safety from a transportation-focused viewpoint. Int. No. 2224 (sponsored by Council Members Ydanis Rodriguez and Speaker Corey Johnson) centers DOT as the agency responsible for ensuring street safety in New York City by expanding their role in serious traffic crashes, while allowing NYPD to maintain its role in criminal investigations that result from traffic crashes. The Mayor is supportive of this bill.

The City will develop new policies and approaches to combatting sex trafficking that focus on the traffickers, and do not entangle victims or those selling sex in the criminal justice system.

- a) The City supports changes in State Law that would expand the number of crimes that will cause a victim of sex or labor trafficking to have their conviction vacated as a way of supporting victims of these crimes. Victims of sex trafficking often commit crimes at the direction of their trafficker. This has

especially harmful consequences for immigrants for whom criminal convictions can have immigration consequences.

- b) The City will formalize the Task Force on Health and Safety Needs of Sex Workers to expand supportive community-based services for sex workers. Initially launched in 2018, the Task Force includes representatives from the NYPD, the Office of the First Lady of New York City, Department of Health and Mental Hygiene, the Department of Social Services, Law Department, Department of Youth and Community Development, Commission on Human Rights, the Mayor's Office to End Domestic and Gender-Based Violence (ENDGBV), the Mayor's Office of Immigrant Affairs, the Administration for Children's Services, the Unity Project, and the Mayor's Office of Criminal Justice.

The Task Force will consult with community groups and the advocacy community as well those with lived experiences, including survivors of gender-based violence, survivors of labor and sexual trafficking, those involved in the sex trade and sex workers.

This Task Force will explore and recommend proposals related to sex work programming, services, and decriminalization including new partnerships outside of law enforcement. Through this group, that will be launched by May 1, the City will:

- Explore and refine proposals related to sex work programs and services, especially sex worker-led health, employment, and safety programs.
 - Identify and support new partnerships outside of law enforcement that focus on labor exploitation and trafficking as well as supporting affected communities.
 - Create strategies to address racialized policing of sex work. Only 8% of individuals arrested for patronizing a prostitute in 2019 were White, while 37% of individuals arrested were Black, 39% were Hispanic, and 13% were Asian.
 - Review what efforts are being made to identify where labor exploitation may be contributing to or occurring in trafficking cases and will establish procedures including referrals to labor rights and immigration services.
- c) The City will develop new strategies to combat trafficking while working to eliminate arrests for selling sex. Although there has been a reduction in arrests for prostitution, arrests for selling sex do continue (376 in 2019 compared to 1790 in 2014) as does the threat of arrest, potentially resulting in coercive practices. These arrests are driven by complaints, but racial disparities persist. In 2019, approx. 7% of those arrested on all prostitution-related charges were White, compared to 31% Asian, 33% Black and 29% Hispanic.
- d) The NYPD will review policies and procedures for identifying and investigating human trafficking to develop alternative methods that focus on arresting traffickers without further criminalizing and harming those directly involved in the sex trade. The NYPD will collaborate with other agencies to maximize their ability to arrest and prosecute traffickers and violent offenders without collateral trauma to people engaged in consensual sex work or victims of exploitation. This will build on progress made in this Administration to drastically reduce the arrests of sex workers.
- e) The NYPD, ENDGBV, the Unity Project, and other experts will support officer training on identifying people who are being trafficked or exploited as well as improving engagement with members of the sex work community to mitigate the impact of law enforcement actions and ensure those who want services have full and fair information and access to them.

- f) The NYPD also commits to working with the above partners on improving communication and creating information sharing structures where police can provide more information on enforcement actions and receive feedback from stakeholders and on-the-ground community members to inform enforcement strategies. These conversations can facilitate reporting of violence and exploitation, improve the ability to police trafficking, and ensure both victims and sex workers who should feel safe reaching out to law enforcement for help. In addition, any changes to City policies stemming from this work will undergo a notice and comment period to ensure in the input of stakeholders and impacted communities.

The City will create a pilot program to assist families with children at risk of homelessness earlier in the housing instability spectrum, before their housing situation reaches a crisis point.

The City will fund \$1.28 million for the Department of Social Services Homebase budget for a two-year pilot to expand prevention services to families with children experiencing chronic school absenteeism or justice-system involvement and at risk of homelessness, with the number of families to be served determined through the development of the pilot and with an evaluation to determine the effectiveness of the pilot and whether it should be expanded.

II. Recognition and Continual Examination of the Historical and Modern-Day Racialized Policing in New York City.

Racialized policing in New York City has existed since the Department's inception and persists through contemporary police policies and practices. Testimony from New Yorkers gave voice to the legacy of disparate enforcement, aggressive stop and frisk, and over-policing in Black, Brown, and immigrant communities.

Addressing the legacy and harm of racialized policing in New York required a recognition and public acknowledgement of the Department's troubled history and current challenges with race. The City commits to a critical examination of all City policies and practices that perpetuate structural and institutional racism.

We must conduct a critical examination of the policies and practices that perpetuate structural and institutional racism. Race remains the defining characteristic and predictor of heightened police interactions.

Because of the disproportionate enforcement experienced in communities of color, the effects of use of force are also predominantly felt in these communities. Therefore, a true reckoning with racialized policing requires addressing the harms of force and reducing its use.

All police practices, and particularly those that allow for high levels of discretion, must be assessed for explicit and implicit bias, and for unintended consequences that may reinforce structures of racism and produce racially disparate outcomes. Members of the public made at least 2,495 complaints of bias policing since the "Racial Profiling and Bias Based Policing" complaint category was created in 2014; the majority (68%) of these complaints included allegations of discriminatory policing based on race, ethnicity, color, or national origin.

The City will create a dedicated process to acknowledge, address, and repair past and present injustices and trauma caused by the practice of racialized policing.

- a) The City will work with reconciliation and restorative justice scholars and practitioners to devise and execute an authentic, participatory acknowledgment and reconciliation process at the city and local levels. This will include engagement of New York City residents selected by community stakeholders and will focus on NYPD practices at the Citywide and precinct levels.

- b) The City will produce a comprehensive report documenting the past and present history of racialized policing in New York City, incorporating findings and testimony from the reconciliation and restorative justice process.
- c) The City will work with the NYPD to ensure that past harms brought to light during the reconciliation process are not only acknowledged but can be investigated and subjected to accountability measures.
- d) The City will work with relevant stakeholders to explore, develop, and champion a reparative justice policies in response to the legacy of racially motivated policing. This includes identifying community reparative justice responses that most directly address the racialized policies and practices that have harmed New Yorkers.
- e) The Department of Education will develop and implement educational materials based on the findings of the reconciliation and restorative justice process. These materials will be used to educate City school students on the history, effect, and legacy of racialized policing in New York City. These educational resources will be provided to every public-school student.
- f) The NYPD will also develop and implement training materials to educate new recruit classes of officers on the history, effect, and legacy of racialized policing in New York City.

City Hall will conduct a comprehensive, independent review to identify and assess persistent structures of racism within the Department.

City Hall will contract an independent entity by July 1, 2021, to conduct a top to bottom review of:

- public-facing NYPD policies, and practices to identify areas in which structures of racism affect New Yorkers (e.g., unintended consequences of crime fighting strategies), and;
- internal systems, policies, and practices within the NYPD to identify areas in which structural racism affects the Department and its employees.

This process will include a robust community engagement effort, building upon the one employed as part of the Joint Remedial Process undertaken as part of the federal monitorship in the *Floyd v. City of New York* litigation.

The City will require reporting on traffic stops.

Int. No. 1671 (sponsored by Council Member Adrienne Adams), which is part of this plan, requires the NYPD to report specific information on all vehicle encounters, including the demographic information of the driver. The resulting reports would allow us to clearly see if the NYPD is unfairly targeting certain communities for disparate enforcement. The Mayor is supportive of this bill.

The NYPD will require supervisors to proactively monitor discretionary officer activity for indications of biased-based policing and take corrective measures immediately.

The NYPD Disciplinary Matrix will be updated to clarify that failure to report biased-motivated or prejudiced policing are subject to applicable progressive discipline. Currently the Patrol Guide defines a failure to report corruption, misconduct, or allegations of corruption or misconduct, and notes that conduct designed to cover up corruption will be charged as obstruction of justice or other criminal act. However, there is no defined penalty in the current discipline matrix, and this will be remedied.

The NYPD will augment racial bias training for NYPD leadership.

In 2018, the NYPD began training all sworn personnel on implicit biases, including racial biases. This training was completed in 2020 and all recruits are now trained while they are in the Academy. Each training specifically addresses how unlawful biased practices, especially racially biased practices, damage NYPD's ability to build trust. The NYPD is now in the process of providing implicit bias training for all civilian members.

Additionally, the Department will explore providing additional racial bias trainings for all executives in the rank of Captain and above focused on their specific role, in concert with community experts.

The NYPD will educate NYPD leadership and Neighborhood Coordination Officers on restorative justice processes, and design processes to repair relationships with communities.

The NYPD has worked with the New York Peace Institute to train Neighborhood Coordination Officers (NCOs) in mediation, de-escalation, and conflict resolution skills. This training will continue to ensure all of our NCOs are trained in these important concepts. The City will go further to ensure principles of Restorative Justice and reconciliation are deeply engrained in policing in New York City. Restorative justice practices allow the harmed party and the party who caused the harm to be restored and reintegrated into the social fabric of the community.

The City will contract with a community-based organization to work with all NCOs, especially those in the most affected communities, to institutionalize restorative justice and reconciliation practices to address the harmful effects of force and build mutual trust between police and those communities.

The NYPD will enhance positive reinforcement, formally and informally, to change culture.

In addition to a number of long-standing programs that reflect the NYPD's commitment to employee recognition, the NYPD is developing a new program called "Shout Out a Co-Worker" which will ask members to nominate a fellow co-worker for recent, outstanding work to receive departmental rewards. The NYPD will also incorporate this recognition into the formal personnel record.

The NYPD will consistently assess and improve practices and policies through accreditation.

The NYPD will seek accreditation through CALEA, which is a non-profit that improves law enforcement service by creating a national body of standards, assessing law enforcement agency compliance, and facilitating agencies' pursuit of professional excellence. CALEA accreditation strengthens agency accountability through a continuum of close to 500 standards that clearly define authority, performance, and responsibilities. With respect to use of force, CALEA standards require policies to emphasize the agency's core values and intent to meet the public's expectations on topics including de-escalation, the use of deadly force, the use of less-lethal weapons and policies regarding intervention and rendering aid.

III. Transparency and Accountability to the People of New York City.

To earn the trust of all the City's communities, the NYPD must be transparent while holding members accountable. New York City has an extensive set of internal and external accountability and oversight mechanisms. These include the Commission to Combat Police Corruption (CCPC) to monitor and evaluate anticorruption programs; the Civilian Complaint Review Board (CCRB), to receive, investigate, mediate, hear, make findings and recommend action on complaints against police officers; and the NYPD Inspector General at the Department of Investigation, charged with investigating, reviewing, studying, auditing, and making recommendations related to the NYPD. The plan proposes strengthening some areas and engaging in structural reform of others.

The NYPD will ensure that at-risk officers are identified, and that swift, appropriate interventions occur.

While the NYPD conducts robust background checks to assess candidates during the hiring process, there are officers who are nonetheless potentially at risk of poor performance, affecting public and officer safety and community trust. It is imperative that the NYPD invest resources, including staffing and technology to automate certain aspects of the Early Intervention Program and prepare a robust analysis of the efficacy of existing interventions. The City will also invest resources to support the amplification of existing interventions and the development of new options for interventions that reduce risks. This enhanced program will (1) identify officers whose performance is sub-optimal at the earliest possible indication of risk, and (2) take timely and impactful steps to improve officer performance, in order to mitigate any and all unnecessary risk to the public, the officer, and fellow members of the service.

In June 2020, the Council passed legislation expanding the categories of information included in its Early Intervention System (EIS) to include information like certain types of arrests made, incidents of excessive force, and ongoing disciplinary proceedings. The NYPD is also now required to increase transparency around its system by regularly reporting on the information included and how it's utilized.

The NYPD will build upon the Early Intervention Program, initially launched in August of 2020, using a combination of objective threshold criteria and a 360-degree performance review to identify at risk officers who may be eligible for intervention. Interventions range from change in assignment and additional supervision and training, to referrals to the counseling unit, or investigation of potential misconduct by the Internal Affairs Bureau, which may result in discipline up to or including termination.

- a) The NYPD will also design new interventions, including amplified re-training and senior leader mentorship programs, to reduce risk to the public, the officer, and the Department.
- b) Additionally, precinct and borough commanders with high rates of misconduct among their ranks will be subjected to coaching and intervention, as well as codified accountability processes, that may include removal from their command.
- c) When evaluating a supervisor for promotion, evidence of ethical and responsible leadership, including evidence of supervisors actively remedying identified risk factors, will be credited in the supervisor's favor.

The City will hold police officers accountable for misconduct through internal NYPD disciplinary decisions that are transparent, consistent, and fair.

The disciplinary system should be based on five values:

1. Holding officers accountable for misconduct and harm to the public.
2. Keeping a record and recognizing disciplinary actions as vital sources of information about an officer, supervisors, and the department as a whole.
3. Identifying patterns and problems related to policies, training, supervision, and institutional performance rather than mere individual misconduct.
4. Building public trust and community cohesion through timely decision making.
5. Holding the Police Commissioner accountable for the conduct of those who serve in the Department.

In January 2021, following the recommendation of the Independent Panel on the Disciplinary System of the New York City Police Department and Council legislation, the first NYPD Disciplinary System Penalty Guidelines ("Discipline Matrix"), was developed which provides guidelines for discipline in instances of officer misconduct.

The NYPD and CCRB then signed a Memorandum of Understanding (MOU), formally agreeing to use of the Matrix. Among other provisions, the MOU ensures the CCRB has timely access to the NYPD employment history for its cases. The Matrix outlines penalties that may be adjusted up or down in a set window based on aggravating and mitigating factors. Penalties escalate with repeated offenses. This improves:

- Accountability, via penalties that are fair and proportional.
- Transparency, as both the NYPD and community know what discipline to expect.
- Consistency, with similar actions being treated similarly.

The City will monitor implementation of the Discipline Matrix and enhance transparency regarding its use.

- a) Both CCRB and the NYPD have formally agreed to follow the Matrix. The discipline matrix currently requires an annual review, according to City legislation and CCRB requirements. The City commits to a more frequent, semi-annual review in the first year. Any changes that result from the review would require a 30-day public comment period, and all reviews will be made public.
- b) The NYPD will provide a minimum 30-day public comment period for future changes to the Discipline Matrix. The revised Matrix will be posted by the NYPD on or before the date at which it takes effect.
- c) The City will hold officers accountable for “failure to take police action.” The consequences of an officer failing to take police action, a specific category of misconduct, can be potentially devastating. These incidents are also very fact-specific and can result in a very wide range of consequences. Currently, the Discipline Matrix indicates a presumptive penalty of 20 penalty days, with a range of 10 penalty days with mitigating factors and 30 days with aggravating factors. An oversight entity will review these cases to better understand the types of misconduct which fall under this category and its consequences, followed by a determination regarding the appropriateness of this penalty range.
- d) NYPD will make public “deviation letters” that set out the Police Commissioner’s specific rationale for exercising his discretion to deviate from guidelines set by the new disciplinary matrix.

The City will expand and strengthen CCRB.

The City has announced and the Council will pass legislation giving CCRB authority to investigate instances of biased-based policing. This authority is currently placed with NYPD. The NYPD, similar to law enforcement entities around the country, has been largely unsuccessful in substantiating allegations of bias-based policing due to the natures of these cases and the type of evidence necessary prove them. This is an important step toward building trust and accountability, and ensuring racial bias is eliminated wherever it is found.

Int. No. 2212 (sponsored by Council Member Vanessa Gibson) will give CCRB the authority to investigate allegations of racial profiling and biased policing. The legislation also gives CCRB the authority to examine officer history, should an allegation of biased policing or profiling be substantiated, and make recommendations to NYPD based on those findings. The Mayor is supportive of this bill.

The City will propose legislation to increase CCRB’s authority so it can initiate investigations on its own. Currently, CCRB can investigate cases brought to it through a civilian complaint only.

The City supports a State law change that would broaden access to sealed records for specified entities, including CCRB, charged with investigating police misconduct, especially biased-policing investigations.

State law restricts the use of sealed records by entities investigating allegations of police misconduct, including abuses of authority. The proposed change in State law would improve the ability of CCRB in particular to investigate misconduct, especially related to racial profiling and bias-based policing, by permitting appropriate access to and use of relevant documentation or evidence that may be protected by sealing.

In certain egregious cases, the City should have the ability to impose suspensions without pay for longer than 30 days while the disciplinary process is underway.

The City supports a State Law change to increase the 30-day cap in unpaid suspensions for certain egregious cases of misconduct by police officers (that which resulted in death or serious physical injury which creates substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ), and cases at the Commissioner's discretion.

Under current State law, a police officer who is suspended from duty, including when termination is pending, may not be paid for the first 30 days of their suspension, but subsequently is entitled to collect their regular pay no matter how long disciplinary proceedings take to resolve. This minimizes the immediate consequences for the officer and removes incentive for the disciplinary process to move forward quickly. This provision in state law should be amended to require that suspensions or terminations based on charges resulting in death or serious injury to the public, or other cases at the Commissioner's discretion, be unpaid until they are resolved.

Pension forfeiture must be a more meaningful and used disciplinary penalty for the most egregious instances of misconduct.

The City supports a State law change to create a pension reduction or forfeiture remedy for the most egregious misconduct cases, for example where there is death or serious physical injury that creates substantial risk of death or that causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

The Council will vote on legislation to ensure that officers who violate Constitutional rights in the course of a search and seizure or by the use of excessive force are not entitled to Qualified Immunity.

Int. No. 2220 (sponsored by Council Member Levin) creates a new local civil right providing protections against unreasonable search and seizure and excessive force. The Mayor is supportive of the bill.

The City will create a Citywide policy to strengthen transparency and accountability in the use of biometric technology.

The Administration will establish a citywide biometric technology policy, by Mayoral Executive Order no later than September 1, 2021, to govern the fair and responsible use of biometric technology by all City agencies. The establishment of a uniform citywide policy on the use of biometric technology by City agencies—several of which, including the NYPD, are already using biometric systems in limited contexts pursuant to agency-specific policies or standards—is a necessary component of the City's work to promote equity, justice, transparency, and accountability for New Yorkers and our communities.

This policy will establish standards and limits for how and under what circumstances these technologies may be used by City agencies, in a manner consistent with upholding New Yorkers' rights and privacy, and which protects the security of highly sensitive biometric information collected by or on behalf of the City. A citywide biometric technology policy will require, through centralized oversight, the review of agency use of such types of tools, and agencies' compliance with new protocols for acquisition, implementation and transparency established by the policy to ensure that any use of this type of data and technology meets the City's standards for fair and responsible use.

In order to ensure that the goals of equity, justice, transparency, and accountability are achieved, the City will first publish a draft policy and allow for public comment. The City will review and consider all comments before the Mayor issues an Executive Order.

The City will provide more insight into the NYPD's budget during the FY 2022 Executive Budget by including a more particularized breakdown of the agency's spending.

Making additional details regarding the NYPD's budget available to Council Members and the public will allow for better oversight and provide a better understanding of how the agency is spending public funds.

The NYPD policy changes that are identified as having a potential public impact, including those in the Patrol Guide, and that aren't otherwise statutorily mandated will be subjected to public comment.

NYPD will develop a policy regarding notice and public comment.

The City will equip New York City Sheriff's Deputies with body-worn cameras.

In the past decade, the Sheriff's Office has undertaken a significant increase in public safety duties, including enforcing state rules related to managing the COVID-19 pandemic and overseeing the electronic monitoring program. Even before this increase in responsibility, the Sheriff's Office regularly interacted with the public when enforcing laws relating to certain tax crimes and deed fraud.

To increase transparency, improve interactions between officers and the public, and align the NYC Sheriff's Office with other law enforcement agencies in New York City, Sheriff's deputies will be equipped with body-worn cameras in 2021.

V. Community Representation and Partnership

In conversations about community engagement, many New Yorkers discussed: perceptions of the police as an occupying force in their community, rather than a partner; frustration about a lack of representation or knowledge about the local communities within the Department; and a desire to see officers who understood the cultural nuances of their community. Officers' awareness of cultural differences and recognition of the unique needs and characteristics of New York's many communities is critical for authentic, productive engagement. Cultural competence and meaningful partnership must be central to the Department's strategies, and can be bolstered through the focused recruitment, hiring, retention, and promotion of those from the communities most impacted by policing.

The NYPD must prioritize creating the right policies, training, and accountability measures to truly integrate and embed itself in the neighborhood. Officers must feel like genuine engagement and thoughtful problem-solving is their job, and not a distraction or an add-on.

Codify and strengthen the Mayor's Office to Prevent Gun Violence.

The Administration will support Int. No. 66 (Council Member Laurie Cumbo) and work with the New York City Council to enact this bill into law before the end of the term.

The City will deepen its commitment to interrupting violence through expanded community-based interventions.

Over the past several years, the de Blasio Administration has tripled the City's funding for Cure Violence programs and increased their reach significantly. Currently, Cure Violence programs conduct about 5,000

interventions per year, such as street de-escalations, and mediations, and conduct outreach to more 50,000 people per year through community events. These programs also engage young people and community members through direct services such as mentoring, mediation, referrals to mental health services, linkages to jobs, and referrals to legal services.

The City is committed to expanding the impact of this important work by doubling the size of the current Cure Violence workforce by this summer, and further increasing to triple the workforce from today's figures by Summer 2022, which means the City will provide at least \$25 million in funding each year. This funding will also support increased money for the Anti-Gun Violence Youth Employment Program.

The NYPD will expand the Community Solutions Program.

This program uses Community Based Organizations, city services and the NYPD responses to improve the physical environment, connect community members to resources, and provide appropriate police response. It is an engagement strategy designed by the Chief of Patrol Juanita Holmes in November 2020. The Brownsville Safety Alliance pilot was one of the first to take place under the Community Solutions Program, running from December 8 to 12, 2020, bringing together CBOs, NYPD and other City agencies to improve quality-of-life conditions and reduce crime.

While the Brownsville pilot was a success, no two communities are the same. To ensure strategies are developed that are specific to the needs of the neighborhood, the Patrol Services Bureau will employ a Community Solutions approach to listen to and prioritize concerns of communities. Being able to solve local issues in true partnership with the communities we serve is the key to sustainable results that achieve buy-in and trust in the processes that provide for the safety and quality of life for all New Yorkers. These meetings will identify top community concerns using 311/911 data, Compstat data, information from the customer feedback surveys, and other metrics. These issues may range from gun violence to chronic noise but will be decided by the community who will then work together to design and implement formal plans of action to address the identified concerns.

This program does not require a diversion of police response, but focuses on the targeted deployment of external resources that extend beyond traditional policing measures.

The City will pilot the Advance Peace Model, a new approach to helping youth who are at risk for involvement with gun violence.

This program, being launched in partnership with New York City Public Advocate Jumaane Williams, creates an effective mentorship connection between violence interrupters and young New Yorkers who are at-risk of engaging in gun violence.

Outreach is conducted to youth who are identified as at-risk for gun violence; these individuals are invited to join the Peacemaker Fellowship. Through the Fellowship, they are connected to Neighborhood Change Agents who mentor them, help with tangible goals like a drivers' license or a GED. When the youth achieve their goals, they receive a monetary stipend.

The City will assess and ameliorate the impacts of militarization

The perception of militarization of police forces around the country, including the NYPD, has led to decreased trust in the police as an occupying force. Building trust and forging partnerships between police and community is paramount. To this end, the City will assess the impacts of practices and commit to ending their unnecessary use.

The NYPD will consistently solicit real-time feedback from members of the community related to both positive and negative experiences and interactions and will work to implement programs that enhance precinct-based customer experiences.

In September 2020, the NYPD launched a customer service pilot in East Harlem and South Jamaica that encouraged New Yorkers to provide direct feedback about the services they received or requested. This has been expanded to precincts Citywide and will be rolled out to all Public Service Areas and Transit Districts in Spring 2021.

- a) The NYPD will develop and launch a series of tools to collect public feedback, empowering community members to formally submit comments related to positive and negative encounters, without the interaction needing to rise to the level of a CCRB complaint.
- b) The NYPD will routinely, actively, and systematically seek feedback from members of the community, consistent with social science best practices, ensuring that historically over-policed and criminal justice affected communities are well represented in the sample. The feedback survey will focus on encounters and interactions with the NYPD, perceptions of the Department, and crime and public safety concerns.

The NYPD will elevate the feedback of the community through CompStat and Enhanced Neighborhood Policing.

Commanding officers will be required to report customer-service and neighborhood-focused metrics to strengthen and improve bonds of their residents and Officers.

The Department also recently launched the Neighborhood Strategy Meeting, a forum to share best practices across commands and to ensure accountability through customer and neighborhood focused performance metrics, consistently elevating feedback from the community. Examples of metrics include customer wait times, response times, how officers handle various public interactions, and other indicators to demonstrate improvement in bonds between officers and communities they serve in the Neighborhood Strategy Meeting, as well as Compstat.

The Department will engage community representatives in reviewing customer survey and other data relevant to individual neighborhoods and will use that input to inform new metrics that can be collected and assessed agency wide.

The NYPD will invest in enhancing productive partnerships with community members and organizations and increasing officers' cultural competence.

- a) The NYPD will develop strategies to encourage members of service with satisfactory performance evaluation histories to remain in their commands long enough to gain local knowledge, build trust with the community and invest in its success.
- b) The NYPD will facilitate the immersion of new officers in the neighborhoods they serve. All officers who are new to a precinct will undergo an intensive course, including field training, to better understand the neighborhood. They'll meet community leaders, service providers, local small business owners and youth organizations.
- c) The NYPD will require executive staff to provide transition plans when leaving a command to ensure that the community is informed, and that knowledge is transferred to the incoming executive.
- d) The NYPD will develop and formalize, collect, and monitor metrics that track patrol officers' activity related to community engagement, procedural justice, collaboration, and problem solving.

The NYPD will incorporate direct community participation in the selection of Precinct Commanders.

Precinct Councils will interview NYPD's proposed candidates for precinct commanders and provide the NYPD with feedback on the candidates. These panels will maintain relationships with commanding officers, and will evaluate their general effectiveness, engagement with the larger neighborhood and responsiveness to issues raised by the residents.

The NYPD will ensure that the composition of its workforce is reflective of the community it serves at all levels of the organization.

The NYPD will leverage community partnerships to collaborate on effective recruitment strategies.

- a) The City will engage community-based organizations in partnership with City Council to implement a paid recruitment campaign and strategies to increase the diversity of the NYPD applicant pool, including a specific focus on outreach to African American candidates, a group that is underrepresented in the Department.
- b) The NYPD will facilitate hiring and application workshops in communities most affected by the criminal justice system, on at least a quarterly basis, providing education and support to prospective applicants for uniform and non-uniform roles.
- c) The NYPD will establish partnerships with religious institutions, minority group organizations, and women's groups in communities most affected by the criminal justice system to broaden the recruit candidate pool, and ensure individuals are aware of opportunities and benefits of NYPD uniform and non-uniform positions.
- d) The NYPD will implement mentoring, leadership, and professional development programs to support officers from underrepresented populations early in their careers.

The City will involve the community in NYPD training and education by expanding the People's Police Academy.

Training should ensure officers are fully immersed in the neighborhood and are educated by the residents they are assigned to serve. Beginning this April, New York City will expand the People's Police Academy, a community-led training for local precinct personnel. Learning what public safety means to residents is integral to serving that community.

The NYPD will expand the Precinct Commander's Advisory Councils.

Composed of key community members and precinct executive leadership, the Councils meet bi-monthly to discuss engagement, outreach, and deployment of resources. The program is currently in the 120th, 77th, 25th and 113th precincts.

The City will enhance community-based approaches to combatting bias and hate crimes.

The NYPD will work with the Office for the Prevention of Hate Crimes to report data on "Crimes with Bias Elements" that do not otherwise constitute Hate Crimes. "Crimes with Bias Elements" are criminal incidents where there is some evidence of the subject's animus against the victim(s) because of their real or perceived characteristics, such as race, religion, sexual orientation, or gender identity, but where there is insufficient

evidence to establish probable cause to charge a violation of New York State's Hate Crime Law. Documenting and reporting "Crimes with Bias Elements" in addition to Hate Crimes, improves the trust relationship between police and the communities they serve because victims feel validated and supported.

In addition to continuing to collect and publicly report Hate Crime data, the NYPD will implement a system to report "Crimes with Bias Elements" data. This data will enable the NYC Office for the Prevention of Hate Crimes (OPHC) and the City Commission on Human Rights (CCHR) to gain insight into patterns of bias and hate so that resources such as education, training and community engagement can be targeted to hate crime prevention and deterrence, resulting in the improved safety and quality of life for all New Yorkers.

The NYPD will work with the Mayor's Office for People with Disabilities to expand the reach and scope of services provided by the NYPD Disability Services Facilitator.

The NYPD Office of Equity and Inclusion oversees the NYPD's implementation of policies to ensure the Department meets the needs of the disability community. The Disability Services Facilitator (DSF) acts as a liaison between the Department and members of the public. The DSF coordinates all NYPD efforts to comply with the Americans with Disabilities Act and other federal, state, and local laws concerning accessibility for people with disabilities.

The culture of equity and inclusion extends far beyond the statutory responsibilities of the DSF. In response to requests made by disability advocates, the NYPD will work with the Mayor's Office for People with Disabilities to expand the reach and scope of services provided by the DSF by leveraging use of Community Ambassadors as local points of contact for all New Yorkers with disabilities who wish to participate in NYPD programs or who are in need of police services. NYPD Community ambassadors are well placed to serve in this role, as they are liaisons between NYPD leadership and community members, especially those most impacted by the criminal justice system. Reporting to the Community Affairs Bureau, these civilian liaisons will work with a range of neighborhood organizations regarding community concerns, needs and priorities. Areas of focus will include police-community relations, helping citizens navigate the NYPD complaint process, and neighborhood safety, among others. The NYPD will also continue to assess and revise "Accessible NYPD," the Department's ADA Compliance Plan, and explore new ways to expose members to the lived experiences and unique needs of this diverse community.

The NYPD will take important steps to improve relationships with the City's immigrant communities.

The NYPD acknowledges the need to improve language access as part of an overall reform effort to improve relations with the City's immigrant communities. Based on feedback from community leaders and in consultation with the Mayor's Office of Immigrant Affairs (MOIA), there is still much work to be done by way of meaningfully engaging immigrant communities. The NYPD will take steps to improve language access by building on its existing Language Initiative Program and use of Language Line Service and ensure that continued mechanisms are in place and utilized to readily facilitate reporting and tracking of language access complaints. Further, the NYPD will work with its sister agencies to ensure that language access gaps are identified and addressed in a timely manner so that there is equitable access to information, resources, and assistance for all New Yorkers, including the approximately 1.8 million residents who have limited English proficiency. In compliance with its reporting requirements pursuant to Local Law 30, the NYPD will improve transparency around language access implementation by reviewing its systems and providing opportunity to track language accessibility data where reasonably possible.

The NYPD will continue to improve proactive communication with sister agencies and community groups when allegations of NYPD roles in immigration enforcement arise. NYPD has not and will not authorize ICE to imply or otherwise represent that they are NYPD when engaging in immigration enforcement. The City has sent a letter to ICE and will call on the White House to demand they cease these practices. NYPD commits to investigating all allegations of police impersonation, whether the subject is a member of the public or unauthorized organization or entity.

The City will consolidate the coordination of all crime victim service programs into one agency to better support crime victims.

The City will move management of the Crime Victims Assistance Program (CVAP) from the NYPD to the Office of Crime Victims Services (OCVS) at the Mayor's Office of Criminal Justice by July 1, 2021. This will improve coordination with other crime victim services, including crime victim restitution, family assistance programs, domestic violence hotlines, court-based services, community-based services, and the Family Justice Centers. In collaboration with ENDGBV and ThriveNYC, OCVS can deepen the engagement of community-based organizations and continue to improve the reach of services for victims and survivors of crime.

The City will improve support for victims of domestic, gender-based and family violence through access to community-based resources.

- a) The City will invest in community-based resources and supports for addressing family violence. Family-related homicides, as defined in the New York City Domestic Violence Fatality Review report, are homicides involving individuals who are related by marriage or blood, such as parents/children, siblings, grandparents/grandchildren, cousins, and in-laws. In 2019, family violence related domestic violence homicides were up 52%, from 25 in 2018 to 38. New resources will be focused on family violence prevention services, including counseling, mediation, benefits assistance and case management. This enhanced response will aim to reduce violence, promote housing stability, reduce law enforcement involvement for victims, and enhance connections to services and test intervention models outside of the criminal legal system.
- b) The City will review services for survivors with a view to separating them from the criminal justice system. Currently, many resources for survivors can only be accessed by engagement with the criminal justice system. ENDGBV will conduct a City-wide review to identify services that require a survivor to file a police report to receive them and to understand whether this is a barrier to access. The review will identify changes that can be made at the City and state levels to support survivors and preserve their safety while reducing the harm associated with criminalization.

The City will ensure the Special Victims Division is a model for national best practice.

The Special Victims Division's policies and procedures for investigating sexual assault cases will be independently reviewed to ensure alignment with best practices, particularly focusing on victim-centered and trauma-informed techniques.

NYPD will provide annual "trauma-informed interviewing" training for all detectives under the Special Victims Division to ensure respectful and professional communication with victims of trauma and abuse. This training will be administered by a top tier, experienced organization in this field of "trauma-informed" interviewing techniques.

The Administration is committed to siting new locations for Brooklyn and Queens SVD facilities while continuing to ensure our existing facilities meet the needs of those we serve.

The NYPD will develop more responsive and consistent approaches to helping survivors of domestic, family and gender-based violence.

- a) Currently, survivors and advocates report that responses to individual incidents of domestic and gender-based violence vary greatly by borough and by precinct, resulting in an inconsistent response. This is true for many survivors, especially those who do not have prior knowledge or external supports to navigate the system and those who hold multiple marginalized identities. The NYPD will work with ENDGBV to create a formalized structure to receive community feedback, enhance transparency and

support accountability to survivors and their communities. The meetings would bring in external experts and community representatives to support and provide feedback on the NYPD's training completion and implementation of new practices, consistent response to domestic and gender-based violence survivors and other survivors who call law enforcement for help, and enforcing orders of protection, amongst other topics.

- b) The group described above will also work with the NYPD to examine its interactions with victims and change the protocols for reporting to minimize the number of times that a survivor has to tell their story throughout the course of an investigation.
- c) The NYPD will mandate training for officers to provide advanced skills to support and engage with survivors of and communities affected by domestic and gender-based violence. The Department will develop these interactive, mandated, online training modules for use department-wide in collaboration with the ENDGBV Training Team and community partners, including survivors, who have engaged with the NYPD and domestic and gender-based violence service providers and advocates, to be implemented in 2021.
- d) ENDGBV and the NYPD Counseling Unit will collaborate to provide training and capacity building to the NYPD staff to support both survivors of domestic and gender-based violence, and people who have caused harm in their intimate partner relationships. They will utilize ENDGBV's recently created Offender Engagement Training for City agency staff, including referrals to appropriate programming, such as ENDGBV's soon-to-launch Respect and Responsibility, a voluntary community-based program for people who are using abuse in their intimate relationships.

VI. A Diverse, Resilient, and Supported NYPD.

The City aims to develop the most diverse and resilient law enforcement agency in the nation. The Department has made a concerted effort to recruit more women and people of color and aims to have a workforce that mirrors the communities it serves. There have been important gains in diversity during this administration, the percentage of recruits who are people of color increased from 47% in 2013 to 60% in 2020 and the percentage of women recruited increased from 17% in 2013 to 24% in 2020. Leadership has become more diverse, too—the percentage of uniform personnel who are people of color in the rank of captain and above grew from approximately 18% in 2013 to 32% at present. The percentage of women in positions of captain and above increased from 6.8% in 2013 to 9.8% today. The NYPD is transparent about workforce demographics, demonstrating the rank, title, gender, and race of NYPD employees across all uniform ranks and civilian safety titles in a new interactive dashboard.

However, there is still significant work needed to increase diversity in recruitment, retention, and promotion. The NYPD's Office of Equity and Inclusion is currently examining the policy and structural barriers that inhibit the Department from building a more diverse workforce, so that these issues can be directly addressed.

The NYPD's Health and Wellness section is dedicated to building a culture that promotes the mental health and wellness of officers, reduces the stigma of seeking help, and promotes stress management. Recruits receive an intensive health and wellness training module in the academy, and first-line supervisors are trained to make referrals to a range of resources.

Members of the Department may also contact the Employee Assistance Unit (EAU) 24 hours a day, 7 days a week to reach EAU Peer Counselors. The EAU peer counseling staff consists of both uniformed and civilian active duty members of the service in a variety of ranks and titles who are trained to recognize when someone needs real help, or just needs to blow off steam. They make appropriate referrals to licensed psychologists or psychiatrists, as well as to union representatives, clergy, financial counselors, and hospice, among others. In

2019, the NYPD joined with New York-Presbyterian to create Finest Care, which offers uniformed members of service access to free, confidential mental health services.

The City is committed to building upon the Department's evolving culture by increasing supports and opportunities and promoting professionalism and excellence.

The City will make residence in New York City a more significant factor in hiring police officers.

Currently, the City's Department of Citywide Administrative Services (DCAS) adds five points to the multiple-choice test score of those candidates for employment who qualify for the "New York City Residence Credit." Applicants who are City residents are moved upwards on the civil service list from which candidates are selected. Aside from military service, residency is the only factor external to the exam process that can raise a candidate's score, except that children or siblings of 9/11 victims are entitled to an additional three points.

The City will increase the point bonus associated with residence to ten points from five. This will underscore the economic and safety benefits the City finds to be associated with a police force that can closely identify with the public whom they serve.

The NYPD will examine barriers to recruitment.

As part of its ongoing diversity, equity, and inclusion efforts, the Department is focused on identifying and addressing barriers to hiring, training, promoting, and retaining employees, particularly people of color and women.

The NYPD will examine the impact of the qualification process on the diversity of recruits, and those qualification requirements that have a disproportionate impact on particular candidates. Among many areas, the NYPD will examine the impact of minor criminal convictions or violations, and the impact of the college credit requirement to determine if more flexibility is needed.

The NYPD will reform the discretionary promotions process to focus on transparency and fairness.

In the NYPD, uniform members of service are promoted either by taking civil service exams, offered for ranks from Police Officer to Captain, or at the discretion of the Police Commissioner, limited by available vacancies and budget.

Once a member of service achieves the rank of Captain, that member may opt-in for further promotional consideration. In practice, the NYPD considers many factors, including performance history (evaluations, discipline, and honors), as well as qualitative assessments of leadership, problem solving, competence in supporting the Department's mission, and community or department interactions. However, the criteria for discretionary promotion are informal, and have changed frequently without notice to employees, affecting members' career-planning and confidence in their professional futures, as well as community trust in the selection of their police leaders.

- a) By Mayoral Executive Order, the City will ensure that a diverse candidate pool is considered for top NYPD promotions. Specifically, before making any discretionary hire for any senior position at the NYPD, the NYPD must conduct a meaningful interview of at least one qualified applicant for employment for each open position who is of a race that is underrepresented in senior positions at the NYPD.
- b) The NYPD commits to overhauling the discretionary promotion system, in accordance with best practices across law enforcement and in partnership with experts in diversity, equity, and inclusion, in

order to best reflect the City's values, build community trust, and support members' professional development.

- c) Accountability measures, including complaint and disciplinary history, will be systematically incorporated into the decision-making process before a member of service is entrusted with additional responsibility. NYPD will provide transparent codification regarding how experience, tenure, performance history, positive attributes, as well as disciplinary history, including complaints, all factor into consideration for assignments and promotions. Additionally, if the candidate is a supervisor, the substantiated complaints and civil judgements of his or her subordinates during the relevant period will be considered as appropriate.
- d) The NYPD will implement systemic checks within the discretionary and civil service promotion processes to identify disparities in which members of service are eligible for consideration, and which members of service are ultimately promoted. NYPD will assess the composition of eligible candidates, and candidates who are promoted to all uniform ranks against the broader makeup of the applicable candidate pool, as well as the Department as a whole. Disparities will continue to be investigated for systemic barriers.

The NYPD will continue building a culture that encourages use of coping tools and supports NYPD officers by addressing trauma through the Critical Incident Stress Management Program.

The NYPD will constantly work to create a culture that destigmatizes seeking help. As a next step, the NYPD will expand the Critical Incident Stress Management program, which helps officers who need additional support to address trauma and connects them to a clinician.

The NYPD will support professional development through the Commander's Course and leadership development programs.

The NYPD's Office of Professional Development is developing training courses that will enable members to be more effective managers. These courses will be provided to uniformed and civilian members when they are promoted/appointed to managerial titles. In January 2020, a "commander's course" was piloted to offer management skills and organizational theory training to a selected group of existing commanders. Feedback was collected to inform the development of a pre-commander's course in the future for the next generation of commanders. The NYPD held focus groups at the end of 2020 with existing commanders to inform topic areas and subjects.

The NYPD will create an updated Patrol Guide that is more user friendly, less complex for officers, and transparent to the public.

The Patrol Guide, which contains all the rules that NYPD officers must follow, will be streamlined to make it more user-friendly and easier to navigate. The NYPD will review major procedures for clarity, determine outdated and obsolete procedures, and create new sections to address gaps. The Department will also build a mobile app for Department smartphones and tablets to allow easier access to search for information. The overhaul will be informed by focus groups with members to understand the current challenges they have accessing information in the guide and what improvements can be made. The final product will be transparent and accessible to the public.

ADRIENNE E. ADAMS, *Chairperson*; YDANIS A. RODRIGUEZ, VANESSA L. GIBSON, I. DANEEK MILLER, JUSTIN L. BRANNAN, KEITH POWERS, KEVIN C. RILEY; Committee on Public Safety, March 25, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Rosenthal and Rose.*

Pursuant to Rule 8.50 of the Council, the Majority Leader and Acting President Pro Tempore (Council Member Cumbo) called for a voice vote. Hearing those in favor, the Majority Leader and Acting President Pro Tempore (Council Member Cumbo) declared the Resolution to be adopted.

The following 10 Council Members formally noted their intent to vote negative on this item: Council Members Barron, Borelli, Cabrera, Deutsch, Holden, Lander, Menchaca, Reynoso, Van Bramer, and the Minority Leader (Council Member Matteo).

The following Council Member formally noted his intent to abstain from voting on this item: Council Member Yeger.

Adopted by the Council by voice-vote.

INTRODUCTION AND READING OF BILLS

Int. No. 2244

By Council Members Ayala and Louis.

A Local Law to amend the administrative code of the city of New York, in relation to admission to recreational facilities

Be it enacted by the Council as follows:

Section 1. Section 18-149 of the administrative code of the city of New York, as amended by local law number 133 of the year 2017, is amended to read as follows:

§ 18-149 Discounted recreation center fees. *a.* Annual membership fees for each recreation center under the jurisdiction of the department shall be reduced for persons 62 years of age or older, [persons between 18 and 24 years of age,] veterans and persons with disabilities. Such reduced fees shall be no greater than 25 percent of the highest annual membership fee charged at such recreation center.

b. Annual membership fees for each recreation center under the jurisdiction of the department for persons between 18 and 24 years of age shall be free.

§ 2. This local law takes effect 60 days after it becomes law.

Referred to the Committee on Parks and Recreation.

Int. No. 2245

By Council Members Barron, Ampry-Samuel, Van Bramer, Menchaca and Riley.

A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to creating an elected civilian review board and repealing the civilian complaint review board and independent police investigation and audit board

Be it enacted by the Council as follows:

Section 1. Chapter 18-a of the New York city charter is REPEALED and a new chapter 18-a is added to read as follows:

CHAPTER 18-a
ELECTED CIVILIAN REVIEW BOARD

§440. *Elected Civilian Review Board. a. Declaration of legislative findings and intent. The Council finds that the people of the city of New York require a mechanism for the investigation of complaints of misconduct and possible uses of excessive force by officers and employees of the New York city police department toward members of the public, and determination of appropriate disciplinary actions that is comprehensive, thorough, and impartial. These investigations must be conducted fairly and independently. Therefore, the Council finds that an independent elected civilian review, comprised solely of members of the public with the authority to investigate allegations of police misconduct, is necessary to ensure independence, thoroughness, and impartiality.*

b. Composition of the elected civilian review board.

1. There shall be an elected civilian review board to consist of 17 members of the public who shall be elected from districts comprised of three adjacent city council districts as follows:

District 1 includes city council districts 1, 2, and 3

District 2 includes city council districts 4, 5 and 6
District 3 includes city council districts 7, 9 and 10
District 4 includes city council districts 8, 16 and 17
District 5 includes city council districts 11, 14 and 15
District 6 includes city council districts 12, 13 and 18
District 7 includes city council districts 19, 23 and 27
District 8 includes city council districts 20, 24 and 29
District 9 includes city council districts 21, 22 and 25
District 10 includes city council districts 28, 31 and 32
District 11 includes city council districts 26, 30 and 34
District 12 includes city council districts 33, 35 and 36
District 13 includes city council districts 38, 39 and 40
District 14 includes city council districts 37, 41 and 42
District 15 includes city council districts 43, 44 and 47
District 16 includes city council districts 45, 46 and 48
District 17 includes city council districts 49, 50 and 51

2. Board members shall be elected for a term of four years, coinciding with the terms of office and scheduled elections of city council members. Members shall be eligible for reelection without term limits.

3. Candidates for board member must submit a petition signed by 200 enrolled voters who reside within the district the candidate seeks to represent. No person shall be eligible to hold the office of member of the elected civilian review board if such person (a) has not, at the time such person is elected, resided within New York City for the preceding three years and within the relevant district for the preceding 12 months (b) is less than 18 years of age, (c) has been employed by any police department or law enforcement agency for any length of time, or (d) is an immediate family member of any person who has been employed by any police department or law enforcement agency within the preceding 10 years. No person shall be eligible to hold the office of member of the elected civilian review board for a district in which such person has not, at the time such person is elected to hold such office, resided for at least one year. No member of the board shall hold any other public office or employment.

4. In the event of a vacancy during the term of office, a successor may be nominated by the city council members representing the corresponding city council districts and appointed by a majority of such council members. A board member appointed to fill a vacancy shall serve for the balance of the unexpired term.

§ 441. Powers and duties of the board.

a. The board shall have the power to receive, investigate, hear, make findings and impose discipline upon police officers for police misconduct based on complaints made by members of the public or initiated independently by the board. The board shall investigate any incident involving a serious injury or death caused by an officer. For the purposes of this chapter, the term "police misconduct" means any action taken by a member of the New York police department involving:

1. the use or threat of excessive or unnecessary force;
2. an arrest or threat of an arrest without probable cause;
3. unlawful searches and seizures of a person or property;
4. tampering with evidence;
5. falsifying official reports, giving false testimony to any investigating agency, or perjury;
6. sexual harassment;
7. use of abusive or offensive language;
8. discrimination on the basis of age, sex, race, ethnicity, religion, creed, national origin, immigration status, political views, union membership, sexual orientation, gender identity and expression, or physical ability;
9. mistreatment of an individual based on their state of mental health;
10. discrimination based on an individual's record of criminal history or incarceration with no valid law enforcement purpose;
11. harassment, discrimination or intimidation of any person in relation to a complaint made to the board;
12. the violation of an individual's constitutional rights;

13. surveillance, infiltration or disruption of political, social, or religious activities without authorization from the police department; and

14. violation of any department rules or procedures related to the misconduct defined in this subdivision.

b. For the purposes of imposing discipline and sanctions as part of an officer's employment by the police department, the board shall have the exclusive authority to determine whether to substantiate an allegation of misconduct made pursuant to this chapter and the type of disciplinary action to be imposed on an officer for all such substantiated allegations of misconduct. Disciplinary action may include training, counseling, reassignment, suspension, or dismissal. The board shall promptly notify the commissioner of the police department that the subject officer of a complaint is under investigation by the board. After rendering its decision, the board shall promptly notify the commissioner whether the board intends to take disciplinary action against such officer. The board shall refer any complaint that constitutes a criminal offense to the appropriate district attorney or prosecutor pursuant to section 444.

c. The board shall promulgate rules of procedure in accordance with the city administrative procedure act and all other applicable laws, including rules that prescribe the manner in which investigations and hearings are to be conducted, determinations on disciplinary actions are to be made, and the manner by which a member of the public is to be informed of the status of his or her complaint. Such rules shall provide for the establishment of panels of no fewer than three members of the board, which shall be empowered to hear, make findings, and determine appropriate disciplinary actions. No finding or determination shall be based solely upon an unsworn complaint or statement, nor shall prior unsubstantiated, unfounded, or withdrawn complaints be the basis for any such finding or disciplinary determination. Board members shall not participate in investigations, except as provided in paragraph e of this subdivision.

d. The board shall appoint an executive director, whose duties shall include: the supervision of all investigations and prosecutions before the board; the hiring of civilian employees as necessary to exercise its powers and fulfill its duties, including representation from groups most impacted by police misconduct; develop an annual training program for the board and civilian employees; and any other administrative functions the board may delegate to the executive director.

e. The board, by majority vote of its members, may compel the attendance of witnesses and require the production of such records and other materials as are necessary for the investigation of matters within its jurisdiction. The board may request the corporation counsel to institute proceedings in a court of appropriate jurisdiction to enforce the subpoena power exercised pursuant to this section, and the board itself may, subject to chapter 17 of the charter, institute such proceedings. The board may, subject to any conditions it deems appropriate, delegate to and revoke from its executive director such subpoena authority and authority to institute proceedings.

f. The board shall create a disciplinary matrix, which shall include a fixed range of penalties for each act of misconduct based on the gravity of misconduct, the officer's disciplinary history, and other aggravating and mitigating circumstances. The board shall seek public comment on the disciplinary matrix prior to implementation and shall review the disciplinary matrix no less than every five years.

g. The board shall establish a citywide system for receiving complaints from members of the public at all times.

h. The board shall establish a mediation program through which a complainant may voluntarily choose to resolve a complaint by means of informal conciliation.

i. The board shall develop and administer an ongoing program for the education of the public regarding the provisions of this chapter, the method for initiating a complaint, and the duties and actions of the board.

j. Each member of the board shall convene a publicly advertised monthly community assembly within their district that is open to the public. Each such assembly shall include a report by the board member or his or her designee on the work of the board including information and statistics on the number and type of complaints received and actions taken by the board, and an opportunity for community members to comment on issues related to the board. Minutes of each meeting shall be made available to the public on the board's website.

k. The board shall issue to the mayor and city council a semi-annual report, which shall describe its activities and summarize its actions.

§ 442. Cooperation of the police department.

a. The police department shall fully cooperate with investigations by the board and provide to the board and its investigators all requested records and other materials within 30 days of any such request.

b. *The police commissioner shall ensure that officers and employees of the police department appear before and respond to inquiries of the board and its investigators, provided that such inquiries are conducted in accordance with department procedures for interrogation of its members.*

§ 443. *Budget. The appropriations available to pay for the expenses of the elected civilian review board during each fiscal year shall not be less than one percentum of the appropriations available to pay for the expenses of the police department during such fiscal year.*

§ 444. *Prosecutor.*

a. *There shall be an independent prosecutor elected to serve for a term of four years, coinciding with the terms of office and scheduled elections of the mayor and city council members, to prosecute criminal offenses committed by police officers.*

b. *Qualifications. A prosecutor must have resided in New York city for at least the three years preceding their election and must submit a petition supporting her or his candidacy signed by 100 residents of New York city. The prosecutor must be qualified to practice in all courts of this state and must have been so qualified for at least five years preceding their election. The prosecutor shall hold no other office or paid employment.*

c. *Powers.*

1. *The prosecutor shall institute, attend, and conduct, on behalf of the people, all criminal cases against police officers acting under color of law arising in New York City and upon violation of the provisions of this charter or the laws of the city or state in the court of original jurisdiction, and on appeal.*

2. *The prosecutor shall have access to the complaints, arrest reports, investigation reports, and evidence made, kept, or obtained by the New York police department, the board, or other city agencies that maintain records or files concerning the actions of its employees when they act in the capacity of police officers within the scope or course of their employment.*

d. *Duties.*

1. *The prosecutor shall give advice or opinions in writing to any member of the board or board staff upon request by such member or staff.*

2. *The prosecutor shall keep in their office proper books of record and registry of all actions in their charge in which the city or any member of the board is a party or is interested.*

3. *The prosecutor is authorized, within appropriations available, to appoint such employees as are necessary to exercise its powers and fulfill its duties, and shall appoint a staff of civilian investigators. Hiring of investigators and other staff shall ensure representation of groups most impacted by police misconduct.*

4. *The prosecutor shall request from the board all cases considered by that board for disciplinary action, for the purposes of review in deciding whether criminal prosecution is warranted.*

§ 2. *Subdivision a of section 434 of the New York city charter is amended to read as follows:*

a. *The commissioner shall have cognizance and control of the government, administration, disposition and discipline of the department, and of the police force of the department[.], except as provided in chapter 18-a.*

§ 3. *Chapter 18-b of the New York city charter is REPEALED*

§ 4. *Section 14-115 of the administrative code of the city of New York is amended to read as follows:*

a. *Subject to the provisions of chapter 18-a of the New York city charter and subdivision e of this section, [T]the commissioner shall have power, in his or her discretion, on conviction by the commissioner, or by any court or officer of competent jurisdiction, of a member of the force of any criminal offense, or neglect of duty, violation of rules, or neglect or disobedience of orders, or absence without leave, or any conduct injurious to the public peace or welfare, or immoral conduct or conduct unbecoming an officer, or any breach of discipline, to punish the offending party by reprimand, forfeiting and withholding pay for a specified time, suspension, without pay during such suspension, or by dismissal from the force; but no more than thirty days' salary shall be forfeited or deducted for any offense. All such forfeitures shall be paid forthwith into the police pension fund.*

b. *Members of the force, except as elsewhere provided herein, shall be fined, reprimanded, removed, suspended or dismissed from the force only: 1. on written charges made or preferred against them, after such charges have been examined, heard and investigated by the commissioner or one of his or her deputies upon such reasonable notice to the member or members charged, and in such manner or procedure, practice, examination, and investigation as such commissioner may, by rules and regulations, from time to time prescribe[.]; or, 2. after a hearing conducted pursuant to chapter 18-a of the charter.*

c. *The commissioner is also authorized and empowered in his or her discretion, subject to chapter 18-a of the New York city charter and subdivision e of this section, to deduct and withhold salary from any member or*

members of the force, for or on account of absence for any cause without leave, lost time, sickness or other disability, physical or mental; provided, however, that the salary so deducted and withheld shall not, except in case of absence without leave, exceed one-half thereof for the period of such absence; and provided, further, that not more than one-half pay for three days shall be deducted on account of absence caused by sickness.

d. Upon having found a member of the force guilty of the charges preferred against him or her, either upon such member's plea of guilty or after trial, the commissioner or the deputy examining, hearing and investigating the charges, in his or her discretion, may suspend judgment and place the member of the force so found guilty upon probation, for a period not exceeding one year; and the commissioner may impose punishment at any time during such period.

e. *Upon written notice from the elected civilian review board indicating that an investigation into specific allegations of misconduct made pursuant to chapter 18-a of the charter is pending, the commissioner shall not have the authority to impose discipline against any officer named in such notice for such acts of misconduct. The commissioner's authority to impose discipline for the specified acts of misconduct shall be restored upon subsequent written notice that the elected civilian review board does not intend to take disciplinary action against a named officer.*

§ 5. This local law takes effect immediately after it is submitted for the approval of the qualified electors of the city at the next general election held after its enactment and is approved by a majority of such electors voting thereon, except that the provisions of sections 1 through 4 of this local law do not take effect until the last member of the board established by chapter 18-a of the New York city charter, as provided in section 1 of this local law, takes office.

Referred to the Committee on Public Safety.

Int. No. 2246

By Council Members Brannan, Yeger, Kallos, Rosenthal, Perkins, Louis, Koslowitz, Riley, Levine, Moya, Ampry-Samuel, Gjonaj.

A Local Law in relation to the establishment of a task force to study options and make recommendations for converting vacant commercial office space into affordable housing

Be it enacted by the Council as follows:

Section 1. Definitions. For purposes of this local law, the following terms have the following meanings:
City. The term "city" means the city of New York.

Task force. The term "task force" means the Office-to-Affordable-Housing Task Force established by this local law.

§ 2. Task force established. There is hereby established a task force to be known as the Office-to-Affordable-Housing Task Force.

§ 3. Duties. The task force shall study options for converting vacant commercial office space in the city to affordable housing units, and shall make recommendations for legislation and policy in furtherance of that objective. Those recommendations shall take into account potential effects on the health and welfare of persons in the city, the projected costs of implementing any recommended programs, anticipated effects on stakeholders, and any other considerations the task force determines relevant.

§ 4. Membership. a. The task force shall be composed of the following members to be appointed within 60 days of the effective date of this local law:

1. The commissioner of the department of housing preservation and development, or such commissioner's designee, who shall serve as chair.

2. The commissioner of the department of buildings, or such commissioner's designee.

3. One representative of an organization that advocates for the production, preservation or rehabilitation of affordable housing for low-income households, appointed by the mayor.

4. One representative with expertise in affordable housing policy from the academic or nonprofit community, appointed by the mayor.

5. One representative from the community of affordable housing developers, appointed by the mayor.

6. One residential architect, appointed by the mayor.

7. One structural engineer, appointed by the mayor.

8. One representative of an organization that provides supportive housing services to low-income residents, including housing counseling, financial management or legal representation, appointed by the mayor.

9. One representative of an organization that represents owners of apartment buildings and office buildings, appointed by the mayor.

10. The speaker of the council, or the speaker's designee.

11. The public advocate, or the public advocate's designee.

b. The chair may invite officers and representatives of relevant federal, state and local agencies and authorities to participate in the work of the task force.

c. Each member of the task force shall serve at the pleasure of the officer who appointed the member. In the event of a vacancy on the task force, a successor shall be appointed in the same manner as the original appointment for the remainder of the unexpired term. All members of the task force shall serve without compensation.

§ 5. Meetings. a. The chair shall convene the first meeting of the task force no later than 30 days after the last member has been appointed, except that where not all members of the task force have been appointed within the time specified in section four, the chair shall convene the first meeting of the task force within 10 days of the appointment of a quorum.

b. The task force may invite experts and stakeholders to attend its meetings and to provide testimony and information relevant to its duties.

c. The task force shall meet no less than once each month to carry out the duties described in section three.

d. The meeting requirement of subdivision c shall be suspended when the task force submits its report as required by section six.

§ 6. Report. a. No later than 270 days after the effective date of this local law, the task force shall submit a report to the mayor, the speaker of the council and the public advocate setting forth its recommendations regarding the following:

1. The feasibility of converting vacant commercial office space to affordable housing units, including units with multiple bedrooms, and whether such conversions would help address the city's affordable housing crisis;

2. The types of office buildings that could most feasibly be converted to affordable housing, and standards and criteria for selecting office buildings to convert to affordable housing;

3. Plans for how office conversions to affordable housing units could be implemented, any costs to the city and property owners associated with such plans and proposals for how to fund such costs; and

4. Any legislative, regulatory, policy or zoning changes necessary to support the conversion of commercial office buildings to affordable housing units, including units with multiple bedrooms.

b. The report shall include a summary of information the task force considered in formulating its recommendations.

c. The commissioner of housing preservation and development shall publish the task force's report electronically on the website of the department of housing preservation and development no later than 10 days after its submission to the mayor, the speaker of the council and the public advocate.

§ 7. Agency support. Each agency affected by this local law shall provide appropriate staff and resources to support the work of such agency related to the task force.

§ 8. Termination. The task force shall terminate 60 days after the date on which it submits its report, as required by section six.

§ 9. Effective date. This local law takes effect immediately.

Referred to the Committee on Housing and Buildings.

Int. No. 2247

By Council Members Cabrera, Lander, Yeger and Louis.

A Local Law to amend the New York city charter, in relation to adding two commissioners to the New York city taxi and limousine commission board

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 2301 of the New York city charter, as added by local law number 12 for the year 1971, is amended to read as follows:

a. The commission shall consist of [nine] *11* members to be appointed by the mayor with the advice and consent of the city council; *at least two of said members shall hold a valid driver license issued by the commission*; five of said members, one resident from each of the five boroughs of New York city, shall be recommended for appointment by a majority vote of the [councilmen] *council members* of the respective borough.

§ 2. This local law takes effect 120 days after it becomes law.

Referred to the Committee on Transportation.

Preconsidered Res. No. 1582

Resolution amending Rule 7.00 of the Rules of the Council in relation to changes in membership of the Standing Committees and Subcommittees of the Council.

By Council Member Koslowitz:

RESOLVED, pursuant to Rule 7.00(a) of the Rules of the Council, the Council does hereby consent to the following changes in Membership to certain Standing Committees and the Finance Subcommittee.

STANDING COMMITTEES

AGING

Brooks-Powers

FINANCE

Brooks-Powers

HEALTH

Brooks-Powers

IMMIGRATION

Brooks-Powers

LAND USE

Brooks-Powers

PARKS AND RECREATION

Brooks-Powers

SMALL BUSINESSBrooks-Powers**TRANSPORTATION**Brooks-Powers**SUBCOMMITTEES****CAPITAL BUDGET (FINANCE)**Brooks-Powers

Adopted by the Council (preconsidered and adopted by the Committee on Rules, Privileges and Elections).

Int. No. 2248

By Council Member Louis.

A Local Law to amend the New York city charter and administrative code of the city of New York, in relation to requiring the civilian complaint review board to conduct an investigation of any injury or death caused by police action

Be it enacted by the Council as follows:

Section 1. Subdivision (c) of section 440 of the New York city charter is amended by adding a new paragraph 8 to read as follows:

8. The board shall investigate all incidents involving an injury or death to any civilian during the course of any police action.

§ 2. Title 14 of the administrative code of the city of New York is amended by adding a new section 14-185 to read as follows:

§14-185 Notice to the civilian complaint review board of an injury or death to a civilian. The department shall notify the civilian complaint review board within 24 hours of an injury or death to any civilian during the course of a police action.

§ 3. This local law shall take effect immediately.

Referred to the Committee on Public Safety.

Int. No. 2249

By Council Members Louis and Powers.

A Local Law to amend the New York city charter, in relation to the police department's duty to provide officer records to the civilian complaint review board

Be it enacted by the Council as follows:

Section 1. Paragraph 1 of subdivision (d) of section 440 of the New York city charter, as amended by a vote of the electors on November 5, 2019, is amended to read as follows:

1. It shall be the duty of the police department to provide such assistance as the board may reasonably request, to cooperate fully with investigations by the board, and to provide to the board upon request records and other materials which are necessary for investigations undertaken pursuant to this section, except such records or materials that cannot be disclosed by law. *In addition to records and other materials requested pursuant to this paragraph, and except such records or materials that cannot be disclosed by law, the police department shall provide to the board all records and other materials documenting the employment history of an officer who is the subject of a complaint received by the board, including, but not limited to, records documenting such officer's rank, tenure, disciplinary history, leaves of absence, accommodations, status in any internal monitoring system and any other records or materials for the evaluation of performance toward continued employment or promotion. Such records and materials shall be provided in a digital format, as practicable, and immediately upon the police department's receipt of notice from the board that such officer is the subject of a complaint received by the board.*

§ 2. This local law takes effect immediately.

Referred to the Committee on Public Safety.

Preconsidered Res. No. 1583

Resolution calling upon the New York State Legislature to pass, and the Governor to sign, S.4482/A.5092, which would establish the billionaire mark to market tax act, and to use the revenue generated to establish an excluded worker fund.

By Council Members Moya and Barron.

Whereas, In the wake of the COVID-19 pandemic, wealth inequality is exploding across New York; and

Whereas, While regular New Yorkers struggle to make ends meet, New York's 120 billionaires are \$87.7 billion richer than they were at the beginning of the pandemic, according to a February 9, 2021 report issued by Americans for Tax Fairness and Health Care for America Now; and

Whereas, Under current law, people pay taxes on stocks and other assets only when such assets are sold; and

Whereas, Therefore, if the assets are not sold then no taxes are due on the unrealized capital gains, even as the value of such assets increase, and the assets may be passed on to heirs at death at a stepped-up basis; and

Whereas, A mark to market tax would require investors to pay taxes on the increase in value of their investments each year, rather than deferring the tax until the investments are sold; and

Whereas, S.4482, introduced by State Senator Jessica Ramos, and companion bill A.5092, introduced by Assembly Member Carmen N. De La Rosa, would establish a New York State billionaire mark to market tax that would tax increases in the value of their assets at the same rate as other income; and

Whereas, The State Legislature estimates that the imposition of this tax would raise up to \$23.3 billion in its first tax year and \$1.2 billion or more in subsequent tax years; and

Whereas, Such a tax in New York State would give the State a mechanism to raise revenue in a progressive manner while addressing the growing wealth inequality and allow the State to fund programs vital to the majority of New Yorkers; and

Whereas, For example, one unfunded priority is the need for funding to assist the hundreds of thousands of workers who have been excluded from receiving unemployment and certain federal stimulus benefits because of their immigration status or recent incarceration; and

Whereas, Many of these same workers were employed in essential jobs, such as cleaning, home health care, and food delivery, until they lost their jobs or became ill with COVID-19 and could no longer work; and

Whereas, Undocumented workers have had millions of dollars contributed on their behalf into the Unemployment Insurance system, but are barred from accessing the benefits that their taxes have helped to make possible for other workers simply as a result of their immigration status; and

Whereas, Supporting low-income families would have ripple effects throughout the economy, providing subsistence income that families would use to pay their rent, buy gas, and purchase food at local stores, thus serving as a stimulus to local economies; and

Whereas, The State Senate and Assembly have each included a proposal for a \$2.1 billion excluded worker fund in their one-house budget bills; and

Whereas, While this proposal is certainly welcome, it does not go far enough; and

Whereas, Instead the State should allocate \$3.5 billion so that excluded workers could receive benefits at the minimum level of state Unemployment Insurance benefits that other unemployed New Yorkers receive, as well as federal supplements thereto, retroactive to the March 2020 start of the COVID-19 pandemic and extending through December 31, 2021; and

Whereas, This level of funding could benefit 274,000 people, including 87,000 people leaving incarceration and 187,000 undocumented immigrants, according to a March 2021 report of the Fiscal Policy Institute; 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.4482/A.5092, which would establish the billionaire mark to market tax act, and to use the revenue generated to establish an excluded worker fund.

Adopted by the Council by voice-vote (preconsidered and approved by the Committee on Finance).

Preconsidered Res. No. 1584

By the Committee on Public Safety (by request of the Mayor).

Resolution adopting a plan pursuant to State Executive Order Number 203.

Whereas, On June 12, 2020, Governor Andrew Cuomo issued Executive Order No. 203, directing each local government in the State to create a plan to reform and reinvent their police force; and

Whereas, If a plan is not adopted by the Council by April 1, 2021, the State Director of the Division of the Budget is authorized to withhold future appropriated State or federal funds for which New York City would otherwise be eligible; and

Whereas, The Mayor released part one of the Administration's draft plan on March 5, 2021 and part two on March 12, 2021; and

Whereas, A final, revised Police Reform and Reinvention Collaborative Plan is attached as an Appendix; now, therefore, be it

Resolved, That the Council of the City of New York adopts a plan pursuant to State Executive Order Number 203.

Adopted by the Council by voice-vote (preconsidered and approved by the Committee on Public Safety; for text of the Appendix to Res. No. 1584, please refer to the attachment to the resolution following the Report of the Committee on Public Safety for Res. No. 1584 printed in the voice-vote Resolutions calendar section of these Minutes).

Int. No. 2250

By Council Members Reynoso, Lander, Van Bramer, Yeger, Kallos, Gennaro, Rosenthal and Van Bramer.

A Local Law to amend the administrative code of the city of New York in relation to the goal of zero waste to landfill

Be it enacted by the Council as follows:

Section 1. Subchapter 3 of chapter 3 of title 16 of the administrative code of the city of New York is amended by adding a new section 16-316.5 to read as follows:

§ 16-316.5 Zero Waste plan and reporting. On or before July 1, 2021, the commissioner shall submit to the mayor and speaker of the council a plan to send zero waste to landfill by 2030. On or before July 1, 2022, and annually thereafter, the commissioner shall submit to the mayor and speaker of the council a report on the city's progress toward the goal of sending zero waste to landfill pursuant to this section. The plan and each report shall include, but need not be limited to:

a. A timeline to send zero waste to landfill, including annual targets for waste diversion, disaggregated by waste stream;

b. Diversion rates for recyclable material collected curbside by the department, disaggregated by material and by community district;

c. Diversion rates for recyclable materials that are not collected curbside, disaggregated by material;

d. The department's plan to increase diversion, which shall include, but not be limited to strategies to increase diversion for each material, strategies to increase compliance with existing law and a description of all education and outreach programs available to the public and strategies to increase or update such education and outreach programs;

e. A plan for separate initiatives to increase diversion in residential buildings with various numbers of units, and buildings owned or operated by the New York city housing authority;

f. A plan for separate initiatives to increase diversion in commercial establishments;

g. A list and description of materials that are not easily diverted from landfill and strategies for eliminating such materials from the waste stream;

h. An analysis of the economic market for recyclable materials, disaggregated by material;

i. An analysis of current processing capacity for recyclable materials, disaggregated by material;

j. An analysis of current availability of capacity at landfills utilized by the city;

k. A plan to increase diversion of materials disposed of in public litter baskets; and

l. A plan to increase the reuse of materials that would otherwise be disposed of.

§ 2. This local law takes effect immediately.

Referred to the Committee on Sanitation and Solid Waste Management.

Int. No. 2251

By Council Members Rivera, Yeger and Louis.

A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of transportation to review any changes to the public fees charged by a bike share program

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 19-194.1 to read as follows:

§ 19-194.1 *Bike share price adjustment. a. Definitions. As used in this section, the following terms have the following meanings:*

Bike share operator. The term "bike share operator" means the company operating the city of New York's bike share program under a contract entered into through the department.

Bike share program. The term "bike share program" means the providing of public bicycles for shared use within the city of New York under a contract with an operator that permits payment for the use of such bicycles.

b. Upon receiving notice from a bike share operator of intent to adjust the amount of any fee charged to the public in connection with the bike share program, the department shall conduct a public hearing to receive input on such fee adjustment. Such public hearing shall be held prior to any departmental determination or consultation with the bike share operator regarding the intended fee adjustment.

c. Any contract between the department and a bike share operator executed or amended on or after the effective date of this section shall include a provision requiring the department to approve any fee charged to the public in connection with the bike share program and any subsequent adjustment to such fee.

§ 2. This local law takes effect immediately.

Referred to the Committee on Transportation.

L.U. No. 753

By Council Member Salamanca:

Application Number C 200326 ZSK (Suydam Street Rezoning) submitted by Suydam, Inc. and 3210 Willoughby LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-533 of the Zoning Resolution to waive all required accessory off-street parking spaces for dwelling units in a development within a Transit Zone, that includes at least 20 percent of all dwelling units as income-restricted housing units, in connection with a proposed residential building, on property located at 1250 Willoughby Avenue (Block 3210, Lots 16, 17, 18, 19, 20, and 21), in a M1-5/R7D District, Borough of Brooklyn, Community District 4, Council District 34

Referred to the Committee on Land Use and the Subcommittee on Zoning & Franchises.

L.U. No. 754

By Council Member Salamanca:

Application Number C 200344 ZMK (Suydam Street Rezoning) submitted by Suydam, Inc. and 3210 Willoughby LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 13b changing from an M1-1 District to an R6 District; changing from an M1-1 District to an M1-5 District; changing from an M1-1 District to an M1-5/R7D District; and establishing a Special Mixed Use District (MX-21) bounded by Willoughby Avenue, a line 400 feet northeasterly of Irving Avenue, a line midway between Willoughby and Suydam Street, and a line 225 feet northeasterly of Irving Street, Borough of Brooklyn, Community District 4, Council District 34.

Referred to the Committee on Land Use and the Subcommittee on Zoning & Franchises.

NEW YORK CITY COUNCIL

A N N O U N C E M E N T S

Monday, April 5, 2021

Subcommittee on Zoning & Franchises Francisco Moya, Chairperson
See Land Use Calendar
Remote Hearing (Virtual Room 1).....10:00 a.m.

Committee on Environmental Protection jointly with the Costa Constantinides, Chairperson
Subcommittee on Capital Budget Helen Rosenthal, Chairperson
Oversight - Local Law 97 of 2019.
Remote Hearing (Virtual Room 2).....11:00 a.m.

Tuesday April 6, 2021

Committee on Mental Health, Disabilities & Addiction Farah N. Louis, Chairperson
Oversight - Access to Mental Health Care in Black and Brown Communities.
Remote Hearing (Virtual Room 2).....10:00 a.m.

Subcommittee on Landmarks, Public Sitings and Dispositions Kevin C. Riley, Chairperson
See Land Use Calendar
Remote Hearing (Virtual Room 1).....2:00 p.m.

Wednesday, April 7, 2021

Committee on Public Housing jointly with the Alicka Ampry-Samuel, Chairperson
Committee on Aging Margaret Chin, Chairperson
Oversight - Seniors aging in place in NYCHA during a pandemic.
Remote Hearing (Virtual Room 2)..... 10:00 a.m.

Committee on Land Use Rafael Salamanca, Jr., Chairperson
All items reported out of the Subcommittees
AND SUCH OTHER BUSINESS AS MAY BE NECESSARY
Remote Hearing (Virtual Room 1)..... 10:00 a.m.

Friday, April 9, 2021

Committee on Higher Education Inez Barron, Chairperson
Oversight - The Research Foundation of CUNY.
Remote Hearing (Virtual Room 1)..... 10:00 a.m.

Tuesday, April 13, 2021

Committee on Youth Services Deborah Rose, Chairperson
Oversight - Youth Count.
Remote Hearing (Virtual Room 2)..... 11:00 a.m.

The following comments were among the remarks made by the Speaker (Council Member Johnson) during the Communication from the Speaker segment of this meeting:

The Speaker (Council Member Johnson) congratulated and welcomed newly sworn-in Council Member Selvena N. Brooks-Powers to her first Stated Meeting. Council Member Brooks-Powers took office as the new representative for the 31st Council District which includes the communities of Laurelton, Far Rockaway, and Springfield Gardens. Her seat was previously held by former Council Member and current Queens Borough President Donovan J. Richards, Jr.

The Speaker (Council Member Johnson) acknowledged that Passover would begin at sundown on Saturday. To all of those celebrating the Festival of Freedom, he wished a Happy Passover and a peaceful and meaningful holiday.

The Speaker (Council Member Johnson) also acknowledged that next week would mark the start of Holy Week which leads up to Easter Sunday. He wished those observing a peaceful and reflective week and a Happy Easter.

Whereupon on motion of the Speaker (Council Member Johnson), the Majority Leader and Acting President Pro Tempore (Council Member Cumbo) adjourned these virtual proceedings.

MICHAEL M. McSWEENEY, City Clerk
Clerk of the Council

Editor's Note: A Stated Meeting was subsequently scheduled to be held on Thursday, April 22, 2021.

Editor's Note re: recent swearing-in: Selvena N. Brooks-Powers was sworn-in on March 19, 2021 by the City Clerk and Clerk of the Council (Mr. McSweeney) as the new Council Member representing the 31st District in Queens.