Committee on Oversight and Investigation

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**The Council of the City of New York**

**BRIEFING PAPER OF THE GOVERNMENTAL AFFAIRS DIVISION, AND OVERSIGHT & INVESTIGATION UNIT**

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**COMMITTEE ON OVERSIGHT AND INVESTIGATION**

Hon. Ritchie Torres, *Chair*

**June 26, 2019**

**Proposed Int. No. 1331-B:** By Council Members Torres and Ampry-Samuel

Title: A Local Law to amend the New York city charter, in relation to reporting regarding New York city housing authority overtime and small procurement contracts

Code: Section 803 of chapter 34 of the New York city charter is amended

1. **Introduction**

On June 26, 2019, the Committee on Oversight and Investigation, chaired by Council Member Ritchie J. Torres, will hold a second hearing and vote on Proposed Int. No. 1331-B, sponsored by Council Member Ritchie Torres, in relation to reporting regarding New York city housing authority overtime and small procurement contracts. The Committee first heard a prior version of this bill on March 14, 2019.

1. **Background**

Former New York City Mayor Fiorello La Guardia created the New York City Housing Authority (“NYCHA”) in 1934 in order to replace dilapidated tenements using funds from The New Deal,[[1]](#footnote-1) three years before the Housing Act of 1937 established public housing nationwide.[[2]](#footnote-2) NYCHA originally served two purposes: (1) to provide low-cost housing for middle-class, working families temporarily unemployed because of the Depression; and (2) to bolster the lagging economy by creating jobs for the building trades.[[3]](#footnote-3) Later, NYCHA’s purpose evolved into providing safe, decent housing for families with the lowest incomes.[[4]](#footnote-4) By 2018, NYCHA had 325 developments, 2,418 buildings, and 175,636 units that are home to 392,259 authorized residents, making it the largest public housing authority in North America.[[5]](#footnote-5)

In recent years, NYCHA has been subject to oversight and investigation by the United States Department of Housing and Urban Development (“HUD”), federal prosecutors, state lawmakers, and the Council, among others, for the Authority’s years of mismanagement. After a lengthy investigation of conditions at NYCHA, the U.S. Attorney’s Office in Manhattan concluded that NYCHA management engaged in a culture of false statements and concealment to mislead federal inspectors and present false reports to the public about its compliance with various regulations.[[6]](#footnote-6) Most recently, as part of an agreement intended to reform NYCHA’s management and improve physical conditions, the administration accepted the appointment of a federal monitor, to be funded by the City; committed to spending $2.2 billion over the next decade to repair NYCHA buildings; and agreed to replace Interim Chair Brezenoff with a new Chair chosen jointly by the City, HUD, and the U.S. Attorney’s office.[[7]](#footnote-7) Kathryn Garcia, the city’s former sanitation commissioner, was appointed as the interim Chairperson of NYCHA in February.[[8]](#footnote-8) In June, Mayor Bill de Blasio announced that Gregory Russ, the current head of the Minneapolis Public Housing Authority, will be appointed new NYCHA Chairperson.[[9]](#footnote-9)

The HUD deal also requires NYCHA develop internal controls to prevent deceptive practices.[[10]](#footnote-10) NYCHA employees’ conduct at Throggs Neck Houses evidences such deception, and the crisis of management at NYCHA. In Fall 2018, allegations surfaced that staff at the Throggs Neck Houses, a development of 29 buildings housing more than 2,500 residents in the Bronx, engaged in “wild, boozy orgies inside offices, the groundskeepers shop and even empty apartments.”[[11]](#footnote-11) The entire staff at Throggs Neck was reassigned in August 2018.[[12]](#footnote-12) Three Throggs Neck employees were also suspended, including supervisors Brianne Pawson and Wallace Vereen.[[13]](#footnote-13)

The New York City Department of Investigation (“DOI”) initiated an investigation into these allegations. While DOI ultimately found no evidence of the sex parties alleged, in a letter dated January 15, 2019 from DOI Commissioner Margaret Garnett to NYCHA’s then-interim Chairperson Stanley Brezenoff, Garnett nevertheless reported “a culture of misconduct, employee mistreatment, and favoritism” led by Pawson and Vereen.[[14]](#footnote-14) Among DOI’s findings were several relating to employee timesheets and overtime. Pawson would let favored subordinates clock in for an entire eight-hour overtime shift, leave the development, and then return to clock out.[[15]](#footnote-15) Other employees were allowed to leave during an overtime assignment that required 24-hour monitoring of a broken water main.[[16]](#footnote-16) Another employee, with whom Vereen was having a sexual relationship, was allowed to spend an entire overtime shift in his office.[[17]](#footnote-17) Pawson would herself linger in her personal car before clocking out.[[18]](#footnote-18)

DOI also found that Pawson, with Vereen’s approval, circumvented NYCHA’s procurement rules. Specifically, she renovated the Throggs Neck grounds shop, with assistance from employees supervised by her father, a long-time NYCHA executive manager who has since retired, by throwing away everything in the shop, including equipment that was in working condition, and then ordering all new equipment.[[19]](#footnote-19) Pawson also ordered black leather executive chairs, flat screen TVs, file cabinets, and a conference table, as well as submitted five separate contracts for a single company to power wash a series of Throggs Neck buildings.[[20]](#footnote-20) All of these contracts were just under the $5,000 “small procurement” threshold, which would require they be put out for competitive bidding.[[21]](#footnote-21) By “bid splitting” contracts in this way, Pawson and Vereen avoided compliance with competitive bidding rules.[[22]](#footnote-22) Pawson also intentionally sabotaged NYCHA appliances in an effort to undermine the job performance of a new assistant superintendent.[[23]](#footnote-23)

DOI’s allegations were the product of more than 40 interviews with NYCHA employees and residents, and review of several NYCHA documents, including timesheets and purchasing records.[[24]](#footnote-24) DOI’s final conclusions were sent to NYCHA for consideration of appropriate disciplinary action against Pawson and Vereen. During the Oversight and Investigation Committee’s March 14, 2019 hearing, NYCHA General Manager Vito Mustaciuolo reported that disciplinary actions had been taken against three staff formerly assigned to Throggs Neck and that two of those actions have led to additional charges, although he declined to discuss the status of those cases while they were ongoing.[[25]](#footnote-25)

Mustaciuolo also testified that NYCHA has implemented several policy changes since the DOI investigation. Among such changes, regarding overtime, Mustaciuolo testified that NYCHA implemented interim controls over the approval process that require a vice president or senior manager to pre-approve all overtime for anything other than immediate emergencies.[[26]](#footnote-26) NYCHA also reached an agreement with union leaders on new schedules at 13 consolidated developments beginning in April, in which a total of 210 additional caretakers will work in shifts covering properties seven days a week from 6 a.m. until 7 p.m.[[27]](#footnote-27) As of the Committee’s March hearing, similar changes were in progress for maintenance staff.[[28]](#footnote-28)

Regarding procurement, Mustaciuolo testified that NYCHA was making enhancements to its data system to address concerns about bid splitting. NYCHA staff said this practice was difficult to identify because their computer system didn’t track if solicitation for quotes was made the same day; it only tracked the procurement date.[[29]](#footnote-29) New controls would reportedly include automated alerts as a means of early detection for when policies are being violated.[[30]](#footnote-30) Also, NYCHA was implementing a plan to reduce the need for small purchases by making greater use of requirements contracts for frequently-needed tasks.[[31]](#footnote-31) Additionally, regarding inventory and supply controls, Mustaciuolo testified that NYCHA was updating its data system to better track materials automatically using serial numbers, and was transitioning oversight of development storerooms to NYCHA’s Materials Management Department and assigning full-time staff to each storeroom who would report to the Department.[[32]](#footnote-32)

Following the March hearing, NYCHA and the Administration also informed Committee staff that NYCHA intends to put overtime and procurement information online. Certain contract information is already published on NYCHA’s website.[[33]](#footnote-33)

1. **Legislative Analysis**

**Proposed Int. No. 1331-B**

Int. No. 1331-B would amend section 803 of chapter 34 of the New York city charter by adding new subdivisions h and i to require DOI to issue an annual report to the Council on total overtime hours recorded and total overtime paid to NYCHA employees for the prior calendar year. This information would be aggregated by borough and housing development, and disaggregated by department and job title. The bill would also direct DOI to issue an annual report to the Council on any small procurement contracts, as defined by NYCHA procurement rules, awarded during the prior year. The report would include the dollar value of each contract, a description of the goods or services procured, the name of the vendor, and the date the contract was awarded. The report would be aggregated by borough and NYCHA housing development. The report would also include an analysis regarding whether or not any housing development may have awarded small procurement contracts in an effort to avoid compliance with NYCHA procurement rules. This local law would take effect immediately after it becomes law. The first reports would be due 90 days after the local law takes effect.

The bill was changed in several respects since the Committee’s March 14, 2019 hearing. The reports required by the bill were changed from bi-monthly to annual, and the first reports are now due 90 days after the local law takes effect instead of 30 days after. Small procurement contracts are now defined by reference to NYCHA regulations, rather than defined as contracts valued at or under $5,000. The requirement that DOI analyze whether or not small procurement contracts have been awarded in an effort to avoid compliance with NYCHA procurement rules is an addition to the bill. Overtime reports are now disaggregated by department (not division) and job title, striking “supervisory status” as such status will be apparent from job title. Small procurement reports will no longer include vendor addresses. Neither report may contain personally identifying information. Finally, the bill makes clear that this local law will not otherwise limit DOI’s authority as set forth in the Charter and that DOI shall seek cooperation from NYCHA in producing the required reports.

Proposed Int. No. 1331-B

By Council Members Torres and Ampry-Samuel

A Local Law to amend the New York city charter, in relation to reporting regarding New York city housing authority overtime and small procurement contracts

Be it enacted by the Council as follows:

Section 1. Section 803 of chapter 34 of the New York city charter is amended by adding new subdivisions h and i to read as follows:

h. No later than 90 days after the enactment of the local law that added this subdivision, and annually thereafter, the commissioner shall submit to the council a report on total overtime hours recorded and total overtime paid to employees of the New York city housing authority for the prior calendar year. The data in such report shall be aggregated by borough and housing development and disaggregated by department and job title. Such report shall not contain any personally identifying information. Nothing within this subdivision shall limit the authority of the commissioner nor prevent the commissioner from reporting on any additional relevant information not specifically identified herein. In developing such report, the department shall seek the cooperation and assistance of the New York city housing authority.

i. No later than 90 days after the enactment of the local law that added this subdivision, and annually thereafter, the commissioner shall submit to the council a report on the number of small procurement contracts, as defined by New York city housing authority procurement rules, awarded during the prior calendar year. Such report shall include the dollar value of each contract, a description of the goods or services procured, the name of the vendor and the date the contract was awarded. The data in such report shall be aggregated by borough and housing development. Such report shall also include an analysis regarding whether or not any housing development may have awarded small procurement contracts in an effort to avoid compliance with New York city housing authority procurement rules. Nothing within this subdivision shall limit the authority of the commissioner nor prevent the commissioner from reporting on any additional relevant information not specifically identified herein. In developing such report, the department shall seek the cooperation and assistance of the New York city housing authority.

§ 2. This local law takes effect immediately.

GZ / dfc

LS #8270

06/18/19 8:33 p.m.

1. *See* Ferre-Sadurni, Luis, *The Rise and Fall of New York Public Housing: An Oral History*,” N.Y. Times (July 9, 2018), <https://www.nytimes.com/interactive/2018/06/25/nyregion/new-york-city-public-housing-history.html>. [↑](#footnote-ref-1)
2. Housing Act of 1937, Pub. L. No. 75-412, 50 Stat. 888 (1937), *available at* <https://www.govinfo.gov/content/pkg/USCODE-2009-title42/pdf/USCODE-2009-title42-chap8.pdf>. [↑](#footnote-ref-2)
3. Peter Marcuse, “The Beginnings of Public Housing in New York,” Journal of Urban History 12(4) at 353-54 (1986); J.A. Stoloff, A Brief History of Public Housing, Paper presented at Aug. 14 meeting of the American Sociological Association, at 3 (2004). [↑](#footnote-ref-3)
4. Marcuse, 354; Stoloff, 1; *see also* Judith D. Feins, et al., Revised Methods of Providing Federal Funds for Public Housing Agencies, US Department of Housing and Urban Development, at 9 (1994). [↑](#footnote-ref-4)
5. NYCHA Fact Sheet, *available at* <https://www1.nyc.gov/assets/nycha/downloads/pdf/NYCHA-Fact-Sheet_2018_Final.pdf>. [↑](#footnote-ref-5)
6. *See* Benjamin Weiser and J. David Goodman, *New York City Housing Authority, Accused of Endangering Residents, Agrees to Oversight*, N.Y. Times (Jun. 11, 2018), <https://www.nytimes.com/2018/06/11/nyregion/new-york-city-housing-authority-lead-paint.html>. [↑](#footnote-ref-6)
7. *See* Benjamin Weiser, Luis Ferré-Sadurní, Glenn Thrush and J. David Goodman, *De Blasio Cedes Further Control of Nycha but Avoids Federal Takeover*, N.Y. Times (Jan. 31, 2019), <https://www.nytimes.com/2019/01/31/nyregion/hud-nycha-deal.html>.; Luis Ferré-Sadurní, *De Blasio’s Unexpected Pick to Run Nycha: His Sanitation Chief*, N.Y. Times (Feb. 5, 2019), <https://www.nytimes.com/2019/02/05/nyregion/kathryn-garcia-sanitation-nycha.html>. [↑](#footnote-ref-7)
8. *Id*. [↑](#footnote-ref-8)
9. Greg B. Smith, *New NYCHA boss to reap record $400L payday*, The City (June 19, 2019), <https://thecity.nyc/2019/06/new-nycha-boss-gregory-russ-named-by-de-blasio-and-carson.html>. [↑](#footnote-ref-9)
10. Weiser, *et al*., *supra* note 6. [↑](#footnote-ref-10)
11. *See* Kenneth Garger, Nolan Hicks and Chris Perez, *NYCHA employees accused of using projects for wild orgies,* N.Y. Post (Aug. 27, 2018), <https://nypost.com/2018/08/27/nycha-employees-accused-of-using-projects-for-wild-orgies>; Greg B. Smith, *EXCLUSIVE: NYCHA orders entire staff at Throggs Neck development in Bronx to turn in keys and get out*, N.Y. Daily News (Aug. 27, 2018), <http://www.nydailynews.com/new-york/ny-metro-nycha-bronx-housecleaning-20180824-story.html>; Kerry Burke and Greg B. Smith, *Overtime for orgies: Allegations of NYCHA staff's after-hours sex parties prompted clean sweep of workers at Bronx development*, N.Y. Daily News, (Aug. 27, 2018), <https://www.nydailynews.com/new-york/ny-metro-nycha-bronx-orgies-20180827-story.html>; Luis Ferré-Sadurní and Mariana Alfaro, *Claims of Staff Sex Parties: New Troubles for Public Housing*, N.Y. Times (Aug. 27, 2018), <https://www.nytimes.com/2018/08/27/nyregion/nycha-bronx-staff-sex-parties.html>. [↑](#footnote-ref-11)
12. Ferré-Sadurní and Alfaro, *supra* note 11. [↑](#footnote-ref-12)
13. Nolan Hicks*, NYCHA supervisor suspended over alleged orgies*, N.Y. Post (Sep. 6, 2018), <https://nypost.com/2018/09/06/nycha-supervisor-suspended-over-alleged-orgies>. [↑](#footnote-ref-13)
14. Letter from DOI Commissioner Garnett to NYCHA Interim Chair Brezenoff, Jan. 15, 2019, on file with committee staff. *See also* Luis Ferré-Sadurní, *Nycha Investigation: Employees Drank on the Job and Had Sex With Subordinates*, N.Y. Times (Jan. 22, 2019), <https://www.nytimes.com/2019/01/22/nyregion/nycha-investigation-.html>. [↑](#footnote-ref-14)
15. Letter from DOI Commissioner Garnett, *supra* note 14 at page 3. [↑](#footnote-ref-15)
16. *Id*. [↑](#footnote-ref-16)
17. *Id*. [↑](#footnote-ref-17)
18. *Id*. [↑](#footnote-ref-18)
19. *Id*. at page 5. [↑](#footnote-ref-19)
20. *Id*. [↑](#footnote-ref-20)
21. *Id*. [↑](#footnote-ref-21)
22. *Id*. [↑](#footnote-ref-22)
23. *Id*. at page 4. [↑](#footnote-ref-23)
24. *Id.* at page 1. [↑](#footnote-ref-24)
25. Testimony from NYCHA General Manager Vito Mustaciuolo, March 14, 2019 at page 3, *available at* <https://nyc.legistar.com/View.ashx?M=F&ID=7117818&GUID=BAFE28E2-56A5-462F-BB60-7BE96C538F23>. [↑](#footnote-ref-25)
26. *Id*. [↑](#footnote-ref-26)
27. *Id*. at pages 3-4. [↑](#footnote-ref-27)
28. *Id*. at page 4. [↑](#footnote-ref-28)
29. Transcript of the Committee on Oversight and Investigation, March 14, 2019, at page 98, *available at* <https://nyc.legistar.com/View.ashx?M=F&ID=7191259&GUID=3EBB028A-23A0-41D8-A64A-D082E436CAB5> (testimony of NYCHA Director of Procurement Yadhira Epinsal). [↑](#footnote-ref-29)
30. Mustaciuolo, *supra* note 25 at page 5. [↑](#footnote-ref-30)
31. *Id*. [↑](#footnote-ref-31)
32. *Id*. at page 4. [↑](#footnote-ref-32)
33. Awarded Contracts, NYCHA, <https://my.nycha.info/PublicSite/Transparency/AwardedContracts> (last accessed June 19, 2019). [↑](#footnote-ref-33)