

# **Oversight Hearing**

## **“The Mayor’s Housing Plan: Contractor Employment Practices and Accountability”**

April 21, 2015

Committees on Housing and Buildings  
and Contracts

# **Testimony of Commissioner Vicki Been**

**Department of Housing Preservation and Development**

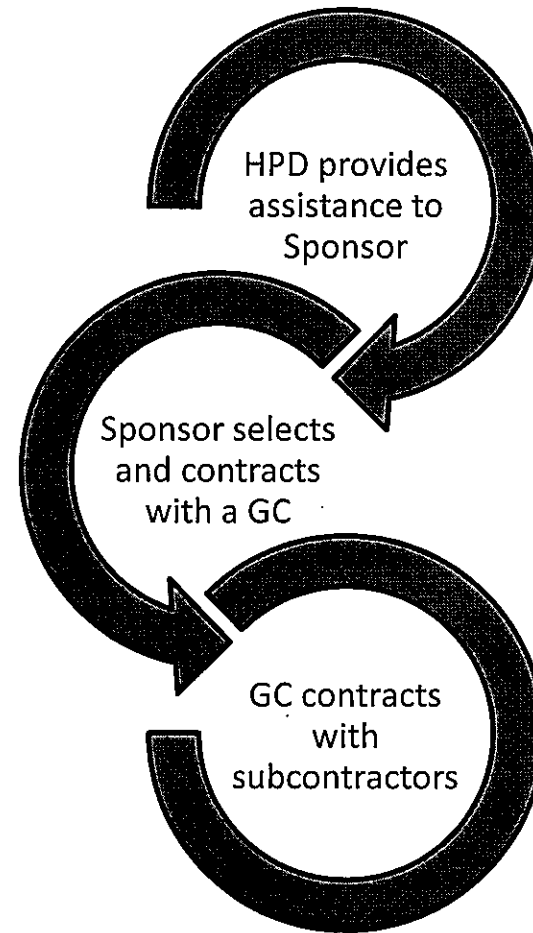
HPD's mission is to improve the availability, affordability, and quality of housing in New York City.

# How we meet our mission

- HPD provides loans or other assistance to developers to build affordable housing and to property owners to rehabilitate their properties for affordable housing purposes.
- The contractors working on city-assisted projects are not city vendors and are not subject to the city's procurement rules. HPD does not select the contractor and has no direct legal or contractual relationship with the contractor.

On development projects, HPD provides assistance to the property owner (sponsor), who selects and contracts with a general contractor (GC).

The GC contracts with any subcontractors that may be needed.



# ENS Projects

In the ERP and AEP Programs as well as for demolition jobs, HPD does not provide assistance to the property owner. Instead, the agency performs repairs or removes a structure in an enforcement role, because the owner has failed to do so. Here, HPD directly procures the services of a contractor.



## **Sponsor Review**

Screen



## **Labor Monitoring**

Monitor



## **Enhanced Review**

Deter, Scrutinize, and Condition

# **Due Diligence: Sponsor Review**

Verifies the integrity and competence of sponsors and general contractors seeking to participate in HPD projects through an extensive background check that covers, among other things:

- code violations
- arrears on taxes, water/sewer charges, and other municipal charges
- performance on prior government and private projects
- performance on prior government and private loans and other obligations
- criminal investigations/convictions, enforcement actions, administrative proceedings



# **Sponsor Review**

- Some issues, such as tax arrears, can often be resolved before closing.
- Other issues may be too serious or too difficult to resolve.
- Criminal behavior, dishonesty, loan defaults, and poor work are red flags that can present a significant hurdle to closing.
- HPD performs a deeper and more extensive process than other housing finance entities.

# **Active Monitoring**

On prevailing wage jobs, the Labor Monitoring Unit ensures all contractors comply with wage and labor law standards.

Labor compliance officers investigate possible violations by:

- reviewing payroll records
- conducting site visits
- interviewing workers

# **Active Monitoring**

When HPD believes that prevailing wage or labor law violations have occurred, it may:

- Withhold contract payments
- Collect restitution and disburse to workers
- Work with law enforcement entities to pursue criminal sanctions

# **Active Monitoring**

Workers sometimes fear retaliation, loss of income, or being blacklisted, which can discourage them from coming forward during construction or at all.

We work hard to build workers' trust:

- Confidential hotline
- Presence on jobsite
- Evening and weekend site visits
- In office meetings

# **Enhanced Review**

Extra scrutiny of general contractors and subcontractors that have past instances of significant non-compliance with labor and/or construction quality standards

# **Enhanced Review**

Criteria:

- 1) outstanding penalties for past labor violations of \$500,000 or more;
- 2) a history of multiple or significant construction quality issues;
- 3) a history of multiple or significant labor law or construction law violations; OR
- 4) subject to state or federal debarment.

# **Enhanced Review**

We decide on a project-by-project basis whether to allow a contractor to proceed or to impose special requirements:

- Third party monitoring
- Increased monitoring by LMU
- Project-specific award conferences
- Review of all subcontractor contracts

# **Strengthening Enhanced Review**

- Require all contractors subject to Enhanced Review to complete a compliance action plan.
- The action plan would outline specific steps the contractor will take to improve its internal controls and ensure compliance with applicable laws, regulations and/or contractual obligations.



# **Strengthening Enhanced Review**

- Require general contractors to obtain the prior written approval of HPD before retaining or using (or allowing any of its subcontractors to retain or use), whether directly or indirectly, any subcontractor on Enhanced Review status.
- We are working closely with the Law Department to ensure that any changes will comport with due process and other legal requirements that may be necessary.



FOR THE RECORD

# Mason Tenders District Council

O F G R E A T E R N E W Y O R K & L O N G I S L A N D

Robert Bonanza

BUSINESS MANAGER

rbonanza@masontenders.org

General Building Laborers

Local 66

Asbestos, Lead &

Hazardous Waste Laborers

Local 78

Construction & General

Building Laborers

Local 79

Waste Material, Recycling &

General Industrial Laborers

Local 108

Day Faculty Association

Local 1261

Laborers' International

Union of North America,

AFL-CIO

Affiliated with:

Building & Construction Trades  
Council of Greater New York

New York City Central  
Labor Council

Building & Construction Trades  
Council of Nassau  
& Suffolk Counties

New York State AFL-CIO

Good morning. My name is Robert Bonanza, and I am the Business Manager of the Mason Tenders' District Council of Greater New York and Long Island. The Mason Tenders' District Council represents 15,000 members of the Laborers' International Union of North America, employed throughout New York City and Long Island, primarily in the construction industry.

Mayor Bill deBlasio's aggressive and ambitious housing plan is a sorely needed addition to our city. As a union that represents workers in New York's shrinking middle-class, our members need good quality affordable housing as much as anyone else. We applaud the Mayor's intent. However, as always, the devil is in the details.

On the one hand we have a plan to preserve 120,000 units of existing affordable housing—no mean feat when you take into account the assault on New York City's rent regulations by the state legislature—and to create 80,000 new units. The creation of those units would be achieved through a combination of increased density in as many as a dozen or more rezoned neighborhoods, as well as mandatory inclusion of affordable units. While this plan is not without its flaws, not the least of which will be neighborhood opposition to increased density and the fear of gentrification, it is both historic and meritorious.

On the other hand, we have a city agency that is rife with malfeasance and corruption which will be tasked with much of this grand undertaking.

During the last term of Mayor Bloomberg's administration, the assistant commissioner of HPD was arrested, and ultimately pled guilty, to taking millions of dollars in bribes to steer contracts for new affordable housing construction to corrupt contractors. His plea deal led to the arrest of five more HPD officials or developers. HPD routinely allows contractors to "prove" they have "redeemed" themselves by placing them under what they term "enhanced review". This means that once you've already been caught stealing from workers, HPD is willing to bend over backwards to award you further contracts.

Unfortunately, this enhanced review simply does not work. First and foremost, workers on enhanced review projects are still being robbed by their employers as HPD stumbles blithely along. There is no better example of this than the Sugar Hill Development in Harlem. In June 2014, Mayor deBlasio held a press conference at this 124-unit, publicly-funded affordable housing development.

"This building is, in a sense, an epitome of so many of the things that we believe in and want to do," deBlasio said that day. Unfortunately, the general contractor, Mountco Construction, was under enhanced review for stealing more than \$600,000 from workers on previous projects. Under HPD's enhanced review program, Mountco was required to hire a monitor to ensure the proper wages were being paid at Sugar Hill, which Mountco promptly did. Unfortunately, while under the enhanced review of the independent monitor on Mayor deBlasio's model project, another \$800,000 in wages were stolen from workers at the site.

Thumbing through a folder of articles on my desk, I see headlines from major daily papers and government press releases such as:

- "It's An Outrage: City hires firms that cheat workers"<sup>i</sup>

- “Contractor cheated workers out of wages at Harlem housing development touted by Mayor deBlasio”<sup>ii</sup>
- “A.G. Schneiderman Announces Masonry Contractor Will Pay \$600,000 For Under Paying Workers on Affordable Housing Project”<sup>iii</sup>
- “Former High Ranking Official and New York City Department of Housing Preservation and Development Sentenced to 18 months in Prison”<sup>iv</sup>
- “A.G. Schneiderman Announces Contractor Will Pay nearly \$1 Million to Laborers Underpaid For Work on Taxpayer-funded Affordable Housing Units For Seniors”<sup>v</sup>
- “Two ex-officials from city Department of Housing Preservation and Development plead guilty to taking bribes”<sup>vi</sup>
- “A.G. Schneiderman Announces Arrest Of Bronx Affordable Housing Contractor For Cheating Workers Out of Hundreds Of Thousands of Dollars”<sup>vii</sup>
- “Lettire Construction Agrees to Pay Back Wages for Workers”<sup>viii</sup>

That last reference is particularly disturbing because in that case Lettire Construction agreed to guarantee payment of \$960,000 in wages and benefits stolen from workers on HPD’s Lettire-built Hobbs-Cienna project in East Harlem. What makes it particularly disturbing is that Lettire Construction is partnered now in a ULURP application to once again build an HPD project in East Harlem. To add insult to injury, some of the workers from Hobbs-Cienna still have not received their stolen wages, even though Lettire entered into that agreement almost three years ago. Yet HPD has approved another project for Lettire, and is asking the City Council to do the same.

The collection of articles on my desk dates back some 10 years. There are press releases from U.S. Attorney Preet Bharara; U.S. Attorney Loretta Lynch; the Federal Bureau of Investigation; the Federal Department of Labor; and the New York State Attorney General's office (as a matter of fact, A.G. Schneiderman has recovered approximately \$14 million in wages stolen on HPD projects since taking office).

What's telling about this is there are multiple accounts of the federal government taking action against crooked affordable housing contractors in New York City; there are multiple accounts of the state government taking action against crooked affordable housing contractors in New York City; but there are virtually no reports of New York City government taking action to defeat the corruption.

Again, the Mayor's plan is ambitious and necessary and we applaud him for his vision on this vital issue. Unfortunately, it is very clear that the City of New York is neither inclined nor equipped to deal with the rampant corruption taking place in the affordable housing industry which it facilitates through HPD. The only answer is for the City of New York to stand up and take a proactive stance, rather than relying on the federal and state authorities to take reactive stances to clean up our city's messes.

If you stop awarding contracts to corrupt contractors, the corruption will stop. It's as simple as that. Right now, the system is to bar the door after the horses are gone, and then walk over to the next barn and throw the doors wide open, facilitating the same situation again and again and again.

The Council needs to undertake serious procurement reform in the affordable housing industry before any approvals that further the Mayor's housing plan are allowed to move forward. This way we are not

chasing the bad actors after the fact, once they've proven themselves to be dishonest, we're simply not allowing them to line their pockets with public dollars in the first place. We urge the City Council to undertake such action with all due haste.

Thank you.

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<sup>i</sup> NY Daily News, April 13 2014.

<sup>ii</sup> NY Daily News, August 9, 2014

<sup>iii</sup> Attorney General's Press Release, August 8, 2013

<sup>iv</sup> FBI Press Release, May 21, 2013

<sup>v</sup> Attorney General's Press Release, March 4, 2013

<sup>vi</sup> NY Daily News, October 3, 2012

<sup>vii</sup> Attorney General's Press Release, March 7, 2013

<sup>viii</sup> NY Times, July 27, 2012

**FOR THE RECORD**



**MASON TENDERS' DISTRICT COUNCIL  
OF GREATER NEW YORK AND LONG ISLAND**

**LECET**

**LABORERS-EMPLOYERS COOPERATION AND EDUCATION TRUST  
LABORERS INTERNATIONAL UNION OF NORTH AMERICA**

Testimony of Patrick Purcell before the meeting of the Committee on Contracts  
held jointly with the Committee on Housing and Buildings  
April 21, 2015

*Re: Oversight – The Mayor's Housing Plan:  
Contractor Employment Practices and Accountability*

Good afternoon. My name is Patrick Purcell, and I am the Executive Director of Greater New York LECET. As the head of a major labor-management department which represents thousands of union contractors and thousands of union workers, the contracting practices and lack of transparency at the New York City Department of Housing and Preservation could not be more troubling, and the issues of rampant wage theft, corruption, and an uneven playing field for contractors who want to follow the law and do the jobs right, has got to end.

In 2012 the HPD Transparency Act was passed by the City Council in hopes of addressing the lax attitude of the city officials to the rampant corruption. NYSFAH went to court to attempt to stop the implementation of Intro 730, a position which unfortunately the de Blasio Administration has followed. Transparency remains the key to resolving the problems that continue to plague HPD. It must be implemented. Transparency and full disclosure in the discourse of government business is vital to ensure that taxpayers' money is being spent properly and that honest, responsible businesses are charged with fulfilling the commitments made by our elected officials. HPD is charged with fulfilling Mayor de Blasio's mandate to build or preserve 200,000 units of affordable housing. With hundreds of millions of dollars, and thousands of workers, involved, it flies in the face of good, progressive government, not to require full

transparency and disclosure of who is being entrusted with our tax dollars, and how the money is being spent.

Additionally, contractors who violate the law should not be allowed to continue working, and reap the benefits of our tax dollars. I represent thousands of contractors who cannot bid against companies that are already planning where they can skim the extra dollars off of an exploited workforce. And workers should be trained through state approved apprenticeship programs to ensure the safety and quality of the work that again, our public dollars are leveraging.

HPD Procurement Reform is way overdue. We are ready and willing to work together to bring transparency, accountability, and good jobs to the world of affordable housing, and to ensure that our tax dollars are leveraged for the public good, and not treated as open troughs for unscrupulous businesses looking to make a quick dollar off the back of our city's most vulnerable citizens.

Respectfully submitted,

Patrick J. Purcell

April 21<sup>st</sup>, 2015





## MASON TENDERS' DISTRICT COUNCIL OF GREATER NEW YORK POLITICAL ACTION COMMITTEE

### FOR THE RECORD

Testimony of Michael J. McGuire  
before the meeting of the Committee on Contracts  
held jointly with the Committee on Housing and Buildings  
April 21, 2015

*Re: Oversight – The Mayor's Housing Plan:  
Contractor Employment Practices and Accountability*

#### AFFILIATES

MASON TENDERS  
DISTRICT COUNCIL OF  
GREATER NEW YORK  
& LONG ISLAND

GENERAL BUILDING  
LABORERS LOCAL 66

ASBESTOS, LEAD &  
HAZARDOUS WASTE  
LABORERS LOCAL 78

CONSTRUCTION &  
GENERAL BUILDING  
LABORERS LOCAL 79

LABORERS  
INTERNATIONAL UNION  
OF NORTH AMERICA

Good morning Chairs Rosenthal and Williams, and distinguished committee members. My name is Michael McGuire, and I am the Director of the Mason Tenders' District Council of Greater New York and Long Island Political Action Committee. The Mason Tenders' District Council is comprised of more than 15,000 members in six local unions of the Eastern Region of the Laborers' International Union of North America. These locals represent men and women working throughout the five boroughs and Long Island as recycling plant and waste transfer station employees, building construction laborers, mason tenders, plasterer's helpers, demolition workers, high school teachers and asbestos and hazardous material abatement laborers.

Many of the issues regarding the Mayor's Housing Plan, particularly in reference to contracts, could be resolved by one thing: transparency. To my union, which has been working at correcting the systemic corruption and ineptitude that pervades HPD for more than a decade, that has been clear for a long time.

No less than four previous commissioners, as well as the current commissioner, Vicki Bean, have been made aware of the rampant corruption in the affordable housing industry in New York City. One after another, each has turned a blind eye to the problems happening

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under their watch. This lax attitude led in 2012 to the introduction and passage of what was known as Intro 730, the HPD Transparency Act.

This legislation would have provided to the public virtually all of the information needed to end the corruption and malfeasance by allowing the people of New York City to scrutinize these publicly-funded and facilitated deals and point out the problems. The intro passed unanimously, was vetoed by Mayor Bloomberg, and the veto was overridden unanimously. Dozens of members of this current City Council voted twice to pass this legislation into law, yet HPD chose not to implement the parts of the law that would shine a light on the wage theft being perpetrated against construction workers.

All of this is to say that there is a great deal of trepidation surrounding the Mayor's ambitious affordable housing plan. New York City has a perennial housing crisis, and the latest census update, which pegs the city population at 8.5 million, doesn't help. Yes, we need the units. Does that mean that its acceptable to exploit a vulnerable, mostly immigrant workforce? No, it does not.

The hope was that transparency would allow the citizenry to use its vast collective voice to reform these poor practices. However, since the administration has chosen to not comply with a law duly passed by this body, it is now time to take the option of self-reform off the table.

Complete procurement reform for any project touched by HPD is in order. Exploited workers being threatened, intimidated and stolen from every day. Contractors guilty of wage theft still being awarded contracts through HPD facilitation. Residents forced to live in substandard, and at times, dangerous newly built housing. None of this acceptable.

Safeguarding the public fisc is one of the most important duties with which we empower our elected officials. Our elected officials passed into law regulations that would reveal just how a city agency is impacting that fisc. That is within the power of this body. Yet petty bureaucrats have chosen to strip you of that power. Now is the time to take your power back. I urge the City Council to undertake complete procurement reform for HPD now. Thank you.

Respectfully submitted,

Michael J. McGuire

April 21, 2015

Testimony of Johnny Zeta  
before the meeting of the Committee on Contracts  
held jointly with the Committee on Housing and Buildings  
April 21, 2015

*Re: Oversight – The Mayor's Housing Plan:  
Contractor Employment Practices and Accountability*

Buenos Dias,

Mi Nombre es Johnny Zeta, y yo soy un trabajador de construction que ha trabajado en proyectos de la ciudad aquí en New York City. Gracias por dandome la oportunidad de hablar hoy aqui sobre algo muy importante para mi, mi comunidad, y el futuro de nuestra ciudad.

HPD tiene que cambiar. No es justo que las companias que robaron millones de dolares de mi y mis companeros pueden seguir haciendo trabajo con la ciudad.

En 2011 trabajaba por MC&O Construction en el proyecto de Riverway. Era un proyecto de la ciudad. Nos robaron casi un million de dollars en ese proyecto. Aun asi, HPD sigue usando MC&O. Porque? Ellos ya tenian problemas por no pagar los Prevailing Wages antes que a nosotros – y lo hizieron otra vez. Es claro que no se preocupa la justicia.

Quiero que otra gente tenga la oportunidadde trabajar para una compania justo, que pueden trabajar para una compania que les trata con respeto, como ser humano, y no como los ladrones que nos

maltratan y toman advantage de nuestra miedo y necesidad de darle de comer a la familia.

Por favor, piensadelo. Les pido que ya dicen a HPD que paren de recompensar la gente que no estan cometido al apoyo de carreras, no trabajos temporaries, pero verdadero carreras: con verdadero beneficion, con proteccion para los trabajadores, verdadero entrenamiento, y un verdadero future. Ya con los ladrones. Basta la corrupción.

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April 21, 2015

### **Oversight – The Mayor's Housing Plan: Contractor Employment Practices and Accountability**

Good Afternoon. Thank you Chairs Williams, Rosenthal and all Councilmembers present, for allowing me to speak today. My name is Glenn Hatcher, and I am here representing the New York City & Vicinity District Council of Carpenters, a representative body comprised of eight individualized locals, and over 20,000 members.

Today, I speak of an issue that is of utmost importance to the District Council, the contracting policies of the City of New York, with respect to the construction of affordable housing. As we look toward the construction of 80,000 new units of affordable housing under the Mayor's plan, the workers who will be tasked with building those units must not be forgotten.

In this chamber last November we discussed the insufficient manner in which the agency of Housing Preservation and Development ensures prevailing wage compliance on their projects. Commissioner Been detailed how HPD places contractors on an enhanced review list, yet does not bar irresponsible contractors from bidding on future projects. Contractors that cheat workers out of thousands of dollars in wages are free to bid on city contracts. The NY Daily News exposed this disgraceful practice, citing a list of 10 contractors and 1 developer that owed workers \$11.89 million dollars. The problem is pervasive within HPD, and so far no solutions have been offered by the agency. The article goes on to describe a press conference in which Mayor de Blasio touted an affordable housing development, while workers on the project, who were being cheated out of wages, were told to hide upstairs. New York City should not be subsidizing worker exploitation. New York City should not be celebrating projects that are built by an exploited workforce.

Agencies tasked with building affordable housing must review and reform their contracting policies in order to better service and protect workers. Workers are too often forgotten when discussing the Mayor's affordable housing vision. Contractors with a history of wage theft and worker exploitation should not benefit from city subsidies. These contractors should not continue to be awarded city contracts.

New York City should be demanding a higher standard. It is a city often labeled progressive, with many of our politicians touting themselves as such. Yet, with worker exploitation rampant, how can we call ourselves a progressive city?

## Hearing on The Mayor's Housing Plan: Contractor Employment Practices and Accountability

### HOUSING AND BUILDINGS CHAIR'S OPENING STATEMENT

Good afternoon everyone and thank you for coming. I'm Council Member Jumaane Williams, the chair of the Committee on Housing and Buildings, and I am joined today by *(introduce other Council Members present)*.

As we are all aware, the Mayor's housing plan seeks to create or preserve 200,000 units of affordable housing over ten years. The Administration estimates that 194,000 construction jobs will be created in order to meet this ambitious goal and has further stated that it is committed to ensuring that these jobs will be quality jobs with fair wages. We are here today to discuss those jobs and the developers who receive City subsidies for affordable housing developments across the City. Specifically,

we will learn more about the City's oversight and accountability measures related to wage violations by affordable housing developers and what efforts are made to mitigate these harms.

I think we can all agree that developers and contractors who have wage violations or similar labor law violations should not continue to receive taxpayer funds in the forms of contracts and subsidies. Just this month we learned that five construction contractors working on New York City public-works projects were arrested on charges that they underpaid their employees nearly \$1 million in wages and tried to operate kickback schemes. More egregious cases like this have come to light this year alone, so I am interested in learning how we can combat such bad actors. The women and men risking their lives every single day at various construction sites not only deserve a safe working environment, but also deserve to be paid the full wages they are



Testimony of Paris Simmons  
before the meeting of the Committee on Contracts  
held jointly with the Committee on Housing and Buildings  
April 21, 2015

*Re: Oversight – The Mayor's Housing Plan:  
Contractor Employment Practices and Accountability*

Good afternoon –

Thank you for granting me the opportunity to share my experiences and my concerns with you here today. My name is Paris Simmons. I stand before you today as a very happy man. I have been given an amazing opportunity, the opportunity to get up each day and go do something I love, the opportunity to trust the men and women I work with to have my back, on and off the job. I am a Laborers Local 79 Union construction worker, and it has changed my life, for real. When I got out of prison, yes that's right – I spent      years in prison.

It's not easy trying to rebuild your life when you get out. But I got a chance, thanks to the Osborne society and Local 79, and I ran with it!

So now I have a concern. It is no secret that a lot of the affordable housing work carried out under HPD has problems - illegal off-the-books payrolls, wage theft, and unsafe and shoddy construction. These problems affect people like me, from a re-entry background in a variety of ways. Many are locked out of work with contractors who pay off-the-books because they must verify employment with their parole officers; and even when they are hired legally, they are often discriminated against because of their criminal justice histories.

Also, workers on these jobs do not receive the training and other work opportunities needed to create careers in the construction industry. I am an apprentice. I am receiving free training and on the job training which will continue for the next couple of years!

I am excited that the city is looking to build more affordable housing – we certainly need it – but I'd like to be able to build it, and so would my friends, my union brothers and sisters, and my neighbors. Please consider how we could get the most from our public dollars by having good contractors provide career pathways, open to all people, in our neighborhoods, while building quality homes.

Good afternoon. My name is Melissa Shetler, and I am community organizer who has spent the last four years working with homeowners and tenants who are struggling to live comfortably in the far too many shoddy homes that were constructed over the last 10 years.

When we talk about the "Tale Of Two Cities" we need to be honest with ourselves about how to address the true roots of inequality. And it is in our policies we can decide to bravely step up and declare who is our priority – the most vulnerable of our citizens or the bully profiteers who are motivated by profit, not public good.

As a public agency HPD does not act in the interest of the public, nor protect public dollars they allot, and it especially does not protect the workers who build the "affordable" homes for wages below what would enable them to live there. The system is broken. Their so called solution to wage theft is to merely allow contractors who have stolen from workers to continue working, and even allows them to win new contracts as long as they hire a "monitor." But even after they do so, wages are still stolen as shown by the attorney general's charges at the sugar hill project which was already under enhanced review when further wages were stolen. If enforcement worked they would not need a monitor in the first place. There must be real consequences for those who break the law.

Additionally, there is no quality oversight. Contractors hire unskilled workers and skimp on vital materials like insulation and the proper electrical wiring. The result is a mounting plague of leaking, cold, and downright dangerous construction. When quality issues are made known to HPD they have no mechanisms in place to hold the contractors responsible for the repairs. In fact – they apply to the city for MORE public funds to clean up the mess. The following quotes are just a few examples of how HPD responds to legitimate quality problems and how homeowners are stymied in their quest to get help.

"8/18/14 - Last month, we requested funding for the program to repair homes from the Office and Management and Budget. We are optimistic that we will finally get a green light from OMB soon, and look forward to actually get the repairs done.

I hope to have definitive news for all the homeowners in the near future (I understand it has been a long time coming, but I can't go back in time to fix that).

- Vicki Been"

" Dear Mr. Seif - Either, you are the best at the delay game or HPD has learned how to scam the homeowners better than the contractors they hired. The funding angle seems like such a farce. Waiting for the last 2 years since we sat down with the HPD Execs and their concerns about our situation just adds insults to us homeowners. I would like to see what the report that Jimmy submitted states and how much he estimates it would cost so I can believe that" HPD HAS TO SELL IT TO THE FUNDING SOURCE". Until then I continue to believe I'm being giving the runaround. As always, Kind regards Robert Quiles"

Although required by Local law 44, they do not share this information with the public, and in fact they continue to grant these same contractors lucrative contracts.

If we want to end this tale of two cities we must begin by reforming City policies that drive inequality. We must be a model in our quest for equality and quality.

We demand transparency and accountability, now, before it's too late. This new housing plan being introduced by Mayor de Blasio is an ambitious one, but let's make it more than that, let's learn from our past mistakes and make it a successful one, one that protects the rights of vulnerable workers and produces quality homes for the future.

We have met with HPD and offered to work with them on solutions for years and years. Commissioner after commissioner comes and goes – a few years, or sometimes just months, of public service and then off to the development and financing world they go, now well armed with agency relationships to ensure and easy track for their new employers. Meanwhile, no one advocates for the homeowners whose roof can not keep out the rain, or the workers who live on the edge of eviction each time a contractor decides maybe he'll just pocket this weeks paycheck for himself.

It is time to introduce real reform. HPD Procurement Reform legislation could easily jumpstart the city toward a more equitable future by providing real transparency, career opportunities, and oversight and advocacy for the very people these social programs are meant to be helping.

My name is Xavier Givens

I just want to first thank my Union Local 79, Tamir Rosenblum, Lynn Goodman, Kajeem Hill, Alvin Banks, and Antuan Canon of Envirolution...the growth in my life would have not been possible without these people and this Union.

Thank you all for hearing me today and taking the time to look at a very important issue. We all want to see affordable housing built, but some of us want to see it built right.

HPD is broken! I hope that you will work hard to fix it, so we can create more career opportunities for people like me.

And who am I?

I am originally from Queens, but life has taken me a lot of places (some not so good). I once was a promising student until I made a terrible decision at 19 to become involved in crime. At 21 I was sentenced to 10 years incarceration. My actions disappointed all those close to me who had great hopes for me. After serving a decade I came home with a great desire to succeed, to be an asset to my family, and to never return to prison.

However I was 30 years old with a 10 year resume gap, sleeping on my mother's couch, and without accredited qualifications or a degree. I found low wage employment and committed to training programs like the Osborne Association to improve myself. I struggled to find fulfilling work that could also pay NYC rent. And then a year and a half ago I was blessed with an opportunity to become a Union Construction Apprentice. I now have a career I love and take pride in, an apartment of my own, and am getting married next month to the love of my life. My family is proud and respects me. Meaningful employment has been the main contributor in my success.

I share many of the concerns my brother Paris just stated. I'm also concerned that "Building Skills", HPD's answer to "Training and Apprenticeship" provides little to nothing in terms of long term career opportunities. And, unbeknown to most, this is yet another opportunity shut

out to re-entry folks like me. It requires that you be on the NYCHA lease, and the fact that NYCHA does not allow people with criminal backgrounds to be on the lease means another door closed. Those like me returning to society are continually punished by felony record restrictions, parole restrictions, and program mandates. Another closed door is not the answer.

But to be honest, I don't want the Building Skills opportunity. Why? Because our apprenticeship program offers hundreds of classes, lasts for years, and is approved by the state Dept. of Labor. Our instructors and curriculum are certified by outside experts. We are not a fly by night "job training" that puts you in a room for a few hours then sends you off to work for contractors who don't play by the rules.

I've made mistakes and I've come up hard. But now that I have been given the opportunity I want to see everyone who wants it, and can handle it, get a chance to earn a living and earn the respect of their family and community.

I just want to close with that next month on May 23<sup>rd</sup> when I walk down the aisle to take the hand of my lovely wife, we will be surrounded by family and friends from all over the country. My friends and family celebrate me knowing what I came from. And her family and friends are ecstatic to see her happy and with a loving working man by her side. Local 79's apprenticeship gave me a real chance to not just change my life, but to positively affect the lives of others. Thank you for letting me share this.



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## **Memorandum of Support**

### **Intro 592: Hotel Preservation Act**

A Local Law to amend the administrative code of the city of New York, in relation to the preservation of hotels

The Hotel Trades Council represents over 35,000 members throughout New York & New Jersey in the hospitality and gaming industries, including over 30,000 members working in New York City. The Hotel Trades Council strongly supports Intro 592: The Hotel Preservation Act, which would protect quality middle class jobs and diverse, vibrant neighborhoods.

The longstanding trend of mass layoffs in the hotel industry due to luxury residential conversions has resulted in the loss of middle class jobs in the service sector. At least fourteen hotels in New York have converted to condominiums since 2003, leading to 1,800 lost jobs and the trend is poised to accelerate with more conversions imminent. As the price of a buildable square foot continues to rise for developers seeking to build multi-million dollar apartments, and the prices of those apartments soar, centrally located hotel properties, even those that are profitable, become increasingly attractive to developers seeking to develop high-end ultra luxury condos. Older, well-known, full service luxury hotels also bring instant name recognition for foreign buyers (the Plaza or Waldorf for example), which could make them more attractive to developers.

To minimize the effects of this trend and the impact conversions have on middle class jobs and emptying neighborhoods, the proposed legislation seeks to limit the ability of owners to convert hotel space. While the legislation allows for as-of-right conversion of up to 20% of hotel space, it requires owners to apply to a hotel conversion board when they are unable to obtain a reasonable rate of return, in order to convert more than 20% of hotel space. There is no question that the Council has the policy rationale and authority to enact this legislation.

### **A Strong Rationale For Protecting Dwindling Middle Class Jobs And Diverse Neighborhoods**

While high-end condos, even ultra-luxury high end condos, can sometimes add to the fabric of the City's economy and even grow its tax base – neighborhoods consisting of solely massive high end condos, that are often 3<sup>rd</sup> or 4<sup>th</sup> homes or simply investment vehicles rather than living spaces - become unattractive for job supporting ground floor businesses, resulting in job losses and “ghost” neighborhoods – witness areas in London, like Mayfair. Property owners, who rarely inhabit their palatial apartments, are likely to contribute much less to the local economy



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than hotel visitors who stay in vastly smaller rooms. Additionally, large luxury condos employ many less individuals per square foot than the full service hotels that they replace.

According to a 2013 study by CUNY and the NYC Mayor's Office, the average hotel hospitality worker in New York City makes 116% of median income in base wages, or \$53,045 (primarily because of strong union representation).<sup>1</sup> These are some of the highest-paying service sector jobs in the city. Due to the high degree of unionization, most of these jobs also provide free healthcare and retirement benefits. Not only are these jobs middle class jobs, but also they are low skill jobs, making them likely to attract recent immigrants. Meanwhile, middle class jobs - especially low skill middle class jobs - are disappearing in New York. New York City lost 100,000 middle-income jobs since 2008- jobs which were replaced by jobs making less than \$35,000 per year.<sup>2</sup> Poverty-wage jobs are replacing middle class jobs.

Furthermore, while the New York City area has seen tremendous growth in hotel supply over the past few years, there has been extremely limited growth of full service or luxury properties – the type of properties that employ more people per room and where employees are more likely to make a middle-class wage. In fact, the Park Hyatt hotel that recently opened on 57<sup>th</sup> Street was the first luxury five star hotel to open in New York City since the Mandarin Oriental<sup>3</sup> opened in 2003. And, both the Park Hyatt and recently opened Baccarat hotels are relatively small at 210 and 110 rooms (compare that to the approximately 1400 rooms at the Waldorf Astoria).

The City Council has a long-term policy interest in protecting a diverse economy that includes good paying service sector jobs that allow workers to live in NYC – especially jobs that are accessible to immigrants. This legislation limits developers' ability to convert more than 20 percent of transient room space at large hotels without getting approval from a newly formed Hotel conversion board. That appointed board can take into account the totality of circumstances when making a decision including the ability of property owners to effectively continue to operate as a hotel. The existence of the board strikes a fair balance and allows the City of New York to continue to protect vibrant, middle-class job providing businesses while ensuring pockets of NYC do not become ghost towns where the world's wealthy store money in seldom-used but massively sized and enormously expensive ultra high end luxury condos.

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<sup>1</sup> New York City Labor Market Information Service, *New York City's Traveler Accommodation Industry: A Guide for Education and Workforce Development Professionals*, March 2013, [http://www.gc.cuny.edu/CUNY\\_GC/media/365-](http://www.gc.cuny.edu/CUNY_GC/media/365-Images/Uploads%20for%20LMIS/Traveler%20Accommodation/NYCLMIS-Accommodation-Industry-(1).pdf)

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<sup>2</sup> Partnership for New York City, *NYC Jobs Blueprint*, 2013, <http://www.pfnyc.org/reports/2013-blueprint-web.pdf>.

<sup>3</sup> [http://www.craigslistnewyork.com/article/20150127/HOSPITALITY TOURISM/301259990/big-spenders-welcome-at-super-luxury-hotels](http://www.craigslistnewyork.com/article/20150127/HOSPITALITY%20TOURISM/301259990/big-spenders-welcome-at-super-luxury-hotels).





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### **The Proposed Legislation Does Not Run Afoul of the City Charter**

While the proposed legislation regulates use of property, it is not a zoning ordinance and, as a result, may be enacted by the Council without running afoul of the City Charter. In a case directly on point, a San Francisco law restricting the conversion of residential hotel units to other uses was challenged on grounds that it ran afoul of the City's Charter. Terminal Plaza Corp v. City and County of San Francisco, 177 Cal. App. 3d 892 (1986). The plaintiff alleged that the ordinance was an impermissible exercise of authority based on a restriction in the city charter requiring the City's planning commission to review and hold hearings on land use regulations. The Court rejected that argument holding that the ordinance "does not regulate land use in the same manner as zoning laws." It explained that the ordinance did not touch upon the nature of the structures themselves or the use to which they are put "in designated areas," but instead was an ordinance of "general application" which "merely regulates existing uses." The Court continued:

We conclude that the scope of [the city charter] cannot be understood to include all regulation of land use by the City. Were we to conclude otherwise, Planning Commission review of a myriad of law affecting land use in the City – extending even to rent control and general business regulation – would be necessitated. Such an absurd result must be avoided.

The Court concluded, "in accordance with the clear purpose of the [City Charter], the term 'use' cannot reasonably be applied to the requirements imposed by the ordinance for conversion and demolition of existing residential hotel units." Accordingly, because the ordinance was not a zoning resolution, but a regulation of general application affecting land use, the city could properly legislate.

Both the ordinance and charter at issue in Terminal Plaza are conceptually indistinguishable from the proposed legislation and New York City Charter. If the unassailable logic followed in the Terminal Plaza holding is not adhered to in New York, it would lead to the "absurd result" of preventing the City Council from enacting legislation in the areas of environmental law, building codes, and general business regulation. Instead it is clear that the proposed legislation is not subject to the restrictions in the City Charter and may be properly be enacted by the City Council.

### **The Proposed Legislation is not an Unconstitutional Taking**

It has long been established that a municipality may regulate the uses to which property is put without running afoul of the Taking's Clause of the Fifth Amendment. See Village of Euclid v. Ambler Realty Co., 272 U.S. 365 (1926) ("It must be said before the [land use] ordinance can be



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declared unconstitutional, that [its] provisions are clearly arbitrary and unreasonable, having no substantial relation to the public health, safety, morals, or general welfare"). Regulation of the use of private property will, without more, constitute an unconstitutional taking, if and only if, (1) an owner is denied the economically viable use of his property or (2) the regulation does not substantially advance legitimate State interests. See Bonnie Briar Syndicate v. Mamaroneck, 94 N.Y. 2d 96, 105 (1999). This is an exceptionally difficult hurdle to overcome for those seeking to challenge a regulation under the Taking's Clause, and, as a result, such challenges are seldom successful. Suitum v. Tahoe Regional Planning Agency, 520 U.S. 725, 736 n. 10 (1997).

With regard to the proposed legislation, it clearly passes constitutional scrutiny under this lax standard. First, owners are not denied an economically viable use of their property; they may continue to operate their property as hotels, convert 20% of the hotel space to any use; or appeal to a conversion board for relief if they are still unable to operate with a reasonable rate of return. Second, the regulation substantially advances a legitimate objective. As discussed above, preservation of middle class hotels jobs and of the diversity of neighborhoods is clearly a legitimate policy goal.

For more information contact Josh Gold, Director of Political and Strategic Affairs at [jgold@nyhtc.org](mailto:jgold@nyhtc.org).

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Turn **KNOWLEDGE** Into **COLLEGE CREDIT***Find Out How*

# City hired firms building affordable housing owe \$11.8M to workers

**EXCLUSIVE:** That's how much an elite group of 10 contractors and one developer now building affordable units across the city owed this year to workers cheated out of wages they were supposed to get, a Daily News investigation has found.

BY GREG B. SMITH / NEW YORK DAILY NEWS / Sunday, November 16, 2014, 2:30 AM

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Some members of the team helping Mayor de Blasio reach his dream of increasing the supply of affordable apartments in New York have a dirty little secret — an \$11.8 million one.

That's how much an elite group of 10 contractors and one developer now building affordable units across the city owed this year to workers cheated out of wages they were supposed to get, a Daily News investigation has found.

The group is building or renovating nearly 2,800 affordable apartments in 37 developments across the city, records obtained under the

## Freedom of Information Law

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de Blasio's oft-stated goal of building or preserving 200,000 affordable units in 10 years — a cornerstone of his administration.

The city Housing Preservation & Development Department allows these builders to work on these projects, despite their track record, on the condition that they repay what is owed.

All 11 were placed on a special "enhanced review" list after subcontractors they brought in on earlier jobs got caught paying workers a fraction of what they were owed. The builders are responsible for making sure that doesn't happen.

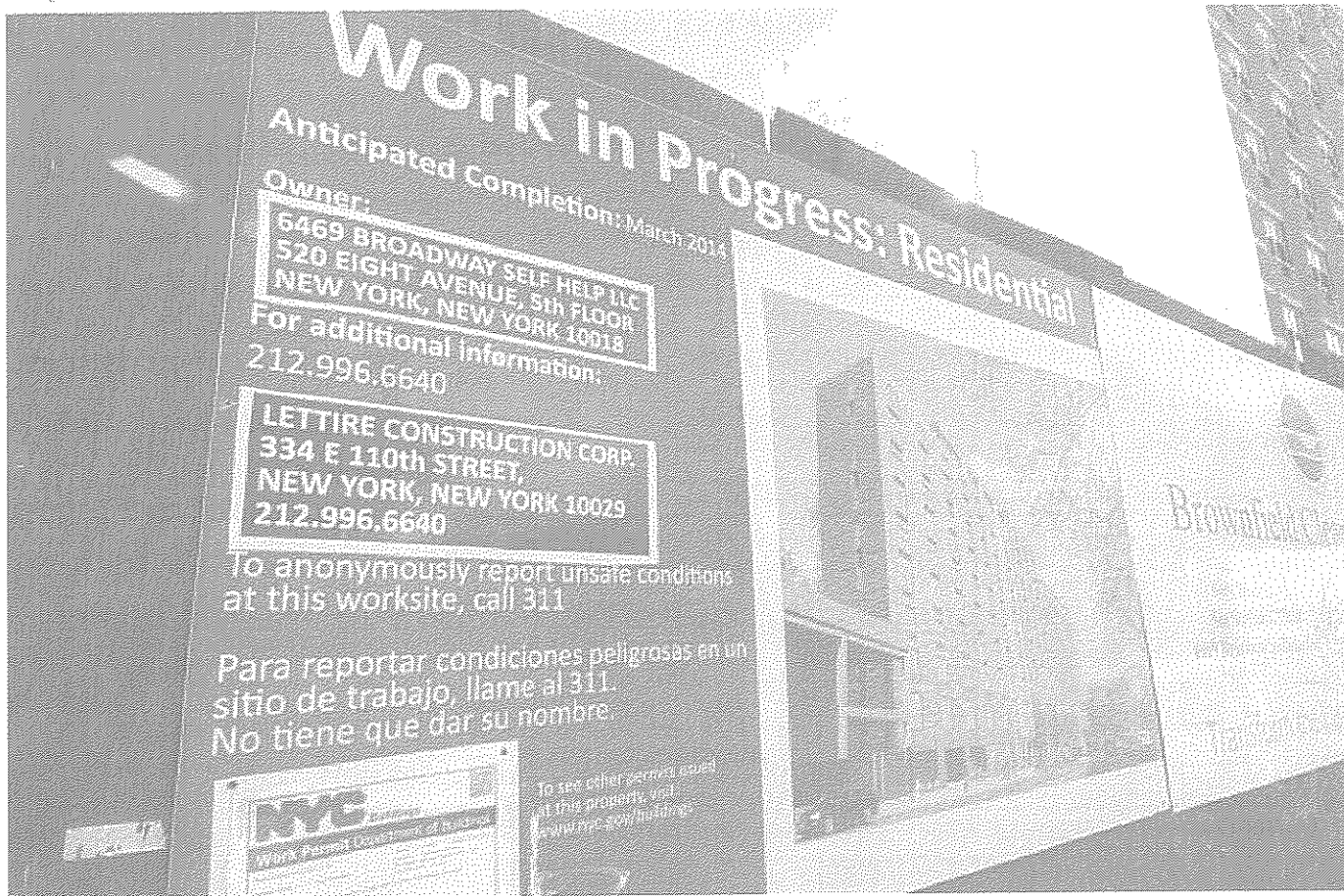
"We require contractors to obey all labor laws and have instituted strong measures to deal with noncompliance,"

department spokesman Eric Bederman said Saturday. "Our enhanced review procedure identifies contractors who have had past issues and subjects them to a number of measures to ensure they fulfill their legal obligations. We are seeing significant improvements in compliance and are determined to use every tool at our disposal to ensure that workers are protected." The city tallied \$11.89 million in lost wages owed by 10 of the 11 and withheld that amount in contract funds to cover what was owed. As the jobs progress, the contractors pay it off.



RICHARD HARBUS/(RICHARD HARBUS/FOR NEW YORK DAI

Some members of the team helping Mayor de Blasio reach his dream of increasing the supply of affordable apartments in New York owe \$11.8 million this year to workers cheated out of wages they were supposed to get.



RICHARD HARBUS/(RICHARD HARBUS/FOR NEW YORK DAI

The group is building or renovating nearly 2,800 affordable apartments in 37 developments across the city, records obtained under the Freedom of Information Law show.

As of last week, they were down to \$4.8 million owed, records show. Two managed to get off the list by paying everything off. One of the 11, MJM, has no wages withheld but is on the list as a precaution because it was linked to a firm barred from city business because of wage-cheating issues.

Robert Bonanza, business manager of the 17,000-member Mason Tenders District Council, said this approach rewards bad behavior and undermines the credibility of de Blasio's pronouncements about helping working people.

"On one hand, they are withholding millions of dollars from bad contractors who have exploited workers and stolen their hard-earned wages," Bonanza said. "On the other hand, (the Housing Preservation & Development Department) continues to knowingly reward these same bad contractors with taxpayer-subsidized projects worth hundreds of millions of dollars."

For a 41-year-old scaffold builder named Bequer, this arrangement was a raw deal at an affordable housing project, Riverway Apartments, in Brownsville, Brooklyn.

Bequer, who is trying to support a wife and two children, says he was

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supposed to get \$35 to \$40 an hour. Instead, his employer, a subcontractor, paid him \$18 an hour — take it or leave it.



RICHARD HARBUS/(RICHARD HARBUS/FOR NEW YORK DAI

When finished, the apartments they're building will count toward de Blasio's oft-stated goal of building or preserving 200,000 affordable units in 10 years — a cornerstone of his administration.

"They exploited me because I didn't have my papers," he said.

As the general contractor on the Riverway job, Procida Construction Corp. was supposed to make sure all workers were properly paid. Bequer says at one point, an inspector showed up on site and made a feeble inquiry about wages.

That day, he and his underpaid colleagues were simply told to hide at the job site.

"It is humiliating," he told The News.

Procida, investigated by state Attorney General Eric Schneiderman, agreed in 2013 to pay \$830,000 to cover underpayments at the Riverway project and another affordable housing project in Brooklyn. A lawyer for Procida did not return calls seeking comment.

Yet Procida was allowed to continue building affordable housing for the city, working on one taxpayer-subsidized project in Manhattan and two in the Bronx, including a 176-unit building now under construction that will provide housing for inpatients of the soon-to-be decommissioned Goldwater

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RICHARD HARBUS/(RICHARD HARBUS/FOR NEW YORK DAI

**The city Housing Preservation & Development Department allows these builders to work on these projects, despite their track record, on the condition that they repay what is owed.**

Memorial Hospital on Roosevelt Island.

City officials, including de Blasio and his predecessor, Michael Bloomberg, didn't mention the enhanced review list when announcing one of these affordable housing projects.

A June press release by the Housing Preservation & Development Department, for example, boasts of city financing for 18 projects, including Plover Apartments, a rehab job in the South Bronx that will produce 138 affordable units. The department noted the developer was Lemle & Wolff, but did not mention that the company was on the review list and owed \$500,000 in back wages. As of last week, the developer was down to \$100,000. Lemle & Wolff did not return calls seeking comment.

Last summer, when de Blasio showed up at a 124-unit development in Harlem called Sugar Hill, workers were kept upstairs, away from the news

conference. The workers told The News they were being paid a fraction of what they were supposed to get.

At the time, a Sugar Hill contractor, Mountco Construction, had been placed on the enhanced review list, owing \$610,000 in back wages. As of last week, Mountco still owed \$300,000, and is building more apartments at another project in the Bronx, Common Ground. The alleged deliberate cheating of workers sits in sharp contrast with de Blasio's promise to expand the so-called living wage to workers across the city.



JASON SZENES/EPA

**In September, the mayor signed an executive order expanding the city's living wage law to include all employees of tenants in commercial projects that have received more than \$1 million in city subsidies.**

In September, the mayor signed an executive order expanding the city's living wage law to include all employees of tenants in commercial projects that have received more than \$1 million in city subsidies. The mayor said the city was "raising the floor for working families struggling to get by."

Yet some of the key contractors and developers helping him reach his affordable housing goal have run projects where wage cheating was rampant, records show.

Lettire Construction owed \$5.1 million in back wages when it was put on the "enhanced review" program. Lettire is now working on Van Cortlandt Green in the Bronx, 86 units of senior citizen housing facing the park. As of last week, Lettire still owed \$2.8 million. Lettire director Matthew Gross said Friday wage problems at past projects have been eliminated and the firm now aggressively monitors pay at the Van Cortlandt job.

"We have had a chance to work through the compliance issues," Gross said.

"We're doing everything we can to ensure that Lettire Construction is in



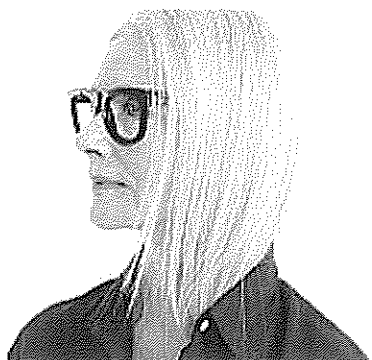
compliance."

One of the contractors got off the list earlier this year. Mega Contracting settled up by paying \$1.1 million in back wages owed by its subcontractors and agreeing to be monitored on three projects.

The monitor gave the company a clean bill of health, and it was taken off the list.

Notias Construction also got off the list by paying off \$500,000 in back wages.

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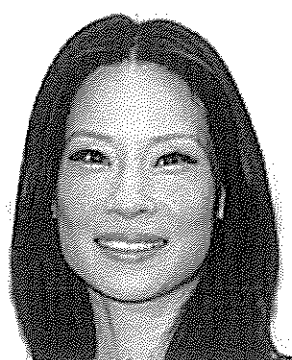
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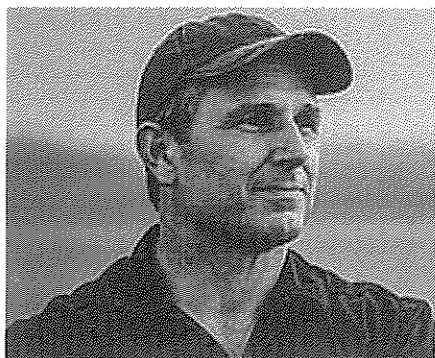
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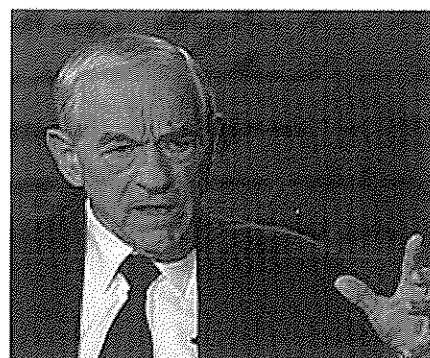
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Name: The Hon. Vicki Been

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I represent: Real Affordability for All

Address: \_\_\_\_\_

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I represent: Local 79

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I represent: WORKERS

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I represent: WORKERS

Address: \_\_\_\_\_

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Name: Carol Turner

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I represent: WORKERS

Address: \_\_\_\_\_

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☐ in favor ☐ in opposition

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Name: Nicole Vecchione

Address: 520 8<sup>th</sup> Ave

I represent: Laborers Union

Address: \_\_\_\_\_

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Nicole ☒ in favor ☐ in opposition

Date: \_\_\_\_\_

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Name: Johnny Zetani

Address: 520 8th Ave

I represent: Laborers Local 79

Address: \_\_\_\_\_

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☐ in favor ☐ in opposition

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Name: MELISSA SHETLER

Address: 520 8th Ave

I represent: LABORERS UNION

Address: \_\_\_\_\_

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☐ in favor ☐ in opposition

Date: 4/21/15

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Name: Glenn Hatcher

Address: BROOKLYN, NY

I represent: NYC carpenters

Address: 395 Hudson St NY, NY

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