Legislation Details (With Text)

File #:	Res 0962-2011	**Version:**	*	**Name:**	Authorizing the Council of the City of New York to intervene or file an amicus brief in Chelsea Business & Property Owners' Association v. City of New York.
Type:	Resolution			**Status:**	Adopted
				In control:	Committee on General Welfare
On agenda:	7/28/2011				
Enactment date:				**Enactment #:**	

Title: Resolution authorizing the Council of the City of New York to intervene or file an amicus brief in Chelsea Business & Property Owners' Association v. City of New York, for the purpose of defending provisions of the New York City Administrative Code that limit the size of homeless shelters for adults to two hundred persons.

Sponsors:

Indexes:

Attachments: 1. Committee Report, 2. Hearing Transcript, 3. Hearing Transcript - Stated Meeting 7-28-11

Date	Ver.	Action By	Action	Result
7/27/2011	*	Committee on General Welfare	Hearing on P-C Item by Comm	
7/27/2011	*	Committee on General Welfare	P-C Item Approved by Comm	Pass
7/28/2011	*	City Council	Introduced by Council	
7/28/2011	*	City Council	Referred to Comm by Council	
7/28/2011	*	City Council	Approved, by Council	Pass

Preconsidered Res. No. 962

Resolution authorizing the Council of the City of New York to intervene or file an amicus brief in *Chelsea Business & Property Owners' Association v. City of New York*, for the purpose of defending provisions of the New York City Administrative Code that limit the size of homeless shelters for adults to two hundred persons.

By Council Members Vann, Palma, The Speaker (Council Member Quinn) and Council Members Lander, Levin, Reyna, Wills, Van Bramer and James

Whereas, In 1998, the Council of the City of New York ("Council") passed Local Law 57, which, among other things, added what is now section 21-312(b) of the Administrative Code, which provides that "[n]o shelter for adults shall be operated with a census of more than two hundred persons;" and

Whereas, Local Law 57 defines "census" to mean "the actual number of persons receiving shelter at a shelter for adults;" and

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Whereas, New York Social Services Law defines a "shelter for adults" as "an adult care facility established and operated for the purpose of providing temporary residential care, room, board, supervision, information and referral, and where required by the department or otherwise deemed necessary by the operator, social rehabilitation services, for adults in need of temporary accommodations, supervision and services;" and

Whereas, On May 6, 2011, the Chelsea Business & Property Owners' Association, LLC, d/b/a Chelsea Flatiron Coalition ("CFC") filed an amended verified petition, pursuant to Article 78 of the Civil Practice Law and Rules, against the City of New York; the Board of Standards and Appeals of the City of New York; Seth Diamond, Commissioner for the Department of Homeless Services of the City of New York ("DHS"); George Nashak, Deputy Commissioner for Adult Services for DHS; Robert LiMandri, Commissioner for the Department of Buildings of the City of New York ("DOB"); Fatma Amer, P.E., First Deputy Commissioner for DOB; James Colgate, R.A., Assistant Commissioner for Technical Affairs and Code Development for DOB; Bowery Residents' Committee, Inc.; and Daniel Shavolian (the "Petition"); and

Whereas, The Petition challenges the construction of a 328-bed, in-patient and out-patient drug, alcohol and mental health care facility and homeless shelter for the mentally ill at 127 West 25th Street in Manhattan ("Proposed Facility") and seeks to compel the City to perform obligations enjoined upon it by law, including the limitation on the size of homeless shelters contained in the Administrative Code; and

Whereas, The Petition alleges that "neither DOB, DHS nor BSA have enforced, or are willing to enforce, the statutory provision of the Admin Code that limits homeless shelters to 200 beds;" and

Whereas, On July 8, 2011, the Corporation Counsel of the City of New York filed a Verified Answer to the Amended Petition ("Answer") and a Memorandum of Law in Opposition to the Petition on behalf of the Municipal Respondents ("Corporation Counsel Memo"); and

Whereas, The Answer states that "DHS procured a contract with BRC to operate a temporary, emergency shelter for up to 200 single adult men" at the Proposed Facility; and

Whereas, The Answer states that DHS and BRC plan to locate a 96-bed Reception Center for street

homeless clients at the Proposed Facility; and

Whereas, The Answer states that "BRC plans to operate several other social services programs" including a "32-bed detoxification program for individuals with alcohol or substance abuse addiction" at the Proposed Facility; and

Whereas, The Corporation Counsel Memo argues that Administrative Code § 21-312(b) is preempted by state law; and

Whereas, The Corporation Counsel Memo further argues that the Proposed Facility does not violate the Administrative Code; and

Whereas, The Council has a profound interest in defending Administrative Code § 21-312 from constitutional challenge and ensuring that the laws governing the size of homeless shelters are faithfully executed in a manner consistent with the purpose for which they were passed; and

Whereas, The case is currently pending in New York Supreme Court, New York County; now, therefore, be it

Resolved, That the Council of the City of New York is authorized to intervene or file an amicus brief in *Chelsea Business & Property Owners' Association v. City of New York*, for the purpose of defending provisions of the New York City Administrative Code that limit the size of homeless shelters for adults to two hundred persons.

JPM
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7/27/2011 10:01:16 AM