

**Testimony of Commissioner Lorelei Salas
New York City Department of Consumer and Worker Protection**

**Before the Committee on
Consumer Affairs and Business Licensing**

**Hearing on
Fiscal Year 2022 Preliminary Budget**

March 16, 2021

Introduction

Good afternoon Chair Ayala and members of the Committee on Consumer Affairs and Business Licensing. I am Lorelei Salas, Commissioner of the Department of Consumer and Worker Protection, also known as DCWP. I am joined by Steven Ettannani, our Executive Director of External Affairs, and Nick Rozza, our Assistant Commissioner of Finance and Administration. It is my pleasure to see you all and testify once again before this committee, on behalf of the agency and its budget for Fiscal Year 2022.

Presently, DCWP licenses more than 59,000 businesses and individuals in more than 50 industries. We enforce essential consumer protection, licensing, and workplace laws that serve countless New Yorkers, and offer programming that increases access in our city to high-quality financial services for New Yorkers. I consider this work to be some of the most consequential that comes before the Council, particularly as our communities have lived this past year of uncertainty and fear, as well as insecure finances, insecure jobs and unforeseen costs.

Today, I will highlight our agency's work throughout this past year, our successes on behalf of consumers and workers, as well as our legislative efforts to make our city more equitable and livable, even as the fundamentals of our life in New York and the country were upended by the pandemic. Lastly, I will close with the challenges ahead we will seek to surmount as an agency, and as a city.

DCWP's Budget, Headcount and Work

To frame our conversation today, let me begin by stating that our preliminary budget for the upcoming fiscal year is approximately \$43.1 million. For Fiscal Year 22, our authorized headcount will stand at 408, down 25 since I testified before you last year; and our active headcount is 370. Since our budget hearing last year, we have taken in 37,000 consumer complaints, conducted more than 29,000 inspections, completed close to 12,000 financial empowerment appointments, and opened 700 new worker protection cases.

COVID-19: Revisioning Approaches and Services to New Yorkers

Following the states of emergency declared last year by the Mayor and the Governor, and guidance to shelter in place, DCWP found itself faced with an utterly new paradigm of how to

serve our various constituencies. We worked quickly, for the safety of our staff and clients, to identify the concerns and needs for our small businesses and to offer our services to consumers remotely.

One of our first steps was to work with our Administration colleagues, and then the Council, to extend the license expiration dates and renewal deadlines for more than 54,000 licensees. Now, to supplement the 59 days the agency routinely provides businesses for their renewal after their license expires, licensees will also receive an additional 45 days to renew their license after Mayoral Executive Order 107 lapses, totaling 104 days for businesses to renew their licenses. Furthermore, given that many sidewalk café licensees were unable to offer dining on premises, DCWP and the Council similarly collaborated to waive consent fees for these restaurants' use of the public sidewalk, saving these businesses more than \$12 million this past program year.

Throughout the pandemic, we have disseminated this information to businesses across 98,000 inquiries we received online or over the phone. DCWP also developed resources in up to 14 languages to help employers in our city safely reopen, which, throughout the state of emergency, we distributed at more than 510 outreach events with more than 33,000 attendees, including 33 Business Education Days, three times the number required by local law. In conjunction with our Visiting Inspector Program, our staff has personally visited more than 3,500 individual businesses for one-on-one, in-person educational outreach. Additionally, since our licensing center in Manhattan and the city's Small Business Support Center in Jamaica reopened in August, we have served nearly 5,500 customers, while abiding by statewide health and safety guidance.

Along these lines, the onset of the pandemic has required us to be nimble and rethink how we provide New Yorkers services, such as financial counseling and coaching and free tax preparation, to name a few. These services traditionally focused on reducing debt, building credit, or developing savings, but in the past year have evolved to help New Yorkers obtain Economic Impact Payments, determine eligibility for benefits and emergency resources, and seek relief from student loan debt payments.

The transition to remote services has required an ongoing education for both our contracted providers and clients in utilizing digital connections and spaces to communicate with one another. The obvious difficulties that exist are principally those of access, especially as many public spaces that we would have previously leveraged, such as our public libraries, have had to close for health and safety concerns. However, to date, we have been able to serve more than 5,000 Financial Empowerment Center clients, and we have seen a 13% rise in our "show rate" with clients. In our popular free tax preparation program, NYC Free Tax Prep, we continue to offer online services, although last year's in-person services were by necessity limited by the governor's order to shelter in place at the beginning of March. That said, for the 2021 tax season, we will have 9 out of our 15 contracted providers offering in-person and drop-off service at 40 locations across the City.

Protecting New Yorkers from Scams and Unfair Work Practices

At our last budget hearing, I described to the committee the extraordinary steps we took to declare face masks as a good in short supply during a state of emergency. This, we now know, was just the beginning of endemic price gouging we saw throughout the city, of goods that our consumers use to prevent, limit the spread of, and treat COVID-19. To date, we have received more than 12,500 complaints from New Yorkers regarding price gouging since the start of the emergency.

Just some examples of what we have seen include face masks sold for \$50 a packet, or even small individual bottles of hand sanitizer sold for \$35 each. I, myself, recounted last year that I personally witnessed a business selling a box of face masks for \$200. Imagine for yourselves, a senior in the Bronx spending a huge portion of her benefits just to try to keep her hands clean. An immigrant worker in Brooklyn spending what is left of their paycheck to protect themselves from this deadly disease.

In our analysis of the complaints we received, the data demonstrates that price gouging occurs in our neighborhoods hardest hit by COVID-19, which are also home to black and brown communities¹. Based on what our communities have shared, we can tell you that price gouging affects the people who have the least available to lose right now. It brings unpredictable costs to our low-income earners, to our seniors, and to our immigrants in a time when our economic system is fragile. We continue to take in complaints and inspect businesses for compliance, on this issue and others, and to do our job on behalf of New Yorkers.

Of great pride within the agency is that, throughout this pandemic, the protections we enforce on behalf of workers have never wavered nor lapsed, especially in the troubling early months of the pandemic when all the city and its workers felt was insecurity. However, we were of firm belief that this was not the time, nor should it ever be, when we should place the burdens of public health and fiscal crises upon those who are most in need. When workers are sick, it is vital that they can stay home without fear of missing a paycheck and to protect themselves, their coworkers, their customers and their employers. A worker needs to know that when they show up ready to work, they will not unexpectedly have their schedule changed, depriving them of much needed pay. And, workers, such as our freelancers, need to feel assured that if they do the job, they get paid for the job.

Since March, we have received calls from more than 11,500 workers, highlighting how much our city sees DCWP as its resource for information and protection. And, in the past year, amid reduced employment and intense financial insecurity we have secured \$1.25 million in restitution for 1,300 workers who had their rights violated. This is our mission on behalf of New Yorkers, to ensure that these protections that the Administration and the Council have established over the past 7 years have a meaningful impact in our city.

To put this into context, late last year our former chair, Councilmember Cohen, and Local 338 of RWDSU contacted the agency regarding 19 workers at a local grocery store who had been illegally fired by their new employer. Nineteen essential workers who worked the entire pandemic to help feed their community. We worked this case and we were able to get those workers their jobs back and to get them \$90,000 in restitution for their back wages.

¹ <https://www1.nyc.gov/assets/dca/downloads/pdf/partners/PriceGougingAnalysis.pdf>

Legislative Successes and Ongoing Priorities

More importantly, our partnership with the Council extends beyond referrals for enforcement of consumer and workers' rights, but also to the legislation that forms the steel trusses of those rights. Local Law 97 of 2020 is one such piece of legislation whereby the City updated its Paid Safe and Sick Leave law to match state standards, and ensured that all paid care workers – those workers in our homes that care for our elderly, our children, or help maintain our households in other ways – have the same rights to leave accrual and leave use as any other private sector worker in the city. As a former paid care worker, myself, I thank you all for recognizing this vital work.

Last August, the Council and the Administration also successfully enacted Local Law 80, which officially changed the name of our agency to the Department of Consumer and Worker Protection, and enshrined key protections, such as the rights of our consumers and workers to equitable relief and restitution across all our laws.

Simultaneously, we worked with the state legislature and ultimately the governor's office to enact a law empowering the agency to docket in civil court judgments that award New Yorkers restitution or equitable relief. This long-standing priority helps the agency level the playing field for honest businesses and affected consumers. It strengthens our ability to secure for New Yorkers monetary and other relief that they were awarded against businesses that violated the City's Consumer Protection Law, municipal workplace laws and licensing laws.

Next on our legislative agenda, as many of you know, remains Introduction 1622, our priority to modernize the Consumer Protection Law (CPL) for the 21st Century. And here, I would like to thank Councilmember Chin, and Chair Ayala, and other members of the Committee for your ongoing support of this legislation. Introduction 1622 guarantees consumers commonsense protections for their transactions that occur on the internet or that are completed in languages other than English. It also, importantly, adjusts for inflation the civil penalties for violating the CPL.

Our agency's foundational law has been a centerpiece of our city's obligation to protect our constituents from harm and deception since 1969, in particular our city's seniors, immigrants, black and brown communities, and others. Today's penalties under the CPL are already among the lowest consumer protection penalties in the country, reflecting an economy in 1969 when our consumers' minimum wage was \$1.30 an hour. And, we all agree that when it comes to protecting vulnerable New Yorkers, up to date penalties make sense, such as the penalties in Council's recent legislation to protect our small businesses from unreasonable delivery app fees, to require businesses to disclose their collection of biometric data, or to require hotels to report their service disruptions. It cannot be allowed that those minority of businesses and corporations who seek to derive profit off of deceiving New Yorkers for their fragile incomes should be allowed to operate with impunity in our city.

We as a city need to strengthen, now more than ever, the fundamental law that protects everyday New Yorkers who are suffering during these crises of financial instability and unforeseen costs.

We look forward to Council taking up 1622 as a standalone bill or including its key provisions in the small business relief package.

New Areas of Work

This past year has also brought new responsibilities and protections for us to uphold on behalf of New Yorkers. Just Cause rights for our city's 70,000 fast food workers, legislation championed by Councilmember Lander, represent the next forward step in our fight for an equitable and livable city for our residents. As we mentioned at our legislative hearing, to enforce worker protections, especially these in a whole new field of work, requires additional personnel to perform outreach, implementation, intake, investigations, and litigation. And this law requires not only administrative enforcement by DCWP but also the creation of an entirely new arbitration program for resolving wrongful discharge disputes. Setting up and staffing these operations are necessary to ensure that businesses understand how to comply with the law and that we have the ability to protect workers who are illegally dismissed.

Another new area of work is the Office of Street Vendor Enforcement, which Council's legislation requires to be operational by September 1st of this year. We anticipate being officially designated with the legal authority of this office shortly and are preparing ourselves and our resource needs for the task at hand. In order to enforce street vending for more than 2,000 general vendor licensees and 5,000 food vendor permittees, as well as at least another 13,000 unlicensed vendors, we believe a fully staffed office will require new resources over the next four fiscal years². What we know from our small businesses, both street vendors and brick and mortar establishments, is that they want responsible and fair enforcement, not the same unaccountability and disparate heavy-handedness of the past. We have begun working with OMB to ensure these resources are included as part of the upcoming Fiscal Year 22 Executive Budget, in order for the Office of Street Vendor Enforcement to have the capacity in place to do this work the right way, with standards of success that New Yorkers expect, and that this agency has brought to its other facets of work.

Conclusion

So much has changed in the past year since many of us sat together at City Hall, unknowing of the altered course our lives and our city would take. However, we as New Yorkers have never been ones to give in or give up. And, I am truly proud to say that this agency is but a microcosm of that spirit. And, moreover, one that is dedicated to creating real change, to creating real protections, and to creating real equity for New Yorkers. It is my honor to partner with this Council and this Administration in protecting New Yorkers today and for the future to come. Thank you for the opportunity to testify today and I look forward to your questions.

EXHIBIT 1: Office of Labor Policy and Standards (OLPS) Headcount and Worker Protection Laws

² https://www.wiego.org/sites/default/files/publications/file/WIEGO_FactSheet_NYC_SVP_web.pdf

Headcount	Worker Protection Laws Enforced by OLPS
<p>Total Staff: 25 11 Investigators 7 Attorneys 3 Researchers 3 Intake, Operations, and Navigation 1 Outreach and Advocacy</p>	<ul style="list-style-type: none"> ▪ NYC’s Paid Safe and Sick Leave Law (Earned Safe and Sick Time Act) ▪ NYC’s Fair Workweek Law ▪ NYC’s Freelance Isn’t Free Law ▪ NYC’s Commuter Benefits Law ▪ Grocery Worker Retention Act ▪ Living Wage Law ▪ NYC’s Temporary Schedule Change Law ▪ Displaced Building Service Workers Protection Act ▪ Car Wash Accountability Law ▪ City Laundry Equity and Accountability Law ▪ <u>PENDING: Just Cause</u>

EXHIBIT 2: Enforcement Division and Their Respective Charges Citywide

<p>Tobacco Enforcement 7 inspectors 2 supervisors <i>Funded by New York State Department of Health</i></p>	<ul style="list-style-type: none"> ▪ Inspection of Tobacco Retail Dealers and Electronic Cigarette Dealers ▪ Compliance Inspection on Underage Youth Sales
<p>Petroleum Enforcement 6 inspectors 1 supervisor <i>Partially funded by New York State Agriculture and Markets (NYS A&M)</i></p>	<ul style="list-style-type: none"> ▪ Inspection of Fuel Truck Meters and Gasoline Stations (annually as mandated by state law) ▪ Inspection of Fuel Truck Meters on Fuel Trucks Delivering Fuel to City Agencies (biannually) ▪ Petroleum Product Sampling (funded by NYS A&M) ▪ Onsite Weights and Measures Testing for Businesses
<p>Special Enforcement 3 inspectors</p>	<ul style="list-style-type: none"> ▪ Compliance Inspections for Sightseeing Bus and Horse-Drawn Cab (mandated 3 times per year and subject of a previous audit) ▪ Qualifying Inspections for Pedicab (annually), Tow Truck Vehicle (every other year), Sidewalk Café (mandated), and Stoop Line Stand ▪ Business Education for New Licensees ▪ Tow Truck Location Qualifying Inspection (mandated for license applicants or new DARP and ROTOW participants)
<p>General Vending 4 inspectors</p>	<ul style="list-style-type: none"> ▪ General Vending Enforcement/Education ▪ <u>PENDING: Office of Street Vendor Enforcement</u>
<p>Borough Enforcement 18 Inspectors</p>	<ul style="list-style-type: none"> ▪ Licensed Business* Inspections (mandated at least once every two years) ▪ Scale Inspections (annually, mandated, and subject of previous audit) ▪ Non-license Categories** Compliance Inspections on Agriculture and Markets Law, Truth in Pricing Law, Consumer Protection Law, and Industry-specific Laws and Regulations ▪ Complaint-based Inspections on Certain Business Activities***

*Licensed Business Categories include:

Amusement Arcade | Amusement Device (Permanent) | Amusement Device (Portable) | Amusement Device (Temporary) | Auction House | Auctioneer | Bingo Game Operator | Booting Company | Car Wash | Commercial Lessor (Bingo/Games Of Chance) | Dealer In Products For The Disabled | Electronic & Home Appliance Service Dealer | Electronics Store | Employment Agency | Games of Chance | Gaming Café | Garage | Garage & Parking Lot | Home Improvement Contractor | Horse Drawn Cab Driver | Horse

Drawn Cab Owner | Laundries | Locksmith | Locksmith Apprentice | Newsstand | Parking Lot | Pawnbroker | Pedicab Business | Pedicab Driver | Scrap Metal Processor | Secondhand Dealer-General | Secondhand Dealer-Auto | Sidewalk Cafe | Sightseeing Bus | Sightseeing Guide | Special Sale | Stoop Line Stand | Storage Warehouse | Temporary Street Fair Vendor Permit | Ticket Seller Individual | Ticket Seller Business | Tow Truck Company