

Congress of the United States
House of Representatives
Washington, DC 20515-3213

Testimony Before the New York City Council Committee on Civil Service and Labor
H.R. 847, the James Zadroga 9/11 Health and Compensation Act

May 21, 2009

On behalf of Congressman Michael E. McMahon, I would like to thank Councilman Miguel Martinez and the members of the Committee on Civil Service and Labor and Councilman Alan Gerson for allowing me to testify before you today. Congressman McMahon regrets not being able to attend today's hearing in person. He certainly would have enjoyed seeing and testifying before all of his former City Council Colleagues. He sends his warmest regards.

I am here today to discuss a vital piece of federal legislation; the James Zadroga 9/11 Health and Compensation Act, H.R. 847. One of Congressman McMahon's first priorities after being sworn into Congress was to sponsor legislation that would address the devastating medical and physical conditions of many who worked at Ground Zero after 9/11. He is proud to have introduced H.R. 847 along with New York Representatives, Carolyn Maloney, Jerry Nadler, and Peter King. The legislation was named after a great man who some of you may know; James Zadroga. James worked 450 hours at Ground Zero and died in January 2006. An autopsy concluded the 34-year-old cop's respiratory problems were caused by toxins from the attack site. Now is the time to support 9/11 heroes such as Mr. Zadroga. We have waited 7 long years, and Congressman McMahon and his colleagues in Congress hope to send this bill the President's desk by the end of this year.

The 9/11 Health and Compensation Act would aide ailing World Trade Center (WTC) responders exposed to the toxins of Ground Zero by providing them with medical monitoring and treatment. The legislation builds upon the existing monitoring and treatment program by delivering expert medical care and also provides compensation for those who suffered economic loss by reopening the September 11th Victims Compensation Fund (VCF). This legislation is not only vital to the citizens of New York, but citizens throughout the nation. At least 10,000 people came from across the country to help in the aftermath of the attacks. These individuals hail from every state in the union and nearly every Congressional District.

Mr. McMahon understands that that some groups are concerned that HR 847, in its current form, does not include cancer as a WTC related illness. Opposition to this bill is based upon an inaccurate understanding of its purpose and scope. The bill includes mechanisms to permit further research of other diseases that may be eligible to receive coverage.

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Congressman McMahon would like to express his support and gratitude to the Council for recently introducing resolution No. 1924 which calls upon Congress to enact this critical piece of legislation. I can assure you that the Congressman will do his very best to continue fighting for those affected by 9/11 related illnesses. The people who toiled on the pile as part of the rescue and recovery put their lives on the line to save others and help our City get back on its feet. Now we need to come through and help them recover from the illnesses that have resulted from their bravery and enact the 9/11 Health and Compensation Act.

Thank you.

LEGISLATIVE MEMO:

WE SUPPORT



RES. 1924

District Council 37 (DC 37) fully supports the City Council's resolution which calls upon the United States House of Representatives and the United States Senate to pass the James Zadroga 9/11 Health and Compensation Act, H.R. 847. Those who responded heroically without regard to their own health to one of this country's greatest tragedies deserve our unwavering gratitude and support. It is our national responsibility and our moral obligation to take care of their 9/11 health related illnesses.

Political Action and
Legislation Department
(212) 815-1550

"H.R. 847 helps the sick by proving medical monitoring and treatment to World Trade Center (WTC) responders and community members who were exposed to the toxins of Ground Zero. To do this, it builds on the existing monitoring and treatment program by delivering expert medical care for these unique exposures at Centers of Excellence. The bill also provides compensation for those who suffered economic losses by reopening the September 11 Victim Compensation Fund.

H.R. 847 Would Address the 9/11 Health Crisis by:

- Providing medical monitoring and treatment to WTC responders and community members (area workers, residents, students and others) who were exposed to toxins released at Ground Zero.

- Building on the existing monitoring and treatment program by delivering expert medical treatment for these unique exposures at Centers of Excellence.

- Providing for research into WTC-related health conditions.

- Reopening the 9/11 Victim Compensation Fund to provide compensation for economic losses and harm as an alternative to the current litigation system.

- Providing liability protections for the WTC contractors and the City of New York.

On behalf of DC 37's 125,000 members and 40,000 retirees, we urge the City Council to unanimously support this most important resolution.

Testimony of
Arthur Cheliotas, President of
New York Administrative Employees
Local 1180 of the
Communications Workers of America, AFLCIO;
to the New York City Council Civil Service and Labor
Committee
on May 21, 2009.
Regarding
Intro. 992
NYC Residency Law

Good morning, my name is Arthur Chelotes, President of New York Administrative Employees Local 1180 of the Communications Workers of America, AFLCIO representing over nearly 10,000 workers of which approximately 9,500 are civil servants working for the City of New York and its affiliated public employers. Nearly all are city residents.

My testimony today is in support of Intro.992, to restore fairness and choice for city workers whose unions have negotiated changes in the New York City Residency Law. On Dec. 18, 2008 despite Local 1180's objections because it did not establish a Residency Law that was uniform for all Career and Salary plan employees, the City Council passed Intro. 837 that eases residency restrictions on 45,000 city employees represented by DC 37. The Mayor vetoed the bill, but on February 11, 2009 the City Council voted 47-0 to override the veto and pass the residency bill. Intro. 837 amended the law for DC 37 members, once they have lived in the city for a minimum of two years, to live in the six counties surrounding New York City - Nassau, Orange, Putnam, Rockland, Suffolk and Westchester

The law only providing for city workers covered under the DC 37 contract the option to move to the six counties around our city. By not adhering to the long established uniformity of working conditions envisioned in the Collective Bargaining Law for Career and Salary Plan Employees the new law created many problems for the city's workforce. Depending on the title and contract a Career and Salary Plan Employee is covered by, employees who moved beyond the 5 boroughs would have to become city residents again if they were promoted or appointed to a title not under a DC 37 contract. The traditional uniformity for Career and Salary plan employees regarding residency was undermined.

Many unions representing Career and Salary plan employees like Local 1180 had and still have the same language in their contracts regarding residency as DC 37. It is consistent with the pattern established on wages and working conditions for our agreement for the term Sept. 6, 2006 – Oct. 5, 2008 and continues in our current agreement. Beginning on page 53 of our agreement it reads as follows:

Residency

The parties agree to support an amendment to Section 12-119 et seq. of the Administrative Code for the purpose of expanding permissible limits on residency to include the City of New York and Nassau, Westchester, Suffolk, Orange, Rockland or Putnam counties – with certain exceptions and limitations and except as may be prohibited by any other law requiring residency for appointment to certain positions including, but not limited to, the Public Officers Law – for employees covered by the terms of this Agreement.

Consistent with the above, Mayoral Directive 78-13, as amended July 26, 1978, and any other covered Employer's rules, regulations and/or operating procedures, shall be similarly modified to conform to the understanding of the parties. Upon enactment of legislation to implement the provisions herein, employees shall be subject to Section 1127 of the New York City Charter.

This legislation makes this residency law uniform for all Career and Salary plan employees whose unions have negotiated this change. It is the responsible way to address this issue.

The lifting of the Residency Requirement for our members is an equity issue I thank our friends in the City Council for initiating this legislation to afford them the right to now live within the six surrounding counties of Nassau, Suffolk, Orange, Rockland, Putnam and Westchester.

This measure is about choice, fairness, equity and the non-discriminatory application of the Residency Requirement.

Nearly 350,000 city employees are not subject to residency requirements. They include members of DC 37, teachers, uniformed employees of the Police, Fire and Sanitation Depts., workers in hard-to-recruit titles and civilian employees whose agencies do not require city residency (e.g., Transit Authority, CUNY, TBTA, OTB, Libraries, Cultural Institutions and others).

The concept that it is permissible for most of our co-workers to come in from other places and earn a living but it is not permissible for people who choose other public service careers to live where they choose is unfair and unacceptable. We urge the committee and entire city council to pass Intro. 992, it would put Local 1180 members and other similarly situated city workers whose unions have negotiated this change on equal footing.

What brings us to pursue this change in the residency law is the lack of affordable housing in our city. This change in the law does not minimize the pressing need for affordable housing for city workers who may now look beyond the city's limits. Currently, nearly all Local 1180 members live in New York City as a condition of their employment and would prefer to stay if they can afford to. Over the last 10 years in particular, our members have found it difficult to maintain their residency because of the continuing escalation of rents, deregulation of housing laws, vacancy decontrol, and the decline of housing subsidies, rent control and stabilization and Mitchell-Lama expirations.

We have always been acutely aware of our members' concern over the shrinking stock of affordable housing. In fact, as I speak there are members of Local 1180 who are homeless and living in shelters. They come to our Legal Benefits Fund for legal assistance because they are in arrears on their rent, facing eviction or their homes had been lost or are in the process of being foreclosed. Many double up with understanding family and friends some must live with roommates in order to meet their monthly rent and stay in the city. Many must make difficult choices between rent, food or medical and pharmacy co-payments.

Using the model established by the Electchester development in Queens by the Local 3 IBEW. Local 1180 proposed the development of nearly 1,500 affordable housing units in Arverne, Queens. We met with the mayor and now secretary of HUD Sean Donovan over four years ago. Unfortunately the project required substantial subsidies at a time when private developers were willing to pay millions of dollars for the land we sought so the project never went beyond the proposal stage. We still offer regular housing seminars for our members so they can understand what is available to them and if they qualify for any government programs but the housing market in New York City has become so gentrified that affordability remains evasive. Our dear city where we work to make life better for all New Yorkers has become a place for the very rich. Even when members move outside the city limits to find affordable housing they will continue to offer the city more than their fellow commuters do because they are still bound to pay the full city resident's income tax. With this legislation, the City Council has taken a major step in addressing a very important problem faced by the men and women who devote their lives to ***Making New York work for all New Yorkers.***



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Patrick Ferraiuolo
President

Testimony
of
Patrick Ferraiuolo
Correction Captains' Association, Inc.
in Front of
The City Council

Re. -- Oversight: The Health of 9/11 World Trade Center First Responders

May 21, 2009

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Re. -- Oversight: The Health of 9/11 World Trade Center First Responders

May 21, 2009

My name is Patrick Ferraiuolo. I am the President of the Correction Captains' Association, Inc., representing more than 900 active and 1,500 retired New York City Correction Captains. Correction Captains perform the duties of first line supervisors in the New York City Department of Corrections. Correction Captains were part of the large number of City employees and other brave people that responded to the terrorist attacks on September 11, 2001.

I believe we can all agree that we witnessed an extraordinary response by the men and women who were the first responders to the terrorist attacks that took place on September 11, 2001. This was an attack on the United States of America, not just New York City.

The horrors that we witnessed on that tragic day are unspeakable. The deaths of innocent members of the public and public employees are, to say the least, tragic. We responded to a national tragedy in much the same way as the heroic first responders did at the Pentagon, and in Pennsylvania, on September 11th.

And I am sure we can all agree that all of those brave men and women who responded to this unprecedented, horrific attack, to save as many lives as possible and thereafter obtain evidence and clean up toxic debris, should not be forsaken and that those who survived should not have to worry about any illnesses or injuries they received as a result of their heroic acts. We must not forget those that perished.

I stand before you today to support Resolution No. 1924-A calling upon the United States Congress to pass H.R. 847, the James Zadroga 9/11 Health and Compensation Act to reduce the share of the costs borne by the City of New York to address those who were sick or injured responding to the 9/11 attacks and its aftermath. It is my belief that the citizens of this great Country would, without reservation, even in this economy, support the passage of this bill which, by the way, requires the City to fund only 10% of the entire treatment and monitoring cost for the eligible heroes.

One example of the heroes I am referring to is Philip Rizzo, a Correction Captain. Captain Rizzo, a 22 year veteran of the New York City Department of Correction, gave me permission to testify about his case. He was one of the first responders to Ground Zero at the World Trade Center and he continued performing duty at the World Trade Center site for the weeks and months that followed September 11, 2001. He performed search and rescue duty without regard to his own health and safety, as did many others, without the proper health and safety equipment. Captain Rizzo developed pulmonary problems and had a surgical procedure called Vocal Cord Stripping. His treatment and medication were paid through the Mount Sinai World Trade Center Treatment Program. He is now awaiting a decision from the New York City Employee Retirement System

("NYCERS") on his disability application. I am informed that the New York City Law Department was having a problem approving payment for Captain Rizzo's treatment. I am informed that if not for the WTC Program, his hospital bills had not been approved by the City. Captain Rizzo is also having a difficult time with his disability pension application. He would have been here today, but instead, he is being examined for the fourth time by City doctors because the doctors from the WTC Program disagreed with the City doctors. The WTC Program doctors found Captain Rizzo to be disabled. This WTC Program provides a vital service and must be continued and funded.

The passage of the Resolution No. 1924-A, calling upon Congress to amend and pass HR-847, would keep a fully funded program with the cost being divided between the City and the Federal government. If this bill is enacted into law, it would be a good result for my members, a good result for the City, and would reduce the cost to the City of this important program, while continuing to provide services and benefits to these heroes. However, make no mistake, regardless of this possible partial shift of funding to the Federal government, this World Trade Center 9/11 Program must continue. We need to ensure our heroes receive the best medical care to address their illnesses and injuries.

Thank you.

**Statement of Caswell F. Holloway
Chief of Staff to Deputy Mayor for Operations Edward Skyler and
Special Advisor to Mayor Bloomberg**

**Resolution 1924 in support of the 9/11 Health and Compensation Act
May 21, 2009**

**Civil Service and Labor Committee and Lower Manhattan Redevelopment Committee
New York City Council**

Statement of Caswell F. Holloway

Examining the Health Problems and Treatment Options for 9/11 First Responders; Reso. 1924 on James Zadroga 9/11 Health and Compensation Act (May 21, 2009)

Introduction/Overview

- Good morning. I want to thank Chairman Martinez and Chairman Gerson, as well as the other distinguished members of the Council for convening this hearing on the health problems and treatment options for 9/11 first responders and Reso.1924, which calls on Congress to pass the 9/11 Health and Compensation Act (H.R. 847).
- I also want to thank Council Speaker Quinn and the entire Council for making it a priority to support legislation to establish a sustained, long-term 9/11 health program. While the full extent of the health effects resulting from the WTC attacks is unknown, medical evidence suggests a variety of short-term and medium-term health impacts. Additionally, the Centers of Excellence and the WTC Health Registry continue to generate valuable research adding to our body of knowledge about these health effects. Addressing the long-term effects of this attack on America will require a sustained federal commitment to monitoring and treatment.
- My name is Cas Holloway and I am Chief of Staff to New York City's Deputy Mayor for Operations Edward Skyler and a Special Advisor to Mayor Bloomberg.
- I was also an Executive Director of a Panel convened by Mayor Bloomberg at the fifth anniversary of the attacks to assess the Health Impacts of 9/11. That report called for a sustained, long-term program to provide monitoring and treatment to address the health impacts of 9/11, and for the re-opening of the Victim Compensation Fund.
- Since that time, I have testified before you on the City's efforts to address the health problems and treatment options for first responders, residents and others affected by the 9/11 terrorist attacks. The Mayor and I also have traveled to Washington, and I returned as recently as last month, to make the case for sustained federal funding.
- The administration supports Reso. 1924, and joins the Council in urging Congress to pass legislation that will provide long-term federal funding to monitor and treat those harmed by the attacks; to continue vital research so we can fully understand the health impacts of the 9/11 terrorist attacks; and to re-open the Victim's Compensation Fund so that those who were harmed can be compensated quickly and fairly, without having to prove that anyone other than the terrorists were at fault.

- H.R. 874, the federal bill currently before Congress that is the subject of the Council's resolution, is an important step forward, and in its broad strokes, would achieve these goals.
- But as the Resolution before the Council notes, there are two important issues that must be addressed in the current legislation. First, the bill requires the City to pay 10% of the entire treatment and monitoring costs for anyone eligible under the bill. Based on the best information we have from CBO, this translates to more than \$50 million per year—more than \$500 million over 10 years. Particularly at a time when the City is being forced to make deep cuts, including to essential services, the cost share in the bill is simply too high.
- The members of this Committee know well that we are still in the throes of an economic crisis that has resulted in the highest unemployment rate in New York City since October 2003, and a projected budget gap of \$4.5 billion in FY 2011 that could grow to \$5 billion and more in future years. Mayor Bloomberg has moved aggressively—since well before the current crisis became apparent—to cut costs and save surpluses for tough times; but even with these measures the City has had to make deep cuts, and we're not done yet.
- I mention these statistics not merely because they are timely, but because the City's finances are severely strained; we must concentrate resources on providing the essential services New Yorkers and visitors to the City need, and on getting the economy running again. Addressing the health impacts of 9/11 is clearly a national obligation, and it is unfair to ask New York City taxpayers to bear such a disproportionate burden of the costs.
- Second, regardless of what the City's cost share ultimately turns out to be, the bill does not give the City adequate oversight of the programs it is expected to fund. This issue can be easily addressed by the addition of a "right-to-audit" or similar mechanism to the bill, and it must be included to give the City the tools it needs to ensure that public dollars are spent appropriately.
- I'd like to review some of the essential facts about the scope of the 9/11 Health problem, and the considerable efforts the City has made to address it.
- As Reso 1924 notes, More than 90,000 (and by some estimates, well more than 100,000) New York City firefighters, police officers, other first responders and recovery workers responded to ground zero and participated in the rescue, recovery and clean-up at the site. And hundreds of thousands of residents, area workers, school children and other community members were directly impacted by the attacks.
- Although Congress has appropriated funding on an ad-hoc basis to monitor and treat these groups, the uncertainty of that funding requires that we seek new appropriations every year—and we were only recently able to access some of these funds for the only Center of Excellence that treats residents and other non-responders—the WTC Environmental Health

Center at our Health and Hospitals Corporation.

- Two and a half years ago, as the fifth anniversary of 9/11 approached, Mayor Bloomberg directed City agencies to make a thorough investigation of the health problems created by that terrorist attack. The report we published six months later established beyond question that many people who were in or near the area around the World Trade Center on September 11th or the days following are suffering from a variety of physical and mental conditions.
- They include firefighters and police officers... community residents, schoolchildren, and owners and employees of neighborhood businesses... and also construction workers and volunteers from across America who contributed to the heroic task of clearing the debris from the World Trade Center site.
- The report made clear that the ultimate scope of these health effects is still unknown; that they must continue to be studied; and that those who are sick or could become sick must be monitored and treated with the best possible care.
- The destruction of the World Trade Center was an act of war against the United States. People from every part of the country perished in the attack, and people from all 50 states also took part in the subsequent relief and recovery efforts. And that makes addressing the resulting health effects of 9/11, as well as compensating those who were harmed as fairly and expeditiously as possible, a national responsibility.
- But New York City has not waited for federal funds to meet the health needs of those who are sick in the aftermath of 9-11. New York City taxpayers have, for example, borne the expense of free screening and treatment for thousands of people at the WTC Environmental Health Center at our Health and Hospitals Corporation; and we've launched a number of public outreach campaigns about 9/11 health problems and how to get help.
- In addition, in 2008, our Department of Health and Mental Hygiene launched the 9/11 Benefit Program for Mental Health & Substance Use Services, which provides coverage for mental health services for thousands of New Yorkers directly affected by the attack. Since its April 2008 inception, 2,378 individuals have enrolled in the program, and more than 1,400 individuals have initiated the enrollment process and are awaiting an eligibility determination.
- This program, and many of the 9/11-related health programs funded by the City, were initiated on the assumption that federal funding would eventually become available—through the 9/11 Health and Compensation Act or otherwise. The City will not be able to continue to fund these programs on its own indefinitely, and all of them are in jeopardy unless Congress acts quickly.

FDNY and DOHMH

- I do not mean to suggest that the federal government has done nothing in this area. NIOSH grants, and the annual appropriations that Congress has made over the last several years have funded the World Trade Center program at Mt. Sinai, as well as the longest-running health response to the attacks--the FDNY WTC Medical Monitoring and Treatment Program.
- Through that program, about 15,000 FDNY rescue/recovery workers (active and retired fire and EMS) have received at least one FDNY WTC Monitoring Exam, a 97 percent compliance rate. Over 85% have received a 2nd WTC Monitoring Exam, and over 75% have received a 3rd Exam. A fourth exam was initiated this year, and compliance and retention rates remain extremely high.
- Along with monitoring, the program has provided treatment, including WTC-related prescription drugs, to thousands of FDNY rescue/recovery workers. In the most recently completed grant year (7/1/07 to 6/30/08), the program provided WTC-related physical health and mental health treatment to 3,157 and 2,574 members, respectively.
- The program also serves as a key source of vital research on the health impacts of 9/11. FDNY has produced 25 peer-reviewed articles on WTC medical conditions.
- The FDNY program is operating under a federally funded NIOSH grant program for monitoring, treatment and data analysis. FDNY has recently received approval for a no-cost extension of existing NIOSH funds. FDNY predicts, however, that these funds will only carry the program into the Summer or early Fall at the latest.
- In addition, federal funding enabled the establishment of the WTC Health Registry, which this bill will continue to fund on a permanent basis. The Registry is a partnership between the City and the federal government that is the largest effort of its kind in history. It includes more than 71,000 exposed people from every state in the country, and from every Congressional District. Over 20 percent of the people in the Registry are from outside the New York Metropolitan region. This is a reflection of the numbers of people from throughout the country who were in New York at the time of the attacks, or who came to New York afterwards.
- Efforts like the Registry, and the reports generated by the Medical Working Group created by Mayor Bloomberg to keep abreast of the newest research and resource needs for 9/11 health issues, are central to the City's approach to this issue, which is to dedicate resources based on the latest science and medical research. And the data shows that 9/11 health issues continue to be a serious problem.
- Registry data confirm continued high levels of reported post-9/11 asthma and Post-Traumatic Stress Disorder (PTSD) among Registry enrollees 5-6 years after the attacks. Adverse health symptoms, while reported mostly among rescue and recovery workers, have also been

reported by Lower Manhattan residents, office workers, and passersby on 9/11. Reported PTSD levels were high at baseline and remain elevated at the time of the follow up survey.

H.R. 847

- I've spent some time talking about the City's Centers of Excellence and DOHMH's efforts. H.R. 847, which the Council's Reso. 1924 addresses, generally provides for their long-term sustainability.
- The federal bill provides long-term funding to monitor and treat those who are sick or who could become sick because of 9/11, including the 3 current Centers of Excellence, and the DOHMH Mental Health program I described above. It also continues funding for critical research, including the WTC Health Registry. Finally, the bill reopens the Victim Compensation Fund so that people who were harmed by the terrorist attacks can get compensation fairly and quickly without having to prove that the City, the contractors, or anyone else but the terrorists were at fault.
- To ensure that funding goes only to those whose illnesses are due to 9/11, the bill includes important controls that the City fully supports. First, the bill defines specific groups (for example, firefighters or recovery workers) and specific geographic areas that people must have been in on, or within a defined time period after 9/11 to be eligible for treatment.
- I should note that there is specified funding to treat people outside the designated areas or groups who may—on a case-by-case basis—be eligible for treatment for a 9/11-related condition. This is necessary because we do not know the full extent of the health impacts of the disaster and want to provide a means for anyone sick because of 9/11 to get treatment.
- Second, while people who meet these criteria are “eligible” for treatment, to actually get treatment, a doctor with experience treating WTC-related conditions must determine based on a medical examination, that exposure to airborne toxins, trauma or other hazards caused by the 9/11 attacks is substantially likely to be a significant factor causing, contributing to or aggravating the patient's condition.
- That assessment must be based in part on standardized questionnaires; and even after a condition is deemed to be WTC-related, it is subject to review and certification by the WTC administrator.
- These are tough standards that are based to a large extent on the protocols already in place at the WTC Environmental Health Center in the New York City Health and Hospitals Corporation. They are necessary to ensure that only those who are sick due to 9/11 are treated under this program.

- The bill also caps the number of responders and community members who can get monitoring or treatment. These limitations are based on the best available information about how many people were exposed and could potentially be ill, and while we think they will be sufficient to provide treatment to anyone who may need it, there are reporting requirements in the bill so that Congress will be told if those caps are approached.
- In addition to these controls—which apply to every potential patient—the bill mandates the establishment of Quality Assurance and Fraud Prevention programs that will act as further safeguards against the misuse of these funds for any purpose other than to monitor and treat those affected by the 9/11 attacks.
- The bill also includes important provisions to ensure that federal dollars go only to cover costs that the federal government should pay. For example, there is an offset for any Worker’s Compensation payments that have been made. For non-work related conditions, the program acts as a payor of last resort if an eligible recipient has applicable health insurance.

Re-opening the Victim’s Compensation Fund

- The bill also re-opens the Victims Compensation Fund (VCF), a critical step that’s long overdue.
- The VCF worked well, and approximately 5,500 claimants opted to accept awards rather than to pursue a lawsuit. However, eligibility limitations made it unavailable to most of the workers at Ground Zero. And there are now many rescue and recovery workers, not to mention those in the community, who report injuries and illnesses, but have no option for compensation other than litigation.
- The downsides of litigation are well known. The outcome is uncertain. The process is prolonged and costly. And even if the plaintiffs are successful, much of the compensation awarded will not go to them, but to their lawyers. Most regrettably, this litigation pits the City against the heroic workers who rushed to the World Trade Center site to aid in the rescue, recovery and cleanup efforts.
- Fortunately, there is a better way: re-opening the Victim Compensation Fund. Compensation from the fund will be prompt and certain and there will be no need to assign blame to anyone. In addition, there will be no need to marshal the services of hundreds of lawyers and experts in a pitched battle between the responders and the City and its contractors.
- Re-opening the VCF will provide fast, fair, and certain relief to workers and area residents. It would end the misplaced efforts to assign blame to the City and the companies who worked to help New York recover from 9/11, instead of to the terrorists who attacked our nation.

The City's Position on H.R. 847

- As I noted at the outset of my testimony, overall, this legislation represents an important step towards establishing a long-term federal program to address the health impacts of 9/11.
- As drafted, however, the bill requires the City to contribute a 10 percent matching cost share of the entire program, which could be up to \$500 million over 10 years. City taxpayers would be required to fund 10% of not only the community program—but also the responder program and the national program, regardless of whether New York City residents are the recipients of care.
- This is simply too high a cost for City taxpayers to shoulder alone for what clearly must be a national response to an act of war against our country. This is not to say that the City objects to any cost-sharing. Indeed, Mayor Bloomberg fully supported an earlier version of the bill that required the City to pay 5% of the cost of treating anyone treated at a Center of Excellence within the City's Health and Hospitals Corporation. We accepted this obligation, because it ensures that the City has a strong incentive to monitor these programs and make sure that these health care dollars are spent wisely.
- But imposing on City taxpayers a cost share of 10 percent of the *entire* program, without giving the City any oversight of how those dollars are spent, is unfair, and unacceptable if the City is to be accountable—as it must be—for ensuring that public funds are used appropriately.
- We are confident, however, that Congress can address these critical issues, and that the City will be able to fully support legislation that we hope will be presented for President Obama's signature before another anniversary of the attacks passes.
- I want to thank the members of the City Council again for your attention and for voicing your support for such an important piece of federal legislation through Reso 1924. I'd be happy to answer any questions you might have.

JUDICIARY COMMITTEE

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ASSISTANT WHIP



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TESTIMONY OF U.S. REPRESENTATIVE JERROLD NADLER (D-NY 08)

**Before the New York City Council Committee on Lower Manhattan Redevelopment
and Committee on Civil Service and Labor**

9/11 Health and Compensation Act of 2009

May 21, 2009

Chairman Gerson and Chairman Martinez -- thank you for convening this hearing and inviting my colleagues and me to testify before you today. I also want to thank everyone who has worked on this bill to help us achieve our long-standing goal of providing a stable, long-term program to help the responders, the area residents, workers, students and others who were injured by the attack on our country on September 11th.

Representative Maloney and I, along with Representatives King and McMahon, have introduced H.R. 847, the *9/11 Health and Compensation Act of 2009*, to ensure that the living victims of the September 11th terrorist attacks have a right to health care for their World Trade Center-related illnesses and a route to compensation for their economic losses.

Now, as many of my colleagues know – and as many of us sitting in this room know – we have come together many times since the towers fell almost eight years ago, holding press conferences, testifying at hearings and releasing countless pages of information detailing the environmental impacts and health effects created by the attack on our country.

For eight years, those of us here today have testified about the toxins that were inhaled by those near Ground Zero in the days and weeks following the attacks. We warned then that the air wasn't safe and that our courageous first responders were not being afforded the proper protection from dangerous toxins as they were working on and around the pile. But the EPA kept assuring everyone, wrongly, that the air was safe. We spent years working to try to convince public officials that the asbestos, fiberglass and other toxins had traveled far and settled into the interiors of residences, workplaces and schools, and that a proper testing and cleanup program was required to eliminate the health risks to area residents, workers and students. We demanded that the government acknowledge the fact – supported by a mountain of peer-reviewed research – that thousands of our nation's citizens are sick today because of 9/11 and that many more will likely become sick in the future. We explained to whoever would listen that our 9/11 heroes were struggling to pay health care costs because they could no longer work and had lost their health insurance, or because they had had their worker's compensation claims contested. We have argued vigorously that the federal response to date has been dangerously limited, piecemeal and unpredictable – both in terms of preventing further health impacts from potentially persistent indoor contamination and, most notably, in

terms of a lack of a comprehensive, long-term approach to providing health care and compensation for those already affected.

Yet each time we presented our case for a comprehensive solution, we were told, "Better luck next year." Well, a new year has come and we are here again on behalf of those who continue to suffer.

Undaunted, and due to considerable efforts by all of the stakeholders, we have modified the bill to achieve what have been our dual goals from the beginning: 1) establishing a stable, long-term approach that builds on successful, existing programs to provide much needed care for those who were affected by the attacks, regardless of whether they are first responders, area workers, residents, students or others, and 2) doing this in a fiscally responsible manner.

Earlier this year, we held two hearings in the United States House of Representatives on the bill. First, I chaired a joint hearing of two Judiciary Subcommittees -- the Subcommittee on the Constitution, Civil Rights and Civil Liberties and the Subcommittee on Immigration, Citizenship, Refugees, Border Security and International Law. At that hearing, lawmakers considered issues related to economic losses resulting from health problems for 9/11 victims as well as the need to ensure that the City and its contractors can respond to emergencies like this without risking financial hardship. And all sides agreed that a reopening of the Victims Compensation Fund was the best way to solve these issues. The second hearing was held in the Energy and

Commerce Committee, where I testified about the overwhelming need for federal action to stem the health crisis affecting thousands of first responders, workers, students and community members who were exposed to World Trade Center contaminants after 9/11. Now as the legislative session moves forward, we expect committee “mark-ups” of the legislation in the near future as we push for House passage in the coming weeks. Additionally, it is expected that there will be companion legislation introduced in the United States Senate, bringing us one step closer to the *9/11 Health and Compensation Act of 2009* being signed into law by President Obama.

Although the devastating 9/11 attacks on the World Trade Center occurred within the bounds of my Congressional district, it was our nation as a whole that was attacked. And the ramifications stretch well beyond the bounds of my district. Every Member in New York’s downstate delegation represents hundreds, if not thousands, of people who live, work, attend school, or were otherwise present in Lower Manhattan and the affected parts of Brooklyn, and were exposed to the toxic brew in the air. But it doesn’t end there. Because people from all across this country came to New York City to help, there are now citizens in every state – in 431 Congressional Districts – who were exposed to the toxic fumes of 9/11, and who were concerned enough about it to register with the World Trade Center Health Registry. So, this is not just a problem for Members from New York and New Jersey; this issue should concern every Member of Congress. But sadly, many Members remain unaware or indifferent. This is but one of the reasons that the resolution you are considering today is important.

Because this is undeniably a national problem, it has always required a national response. Yet, the previous Administration declined to develop a comprehensive plan to deal with this growing public health problem, forcing the New York delegation, year after year, to come to Congress to test its luck during the annual appropriations process. Thankfully, with growing bi-partisan support for that funding, we have had some key successes. And with those funds, we have seen some critical first steps in federally-funded health care programming. But, quite simply, this disjointed and unpredictable approach to securing critical funding is not a tenable course of action. Both our heroes and the excellent health care programs that are now in place to serve them deserve better.

Passage of the *9/11 Health and Compensation Act* would mark an end to this problematic approach and ensure that a consistent source of funding is available to monitor and/or treat the thousands of first responders and community members already affected by WTC-related illnesses, as well as those whose illnesses may become apparent in the future. And it would ensure that no matter where an affected individual lives in the future, he or she could get care. Building on the expertise of the Centers of Excellence, the bill would fill gaps in how we are currently providing treatment and monitoring. The bill also would provide for substantial data collection regarding the nature and extent of WTC-related illnesses. This is a particularly critical provision as there is still much we have to learn about these illnesses and how they affect different exposure populations. And finally, as you know, this legislation would provide an opportunity for compensation for economic damages and losses by reopening the 9/11 Victim Compensation Fund.

Of course, the needs here are abundantly clear; approximately 16,000 first responders are currently being treated for WTC-related illnesses and more than 40,000 are being monitored through a consortium of providers, led by Mt. Sinai Hospital and the New York City Fire Department. And we have nearly 3,400 sick community members being treated by a program funded in part by the federal government – the World Trade Center Environmental Health Program at Bellevue Hospital.

As you may know, the bill has been modified several times in order to ensure that those in need receive the care they deserve and that the cost is feasible and responsible. First, the bill limits the radius within which individuals who reside, go to school or work (including commuters from throughout the tri-state area) would be eligible for services. Second, it caps the total number of new treatment slots at 35,000 – which, incidentally, is the same level as the responder program. Finally, the bill creates contingency funds with strict dollar limits, and caps other kinds of spending.

Today, every member of these Committees has an opportunity to help us make a necessary final push. I urge you to again join with those of us in this room who have been fighting for this funding for eight long years, and with those here in New York and throughout the country who continue to grapple with the consequences of the 9/11 attacks. With your help, via the passage of City Council Resolution 1924-A, we will strengthen the growing support of the *9/11 Health and Compensation Act of 2009* and bring us one step closer to giving the heroes and victims of 9/11 the peace of mind they deserve by providing for their health needs and other losses.

Please join me in supporting the *9/11 Health and Compensation Act*, and please help us move this important legislation forward so that it can finally be brought to the whole House for a vote.

Thank you again, Mr. Chairman and members of the Committees, for holding this hearing, and I look forward to the testimony of my colleagues and other witnesses today.

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Testimony of Congresswoman Carolyn Maloney (D-NY)
Hearing of the Committee on Lower Manhattan Redevelopment
May 21, 2009

"I want to thank Chairman Gerson and Chairman Martinez and members of the Committees on Lower Manhattan Redevelopment and Civil Service and Labor for inviting me to testify today on H.R. 847, the *James Zadroga 9/11 Health and Compensation Act*, which I introduced with Representatives Nadler, King and McMahon, and with the support of the entire New York congressional delegation. I also want to thank Mayor Bloomberg and Speaker Quinn for their ongoing dedication to providing health care for World Trade Center responders and community members. I regret that votes in Washington prevent me from testifying in person this morning.

"On September 11, 2001, thousands lost their lives. More than seven years later, we know that thousands more have lost their health.

"Within hours of the collapse of the World Trade Center towers, firefighters, police officers and EMTs labored alongside construction workers, volunteers, and others without regard for their own health or safety. All were told the "air was safe to breathe."

"Unfortunately, we now know better. The cloud they worked in was a poisonous cocktail of thousands of tons of coarse and fine particulate matter, pulverized cement and glass, asbestos, lead, and other toxic pollutants. To the mix were added 24,000 gallons of burning jet fuel and plastics which created a dense plume of smoke containing a combination of toxins probably never seen before and that hopefully we will never see again.

"All of this went into the mouths, throats, and lungs of tens of thousands of first responders. In addition, thousands of residents, area workers, and schoolchildren breathed in the very same toxic air.

"Although most of these people live in the New York/New Jersey area, at least 10,000 people came from across the country to help in the aftermath of the attacks. They hail from every state in the union and nearly every Congressional district.

"Now, over seven years later, we are seeing the potentially deadly effects of those toxins. There are numerous peer-reviewed, scientific studies showing that the exposures at Ground Zero are causing people to become very ill. Their illnesses include respiratory

and gastrointestinal conditions such as asthma, interstitial lung disease, chronic cough and GERD, and mental health conditions such as post-traumatic stress disorder.

“H.R. 847 helps the sick by providing medical monitoring and treatment to World Trade Center responders and community members who were exposed to the toxins of Ground Zero. To do this, it builds on the existing monitoring and treatment program by delivering expert medical care for these unique exposures at Centers of Excellence. The bill also provides compensation for those who suffered economic losses by reopening the September 11 Victim Compensation Fund.

“We are making important strides in Congress toward passing this landmark bill. In the last two months, we have had hearings on the compensation and health care provisions of H.R. 847 in the House committees of jurisdiction. With the support of President Obama and Speaker Pelosi, we are hopeful that we will finally pass the *9/11 Health and Compensation Act* by the eighth anniversary of the attacks.

“The solutions provided in H.R. 847 are neither easy nor inexpensive, but they are part of our country's moral obligation to care for those who were harmed by an act of war. We must take care of the people who took care of us in the days and weeks after 9/11, and all the victims of the terrorist attacks. It is the least we can do as a grateful nation. Thank you.”

Testimony of Frank Tramontano Research Director of the Patrolmen's Benevolent Association before the Committee on Civil Service and Labor and the Committee on Lower Manhattan Development regarding resolution 1924A – May 21, 2009

Good morning, my name is Frank Tramontano and I am the Research Director for the Patrolmen's Benevolent Association. I am joined today by Chris McGrath and David Morris who provide legal counsel to the PBA and who have assisted me in preparing for today's hearing.

We would like to thank the Speaker and her staff as well as the Civil Service Committee and its Chairman Councilman Miguel Martinez as well as the Lower Manhattan Redevelopment Committee and its Chairman Councilman Alan Gerson for having a hearing on this important piece of legislation.

We are here today to voice our opposition to Resolution 1924A as currently drafted.

The proposed resolution would call upon Congress to amend HR 847, also known as the Zadroga bill, to eliminate the City's annual required contribution.

The Zadroga bill, in addition to reopening the Victims Compensation Fund, would grant permanent funding for treatment centers to provide medical care for victims of the World Trade Center attack. In order to qualify for this medical care under the Bill, first responders and citizens must be found by a physician to suffer from an enumerated WTC-related health condition. The physician must determine that exposure to airborne toxins resulting from the 911 attacks was substantially likely to be a significant factor in aggravating, contributing to, or causing the condition. The WTC-related health conditions currently enumerated in the bill are aerodigestive disorders, mental health disorders and musculoskeletal disorders.

However, the Zadroga bill does not list cancer as a WTC related health condition. This omission of cancer leaves a gaping hole in the current legislation, and is contrary with the evidence to date.

Approving RESO 1924A which requests changes to the Zadroga bill but omits adding cancer as a qualifying WTC health related condition eligible for treatment, is ignoring what we all know is true; that people are getting cancer as a result of their exposure to airborne toxins during and after the 911 attacks.

Cancer must be added as a health condition covered in the Zadroga bill because those who participated in the rescue, recovery, and debris cleanup, as well as those who live and work in lower Manhattan, were exposed to carcinogens in some of the highest concentrations and for the longest period of time ever recorded.

Cancer must be added as a health condition covered in the Zadroga bill because of the unusual types of cancers we have been seeing in young men and women who were in perfect health before the 911 attacks and whose physicians, in statements to the medical pension boards, have linked their cancer to their exposure from 911.

We have been working with Dr. James Melius, the chairman of the Mount Sinai WTC steering committee, to have cancer included in the bill. He has told us that the inclusion of cancer as a qualifying condition is a position he will be advocating for in Washington.

He knows, as all of us know, that carcinogens cause cancer and those WTC responders and community residents were exposed to high levels of carcinogens for a significant period of time.

Dr. Melius, who was recently in Washington attempting to garner support for an amended Zadroga Bill, has told us that he believes cancer must be recognized as a WTC-related health condition as soon as possible in order to ensure prompt expert medical treatment. Dr. Melius believes that waiting years to include cancer on the list as a qualifying WTC-related health condition would deny deserved medical care to individuals which can slow their recovery and become a significant financial burden.

The individuals already suffering from 9/11 related cancer know that their illness is related to their exposure from 911, and cannot and should not accept the federal government denying medical treatment for them.

I'd like to point out to this committee that the State Legislature and the Governor approved legislation in 2005 recognizing cancer as a health condition qualifying for a WTC accident disability for all those who meet the criteria of exposure included in that law.

As a result, the City's budget every year includes funding for WTC cancer accident disabilities. In doing so the City has already acknowledged that cancer is a medical condition resulting from the attack on 911.

Even if we are successful in having the federal legislation amended to include cancer as a qualifying medical condition, unlike the State law, which presumes that cancer is the result of the 911 attacks, there is a chance that not every cancer victim will be covered.

The Zadroga bill requires that an eligible individual must be found by a physician to have a WTC-related health condition in which exposure to airborne toxins, other hazards, or adverse conditions resulting from the 911 attacks was substantially likely to be a significant factor in aggravating, contributing to, or causing the condition.

These limitations in HR 847 will work as a filter, making certain only those with cancers found by a competent physician to be substantially related to their exposure at an identified WTC site will be provided treatment.

The federal government failed us with the EPA's press release on September 18, 2001 reassuring the people of New York that the air was safe to breathe. We are relying on the City Council to ensure the federal government doesn't fail us again. We need you to amend your reso and call for cancer to be added as a qualifying WTC related health condition covered in the Zadroga bill thus granting quality cost free medical treatment to those individuals who have gotten seriously ill as a result of the terrorist attack against our nation and our City on September 11, 2001. Thank you.



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Testimony by James Huntley
President, CWA Local 1182

Before the New York City Council Civil Service and Labor Committee
Council Member Martinez, Chair
Regarding Residency Requirements for City Employees
May 21, 2009

Good morning. My name is James Huntley. I'm President of CWA Local 1182 the union representing Traffic and Sanitation Enforcement Agents in New York City. Let me start by thanking Chairman Martinez and the members of the Civil Service and Labor Committee for addressing this issue which is so very important to city workers.

On July 12, 2006, New York City Mayor Michael Bloomberg and District Council 37's Lillian Roberts signed a contract which included changes in the residency law for municipal employees pending approval by the New York City Council. The understanding at that time was that all city workers, regardless of union affiliation, would benefit from the change in requirement. In fact most city employees already lived outside the city limits. While 240,000 city workers are not mandated to live in the city, 45,000 - mostly lower-paid civil servants - are required to maintain residence in the Big Apple.

This important labor settlement containing a proviso for the City Council approval didn't seem to be an issue at the time of signing. Having the Mayor's support and most of the city workforce already permitted to live outside the five boroughs, no one thought the labor-friendly Council would be an impediment to a contract. When announcing the tentative agreement, Mayor Bloomberg said that the restrictions were adopted 20 years ago when many middle-class families were leaving New York for the suburbs, and a lot has changed since then. Needless to say, the inability to enact this agreement has been an embarrassment to both New York City and the municipal unions.

The negotiation process between unions and city government is always difficult and stressful. Through the years, the trust and credibility built by New York City Labor Relations Commissioner James Hanley and his team has allowed for a harmonious relationship between labor and city officials. Even before a contract signing, the hand-shake of Commissioner Hanley with a union president has always symbolized an agreement. However, this time was different.

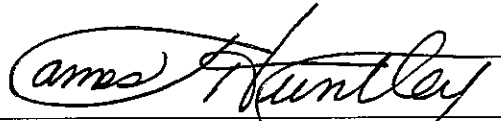
Intended to add employment opportunities for New Yorkers, the residency law was enacted in 1986. With costs rising rapidly and the middle class not able to afford living in most neighborhoods, it became increasingly difficult for the municipal workforce to find adequate housing in New York City. During negotiations in 2006, frustrated workers demanded

that residency restriction removal be included in a settlement. City employees were ecstatic when learning the agreement included removing these restrictions. Finally, all municipal workers could realize the American dream and be permitted to purchase a home in the suburbs.

In 2006, as a follow-up to negotiations, Commissioner Hanley asked the City Council to pass a bill that would permit civilian municipal workers to live outside New York City. Some city legislators and community advocates were critical of the change, claiming removal would make it more difficult for New Yorkers to land city jobs. In response, the Council did not approve the removal of residency restriction.

Lost on those opposing removal of the residency requirement for municipal employees is the importance for government to honor a labor settlement.

Good relations and credibility develop over years through mutual respect and trust. We sincerely thank the New York City Council for finally addressing this important issue and strongly urge the Council to pass Intro. 992. Thank you for your time.

A handwritten signature in cursive script that reads "James Huntley". The signature is written in dark ink and is positioned above a horizontal line.

James Huntley, President
CWA Local 1182



CITY EMPLOYEES UNION LOCAL 237
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Good morning Chairman and members of the Committee. My name is Gregory Floyd, President of Local 237 Teamsters. I represent more than 9,000 City employees. I am here today to ask you to pass the residency bill for my members that would allow them to live outside of New York City if they choose to do so.

This is the end step of what has been a time-consuming and complicated process. I understand the concerns many of you have about the impact of this legislation.

But let me share with you why this legislation is important to my members. The American dream is to have an affordable place to live and to live where it is best for you and your family. For most that is right here- New York City. But sometimes it may not be the right place for all. With the problem of affordable housing, it is important to provide choices to my members.

This bill allows that to happen.

That is why we negotiated this with the Mayor several years ago. It has been delayed but thanks to you and the Speaker we see the light at the end.





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TESTIMONY OF ROBERT J. CROGHAN, CHAIRPERSON ORGANIZATION OF STAFF ANALYSTS

Before the New York City Council

Hearing on the Residency Bill
May 21, 2009

Good Morning Chairperson Martinez and members of the Committee. My name is Bob Croghan and I am speaking on behalf of the members of the Organization of Staff Analysts.

I favor the proposed amendment of the 1986 Residency Law.

In the twenty-three year history of the law requiring civil servants to be New York City residents I have found the law an offensive, dishonest and ineffective law.

When the law was first proposed in 1986, I thought immediately of the famous company towns where workers were required to reside throughout the 19th century. You could work in the Mill or at the Plant, but at night you had to reside in company housing and to shop at the overpriced company store.

Please note that I am not a foreigner from Westchester or New Jersey. I was born and raised in the Bronx, schooled at City College and although I was exempt from the 1986 law I am and always have been a proud City resident.

The 1986 law offended me since I noted that it made civil servants into second class citizens. Others could choose freely where to reside. Civil servants hired after 1986 would be told where to live.

The 1986 law was dishonest in application. To start with, Uniformed Police and Fire Officers were exempt, as was the old Board of Education, the Transit Authority, and the Housing Authority so less than half of the City's work force was ever covered.

(Over)

Worse yet, I never met a Commissioner who failed to get an exemption on request. I did meet more than one Commissioner who was exempted at his or her request.

The law was also ineffective in that, for good reasons, ever more exemptions were obtained over many years through lobbying or collective bargaining.

At present only a small number of City civil servants are still covered by this offensive, dishonest and ineffective law. Thanks to this amendment my members will be relieved of second class status and will be permitted to choose to live here as I have chosen to live here. I will be pleased if this does pass.

But let me go a step further.

There will still, after this amendment is passed, be a few civil servants covered by the original 1986 law. That is just plain wrong.

The offering of relief from the residency law as a bargaining chip by the City in contract negotiations showed how little the City believed in or cared about the law.

It has been argued that Mayor Bloomberg usurped the proper role of the City Council by promising to change a bad law. Perhaps. Meanwhile, now that both he and a majority of the City Council have agreed that the original law was defective and needed to be amended for most City employees, it would only be fair and just to complete the job.

I welcome today's amendment but I also look forward to the day the City Council decides to amend that law for all those left out of today's amendment.



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Thursday, May 21, 2009

Testimony of Joseph A .Colangelo, President SEIU NYC Local 246, before the New York City Council Civil Service and Labor Committee.

Good Morning Chairman Martinez and members of the committee. My name is Joseph Colangelo, President of SEIU NYC Local 246. I represent more than 1500 members in career and salary as well as 220 prevailing rate employee titles, most of whom are Auto Mechanics.

More than three years ago, as part of our contract negotiations with the City of New York, we reached an agreement on wages and benefits that also included a side letter agreement that contained language referring to residency, that stated "The parties agree to support an amendment to section 12-119 et seq. of the administrative code for the purpose of expanding permissible limits on Residency".

This agreement was reached in good faith by both parties. In ratifying our contract, my members believed that this change in the Administrative Code would take place as swiftly as possible. My members felt so strongly about this language permitting them to live in the same geographical areas outside the City, where certain other employees already can reside, that they chose to limit the amount of compensation in wages as they could have achieved if we pursued a 220 prevailing rate determination from the Comptroller's Office.

Yet here we are, some three years later, still without this legislation and frustrated be the fact that some chose to attack this provision that was agreed upon by both parties. The passing of the amendment you are considering today will be a great victory for our members and although this bill is a compromise of the language originally set forth in the Collective Bargaining Agreement that was entered into, it proves once again when presented with challenging legislation all parties are able to sit down resolve our difference and come to an agreement that satisfies everyone. As you know, this body passed legislation some months back granting this right to members of another union, all that I am asking is that we be treated equally. I recommend this committee pass this Legislation, to honor the contract agreement between the City and our Union, SEIU NYC Local 246.